



## JURIDICAL ANALYSIS OF CHILD AND HUMAN RIGHTS TEACHER PROFESSIONALISM

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### Abstract

*This research is a study to analyze the protection of children in schools and the protection of teacher professionalism, especially to maintain a balance between protecting children's human rights in schools with the implementation of teacher professionalism which also needs to be protected in educating children. The specification or type of research in this study is descriptive in nature, using normative juridical research methods through several approaches: the statutory approach and the conceptual approach. The results showed that based on data from the Indonesian Child Protection Commission (KPAI) in the first semester of January to July 2022, 12 cases were recorded, consisting of 3 cases occurring in schools in areas under the auspices of the Ministry of Education and Culture with a percentage of 25%. Meanwhile, cases in the education unit under the auspices of the Indonesian Ministry of Religion were 9 cases or 75%. Based on education level, 2 (16.67%) cases of violence occurred at the Elementary School (SD) level. Middle school level was 1 (8.33%) case. Islamic boarding schools 5 (41.67%) cases. Madrasas are places of recitation/place of worship in 3 (25%) cases, and 1 (8.33%) place for music courses for kindergarten and elementary school aged children. The age range of the victims was between 5-17 years. Victims numbered 52 children with details of 16 (31%) boys and 36 (69%) girls. While the perpetrators totaled 15 people consisting of: 12 teachers (80%), 1 (6.67%) owner of the boarding school, 1 (6.67%) child of the owner of the boarding school, and 1 (6.67%) senior of the victim. On the other hand, violence against teachers is still common, for example, in August 2016 there was a beating of a father and son against a teacher at a well-known school in Makassar. This case felt very strange because according to the news, the child, who incidentally was a student of the battered teacher, also took the opportunity to throw punches at the time his father was "crazy" at school. In early February 2018, it was also reported that Achmad Budi Cahyanto, a teacher at SMAN 1 Torjun, Sampang, Madura, died after being beaten by a student named HZF. Therefore, the existence of Law no. 35 of 2014 concerning Amendments to Law no. 23 of 2002 concerning Child Protection, is intended to prevent arbitrary actions against Indonesian children, as well as Law no. 14 of 2005 concerning Teachers and Lecturers,*

**Keywords:** *Juridical Analysis, Children's Rights, Teacher Professionalism*

### 1. INTRODUCTION

Development for a nation is essentially a process of modernization or a process of building the nation (nation building) in various aspects of life, both economic, socio-cultural, legal, political and defense and security. On this basis, Lili Rasjidi argues that development is often interpreted as implementing changes to a society and its environment.

In such a context, development in the field of education is a condition sine quanon as mandated by the Preamble to the 1945 Constitution of the Republic of Indonesia which states that one of Indonesia's national goals is "to educate the life of the nation", because education also has a function as a social machine, which is responsible for designing future child. In line with that, the

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task of educators is to help prepare students to have broad knowledge, have noble character, and be of benefit to people's lives.

The mandate of the educator's duties can be observed from the provisions of Article 3 of Law no. 20 of 2003 concerning the National Education System, which explicitly states that national education functions to develop capabilities and shape dignified national character and civilization in the context of educating the nation's life, with the aim of developing the potential of students to become human beings who believe and fear God Almighty. , have a noble character, be healthy, knowledgeable, capable, creative, independent and become a democratic and responsible citizen.

Based on this reality, the function of education is not only related to coaching students to improve intellectual intelligence (intelligence quotient) which is the intelligence of the brain to understand through logical and rational thinking, but also fostering emotional intelligence (emotional quotient) related to emotional intelligence (heart). ) to understand the situation, as well as spiritual intelligence (spiritual quotient) as intelligence related to religious feelings (ruhiyah) to change situations.

This illustrates that the function of the teacher in the national education system is as a teacher and at the same time as an educator. This means that the role of the teacher is not only limited to conveying education in the cognitive domain or transferring knowledge, but also in the formation of the personality of students concerning affective (attitude) and psychomotor (behavior) aspects which are a necessity that must be carried out, so as to produce output that can be to create students who are intellectually reliable and have a good mental attitude and behavior.

However, it should be realized that the condition of our education world has recently been in the spotlight, both because of acts of violence and immoral acts committed by students, even brawls between students which have tarnished the face of the world of education, so that it is not uncommon to cause confusion for a teacher as one a party that is responsible for preparing students to become human beings who have faith and are devoted to God Almighty, have noble character, are healthy, knowledgeable, capable, creative, independent and become citizens of a democratic and responsible state, as the aim of national education is.

On the other hand, in carrying out their professional duties, teachers are often at a crossroads between the demands of the profession and the treatment of society. The demands of professional duties include delivering students to become generations of noble character, but when teachers uphold discipline in the context of forming and fostering children's personalities through giving sanctions or punishment which is also a means of education in addition to rewards, teachers often dealing with the law (police) and the Indonesian Child Protection Commission (KPAI), because parents and the community are of the view that they have violated the human rights of students based on Law no. 35 of 2014 concerning Amendments to Law no. 23 of 2002 concerning Child Protection, even though teachers are also entitled to protection in carrying out their professional duties as stipulated in Law no. 14 of 2005 concerning Teachers and Lecturers.

In this connection, Dwiky Akbar Nugroho and Dedi Andrian mention the teacher-child relationship as follows:

The role of the teacher in the world of education is to educate his students to be smart and ethical in the school environment so that their students behave well. Even so, there are also many stubborn or naughty traits of students that make teachers angry and annoyed with their students, for example the student is late for school, doesn't do homework or assignments given by the teacher, doesn't obey school rules, says dirty words. and fight with fellow students at school. The teacher as



a role model for students at school should set a good example by being patient and polite in admonishing students who disobey them.

For this reason, the teacher's work cannot be done by just anyone, because the teaching profession is a job that is very easily exposed to legal problems, because it is dealing with child protection laws. Once a teacher makes a mistake, it will have an impact on the world of education, as well as if a teacher teaches the wrong knowledge to their students, it will have an impact and impact on one generation. When a teacher only provides science education without involving good moral and ethical education to students, then what happens is the creation of generations who have bad morals.

For this reason, it is necessary to have a broader understanding of the essence of legal institutions, which of course cannot be separated from various legal functions, including: First, as a standard of conduct, namely the basis or measure of behavior that must be adhered to by everyone to act in carrying out legal relations with one another. with others. Second, as a tool of social engineering, namely as a means or tool to change society in a better direction, in relation to oneself as well as in social life. Third, as a tool of social control, namely as a tool or means to monitor human behavior so that it does not conflict with legal, religious and moral norms. Fourth, as a facility on human interaction, that is, law functions not only to create order,

This meaning is intended to be able to see proportionally that on the one hand, it is necessary to protect children as an effort to prevent, rehabilitate and empower children, so that children are free from child abuse, exploitation and neglect. But on the other hand today, there are many cases where teachers or educators report acts of violence against students. Discipline sanction actions carried out by educators against students, in the past which were considered a normal or mediocre thing, are now considered to be cases that can cause human rights violations, which causes teachers to eat simalakama fruit or dilemmas, in On the one hand, teachers must uphold moral or etiquette discipline and school rules for students.

It is unfortunate when the teacher gives good moral lessons to students, instead the parents of the students and the students fight back by reporting it to the police. This is due to a shift in the mindset of the public towards the teaching profession. What makes the teaching profession worthless. All of the above incidents are proof that the professionalism of teachers, educators, lecturers and others is looked down upon by some people. Currently when the teacher takes disciplinary action it means the teacher is in big trouble, which is possible these incidents will happen again. Indeed, legal protection for teachers themselves can be said to have very little effect, especially in protecting the rights of teachers when they get legal issues related to violence against children in the school environment. Even though legal protection is something that is the most important aspect of human life in carrying out their daily activities.

## 2. IMPLEMENTATION METHOD

### Research Specifications

The specification or type of research in this study is descriptive-analytical in nature, because through this research it is aimed at obtaining an overview of the existence of teacher professionalism when dealing with children's human rights, including factors that must be analyzed to become problem solving when teachers are basically educating children, but must face the law.

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### **Approach Method**

The approach method used in this study is a normative juridical research method, using several approaches to be able to answer the problems studied, namely: (1) the statute approach, which is used to be able to examine in depth various legal institutions related to child protection in the perspective of human rights on the one hand, and teacher professionalism on the other hand in legal protection. In addition, a conceptual approach is also used, to be able to understand various concepts related to child protection and teacher professionalism from a legal perspective.

Normative juridical research is used, because the data studied is sourced from secondary data or legal literature, which includes: primary legal materials, secondary legal materials and tertiary legal materials relating to legal institutions for child protection and teacher professionalism.

## **3. RESULTS AND DISCUSSION**

### **Child Human Rights and Teacher Professionalism**

The birth of the UN convention on children, the 1989 International Convention on the Right of the Child (CRC) is normative evidence of a new vision and paradigm of protecting the child community. The consideration of this provision states that fostering children's welfare, including providing opportunities to develop their rights, the implementation of which is not only the responsibility of parents, family, nation and state, but also requires international cooperation.

Indonesia has ratified this convention based on Presidential Decree No. 36 of 1990. In this connection, there are 4 (four) aspects as recognition by the international community for the rights of children: (1) survival rights, (2) protection rights, (3) the right to growth and development (development rights), and the right to participate (participation rights). This convention is also regulated in Article 37 letter (a) which states that no child may be targeted or subjected to other cruel, inhumane or humiliating punishment.

To support these children's rights, Law no. 35 of 2014 concerning Amendments to Law no. 23 of 2002 concerning Child Protection, which basically aims to protect Indonesian children from arbitrary treatment and avoid acts of violence against children. This reality, among others, can be considered in Article 9 which determines child protection in the education sector as follows:

- (1) Every child has the right to receive education and teaching in the context of developing his personality and level of intelligence according to his interests and talents.
- (1a) Every child has the right to get protection in an education unit from sexual crimes and violence committed by educators, education staff, fellow students, and/or other parties.
- (2) In addition to obtaining the rights of the child as referred to in paragraph (1) and paragraph (1a), Children with Disabilities have the right to receive special education and Children with excellence have the right to special education.

Furthermore, in Article 13 Paragraph (1), which states that "every child while in the care of parents, guardians or any other party responsible for upbringing, has the right to receive protection from treatment":

- a. Discrimination;
- b. Exploitation, both economic and sexual;
- c. Abandonment;
- d. Cruelty, violence, and persecution;
- e. Injustice; And
- f. Other mistreatment.



The provisions referred to are further strengthened in Article 16 paragraphs (1) and (2) of Law no. 35 of 2014 Jo. Law No. 23 of 2002, which states:

- (1) Every child has the right to receive protection from being subjected to persecution, torture or inhumane punishment.
- (2) Every child has the right to freedom according to the law.

Even though there are legal institutions that provide special protection to children, in practice there are still frequent violations of children's rights, as stated by the Indonesian Child Protection Commission:

The Indonesian Child Protection Commission (KPAI) reported that there were 4,124 complaints related to child protection cases during January-November 2022. This number decreased by 30.7% compared to 2021 which totaled 5,953 complaints. A total of 2,222 complaint cases received by KPAI in 11 months this year related to the fulfillment of children's rights. The number decreased by 25.2% compared to 2021, which had 2,971 complaints. Of these, 1,706 cases of fulfilling children's rights came from the family environment and alternative care cluster. A total of 376 cases were from education clusters, use of free time, as well as cultural and religious activities. There were also 101 cases related to basic health and welfare rights. Meanwhile, 39 cases related to civil rights and freedoms. On the other hand, KPAI also recorded 1. 903 complaints related to cases of special protection for children throughout 2022. That number also decreased by 27.27% compared to last year's 2,615 complaints. The most frequently reported cases of special protection for children related to children being victims of sexual crimes, namely 746 cases. There were also 454 cases related to child victims of physical and/or psychological violence. Then, 187 cases of children dealing with the law as perpetrators. Then, there were 80 cases of children exploited economically and/or sexually. Meanwhile, there were 70 cases of children who were victims of pornography and cyber crimes. For information, KPAI complaint data is obtained from various sources ranging from direct complaints, news coverage in print and electronic media, to direct monitoring and supervision in the field. 27% compared to last year of 2,615 complaints. The most frequently reported cases of special protection for children related to children being victims of sexual crimes, namely 746 cases. There were also 454 cases related to child victims of physical and/or psychological violence. Then, 187 cases of children dealing with the law as perpetrators. Then, there were 80 cases of children exploited economically and/or sexually. Meanwhile, there were 70 cases of children who were victims of pornography and cyber crimes. For information, KPAI complaint data is obtained from various sources ranging from direct complaints, news coverage in print and electronic media, to direct monitoring and supervision in the field. 27% compared to last year of 2,615 complaints. The most frequently reported cases of special protection for children related to children being victims of sexual crimes, namely 746 cases. There were also 454 cases related to child victims of physical and/or psychological violence. Then, 187 cases of children dealing with the law as perpetrators. Then, there were 80 cases of children exploited economically and/or sexually. Meanwhile, there were 70 cases of children who were victims of pornography and cyber crimes. For information, KPAI complaint data is obtained from various sources ranging from direct complaints, news coverage in print and electronic media, to direct monitoring and supervision in the field. The most frequently reported cases of special protection for children related to children being victims of sexual crimes, namely 746 cases. There were also 454 cases related to child victims of physical and/or psychological violence. Then, 187 cases of children dealing with the law as perpetrators. Then, there were 80 cases of children exploited economically and/or sexually. Meanwhile, there were 70 cases of children who were victims of

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Likewise, police records show that there are still violations against the protection of children's rights as disclosed by the National Police Chief, General Listyo Sigit Prabowo, that cases of violence against children will continue to occur throughout 2022, with the following records:

"It is our concern that the most reported type of PPA crime is violence against children in 11,012 cases," said Sigit in the National Police's Year-End Release at Police Headquarters, Jakarta, Saturday (31/12/2022). But on the other hand, crime cases against women and children have decreased compared to 2021, down by 2,059 cases compared to 2021. In this case, there were 27,380 cases of violence against women and children in 2021. Meanwhile, in 2022, the number decreased to 25,321 cases. The number of settlements (2022 cases) was 16,892 cases, an increase of 549 cases, compared to 2021 of 16,343 cases.

Seeing this reality, of course it is different from the world of education, this provision in various practices of providing education has become a dilemma for a teacher, because on the one hand they want to carry out education and coaching to students, on the other hand when there are complaints from parents or society about the actions what educators do when carrying out their professional duties, will face the law, because they are seen as violating child protection laws, which are often misinterpreted.

In Article 35 of Law no. 35 of 2014 concerning Amendments to Law No. 23 of 2002 concerning Child Protection, in Article 54 Paragraph (1) states that: "Children in and in education units are obliged to receive protection from acts of physical, psychological violence, sexual crimes, and other crimes committed by educators, education staff, fellow students, and/or other parties.

Of course what is meant is along the corridor of coaching and education, while if the actions taken by the teacher go beyond, for example being hit or kicked repeatedly which causes disability or violence, such as news about a Vocational High School (SMK) teacher in Purwokerto, Central Java, with the initials LK, slapped his student on the grounds of disciplinary action. The video of the action drew criticism from the public. The Ministry of Education and Culture (Kemdikbud) regretted the incident of beating students by these educators. Moreover, the Ministry of Education and Culture has issued rules that prohibit and prevent violent practices in schools



In commemoration of National Children's Day (HAN 2022), Retno Listyarti as the KPAI Commissioner released data on cases of specific sexual violence that occurred in educational institutions throughout semester I, from January to July 2022. Based on monitoring by the KPAI Commissioner, the average A number of these cases have been reported to the police by the victim's family. In the first semester of January to July 2022, 12 cases were recorded, consisting of 3 cases occurring in schools in areas under the auspices of the Ministry of Education and Culture with a percentage (25%). Meanwhile, cases in the education unit under the auspices of the Indonesian Ministry of Religion were 9 cases or 75%. Based on education level, 2 (16.67%) cases of violence occurred at the Elementary School (SD) level. Middle school level was 1 (8.33%) case. Islamic boarding schools 5 (41.67%) cases. Madrasas are places of recitation/place of worship in 3 (25%) cases, and 1 (8.33%) place for music courses for kindergarten and elementary school aged children. The age range of the victims was between 5-17 years. Victims numbered 52 children with details of 16 (31%) boys and 36 (69%) girls. While the perpetrators totaled 15 people consisting of: 12 teachers (80%), 1 (6.67%) owner of the boarding school, 1 (6.67%) child of the owner of the boarding school, and 1 (6.67%) senior of the victim.

Likewise, the incident in Poso, Chair of the Indonesian Child Protection Commission (KPAI), Susanto criticized the acts of violence committed by unscrupulous teachers with the initials YP, the action occurred against two of his students at a high school in Poso Regency, Central Sulawesi:

"We condemn the actions taken by these unscrupulous teachers, because using violence in disciplining is certainly contrary to the values and principles of child protection," said Susanto at the KPAI Office, Central Jakarta, Tuesday (18/10/2022). In addition, Susanto expressed his deep concern over the cases of violence that occurred. Whatever the reason, acts of violence against students cannot be justified, because teachers should be the main protector and can be role models for each of their students. "Acts of violence cannot be justified for any reason, because this is not in line with the rules of education, the teacher's code of ethics, and the law on child protection," he continued. In this case, Relevant agencies and the education office are asked to thoroughly investigate and explore the actions taken by these elements. If necessary, an evaluation of the education service system and the disciplinary pattern of students in the education unit can be carried out.

On the other hand, violence against teachers perpetrated by students also often occurs as a result of a culture of morals and courtesy that has begun to degrade, even though it is an eastern custom that should be continuously implemented. This culture of courtesy is admired and praised by Westerners, one of whom is a teacher from Australia participating in the Building Relations through Intercultural Dialogue and Growing Engagement (BRIDGE) program who had the opportunity to teach several weeks at MAN 2 Jakarta. Emily Sullivan, one of the teachers from Our Lady of Sacred Heart College - Adelaide, stated "I see Indonesian students respect their teachers very much. To be honest, I am surprised by the tradition of students kissing my hand as a form of respect for teachers."

In this context, which is related to the duties of the teaching profession, of course it becomes an issue whether punishment should be given which is also part of the means of education carried out by a teacher being punished or punished, even though it has good intentions. Of course, basically no teacher wants to take the risk of going to jail, just for reprimanding or punishing students, while nowadays it is not uncommon for a student to dare to bully friends, or berate and even fight the teacher.

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This reality can be seen in the news in the print and electronic media about violence against teachers, for example in August 2016 there was a beating of a father and son against a teacher at a well-known school in Makassar. This case felt very strange because according to the news, the child, who incidentally was a student of the battered teacher, also took the opportunity to throw punches at the time his father was "crazy" at school. In early February 2018, it was also reported that Achmad Budi Cahyanto, a teacher at SMAN 1 Torjun, Sampang, Madura, died after being beaten by a student named HZF.

This situation, of course, for teachers in carrying out their professional duties this law can be considered shackled, because teachers will experience difficulties in carrying out educational tasks, such as enforcing discipline to foster a child's personality to become noble, because a teacher has the authority at school to enforce discipline in order to achieve the objectives of the learning process carried out, it will lose meaning, due to fears of being entangled in the law.

Therefore, if you are not careful in applying the child protection law, then consciously or unconsciously in the end this provision can be used as a "tool" to justify the child's mistakes, so that the child can grow up to be "wild", because the teacher does not dare to reprimand him. That is, the teacher is faced with a position that goes awry, so that the existence of the teacher in carrying out his professional duties is passive, because it could be that if the teacher is active and cares about students who violate the rules, they can be subject to imprisonment.

In fact, if the substance of legal norms pertaining to the protection of teachers is interpreted, teachers are given authority in the field of education, as noted in the provisions of Article 15 of Law No. 14 of 2005 concerning Teachers and Lecturers, which explicitly states that in carrying out professional duties, teachers have several rights, as follows:

- a. Obtain income above the minimum living needs and social welfare insurance;
- b. Get promotions and awards according to work assignments and achievements;
- c. Obtain protection in carrying out duties and intellectual property rights;
- d. Obtain the opportunity to improve competence;
- e. Obtain and utilize learning facilities and infrastructure to support the smooth running of professionalism tasks;
- f. Have freedom in giving assessments and participating in determining graduation, awards, and/or sanctions for students in accordance with educational rules, teacher code of ethics, and laws and regulations;
- g. Obtain a sense of security and assurance of safety in carrying out tasks;
- h. Have the freedom to associate in professional organizations;
- i. Have the opportunity to play a role in determining education policy;
- j. Obtain the opportunity to develop and improve academic qualifications and competencies; and/or
- k. Obtain training and professional development in their field.

Based on the said arrangement, it shows that the administration of punishment in the context of fostering students is an educational tool that can be carried out by teachers, and legally has a justification basis, so that teachers who carry out professional duties should have authority and obtain legal protection, as stipulated in Article 14 letters c, f and g of Law no. 14 of 2005 concerning Teachers and Lecturers.

This provision is then emphasized in Article 39 of Government Regulation No. 74 of 2008 concerning Teachers, which is the implementation of Law no. 14 of 2005 concerning Teachers and Lecturers, stating the following:





- (1) Teachers have the freedom to impose sanctions on their students who violate religious norms, decency norms, decency norms, written and unwritten regulations set by the teacher, education unit level regulations, and laws and regulations in the learning process that are under their authority
- (2) The sanctions referred to in paragraph (1) can be in the form of reprimands and/or warnings, both oral and written, as well as educational punishments in accordance with educational standards, the teacher's code of ethics, and laws and regulations.
- (3) Violations of the education unit regulations committed by students whose sanctions are beyond the authority of the teacher, reported by the teacher to the leader of the education unit
- (4) Violations of laws and regulations committed by students are reported by the teacher to the leader of the education unit to be followed up in accordance with statutory provisions.

In line with that, the enactment of this law should also be implemented in a balanced manner, by not necessarily only looking at the rights of the child, but also paying attention to the obligations of the child. In Article 19 of the Child Protection Act it is stated that "every child is obliged to":

- a. Respect parents, guardians and teachers;
- b. Love family, society and love friends;
- c. Love the motherland, nation and state;
- d. Performing worship in accordance with the teachings of his religion; And
- e. Carry out ethical and noble character.

The question then arises, if the child does not carry out his obligations, are there any sanctions that can be given to the child? This is actually one of the teacher's tasks, which in the world of education we recognize the existence of punishment and reward(award), and punishment in this case is not persecution or acts of violence, but character development and development of students which must be carried out fairly and not arbitrarily. Muhammad Rasyid Dimas, put forward several standards and signs in giving punishment that parents and educators must pay attention to:

1. Corporal punishment is a last resort.
2. Avoid physical punishment when angry.
3. Do not hit the face and head.
4. Children are not spanked before reaching the age of ten.
5. Give children the opportunity to repent and apologize for the first mistake.
6. Do not leave the punishment to others.
7. Do not use punishment as a means of embarrassing children in public.
8. Don't overdo it in punishing and don't make it a permanent pattern in interacting with children.
9. Some forms of punishment that are possible are reprimands, giving warnings, keeping away what the child likes, reproach, keeping the child silent (not being spoken to), and spanking. However, spanking is the last alternative punishment.

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### **Legal Protection Against Teacher Professionalism**

Observing the various arrangements as described above, shows that in the context of Child Human Rights in relation to teacher professionalism at the *das sein* level, sometimes there is still a dilemma in the role of the teacher as an educator, in the sense that the teacher is given the obligation to be able to form and foster students in achieving goals education, including having faith and piety to God Almighty and having noble character, while if the teacher in his professional duties imposes sanctions on students he can face the law, even though juridically the teacher has authority in teaching, educating, guiding and directing students in carrying out their professional duties, including the imposition of sanctions in the learning process under their authority, as long as they are not carried out arbitrarily.

To protect educators in carrying out their noble duties, basically it has been regulated in Article 39 of Law no. 14 of 2005 concerning Teachers and Lecturers, which mandates that the government, society, professional organizations and educational units are obliged to provide protection for teachers. The provisions read in full:

- (1) The government, regional government, community, professional organizations and/or education units are required to provide protection for teachers in carrying out their duties;
- (2) The protection referred to in paragraph (1) includes legal protection, professional protection, and occupational health and safety protection;
- (3) Legal protection as referred to in paragraph (2) includes legal protection against acts of violence, threats, discriminatory treatment, intimidation, or unfair treatment on the part of students, parents of students, society, bureaucracy, or other parties.
- (4) Professional protection as referred to in paragraph (2) includes protection against termination of employment that is not in accordance with laws and regulations, giving unreasonable compensation, restrictions on expressing views, harassment of the profession, and other restrictions/prohibitions that may hinder teachers from carrying out task.
- (5) Occupational safety and health protection as referred to in paragraph (2) includes protection against risks of work security disturbances, work accidents, fires at work, natural disasters, occupational health and/or other risks.

Likewise, in Government Regulation No. 74 of 2008 concerning Teachers, there are several provisions governing the legal protection of teachers:

#### Article 40

- (1) Teachers have the right to receive protection in carrying out their duties in the form of a sense of security and guarantees of safety from the Government, Regional Government, Teacher Professional Organizations, and/or the Community in accordance with their respective authorities.
- (2) The sense of security and assurance of safety in carrying out the tasks referred to in paragraph (1) is obtained by the teacher through the protection of:
  - a. Law;
  - b. Profession;
  - c. Occupational Health and Safety.
- (3) Society, Teacher Professional Organization, Government or Regional Government can help each other in providing protection as referred to in paragraph (1).



## Article 41

- (1) Teachers have the right to receive legal protection from acts of violence, threats, discriminatory treatment, intimidation, or unfair treatment on the part of students, parents of students, society, bureaucracy, or other parties.

Based on the umbrella act, it means that teachers as educators in carrying out their duties receive legal protection. 35 of 2014 as a benchmark in dealing with problems related to sanctions given by teachers to students who are under their authority, but also pay attention to Law no. 14 of 2005 concerning Teachers and Lecturers.

However, it should be realized that in order to optimize the use of this law in creating professional teachers, studies are needed to produce more comprehensive teacher protection rules by establishing the Educator Profession Law, which regulates more fully both legal protection, professional protection, as well as protection of safety and security. occupational health, including teachers who are in conflict with the law.

Therefore, various professional teacher organizations, of course, are a necessity as organizations that function to advance the profession, improve competence, career, educational insight, professional protection, welfare and community service, which is mandated in Article 41 of Law no. 14 of 2005 concerning Teachers and Lecturers.

Taking this into account, it is hoped that the existence of this organization must be supplemented by a Code of Ethics, as well as the Honorary Council of Educators and Education Personnel, which do not only come from members of the organization, but involve stakeholders in the education sector, such as school committee representatives, community leaders, so that if there is a decision related with ethical violations are more trusted by the community (trust).

In addition, it is hoped that the Provincial Government and Regency/City Government, especially those in charge of education, can enter into a Memorandum of Understanding with law enforcement, including the Indonesian Child Protection Commission, regarding the handling of problems related to teachers, so that the protection of the teacher's professional authority is more guaranteed. and optimal.

If this happens, at least if there are sanctions given by the teacher in accordance with their professional duties, which are then reported by the parents of the students or the community because they are seen as violating the Human Rights of the Child to law enforcement, including the Indonesian Child Protection Commission, they will only be followed up after there is a recommendation from the Honorary Teacher Council through the Professional Organization.

Finally, it is hoped that the existence of this Professional Organization can lead to the realization of teacher professionalism, which in turn will carry out the functions and objectives of national education properly.

## 4. CONCLUSION

Based on the explanation that has been described regarding Human Rights and Teacher Professionalism, it can be concluded:

1. That the existence of Law No. 35 of 2014 concerning Amendments to Law no. 23 of 2002 concerning Child Protection, is intended to prevent arbitrary actions against Indonesian children, as well as Law no. 14 of 2005 concerning Teachers and Lecturers, is a legal umbrella aimed at protecting the teaching profession.

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2. In line with that, it is hoped that law enforcement for teachers who impose sanctions on students, as long as they are still in the learning process under the authority of the teacher, is expected to be processed based on recommendations from the Teacher Honor Council through the Teacher Professional Organization, in this case based on the Memorandum of Agreement made by the Provincial and City District Governments with Law Enforcement to obtain the same perception.
3. For this reason, it is expected that the Teacher Professional Organization must prepare a Guide to the Teacher Ethics Code, and it is necessary to study the essence of the formation of the Educator Profession Law.
4. It is expected that it is necessary to socialize the components of society simultaneously and continuously the existence of Law no. 35 of 2014 concerning Amendments to Law no. 23 of 2002 concerning Child Protection and Law no. 14 of 2005 concerning Teachers and Lecturers, so that there is a comprehensive understanding of Children's Rights and Teacher Professionalism.

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