



Causative Factors of Criminal Acts Teacher Mistreatment of Students

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Abstract: This study investigates the impact of providing restitution on child victims of pornographic video distribution, utilizing empirical legal methods and case-based analysis. The study explores the implementation of restitution for children under Article 7A of Indonesia's Law No. 31/2014 on Witness and Victim Protection and Government Regulation No. 43/2017 on Restitution for Child Victims of Criminal Acts. The research identifies factors influencing the restitution process, including a lack of legal understanding among children, parents, and families of both perpetrators and victims, as well as challenges arising from government regulations on restitution. Restitution, governed by legal frameworks, is recognized as insufficient to eliminate the crime or case resolution. Challenges in restitution fulfillment also stem from the absence of a Witness and Victim Protection Agency, leading to delays in awaiting decisions and assessments from the Central LPSK. Economic capacity and the perpetrator's willingness further impact the restitution process.

Keywords: criminal offences; Teacher Persecution; Child

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1. Introduction

The laws that the government has made are aimed at reducing errors and may even disappear forever.¹ Teguh Prasetyo stated that the purpose of criminal law in principle contains the meaning of prevention, especially against negative symptoms, as well as treatment for perpetrators who have already made mistakes. Simply put, criminal law is a provision to limit human behavior to eliminate crimes and violations of the interests of society.² Another meaning where criminal law norms have the meaning of rules of public behavior issued by authorized officials, apply thoroughly and equally to all groups which are then accompanied by sanctions against violators.³ Concrete law enforcement is the enactment of positive laws in practice as they should be obeyed.⁴ This is certainly in line with the saying that it is better to prevent than to cure.⁵

Warih Anjari states that evil has 2 meanings:⁶

1. The narrow meaning or sociologically juridical means actions that are detrimental to society, and the sanctions applied are in the form of agreements in society and fall into the methods of decency or custom, and
2. The broad meaning of juridical normative is actions that harm society in the abstract, regulated by positive laws that contain stricter sanctions, where enforcement is left to the State.

The implementation of education in the school environment is not uncommon to find acts of violence against children as students, where teachers who have a role in providing education and implementing disciplinary behavior lead to criminal acts. However, the actions taken by educators in disciplining sometimes even worsen the child's psychology due to the violence they experience. During the teaching and learning process, one of the roles of the teacher is as a guide and even as a motivator in the child's life.

Educators in this case teachers have the task of planning and implementing the learning process to conduct guidance and training, and therefore teachers have an important role in the world of education which carries the obligation to create a fun, dynamic, and creative learning atmosphere. Based on this role, teachers should be role models and it is important to maintain the good name of the

¹ Topo Santoso and Eva Achjani Zulfa, *Kriminologi*, Depok : PT Rajagrafindo Persada, 2017, Hlm 4

² Teguh Prasetyo, *Hukuman Pidana Edisi Revisi*, Jakarta: Grafindo Persada, 2014, Hlm 15-16

³ A.S. Alam and Amir Ilyas. *Kriminologi Suatu Pengantar*, Jakarta: Prenadamedia Group, 2018, Hlm 31

⁴ Fenty U. Puluhalawa, *Pertambangan Mineral Dan Batubara Dalam Perspektif Hukum*. (Yogyakarta: Interpena, 2013) Hal 65

⁵ Jufryanto Puluhalawa, "Reformulasi Pengaturan Aplikasi I-Doser Sebagai Narkotika Digital", *Arena Hukum*, Volume 9, Nomor 3, Desember 2016, hlm. 374.

⁶ Anjari, Warih. Fenomena Kekerasan Sebagai Bentuk Kejahatan (Violence). *Jurnal WIDYA Yustisia*, Volume 1, No. 1, 2014. hlm 45.

institution and profession and its position, especially in the application of rules and regulations in the school environment. However, activities that occur when interactions between teachers and students in the classroom and in the school environment clashes with physical violence when teachers carry out their duties in enforcing discipline on their students. The reason for this action is as a form of sanction for the mistakes and negligence of students, and violations of school rules when teachers emphasize disciplinary rules.

Acts of violence are physical and generally carried out on students, resulting in injuries and injuries due to beatings abuse, and so on. There is also psychological violence, which is emotional violence carried out by insulting, hurting feelings, and hurting self-esteem which can reduce self-confidence and become helpless. Physical violence is usually on the human body and physically, while psychological violence is in the form of pressure that can reduce mental abilities and the child's brain. This act of physical violence by teachers is contrary to Freedman's perception that teachers are basically able to generate positive impressions at the beginning of activities in the world of education, and will still apply positively in the future.

Meanwhile, the teacher's attitude and behavior are so important in arousing the enthusiasm for learning of students, that the sanctions or punishments given by the teacher become negative and hurt the learning process of a child.⁷ School should be a place where students develop so that no matter how small the violence is, it will dim the child's psychological development and still be a mistake. Violence experienced by children at school results in various things, namely:⁸

1. As a result, the organs of students become damaged, such as bruises and cuts.
2. Psychologically resulting in psychological trauma such as fear and loss of comfort to decreased enthusiasm for learning
3. Social violence experienced by students if not addressed has an impact on children's participation in the school social environment, because they feel unhappy among their friends, so it is difficult to communicate well with teachers and more closer to themselves.

The dignity of the profession of a teacher, so that there are rules of the game in carrying out the profession and are contained in the Indonesian Teacher Code of Ethics, which is as issued by PGRI.⁹ In carrying out their duties, teachers are

⁷ D. Young, Hugh dan Roger A. Friedman, *Fisika Universitas (Terjemahan)* Jilid.1.; Erlangga, Jakarta 2002, hlm.220

⁸ Wiyani, Ardy Novan, *Save Our Children From School Bullying*, Ar-Ruz Media Group, Yogyakarta 2012, hlm.27

⁹ Akhmad Zacky AR, *Kode Etik Guru Dalam Meningkatkan Profesionalisme Pendidik; Reaktualisasi Dan Pengembangan Kode Etik Guru Di Madrasah Aliyah Darul Amin Pamekasan*, Jurnal Pendidikan

obliged to uphold laws and regulations as well as the code of ethics, where there are provisions in Article 6 of the code of ethics, namely;

1. Teachers individually or together continuously strive to create, maintain, and develop a pleasant school atmosphere as an effective and efficient learning environment for students, and
2. Teachers establish relationships with students based on compassion and avoid acts of physical violence that are beyond the limits of educational rules.

Another thing that motivates the prosecution of cases of child violence in schools is the existence of Article 4 Paragraph (1) of Law No. 20 of 2003 concerning the National Education System which states that, education is held in a democratic and equitable manner and is not discriminatory by upholding human rights, religious values, cultural values and national diversity. The existence of this regulation is at least decisive when educators quibble and take refuge behind justifications to enforce discipline, which in the end teachers commit acts of physical violence beyond the limit.

Violence that often occurs in the scope of education, especially in the school environment, is divided into 2, namely; *First*, pure violence without being accompanied by rational reasons such as fights between students *and second*, in the application of learning methods such as the use of disciplinary sanctions and improving the morals of students who contain physical violence. The phenomenon of violence that afflicts students in schools often attracts public attention, because the rampant actions occur in the educational environment.

Similarly, in Gorontalo, cases of physical violence are also experienced by children in the educational environment of Gorontalo Regency. Based on the observations of prospective researchers at the Gorontalo Resort Police, at least every year there are reports of violence committed by teachers, principals and school security against their students. Here's more in the table below;

Table : Data on Teacher Violence Against Students in 2021-2023

Year	Victim (Initials)	Reported/Gender	Reported Status	Sum	Status
2023	Arifin	MK/P	Guru	1	Police Process

2022	Rehan SN	(L), (A) dan JP/ P & L	Teachers, Kepsek, School Security Personnel	2	1 Prosecuti on Stage Case
2021	Dewi Aco	RT/L ES/P	Guru Guru	2	Both are RJ
TOTAL				5	

Data source: Unit IV, Women and Children Protection (PPA) Gorontalo Police Station (Limbot).

Chronology of cases of violence against students that occurred at the end of 2022 (October) to cause children (MR) to suffer serious injuries and be rushed to the hospital. This happened after the student received abuse in the form of physical violence from teachers, principals, and security or school security who repeatedly hit the victim on the head in turn. Based on the investigator's statement through BAP (minutes of examination), this incident began when the victim saw the cable of one of the classrooms cut and then used certain materials to connect it, but it caused the cable to burn to panic the residents of the high school.

Article 54 of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection stipulates that;

1. Paragraph (1); Children in and within the education unit must receive protection from physical, psychological, sexual crimes, and other crimes committed by educators, education staff, fellow students, and/or other parties.
2. Paragraph (2); Protection as referred to in paragraph (1) is carried out by educators, education staff, government officials, and/or the community.

The provisions above, it indicate that a child in the school environment must receive protection from acts of violence in any form from an educator, education staff, fellow students, and other parties. Therefore, teachers as educators should not commit acts of physical violence against students at school. Meanwhile, in KBBI, the term violence itself is in the form of a matter that is violent, causing injury or death to others or physical damage or other people's property. In addition, there is an element of coercion that results in pain. More clearly, actions can be categorized as physical violence if they result in pain, falling ill or seriously injuring someone.

Article 76 C jo Article 80 of Law No. 35 of 2014 stipulates that everyone is prohibited from placing, allowing, committing, ordering to commit, or participating in violence against children, so those who violate it will be punished with a maximum imprisonment of 3 (three) years 6 (six) months and/or a

maximum fine of 72 million rupiah. In more detail, here are the provisions regarding child violence;

1. Paragraph (1) Article 80 jo Article 76 C of Law No. 35 of 2014 Article 80 of Law No. 35 of 2014 (1) Any person who violates the provisions as referred to in article 76c shall be punished with a maximum imprisonment of 3 (three) years 6 (six) months and/or a maximum fine of Rp.72,000,000.00 (seventy-two million rupiahs)
2. Paragraph (2) If as referred to in paragraph (1) is seriously injured, the offender shall be sentenced to a maximum imprisonment of 5 (five) years and/or a maximum fine of Rp.100,000,000.00 (one hundred million rupiah).
3. Paragraph (3) If the child as referred to in paragraph (2) dies, the offender shall be sentenced to a maximum imprisonment of 15 (fifteen) years and/or a maximum fine of Rp. 3,000,000,000.00 (three billion rupiah)
4. Paragraph (4) Criminal plus one-third of the provisions as referred to in paragraph (1), paragraph (2), and paragraph (3) if the person who commits physical violence is his parents.

Referring to Article 76 C of Law No. 35 of 2014, it is clear that acts of physical violence committed by teachers to their students are forms of action that can be subject to criminal sanctions. The type of sanction in principle refers to things that have been regulated in general in criminal law provisions. However, considering that the teacher's actions are closely related to the educational aspect and the victim is a child, of course prioritizing the protection aspect through the Child Protection Law, so that the perpetrators of violence mentioned above are subject to Article 80 Paragraph (2) of Law No. 35 of 2014 with the threat of 5 (five) years in prison.

2. Method

The type of research used is empirical legal research which is a legal research method that functions to see in a real sense and research related to how legislation works in society.¹⁰ This research is also commonly referred to as sociological juridical legal research, whose object of study is community behavior as a reaction to the implementation of regulation and is based on the habits of the general public.¹¹ The types of data are primary and secondary which are processed through analytical descriptive techniques on problems in the field.

¹⁰ Amirudin, H. Zainal Asikin, 2010, "Pengantar Metode Penelitian Hukum", (Jakarta: Raja Grafindo Persada), Hal 49

¹¹ Mukti Fajar & Yulianto Achmad. *Dualisme penelitian Hukum Normatif & Empiris*. Yogyakarta: Pustaka Pelajar. 2013. Hlm: 51

3. Analysis and Discussion

3.1. Factors in the Occurrence of Criminal Acts of Mistreatment by Teachers Against Their Students

The issue of violence, which at any time is common to anyone, has various forms according to the times and the causes of violence are very diverse. Students as children who are experiencing growth must be directed and maintained to lead to positive things, although in the end not a few of them are involved in negative things because of life problems that accumulate, and make children vent their disappointments on the streets and even often do anarchy to the school environment.

The educator has the freedom to give credit to his performing students, in addition, the teacher also has the freedom to sanction his students who have violated the religious norms of decency, the norms of decency and the rules established by the written and unwritten teachers, the rules of the educational unit level and the rules of law in the learning process. As for the sanction that the teacher gives to his protégé, it can be a reprimand or a warning, both oral and written and a sanction that is educational by the method of education, by the teacher's etiquette code, and the rules of law.

According to investigators, there is also sexual violence experienced by children which is also carried out by individuals in the educational environment, such as sexual immorality, which in the end the perpetrator is sentenced to prison. This violence against children includes sexual exploitation in prostitution or pornography, groping, and forcing children to hold their genitals to sexual relations carried out by people who are related by blood. In addition, there is also emotional abuse where children eventually experience health problems or physical, mental, spiritual, moral, and social development. For example, suppressing restrictions on movement, belittling children to discriminate, and ridiculing or laughing at them which also happens in the school environment.

No less numerous are cases of violence experienced by children, especially neglect. Indifference of parents or people responsible for children for their needs, both negligence in the field of health to care that is not obtained so that the child does not experience adequate life and medical care. In addition, negligence in the field of education includes not sending children to an education that must be followed, or failure to meet educational needs. Child exploitation problems also occur such as the use of work or other activities to gain benefits for others, including child labor and prostitution. Of course, this is damaging and even detrimental to the physical and mental health, and spiritual, moral and social development of the child.

Based on this, it can be grouped that violence that occurs against children in the jurisdiction of the Gorontalo Resort police includes:

- a. physical violence; That is the act of someone injuring a child's body parts such as torture, beating, and child abuse, with or without using certain objects, which cause physical injury or death to the child. The form of the wound can be abrasions or bruises due to contact or blunt force objects.
- b. Psychic Violence; includes rebuking, insulting, and delivering abusive and profane words. Perpetrators usually commit *mental acts of abuse*, blame, labeling, or scapegoating. Children who get this treatment generally show symptoms of maladaptive behavior, such as being withdrawn, shy, crying when approached, being afraid to go outside the house, and being afraid to meet other people.
- c. Sexual Violence; is violence in the form of forced sexual relations, pre-sexual contact treatment between children and others, as well as direct sexual contact between children and adults in *incest* and sexual exploitation.
- d. Social Violence; Where socially it can include child neglect and child exploitation. Child neglect is the attitude and treatment of parents who do not pay attention to the child's growth and development process. For example, the child is excluded from the family or is not given education and health care. Child exploitation refers to the mistreatment of children by the family or community. For example, forcing children to do something for economic, social, or political interests without regard for children's rights. For example, children are forced to work for low wages and without adequate protective equipment, and work beyond their means.

This form of violence can be accepted by children anytime and anywhere and as if they are overshadowed or followed by crimes wherever they are both at home and at school. Furthermore, researchers based on the findings and interviews in the field, found that the factors causing the occurrence of criminal acts of mistreatment committed by teachers against their students. According to Mrs. Suwartin Makrun¹² the cause of mistreatment by educators in schools is because;

1. Internal factors. This factor consists of several things, namely;
 - a. Comes from within the student himself, namely his behavior that is considered too beyond the limit such as not following school rules to fight teachers and do things that harm other parties. That is, where the actions of these students have violated the norms of politeness to show bad attitudes and behaviors toward fellow students or to existing teachers. Simply put, the occurrence of violence against children can be caused by the condition and behavior of children. The condition of the child, for example, the child suffers from developmental disorders, the child's dependence on his environment, and behavioral disorders, so that the child has deviant behavior. The occurrence of violence

¹² Interview with Educator Leaders in Gorontalo Regency

against children can also be caused by psychological dimensions and personality. Like a child trying to get attention by acting that provokes anger, or aggressive. Conversely, it can also be that feelings that are less appreciated are manifested by bullying other weaker parties so that they feel great. Children who are temperamental and active are more likely to be violent than children who are passive and shy. Because of such circumstances, children can easily experience violence from others, including their teachers.

- b. Comes from a family. The point is that there is a parenting style of children who are less educated in the family environment, including over-pampering children by fulfilling all their desires so children tend to grow up with an arrogant nature and cannot control their emotions. In addition, there is a bad relationship between parents who then children experience psychological problems. Not only that, there are also parents or families who due to protracted psychological problems, it can affect the pattern of relationships and parenting. In addition, there is a dysfunctional family, meaning that one of its members often hits, emotionally, and intimidates other members or families who often conflict openly without a solution which in the end is a prolonged problem, to consumes and attacks psychological and physical energy affecting interaction and communication and even the child's learning and sociability abilities. This parental or family factor plays an important role in the occurrence of violence in children. Some examples such as parents who have a parenting style to raise their children with violence or abuse, families that often fight have a higher rate of violence against children compared to families without problems, single parents are more likely to commit acts of violence against children because of the stress factors experienced by these parents. Not only that, parents or families who do not have psychological maturity commit violence against children, even a history of parents with violence in childhood also allows violence against their children.

2. External Factors consisting of;

- a. From Personal Teacher. The personality of a teacher also plays an important role in the occurrence of criminal acts of persecution committed against his students. Sometimes a teacher physically abuses his students, to discipline them, and the child behaves according to the teacher's expectations. However, whatever the reason for a teacher if has to use physical violence, of course, it cannot be narrated and even lead to violations to crime. Sometimes it is because of this attitude of the teacher that raises the unequal power between the teacher and his students so that the understanding of who has a higher hierarchical structure is strong and must be respected. In this

case, the teacher's hierarchical structure is above the students, so this creates inequality in relations and understanding more power from the teacher to his students.

- b. From Culture and Community Understanding. Not infrequently public trust in educational institutions, especially schools, sometimes causes other perceptions, where parents have an understanding that the teacher at school is the second person to their children, so they do not control what their children do, including disputes between friends. A culture that adheres to practices with the thought that the status of children is looked down upon, so that when children cannot meet parental expectations then children should be punished. For boys, it is judged that they should not be whiny or must withstand the test. This understanding then influences and makes parents when hitting, kicking, or bullying children is a natural thing to make children a strong person and should not be weak. Therefore, when dealing with other people, especially teachers who always communicate and meet every day, children often become stubborn and do not want to be directed to cause acts of violence.
- c. From the Media. There is a habit of children who are bereaved watching shows on television and social media so that children experiencing *Stockholm* syndrome smell a lot of violence. As a result, in the pattern of thinking there is a perception that if you want to be strong and feared, use violence. Therefore, the child then becomes unable to control himself which then causes persecution from the teacher because the child cannot be managed. Media is one of the information tools that has become part of everyday human life. This media certainly influences the acceptance of concepts, attitudes, values, and moral points. As is the case in electronic media that provides news of crime, murder violence. Then such as radio, television, video and film greatly influenced the development of psychology, where crime is shown alongside violent scenes, action films with fights, crime news, and persecution within the family. In essence, mass media has a positive function, but sometimes it can have a negative impact.
- d. In addition, these environmental conditions can be a cause of violence against children, including poor environmental conditions, a history of child neglect, and high crime rates in the environment. The environment between home and school that children experience every day, also has an impact on the emergence of violence. For example, a cramped home environment and no peace, including ward members who behave badly. Similarly, a school environment that does not stimulate students to learn, for example, an only monotonous class atmosphere, and some regulations are not relevant to teaching, such

as the absence of practicum facilities and so on, will cause students to prefer to do activities outside school with their friends. Befriending friends involved or joining delinquent children can influence the occurrence of these violent acts.

According to Mr. Abdul Wahab Pahrin other factors that cause violence in education are caused by:

1. The less conducive community environment coupled with violence that occurs in various places, is very easy to be seen directly by children and contributes to violence in the world of education, both against students and teachers.
2. Knowledge of the act of brawl which is a hereditary culture and passed down by seniors under the pretext of maintaining the image of the school is "feared", by creating groups whose members are from generation to generation of the school. The action instilled by the senior that by making physical complaints will boast of his name or school and as an action is a brawl on the streets.
3. Children live far from parents or *broken homes* which means there is no supervision from a supervisory figure.
4. Poor association that causes consuming alcoholic beverages and then causes uncontrollable emotions, even it can occur in the school environment
1. Lack of communication from parents to children regarding moral and social values, both in children's activities, and children's friendships outside school.

Meanwhile, the impact of violence on children in schools according to him is:

- a. Physical Impact. The impact of physical violence causes students' organs to experience damage such as bruises, to injuries, and even trauma. Not only that, students as victims can also experience disability, it can even lead to death.
- b. Psychological impact. The psychological impact experienced can be in the form of fear, feeling insecure, feelings of anxiety and resentment, to decreased enthusiasm for learning. Children will usually lose concentration and become quiet, and the child's mentality becomes weak decreases self-confidence, and even depression. This psychological impact can be divided into mild, moderate, and severe. Mild psychological impacts such as resistance to the environment, while moderate categories such as quiet, closed down or known as *introverts*. The severe psychological impact is suicide.

Based on the explanation of the findings above, the researcher wants to provide his analysis that to achieve a solution to the things that cause violence, it will not be easy and not solely the responsibility of law enforcement, but the responsibility of all parties including mainly the government and actors in the

world of education. Efforts to reduce the increasing amount of violence against students committed by teachers need to be carried out thoroughly and in an integrated manner by all elements of society. Teachers should be able to punish unruly and undisciplined students with little corporal punishment, such as flag salutes or punishments involving physical activities such as running or to stimulate their desire to learn. It is necessary to encourage basic leadership training activities so that they are obedient, respectful, and respectful and disciplined, to be responsible and to understand norms or rules.

In addition, parents or families who play an important role in the occurrence of violence in children must provide good parenting so that children are raised without violence and abuse. Families who often fight certainly have a higher rate of violence against children than those who have no problems. Especially for single parents, it is also possible to commit acts of violence, so it is necessary to build psychological maturity to avoid children getting violent.

Similarly, children who watch too often show that smell of violence can cause themselves to be encouraged to imitate violent behavior in the media. As a result, in the pattern of thinking arises the desire to do the same so that they feel feared by the other party. Therefore, schools that are seen as institutions that must educate their students into something need to improvise and improve the quality of their teaching. Teachers play the most important role in this and should not play the role of punisher and enforcer of rules. Teachers cannot be viewed as authoritarian figures who display violence to their students. Therefore, it is necessary to eliminate the erroneous assumption that teachers commit physical, verbal and psychological violence can change student behavior.

What needs to be done according to researchers is to change the content of the curriculum that emphasizes the ability not only of knowledge but social skills of children that need to be built, by presenting a learning atmosphere full of happiness and comfort without pressure. Therefore, the solutions that researchers can offer in overcoming learning processes that can lead to violence in students at school are:

1. Implementing non-violent education in schools by encouraging/developing a humanist approach in learning activities.
2. Creating a cheerful and joyful learning atmosphere, by combining potential activities both physical and psychic, and providing punishments that correlate with the development of children's abilities in the field of science.
3. Equipping teachers to add insight into knowledge and new opportunities and experiences to develop teachers' creativity.
4. Provide help to anyone who experiences violence at school and follow up by finding the best alternative solution or way.

4. Conclusion

The occurrence of criminal acts of mistreatment committed by teachers against their students includes internal factors that come from within the students themselves and the families. That is, his behavior is considered too cross-reaching such as not following school rules to fight teachers and do things that harm other parties. There is a parenting style of children who are less educated in the family environment, including poor relationships between parents who then children experience psychological problems and often commit violence and abuse. From the teacher's personal, where a teacher's personality also plays an important role in the occurrence of criminal acts of persecution committed against his students. Sometimes a teacher commits physical violence on his students, to discipline, but must use physical violence; Community culture and understanding where parents understand that the teacher at school is the second person to their children, so they lack control over the activities carried out by their children, including disputes between friends; There is a habit of bereaved children watching shows on television and social media, so that children experience a syndrome that smells of violence, as well as poor environmental conditions and has a history of high crime.

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Other Resources:

Interview with Educator Leaders in Gorontalo Regency