



LEGAL RECONSTRUCTION IN USING SCHOOL OPERATIONAL ASSISTANCE FUNDS BASED ON JUSTICE VALUES

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Abstract

School Operational Assistance (SOA) funds policy does not mean end up the educational issues, new problems arise related to the misappropriation of SOA (School Operational Assistance) funds, and the ineffectiveness of SOA funds management. The objective of the government is good, but sometimes from the existing system, it becomes boomerang and presents new problems. Besides, the Indonesian human personality and culture contributed to the misappropriation and ineffectiveness of the management of SOA funds. Therefore, cooperation between all elements in realizing the effectiveness of SOA fund management is required. Reconstruction of the use of School Operational Assistance funding for justice can only be done by reorganizing existing legal institutions in the form of regulatory reforms related to the management of education. It takes care of the use of school operational assistance accompanied by early character education to be undertaken by the Ministry of Education and Culture of The Republic of Indonesia on human resources in all elements of the world of education without exception. The parents of students/students must be involved in monitoring and entitled to know the school operational assistance system intended for the purposes of 9-year compulsory education as the Constitution of the Unitary State of the Republic Indonesia governing every citizen is obliged to follow basic education and the government is obliged to finance it.

Keywords: Reconstruction, SOA, Justice

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1. Introduction

Education is a primary need for human beings. Education plays an important role in development so that the progress of education is needed for a nation that wants to advance. To advance the education, it requires a high concentration of various elements of the nation, especially the government. In the 1945 Constitution of the State of the Republic of Indonesia, it is stated that education is the right of every citizen, and for the compulsory basic education program, the government is obliged to pursue its funding. In addition, the development of government funding through the State Budget (Revenue and Expenditure Budget) experienced the development of subsidized fuel subsidy reductions in the amount of subsidies for other sectors, as well as education, the result is the provision of School Operational Assistance (SOA, In Indonesian called *Dana Operasional Sekolah* or BOS) in education. The use of SOA funds taken from the BBM (fuel) compensation fund still seems to be largely unknown to the public and the school. They only know the schools get funding from the government. For what funds and how to use the funds is often a burden for the school and community. Therefore, it takes a better orientation. That is, the use of SOA funds at least refers to four things, namely efficiency, effectiveness, transparency, and accountability.

However, the existence of the SOA funds policy does not mean end up the educational issues, new problems arise in connection with the misappropriation of SOA funds, and the ineffectiveness of the management of SOA funds. The objective of the government is good, but sometimes from the existing system, it becomes a boomerang and presents new problems. The human culture of Indonesia contributed to the misappropriation and ineffectiveness of the management of SOA

funds. Therefore, cooperation between all elements in realizing the effectiveness of SOA fund management is required.

Abuse of the management of SOA funds is found in some areas, the most frequent cases are inflation of student numbers, misuse of funds, and even fictitious data and reporting a fake data often occur in the newspaper. This can also be triggered by a running system, poor supervision and poor public participation, which cause the objective of SOA subsidy itself to be less and tend to diminish its usefulness.

2. Research Methods

Legal research in English is called legal research or in Dutch *rechtsonderzoek*. The nature of this study is descriptive analysis. It is a study that describes, explains and analyzes the law both in the form of theory and practice consisting of one variable or more than one variable. In this case, the supervisory role prevents corruption of SOA funds in the districts, both municipal and provincial districts in Indonesia from field research results. This research was done by juridical approach of sociology and normative juridical which supported by primary and secondary data. Normative legal research by Soerjono Soekanto and Sri Mamudji is called as library research. The research was conducted to the prevailing laws and regulations by looking at the reality of the role of the supervisors in preventing corruption of SOA funds.

3. Research Results and Discussion

SOA funds originating from the Government/APBN (National Budget) are grants intended for the implementation of the basic education unit as the implementer of the nine-year compulsory education program. Assistance aims at easing the burden of the community on the cost of education of students. 9-year compulsory education is the right of every student channeled through the school to

fund operating costs. It has a great meaning and benefits for the world of education, it turns out the potential of the potential shortcomings and weaknesses. The main causes of these losses and weaknesses can occur due to negligence and lack of supervision and responsibility of each party.

It should be reiterated that the likelihood of weakness/loss in the presence of SOA funds is due to negligence, lack/weak supervision and responsibility of each party. Another disadvantage of SOA program implementation is that conceptually SOA is given to poor students or poor people. In fact, the poor students are unable to get adequate education services. This is contrary to the concept of SOA funds program, so it needs to be straightened out. Then other problems are the use of SOA funds by schools during this less consultation with parents including in this case the preparation of RAPBS (School budget), otherwise parents are invited by schools to participate to provide school unruly school budget that has been unilaterally determined by the school without previous notice.

In the 1945 Constitution of the Republic of Indonesia, the responsibility of education of the nation, especially basic education is the responsibility of the government. This is especially explained by the government in article 31 paragraph (2) that every citizen is obliged to follow basic education and the government is obliged to finance it. Critical issue emerged in this discussion is how the government's commitment to address this constitutional mandate, whereas we know that basic education has not been enjoyed by all levels of society, and the cost of education until now partly still be borne by the community itself. Means, 9-year basic education is still not really free, even still seem to remain expensive for the poor.

The ideas on educational reform include reconstructing the use of SOA funds based

on an assessment of the failure of national education during the New Order period. The New Order effort to improve the quality and effectiveness of education was based on good intentions and brought spectacular results when compared to the previous order, but we cannot base on good intentions alone.

As a result of the small budget of education, one of the effects is the failure of the student flow in the implementation of compulsory education. Compulsory learning is an effort to implement Article 31 of the Republic of Indonesia Constitution Year 1945 that every citizen is entitled to receive education. From this article, the government has two mandates from the 1945 Constitution namely: qualitative aspects of "educating the nation" and the quantitative aspect "every citizen is entitled to receive instruction". The Ministry of National Education as the main actor in the implementation of education is considered successful when 29 million children receive junior secondary education. However, in 2005 BPS (Central Statistical Bureau) figures that 15 million school-aged children drop out at grade 3, and 7 million drop-out grade 4-6 primary school.

Education is done since humans are in a very early age (in the womb of the mother). Then continue to proceed until the child reaches adulthood. The process of education is even going on without age-restricted, says Jhon Dewey referred to as long life education. In principle, education is a sustainable process and does not recognize an ending point. It means that the end of education means the end of life. However, if the education process does not go well, what happens is the denial of the nature of human life itself. Therefore, effort to facilitate the process of education is an obligation, not only an obligation for the government, but also for all people and the nation of Indonesia. This is in accordance with Article 31 of the 1945 Constitution of the 1945 Paragraph (1)

which reads: Every citizen shall have the right to receive education, "and Article 5 Paragraph (1) of Law Number 20 Year 2003 on the National Education System affirms that" every citizen have equal rights to obtain quality education, even in Article 6 paragraph (1) it is stated that every citizen aged seven years to fifteen years must attend basic education. "

The question that needs to be addressed here is who is responsible for this education system? The answer is as explained in GBHN (State Guideline) that education lasts a lifetime and is carried out in a home, school, and community environment. Therefore, education is our shared responsibility, the responsibility of the entire nation of Indonesia. However, in the context of the 1945 Constitution, it seems that the responsibility of the nation's education, especially primary education (elementary and secondary school) is the responsibility of the government. This is particularly explained by the government in Article 31 paragraph (2) that "every citizen is obliged to follow basic education and the government shall pay for it". Critical issue emerged in this discussion is how the government's commitment to address this constitutional mandate, whereas we know that basic education has not been enjoyed by all levels of society, and the cost of education to date (although there SOA funds) some still be obstacle for the community itself. Means, 9-year basic

education is still not really free, even still seem to remain expensive for the poor.

Education funding is the availability of government funding for education. Education funds are the financial resources provided to organize and manage education. Educational funding is the provision of the necessary financial resources for the administration and management of education. Where in Government Regulation Number 48 Year 2008 on Education Funding had been approved and signed by President Susilo Bambang Yudhoyono on July 8, 2008, but this Government Regulation does not clearly set the prohibition of levies in schools. Government regulation, as if to legalize levies for financing education in public and private school education units. This situation occurs because the contents of the legislation that regulate the school operational funding assistance, namely Government Regulation Number 48 Year 2008. Plus state of Indonesia is an archipelagic country. The quality of education or the big cities and regions will certainly be different, plus the gap between public and private schools is increasingly visible.

Differences and similarities of School Operational Assistance fund, private schools and public schools in accordance with the contents of Government Regulation Number 48 Year 2008.

Table 1. Comparative Public School and Private School

| No | Public School | Private School |
|----|---|---|
| 1 | Receive SOA | Receive SOA |
| 2 | For school operational needs | For school operational needs |
| 3 | Received a special allocation fund for the construction of a new class (100%) built by the Government | Independent |
| 4 | Teachers are mostly civil servants who are financed by the Government | Private teachers are mostly honorary teachers in financing derived from some SOA funds |
| 5 | Supervision of schools under the Department of Public Education and Ministry of Religious Affairs | Supervision of schools under the Department of Public Education and Ministry of Religious Affairs |

| | | |
|---|--|--|
| 6 | The SOA funds received are the value of aid multiplied by the number of students | The SOA funds received are the value of aid multiplied by the number of students |
| 7 | It is permissible to collect fees | It is permissible to collect fees |

From the similarities and differences of data above, the reconstruction of the value of corruption crime against the school operational assistance fund is based on the value of justice:

1. Government Regulation Number 48 of 2008 has not fulfilled the sense of justice.
2. The above differences may lead to the gap of corruption.

3. Difficult achievement of quality education due to unequal competitiveness between public schools and private schools.

Therefore, to realize justice in the Government Regulation of the Republic of Indonesia no. 48 Year 2008 on Educational Funding, then the reconstructions are as follows:

Table 2. Reconstruction Government Regulation of the Republic of Indonesia No. 48 Year 2008

| No | Before Reconstruction | After Reconstruction |
|----|---|--|
| 1 | Article 38 Paragraph (3): The cost of personnel of the formal and non-formal education unit held by the community is the responsibility of the organizer or the educational unit concerned. | Article 38 Paragraph (3): The cost of personnel of formal and non-formal education units organized by the community is the responsibility of the government |
| 2 | Article 43: Funding of non personnel costs for the office of organizing and/or managing education by the organizer or educational unit established by the community shall be the responsibility of the organizer or educational unit concerned. | Article 43: Funding of non personnel costs for the office of organizing and/or managing education by the organizer or educational unit established by the community shall be the responsibility of the Government. |

Therefore, the reconstruction of the use of SOA funds based on justice can only be done by rearranging existing legal institutions in the form of regulatory reform. It relates to the management of education that takes care of the use of SOA funds accompanied by early character education that must be done by the Ministry of Education and Culture The Republic of Indonesia on human resources in all elements of the world of education without exception the parents of students who must be involved in monitoring and entitled to know the SOA system. It is intended for the purposes of 9-year

compulsory education of their children implementation of the Constitution of the Unitary State of the Republic of Indonesia arrange every citizen obliged to follow basic education and government obliged to finance it.

4. Conclusions

Reconstruction of the implementation of the use of school operational assistance funds based on justice value must be in accordance with the mandate of Article 31 Paragraph (2) of the 1945 Constitution. It states that every citizen is obliged to

follow basic education and the government is obliged to finance it. It means the use of school operational grant should be really students to achieve 9-year compulsory education. Ideas on educational reform including reconstructing the use of SOA funds should be based and grounded in good faith in order to bring about better results. So, reconstruction of the use of school-based operational funding based on justice can only be done by reorganizing the existing legal institutions. The form of regulatory reform related to the management of education which takes care of the use of school operational aid fund along with the early character education must be done by the Ministry of Education and Culture of the Republic of Indonesia on human resources in all elements of the world of education without exception. The parents of students must be involved in doing monitoring and entitled to know the school operational assistance system intended for the purposes of 9-year compulsory education of their children constituting the implementation of the Constitution of the Unitary State of the Republic of Indonesia governing every citizen is obliged to follow basic education and the government is obliged to finance it.

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