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Juridical Study of Regulation of the Minister of Education, Culture, Research, and Technology Number 46 of 2023 concerning the Prevention and Handling of Violence in the Environment of Education Units

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Abstract: Human rights are rights that God has given to humans since birth. Lawsuits in Indonesia cannot interfere with human rights because this country is very protective of human rights. The right to a decent education is one of many human rights. The protection of human rights, especially in the field of education, is necessary so that human rights in Indonesia can be properly implemented. The purpose of protecting human rights in the field of education is to prevent human rights violations in the field of education, such as the emergence of bullying incidents in schools, which have negative consequences, one of which is the emergence of violence, both verbally and physically. In Indonesia, there are still many cases of child abuse. Even with the rapid flow of information, cases of bullying also often occur online. This study looks at the Regulation of the Minister of Education, Culture, Research, and Technology Number 46 of 2023 in the function of the Violence Prevention and Handling Team. The normative juridical method is used in this study, which includes various relevant legal rules. The study found that bullying cases are sometimes overlooked by schools.

Keyword: Violence Prevention, Human Rights, Minister of Education Regulation

INTRODUCTION

Human Rights are rights that are very inherent in human beings because they have been given by God to them when they were born. This right cannot be revoked or removed from humans. Human rights are natural and cannot be revoked. Human rights in Indonesia are highly upheld because they are sourced from Pancasila. While human rights in Indonesia do not mean that people in the country can do whatever they want, there are some rules of law that people must follow. The right to a proper education and protection during education is one of Indonesia's human rights regulated in the 1945 Constitution. It is very important to protect

these Indonesian citizens during the educational process to maintain the security and order of the Indonesian people during the educational process.

Human rights violations, such as bullying, have become more common these days, especially in educational institutions. Bullying is a violation of human rights that involves violence and oppression of others with the aim of cornering or bullying others so that they suffer psychologically. This bullying case is usually carried out by people in power, namely someone who has enough, feels a hero, and has several friends who are the same frequency to bully someone so that he dares to bully others.

The National Commission for Child Protection (KNPA) said bullying is long-lasting physical and psychological violence against someone who is unable to defend themselves. Bullying is a behavior or action carried out by a person or group who feels stronger towards a physically or mentally weaker victim repeatedly without resistance with the aim of making the victim suffer by hurting them physically, verbally, or emotionally or psychologically. This act of bullying is included in the form of violence against children where in Article 1 number 3 of the Regulation of the Minister of Education, Culture, Research, and Technology of Indonesia Number 46 of 2023 concerning the Prevention and Handling of Violence in the Education Unit Environment it is explained that, Violence is any action, action, and/or decision against a person that has an impact on causing pain, injury, or death, sexual/reproductive suffering, reduced or dysfunction of part and/or all of the limbs physically, intellectually or mentally, loss of opportunities to obtain education or employment safely and optimally, loss of opportunities for the fulfillment of human rights, fear, loss of self-confidence, loss of ability to act, feelings of helplessness, economic losses, and/or other forms of similar losses.

The enactment of the Regulation of the Minister of Education, Culture, Research, and Technology of Indonesia shows that the law is a guideline or handle for the academic community that is used as a restriction on attitudes, actions or behaviors in the implementation of activities within the educational unit.

“Peraturan Menteri Pendidikan, Kebudayaan, Riset, Dan Teknologi Republik Indonesia Nomor 46 Tahun 2023 Tentang Pencegahan Dan Penanganan Kekerasan Di Lingkungan Satuan Pendidikan” (2023)., complaints that entered the KPAI on special protection for children, with the highest category:

- Child of a Sexual Crime Victim,
- Children of victims of physical and/or psychological violence,
- Children of Victims of Pornography and Cyber Crime,

2,133 cases (KPAI, 2022)

Table.1 Data and surveys show that Indonesia is currently in a state of emergency of violence against children

<p>34.51% of students (1 in 3) have the potential to experience sexual violence (National Assessment, Ministry of Education and Culture, 2022)</p>	<p>26.9% of students (1 in 4) have the potential to experience physical punishment (National Assessment, Ministry of Education and Culture, 2022)</p>
<p>20% of boys and 25.4% of girls aged 13-17 years admitted to having experienced one or more types of violence in the last 12 months (SNPHAR, KPPPA, 2021)</p>	<p>36.31% of students (1 in 3) have the potential to experience bullying (National Assessment, Ministry of Education and Technology, 2022)</p>

Based on some of the cases above, it can be said that there are still many cases of bullying that befall students in the school environment. Based on these legal facts, the urgency of regulating bullying in the school environment in Indonesian law needs to be studied in this paper. The public needs to gain an understanding of the provisions in the Regulation of the Minister of Education, Culture, Research, and Technology of Indonesia Number 46 of 2023 concerning the Prevention and Handling of Violence in the Environment of Education Units.

METHOD

This research was conducted using a normative juridical research method. Normative legal research is a type of literature research that focuses on secondary data. Legal research uses a legislative approach (statute perspective) and a conceptual approach (conceptual perspective). Primary, secondary, and tertiary legal materials are secondary data sources used in legal research. Primary legal material is a positive rule, or law, established and applied by a country that has the authority to apply the rule.

This qualitative descriptive research was conducted to obtain information about the description of bullying cases and how the articles of the applicable laws and regulations are applied. To gain understanding and solutions to the problems studied, the data obtained is analyzed and described based on facts.

RESULT AND DISCUSSION

A. Provisions in the Regulation of the Minister of Education, Culture, Research, and Technology of Indonesia Number 46 of 2023 in handling bullying cases.

Theoretically, *bullying* or *bullying* is an act or act committed by human beings, either individually or collectively, which consists of repeated physical, psychological, social, or verbal attacks carried out in a position of power for their own gain or satisfaction. Child abusers will feel stronger or more powerful if they can bully other children. Actually, bullying behavior is very common in the world of education without us being aware of its form and effects. Bullying is a very important issue that requires mutual attention. This behavior generally occurs in children and adolescents, with occurrence varying in different countries. Violence against children that occurs at school is usually called bullying.

According to Diena Haryana, various elements of bullying cause bullying behavior to occur. Here are some elements of bullying:

- a) The perpetrator of bullying is usually a young person who has control and power over the victim. The perpetrator is usually angry, strong, and large.
- b) Victims of student bullying are usually small and unconfident.
- c) Bullying witnesses usually participate in two ways: supporting the bully by voicing up, or being silent and indifferent.

According to B. Coloroso, there are four components that form bullying behavior towards a person:

- a) Power imbalance: Those who commit bullying can be older, larger, stronger, more articulated, higher in social status, different races, or of different genders, which can lead to an imbalance in the group of children who commit bullying.
- b) Intent to injure: Bullying means causing physical or emotional harm, requiring action to injure, and making the perpetrator happy when they see the injury.
- c) Threat of further aggression: Both the perpetrator and the victim are aware that harassment can occur and is likely to happen again. Bullying doesn't just happen once.

- d) Terror: Bullying is systematic violence used to intimidate and maintain one's power. Terror that pierces the victim's heart is not only a means to an end, but terror itself is the goal of abuse.

Based on what was mentioned above, it can be concluded that there are many components involved in bullying. The author found that bullying is an aggressive and negative behavior that is carried out repeatedly and deliberately to hurt someone physically or mentally because of abusing a power imbalance. A person is considered a victim of bullying if he or she receives negative treatment periodically or many times, even frequently, or if the negative treatment becomes a pattern by one or more people. Negative means intentionally causing injury or discomfort by physical, verbal, or other means. Bullying behavior in the school environment must basically be prevented by several parties so that the school environment does not become a place for human rights violations such as bullying. Here are some of the principles used to prevent and deal with violence in educational units:

- a) non-discrimination;
- b) best interests of the child;
- c) Child Participation;
- d) Gender justice and equality;
- e) Equality of Rights and Accessibility for Persons with Disabilities;
- f) accountability;
- g) caution; and
- h) Sustainability of education

In essence, this bullying is a form of violence both verbally and physically. There are several forms of violence according to article 6 of Permendikbudristek No. 46 of 2023 (PPKSP), including:

- a) Physical violence;
- b) Psychic violence;
- c) bullying;
- d) Sexual violence;
- e) Discrimination and intolerance;
- f) policies that contain violence; and
- g) Other forms of Violence.

In the regulation of the Minister of Education and Culture No. 46 of 2023 (PPKSP), it is stated that causing pain, injury, or death, sexual/reproductive suffering, reduced or dysfunction of part and/or all of the limbs physically, intellectually or mentally, loss of opportunities to get education are included in the category of violence. Permendikbudristek 46/2023 (PPKSP) A regulation that aims to prevent and handle cases of violence in education units. The focus is on effective implementation by involving all parties.

Thus, the academic community and the community must submit and obey Permendikbudristek No. 46 of 2023 (PPKSP). When in the school environment, you must comply with good ethics and teaching and learning processes. Of course, violence is very unethical if it is carried out by students or school officials. If you pay attention to the provisions in Permendikbudristek No. 46 of 2023 (PPKSP), it is expressly regulated about the categories of actions that fall into the category of forms of violence.

Teachers are professionals who have the main task of educating, guiding, teaching, directing, assessing, training, and evaluating students. Teacher UGS is not only limited to teaching, but also includes other tasks that are very important in the educational process, including:

- a) Educate: Teachers have the task of shaping students' character and personality, as well as helping students develop their potential.

- b) Teaching: Teachers have the task of planning learning programs, implementing programs that have been made, and conducting assessments after the program is completed.
- c) Practicing skills: Teachers have the task of training students to have life skills or practical life skills.
- d) Providing guidance and direction: Teachers have the duty to provide guidance and direction to students in dealing with various problems faced.
- e) Provide motivation: Teachers have the task of motivating students to be enthusiastic about learning and developing their potential.

In addition to these tasks, teachers also have an important role in education, including:

- a) As a facilitator: Teachers must be able to create a conducive learning environment and facilitate students in developing their potential.
- b) As a motivator: Teachers must be able to motivate students to be enthusiastic about learning and develop their potential.
- c) As an assessor: Teachers must be able to assess students' abilities and achievements objectively and fairly.
- d) As a curriculum developer: Teachers must be able to develop a curriculum that suits the needs of students and the development of the times.
- e) As a liaison between the school and the community: Teachers must be able to establish a good relationship with the community and introduce the school to the community.

In carrying out their duties and roles, teachers must have adequate competencies, such as pedagogic, personality, social, and professional competencies.

In article 25 paragraph 2 of Permendikbudristek No. 46 of 2023 (PPKSP), it is explained that teachers as the Violence Prevention and Handling Team, hereinafter abbreviated as TPPK Educators, have a function:

- a) submit proposals/recommendations for the Violence Prevention program to the head of the education unit;
- b) provide input/suggestions to the Head of the Education Unit regarding safe and comfortable facilities in the Education Unit;
- c) carry out socialization of policies and programs related to Violence Prevention and Handling together with educational units;
- d) receive and follow up on reports of alleged violence.

In carrying out the Prevention and Handling of Violence, the head of the education unit, and the organizer of the educational unit established by the community are prohibited from allowing violence to occur that results in:

- a) severe physical injuries;
- b) permanent physical damage;
- c) death; and/or
- d) severe psychological trauma; and/or
- e) disseminate the identity of the Victim, Witness, Reported Party, and related parties and information about the case to the public

Seeing from how the bullying is carried out, Article 57 of Permendikbudristek No. 46 of 2023 (PPKSP) has stipulated that in carrying out the Prevention and Handling of Violence, the head of the education unit, and the organizer of the educational unit established by the community are prohibited from allowing violence to occur that results in:

- a) severe physical injuries;
- b) permanent physical damage;
- c) death; and/or
- d) severe psychological trauma; and/or
- e) disseminate the identity of the Victim, Witness, Reported Party, and related parties and

information about the case to the public. Everyone is prohibited from placed, allowed, committed, ordered to do, or participated in violence against children. The threat of sanctions for violating the provisions of Article 57 is stated in Article 59 of Permendikbudristek No. 46 of 2023 (PPKSP), as follows:

Light administrative sanctions as intended

in Article 57 paragraph (1) letter a for Reported Educators and Non-ASN Education Personnel, consisting of:

a. written reprimand; or
b. Statement of apology in writing published in the publication media owned by the Education Unit.

(2) Moderate administrative sanctions as referred to in Article 57 paragraph (1) b for Reported Educators and Non-ASN Education Personnel, consisting of:

a. reduction of rights; or
b. temporary dismissal from position as Educator/Education Personnel.

(3) Severe administrative sanctions as referred to in Article 57 paragraph (1) letter c for Reported Educators and Non-ASN Education Personnel in the form of termination/termination of employment.

(4) The imposition of severe administrative sanctions as intended in paragraph (3) is carried out if the Reported Educator and Education Personnel:

a. proven to have committed violence and/or allowed violence to occur that results in:

1. severe physical injuries;
2. permanent physical damage;
3. death; and/or
4. severe psychological trauma; and/or

b. proven to have committed violence at least 3 (three) times during his tenure resulting in minor physical injuries or minor psychological impacts.

Bullying behavior violates human rights, so it must be overcome by providing legal protection for victims of bullying and other efforts to combat bullying behavior in the school environment. This will improve students' attitudes towards fellow students and make them feel safe and comfortable while studying. Some of the efforts made to overcome bullying in schools are:

- a) Building awareness of all students, school staff, and parents about bullying and its impact on the school environment. This is important so that everyone knows about bullying and its impact.
- b) To prevent and address bullying in schools, a code of conduct and school rules must be created.
- c) In this case, the government or educational institutions must pay attention to the problem of harassment in schools and protect victims of harassment.

If you look at article 25 of Permendikbudristek No. 46 of 2023 (PPKSP) related to the function of TPPK, it should be clear, if teachers are included in an important role in terms of bullying that occurs in schools, which means that teachers are responsible for the incident. Looking again at article 59 related to sanctions against TPPK, it is clear that the sanctions listed, this should be able to reduce the violence that occurs in the school environment.

CONCLUSION

The provisions in Permendikbudristek No. 46 of 2023 (PPKSP) currently accommodate every report of violence that occurs in the school environment through the formulation of articles 25, 57 and 59. The affirmation of the phrase about bullying and its elements must be

seen in every article in the existing Permendikbudristek regulation so that the reports received can be processed with the use of the right article and meet the elements of a criminal act.

For TPPK who ignores the existence of bullying in the school environment, it is certain that they will get administrative sanctions which will certainly harm themselves and vice versa if they defend themselves will get legal protection.

SUGGESTION

Permendikbudristek No. 46 of 2023 concerning the Prevention and Handling of Violence in the Environment of Education Units provides legal protection for teachers who defend victims of bullying or if one day it is reported by the student. So, to strengthen the legal position of the teacher, it is necessary to revise or change.

In the revision or amendment of Permendikbudristek No. 46 of 2023 concerning the Prevention and Handling of Violence in the Education Unit, it is necessary to add or insert a paragraph that regulates the legal status of teachers, namely as TPPK.

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