

THE LEGAL POLICY ON THE PREVENTION AND HANDLING OF BULLYING IN SCHOOLS

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ABSTRACT

Violence against children can cause trauma and injuries that endanger the physical and psychological condition of the victims of bullying. This paper aims to analyze the factors causing the increase in bullying behavior among students in schools and law enforcement efforts against perpetrators of bullying in educational environments. The results of the study indicate that bullying among students is generally influenced by family factors, social media, peers, and the surrounding environment. In addition, bullying acts are also triggered by ethnic differences, rejection of certain groups, physical conditions, and economic and family backgrounds. Perpetrators of child bullying can be subject to criminal sanctions or diversion according to the provisions of Law No. 35 of 2014 concerning Amendments to Law No. 23 of 2002 concerning Child Protection, as a form of deterrent effect for the perpetrators and protection for other children from bullying.

A. INTRODUCTION

Children are a vital asset for the nation's future and the next generation in realizing national ideals. Therefore, every child has the right to survive, grow and develop optimally, and participate in social life. Furthermore, children also have the right to protection from all forms of violence and discrimination, including the fulfillment of their civil rights and freedoms. Provisions regarding children's right to education are also regulated in Law No. 20 of 2003 concerning the National Education System, specifically Article 5, which regulates the rights and obligations of every citizen to receive an education. Based on these provisions, the government is obliged to provide adequate educational facilities and infrastructure so that every child can receive a proper education. Through this education, it is hoped that students will not only possess intellectual abilities but also possess moral character and sufficient provisions to face various challenges and competition in the future. Education essentially aims to shape and develop a person's attitudes and behavior through the learning process. In this regard, schools play a role as educational institutions that provide a place for students to gain knowledge, shape character, and develop their potential as future generations of the nation. Therefore, the school environment should be a safe, comfortable, and enjoyable place for students to learn. As the nation's future generation, children also have the

right to receive adequate protection from various threats that could hinder their growth and development. In the context of a state based on the rule of law, legal protection for children is a crucial aspect that must be realized by the state to ensure the optimal fulfillment of children's rights (Rachma, 2022).

In Indonesia, child protection is regulated by Law No. 23 of 2002 concerning Child Protection, as amended by Law No. 35 of 2014 concerning Amendments to Law No. 23 of 2002 concerning Child Protection. Article 54 states that children in and around schools are required to receive protection from all forms of violence perpetrated by teachers, school administrators, or fellow students at the school or other educational institutions. Furthermore, this protection is a shared responsibility carried out by educators, education personnel, government officials, and the community. However, in practice, not all students feel comfortable while in the school environment. Some students actually consider school to be a place that causes fear or discomfort. This condition can be caused by less than optimal supervision by schools and teachers regarding student behavior, thus allowing actions that violate applicable norms and regulations in the school environment, including bullying between students. Bullying behavior is negative actions carried out by individuals or groups repeatedly against a targeted person. The phenomenon of violence or bullying in schools is a problem that is still frequently encountered in various educational institutions. These actions can have psychological impacts on victims, such as feelings of revenge, hatred, fear, and even loss of self-confidence. Furthermore, bullying can also lead to disharmonious relationships between students, such as hatred between juniors and seniors, unhealthy competition, and even conflict between students, ultimately creating an unfavorable learning environment and fostering reluctance or even fear of attending school.

Bullying can have a serious impact on a child's mental health, as it can instill fear and a sense of threat in the environment where they study. Ironically, in some cases, such behavior is still considered commonplace by some teachers and parents, who consider it merely a joke or part of the dynamics of adolescent social interaction, thus failing to receive serious attention. However, while there are no specific regulations explicitly requiring every school to have an anti-bullying policy program, the provisions of Law No. 35 of 2014 concerning Child Protection explicitly state that children in the school environment must receive protection from all forms of violence. Therefore, students fundamentally have the right to receive education in a safe, comfortable, and fear-free environment. Therefore, school administrators and all parties involved in the provision of education have a responsibility to provide protection to students from all forms of intimidation, assault, violence, and other harassment.

In Indonesia, the rise in bullying cases in schools has also become a serious concern for various parties, one of which is the Indonesian Teachers' Union Federation (FSGI). Based on FSGI records, there were 16 cases of bullying that occurred in schools from January to July 2023. Of these, four cases occurred at the start of the new school year in July 2023. The most

bullying cases occurred at the elementary school level (25%) and junior high school (25%), followed by senior high school (18.75%) and vocational high school (18.75%), as well as Islamic junior high school (6.25%) and Islamic boarding school (6.25%). FSGI also noted that the number of victims of bullying during the period reached 43 people, consisting of 41 students (95.4%) and two teachers (4.6%). Meanwhile, the perpetrators of bullying were predominantly students (87 people) (92.5%), followed by five educators (5.3%), one parent (1.1%), and one madrasah principal (1.1%). Furthermore, the majority of bullying cases occurred in educational institutions under the authority of the Ministry of Education, Culture, Research, and Technology (87.5%) and the Ministry of Religious Affairs of the Republic of Indonesia (12.5%) (Yulianti, 2023). Based on data submitted by the Indonesian Child Protection Commission (KPAI), bullying cases in Indonesia are recorded as relatively high, reaching dozens of cases each year. When viewed based on the education cluster, the number of children who became victims of violence in schools is as follows: 122 cases in 2016, 129 cases in 2017, 107 cases in 2018, 46 cases in 2019, and 76 cases in 2020. Meanwhile, the number of children who became perpetrators of bullying in the school environment was recorded at 131 cases in 2016, 116 cases in 2017, 127 cases in 2018, 51 cases in 2019, and 12 cases in 2020 (Pramoedya, 2022). In addition, KPAI statistical data shows that the collection of information regarding bullying cases took place from 2015 to 2022. This trend describes the pattern of bullying incidents in schools in previous years, which can be an important indicator in analyzing and formulating strategies for preventing and protecting children in the educational environment, including: (Peren, 2022)

1. In 2015, the World Health Organization (WHO), through its Global School-Based Student Health Survey (GSHS), conducted a survey on bullying among students. The survey results showed that approximately 21 percent, or 18 million children aged 13–15, had experienced bullying in the past month. The data also showed that 25 percent of cases involved physical altercations, with a higher proportion experienced by boys (36 percent) than girls (13 percent). The report highlighted that the impacts of bullying are not only short-term but also long-term, including mental health disorders and impaired social functioning. Furthermore, approximately 1 in 20 adolescents, or 20.9 percent, reported suicidal thoughts as a result of bullying experiences.
2. Meanwhile, according to a 2018 study by the Programme for International Student Assessment (PISA), 41 percent of 15-year-old students in Indonesia had experienced bullying at least several times a month. The PISA report also highlighted the negative impacts of bullying on victims, including decreased academic achievement, including lower reading ability compared to peers who were not bullied.
3. Other data comes from a survey conducted by Ministry of Women's Empowerment and Child Protection (KPPPA) in 2018, which shows that approximately two out of three adolescents, both boys and girls, aged 13–17 years have experienced bullying (*bullying*). This survey also

confirmed that bullying has negative impacts in both the short and long term, including mental health problems, impaired social functioning, and decreased academic achievement.

4. Based on data collected by Indonesian Child Protection Commission (KPAI) in 2020, 119 cases of child bullying were recorded. This number has increased significantly compared to the previous year, which was only around 60 cases per year.
5. In 2021, the Indonesian Child Protection Commission (KPAI) recorded 53 cases of bullying in schools, while cyberbullying reached 168 cases. The decline in cases in schools is believed to be related to the implementation of online learning due to the pandemic, which has reduced face-to-face interaction in schools while increasing the risk of bullying through digital media.
6. The latest data from the Indonesian Child Protection Commission (KPAI) in 2022 shows 226 cases of bullying involving physical and mental violence in schools, including 18 cases of cyberbullying. This confirms that bullying remains a serious problem for children in educational settings, both in person and through digital media.

The number of bullying cases in Indonesia is likely higher than those recorded or released by the Indonesian Child Protection Commission (KPAI). This is because many cases go unreported, either because a settlement has been reached between the parties involved, the victim chooses not to report it to the authorities, or various other factors prevent the case from appearing in the media. Violence against children can cause trauma and injury that impact the physical and psychological health of the victim. Therefore, perpetrators of bullying need to be subject to legal sanctions as a form of deterrent, so that they do not repeat their actions and to prevent such behavior from being imitated by other students. Actions that fall into the category of bullying are expressly regulated in Law No. 35 of 2014 concerning Child Protection and in the Criminal Code (KUHP). Based on the description of the introduction, the phenomenon of bullying is interesting to study from a legal perspective and in relation to sociological aspects. A sociological legal approach is needed to understand the dynamics of bullying in the world of education, so that it can help formulate more effective prevention and response efforts, especially for students. This type of research is expected to provide a deeper understanding of the legal and social mechanisms that can protect children from bullying in schools. Therefore, in this paper, the author will discuss the Legal Policy on Preventing and Addressing Bullying in Schools.

B. RESEARCH METHODS

This study uses a normative legal research method, namely research that examines law as a norm written in legislation, doctrine, and other relevant legal materials. The approach used in this study is a legislative approach and a conceptual approach to analyze legal regulations related to

bullying in the school environment. The legal materials used consist of primary legal materials in the form of legislation related to child protection and criminal provisions, as well as secondary legal materials in the form of literature, scientific journals, and opinions of legal experts. The collection of legal materials is carried out through library studies, then analyzed qualitatively by interpreting legal norms to find systematic, logical, and prescriptive legal arguments in answering the research problem.

C. RESULTS AND DISCUSSION

1. Legal Policy on Prevention and Handling of Bullying in Schools.

Bullying continues to be a topic of study and research, but to date there is no single agreement on a precise definition. According to the American Psychological Association (APA), as cited by Wahab, bullying is a form of aggressive behavior that is carried out intentionally and repeatedly, with the aim of harming another individual. This can take the form of physical contact, speech, or more subtle actions. Meanwhile, Lerner & Steinberg concluded that bullying is aggression perpetrated by pre-teens and adolescents through physical, psychological, or verbal violence, accompanied by intimidation that endangers the victim and causes fear and distress. Furthermore, Volk stated that bullying occurs due to an imbalance of power between the perpetrator and the victim, so that aggressive behavior has the potential to significantly harm the victim. Taylor's research shows a difference in perception between the definition of bullying presented in schools and the actual experiences of students. Some students interpret bullying more broadly, including in the context of joking or teasing between friends, so the definition applied in schools does not fully reflect the reality experienced by students (Ybarra, Espelage, Valido, Hong, & Prescott, 2019, pp. 175–187). The word bullying comes from the English term bully, which according to the English Dictionary is defined as "a person who disturbs or oppresses a weaker person." From this definition, bullying can be understood as an act that intentionally hurts another party physically or psychologically, especially when the perpetrator feels they have more power than the victim. In general, bullying is a form of violence that can harm and injure the victim, whether in the form of minor abuse, severe abuse, or actions that have the potential to cause death. According to the National Commission on Human Rights (Komnas HAM), bullying is a form of physical and psychological violence that occurs over the long term, carried out by an individual or group against someone who is unable to defend themselves. This action is carried out with the intention of frightening, hurting, or oppressing the victim, so that it can cause trauma, depression, and feelings of helplessness.

Bullying usually occurs repeatedly, and in some cases systematically. When carried out continuously on a daily basis, bullying has the potential to cause serious psychological impacts and profound trauma for victims. Based on the characteristics and forms of the actions,

bullying can be classified into six groups: (Sari, Pebriyani, Nurfarida, Suryanto, Suri, & Nugraha, 2022, pp. 2095–2102)

- a. Direct physical contact
This type of bullying is visible, so it can be seen by others. It involves physical contact between the perpetrator and the victim, such as hitting, pushing, biting, pulling hair, pinching, scratching, or damaging the victim's belongings.
- b. Direct verbal contact
Verbal bullying can be heard by others, making it an easily detectable act. Examples include cursing, insulting, accusing, slander, publicly humiliating the victim, or spreading gossip about them.
- c. Non-verbal behavior
This form of bullying can be recognized by the perpetrator's demeaning behavior or expressions. Examples include glaring, sticking out the tongue, or displaying a derogatory facial expression.
- d. Indirect nonverbal behavior
This type of bullying is difficult to detect because it isn't always physical or verbal. Examples include excluding, ignoring, or intentionally ignoring someone.
- e. Cyberbullying
Cyberbullying occurs through electronic means or digital media. Examples include insulting the victim through comments on social media, sharing bullying videos, or defaming the victim online.
- f. Sexual harassment
This action falls into the category of bullying which is aggressive, both physical and verbal, and can have significant psychological impacts on the victim.

In various media, we frequently find news about cases of violence experienced by teenagers and school-aged children. This situation is very concerning for parents and education institutions. Schools are supposed to serve as a "second home" for children, a place where they learn and develop their character to become intelligent and well-mannered. However, in reality, schools often become locations for bullying. Adolescence, which should be filled with learning and positive activities, can turn into a traumatic experience due to being a victim or perpetrator of bullying, influenced by various factors. Based on various cases in Indonesia, common factors that trigger bullying include family, social media, and peers or the surrounding environment. Research conducted by Simbolon shows that bullying can be triggered by ethnic differences, resistance to certain groups, differences in physical condition, and economic and family background. This act of bullying has a significant negative impact on victims, both physically and psychologically.

Bullying can also arise from an individual's desire to gain popularity within their environment. Teenagers driven by the desire to be popular tend to try to control or demand that their peers achieve recognition and social status from their peers. This phenomenon is one

factor illustrating the causes of bullying in Indonesia. In addition to internal motivations from individuals, family factors can also be a major driver of bullying. A family environment that lacks support or provides appropriate social values education can influence adolescent behavior, making them more susceptible to bullying against peers (Zakiyah, Humaedi, & Santoso, 2017, pp. 129–389). A disharmonious family life can be a factor that encourages adolescents to engage in bullying. Adolescents who frequently witness their parents arguing or engaging in aggressive behavior tend to imitate these patterns in their interactions with others. Furthermore, a lack of parental attention and supervision can lead to behavioral disorders in children, leading them to become disruptive and prone to bullying against peers.

Rowland argues that the causes of bullying can be categorized into several factors, namely individual factors, family factors, socio-cultural factors, group influences, and school factors. Furthermore, other causes are complex, including a disharmonious family environment, less educational viewing, unwise use of social media, a less child-friendly community environment, and teachers who do not fully understand how to handle bullying behavior in schools. The role of teachers in addressing bullying varies widely. Research confirms that teachers play a strategic role in preventing and addressing bullying cases, especially at the elementary school level. Teachers can play a role by guiding, advising, directing, fostering, and providing good examples of behavior for students in the school environment (Junindra, Fitri, Desyandri, & Murni, 2022). Regarding bullying of children, the government has regulated this behavior in Law No. 35 of 2014 concerning Amendments to Law No. 23 of 2002 concerning Child Protection. This law stipulates that the central government, regional governments, and other state institutions have the obligation and responsibility to provide special protection for children, including children who are victims of physical or psychological violence. Psychological violence includes bullying. Furthermore, Article 1, point 16 of Law No. 35 of 2014 defines violence as any act against a child that results in physical, psychological, sexual suffering or misery, and/or neglect. Therefore, perpetrators of bullying can be subject to legal sanctions as stipulated in the law (Wibowo, 2019).

Based on Article 1 number 16 of Law No. 23 of 2002 concerning Child Protection, as amended by Law No. 35 of 2014 concerning Amendments to Law No. 23 of 2002 concerning Child Protection, violence is defined as “any act against a child that causes physical, psychological, sexual suffering or misery, and/or neglect, including threats, coercion, or unlawful deprivation of liberty.” Furthermore, Article 54 of the Child Protection Law regulates children's rights to protection from acts of violence in the school environment, with the provision that children who are in or around educational units have the right to receive protection from physical violence, psychological violence, sexual crimes, or other crimes committed by educators, education personnel, fellow students, and/or other parties. The protection as referred to in

paragraph (1) must be carried out by educators, education personnel, government officials, and/or the community. This provision emphasizes that every party involved in the provision of education has a legal responsibility to protect children from various forms of violence, including bullying, so that perpetrators can be subject to sanctions in accordance with the Child Protection Law.

Based on Article 1 point 15a of Law No. 35 of 2014 concerning Amendments to Law No. 23 of 2002 concerning Child Protection, violence is defined as any act against a child that results in physical, psychological, sexual suffering or misery, and/or neglect, including threats, coercion, or unlawful deprivation of liberty. In relation to the practice of bullying, Article 76C of the Child Protection Law stipulates that everyone is prohibited from placing, allowing, committing, ordering, or participating in violence against children. Violations of this provision are subject to sanctions in Article 80 of the Child Protection Law as follows:

- a. Any person who violates the provisions as referred to in Article 76C shall be punished with imprisonment for a maximum of 3 (three) years and 6 (six) months and/or a maximum fine of IDR 72,000,000.00 (seventy-two million rupiah).
- b. In the event that a child as referred to in paragraph (1) is seriously injured, the perpetrator shall be punished with a maximum prison sentence of 5 (five) years and/or a maximum fine of IDR 100,000,000.00 (one hundred million rupiah).
- c. In the event that the child as referred to in paragraph (2) dies, the perpetrator shall be punished with a maximum prison sentence of 15 (fifteen) years and/or a maximum fine of IDR 3,000,000,000.00 (three billion rupiah).
- d. The penalty is increased by 1/3 (one third) of the provisions as referred to in paragraph (1), paragraph (2) and paragraph (3) if the person who committed the abuse is the parent.

Thus, the practice of bullying falls under the category of violence against children, which can be subject to criminal sanctions in accordance with the provisions of the Child Protection Law, either in the form of imprisonment or fines, depending on the level of impact on the victim. Article 76B of Law No. 35 of 2014 concerning Child Protection prohibits anyone from placing, allowing, involving, or ordering children to be involved in mistreatment and neglect. Furthermore, Articles 77 and 77B stipulate that violations of Articles 76A and 76B can be subject to criminal sanctions in the form of imprisonment for a maximum of five years and/or a fine of up to IDR 100,000,000.00. These criminal provisions apply to all perpetrators of bullying, including perpetrators who are still minors. If the perpetrator is under 18 years of age, the applicable judicial process follows the provisions of Law No. 11 of 2012 concerning the Juvenile Criminal Justice System (UU SPPA). According to the general explanation of the Child Protection and Child Protection Law,

the main substance of this law emphasizes the application of the concepts of restorative justice and diversion, which aim to remove children from the formal justice process to prevent stigmatization. Through this mechanism, it is hoped that child perpetrators of crimes can reintegrate into the social environment properly and receive guidance appropriate to their rights and interests as children (Nugraha, 2023).

D. CONCLUSION

Acts of violence that occur in educational settings are often referred to as bullying. Bullying is aggressive behavior carried out repeatedly by perpetrators who feel they have power or superiority over the victim. These actions can take the form of physical, verbal, or emotional attacks aimed at harming the victim. Factors causing bullying among students generally originate from the family, social media, and the influence of peers or the surrounding environment. Additional factors that trigger bullying include ethnic differences, resistance to certain groups, differences in physical condition, and the family's economic and social background. Perpetrators of bullying against children can be subject to criminal sanctions or diversion mechanisms in accordance with the provisions of Law No. 35 of 2014 concerning Amendments to Law No. 23 of 2002 concerning Child Protection. Enforcing these sanctions not only provides a deterrent effect for perpetrators but also serves as a form of protection for other children to avoid bullying.

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