

Legal reform for rectifying child violence in educational settings through the lens of justice

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Abstract: Child violence in educational settings is a pressing issue that demands urgent legal reform to ensure the safety and well-being of both students and academics. This article examines the current legal frameworks addressing child violence in schools and advocates for reform based on the principles of justice. It critically analyzes the existing regulations, including the Law on Child Protection and the Law on Teachers and Lecturers, highlighting their limitations in effectively preventing and addressing incidents of violence. The article argues that while these laws provide some degree of protection for children, they often fail to strike a balance between safeguarding students and ensuring the fair treatment of academics, who are sometimes unjustly penalized for enforcing discipline. By focusing on justice-based values, the article proposes a reconceptualization of existing legal provisions, incorporating clearer guidelines that protect children from various forms of violence—physical, psychological, and sexual—while also safeguarding the rights of academics. The proposed legal reforms emphasize the importance of defining the boundaries of disciplinary actions in educational settings, ensuring that academics are not criminalized for maintaining order. Furthermore, the article stresses the need for continuous professional development programs for teachers, aimed at enhancing conflict resolution skills and preventing abusive behaviors. Ultimately, the article calls for a more equitable and just legal system that addresses the complexities of child violence in schools, ensuring that both children and academics are protected in a way that promotes a safe and productive learning environment. The proposed reforms have the potential to reshape the educational landscape, fostering a culture of respect, understanding, and accountability.

Keywords: Education, Justice, Legalism, Protection, Reform.

1. Introduction

Education plays a fundamental role in shaping the moral, intellectual, and social fabric of a nation. Teachers, as academics, have a professional responsibility to nurture students in a safe and supportive environment. However, reports of violence in educational settings—perpetrated by teachers against students—have raised significant ethical and legal concerns. These incidents range from physical and verbal abuse to psychological harm, creating lasting impacts on children's well-being. Such actions violate fundamental human rights and undermine the protective mandates outlined in Indonesia's 1945 Constitution, which emphasizes safeguarding every citizen, including children, from harm [1].

Child violence in schools often stems from disciplinary approaches that emphasize punitive measures over positive reinforcement. Many teachers mistakenly believe that physical punishment fosters compliance and respect, but evidence suggests it leads to resentment and diminished trust between students and academics [2]. Moreover, societal norms and past experiences of academics may perpetuate cycles of violence, creating environments where harmful behaviour is normalized rather than challenged. Schools, which should serve as sanctuaries of learning and character-building, risk becoming spaces where violence is perpetuated, undermining their foundational purpose [3].

The scope of violence in educational settings is wide-ranging, encompassing physical, psychological, and even structural abuse. Psychological violence, though less visible, has long-term effects on children's emotional and mental health. Economic disparities, low educational attainment, and systemic social pressures are contributing factors to the prevalence of such abuse, often exacerbated by inadequate legal enforcement and cultural attitudes toward discipline [4]. Studies indicate that up to 80% of school violence in Indonesia is perpetrated by teachers, underscoring the urgent need for systemic intervention [5].

In rectifying these challenges, legal reforms must prioritize both the protection of children and the professional development of teachers. Effective reform should encompass preventive and corrective measures, including the establishment of clear ethical guidelines, robust teacher training programs, and stringent penalties for misconduct. Additionally, public awareness campaigns and school-level interventions are essential to fostering a culture of respect and accountability. Ensuring the safety and dignity of students aligns with Indonesia's commitment to justice and the broader principles of a lawful and equitable society [6].

Recognizing children as the future custodians of a nation emphasizes the importance of safeguarding their rights and development. Ensuring their protection from violence is not merely a legal obligation but a moral imperative. By rectifying the systemic roots of child abuse in educational settings, Indonesia can foster an environment conducive to holistic learning and personal growth, thus empowering future generations to thrive and contribute meaningfully to society.

2. Research Methods

This study adopts a constructivist paradigm, emphasizing that law must transcend written regulations to embody justice and societal utility [7]. Using a socio-legal approach, it treats law as an observable social phenomenon, integrating theoretical and empirical insights [8-10]. The descriptive-analytical method employed relies on secondary data from legislative texts, including the 1945 Constitution, the Law No. 23 of 2002 of Child Protection Act, and the Law No. 20 of 2003 of National Education System Law, as well as primary data from field observations and interviews with key stakeholders such as police investigators and child welfare representatives [11]. Data collection blends library research and fieldwork to ensure comprehensive insights into child violence in schools [3]. The analysis employs descriptive and qualitative techniques, enabling a thorough examination of how existing laws address violence while considering their real-life application [12]. Reconstruction methods further aim to realign legal concepts with their intended purposes, ensuring an equitable and effective response to violence in educational settings [13]. This methodological framework provides robust tools to evaluate and propose legal reforms for protecting children in schools, balancing legal theory with practical justice.

3. Results and Discussion

3.1. Insights from Global Practices

Child violence in educational settings is a pressing global issue that undermines the fundamental rights of children to safety, dignity, and education. Despite international commitments to protect children, incidents of physical, emotional, and psychological abuse persist in schools, often normalized by outdated disciplinary practices or inadequate legal frameworks [14]. Rectifying this issue requires robust legal reforms that prioritize child protection while fostering a culture of accountability and care within educational institutions. Insights from global practices, including legislative measures, advocacy campaigns, and community-driven initiatives, offer valuable lessons for developing effective and sustainable strategies to combat child violence in schools [15]. These reforms must align with international standards such as the Convention on the Rights of the Child, emphasizing prevention, intervention, and the empowerment of children as active participants in creating safe learning environments.

The diverse approaches of South Korea, China, and the United States offer valuable lessons for rectifying child violence in educational settings. South Korea's emphasis on teacher rights, China's focus on stringent legal measures, and the U.S.'s localized autonomy highlights the need for a balanced, culturally sensitive framework. Governments should prioritize child safety, educator rights, and systemic accountability to foster a conducive learning environment. Therefore, the Insights from Global Practices as follows:

3.1.1. South Korea's Educational Framework and Legal Reforms

South Korea's education system, structured into four levels (elementary, middle school, high school, and higher education), reflects a commitment to inclusivity and academic excellence. Elementary education, mandatory for children aged 6–12, boasts a 99.8% enrolment rate and a 0% dropout rate. Middle school education follows for children aged 12–15, transitioning to high school, which offers general or vocational tracks (e.g., agriculture, commerce, and technology). The government ensures equitable access to education through measures like the "equal accessibility" policy, which eliminates entrance exams for middle schools [16]. Teacher training is bifurcated into two categories: a two-year academic program for elementary teachers and a four-year program for secondary academics, funded by the government. Certification involves rigorous qualifications, including internships and licensing exams. South Korea also allocates 18.9% of its national budget to education, emphasizing its centrality in societal development [17]. Despite these advancements, challenges persist. Teachers face immense stress due to the high-pressure environment and a lack of legal protection. In 2014, the Child Welfare Act, aimed at protecting children, led to unintended consequences, such as excessive parental demands and unwarranted accusations against teachers. These issues culminated in the tragic suicide of a 23-year-old elementary school teacher in 2023, sparking nationwide protests and demands for legal reform [18]. Subsequently, South Korea enacted the Teacher Rights Restoration Act, mandating evidence-based investigations into teacher misconduct allegations and providing legal and financial support to academics [19].

3.1.2. China's Holistic Approach to Child Protection in Education

China's education system, deeply rooted in Confucian principles, has evolved to align with socialist modernization goals. Its decentralized structure delegates basic education management to provincial and local governments, while higher education is overseen nationally. Basic education begins with preschool at age three, progressing to primary school at age six. Curricula emphasize intellectual, moral, and physical development, integrating political and moral education alongside core subjects like mathematics and Chinese language [20]. To address child violence, China has enacted stringent regulations. In 2022, the Supreme People's Court, the Supreme People's Procuratorate, and the Ministry of Education introduced measures banning academics convicted of child abuse from teaching. These measures target offenses such as sexual violence and exploitation, ensuring that offenders are permanently barred from the education sector [21]. This legal framework reflects China's commitment to safeguarding children while enhancing the credibility and safety of educational institutions.

3.1.3. United States: Balancing Autonomy and Discipline in Schools

The United States has a decentralized education system, with states and local districts managing policies and operations. Historically, federal interventions have supported various educational initiatives, but recent trends favour state autonomy during Reagan Administration on 1981 [22]. Education policies vary widely across the 50 states and over 15,000 districts, reflecting diverse approaches to discipline and regulation. Corporal punishment, a contentious issue, is still practiced in some states, such as Texas. Schools may administer physical punishment with parental consent, claiming its effectiveness for students aged 4–12. However, national education authorities, including the U.S. Department of Education, have advocated for its abolition, citing its potential psychological harm [23].

Rectifying this issue requires robust legal reforms that prioritize child protection while fostering a culture of accountability and care within educational institutions. It is crucial to draw insights from other countries, as global practices offer valuable lessons through innovative legislative measures, advocacy campaigns, and community-driven initiatives. By examining these approaches, nations can develop effective and sustainable strategies that align with international standards, such as the Convention on the Rights of the Child, emphasizing prevention, intervention, and the empowerment of children as active participants in creating safe learning environments.

3.2. Future Pathways for Justice-Based Legal Reforms

The prevention of child violence in educational settings necessitates a future-oriented approach to legal reform. This entails creating frameworks rooted in justice and tailored to the complexities of modern society while respecting foundational values like Pancasila [24]. By incorporating insights from global practices and rectifying local challenges, Indonesia can achieve a legal system that ensures child protection, maintains educator dignity, and promotes a culture of justice.

A key component of future legal reforms lies in adopting justice-based principles that align with societal values and expectations. The theory of dignified justice, grounded in Pancasila, emphasizes fairness that humanizes all parties, including victims, perpetrators, and academics. According to Teguh Prasetyo, dignified justice recognizes the balance between material and spiritual dimensions of human existence, thereby fostering laws that promote respect and moral accountability [25]. Incorporating such principles can help achieve a system where laws are not merely punitive but also rehabilitative, guiding individuals and society toward harmonious coexistence. It also ensures that justice does not alienate those it seeks to regulate, making it more effective in practice.

The current legal framework in Indonesia faces challenges of regulatory overlap and inefficiency. M. Nur Solikhin of the Indonesian Center for Law and Policy Studies identifies the proliferation of laws and their lack of cohesion as significant obstacles to effective legal reform [26]. Future reforms must address these systemic issues through a unified regulatory system that integrates laws rectifying child protection in education.

Lawrence M. Friedman's legal system components—structure, substance, and culture—offer a useful framework for such reforms. By reconstructing these elements to reflect societal realities and values, legal norms can become more inclusive and pragmatic [27].

Academics play a dual role as protectors of children's rights and enforcers of discipline. Strengthening mechanisms like ethics councils, similar to the Teacher Honorary Council, can ensure academics are held accountable while safeguarding their professional dignity. Such councils can provide preliminary oversight before cases escalate to law enforcement, preventing undue stigmatization of teachers [28].

Moreover, fostering community involvement in legal processes enhances the cultural acceptance of reforms. Programs that educate parents, teachers, and students on their rights and responsibilities can bridge gaps between legal standards and societal practices.

Balancing the interests of children, academics, and society is paramount for effective legal reform. Laws should prevent child violence while acknowledging the challenges academics face in maintaining discipline. By leveraging restorative justice approaches, legal reforms can prioritize reconciliation and rehabilitation over punitive measures [29]. Additionally, international best practices provide valuable insights for crafting policies that are globally informed and locally relevant. Countries with established child protection laws, such as Sweden and Canada, have successfully implemented frameworks emphasizing prevention, community involvement, and rehabilitation [30]. Drawing from these experiences can guide Indonesia toward more robust and inclusive legal frameworks.

For future legal reforms to succeed, they must be actionable and collaborative. Policymakers, academics, legal experts, and community members must work together to define the goals and processes of reform. The establishment of interdisciplinary task forces can ensure diverse

perspectives are represented, fostering a more holistic approach to regulation formulation. Digital tools and platforms can also aid in monitoring and evaluating the effectiveness of legal reforms. Feedback mechanisms that allow stakeholders to report issues and suggest improvements will help create a dynamic legal system responsive to societal needs [31].

Justice-based legal reforms are essential for rectifying child violence in educational settings. By rooting these reforms in principles of dignified justice and Pancasila, rectifying systemic inefficiencies, and incorporating global insights, Indonesia can develop a legal framework that protects children, respects academics, and aligns with societal values [32]. Collaborative and forward-thinking implementation strategies will ensure that these reforms achieve their intended goals, paving the way for a more just and harmonious society.

3.3. Legal Reform for Rectifying Child Violence in Educational Settings Through the Lens of Justice

Violence in educational settings remains a critical issue that undermines the safety and development of children. Legal frameworks play a pivotal role in protecting children from violence while ensuring justice in cases involving academics and students. This article focuses on the need for regulatory reconstruction in rectifying child violence within educational contexts, with a focus on aligning laws with the principle of justice. The proposed reforms aim to ensure comprehensive protection for children and academics, promoting fairness and clarity in both preventive and punitive measures.

In Indonesia, the education system is governed by Law No. 20 of 2003 on the National Education System [33]. This law outlines the key components of education, including academics, educational staff, students, educational content, and evaluation. Teachers, often referred to as academics, are central figures in this system, possessing a significant role in shaping the future of the nation. Despite this, teachers are frequently placed under scrutiny, especially in cases involving violence in schools. Violence in schools, whether perpetrated by students, parents, school administrators, or teachers, has been a pressing issue in recent decades. Misunderstandings between parents and teachers, as well as conflicts among students, often lead to such violent occurrences, prompting the need for legal reform to better address these issues within the educational context.

The Concept of Justice in Legal Reform, in general, refers to actions or treatments that are fair, unbiased, and aligned with truth. Philosophically, justice encompasses two core principles: first, it must not harm anyone, and second, it must provide individuals with their rightful entitlements. These principles serve as the foundation for any just legal system. Justice in the context of criminal law should ensure fairness and certainty in its application. When considering punishment, the law must establish clear and justifiable reasons for sentencing.

In the broader context of criminal law, punishment can be seen as a process in which a judge imposes a sentence based on established laws. The system of criminal punishment encompasses the creation of laws, the imposition of sanctions, and the execution of sentences. The goals of criminal punishment, as outlined by scholars such as Barda Nawawi Arief, include the protection of society and the promotion of welfare, which must be informed by criminal policy goals [34].

Teachers, as professionals tasked with educating the nation's future generations, carry a heavy responsibility. The teaching profession is enshrined as one of great significance, and teachers are expected to adhere to high standards of conduct and professionalism. Law No. 14 of 2005 on Teachers and Lecturers provides legal protection for teachers in the execution of their duties [35]. Article 39(1) of the law ensures that teachers are protected by the government, local authorities, society, professional organizations, and educational units. The law outlines several forms of protection for teachers, as stated in Article 39(2), which include legal protection, professional protection, and protection for safety and health at work. Specifically, teachers are entitled to protection against violence, threats, discriminatory treatment, intimidation, or unfair treatment from students, parents, society, or other parties. These protections are designed to allow teachers to carry out their duties without undue interference or harm.

Despite these protections, challenges remain in ensuring that teachers are fully protected from violence, especially within the context of enforcing discipline in schools. Legal ambiguities regarding

what constitutes violence during disciplinary actions can sometimes lead to teachers being unfairly penalized [36]. As such, legal reforms are needed to clarify these protections and ensure that they are applied fairly and effectively.

The reconstruction of regulations regarding child violence in educational settings is necessary to ensure fairness and provide clear legal protections. For example, Law No. 35 of 2014, which amended Law No. 23 of 2002 on Child Protection, outlines the rights of children to receive education in a safe environment free from violence. This law states that children are entitled to protection from violence, including physical, psychological, sexual, and other forms of abuse. However, the law lacks specific provisions that address the reasons for such protections, which could be further clarified to ensure justice.

Moreover, the protection of teachers should be reinforced to prevent the criminalization of teachers who act in accordance with school discipline policies [37]. The current regulations fail to adequately safeguard teachers' rights, especially in cases where their actions are misconstrued as abusive. Therefore, a revision of these laws is necessary to integrate the principles of justice and fairness, providing clear guidelines for the treatment of both children and teachers.

To address these issues, a proposed reforms of existing laws could include amendments to Law No. 35 of 2014 and Law No. 14 of 2005. For instance, Article 3 of Law No. 35 could be revised to emphasize the importance of protecting children in educational settings based on the values of justice, stating that children have the right to education that promotes their development in a manner that contributes to the nation's intellectual growth. Furthermore, Article 39 of Law No. 14 of 2005 could be revised to include more explicit language on the protection of teachers from violence and unfair treatment. These changes would provide a more balanced approach, ensuring that both students and teachers are protected within the educational framework [38].

Rectifying violence in educational settings through legal reforms is crucial to creating a just and safe environment for both students and teachers. The current laws require reconstruction to ensure that the protection of children and teachers is equitable and just [39]. By incorporating the values of justice into the legal framework, Indonesia can move towards a more comprehensive and fair system for managing violence in schools, promoting the overall well-being of its educational community.

The legal framework surrounding child violence in educational settings needs urgent reform to ensure both justice and fairness. By reconstructing existing regulations, such as the revisions proposed for Laws No. 35 of 2014 and No. 14 of 2005, a more just and protective system can be established. These reforms will not only safeguard children but also support academics in their professional roles, promoting a safer and more equitable educational environment.

4. Conclusion

Based on the discussion that has been outlined, it can be concluded that rectifying child violence in educational settings requires comprehensive legal reform that emphasizes justice, protection, and the well-being of both children and academics. The current legal framework, although containing provisions for child protection and educator safety, exhibits significant gaps when it comes to equitable and effective enforcement. Legal texts, such as the Law on Child Protection and the Law on Teachers and Lecturers, should be revised to incorporate clearer, more specific provisions that balance the rights and responsibilities of academics and students. A key aspect of this reform is the inclusion of justice-based values that prioritize both the protection of children from violence and the fair treatment of academics, ensuring they are not unjustly criminalized in their efforts to maintain discipline. The proposed legal reconstruction should not only strengthen protection against various forms of violence, including physical, psychological, and sexual harm, but also define the boundaries of disciplinary measures within educational institutions. Additionally, these reforms must include provisions for continuous education and training for academics, enabling them to handle conflicts constructively without resorting to violence. By fostering an environment of mutual respect,

understanding, and legal accountability, these reforms can contribute to a safer and more just educational system. Ultimately, ensuring the protection of children and the fair treatment of academics is essential for the long-term development and well-being of both individuals and society as a whole.

Transparency:

The authors confirm that the manuscript is an honest, accurate, and transparent account of the study; that no vital features of the study have been omitted; and that any discrepancies from the study as planned have been explained. This study followed all ethical practices during writing.

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