

Enforcement of Human Rights in Providing Children Protection in the School Educational Environment in the City of Surabaya)



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ABSTRACT: Human Rights are a gift from God Almighty to every human being who is owned even before humans are born into the world. In Indonesia, the position of Human Rights itself has been regulated in the Republic of Indonesia Law no. 39 of 1999 concerning Human Rights. Human rights must be respected, upheld and protected by the state, government and every other human being. Even though it has been protected by law, violations of human rights still occur, one of which is in the protection of children's rights in the field of education. In terms of providing protection for children's rights, the Indonesian State quickly and responsively formed the Child Protection Commission (KPAI). This action is an obligation of the state in terms of protecting children from violence. Based on the facts on the ground that the protection provided to children in the school environment has not worked optimally. The case of violations of human rights that occurred at SMP N 49 Surabaya is one of the portraits of the enforcement of cases of violations of human rights in Indonesia, where the government shows its seriousness to handle and resolve cases of human rights violations.

KEYWORDS: Human Rights; Child protection; Human Rights Violations

INTRODUCTION

Indonesia is a country based on the rule of law. As stated in Article 1 paragraph (3) of the 1945 Constitution which states that "the State of Indonesia is a state of law". According to Muhammad Yamin, this state of law is defined as a state where the government does not run according to the will of the people in power, but according to written rules that have been legally made by the people's representative bodies. While the concept of the rule of law itself is to provide recognition and protection. Especially in this case putting forward the idea of protecting human rights.

This Human Rights is a very important element for every individual. Human rights according to the Law of the Republic of Indonesia No. 39 of 1999 are basic rights that are owned by every human being as a gift from God Almighty whose existence cannot be contested. This right has actually been brought from birth and is very attached to humans as creatures of God.

Therefore there is an opinion that says that:

"Human Rights are universal holds that they are the same for everyone because they are inherent in human beings by virtue of all people being human, and that human right therefore derive from nature (hence the term "natural rights")¹.

which means "Human Rights are universal holdings that they are the same for all people because they are inherent in human beings based on all people who exist in humans, and therefore human rights come from nature (hence the term "natural rights)". Human rights must be respected, upheld and protected by the state, law, government and every other human being. But in reality, many people do not respect each other's human rights. So that it raises various problems related to human rights and one of them is in the protection of children's rights in the field of education. In 2021, Komnas HAM will hold a follow-up recapitulation of community communication based on Basic Rights, namely in accordance with Law Number 39 of 1999 concerning Human Rights with the following results² :

Table 1. Number of Complaints on Human Rights Violations in Indonesia in 2021

No	Type of Violation	Amount
1	Right to Life	23
2	Family Rights	1

¹ Stephen Marks, "Human Rights: 'A Brief Introduction,'" *Harvard University*, no. Law and Politic (2016): 11, <https://cdn1.sph.harvard.edu/wp-content/uploads/sites/134/2016/07/Human-Rights-A-brief-intro-2016.pdf>.

² *Undang-Undang No. 39 Tahun 1999 Tentang Hak Asasi Manusia*, n.d.

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3	The Right to Self-Development	78
4	Right to Get Justice	334
5	Right of Personal Freedom	37
6	Right to Security	107
7	Welfare Rights	309
8	Political Rights	12
9	Women's Rights	4
10	Children's Rights	12
11	Free Criteria	11
Amount		928

Sumber : <https://ham.go.id/data-pengaduan-ham-2021/> (Diolah Peneliti) Tahun 2022

Based on the above data processed by researchers from the official website of the Directorate General of Human Rights, Ministry of Law and Human Rights of the Republic of Indonesia, we can see that the level of violations of human rights in Indonesia in 2021 is still quite high, and we can see that there are still cases of violations of children's rights. A series of violence perpetrated against a child, of course, will damage the future of the child, or at least it will leave an imprint on his child's soul until he grows up. This childhood trauma will imprint and be embedded in their hearts when they grow up, so it is not uncommon in the future they will also become one of the perpetrators of the violence. In addition to leaving trauma, childhood violence will also make children do deviant things as a form of emotional outburst that they have due to the violence they experience.³ Seeing many cases of violence against children in the field of education, it shows that there is a disharmony between the implementation of the education process and Law no. 23 of 2002 concerning Child Protection. When in fact education is a place for children to understand and gain an understanding of what are the obligations, rights, and understanding of the importance of respecting, and maintaining the human rights of each human being.

There are various forms of violence against children, namely belittling children, threatening children by saying harsh words, to physical violence against children. In this case, parents essentially play the most important or main role to provide protection for children. But when the child is outside the family scope, such as when he/she is in school, the responsibility for providing protection for the child is the teacher and school administrator. In fact, the school has not been able to fully protect the rights of children. This gives rise to various cases of violence that often affect the psychology of children. As was the case at SMP Negeri 49 Surabaya, East Java, there was a teacher with the initials J slapping and hitting the head of a student with the initials RSA. The incident occurred when a student with the initials RSA could not do the task given by the teacher with the initials J. So that the teacher with the initial J was furious and committed acts of violence against the student with the initials RSA.

The teacher with the initials J immediately took the action of slapping and banging the head of the student with the initials RSA on the blackboard. The incident occurred on January 29, 2022, and immediately received very serious attention from the Surabaya city government. As a result of this incident, the student with the initials RSA who was abused by the teacher initialed J was traumatized so he was reluctant to return to school. Until now, the case is still under investigation and strict sanctions will also be given to the teacher with the initial J⁴.

This condition is an event that is very ironic for the psychological health of children. In addition, it is also a violation of human rights, especially in the school environment. So the government took quick steps to deal with the case. Based on the legislation No. 35 of 2014 which regulates Child Protection. The Law explains the existence of children's rights in general as follows: The right to life; Right to grow and develop; Protection rights; Participation rights. These four rights have interrelated influences, especially for children's rights to get protection. Especially in Article 54 of Law No. 35 of 2014 says that⁵:

³ Peni Wahyu Agustina and Asri Kusumaning Ratri, "Analisis Tindak Kekerasan Seksual Pada Anak Sekolah Dasar," *Jurnal Kajian Teori dan Praktik Kependidikan* (2018).

⁴ Amaluddin, "Viral Guru Di Surabaya Tampar Dan Benturkan Kepala Siswa" (Surabaya, 2022), <https://www.medcom.id/nasional/daerah/xkEZnXDK-viral-guru-di-surabaya-tampar-dan-benturkan-kepala-siswa>.

⁵ Undang-Undang No. 35 Tahun 2014 Tentang Perlindungan Anak, *Undang-Undang No. 35 Tahun 2014 Tentang Perlindungan Anak*, 2014.

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(1) that children within and within the Education Unit are required to obtain protection from acts of physical, psychological, sexual violence, and other crimes committed by educators, education staff, fellow students, and/or other parties. (2) the protection as referred to in paragraph (1) is carried out by educators, education staff, government officials, and/or the public.

But often these regulations are often ignored by some schools even though the law is obliged to provide protection for the rights of their students. In addition, the teacher's role is not optimal, which should be to guide and provide advice for each student. In fact, the teacher's role in this case is to provide violence. Based on the explanation of the problems above, it is necessary to study more deeply related to the enforcement of Human Rights. Especially in terms of providing protection for children. So it makes the writer interested in writing legal research with the topic of human rights enforcement in terms of providing protection to children from violent practices in the school education environment. Based on the description above, the writer is interested in discussing issues regarding; How is the enforcement of human rights against cases of violence against students at SMP Negeri 49 Surabaya by a teacher with the initial J against students with the initials RSA.

RESEARCH METHODS

The method used in this research is to use a normative research method by taking a normative juridical approach which is of course qualitative and also supported by secondary data in the form of primary and secondary legal materials. In this case the normative research used certainly leads to legal norms in both national and international laws and regulations. In addition, it is also bound by applicable norms. of course it binds the community and the customs that apply in the community.

DISCUSSION

Human rights

Human Rights Based on Law No. 39 of 1999 concerning Human Rights says that "Human Rights are a set of rights inherent in the nature and existence of humans as creatures of God Almighty and are His gifts that must be respected, upheld, and protected by the rule of law, government, and everyone for the sake of honor and protection of human dignity. So that directly humans have rights with the same degree and dignity. In addition, there are other translations of Human Rights which say that:

*"Human Rights are, literally, the rights that one has simply as a human being. As such they are equal rights, because we are all equally human beings. They are also inalienable rights, because no matter how inhumanely we act or are treated we cannot become other than human beings"*⁶.

So from the above translation it can be concluded that literally human rights are already owned by someone as a human being. In addition, there is also another opinion according to Wasserstrom (1979) who says in his translation that human rights are as follows::

"Any true human right, it is said, must satisfy at least four requirements:

- 1. First, it must be possessed by all human beings, as well as only by human beings.*
- 2. Second, because it is the same right that all human beings possess, it must be possessed equally by all human beings.*
- 3. Third, because human rights are possessed by all human beings, we can rule out as possible candidates any of those rights which one might have in virtue of occupying any particular status or relationship, such as that of parent, president, or promise.*
- 4. Fourth, if there are any human rights, they have the additional characteristic of being assertable, in a manner of speaking, 'against the whole world'"*⁷.

So it can be concluded according to Wasserstrom that human rights consist of 4 parts, namely first human rights must be owned by all humans, the two human rights that are owned are the same so that they must be owned equally by all humans, the three human rights owned by all humans can override the rights of all human beings. -Special rights, for example, such as the rights possessed by the president, and finally the four human rights that make every human being have additional characteristics that are firm both in speaking and in carrying out resistance which is certainly contrary to human rights.

Thus, they have equal or equal rights. This right cannot be revoked even if we commit a human rights violation. Because these rights have been very closely attached to every human being. In addition, it is further explained that human rights education is a participatory practice which aims to equip every individual to enjoy and exercise their rights without forgetting to respect the

⁶ Jack Donnelly, "Jack Donnelly," *Human Rights* (2018).

⁷ Alison Dundes Renteln, Karel Vasak, and Philip Alston, "The International Dimensions of Human Rights," *Human Rights Quarterly* (1992).

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rights of each other.⁸. So that the important role of the state is needed with the aim of providing recognition and guarantees for the protection of these human rights.

As stated in the Preamble to the 1945 Constitution which says that "the state guarantees and protects the human rights of its citizens, especially in relation to the welfare of their lives, both physically and spiritually, among others related to human rights in the political, economic, social, culture, education, and religion.

Actually the concept of Human Rights in the field of education has been embodied in the Preamble to the 1945 Constitution which states that the Indonesian government is obliged to educate the nation's life. As has been confirmed in Article 31 of the Constitution which reads:⁹

"(1) Every citizen has the right to receive education. (2) The government shall endeavor and organize a national teaching system, which shall be regulated by law".

There is also according to Bahder Johan Nasution who sees human rights from a regulatory point of view. Bahder Johan Nasution said that one side of human rights has a basic nature which of course limits the power of government. But on the other hand the government gives the authority to limit basic rights to suit the function of control¹⁰. So it can be concluded that the basic rights contain a characteristic that can limit the government's power, and the limitation is not to turn off the government's power but as an authority in controlling the lives of its people.

Since the leadership of President Soeharto, a legal entity was formed to provide recognition and protection for human rights, namely the National Human Rights Commission. The objectives of KOMNAS on Human Rights as stated in Law Number 39 of 1999 Article 75 are:¹¹ *Developing conditions conducive to the implementation of human rights in accordance with Pancasila, the 1945 Constitution, and the United Nations Charter, as well as the Universal Declaration of Human Rights; and (2) Improving the protection and enforcement of human rights in order to fully develop the Indonesian human person and his ability to participate in various fields of life.*

Protection of Children's Rights

Children are the generation and hope of the nation who carry out the task of continuing the leadership and governance of the nation in the future. Law No. 4 of 1979 Article 1 paragraph 2 concerning Child Welfare states that "A child is someone who has not reached the age of 21 (twenty one) years and has never been married". Children's rights are basic rights that must be given and obtained by children including early childhood and also adolescents aged 12-18 years. This child's rights apply both to children who have parents, as well as to children who no longer have parents, as well as neglected children and street children. This is one of the characteristics of Human Rights which is universal. Children's rights are something that every child deserves.

Based on the Presidential Decree No. 36 of 1990 concerning Ratification of the Convention On The Rights Of The Child, there are 10 (ten) Absolute Rights of the Child, namely: ¹² Right to Happiness, Right to Education, Right to Protection, Right to Get a Name, Right to Nationality, Right to Food, Right to Health, Right to Recreation, Right to Equality, and Right to Role in Development. As for the basic rights of children, there are 4 rights criteria, namely; Right to Life, which means this right applies since the child is still in the womb, such as providing nutrition, nutrition, and maintaining the child's life. Right to Growth and Development, In addition to the right to life, children also have the right to be able to grow and develop properly, so that children's growth and development must be considered as well as possible, such as giving immunizations, exclusive breastfeeding, keeping children away from dangerous things, and so on. Right to Participation, The purpose of this right is that the child must be protected from emergency situations, apply legal protection, and maintain the survival of the child's future. Protection Rights, Children have the right to get protection, both from those closest to them, as well as from the existing law.

Presidential Decree No. 36 of 1990 was then followed up with the enactment of a law that protects children's rights, namely Law no. 23 of 2002 concerning Child Protection, as amended, most recently by Law no. 35 of 2014 concerning Child Protection. In addition, Law no. 11 of 2021 concerning the Juvenile Criminal Justice System (SPPA). SPPA is not only interpreted

⁸ Yordan Gunawan and Mohammad Bima Aoron Hafiz, "Sekolah Ramah HAM Sebagai Upaya Penanggulangan Tindakan Kekerasan Di Kalangan Siswa," *Prosiding Seminar Nasional Program Pengabdian Masyarakat* (2021).

⁹ Disca Betty Viviansari, "Tanggung Jawab Negara Terhadap Pemenuhan Hak Atas Pendidikan Anak Buruh Migran Indonesia Di Malaysia," *Jurnal HAM* (2019).

¹⁰ Bahder Johan Nasution, "Eksistensi Lembaga Peradilan Dalam Negara Hukum Sebagai Bentuk Perlindungan Terhadap Hak Asasi Manusia," *Al-Risalah* (2018).

¹¹ *Pasal 75 Undang-Undang No 39 Tahun 1999 Tentang Perlindungan Hak Asasi Manusia*, n.d.

¹² *KEPPRES No. 36 Tahun 1990 Tentang Pengesahan Convention On The Rights Of The Child (Konvensi Tentang Hak-Hak Anak)*, n.d.

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as handling children in conflict with the law, but also includes the root causes of why children commit criminal acts and efforts to prevent the.¹³ In the perspective of Human Rights (HAM), regardless of whether he was born in a marriage bond, or outside the marriage bond, every child essentially must be protected by the state.¹⁴

The Unitary State of the Republic of Indonesia is committed to protecting children's rights and realizing child welfare. This commitment is shown through the establishment of Law Number 23 of 2002 concerning child protection.¹⁵ And in the context of adjustments to several provisions, several amendments were made and the last one was Law Number 23 of 2002 concerning Child Protection

In terms of providing protection for children's rights, the Indonesian State very quickly and responsively formed the Child Protection Commission (KPAD). This action is an obligation of the State of Indonesia which is quite large and very serious in terms of protecting children from violence. Legal protection for children is an effort to protect the law against various freedoms and children's rights¹⁶. In addition, it is also for various interests which are of course closely related to the welfare of children.

Protection of children is very closely related to the family, as a place where children start their lives, and educational institutions, as a place for children to cultivate relationships and social development. Educational institutions are important as a place to protect children, because the heterogeneous environment that appears in the social climate in educational institutions is vulnerable to being a source of violations of children's rights.

The protection of children's rights is a state responsibility that must be carried out. Because children are assets to continue the life of the nation and state. Protection of children is part of Human Rights. One form of protection for children is the realization of legal certainty for children.

Legal certainty is the responsibility of the state which has been stated in Article 52 paragraph (1) of Law No. 39 of 1999 concerning Human Rights which affirms that "The right to protect from the womb". Therefore, protection for every child must and must be carried out by parents, families, communities, and the state.¹⁷ Then it is reaffirmed in article 58 paragraph (1) which states that the "right to legal protection" is to provide a guarantee to every child to get a legal protection from all forms of physical or mental violence, neglect, ill treatment, and sexual harassment during the context of parenting. parents or other parties who are given the responsibility to take care of the child¹⁸.

Protection of children cannot be seen as a political or legislative issue alone. Rather, this child protection must emphasize the welfare of the child. Child welfare is a system of children's lives that can guarantee their growth and development properly, whether in the form of spiritual, physical, or social. Therefore, the statement refers to Article 34 of the 1945 Constitution which states that: "the poor and neglected children are cared for by the state"¹⁹. So it can be interpreted that the child is a legal subject of a national law that should be protected, maintained, and fostered for one purpose, namely the welfare of the child. So in other words it is a very important responsibility of the government and also the community.

Efforts to protect Peruvian children are carried out as early as possible, namely from the womb until the child is 18 (eighteen) years old. Starting from the concept of child protection that is complete, comprehensive, and comprehensive, the Law requires to provide protection to children based on the principles of non-discrimination, the principle of the best interests of the child, the principle of the right to life, survival, and development, as well as the principle of respect for the views/opinions of children.

Child protection can be divided into 2 (two) parts, namely: Juridical child protection, which includes protection in the field of public law and in the field of civil law, and; Non-juridical child protection includes protection in the social, health and educational fields. In terms of human rights, the protection given to children in the school environment has not worked optimally because it is not supported by the surrounding environment such as teachers. So many problems that often arise, especially in the

¹³ Josephin Mareta, "MEKANISME PENEGAKAN HUKUM DALAM UPAYA PERLINDUNGAN HAK KELOMPOK RENTAN (ANAK DAN PEREMPUAN) (Mechanism of Law Enforcement In Protecting the Rights of Vulnerable Group) (Child and Woman)," *Jurnal HAM* (2016).

¹⁴ Muammar Rachman, "POLITIK HUKUM PERUNDANG-UNDANGAN TERHADAP ANAK LUAR NIKAH," *Qaumiyah: Jurnal Hukum Tata Negara* (2021).

¹⁵ *Undang-Undang Nomor 23 Tahun 2002 Tentang Perlindungan Anak*, n.d.

¹⁶ Waluyadi Waluyadi, "PELAKSANAAN DIVERSI DALAM PERKARA ANAK PADA TINGKAT PEMERIKSAAN PENGADILAN," *HERMENEUTIKA : Jurnal Ilmu Hukum* (2020).

¹⁷ *Pasal 52 Ayat (1) Undang-Undang No 39 Tahun 1999 Tentang Hak Asasi Manusia*, n.d.

¹⁸ *Pasal 58 Ayat (1) Undang-Undang No 39 Tahun 1999 Tentang Hak Asasi Manusia*, n.d.

¹⁹ Tedy Sudrajat, "Perlindungan Hukum Terhadap Hak Anak Sebagai Hak Asasi Manusia Dalam Perspektif Sistem Hukum Keluarga Di Indonesia," *Kanun: Jurnal Ilmu Hukum* (2011).

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school environment. Where children often get acts of violence both from teachers and from fellow students. Therefore, it is very necessary to protect the rights of children.

So that in reality the protection given to children as stated in Law No. 35 of 2014 concerning Child Protection has not been able to overcome the problem of child violence which often occurs in the school education environment.

The 3 basics in implementing protection for children's rights are as follows:²⁰: Philosophical basis, as in it must contain the values of Pancasila both in the field of carrying out family, community, nation and state life. In addition, it also does not forget the philosophical basis in implementing protection for children. Ethical basis, On this basis which in its implementation must be in accordance with the related professional ethics if in this case of course it must be related to all forms of protection for children. Of course, it also does not deviate in carrying out its authority to protect children's rights. Juridical basis, all implementations to protect children's rights must adhere to the regulations of the 1945 Constitution. Not only that but also must be related to other regulations which of course have a relationship with the protection of children's rights.

According to Bismar Siregar, the legal aspect of child protection must emphasize the rights of the child, not the obligation of the child²¹. In 1924 the emergence of a view in the international world that formulated the rights of the child into a Geneva Convention. The Convention contains the classification of human rights in the field of welfare and also contains the importance of children's human rights. Then on December 10, 1948, a term issued by the United Nations emerged, namely The Universal Declaration of Human Rights. Where in it contains the human rights of children which are grouped into human rights in general.

However, it is difficult for the United Nations to separate human rights from children's rights. So on November 20, 1959 the United Nations formulated the Declaration on the Rights of the Child or in its translation the Declaration on the Rights of the child. The Declaration of the Rights of the Child contains the following²²: In article 2 of the Declaration of the Rights of the child, it is the right to special protection and opportunities guaranteed by law. Article 3 of the Declaration of the Rights of the child states that the right to obtain a name and citizenship or the provisions of citizenship. Article 4 of the Declaration of the Rights of the child states that the right to obtain guaranteed healthy growth and development. Article 5 of the Declaration of the Rights of the child states that children with disabilities have special rights in obtaining education, care and special treatment. Article 6 of the Declaration of the Rights of the child states that the right to love and care. Article 7 of the Declaration of the Rights of the child states that the right to obtain education is at least from elementary to junior high school levels. Article 8 of the Declaration of the Rights of the child states that the right to take precedence in protections. Article 9 of the Declaration of the Rights of the child states that the right to be protected from persecution, war atrocities, and regime oppression. Article 10 of the Declaration of the Rights of the child states that the right to be protected from racial, religious or other discrimination

In addition, the Declaration on the rights of the children emphasizes more on children's rights with the perception that: *"The Declaration of the rights of the child ensures the principle that children are entitled to 'special protection' and that such special protection should be implemented by reference to 'the best implemented by reference to 'the best interest of the child', which shall be the paramount consideration"*²³.

which means "The declaration of children's rights ensures the principle that children are entitled to special protection and that such special protection should be implemented with reference to the best implemented with reference to the best interests of the child, which will be the main consideration". Based on the opinion above, it can be concluded that the declaration really guarantees the right of the child to get special protection which of course must refer to the interests of the child.

Children's Rights as Actors

To discuss and understand what is said to be a symptom of child delinquency, it is first necessary to know what is meant by "bad boy". The term juvenile delinquency was first introduced by the Judiciary in the United States in an effort to establish a

²⁰ Muhammad Fachri Said, "PERLINDUNGAN HUKUM TERHADAP ANAK DALAM PERSPEKTIF HAK ASASI MANUSIA," *JCH (Jurnal Cendekia Hukum)* (2018).

²¹ E Pasaribu, "Perlindungan Hukum Terhadap Anak Korban Tindak Pidana Kejahatan Dari Perspektif Ham Di Indonesia," *Lex Et Societatis* (2017).

²² B Satriya, "Anak Membutuhkan Penegak Hukum Humanis (Analisis Putusan MK Nomor 1/PUU-VIII/2010)," *Jurnal Konstitusi* (2016).

²³ Abhay Vikram Singh, *Theory Of Human Rights In Perspectives To Child Rights* (India: The Indian Journal of Political Science, 2019), https://www-jstor-org.proxy.undip.ac.id/stable/41856598?searchText=the+theory+of+children+rights&searchUri=%2Faction%2FdoBasiSearch%3FQuery%3Dthe%2Btheory%2Bof%2Bchildren%2Brights%26so%3Drel&ab_segments=0%2FSYC-6292%2Ftest_segment_2&refreqid=fastly-defau.

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Judicial Act for children in that country. Juvenile delinquency (Juvenile delinquency) refers to a wide range, from socially unacceptable behavior (such as excessive behavior at school) to status offenses (such as running away) to criminal acts (such as stealing).

The definition of juvenile delinquency according to Paul Moedikno²⁴ are as follows: All acts of adults constitute a crime, for children it is delinquency. So all actions that are prohibited by criminal law such as stealing, killing, and so on; All acts of deviation from the norms of certain groups that cause trouble for the community, such as wearing immodest clothes, and so on; All actions that indicate the need for social protection, including vagrants, beggars, and so on.

If the child's delinquency is included in a criminal act (crime), then it must meet the elements; The existence of human actions; His actions are in accordance with legal provisions; There is an error; People who do must be held accountable²⁵

The rights that need to be considered and fought for are:

The right to be treated as those who have not been proven guilty, the right to be protected from harmful actions, causing mental, physical and social suffering, the right to receive legal assistance or counsel, the right to receive transportation facilities and counseling in participating in facilitating the examination, the right to express opinions, the right to the trial is closed in its interest, In order to receive humane guidance in accordance with Pancasila and the 1945 Constitution, the trial should not be postponed as far as possible, the consequence is careful preparation before the trial begins, the right to be in touch with parents or their families.

Children's Rights as Victims

Article 64 paragraph (3) of Law no. 35 of 2014 concerning Child Protection, that one form of special protection for children who become victims is rehabilitation efforts, both within the institution and outside the institution. As stipulated in article 90 paragraph (1) of Law no. 11 of 2021 concerning the Juvenile Criminal Justice System, explains that child victims and child witnesses have the right to medical rehabilitation and social rehabilitation. What is meant by medical rehabilitation is the process of integrated treatment activities by restoring the physical condition of the child, child victim and or child witness. Then what is meant by social rehabilitation is the process of integrated recovery activities both physically, mentally, and socially with the aim of eliminating and preventing deep trauma so that they can carry out social functions in community life normally.

The right of the victim to receive information regarding the progress of the case and also the judge's decision, including the right to be notified if the perpetrator does not receive a criminal sentence or has finished his prison term. If the perpetrator does not get punishment, then the victim must be given protection so that there is no retaliation by the perpetrator in all its forms. The community is expected to participate in nurturing and protecting victims by not isolating victims, not giving bad judgments to victims. This kind of treatment is also considered as a manifestation of protection for victims, because of the good attitude of the community, child victims feel comfortable, thus helping the victim's physical and mental recovery.

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Based on any argument, if the acts of violence that occur to students are not justified. Everyone who does it must be responsible for his actions which are considered unlawful. For example, the case that occurred on January 29, 2022 at SMP Negeri 49 Surabaya. Resulted in acts of violence perpetrated by a teacher with the initials J with a student with the initials RSA. Because the student with the initial RSA cannot do the task given by the teacher with the initial j. So that directly made the teacher with the initials J furious and took violent actions in the form of slapping and banging the heads of students with the initials RSA on the blackboard.

Recalling that educational institutions, in this case, schools are places where to educate children in order to achieve bright goals. In addition, of course the role of teachers who should be educators, mentors as well as parents for each student. But in this case the role of the existing teacher cannot work optimally. This leads to unexpected things such as violence. Based on this case, the act of violence committed by the teacher with the initials J greatly affected the psychological state of the students with the initials RSA. So the students with the initials RSA traumatized to go back to school. With this case, the Surabaya city government immediately took action by investigating the case of violence committed by the teacher with the initials J. So this must be a very valuable lesson for every teacher so that they no longer commit disgraceful acts as an educator, even a mentor. The Surabaya City Government certainly does not remain silent in responding to this case. In addition to immediately processing reports from the victim's family at the Surabaya Poltestabes, the Surabaya City Government also went directly to meet the victim and conduct media efforts between the two parties.

²⁴ Aleksander Sebayang et al., "Sosialisasi Etika Dan Aspek Hukum Pemanfaatan Media Sosial Pada Kalangan Remaja Siswa Di SMK Negeri 3 Pontianak," *MAREN: Jurnal Pengabdian dan Pemberdayaan Masyarakat* (2021).

²⁵ Yulia Heni Hendrawati and Kurniaty, "Pelaksanaan Diversi Dengan Ganti Kerugian Untuk Korban Tindak Pidana," *Repository.Urecol.Org* (2018).

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The Surabaya City Government's efforts also paid off, although the Surabaya Police had named a teacher with the initials J as a suspect based on Law Number 35 of 2014 concerning Child Protection, after the mediation process, the victim's family chose to take the peaceful route. With the reaffirmation of Law No. 35 of 2014 concerning Child Protection, it aims to make changes that demand teachers. Of course, in this case, it changes its role to no longer act as a repressive ruler. On the other hand, they must act persuasively in the form of growing self-awareness of the role that must be carried out as good teachers in schools²⁶.

This form of violence perpetrated by teachers against students is a cruel punishment. Violence with all its manifestations is a violation of human rights as well as psychology, even in educational institutions. So regardless of the situation and its existence, human rights violations can occur. In the current situation that the implementation of Human Rights is a top priority. So that the teacher's role in this case as educators must be able to reflect the values of truth, justice and also a sense of protection, especially for their students. No longer do teachers use the old, irrelevant way of educating children. If the old way is still maintained by the teacher, for example in this case the case of violence against students, it will most likely greatly reduce the sense of trust of parents in the safety of their children in the school environment. Especially in the case that happened to the student with the initials RSA, he was so deeply traumatized that he didn't want to go back to school.

CONCLUSION

Human rights are natural rights and gifts from God Almighty to every human being that is owned even before humans are born into the world. In Indonesia, the position of Human Rights itself has been regulated in the Law of the Republic of Indonesia No. 39 of 1999 concerning Human Rights. Protection of human rights needs to be done because if there is a violation of another person's human rights, it is the same as opposing his existence as a human being. Legal certainty for the protection of human rights is the responsibility of the state as stated in Article 52 paragraph one (1) of Law no. 39 of 1999 concerning Human Rights which reads "Human rights are a set of rights inherent in the nature and existence of humans as creatures of God Almighty and are His gifts that must be respected, upheld and protected by the state, law, government and everyone for the honor and protection of human dignity and. The protection of children's rights is a state responsibility that must be carried out. Because children are assets to continue the life of the nation and state. Protection of children is part of Human Rights. Based on the case that occurred at SMP Negeri 49 Surabaya, we can see that the government does not turn a blind eye to violations of human rights violations, even based on the actions taken by the Government, this shows that the Government attaches great importance to violations like this. With the existence of a strong legal basis and umbrella, it is hoped that in the future the same cases and incidents will not happen again, so that human rights in Indonesia can run properly. Although until now there is no specific rule that requires teachers to protect the human rights of their students. At least there is awareness in a teacher to take every action based on conscience and not violate his code of ethics as an educator.

Based on the research that has been done, the researcher gives advice to schools throughout Indonesia in general to pay more attention to the human rights of students in the implementation of the learning process, this needs to be done so that the same case does not happen in the future. The researcher also recommends that the government intensively conduct socialization about the enforcement of Human Rights in the school environment so that both students and teaching staff can know about the limitations of Human Rights and about their protection in the State of Indonesia. The researcher realizes that this research is far from perfect, therefore constructive criticism and suggestions from readers are highly expected for the perfection of writing this research.

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