

## Violent Crime Policies in the Teaching and Learning Process from a Criminal Law Perspective

Rohmatullah<sup>1</sup>, Zudan Arief Fakrulloh<sup>2</sup>, Megawati Barthos<sup>3</sup>

Universitas Borobudur<sup>1,2,3</sup>

Email: rohmatullahmhdjufrie@gmail.com<sup>1</sup>, cclsis@yahoo.com<sup>2</sup>,

megawati\_barthos@borobudur.ac.id<sup>3</sup>

Corresponding Author: rohmatullahmhdjufrie@gmail.com

ARTICLE INFO	ABSTRACT
<b>Submitted</b> :02-04-2023	The reason for viciousness against understudies can happen on the grounds that educators don't grasp the significance of brutality and its unfortunate results. The instructor felt that the understudies would be stopped by whipping. Then again, understudies become angry and defiant to the educator. The conditions and background of acts of violence in education are strung together in a spiral relationship that can appear at any time, by any perpetrator who is involved in an educational institution, as long as there is a trigger for the incident. Recently, there have been various cases that occurred in the educational environment related to violence perpetrated by teachers against their students. Most of the occurrences are caused by the application of disciplinary norms that are too forced on students. Meanwhile, not all students are accustomed to disciplinary behavior. The wrong way of instilling discipline can be in the form of both physical and mental violence against children. The most visible thing is physical violence. It is not uncommon for this to go to court because parents feel they have been disadvantaged
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### 1. Introduction

The teacher is an educator who is in the school environment whose job is to teach a lesson to a student lately, there have been a lot of unpleasant things done by unscrupulous teachers when educating their students. An unpleasant act itself is an act committed by a person or the perpetrator, either intentionally or unintentionally, against the law, either forcing other people or ordering them to do something by ignoring the rights of the victim, so that the victim or sufferer cannot act anything. And the consequences of the perpetrator's actions caused psychological wounds for the victim (Syah, 2012).

Demonstrations of viciousness that happen locally are progressively disturbing. In settling a

contention or issue joined by demonstrations of viciousness. As a general rule, demonstrations of brutality can be deciphered as the deliberate utilization of actual power or power, dangers or genuine viciousness against oneself, others, or against gatherings or networks, which brings about injury or is probably going to harm, kill, hurt mentally, unusual development or misfortune. There are many types of savagery, including actual brutality, verbal viciousness, mental brutality, monetary savagery, representative savagery, and disregard. Brutality can be done by people or in gatherings, erratically (in a condition of desperation), or coordinated. In a social setting, the rise of the hypothesis of brutality can happen in more than one way, as follows: (Kholiq & Wibowo, 2016)

- 1) Social situations that allow violence to arise caused by certain social structures.
- 2) `Prevailing burden, which is a condition when an enormous number of local area individuals feel that many qualities and standards have been disregarded. This strain isn't sufficient to cause uproars or viciousness yet additionally turns into the stimulus for brutality.
- 3) The development of feelings of widespread hatred towards a particular target. The target of hatred is related to the triggering factor, namely the event that triggers the violence.
- 4) Mobilization for action, namely concrete action in the form of self-organization to act. This stage is the final stage of accumulation that allows violence to occur.
- 5) Social control, namely the actions of third parties such as security forces to control, inhibit, and end violence.

The reason for viciousness against understudies can happen on the grounds that educators don't figure out the significance of brutality and its adverse results. The educator felt that the understudies would be hindered by whipping. Then again, understudies become angry and defiant to the educator. Viciousness in schooling happens because of an absence of warmth from the educator. The educator regards understudies as subjects. Savagery can happen on the grounds that the educator does not have anymore or has almost no warmth for understudies, or before, the instructor himself was dealt with brutally.

A school that should be a place for achievement, has become an arena for thuggery. Schools that ought to be put to find out about great cultural standards are transformed into wildernesses without regulation. Solid, strong bosses, have the lawfulness to menace others. Brutality frequently happens not in that frame of mind of actual savagery, but rather additionally mental viciousness. Trifling things can be motivation to commit viciousness. Some of the time viciousness is even managed without reason. It turns into a central issue on the off chance that savagery happens from the educator to understudies. This is exceptionally humiliating for the universe of instruction. Educators who ought to be genuine models for understudies rather set a terrible model for understudies.

Youngsters are buds, potential and people in the future of the country's standards, and play an essential part in guaranteeing the presence of the country and state from now on, they will actually want to take on that obligation, then they need to get the vastest conceivable chance to develop and ideally create, both physical, mental, social, profound. They need to get their freedoms, should be safeguarded, and flourished. Subsequently all types of brutality against kids should be forestalled and survived (Abu, 2007) .

The status and state of Indonesian youngsters are a mystery. Preferably, youngsters are the future beneficiaries and replacements of the country. In genuine terms, the circumstance for Indonesian youngsters is still and keeps on deteriorating. The universe of youngsters ought to be hued by playing, learning, and fostering their inclinations and abilities for the future, actually shaded by dim and miserable information. Indonesian youngsters are still and keep on encountering brutality.

Recently, there have been many various cases that have occurred in the educational environment related to violence perpetrated by teachers against their students. Most of the cases that occur are caused by the application of disciplinary norms that are too forced on students. Meanwhile, not all students are accustomed to disciplinary behavior. The wrong way of instilling discipline can be in the form of both physical and mental violence against children. The most visible thing is physical violence. It is not uncommon for this to go to court because the students' parents feel aggrieved (Rahman, Nurjannah, & Utami, 2018) .

Savagery against youngsters is frequently related to apparent viciousness, like physical and sexual brutality. Despite the fact that brutality that is mental and social (underlying) likewise for all time affects youngsters. Therefore the term child abuse or mistreatment of children can range from physical abuse to sexual abuse; from psychological (mental abuse) to social (social abuse) with the dimensions of structural violence. Poverty often goes hand in hand with low levels of education, unemployment, and mental stress are generally seen as the dominant factors that drive cases of violence against children. Weak law enforcement and cultural practices can also have an impact on the phenomenon of violence against children.

The issue in this paper is the means by which is the approach of rough wrongdoings in the educating and educational experience according to the point of view of criminal regulation in Indonesia.

## **2. Materials and Methods**

The strategy utilized recorded as a hard copy this applied paper is an unmistakable scientific technique, to be specific by utilizing information that plainly portrays the issues straightforwardly in the field, then, at that point, the examination is done and afterward finished up to tackle an issue. Strategies for information assortment through perception and writing study to get critical thinking in the arrangement of this paper.

In line with the research objectives to be achieved, the realm of this research is included in the actualization of qualitative research, thus a qualitative approach methodology will be used. According to Petrus Soerjowinoto et al., a qualitative method is a method that emphasizes the process of understanding researchers on the formulation of problems to construct a complex and holistic legal phenomenon (Soerjowinoto, 2006) .

Normative juridical approach carried out against certain laws and regulations or written law, relating to acts of violence committed by teachers against their students (Soemitro, 1990) . This study describes the condition of the object under study, specifically zeroing in on guideline and strategies on brutal wrongdoing in the educating and educational experience according to the point of view of criminal regulation in Indonesia by and by.

## **3. Results and Discussions**

### **Violent Crime Policies in the Teaching and Learning Process in the Perspective of Criminal Law in Indonesia.**

Criminal regulation, by and large, capabilities to manage individuals' lives to make and keep public control. People in their endeavors to satisfy their various necessities and interests in life once in a while experience clashes with each other, which can inflict any kind of damage

or impede the interests of others. All together not to inflict damage and disrupt the interests of others to satisfy their requirements, the law gives decides that limit human activities, so he can't do however he sees fit (Chazawi, 2002) .

In teaching and learning activities, giving punishment is something that is usually done by teachers from the past to discipline students (students) from bad deeds. However, often due to a lack of communication between students (students) and students regarding the punishment by the teacher, this act is considered an act of violence. In this case, it can be categorized as physical child abuse. Actual youngster misuse is torment, beating, and abuse of kids, regardless of utilizing specific articles, which make actual wounds or demise youngsters. The type of the injury can be as scraped spots or injuries because of contact or savagery with a dull item, for example, indentations, squeezes, belts, or rattan. It can likewise be as consumes from hot gas or examples brought about by consuming cigarettes or irons and the area of the injuries is generally tracked down on the thighs, arms, mouth, cheeks, chest, stomach, back, or rump region (Hamzah, 2008) .

Specifically, Regulation Number 23 of 2002 Concerning Kid Security, as an extraordinary guideline in regards to youngsters, the educator's activities which are demonstrated as criminal demonstrations are undermined with Article 80 passage (1) which states: Each and every individual who perpetrates brutality, savagery or dangers of viciousness or abuse against kids, will be rebuffed with a most extreme detainment of three years and a half year or potentially a greatest fine of Rp. 72,000,000.00.

The meaning of educators who give actual authorizations to understudies in the school climate can be proclaimed as culprits of criminal demonstrations of misuse. Since the instructor has satisfied the component of oppression (Hiariej, 2016) .

- 1) Deliberately, to be specific maintaining that the demonstration should happen or realizing that the demonstration is a demonstration that is denied by regulation. At the end of the day, an individual is said to do a demonstration deliberately on the off chance that the demonstration is done enthusiastically and purposely. Somebody who carries out a crook act has understood that the results of his activities can be under the will or reason, or not in regards to the will or reason.
- 2) The activities committed have caused torment, obviously, the actual assents given by the educator to understudies bring about torment.

In the 2016 Supreme Court decision, with the subject matter of a teacher who cut 4 of his students' long hair, one of the students did not accept it and beat the teacher along with his parents. The District Court's decision stated that the teacher had been proven to have committed a criminal offense with a suspended sentence. The High Court's decision also strengthened the District Court's decision. Meanwhile, the Supreme Court decision acquits teachers from criminal prosecution, because it is their duty and is not a crime and the defendant cannot be sentenced for his actions or actions because it aims to educate his students to be disciplined.

The place of an instructor as a teacher is in many cases in a situation, between the requests of the calling and the treatment of society. From one perspective, they are expected to have the option to lead understudies to accomplish instructive objectives. However, then again, when educators attempt to maintain discipline, they are stood up to by the Youngster Assurance Regulation and the Indonesian Kid Insurance Commission. If they failed to uphold discipline and lead students to achieve educational goals, as educators they are often accused of being the culprit for the failure. The most crucial problem faced by a teacher is when they have to give punishment to students who violate school rules and regulations to uphold discipline, parents, and society often judge this as an act of violating human rights or violating the Child Protection Act. They easily report the teacher's actions to law enforcement (read: police or

KPAI). As a result, in carrying out their professional duties, teachers are often in a dilemmatic position and are even vulnerable to being criminalized (Wahyuni, 2008) .

There is often a lot of news on social media about a teacher who was complained by the parents of students because they were considered to have physically and psychologically abused their students, as well as news about teachers who have been abused and beaten up by parents of students. Teachers were reported to have violated child protection rights when giving sanctions for disciplinary violations against students, such as being jeered, beaten, yelled at, told to run around the schoolyard, told to do push-ups several times, told to salute the flag in hot weather until the end of class, cleaned the toilets, and so on. The types of disciplinary punishment that were considered normal or commonplace in the past in the world of education are now considered no longer educational and are even considered to violate the Child Protection Act. Disciplinary sanctions like that were previously not considered a violation of the law, but now teachers must be more careful in giving disciplinary punishment to students. Disciplinary disciplines given to understudies should be directed by school rules and Regulation Number 35 of 2014 concerning Revisions to Regulation Number 23 of 2002 concerning Kid Insurance.

To complete their expert obligations, educators have privileges and commitments, remembering getting insurance for doing their obligations and having the opportunity to give evaluations and take part in deciding graduation, grants, as well as authorizations for understudies by instructive principles, the educator's set of rules and regulations and guidelines; and get a conviction that all is good and confirmation of security in doing the undertaking. Security for educators in doing their obligations is additionally controlled in Unofficial law Number. 74 of 2008 concerning Instructors. Article 40 article (39) makes sense of that:

- 1) Teachers have the opportunity to force sanctions on their understudies who abuse strict standards, standards of conventionality, standards of respectability, composed and unwritten guidelines set by the educator, guidelines at the degree of instructive units, and regulations and guidelines in the growing experience which are under their power;
- 2) Sanctions as alluded to in passage (1) can be as censures and additionally admonitions, both oral and composed, as well as instructive disciplines by instructive guidelines, educator set of rules, and regulations and guidelines;
- 3) Violations of the schooling unit guidelines committed by understudies whose approvals are past the power of the educator, are accounted for by the instructor to the top of the training unit;
- 4) Violations of regulations and guidelines committed by understudies are accounted for by the instructor to the head of the schooling unit to be followed up by legal arrangements.

Furthermore, in Article 40 article (40) explains that: Educators reserve the option to get assurance in completing their obligations as a conviction that all is good and certifications of security from the public authority, neighborhood government, training units, educator proficient associations, or potentially the local area by their separate specialists.(Kriswanto, 2022)

Based on the jurisprudence of the Supreme Court (MA), teachers cannot be punished when carrying out their profession and taking disciplinary action against students. The protection of the teaching profession itself has been recognized in PP Number 74 of 2008. In the PP, instructors are proficient teachers with the fundamental assignment of teaching, educating, directing, coordinating, preparing, surveying, and assessing understudies in youth training through proper schooling. rudimentary training, and optional instruction. In

instructing, educating, guiding, and evaluating students, teachers are given academic freedom to apply existing methods. In addition, the teacher is not only authorized to reward his students but also to give punishment to these students. "Educators have the opportunity to give approvals to their understudies who abuse strict standards, standards of goodness, standards of fairness, composed and unwritten guidelines set by the instructor, guidelines at the degree of instructive units, and regulations and guidelines in the growing experience which are under their position," reads Article 39 paragraph 1. In paragraph 2 it is stated that these authorizations can be as censures and additionally admonitions, both verbally and recorded as a hard copy, as well as instructive disciplines by instructive norms, the instructor's set of rules, and regulations and guidelines. "Educators reserve the option to get security in completing their obligations as a feeling that everything is good and certifications of wellbeing from the public authority, territorial legislatures, schooling units, instructor proficient associations, or potentially the local area following their separate specialists," as underscored in Article 40. A feeling that all is well with the world and confirmation This security is gotten by educators through lawful, proficient, and word related wellbeing and wellbeing insurance. "Instructors reserve the privilege to get legitimate security from demonstrations of viciousness, dangers, prejudicial treatment, terrorizing, or out of line treatment with respect to understudies, guardians of understudies, society, administration, or different gatherings," as stated in Article 41.

Seen according to the point of view of Indonesian criminal regulation, there are a few considerations from criminal regulation specialists in regards to one side to instruct guardians and gatekeepers of their youngsters, the option to instruct educators, speakers, and mentors for their understudies or understudies, including Andi Zainal Abidin Farid, including the option to teach individuals guardians or watchmen, educators as explanations behind criminal exception outside the Lawbreaker Code. It is said that guardians, educators, and individuals responsible for teaching, "inside specific cutoff points" reserve the privilege to deny youngsters who are not yet grown-ups, for instance constraining them not to leave their rooms, requesting them to remain in a large number of classes is finished, or requesting them to return to school in the early evening. "It is not an unlawful deprivation of liberty." Punishing children by spanking "under certain circumstances" and "as long as it is carried out educationally" does not constitute abuse.(Kriswanto, 2022)

#### **4. Conclusion**

After going through the analysis and discussion above, the writer can conclude the following: Based on the jurisprudence of the Supreme Court (MA), teachers cannot be punished when carrying out their profession and taking disciplinary action against students. The protection of the teaching profession itself has been recognized in PP Number 74 of 2008. In the PP, educators are proficient instructors with the primary errand of instructing, educating, directing, coordinating, preparing, surveying, and assessing understudies in youth training through conventional schooling. rudimentary instruction, and auxiliary schooling. In teaching, educating, guiding, and evaluating students, teachers are given academic freedom to apply existing methods.

Educators reserve the option to get assurance in completing their obligations as a feeling that all is well with the world and certifications of security from the public authority, provincial legislatures, instructive units, proficient educator associations, or potentially the local area by their separate specialists," as underscored in Article 40. Feeling that all is well with the world and assurances of security This is gotten by instructors through legitimate, proficient, and word related wellbeing and wellbeing insurance. "Instructors reserve the option to get legitimate

assurance from demonstrations of savagery, dangers, prejudicial treatment, terrorizing, or out of line treatment with respect to understudies, guardians of understudies, society, administration, or different gatherings," as stated in Article 41.

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