

CRIMINAL RESPONSIBILITY TO THE HEAD OF SCHOOLS AND TEACHERS WHO WORK TOGETHER TO THE NATIONAL EXAMINATION KEY

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ABSTRACT:

In education at this time the National Examination has become a routine of this nation every year and this national agenda has always been the subject of related discussions because of the high number of graduations and the mechanism or system of national exams which is said to be full of deficiencies. This is the problem in the scope of the school because if there are students who do not pass the National Examination it impacts on the name of the school and the credibility of the school and besides that the importance of the school is to achieve a satisfactory National Examination factor that can lead to the emergence of cheating Principals and Teachers work together to distribute the answer key to the National Examination to students participating in the UN. The formulation of the problem in this study is: How is criminal liability for acts committed by headmaster and teachers who work together to circulate the National Exam answer keys to students for the purpose of graduating students and achieving satisfactory UN results? The aim that will and will be achieved in this study is to analyze and find out criminal responsibility for the actions of the Headmaster and Teachers who work together to circulate the National Examination key with the aim of graduating students participating in the National Exam and achieving satisfactory National Examination results. This thesis uses normative juridical research using the Statue Approach and Conceptual Approach methods. The results in this study can be concluded that the Principal and Teacher can be held accountable because they have committed fraud by circulating the answer to the National Examination (UN) which is included in the concursus concurrent crime and is an ongoing act and can be charged under Article 112 of the Criminal Code for opening actions related to state interests .

Keywords: National Examination; Answer Key; State Secret.

INTRODUCTION

Education is a process which can help humans to develop into people who are more moral, social, ethical and knowledgeable. This endless educational process is interesting to be continuously studied and developed in such a way. Not only in the scope of the theory, but also in the scope in terms of practice. Regarding these objectives, a set of principles for organizing education has been determined to be used as a benchmark because for the implementation of better educational changes (Muhammad Idrus, 2007). In the National Education System Law

(National Education System) in 2003 which is already contained in Article 58 paragraph 1 explaining the process of evaluating student learning that must be monitored and monitored by educators it can be stated that evaluation activities must refer to a measure in terms of success (Arikunto, 2009). In the Government Regulation of the Republic of Indonesia Number 32 Year 2013 Regarding Amendments to Government Regulation (PP) No. 19 of 2005 Concerning National Education Standards Article 72 paragraph (1) concerning criteria or conditions for students or students who can be declared passed in an educational unit that is able to achieve with a minimum grade both in the final assessment and declared to pass the National Examination. And the moment when the announcement of the results of the National Examination that all students dissolve in an atmosphere of excitement when declared passed is inversely proportional if there are students who do not pass the national exam experience a mental shock and finally reckless to end his life. Manuscripts for the National Examination are state confidential documents contained in the Regulation of the Minister of Education and Culture of the Republic of Indonesia Number 57 Year 2015 concerning Assessment of Learning Outcomes by the Government Through the National Examination, and Assessment of Learning Outcomes by Education Units Through School / Madrasah / Equality Education Examinations in Junior High Schools / MTs / or equivalent and SMA / MA / SMK or equivalent Article 19 paragraph (5) which reads "In the matter of the National Examination (UN) before and after the National Examination is included in the classification of state documents which are a state secret in the term certain time".

In the Principal's Duties listed in Chapter VI Article 15 paragraph (2) concerning the Principal Duties of the Principal in the Regulation of the Minister of Education and Culture of the Republic of Indonesia Number 6 Year 2018 Regarding Teachers as Principals which contains "Workloads of Principals aiming to develop schools and improve school quality based on national education standards ". It is this factor that becomes the burden of school principals on how to be able to obtain satisfactory UN results in the implementation of the National Examination.

Everyone who is directly involved in the implementation of the National Examination is obliged to and must maintain the confidentiality, security, smooth implementation of the National Examination that has been clearly regulated in the Minister of Education and Culture Regulation of the Republic of Indonesia Number 4 of 2018 concerning Regulations on Learning Outcomes Evaluation by Education Units and Learning Outcomes Evaluation by the Government in Chapter VII Article 22 paragraph (1) and paragraph (2). In paragraph (1) explains as follows, "Every person, group, and / or institution involved in the implementation of School Exams (US), National Standard School Exams (USBN), and National Examinations (UN) must maintain honesty, confidentiality, security , and smoothness ". And what is contained in paragraph (2) contains that "Every person, group, and / or institution proven to be violated is subject to sanctions in accordance with statutory provisions".

Law of the Republic of Indonesia Number 14 Year 2005 Regarding Teachers and Lecturers in Article 77 paragraph (1) explains "That teachers who have been inaugurated by the Government who cannot use their obligations may be subject to sanctions in accordance with existing laws and regulations" in Article 20 which also states that "Teachers must have the obligation to carry out quality and quality learning and uphold the laws and regulations and the teacher code of ethics" and there are sanctions imposed on educators who do not comply with their obligations contained in Article 77 paragraph (1) receive deep sanctions paragraph (2) as follows:

1. He gave a warning or warning;
2. The existence or form of a written warning;
3. Postponement of granting teacher rights;
4. There is a demotion to the teacher;

5. Or dismissal with respect; or

6. And dismissal is not respectful if not carried out according to its obligations.

Although it is regulated in the regulation related to sanctions against teaching staff not carrying out their obligations, but the sanctions imposed on teaching staff do not work or are applied properly. This is what causes the practice of fraud that continues to occur every year during the implementation of the UN as if there is no criminal liability related to the act.

Problem Statement

From regarding the above problems, then in the formulation of the problem obtained, namely: How is criminal liability for the actions carried out by the Principal and Teachers who work together to circulate the National Exam answer key to the students' objectives to pass students and achieve satisfactory UN results?

Research Method

Metode penelitian merupakan sebuah metode harus digunakan dalam suatu permasalahan mengenai proses penelitian, metode penelitian tersebut antara lain:

1. Type Research

This type of research is normative juridical research which is a legal research carried out in a way or method by analyzing and reviewing library materials as one of the main basic references to be examined and analyzed by searching from legislation and literature which are related to an issue will be examined (Soerjono dan Sri, 2015).

2. Research approach methods

This research was conducted using a statutory approach (statue approach) and conceptual approach (conceptual approach). The first approach to the legislation (statue approach) is a method of this approach carried out by means of examining a number of statutory regulations relating to a legal issue of the problem being dealt with is there any relevance and compatibility between a law with other laws (Peter Mahmud Marzuki, 2011). Furthermore, the conceptual approach (conceptual approach) which contains an understanding of the method of approach where researchers need to refer to the principles, concepts and doctrines of legal experts and then identified by linking the problem under study.

3. Source of legal material

Sources available from legal materials to be used are 3 (three) types, including: primary legal materials, secondary legal materials, and tertiary legal materials.

4. Legal Material Collection Techniques

Due to a problem contained in this study using normative legal material collection techniques, what needs to be done is to look for and examine the laws and regulations relating to the theme of the problem discussed as well as books, scientific journals, the internet and references related to disclosure. country.

5. Legal material analysis

Analysis of legal materials used is through a normative juridical approach where writing what is in accordance with the related legal issues studied and analyzed, then the results of the study will be drawn in the form of prescriptive answers to the problems in this study. And from this analysis using library materials as a source of research (Amiruddin dan Zainal, 2010).

Discussion

1. Actions of School Principals and Teachers Working Together to Distribute the Answer Key of the National Examination as a Criminal Act

For example the events that occurred in April in 2014 in the Regency of Lamongan, East Java. The beginning of the chronology in which the National Examination (NE) scripts were leaked and spread because they were stolen. The main thing is that the actors or main actors are around 70 teachers and teachers as well as several school principals who are members of the Lamongan School Principal Work Program (MKKS), 40 teachers are from state high schools and 30 teachers from private high schools are divided into Lamongan Regency namely Tripe, Bluluk, Ngimbang, Kedungpring, and Karang Binangun. The NE answer key that leaked and spread was not from the center but rather the result of the work of answering itself by several teachers who had been divided into several places in the Lamongan area before the NE question was obtained from stealing.

The theft mechanism was originally a teacher who participated in the escort was immediately invited to stop the police to just rest and eat at a restaurant. Because those who invited a police teacher were clearly not suspicious, but that was when another teacher was tasked with stealing the manuscript while the police were eating and seeing the situation. After getting the NE questions, then the answer key that has been handled is then duplicated by photocopying by the teacher and then distributed to students. The Principal's role is to give an assignment to a teacher who is a part of being able to work on the NE cheating question which is done to graduate students and achieve high NE results and enter in the top 10 national exam scores on a national scale.

Some legal rules relating to circulating the National Exam answer key qualifying in state secrets are:

In the perspective of the Criminal Code, the act of opening, informing or providing information that is confidential and must be kept is qualified as a criminal offense. Linking from the example of the incident circulating the answer key of the National Examination conducted by around 70 Teachers and several School Principals is a crime of disclosing state secrets and snared by the article in the Criminal Code as follows:

Article 112 of the Criminal Code Criminal Code which in its contents reads: Anyone who intentionally announces letters, news or information that are known that must be kept secret to be in the interest of the country intentionally to notify or give it to a foreign country, to a king or ethnic group they can be punished with a maximum imprisonment of 7 (seven) years.

The legal subject elements of the article are as follows:

- a. Whoever, the element of "whosoever" that implies the subject of offense or perpetrators of criminal offenses related to the act. Within the elements of this article can be applied and connected to about 70 teachers and several school principals who are subject to criminal offenses. The essence of offense / prohibited acts as follows:
- b. Announce letters, news or information that are known or in nature must be kept confidential for the interest of the state to ethnic groups threatened with imprisonment of up to 7 years.
 - 1) To announce in the Indonesian Language Dictionary means to inform the public, or to distribute.
 - 2) Letters are valuable documents and their nature is written and printed as a means of information or evidence.
 - 3) News in the Indonesian Language Dictionary contains the understanding of stories, information, reports or notices.

- 4) Withheld is something that must be hidden from others or related to the interests of the country.

Connecting with examples of incidents in Lamongan Regency that have been explained that around 70 teachers and several school principals worked together to leak UN questions and then circulated UN answer keys to students was a crime of opening state secrets because UN questions were valuable state secret documents and included in the letter and letters according to KBBI are valuable documents.

And also committing an offense of disclosing a secret because the position held may be subject to criminal sanctions in Article 322 of the Criminal Code paragraph (1) which contains "Whoever intentionally discloses a secret that must be kept due to his position or search, both now and the previous one, is threatened with maximum imprisonment of nine months or a maximum fine of six hundred rupiah".

Has legal subject elements in the article as follows:

- a. Whoever, the element of "whoever" implies the subject of offense or the maker of criminal offenses relating to an act of crime and making. Linking with the example of the incident in Lamongan District, the element of "who" refers to around 70 teachers and several school principals as the subject of criminal offenses that make the crime
- b. The essence of the offense / conduct prohibited from this article are:
Disclosing a secret must be kept because of his position or search, both now and the previous one, threatened with imprisonment for a maximum of nine months or a maximum of six hundred rupiah, "opening a secret that must be kept because of the position" implies that is intentional acts of intent. and contrary to law reveals secrets because of position. Related examples of incidents in Lamongan Regency that have been described refer to around 70 teachers and several school principals using and using their positions to be able to expedite their actions. The principal and the teacher clearly have an obligation to maintain order, confidentiality and security so that there is no fraud in the implementation of The NE.

2. There Is an Element of Error in the Conduct Circulating the Answer Key Conducted by the Principal and Teacher

- a. There is an element of intent (dolus).

In the example of the incident that occurred in Lamongan District, that the leakage of National Examination questions in which around 70 teachers were divided into several who were given the task of working on NE questions after that circulating the UN answer key to students could be declared to have met the element of intent (dolus) because the act of leaking questions The national examination is done by the teacher afterwards and then circulating the answer key is the practice of deliberately planned and intentionally systematic, massive and structured fraud conducted by several Principals.

- b. There is an intention or intention.

That there is an intention or intention related to the element of Mens Rea (mental attitude or soul of the perpetrator not criminal) and the element of Actus Reua (acts that violate the law). Connecting examples of events that occurred in Lamongan District, East Java, around 70 teachers and several school principals who were members of the MKKS (Principal Work Meeting) with the Mens Rea element were intentionally working together to circulate the UN answer key to graduate 100% students in the UN implementation and in order to obtain satisfactory results at the national level. As well as linking examples of events that occurred in Lamongan District, East Java, around 70 teachers and several school principals who were members of the MKKS (Principal Work Meeting) with the Actus Reus element had committed the crime of disclosing secrets of state interests in Article 112 of the Criminal Code because they had circulate the answer

key for the National Examination (NE) which is where the question of the National Examination is the classification of state secret documents.

3. Ability to be Responsible for Principals and Teachers who Work Together to Circulate the National Exam Answer Keys

The existence of the perpetrator's inner connection with the perpetrator's intentional actions (*dolus*) related to the example of the incident that the perpetrator namely around 70 Teachers and several School Principals in Lamongan District related to the actions carried out was very clear of intentions and intentions. The act was preceded where around 70 teachers, some of whom were assigned to share in each school in six regions namely the Babat, Bluluk, Ngimbang, Kedungpring, and Karang Binangun areas, coordinated and drafted plans with the school principal to coordinate with teachers to steal NE questions after being stolen. The NE question is done by competent teachers who are divided in several places after the teacher has done so the duplicated answer key is given to students when the National Examination takes place and the Principal's role is to instruct the teacher who has got the answer key to be able to give it to students well. The act was carried out systematically, massively and neatly structured so that it was difficult for the police to dismantle it. These acts are carried out with the intent and purpose of making it easier for students to work on and graduate students 100% while providing good results for schools and positions held.

And it was stated that there was an intentional element in the act, there was also an element of *mens rea* or the inner attitude of the perpetrator and also *actus reus* to be able to carry out the act of divulging the National Examination questions. In an act that is categorized as a criminal act and has violated the applicable legal rules as well as being subject to criminal sanctions according to existing laws must be able to fulfill several elements therein, namely:

- a. The element of *actus reus* (the action carried out by the perpetrator) and the element of *mens rea* (the inner attitude or soul that exists in the perpetrator). The first explanation is that the element of *actus reus* has an understanding of the actions carried out by the perpetrator or the maker and while the second element is the element of *mens rea* is related to the inner attitude or soul of the perpetrator when committing the crime.
- b. In the element of *mens rea* or (inner attitude or soul of the perpetrator) and the *actus reus* element (the act carried out by the perpetrator) relates to examples of events that occurred in Lamongan District, about 70 teachers and several school principals in Lamongan Regency worked together to circulate the answer key that there were elements *mens rea* in his actions because of the intention and deliberately working together to circulate the answer key with the intention to facilitate students to work on and finally be able to graduate students in the implementation of the national examination, as well as the existence of *actus reus* elements that are carried out by teachers and principals is related to a criminal offense the state because it is already regulated in legislation where the NE question is a state secret that must be kept confidential. It can be concluded that the act is a crime of leaking state secrets because of the results of examining the articles in the applicable laws and analyzing *su* or criminal acts, mistakes and accountability, the deeds committed by the schools involved in the implementation of the NE, namely about 70 teachers and some school principals, are acts that are carried out in an illegal manner and can therefore be accounted for.

4. There is an Element for Participation in Circulating the National Exam Answer Key

Article 55 and Article 56 of the Criminal Code people do (*Pleger*) and participate those who do (*Medepleger*):

- a. Actor (*Pleger*).

In Moeljatno's opinion explains the meaning of the Plegger or the Perpetrators, namely that the so-called Perpetrators or Pleggers in Article 55 paragraph (1) e of the Criminal Law Act are available with the reasons, namely: the Actor or Plegen is the one who does point to the actions carried out with the participation element others may be assistants or advocates, or they can be participants. Analyzing from the examples of events that have been explained that occurred in Lamongan District leaked NE questions where several teachers were given the task of being able to work on NE questions after that while distributing answer keys to all students, it could be stated that there were about 70 teachers who were Actors or Pleggers who were divided into several teachers get the task of stealing and doing UN questions after it is finished, it is also the teacher who circulates the answer key to students who have violated Articles 322 and 112 of the Criminal Code (KUHP). It can be stated that the Teacher is the one who carried out the crime.

b. Participating Participants (Medeplegers).

In *Memorie Van Toelichting M.v.T* there is a statement that explains where each person is clearly involved in taking part in committing a crime. In the opinion of Van Hammel, taking part takes place if the respective criminal acts are included and are involved in carrying out acts that contain elements of criminal acts in them. Examples of events that have been described that occurred in Lamongan District where several Principals as Medeplegen or participated because of cooperation with teachers to be able to circulate NE answer keys to students in order to graduate students and achieve satisfying results.

Conclusion

Based on the results of researchers and analysis of legal events in the discussion of Chapter III and regarding these legal events, there are a number of school principals who are members of the Principal Conference (MKKS) and around 70 teachers who have intentionally worked together to form the UN answer key and are declared capable of criminal liability and as the main actor and as a participant because the elements of the act carried out have been fulfilled namely consciously, as well as the fulfillment of the *Mens Rea* element (mental attitude) and the soul of the *Actus Reus* element (acts that violate the law) other than that there is no physical or psychological disability even though deeds done with a reason to pass students and achieve satisfactory UN results.

Actions in working together to circulate the UN answer key carried out by the Principal and the Teacher are classified as a concurrent criminal act or *consursus* and include continuing actions because in the deeds carried out by the principal and the teacher working together to circulate the answer key there is more than one act for finally circulating the UN answer key to students violates several rules namely snared:

1. Article 362 of the Criminal Code which reads:
Anyone who takes something, which wholly or partly belongs to another person, with the intention to be owned illegally, is threatened with theft, with a maximum imprisonment of five years or a fine of sixty rupiah.
2. Article 112 of the Criminal Code contains:
Anyone who intentionally announces, opens or informs information of a nature that must be kept secret deliberately announces, opens or notifies or gives it to a foreign country, to a king, to an ethnic group may be subject to criminal sanctions for 7 years.
3. As well as contained in Article 322 which contains "Anyone who intentionally reveals a secret that must be kept because a position or search both now and beforehand is threatened with imprisonment for nine months or a fine of up to six hundred rupiah".
4. As well as in the Law of the Republic of Indonesia No 43 of 2009 concerning Archives in Chapter IX also concerning criminal provisions contained in Article 81 the contents of the article are:

Every person who intentionally controls and / or has a state archive as referred to in Article 33 for his own benefit or other unauthorized persons can be sentenced to a maximum imprisonment of 5 (five) years or a maximum fine of Rp. 250,000,000.00 (two hundred and fifty million rupiah).

Because the NE question is an archive belonging to the state it is not entitled to be owned or controlled for the benefit of others. In relation to the Sentencing system (Steelsel), one of the principles / systems that emerge is the Pure Absorption System (Absorptie Steelsel) in this system, the lightest punishment seems to have been absorbed / absorbed by the harshest punishment in other words, in this system is a punishment that is the heaviest sentence imposed in relation to the criminal liability is related to the legal event in Chapter III where the Principal and Teacher who work together circulate the National Exam (NE) answer key can be punished in Article 112 of the Criminal Code which contains:

Anyone who intentionally announces, opens or informs information of a nature that must be kept secret deliberately announces, opens or notifies or gives it to a foreign country, to a king, to ethnic groups may be subject to criminal sanctions for 7 years.

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