

Analysis of Legal Basis in Education: Study of Law, Policy and Deviance in Education

Nasrul Syakur Chaniago¹, Refi Syahputra², M. Amri Nasution³, Fahrul Sanawi⁴, Amiruddin Siahaan⁵, Inom Nasution⁶

¹ Universitas Islam Negeri Sumatera Utara, Medan, Indonesia; nasrulsyakurchaniago@gmail.com

² Sekolah Tinggi Ilmu Tarbiyah Hamzah Fansuri, Aceh, Indonesia; refi.2.syah.89@gmail.com

³ Universitas Dharmawangsa, Medan, Indonesia; m.amrinasution@yahoo.com

⁴ Kementerian Agama Tapanuli Selatan, Sumatera Utara, Indonesia; fahrulsanawi585@gmail.com

⁵ Universitas Islam Negeri Sumatera Utara, Medan, Indonesia; amiruddinsiahaan@uinsu.ac.id

⁶ Universitas Islam Negeri Sumatera Utara, Medan, Indonesia; inom@uinsu.ac.id

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ABSTRACT

The low quality of Indonesia's human resources (HR) is caused by irregularities (non-compliance with regulations and implementation) that occur in the process of providing education. This study aims to analyze the legal basis in the field of education and its implementation in Indonesia. The formulation of the research problem includes how the foundations and policies of education in Indonesia are and how the legal position (specifically in the field of education) is in hacking educational irregularities. This study uses an approach to the literature study method in the form of Preferred Reporting Items for Systematic Review (PRISMA). A systematic literature review is systematic by collecting some relevant evidence according to specified criteria to answer several questions. The results of this study conclude that enacting laws, government regulations and regulations of the minister of education regarding the "legal umbrella" of education policy has become a positive step for fulfilling people's rights. However, the reality in society is that there are still deviations in management, behavior and code of ethics during the implementation of the educational process, including the practice of cheating by individual units of educational institutions in graduating students to meet student graduation standards according to Permendikbud No. 23 of 2006, the unpreparedness of schools or madrasas to facilitate the rights of students with disabilities in accordance with education management standards (Permendikbud no. 19 of 2007), determination of individual principals based on bribery practices that violate Permendikbud no. 13 of 2007 concerning school principals, and marginalization of treatment of education in schools. remote areas that violate PP number 19 of 2005 on national education standards. Likewise, the limitations of researchers have not explored this study from the psychological aspect of education, namely the discussion of self-welfare and soft skills of students due to educational deviations.

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Corresponding Author:

Nasrul Syakur Chaniago

Universitas Islam Negeri Sumatera Utara, Medan, Indonesia; nasrulsyakurchaniago@gmail.com

1. INTRODUCTION

Human behaviour in their daily life is strongly influenced by education, and the development of reason and mind (Rodiah et.al., 2022: 108-118). In line with this, the government has defined education as a conscious and planned effort to shape the nation's human resources that are superior, prominent, religious, and with good character (Nurgiansah, 2022; Faiz & Kurniawaty, 2022). This is in accordance with the interpretation of previous researchers regarding the content of meaning in Law number 20 of 2003 concerning the national education system as the "legal umbrella" of education policy (foundation) in Indonesia (Pulungan et al., 2022: 240-246; Salamah, et al., 2022; Fauziyyah, et al., 2022).

From the beginning, the principle of education in Indonesia was interpreted as an effort to liberate all children of the nation from the shackles of "colonialism" and to educate the nation's life (Ulfah et al., 2022: 153-161). Through its policy on the National Education System, the government strengthens the role of education in the nation's independence process. More than that, education is also defined as a field of life that is adaptive and innovative to the progress of the times (Susilawati, 2021: 203-219; Yulia & Suryani, 2022: 881-889). The existence of education is an important concern for every generation. As a state of law, the Indonesian government formulates policies that support the aspirations of the community's needs (Abdi, 2020: 802-815; Sabarudin, 2015: 139-174).

In essence, education is inseparable from human needs to develop according to nature (Nurma & Maemonah, 2022: 29-40). Various potentials that exist in individuals will grow and develop through the educational process. Furthermore, Abdulatif & Dewi (2021: 103-109) say that education is a "bridge" that connects humans and their sustainability. The central role of education has not been implemented comprehensively in Indonesia. This can be seen from the reality in the community. There are differences in the quality of education between cities and villages, as well as the education bureaucracy that has not been fully separated from the shackles of "gratification and KKN" (Kaderi, 2017: 78-96; Suryadi, 2017: 71-84; Waluyo, 2017: 169-172).

Furthermore, the phenomenon of discrimination by education providers against "children with disabilities" who have not been able to be given learning facilities at school, so it must be distinguished from the presence of special schools (Amatullah, 2022; Pangestuti & Pribadi, 2022: 37-48). In addition, the appointment of school principals is also full of bribery elements, so it has an impact on the quality of leadership and the allocation of BOS funds (school operational costs) (Zainudin, 2019: 32-38; Widodo, 2020: 89-108). Thus, extra efforts are needed from the government to implement education policies holistically, appreciating the innovation of an institution that excels and providing sanctions for violators.

It is ironic that education as a "container" for the formation of character and independence of the nation's children is perpetrated by certain individuals. In fact, the maturity of thinking and acting starts from the educational background obtained by individuals, both at home, at school, and in the community (Meliani et al., 2022: 195-211). Furthermore, cases of work plagiarism are also carried out by university personnel in order to obtain the highest academic titles in the form of doctorates (S-3) and academic positions of Professors (professors). In fact, it is not uncommon to find "jockeys" in the making of theses, theses or dissertations, to falsification of diplomas, which are "systematic fraud" on campus (Chairunnisa & Majdi, 2022; Bistara, 2022: 1-41).

According to Harahap (2005: 242), academic morals must be thoroughly and integrally enforced on and off campus. This is because scholars (college graduates) do not have a special relationship with prosecutors, law enforcement, officials, politicians and other state institutions except those related to academic thinking, objectively upholding the rule of law, and breaking away from the shackles of collusion, corruption, and nepotism (KKN) in Indonesia. This education spirit is driven by the motivation that the nation's children are able to create and innovate, thus giving birth to a productive generation that produces the needs of society in the future, not the consumptive generation (Yanti & Syahrani, 2021: 61-68; Amiruddin, et al., 2022).

Indeed, relevant research on the theme of education policy in Indonesia has been analyzed by many previous researchers from various perspectives. Among them are discussing aspects of curriculum development policies (Meke et.al., 2022a: 675-685; Sopiansyah et.al., 2022: 34-41), student perceptions of

the change in educational curriculum policies (Meke et al., 2022b: 934-943), dynamics of education in Indonesia (Suhaeni & Abdurrohman, 2022), educational policy legitimacy process (Hapsari et al., 2022: 67-77), policies and improving the quality of education (Safitri, et al., 2022), prevention of character deviation in college (Febrianti et al., 2022: 52-62), educator professionalism policy in Indonesia (Yunita et al., 2022: 73-81), implementation of education policy (Dewanti, et al., 2022: 316-324) and evaluation of education policy (Ulya & Syafei, 2022).

In addition to the research above, the researcher also reviewed the internationally reputed manuscript by Hemsley-Brown (2011) about the future opportunities and challenges of higher education. This is intended to test how relevant universities are to the (world) job market. So, at the extreme, researchers also question the role of universities, as academic institutions or the marketization of education? The basic reason for this research, of course, explains that deviations that occur in education are oriented by organizers with the aim of money (education marketization). Ironically, the legal umbrella does not seem to be able to be implemented in total to eradicate the problem of irregularities in education.

Responding to the phenomenon of the case and relevant research above, the question arises in the public sphere, do universities legalize cases of falsification of diplomas? Is public and government supervision weak in monitoring the academic world? Do undergraduate education graduates feel economically pressured so that they plagiarize other people's work for money? So, what is the position of education policy in Indonesia in overcoming the problem of irregularities in education? At least, this question represents the writer's concern in observing social phenomena in the academic world.

Observing the relevant literature review above, it was found a research gap analysis. Where, previous research focused on outlining the legal policies governing the education system in Indonesia and their implementation in educational institutions (schools, madrasas, pesantren). However, a study of how the position of education policy in the "eyes of law" Indonesia, and how the role of these policies in overcoming deviations that occur in the field of education. Furthermore, the vacancy of the study was explained in depth in the title, "Analysis of Legal Basis in Education (Study of Law, Policy and Deviance in Education)". Through this research, it is hoped that it will reveal the role of law in the field of education, especially in overcoming deviations and the marketization of education.

2. METHODS

The schematic below describes the systematics of the research flow:

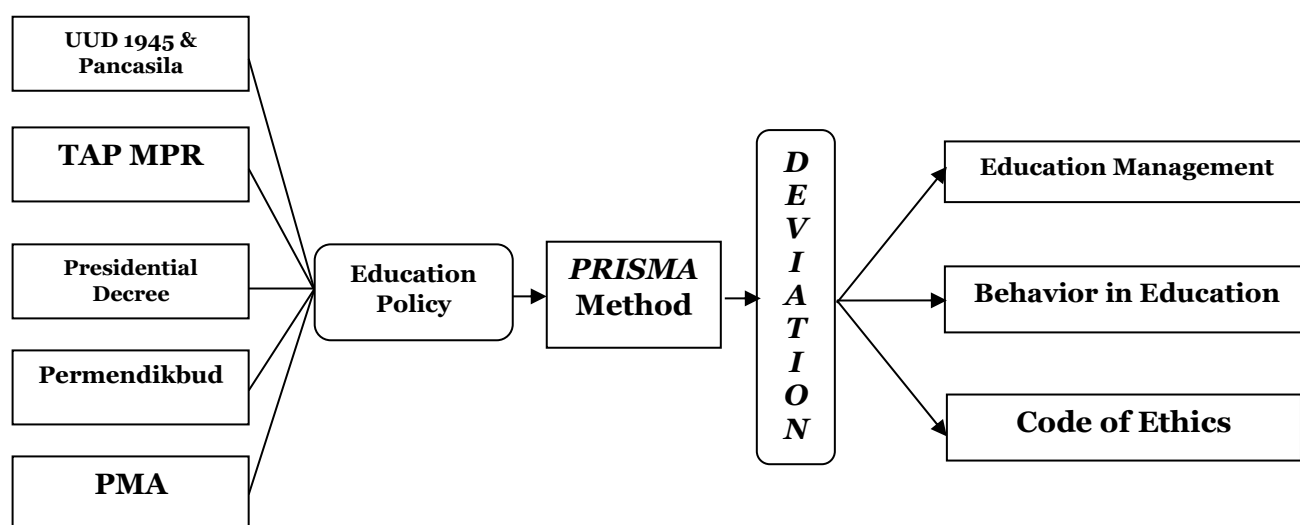


Figure 1. Research Flow Framework

This research uses a qualitative approach with a literature study method in the form of Preferred Reporting Items for Systematic Review (PRISMA) (Shamseer, et al., 2015: 349). A systematic literature review is a systematic review by collecting some relevant evidence and according to predetermined

eligibility criteria to answer several research questions. The systematic literature review uses explicit and systematic methods that reduce bias in the process of identification, selection, synthesis, and study conclusions.

3. FINDINGS AND DISCUSSION

3.1 *Education Policy in Indonesia*

Indonesia is a sovereign state of the people and is based on the law (constitutional; the 1945 Constitution and Pancasila). Pancasila is the source of all sources of law in Indonesia, and the stem of the 1945 constitution is the "legal umbrella" for every sector of the life of the nation and state (Rozak, 2021: 197-208). The education sector, as one of the important sectors of education, is also contained in the laws and regulations in Indonesia, commonly termed education policy (Hafids, 2018: 22-37). Education policy aims to improve education quality (Fatmawati, 2019: 58-76; Anwar, 2017).

Education policy is an objective means of the government to ensure conducive development of the quality of education in Indonesia (Tawa, 2019: 107-117; Rifa'i, 2017: 99-114). Furthermore, the policy is also a conceptual text that equates the perceptions of the government and education providers in implementing processes, administrative management, curriculum preparation, financing, and procurement of educational facilities and infrastructure (Maki et al., 2022: 1124-1137). This policy diction means a government decision (in charge of education) which becomes a reference for society in general or as a whole.

The function of the policy as the main reference for the implementation of the educational process, gives the meaning that the common goals have been planned holistically by the government and implemented by the community (education unit organizers) as a reference for thinking, acting and behaving. Furthermore, the role of policy in education is also binding (interrelated), contains official decisions from the government, and regulates the behaviour of the community according to the values of local wisdom of the community and the needs of the times (Marliyani & Muhtar, 2022: 5545-5552).

In a comprehensive manner, the analysis of education policy in Indonesia experiences dynamics of change as a constructive and innovative step in the field of education. Changes or developments regarding education policies still refer to the nation's constitution to characterize the values of the Indonesian nation's wisdom (Maliki et al., 2022: 84-96). In this context, various factors in education are believed to have a close relationship between components, including educators, students, educational goals, educational tools (infrastructures), administration-financing, academic services, and educational environmental factors (Aziz et.al., 2022: 217-228).

The management of the "rhythm of the process" of education so that it is carried out properly and effectively is regulated in detail in the education policy. The policy is enshrined in Law Number 20 of 2003 concerning the National Education System (Sisdiknas) (Ardiyani, et al., 2022: 6209-6219). Furthermore, through policies that are regulated in such a way by the government in the field of education, the allocation of budgeting costs is connected automatically and systematically between the government and the organizers of educational institutions in accordance with the applicable requirements (Sahabuddin & Syahrani, 2022: 102-112).

Based on the description above, it is understood that the education policy set and issued by the government is the official reference for all education providers in Indonesia. This policy is also a liaison between the government's perception and educational institutions in an effort to create an equal distribution of education and improve the quality of education. Thus, it can be concluded that education policy is general in nature (for all education providers) related to the process of elaborating the vision and mission of education, so that strategic goals in the field of education can be implemented and achieved properly.

3.2 *Deviations in Educational Management*

Management of education in Indonesia refers to the legal basis governing the implementation of education. The legal basis in question includes the preamble to the 1945 Constitution, Pancasila, MPR

stipulations (TAP), Presidential Decree (Keppres), Minister of Education and Culture Regulation (Permendikbud), Minister of Religion Regulation (PMA), and Regulation of the Minister of Research and Higher Education (Ristekdikti) (Nurhayati & Rosadi, 2022: 451-464). The linkage of the legal basis above shows the consistency and commitment of the government in managing education in Indonesia (Tanjung et al., 2022: 29-36).

The reality in society is that some individuals in the field of education deliberately violate the rules (educational policies) to reap personal or group benefits. For example, there are many cases of misuse of school operational cost funds (BOS) or the transfer of the use of the budget outside the joint plan, even now it is very difficult to obtain transparency in the allocation of BOS funds in each school/madrasah (Setiawan, et al., 2022: 554-559). In fact, the state budget allocation of 20% for education can prosper teachers and complete learning facilities in schools (Asqolani, 2022: 59-80). As a result of this mismanagement, the quality of education has been neglected in Indonesia.

Other deviations committed by certain individuals in the management of education are related to the treatment of marginalization between schools in cities and villages (especially remote areas) that violates the policy on national education standards (Putra, 2022: 115-131). In addition, education providers also feel deviations related to the preparation of the national education curriculum, where the government, through the minister of education, only "changes the name" of the curriculum without paying attention to the substance needed for the development of students. For example, the change in the outlines of the 1974 learning program (GBPP) changed to the 1984 GBPP, even though the content of the substance is the same (Setiawati, 2022: 1-17). Such changes violate the government's policy on content standards for educational units.

According to Laksono & Izzulka (2022), a number of irregularities in the management of education are evidence of the weak supervision and coordination between the government and education providers, both public and private. This is evidenced by the practice of cheating by school personnel in the student graduation process (leakage of answers during the implementation of the national exam) (Zulkifli, 2022: 186-191), the practice of bribing to obtain the position of principal (Sanjaya, et al., 2022: 1-5), to manipulation of the allocation of the procurement of learning facilities for personal/group gain (Zulaika, et al., 2022: 1325-1334).

Ironically, the deviations that occur are the collaboration of unscrupulous teachers and regional or regional education office employees on the pretext of the teacher's low economic welfare (Abadi et al., 2022: 116-121). This further shows the weakness of the teacher's character so that he can be bribed with a nominal amount of money. In addition to violating the code of ethics for the teaching profession and national education policies, the violations that occurred also displayed the gloomy face of Indonesia's "educational face". Thus, all components of society need to improve the quality of education in Indonesia.

Based on the description above, it is understood that the management of education in Indonesia has not been fully practised in accordance with the policies set by the government in the legal basis of education. The occurrence of various irregularities committed by unscrupulous teachers cannot be fully called because of the impact of welfare, but these individuals have not realized the glory of their profession, so they "exchange" the idealism of teachers with nominal numbers (money). Therefore, it is necessary to strengthen policies and implementation related to the standards of teachers and education personnel.

3.3 Behavioral Deviations in Education

Human behaviour in their daily life is one of the main benchmarks for the success of the educational process. This is because education in the process and results gives birth to a generation of character, practising and living the values of local wisdom and Pancasila (Mujiburrahman, 2022; Hemsley-Brown, 2012: 1005-1022). The behavioural benchmark refers to an area's social and cultural system, with an agreement in the form of norms (rules) in the community.

Referring to the opinion above, education as a formal institution in shaping the child's personality provides understanding to children about institutional rules, ranging from school rules, and the vision and mission of the institution, to a conducive learning process. Furthermore, internalizing the importance of rules at school becomes a prototype for children in navigating life because it presents rules that all levels of society must obey (Pane et al., 2022: 93-97). Uniquely, each region has its own regulations that prove the diversity of cultures in Indonesia.

Character building in children is not as easy as parsing (analyzing) the theory of character education figures (Thomas Lickona and Ki Hajar Dewantara) (Assingkily et al., 2021: 11-24). Because, every child has its own potential that must be developed based on the interests and talents of children. The formation (engineering) of the environment also plays an important role in meeting the needs of children for conducive learning (Assingkily & Hardiyati, 2019: 19-31). Likewise, it does not rule out the possibility of behavioural deviations in education.

This study found deviations in student behaviour in education, including violations of school rules (not obeying school rules), juvenile delinquency, and even the discovery of drug abuse users among students. This shows a weakness in the "joints" of the educational process. In educational practice, students also often cheat on their friends' answers, students plagiarize other people's work, and students' final project work is totally assisted by a thesis/thesis/dissertation "jockey" (Yasmine, 2021). This deviation shows the weakness of implementation and contextualization of education policy in Indonesia.

Based on the description above, it is understood that conceptually the education policy has regulated the implementation of the education process comprehensively. However, the form of contextualization is still not effectively implemented, as there are still many behavioral deviations in education. Thus, efforts are needed to strengthen and supervise from the government in implementing policies in each unit of educational institutions.

3.4 Deviations of Practice of the Educational Code of Ethics

A code of ethics is a professional rule that comes from a particular profession (Maryanto et al., 2022: 1-19). There are differences in the determination and implementation of professional codes of ethics between professions. One of the professions that is familiar with the practice of a code of ethics is the code of ethics for teachers (educators). According to Daulay et al. (2022: 51-64), the teacher is a patron for the implementation of the code of ethics. In fact, teaching the code of ethics to other professions, starting from the example displayed by the teacher (starting from basic education, secondary education, to higher education).

Ideally, teachers should set an example for students as prospective graduates of educational institutions (Pane & Nailatsani, 2022: 24-38; Lowrie & Hemsley-Brown, 2011: 1081-1086). In addition, students' opportunities are also wide open to engage in various professions in the future. In this context, the teacher is responsible for exemplifying the correct and good behaviour and practice of the code of ethics to students. In fact, it will seem funny if the teacher (intellectuals) violates the code of ethics of education, and impacts the students' personality.

This study found deviations in the practice of the educational code of ethics, including the habits of teachers who gather in the canteen during study hours, changing student grades because of pity or bribes, unscrupulous "jockeys" and plagiarists of scientific works, and a number of writers who are "willing" to sell their scientific works for a certain amount of money. Most of the deviations that occur, show that the problem of teachers as the main enforcer of the education code is economic welfare (because of bribes).

According to Alamsyah et al. (2022: 284-289), the main problem is not "only" because of the money (economic welfare) of the teacher but the ethical factor (sincerity) of the teacher in teaching. In line with this, B added that the teaching profession does not promise prosperity, let alone wealth for "prospective teachers", but as a "container" for one's happiness and sincerity in educating Indonesia's future superior

generations. This shows the importance of one's "intention" in pursuing a career as an educator (teacher profession).

In general, Eliza et al. (2022: 4266-4278) explain that character has not become the main benchmark in the learning process, even though the government has issued a policy on strengthening character education programs in schools/madrasahs. This is evident from the dominance of the teacher's assessment of students through the cognitive aspect (knowledge), plus parents show a high appreciation of children's academic achievements regardless of the process that children go through (Rahman, 2022: 24-34). For this reason, process-based learning orientation needs to be improved so that children are not pressured by learning outcomes.

Based on the description above, it is understood that the practice of the code of ethics is a serious concern in the field of education. This is based on the central figure of the teacher as a role model for students. The habits or characters displayed by the teacher greatly affect student behaviour. Therefore, the teacher must be able to exemplify the behaviour of discipline, responsibility, courtesy, patience, and courage, to the spirit of achievement. In addition, the teacher, as a leader in the learning process, must be oriented to the quality of the process so that it has an impact on optimal results, not results-oriented and ignores the importance of the process.

4. CONCLUSION

Based on the description of the results and discussion of the research above, it is concluded that the stipulation of laws, government regulations and regulations of the minister of education regarding the "legal umbrella" of education policy has become a positive step for the fulfilment of people's rights. However, the reality in society is that there are still deviations in management, behaviour and code of ethics during the implementation of the educational process, including the practice of cheating by individual units of educational institutions in graduating students to meet student graduation standards according to Permendikbud No. 23 of 2006, the unpreparedness of schools or madrasahs to facilitate the rights of students with disabilities in accordance with education management standards (Permendikbud no. 19 of 2007), determination of individual principals based on bribery practices that violate Permendikbud no. 13 of 2007 concerning school principals, and marginalization of treatment of education in schools. Remote areas that violate PP number 19 of 2005 on national education standards. Likewise, the limitations of researchers have not explored this study from the psychological aspect of education, namely the discussion of self-welfare and soft skills of students due to educational deviations.

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