

STUDENT PRIVACY AND FIRST AMENDMENT RIGHTS (STUDY RIGHTS IN ISLAMIC EDUCATION)

Nurul Oktaviana Mekawati, Herianto, Amiruddin Siahaan, Inom Nasution
UIN Sumatra Utara Medan, Indonesia

nuruloktavianamekawati03@gmail.com

ABSTRACT

Privacy is a basic thing inherent in every human being, including students. Laws that apply in every part of the country, including Indonesia, agree to protect human rights and fulfill the rights of every citizen. This study aims to analyze student privacy and education policy as a study of student rights in the perspective of Islamic education. The approach of this research is using qualitative with literature study method. Sources of data and study analysis materials were obtained from credible relevant scientific literature. The credible search pages that the researchers classify include google scholar, DOAJ, science direct, tandfonline, and moraref. The results of this study found that students have a high curiosity and express all their desires freely. This free desire is a separate limitation for students, so that they do not conflict with ethical and social norms that apply in society. On this basis, laws or policies related to discipline and discipline for students must be fair, equal, and egalitarian. Thus, students' rights are still fulfilled to develop self-potential expressively, and are directed at positive things according to the applicable regulations in educational institutions.

Keywords: *Student Rights, Education Policy, Islamic Education, Student Privacy.*

ABSTRAK

Privasi merupakan hal asasi yang melekat pada setiap diri manusia, termasuk siswa. Hukum yang berlaku di setiap belahan negara termasuk Indonesia, sepakat untuk melindungi hak asasi manusia dan memenuhi hak setiap warga negara. Penelitian ini bertujuan untuk menganalisa privasi siswa dan kebijakan pendidikan sebagai kajian hak siswa dalam perspektif pendidikan Islam. Adapun pendekatan penelitian ini menggunakan kualitatif dengan metode studi kepustakaan. Sumber data dan bahan analisa kajian diperoleh dari literatur ilmiah relevan yang kredibel. Adapun laman pencarian kredibel yang peneliti klasifikasi meliputi *google cendekia*, *DOAJ*, *science direct*, *tandfonline*, dan *moraref*. Hasil penelitian ini menemukan bahwa siswa memiliki rasa ingin tahu yang tinggi dan mengekspresikan segala keinginannya secara bebas. Keinginan yang bersifat bebas inilah menjadi batasan tersendiri kepada siswa, agar tidak berbenturan dengan norma etis dan sosial yang berlaku di masyarakat. Atas dasar ini, hukum atau kebijakan terkait kedisiplinan dan tata tertib bagi siswa harus bersifat adil, equal, dan egaliter. Dengan demikian, hak siswa tetap terpenuhi untuk mengembangkan potensi diri secara ekspresif, dan terarah pada hal positif sesuai peraturan yang berlaku di lembaga pendidikan.

Kata Kunci: *Hak Siswa, Kebijakan Pendidikan, Pendidikan Islam, Privasi Siswa.*

A. INTRODUCTION

Education is a sector of life that can elevate human dignity (Sugini, 2019). Because, in the educational process, it is taught how to humanize humans, teach rights and obligations as humans, both as individual beings, social beings, and creatures with God (Dewi & Ulfiah, 2021: 499-506). This is an urgent part of the entire educational process.

Education is oriented towards building character, mentality, and whole personality in students (Fikri, 2019: 117-136). Skills and knowledge are capital that is dynamic in helping change attitudes and behavior in students (Muliadi, 2012: 55-68). Thus, the main goal of education is not only to be able to create superior human resources in the field of science and technology (IPTEK), but also to be integral in faith and piety (IMTAQ) (Nugroho, 2016: 31-60).

Indonesia as a nation agrees that education is the biggest "investment" in maintaining the integrity of the nation (Sari & Maghfiroh, 2015: 220-232). Through education, each individual is taught about culture and local wisdom that is able to unite the nation, and erode the barriers of difference in order to seek unity (*Bhinneka Tunggal Ika*) (Krisnalita, 2018: 71-81). In fact, the nobility of generations will be maintained through the understanding of unity given during the education process.

Education policy as a legal derivative (hierarchical line) from the Indonesian constitution, becomes a "*legal umbrella*" that applies to all children of the nation (Sugini, 2019). The regulation and enforcement of the law is intended as an effort to protect human rights and fulfill the rights of citizens (Handoko, 2020: 86-102). Thus, each individual will grow to appreciate and be respected by other individuals, and be supported by the applicable legal guarantees.

Education in Indonesia regulates in such a way the legal principles, foundations, and directions of education through the curriculum. In it, students are given and facilitated according to their developmental stage, and are given the freedom to independently develop their potential (Haling, *et.al.*, 2018: 361-378). However, freedom here does not mean free without any restrictions. Of course this is a paradox with the developmental stage of students who are trying to find their identity, try something they want, without thinking and considering the impact or risk (Nugroho, 2016: 31-60).

As regulated in the national education policy, that the state guarantees the protection of religious freedom (while believing in one God), freedom of the press, association, and including the rules for students' rights to express personal ideas (ideas) in educational institutions (Indriyani, 2017: 1-12). In this context, this freedom is limited according to the

principles or rules mutually agreed upon at the school/madrasah, in order to discipline students' behavior and discipline.

Efforts to discipline and give students the right to express themselves are seen as paradoxical and difficult to do simultaneously. In fact, the two are interrelated in shaping students' personalities, coupled with the rule of human rights law which explains that students have personal privacy that must be protected (Ariyulinda, 2013).

Indeed, relevant research on student privacy and student rights in the educational process has been studied (researched) from various perspectives. Among other things, discussing the threat of breaking into students' personal data via online (Pane, 2021: 412-418; Aini, *et.al.*, 2021: 58-66), inclusive education rights (Husna, *et.al.*, 2019: 207-222; Kridasaksana, *et.al.*, 2020: 33-46; Ndaumanu, 2020: 131-150; Rohendi, 2013), punishment for invasion of privacy (Nurjanah, 2021), human rights in education (Munir & Nadifah, 2021: 75-92; Fachrudin, 2010), improvement of students' critical thinking skills (Rasihudin, 2012), civic education (Rinenggo, 2021; Haris, 2017: 226-269), and the right to education for every child (Rahmandani & Samsuri, 2019: 113-128; Huda, 2021: 132-141).

Observing the description above, the study of student rights and student privacy in education policy still leaves an empty space for analysis, namely the study of student rights in the perspective of Islamic education. On this basis, the researcher seeks to deepen the theme, which is summarized in the title, "*Student Privacy and First Amendment Rights (Student Rights Studies in Islamic Education)*".

B. METHOD

This research uses a qualitative approach with a literature study method. The focus of the discussion is on student rights, student privacy, and applicable policies related to student rights in an Islamic perspective. Sources of research data obtained from books, scientific articles, proceedings, final assignments (thesis, thesis, or dissertation). Obtaining research data is done through online searches on credible pages, including google scholar, DOAJ, science direct, tandfonline, and moraref (Assingkily, 2021). To check the validity of the research data, a scientific literature-based analysis was used.

C. RESULTS AND DISCUSSION

Freedom of Expression of Students

Education is basically humanist and dynamic, so that it becomes the "Candradimuka Crater" for the liberation of the shackles of human slavery, both physical and psychological slavery (Ainusyamsi & Husni, 2021: 51-60). This individual freedom makes a person the right to choose a "way of life" and how to achieve goals (Hikmawati, 2017).

Likewise, the freedom in question is not in the form of arbitrary actions according to personal will, but still refers to applicable legal, religious or customary norms. Is this what they call freedom? Of course yes. This is because freedom lies in providing the widest possible opportunity for a person to choose based on the existing legal considerations, not making his own laws and implementing them at will (Husni, 2020: 41-60).

Education that frees humans from the shackles of dependence is the ideal of all human beings. This is also what underlies the realization of an independent learning curriculum and an independent campus, as a set of components directed at students' freedom of expression (Choiron, 2017: 87-112). The ultimate goal is to create people who are creative, innovative, adaptive, and superior in responding to the rapid development of the times.

Educators as the frontline in the learning process, their role is also decreasing in the teaching process. This is because educators do not serve as the sole (absolute) source of knowledge for students, but rather help and guide students to gain insight and experience from various learning sources (books, the universe, the internet) (Zainullah, 2017). Thus, students are required to be proactive in finding provisions for future life.

Freedom in student expression does not mean excessive and arbitrary, but constitutional freedom (Nugraha, 2015). That is, education policies regulate the rights of students without discriminating or discrediting certain parties or groups. Thus, the freedom for students still has the authority of supervision from parents, teachers or other adults in the community.

Guidelines for national education policies aim to balance the rights and obligations of students during the learning process (Indriani, 2020). That is, students are required to learn (student obligations) and obtain learning facilities (student rights). Thus, conduciveness and orderliness of learning can be realized in educational institutions (schools/madrasahs).

The implementation of a disciplined and effective learning system for students is not a step to distort students' rights to free expression, but rather provides students with opportunities to learn and explore knowledge as broadly as possible, and stay focused on the corridors set out in the national education policy (Sommeng, 2014). For this reason, in

determining national education policies, stakeholders, the ministry of education, and organizers of educational institutions should pay attention to and analyze the learning needs of students, according to the stage of child development.

This effort is based on the different stages of child development at each level (kindergarten, basic education, higher education). In this context, children will receive appropriate and psychologically appropriate teaching. Thus, children do not feel deprived of the right to learn, while at the same time still being given space for creation and innovation in the form of freedom of expression in the learning process.

Legal Policies Restricting Principles of Student Action

Freedom in education gives birth to an independent generation (not dependent/shackled) (Juraidi, 2003). The regulation of freedom is contained in the policies regulated by the ministry of education and culture as a "compass" guiding students to achieve goals (development of self-potential and character building of students).

Freedom in the world of education still refers to religious, legal, and customary norms, as a form of awareness that higher education is interpreted as a process of character building based on the nobility of the nation, local wisdom, and rules common in society (Samsul, 2008). However, students in the adolescent and early adult age categories perceive educational policies as "restrictions" on freedom of expression. In fact, the purpose of policy-making actually fully supports the goal of education that liberates human beings.

Freedom in the context of education is directed at efforts to achieve general welfare for the community in a fair, equal and egalitarian way (Prasetia, *et.al.*, 2021: 1-32). This freedom is intended to provide a sense of comfort for students in learning, control students' emotions, and instill morality and a sense of responsibility in students (Hani & Ilham, 2021: 18-23). However, educational policies are often seen as taking away freedom, which is defined by students as "free without barriers or boundaries".

In principle, freedom to control human emotions. Because humans are given an advantage in the form of reason to think and consider something, which is good or bad (Al-Ayubi, 2010: 19-30). This means that freedom lies in choosing actions that are useful and bring benefits to oneself and others.

Freedom is not only interpreted as a form of liberating human actions, but also the freedom of human reason and conscience before executing an action (Matswah, 2014: 81-101). In this context, education is directed at efforts to liberate humans from the fear of choosing something, avoid dependence on others, and avoid worrying about the authority of

the rulers (Sitohang, 2020: 54-64). Thus, education is in harmony with human nature which is hanif (lean) to the truth without having to fear or worry about the authority of the ruler.

According to Halwati (2006: 337-347), freedom in educational orientation includes; (1) physical freedom, namely physically able to move according to the will of personal goals; (2) moral freedom, namely freedom from coercion from others, coercion by the authorities, and the courage to speak the truth; and (3) psychological freedom, namely choosing or not choosing something after considering the prevailing norms.

Based on the description above, it is understood that the legal policy that limits the principles of student action is intended to provide children with physical, moral, and psychological freedom. Then, it is oriented towards recognizing the reality of human beings and the reality of others both subjectively and objectively. Thus, freedom in principle regulates and directs students to the general benefit, and prevents students from excessive thoughts - actions that are harmful to students.

Balance between Students' Rights and Obligations: Providing Facilities from Educational Institutions on the Balance of Student Attitudes

The environment has a major influence on the attitude and emotional development of students. The presence of the community in the child's environment also helps the process of developing and finding the identity of students (Ginanjar, 2017). The environment itself is generally divided into three, namely the family environment, the school/madrasah environment, and the community environment. This tri-center of educational institutions has a real impact on the stage of changing attitudes (behavior) of students (Baharun, 2016).

The urgency of the educational environment requires schools or madrasas to strive to provide a conducive learning climate for students (Hasbullah, 2018: 13-26). This is intended to protect various threats from outside the students that can endanger the child's development process. In addition, environmental engineering also helps provide facilities for expression, creativity, and innovation for every student (Yahya, 2015).

The school environment should prioritize the best service for students. Because, good and effective management of an institution will be seen in the services displayed. A balanced service will help students to be disciplined and dynamic in following the educational process. More than that, equal learning (without discrimination) will be realized in terms of gender, economy, social background, as well as ethnicity and religion of children (Djoehaeni, 2014: 427).

The existence of educational institutions, must be able to ensure the realization of freedom of thought and expression in humans, and even provide facilities that can help students achieve it (Hidayatulloh, 2014: 139-154). This is what is meant as an effort to protect human rights and fulfill the rights of citizens. Furthermore, the freedom in question still refers to the applicable legal order (norms), so that it does not collide students with freedom of expression but negates the law and local wisdom that has been entrenched.

Learning as the main priority of the entire series of educational processes, provides concepts and contexts (practices) on how to behave towards people's lives. More than that, the presentation of social control is found in learning interactions, where the teacher provides space for additional educational insights and provides opportunities for students to gain educational experiences (Bahri, 2018: 37). On this basis, a democratic culture is needed in the educational process in schools, as an accumulative form of academic freedom (thinking and expressing).

A democratic culture in the educational process is allegedly able to help students interpret the importance of the rules (rules) imposed by the school (Falah, 2019: 65-90). This is intended so that students put forward the values of morality and character rather than just written values (in the form of the number 100 or the letter A). Furthermore, there will be a superior generation that is collaborative and dedicated, and is responsible for social life.

Based on the description above, it is understood that education in the school environment must ensure the role of social control for students, not restricting students in expression and academic matters. Freedom that is arranged in such a way will help students find their identity in a positive and effective way, so that the exploration that is formed is of a positive character (noble character). Thus, it is hoped that there will be a balance between the rights and obligations of students in the educational process, through the provision of facilities that support productivity, the achievement of student rights, and maintain student privacy as a whole.

D. CONCLUSION

Based on the results of the study, it was concluded that students have a high curiosity and express all their desires freely. This free desire is a separate limitation for students, so that they do not conflict with ethical and social norms that apply in society. On this basis, laws or policies related to discipline and discipline for students must be fair, equal, and egalitarian. Thus, students' rights are still fulfilled to develop self-potential expressively, and

are directed at positive things according to the applicable regulations in educational institutions.

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