



Human Rights Enforcement in Indonesia during Pandemic: A Critical Study of Dignified Education

Franciscus Xaverius Wartoyo¹, Teguh Prasetyo²

^{1,2}Law Studies, Faculty of Law, Pelita Harapan University, Jakarta, Indonesia

Email: ¹franciscus.wartoyo@uph.edu, ²teguh.prasetyo@uph.edu

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Abstract

This article was writing to describe government policies in upholding educational rights, especially during a pandemic with its implementation in the field of education according to the theory of dignified justice. Qualitative descriptive method was used in reviewing the problems described, using content analysis method, namely examining the contents of the document. The theoretical basis is used as a guide to adapt the research approach to reality. For the sake of simplicity, qualitative method sources are used in reference studies from various existing research results. The data analysis method uses deductive analysis techniques that use logic to draw one or more conclusions based on a particular field. The role of the state and citizens in dealing with the covid-19 pandemic, especially in the field of education, needs to be synchronized so that citizens, especially middle and lower education, SMA to SD and Kindergarten, the role of parents is very important in the continuity of the online learning process because the teacher's role has changed completely from the beginning. dominated by schools when learning is online, the role of teachers and schools is reduced. This raises its own problems so that the responsibility for education is a shared responsibility in terms of supervision in using online learning media, because this is a disaster category so that human rights violations do not occur, it is necessary to change the view of education that is handed over to schools now it is a shared responsibility so that create a dignified education. The government's policy to protect people's education is always implemented by making education a priority work program of the government, among other programs. This means that the education budget is in accordance with the 1945 Constitution of the Republic of Indonesia Article 31 paragraph (4), "The state prioritizes the education budget at least twenty percent of the state revenue and expenditure budget as well as from the regional revenue and expenditure budget to meet the needs of national education administration.

Keywords: Human Rights, Education, Pandemic, Dignified

INTRODUCTION

Education is a human effort to develop his potential through the learning process. Article 31 (1) of the 1945 Constitution of the Republic of Indonesia states that every citizen has the right to education, and paragraph 31 emphasizes that the Government must seek and regulate a national education system that enhances faith and holiness and nobility of character. Nature in the context of human education. The life of the nation according to the law. For that, all parts of the country must educate the life of the country which is one of the goals of the Indonesian state. This is also regulated in Article 28C (1) of the 1945 Constitution of the Republic of Indonesia, which states that "everyone has the right to build, fulfill basic needs, obtain education and benefit from science and technology, art" and culture, to improve the quality of life and human well-being. And Article 32 (1) of the 1945 Constitution of the Republic of Indonesia, which states that "The state must advance Indonesian national culture at the heart of global civilization by guaranteeing the freedom of the people to maintain and develop their cultural values. ¹."

In accordance with the 1945 Constitution of the Republic of Indonesia in Article 28C and Article 32, it is known that everyone with no exceptions has the right to receive teaching, by teaching it for the development of one's own personality and increasing understanding of tolerance and brotherhood in all nations, races and religions so that in the end the individual can become a quality person. Thus, the right to education is also supported by agreements that regulate economic, social and cultural rights, where the right to education is included in one of the instruments of the agreement ².

The international agreement that has been described has been ratified by Law No. 11 of 2005 concerning the Ratification of the International Covenant on Economic, Social and Cultural Rights. The right to education is enshrined in Article 13 paragraphs (1) and (2) of the International Covenant on Economic Social and Cultural Rights (ICESCR). One of the discourses in upholding human rights related to ICESCR is the change in the implementation of education which was previously carried out face-to-face, and then online due to the COVID-19 pandemic, which, if not immediately recovered, will lead to universalism and cultural relativism. Universalism states that more and more primitive cultures will develop and eventually have the same legal system as Western culture. Cultural relativism, on the other hand, states the opposite, that a traditional culture cannot be changed ³. As part of the nation's ideology, Pancasila as the basis of all sources of law, including this covenant, has included education as part of the rights of citizens.

The development of laws and regulations in Indonesia must be based on the values of the life and culture of the Indonesian nation, such as Pancasila which was established by the founders of the state as the basis of the state and the philosophy of the state. Therefore, the Indonesian legal system must refer to the ideals of the Pancasila law (*rechtsidee*) ⁴. The development of national legislation based on Pancasila must seek to consider and support legal needs in accordance with developments and developments in other fields, so that Pancasila can create order and legal certainty to increase national unity and integrity and country.

¹ (Indonesia, 2019)

² (Republik Indonesia, 2005)

³ (Triputra, 2017)

⁴ (Prasetyo, 2014)

The development of national legislation must be based on (1) ideological values, such as those based on national ideologies, such as Pancasila; 2) historical values, such as values based on Indonesian history; 3) sociological values, in accordance with the cultural values of the Indonesian people; (4) The legal value is in accordance with the prevailing laws and regulations in Indonesia. and (5) philosophical values, such as values that are transformed into a sense of community truth and justice. In addition, legal development must also include the values contained in the Pillars of Pancasila, namely: 1) Belief in the One Godhead⁵. Giving meaning, for law-making in Indonesia must be based on sacred or religious values. In addition, all forms of law must be a guarantee of freedom of religion and there must be no law that grants certain religions and excludes other religions; 2) A just and civilized human being. This means that all judicial training must have guarantees and respect for human rights; 3) Indonesian Union. Giving meaning, in making laws and regulations must pay attention to the unity or integrity of the state and nation. When laws are enacted, they cannot cause division (inequality) or divide nations and nations; 4) Democracy is guided by wisdom in representative debates. This means that the making of laws must be based on democratic values that cover all parts of the country, both the government and the legislature and society; 5) Social justice for all Indonesian citizens. This means that when developing national legislation, you must strive to provide justice and welfare for all Indonesian citizens ⁶.

Based on the above point of sight, for the future sight that the Pancasila law can be a force that provides a balance between conflicting community values. In addition, national law is expected to be able to harmonize with existing regulations and abandon the form of pluralism in the rules, as has happened so far, so that it becomes a harmonious national legal system in the sense of being harmonious, harmonious, balanced, and consistent, without contradictions or contradictions. conflicts between legal standards with each other horizontally and vertically. In other words, there is harmony, compliance, harmony, legal balance between legal standards and regulations within the framework of a coherent national legal system, and the legal community wants legal certainty, rule of law, law, law enforcement and legal protection. That's where the essence of justice is and that's the depth of the theory of justice based on Pancasila, especially the theory of justice and dignity.

Human rights law based on Pancasila against UUNo. 11, 2005 concerning the International Covenant on Economic, Social and Cultural Rights, is part of an arrangement that balances global culture with Indonesian culture ⁷. No less important is the process of implementing education during the COVID-19 pandemic, how are the policies taken by the government to be able to enforce justice in order to realize an equitable education process and be able to accommodate all Indonesian people and citizens who have the right to education.

Pancasila is a form of reality in the form of standards or laws, of course Pancasila is able to present its own value of justice in the enforcement of Indonesian laws and regulations. Law originating from Pancasila is expected to provide an understanding of the true meaning of law, which comes from our own country, not inheritance from abroad. Rights based on Pancasila must be implemented, developed and enforced in accordance with Indonesian law to implement rights that protect the rights and obligations of all Indonesian citizens in the form of statutory regulations. Just and civilized humanity is the basis for protecting human rights,

⁵ (Barlian dan Herista, 2021)

⁶ (Prasetyo, 2017)

⁷ (Sujatmoko, 2010)

especially the work of civilized people, without exercising any rights. While social justice is justice that is used to distinguish social justice from the concept of justice. Social justice is also one of the mandates of Pancasila, especially the Fifth Pancasila Order, which is stated in the Preamble of the 1945 Constitution, the fourth paragraph.

Given the importance of education, and its continuity needs to be continued even though it is affected by the pandemic, how should the enforcement of the right to education run according to the convention that regulates economic, social and cultural rights, where the right to education is included in one of the instruments in the covenant. this, as well as the direction of government policies during the pandemic in upholding the principle of justice that is more humane with a view to the principle of justice with dignity. In the view of Dignified Justice, the system does not allow any conflict in it. So, in the dignified philosophy of justice there is no conflict between justice and expediency. In addition, there is no conflict between convenience and legal certainty. Justice, certainty, and usefulness as legal objectives are units of balance. Every time a law is discussed, it automatically contains the definition of justice, as well as with certainty and all useful laws ⁸.

The purpose of writing this article is to describe how government policies to uphold education rights, especially during a pandemic with its implementation in the field of education according to the view of the theory of dignified justice.

RESEARCH METHOD

Qualitative descriptive method was used in reviewing the problems described, using content analysis method, namely examining the contents of the document. The theoretical basis is used as a guide to adapt the research approach to reality. For the sake of simplicity, qualitative method sources are used in reference studies from various existing research results. The data analysis method uses deductive analysis techniques that use logic to draw one or more conclusions based on a particular field.

RESULT AND DISCUSSION

Education is one of the important things mentioned in the Preamble to the 1945 Constitution, a task that no one can do or not. Therefore, the government must introduce homeschooling as a solution to the outbreak in Indonesia without optimizing the online and offline learning process directly. The Universal Declaration of Human Rights provides equal rights to education for all citizens in Articles 26 (1) and (2), which state: (1) Everyone has the right to education. Education must be free, at least at the primary and junior secondary levels. Basic education must be mandatory.

Higher education and higher education should be equally accessible to all on the basis of performance. (2) Education and training should be directed at full personal development and strengthening respect for human rights and fundamental freedoms. Education should promote understanding, tolerance and friendship among all races, ethnicities and religions, and advance the activities of the United Nations to maintain peace.

⁸ (Prasetyo, 2017)

The guarantee that everyone has the same right to education/training is also included in the International Covenant on Economic, Social and Cultural Rights, which is similar to paragraph 13 (1), which gives recognition to State parties. In education. They agreed that education should aim at the full development of the human personality and its understanding of human dignity, and strengthen respect for human rights and fundamental freedoms⁹.

The role of the state and citizens in dealing with the covid-19 pandemic, especially in the field of education, needs to be synchronized so that citizens, especially middle and lower education, SMA to SD and Kindergarten, the role of parents is very important in the continuity of the online learning process because the teacher's role has changed completely from the beginning. Dominated by schools when learning is online, the role of teachers and schools is reduced. This raises its own problems so that the responsibility for education is a shared responsibility in terms of supervision in using online learning media, because this is a disaster category so that human rights violations do not occur, it is necessary to change the view of education that is handed over to schools now it is a shared responsibility so that create a dignified education.

Implementation of the system as published by the ministry of education and culture through Circular Letter Number 2 of 2020 concerning Prevention and Handling of Covid-19 at the Ministry of Education and Culture, Circular Letter Number 3 of 2020 concerning Prevention of Covid-19 in Education Units and Circular Letter Number 4 of 2020 regarding the Implementation of Distance Learning which is applicable during the pandemic, has been running since two years ago¹⁰.

The government's policy in terms of education as a civil and political right in fulfilling the rights to education for citizens during the covid-19 pandemic is known from various reports that although the teaching and learning process is dominantly carried out online during the covid-19 pandemic, it will but adequate facilities for the online learning process are still lacking.

Article 40 of Law Number 20 of 2003 concerning the National Education System regulates¹¹:

Verse (1):

“Educators and education personnel have the right to:

- a. An adequate and adequate income and social insurance;
- b. Rewards according to the tasks and work performed;
- c. Professional development in accordance with quality development requirements;
- d. Legal protection in carrying out obligations and rights related to intellectual property products;
to
- e. Access to educational institutions, facilities and infrastructure to support the smooth running of activities.

Verse (2):

Educators and education personnel are asked to:

- a. A create a meaningful, fun, creative, dynamic, and talkative educational environment;
- b. Make a professional commitment to improve the quality of education;

⁹ (Republic Indonesia, 2005)

¹⁰ (Kemendikbud, 2020)

¹¹ (Republik Indonesia, 2003)

- c. Set an example and maintain the good name of institutions, professions and positions and believe that access to facilities, infrastructure and training opportunities will enable them to support the implementation of activities properly.

Judging from article 40 verse (1) letter c of Law Number 20 of 2003 concerning the National Education System, it has not been fulfilled because as seen from the news that existed during the pandemic, there has been no training for the online learning process that is comprehensive and uniform in educational environment, especially in primary and secondary education. Therefore, educators who are trained in the implementation of online learning are not evenly distributed in all corners of the archipelago, because of the news which states that most of the educators and education personnel in the basic education environment in particular only provide a burden of tasks and exercises that are actually burdensome student.

On the problem of accessing socialization inputs in online learning, especially in rural, border and remote areas in Indonesia, because most college alumni are not interested in working in remote areas, this causes the distribution of human resources has not been realized optimally with the 3T government program (leading, outermost, and lagging). This is one of the causes of education in Indonesia professionally not evenly distributed, especially with the Covid-19 pandemic situation forced online learning using several media including googlemeet, classroom, and zoom, this is some areas are not ready, it is necessary to conduct an evaluation of the disaster curriculum program work the same as television media, especially those owned by SOEs, which can be reached in various remote areas. If necessary, also cooperate with privately owned media so that equitable education can be realized to realize a Resilient Indonesia, Indonesia grows in the face of covid-19.

In addition, there is disagreement in efforts to support the creation and development of job opportunities, such as equal distribution of education in rural areas, islands, borders, and remote areas. The same access problems are related to inputs, processes, and governance in many rural schools that do not meet national education standards, such as in social media, internet, television, or in magazines and newspapers ¹².

Seeing the phenomenon that occurs in the direction of government policy in enforcing the rights of its citizens to obtain education with the current conditions and situation, the government should also implement policies based on the system. The national education law must be implemented more carefully, because the law always contains the ideal conditions of society, which must guide the noble ideals of social and national life. The philosophical ideology contained in the law must reflect the philosophical thinking concerned. That is, do not let the philosophical ideals contained in the law reflect the philosophy of life in other countries that are contrary to the philosophical ideals of the country itself, as well as Indonesian human rights law.

Pancasila as a philosophy should be able to reflect the philosophical aspects contained in every product of policy or legal regulations. At the same time, the government's obligation to respect, protect, defend and promote human rights is established under the provisions of legislation and the implementation of international education laws and policies during this epidemic. Thus, the concept of Indonesian human rights is not only about human rights, but has a basic human policy as a citizen to comply with laws and regulations, unwritten laws, respect the human rights of others., Moral, ethical, comply with international standards. Human rights laws passed by the Indonesian people must also defend themselves from the state.

¹² (Suryana, 2017)

CONCLUSION

Policies that have been implemented by the government during the pandemic in the field of education, changes in education policies carried out by the Ministry of Education and Culture since March 2020, as well as providing initiatives and solutions during the Covid-19 pandemic. Cancellation of national exams, school exams don't have to measure curriculum integrity, schools that don't take exams can use points from the last five semesters to determine student approval, then offer free fees, distribute budgets to universities, redistribute cultural estimates through TVRI, launch Guru Portal Sharing, Facilitating the use of BOS and BOP to pay teacher salaries, as well as online teaching, teaching aids (UKT) in special curriculum situations, and others.

The government's policy to protect people's education is always implemented by making education a priority work program of the government, among other programs. This means that the education budget is in accordance with the 1945 Constitution of the Republic of Indonesia Article 31 paragraph (4), "The state prioritizes the education budget at least twenty percent of the state revenue and expenditure budget as well as from the regional revenue and expenditure budget to meet the needs of national education." The government's responsibility is to seek and organize a National Education System that must be able to ensure equal distribution of educational opportunities, quality improvement, as well as the relevance and efficiency of education management to face challenges in accordance with the demands of changing local, national and global life. Therefore, it is necessary to equalize the budget from the APBN for both public and private schools and it is necessary to pay attention to facilities for the disabled, because basically education is the right of all citizens as regulated in the 1945 Constitution of the Republic of Indonesia to realize dignified education.

REFERENCES

- Barlian, A E A, and A D P Herista. "Pembangunan Sistem Hukum Indonesia Berdasarkan Nilai-Nilai Pancasila Sebagai Ideologi Politik Bangsa." *Jurnal Kajian Lemhannas RI*, 2021.
- Indonesia, Republik. UUD 1945 (2019). <https://doi.org/10.31227/osf.io/mh39x>.
- Kemendikbud. "Kemendikbud." *Surat Edaran Nomor 3 Tahun 2020 Tentang Pencegahan Corona Virus Disease (Covid-19) Pada Satuan Pendidikan* 33 (2020): 1–5.
- Prasetyo, Teguh. *Keadilan Bermartabat Perspektif Teori Hukum*. I. Bandung: Nusa Media, 2017.
- . "Membangun Hukum Nasional Berdasarkan Pancasila." *Hukum Dan Peradilan* 3, no. 3 (2014): 213–22.
- Republic Indonesia. Law No 11 Year 2005 on Ratification of International Covenant on Economic, Social, and Cultural Rights, Pub. L. No. 11 (2005).
- Republik Indonesia. UU No 20 Tahun 2003 Tentang Sistem Pendidikan Nasional pada Pasal, 18 Kemendiknas § (2003).
- Sujatmoko, E. "Hak Warga Negara Dalam Memperoleh Pendidikan." *Jurnal Konstitusi* 7, no. 1 (2010): 181–212.
- Suryana. "Permasalahan Mutu Pendidikan Dalam Perspektif Pembangunan Pendidikan." *Edukasi* 2, no. 1 (2017).
- Triputra, Yuli Asmara. "Implementasi Nilai-Nilai HAM Global Ke Dalam Sistem Hukum Indonesia Yang

Berlandaskan Pancasila.” *Jurnal Hukum IUS QUIA IUSTUM* 24, no. 2 (2017): 279–300.
<https://doi.org/10.20885/iustum.vol24.iss2.art6>.