

Perlindungan Hukum Bagi Guru dari Pidanaan saat Mendisiplinkan Siswa = Legal Protection for Teachers from Criminalization When Disciplining Students

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Abstrak

Hukuman disiplin merupakan hak dan kebebasan guru. Penelitian ini bermaksud menjawab permasalahan terkait perbedaan pandangan antara guru dan orangtua terkait pengenaan hukuman hukuman disiplin terhadap siswa. Bagaimana pengaturan hak dan perlindungan hukum bagi guru yang mendisiplinkan siswa di Indonesia. Bagaimana pengaturan hak dan perlindungan hukum yang ideal bagi guru dalam mendisiplinkan siswa. Penelitian ini dilaksanakan dengan metode yuridis normatif melalui studi literatur, dengan perbandingan Negara Australia, Jepang, Albania, Norwegia, Britania Raya. Hasil penelitian menunjukkan bahwa hak atas pendidikan di Indonesia telah diatur dalam UUD 1945, namun pengaturan hak siswa dan guru dalam UU Sisdiknas masih kurang memadai, terutama dalam mencakup empat kategori penting hak anak dan hak guru dalam mendisiplinkan siswa. Selain itu, UU Guru dan Dosen memberikan landasan kuat bagi hak guru sebagai profesi bermartabat, namun perlu pengaturan lebih jelas terkait disiplin siswa untuk memastikan praktik mendidik tetap proporsional dan etis. Kemudian, PP Guru perubahan tahun 2017 melarang hukuman disiplin yang merendahkan martabat siswa, sementara Permendikbud Nomor 10 Tahun 2017 menunjukkan komitmen negara melindungi guru dari kriminalisasi saat menjalankan tugas. Lalu, Putusan Mahkamah Agung dan Mahkamah Konstitusi memberikan perlindungan hukum bagi guru, tetapi perbedaan pendekatan antara keduanya menyoroti perlunya sinkronisasi norma terkait disiplin dan perlindungan hak siswa. Untuk itu dibutuhkan pengaturan ideal disiplin siswa mencakup larangan kekerasan fisik, corporal punishment dan mengatur penggunaan metode disiplin positif untuk mendisiplinkan siswa, serta penggunaan hukuman disiplin seperti eksklusi, dikeluarkan, skorsing, dan penahanan dengan melibatkan orang tua dalam prosesnya. Selain itu, hak siswa untuk mengemukakan pendapat harus diakui, termasuk kesempatan untuk banding atas hukuman disiplin yang diberikan oleh sekolah, sebagaimana diterapkan di beberapa negara lain. Kemudian, regulasi yang jelas mengenai definisi disiplin dan hukuman disiplin diperlukan untuk memisahkan pelanggaran disiplin dari pidana, guna menciptakan lingkungan pendidikan yang mendukung dan adil. Saran penelitian, UU Guru dan Dosen, PP Guru, dan Pedoman Kerja antara Polri PGRI perlu diubah untuk mengkriminalisasi diskriminasi dan kekerasan terhadap siswa, menetapkan kebijakan pendisiplinan yang dibenarkan, melibatkan orang tua dan siswa dalam pengambilan keputusan disiplin, menyediakan prosedur banding atas hukuman disiplin, dan memastikan keputusan akhir melibatkan Dewan Komite Sekolah untuk menjaga keadilan dan transparansi.

.....Disciplinary punishment is the right and freedom of teachers. This research intends to answer problems related to differences in views between teachers and parents regarding the imposition of disciplinary punishment on students. How is the regulation of rights and legal protection for teachers who discipline students in Indonesia. How is the ideal regulation of rights and legal protection for teachers in disciplining students. This research was conducted using normative juridical method through literature study, with comparison to Australia, Japan, Albania, Norway, United Kingdom. The results show that the right to education in Indonesia has been regulated in the 1945 Constitution, but the regulation of students' and

teachers' rights in the National Education System Law is still inadequate, especially in covering four important categories of children's rights and teachers' rights in disciplining students. In addition, the Teachers and Lecturers Law provides a strong foundation for teachers' rights as a dignified profession, but needs clearer arrangements regarding student discipline to ensure that educational practices remain proportional and ethical. Then, the Teacher Regulation of 2017 prohibits disciplinary punishment that degrades the dignity of students, while Permendikbud Number 10 of 2017 shows the state's commitment to protect teachers from criminalization while carrying out their duties. Then, the Supreme Court and Constitutional Court decisions provide legal protection for teachers, but the difference in approach between the two highlights the need for synchronization of norms related to discipline and protection of student rights. This requires that the ideal regulation of student discipline includes the prohibition of physical violence, corporal punishment and regulates the use of positive discipline methods to discipline students, as well as the use of disciplinary punishments such as exclusion, expulsion, suspension, and detention by involving parents in the process. In addition, students' right to express opinions should be recognized, including the opportunity to appeal disciplinary punishments given by schools, as implemented in several other countries. Then, clear regulations regarding the definition of discipline and disciplinary punishment are needed to separate disciplinary offenses from criminal offenses, in order to create a supportive and fair educational environment. As suggested by the research, the Teacher and Lecturer Law, the Teacher Government Regulation, and the Working Guidelines between Polri and PGRI need to be amended to criminalize discrimination and violence against students, establish justified disciplinary policies, involve parents and students in disciplinary decision-making, provide appeal procedures for disciplinary punishment, and ensure final decisions involve the School Committee Council to maintain fairness and transparency.