

Legal Protection of Teachers in Indonesia

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Keywords: Legal protection, character development, law enforcement, quality of education, professional development.

Abstract: Law on National Education System Number 20 of 2003 confirms that the function of national education is to develop the ability and character development and civilization that are useful in the context of the intellectual life of the nation, is aimed at developing students' potentials in order to become a man of faith and fear of God, noble, healthy, knowledgeable, skilled, creative, independent, and become citizens of a democratic and accountable. The integration helps to achieve rigorous interpretation and to ensure the consistency of both strands. Thus, legal protection of teachers can be defined as the protection afforded by law against teachers, from various threats of violence, threats, discriminatory treatment, intimidation and unfair treatment. Basically the protection against the acts as specified above, is not limited to the capacity as teachers, but also in their status as citizens, such protection is the obligation of the state against its citizens. Violence or ill-treatment is a criminal sanction for anyone who does so. Article 351 Paragraph (1) of the Criminal Code expressly states that, "Persecution is punishable by imprisonment of a maximum of two years and eight months or a fine of four thousand five hundred rupiah."

1 INTRODUCTION

Education has a key role for the civilization of a nation (Acker, 1992). At a time when a country is not paying attention to education it does not build its own source of power, its source of progress, its welfare resources, and its ever-renewable source of dignity, the quality of people and the quality of society. by the level of intelligence and strength of the character of his people (Wilson, 2009). The strategic role of education is also expected by UNESCO which states that education should make individuals aware of their cultural roots in which they live, and also teaches how to respect the culture of others (UNESCO, 2006).

If it is believed that education holds the key to the civilization of a nation, then it is worth questioning what happens with education in Indonesia that is shaken by the behavior of some irresponsible citizens such as rampant corruption, violent demonstrations, personal egoism and groups show strong symptoms, murder that is only due to the trivial matters, acts of violence that adorn the electronic media or other media, more tragic violence that occurs in school (Hurst and Reding, 2000). This phenomenon obscures the identity of a friendly and peaceful Indonesian nation. What can

be said here is the result of past education (Kirkey, 2005).

The aims of the state as stated in the Opening of the 1945 Constitution are among others the intellectual life of the nation (Toh, Ho, Riley, and Hoh, 2006). Being in the Act National Education System Number 20 in 2003 affirms that the function of national education is to develop the ability and form the character and civilization of the nation that is useful in order to educate the nation's life, aims to the development of potential learners to be a human being who believes and cautious to God Almighty, noble, healthy, knowledgeable, healthy, knowledgeable, capable, creative, independent, and become a democratic and responsible citizen (Cohen and Spillane, 1992).

Legal protection is the right of everyone, regardless of the occupation and profession it carries (Cohen and Spillane, 1992). Legal protection is a constitutional right of everyone. This is clearly stated in Article 28D paragraph (1) of the 1945 Constitution which reads, "Everyone is entitled to the recognition, guarantee, protection and legal certainty of justice and equal treatment before the law" (Misbahuddin, 2013).

According to Kansil Legal Protection is a variety of legal remedies that law enforcement agencies

must provide to give a sense of security, both mind-and-body from the interference and threats of any party (Kansil, 1989).

From the aforementioned provision of Article 39 above, it is clear that the protection provided by the Law on the teaching profession is such that if the provisions are implemented, the teacher can perform his professional duties comfortably and free from various forms of threat and fear (Law Number 14 Year 2005 on Teachers and Lecturers).

Article 39 paragraph (3) of Law Number 14 Year 2005 on Teachers and Lecturers, as if putting the position of teachers in an "exclusive" position. This is not an exaggeration considering the protracted handling of violence, threats, discrimination, and so forth received/experienced teachers will impact on the inhibition of teachers in performing their professional duties as educators because teachers are undergoing the process of seeking justice. This will certainly "hurt" the learners and further the loss to the state (Law Number 14 Year 2005 on Teachers and Lecturers).

In achieving the national goal it needs professional educators (Watt and Richardson, 2008). No doubt for the sake of the advancement of a nation is required of educators who are reliable (Ball and Cohen, 1999). In any developed country teachers need to work hard for a better future (World Bank, 2010). So the protection of teachers is absolute, so that in carrying out his profession the teacher feels comfortable and safe to carry out the duties of serving the country and nation (Gurney, 2007).

2 METHODOLOGY

This study conducted exploratory mixed methods design (QUAL-Quan Model) where qualitative data is more heavily weighted (Tuovinen, 2008). According to Creswell, this method allowed us to sequence data collection where firstly collecting qualitative data (interview and observation) then followed by quantitative data (survey). The integration helps to achieve rigorous interpretation and to ensure the consistency of both strands (Creswell, 2012).

In addition, triangulation is used to collect data through interview, observation, and survey in order to get quality data to enhance the accuracy or credibility and to ensure validity of study (Nielsen, 1996). The presentation of findings in this research combined three main sources from questionnaires, interviews, and observations in classroom and field

notes (UNDP, 2011). As Creswell (2012) defined triangulation as a process of corroborating evidence from different type of data. Triangulation may involve comparing data on the same behavior from researchers who possibly adopted different roles, times, sub-settings or subjects, and methods (Baharin, 2000). The combination helped to formulate conclusive evidence to support findings in this study (Bjork, 2003).

The population of this study involves civil servant teachers from public state high schools in Indonesia. The population is determined using *Random Cluster Sampling* (single cluster) by considering the large number of population, the geography, and the efficiency of cost and time (Lewis, Perry, and Hurd, 2004).

In collecting quantitative data, researcher administers survey or questionnaire to answer the hypotheses about the statistical significant of demography factors with professional characters (Lieberman and Pointer Mace, 2008). The data were analyzed using t-test and Anova. For qualitative data, 12 teachers were chosen by using purposive random sampling because they have broad knowledge and more experiences (Wils and O'Connor, 2004). Open ended questions in a semi structured interviews were proposed in describing professionalism practices, learning activities in professional development, the supports, and the constraints toward professional teachers (Mundry, 2005). Classroom observation was also done to get a description of pedagogical skills and field note to gain teachers' behavior-attitude (Johnson et al., 2001)

3 RESULTS AND DISCUSSION

Protection in a simple sense can be interpreted as an attempt to gain security, be kept away from threats, doom and fear (Ajila and Abiola, 2004). Those, legal protection of teachers can be defined as the protection afforded by law against teachers, from various threats of violence, threats, discriminatory treatment, intimidation and unfair treatment (Krejcie and Daryle, 1970).

Indonesia is a constitutional state, it is clearly stated in the 1945 Constitution. One of the elements of a constitutional state is the existence of a guarantee of human rights and the existence of equal status before the law (Tittle, 2006). This has been formulated in detail in Articles 28A through 28J of the 1945 Constitution (Constitution of 1945).

Solutions to violence, threats, discriminatory treatment, intimidation or unfair treatment received or experienced by teachers basically refer to a common solution, namely the extent to which law enforcement in overcoming these problems (Kementerian Pendidikan Nasional, 2010).

Good legal protection, resulting from good law enforcement as well (Zaenal Aqib, 2007). The key to understanding good law enforcement is the understanding of the principles in it (National Staff Development Council, 2009). Starting from the principles of good law enforcement, can be obtained benchmarks the performance of a law enforcement (Johnson et al., 2001).

Good and bad law enforcement can be assessed if its implementation has touched with all elements of good law enforcement principles, referring to the principles of democracy with its elements, such as legitimacy, accountability, human rights protection, freedom, transparency, power sharing and community control (Schooling, Toth, and Marzano, 2010).

According to the National Education System Act Number 20 years 2003, teachers are professional educators with the main task of educating, teaching, guiding, directing, training, assessing, and evaluating, learners on early childhood education formal education path, primary and secondary education (Krejcie and Daryle, 1970).

Educators who teach in elementary and secondary education units are called teachers and educators who teach in higher education units are called lecturers (Kalantzis, and Cope, 2003). Professional is a job or activity undertaken by a person and a living source of income that requires expertise, skill, or skill that meets certain standards of quality or norm and requires professional education (Penuel et al., 2007).

So the profession is very noble teachers need to get protection from the government, the community and the entire nation of Indonesia (Perry and Lewis, 2009). However it turns out very noble profession teachers in Indonesia have not received protection from the government and society as expected by the guru (Supriadi, 1998). The number events-teachers who were persecuted and violent either by the parents of learners or by irresponsible people, shows the lack of protection of teachers in performing the sacred duty for the betterment of the nation and the country (Sudarminta, 2000). There should be legislation such as law or government regulations and so on as a legal umbrella for law enforcement agencies to act like judges, prosecutors and police apparatus to improve protection for teachers.

This happens because students report to their parents of the event and the parents of students emotionally direct school with the child after meeting gang up his teacher until bloody (Schooling, Toth, and Marzano, 2010).

Events of the persecution of teachers who are carrying out the task of the state, educate the nation's children and try to improve the nation's intelligence to be less than the maximum due to the actions of unscrupulous parents of learners (Ali, 2000).

Laws that protect teachers as professional educators are not yet adequate, just as follows (Krejcie and Daryle, 1970):

1) In UU SISDIKNAS article 7 (2). Affirming Parents of the child are obliged to learn, are obliged to provide basic education to their children. So the act of mistreatment of the teacher is clearly contrary to article 7 paragraph 2 that, should parents set an example of examples to their children who are still in school in SMK. In addition, the responsibility of education concerning government, society and parents so that people should take responsibility for the attitude and behavior of their children. Similarly, in article 6 (2), the sentence of every citizen is responsible for the sustainability of education. From the sentence it implied the meaning of these acts will affect the sustainability of the implementation of education.

2) Law No. 14 of 2005, in article 35 states in: Paragraph (1). Governments, local governments, communities, professional organizations, and/or educational units shall provide protection to teachers in the performance of duties

Paragraph (2). The protection referred to in paragraph 1 covers the protection of law, profession and occupational safety and health

Paragraph (3). Legal protection as referred to in paragraph 2 shall include legal protection against acts of violence, threats, discriminatory treatment, intimidation or unfair treatment of learners, parents of learners, society, bureaucracy or other parties

Paragraph (4). The professional protection referred to in paragraph 2 includes protection against termination of employment which is inconsistent with legislation, improper remuneration, in conveying views, harassment of professions, and other restrictions / restrictions that may prevent teachers from performing their duties

Paragraph (5). Protection of occupational safety and health as referred to in paragraph 2

covers protection against the risks of occupational safety, occupational accidents, fire at work, natural disasters, work environment and / or other risks.

- 3) Government Regulation No. 74 of 2008 concerning teachers, has regulated the protection of teachers in performing their duties. In Article 39 Paragraph (1) (Government Regulation no. 74 of 2008 on Master). Affirming that teachers have the freedom to impose sanctions on their students who violate religious norms, morality norms, norms of decency, as well as written and unwritten rules stipulated by teachers, teacher councils and the wider community and education units and laws and regulations in the learning process under their authority. In paragraph (2) it explains that sanctions may be reprimands and / or warnings, both oral and written, as well as punishments that are educational in accordance with the rules of education, code of ethics, and legislation.
- 4) Article 40 Paragraph (10). In that case, the teacher is entitled to protection in performing the tasks in the form of security and safety assurance, from the government, regional government, educational unit, professional organization, and occupational safety.
- 5) Article 41 explains that teachers are entitled to legal protection from acts of violence, threats, discriminatory treatment, intimidation or unfair treatment by learners, the public, bureaucracy or other parties.

From the various provisions contained above, it is clear that the formal juridical provisions concerning the protection of the teaching profession, it is necessary to be obeyed and implemented by all parties concerned by both learners, parents and the wider community, Police, Attorney and Justice. Although the regulation already exists but the implementation is still lacking and the law on protection of teachers does not yet exist. So all parties must understand, realize that what the teachers do as above merely carry out the noble task of creating the nation's intelligence goals such as the demands of the Preamble of the 1945 Constitution (Creswell, 2012).

All realize that to prepare a generation that is smart, superior, competitive, and key character lies in the teacher. Hopefully the teachers can perform their duties independently and able to work maximally in improving the quality of education in Indonesia (Law Number 14 Year 2005 on Teachers and Lecturers).

All parties in order not to necessarily bring cases of alleged violations of criminal court teachers as well as child violence against teachers, this incident education is not a legal event (Kotler, Jatusripitak, and Maesincee, 1997).

4 CONCLUSIONS

Lately rampant reported in various media about the persecution or violence against teachers, teachers whose duties are very noble in the effort to educate the nation's life is persecuted by irresponsible elements, it is necessary to improve efforts to protect teachers by the authorities. Legal protection of the teaching profession has not gone well as expected. The presence of Law Number 14 Year 2005 regarding Teachers and Lecturers, Government Regulation Number 74 Year 2008 on Teachers wherein it regulates that teachers have legal protection against acts of violence, threats, discriminatory treatment, intimidation or unfair treatment of the learners, old learners, society, bureaucracy, or other parties. Weak law protection against teachers is caused by weak law enforcement. The presence of Legal Aid Institute (LBH) which aims to provide legal assistance to teachers who are caught in legal issues is expected to be a solution in fighting for the rights of teachers. Protection of the teacher profession has not been fully perceived by the teacher. Law enforcement officers if they get reports from unscrupulous people should be selective on whether the actions of the teacher towards the students in the effort educating / disciplining learners or criminal cases. Indeed, the protection of teachers rules already exist but is still not detailed and its implementation is still lacking. The government should immediately enact a law that regulates the protection of teachers if it takes a long time to issue government regulations that are not too long-winded procedures because they are only made by the government. Indeed there is protection against teachers but not prostrate the Act, because if the law will be more powerful law and will surely be more in-depth contents because made by the House and the President. So that the act of violence against teachers will be more can be reduced. In addition, teachers should also be more careful in choosing the method of teaching and punish the learners, not to result in self-harm. Because there are still many types of suitable punishment and methods more suitable for learners.

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