
Legal Protection Strategies for Underage Victims of Bullying and How to Prevent it in Elementary School Environments

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ARTICLE INFO

Article history:

DOI:

[10.30595/pssh.v14i.1034](https://doi.org/10.30595/pssh.v14i.1034)

Submitted:

June 08, 2023

Accepted:

September 29, 2023

Published:

November 16, 2023

Keywords:

Bullying, School bullying,
Violence

ABSTRACT

Bullying is a repeated negative behavior that intends to cause displeasure or pain by others, either one or several people directly against someone who is unable to resist it. Forms of behavioral deviations that occur in elementary school students are not only in the form of violence but also forms of aggressive behavior. In fact, things that are considered normal behavior by elementary school children are sometimes classified as behavioral deviations. Starting from just mocking their friends, hitting, pinching, and others. Teachers assume that school bullying behavior that occurs is a process of student development and there is no follow-up from teachers to overcome the problem of school bullying behavior that occurs in schools so that school bullying behavior occurs more often repeatedly due to the lack of response from teachers to school bullying behavior that occurs in the classroom and school environment. The purpose of this study is to determine the implementation of legal protection for underage victims of bullying in the elementary school environment and what obstacles affect it in terms of applicable laws and regulations. This research uses a juridical approach. The types and sources of data consisting of primary data sourced from the field, in the form of interviews and observations. Based on the results of research that has been conducted by the author, the research is analyzed using the empirical juridical approach method. From this research, it can be concluded that many educators do not know the regulations regarding bullying and there are no obstacles to schools to teach bullying actions so that many bullying activities occur in schools.

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I. INTRODUCTION

Elementary schools often experience bullying. Elementary School (SD) is the very bottom level of learning in official learning in Indonesia which has a role in the continuity of the next learning process. This is in accordance with the Regulation of the Minister of National Education No 23 of 2006 which reports that basic education aims to lay the foundations of intelligence, knowledge, character, noble character and skills for independent living, as well as exploring further learning. Based on the above quote, it is known that the purpose of basic education in Indonesia is to lay the foundation of intelligence, knowledge, character, noble character and skills in each child. Something basic can be likened to a foundation, where this foundation is what will later support and support everything that lies above it.

At this time some parents leave the whole matter of educating their children to the school because of the demands of the world of work which undeniably takes up a lot of the parents' time. Early learning is obtained from the family area. The formation of children's attitudes, traits and character begins in the family area. Each family practices different parenting patterns in educating their children¹

In essence, every child in the learning area has the right to protection from violence. This matter is emphasized in Article 9 paragraph (1a) of Law 35/2014 which states that every child has the right to obtain protection in education units from intimate crimes and violence committed by educators, education personnel, fellow student participants, and / or other parties.

Based on the above background, it can be formulated that in accordance with the Regulation of the Minister of National Education Number 23 of 2006 which reports that basic education aims to lay the foundation of intelligence, knowledge, personality, noble character, and skills to live independently, and follow further education.

This is confirmed in Article 9 paragraph (1a) of Law 35/2014 which states that every child has the right to protection in education units from sexual crimes and violence committed by educators, education personnel, fellow students, and/or other parties².

Therefore, in order to be clearer, this research has the aim of examining from a legal perspective whether bullying is an act of ordinary delinquency or a criminal offense that makes children have to litigate with the law and what sanctions can be given to a minor bully.

II. RESEARCH PROBLEMS

- A. How is the implementation of legal protection of underage victims against bullying in the elementary school environment, what is done and how is the implementation in accordance with the laws and regulations in force in the Republic of Indonesia?
- B. What obstacles are there in the implementation of legal protection of underage victims against bullying in the school environment?

III. RESEARCH METHODS

A. Type of Research

In writing this research, we will use a juridical approach.

B. Research Specifications

The research specification used is descriptive research, where this research aims to obtain a complete picture (description) of the state of positive law in society.

C. Method of Approach

The method of approach used in this research, namely the statutory approach (statue approach), a legal approach by examining the laws and regulations discussed, with the legal issues being addressed approach, the legal approach to informative legal research has many practical and academic applications.

¹ Putu Yulia Angga Dewi, "Perilaku *School Bullying* Pada Siswa Sekolah Dasar," *Jurnal Pendidikan Dasar* Vol. 10 No. 1 (2020): 40.

² Bernadetha Aurelia Oktavira, S.H., "Korban *Bullying* Bunuh Diri Bisakah Pelakunya Dipidana?," *Hukum Online*, Oktober 2022, <https://www.hukumonline.com/klinik/a/korban-bullying-bunuh-diri-bisakah-pelakunya-dipidana-1t60fd73e366cb3>

D. Research Data Sources

- Primary legal materials

Laws, rules, and other regulations relating to this issue are examples of primary legal content due to their binding nature. Referenced legal resources include:

1. The 1945 Constitution of the Republic of Indonesia;
2. The Criminal Code;
3. Law of the Republic of Indonesia Number 9 of 1998 concerning Freedom of Expression in Public;
4. Law of the Republic of Indonesia Number 39 of 1999 on Human Rights;
5. Law of the Republic of Indonesia Number 11 of 2008 on Electronic Information and Transactions;
6. Law of the Republic of Indonesia Number 35 of 2014 concerning amendments to Law Number 23 of 2012 concerning Child Protection.

- Secondary legal documents

The legal documents used are those related to the core legal documents referred to as secondary legal documents. Published papers that make up this secondary legal information include books or law journals. Which is related to the problems that the author examines.

E. Data Collection Method

The data collection technique in this research is carried out by interviewing several parties who are considered interested and have knowledge and experience about the resolution of criminal law by perpetrators of bullying against student victims of violence at school.

F. Data Analysis Method

The data analysis method used in this research is a qualitative method. Qualitative data analysis is an effort made by working with data, organizing data, sorting it into manageable units, synthesizing it, looking for and finding patterns, finding what is important and what is learned, and deciding what can be told to others.

IV. RESULT AND DISCUSSION

A. Bullying Observation from a Legal Perspective

Bullying is naturally more prevalent in the school environment and is perpetrated by teenagers or minors. The term bullying is very new in Indonesian vocabulary. In simple terms, Sejiwa Dena Haryana provides a definition of bullying as the use of authority or power to hurt one person or group so that the target of bullying feels hurt, or people so that the target of bullying feels persecuted, psychologically distressed, and not powerful in their life situation. The forms of bullying are divided into three namely³:

Table 1. Forms of Bullying Against Children

No	Physical	Verbal	Psychologica l
1	Hitting	Cursing	Intimidating
2	Slapping	Gossiping	Ostracizing
3	Bullying	Bullying	Ignoring

³ Regina Putri Pratiwi, Hubungan Perilaku Bullying Dengan Kemampuan Interaksi Sosial Siswa Kelas III SDN Minomartani 6 Sleman. Jurnal Fakultas Ilmu Pendidikan Universitas Negeri Yogyakarta, vol.5 no.2 2016, <http://journal.student.uny.ac.id/ojs/index.php/pgsd/article/view/415>

B. Juridical review of Law No. 23 of 2002 jo. Law Number 34 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection.

Bullying is an act of violence against children, so according to the Child Protection Law, Bullying can be subject to punishment in the form of imprisonment for a maximum of 3 years 6 months and / or a maximum fine of Rp. 72,000,000.⁴

Education and school factors are also factors that are no less important than family factors where schools are the second place of learning for children, the school environment is a place of scientific education for children, so the school environment is also responsible for what knowledge children get and the formation of children's character and the formation of children's character. At school children will interact with his friends, where the character of each child is different, can be among the children's friends that give positive or negative influences. friends of these children have a positive or negative influence in for example in negative associations, namely the existence of bullying practices or learning to steal or learning to steal and even learning to fight. Here the role of the teacher is very important for the development of children's character as school students.

The above description is reflected in the Constitution of the Republic of Indonesia Year 1945 in Article 28b paragraph (2) written that: *"Every child has the right to survival life, grow, and develop and have the right to protection from violence and discrimination". discrimination*". In addition, Law Number 35 of 2014 concerning amendment to Law No. 23 of 2002 on Child Protection written in Article 1 number (2), namely *"Child Protection is all activities to guarantee and protect children and their rights in order to live, grow, develop, and participate optimally in accordance with human dignity and participate optimally in accordance with the dignity of humanity, and receive protection from violence and discrimination"*.

The regulations set out above show that the protection of children is very important. Children is very important. In addition, this bullying phenomenon is closely related to child protection and children's rights to develop in their social environment, if bullying occurs and there is no action from the government, the rights of children to develop in their social environment will be violated. Bullying occurs and there is no action from the government, the rights of children to grow and develop will be hampered children to grow and develop will be hampered.

C. Theories of punishment

Legal certainty is a judicial protection against arbitrary actions, which means that a person will be able to obtain something that is expected in certain circumstances. Society hopes for legal certainty, because with legal certainty society will be more orderly and organized. Law functions to create legal certainty because it aims to create an orderly society. Conversely, society expects benefits in law enforcement⁵.

D. Sentencing of children before they reach puberty

Minderjarig is an expression used in the Criminal Code regarding the prosecution of a person who is not yet an adult or under 16 (sixteen) years old. If a person who is under the age of majority is brought before the court, the judge may order the guilty party to be returned to his/her parents or guardians. Order the guilty party to be returned to his/her parents or guardian, without being sentenced to parent or guardian, without any punishment or the child is handed over to the government and the crime has not passed 2 (two) years the government and the crime has not passed 2 years from the time the perpetrator was found guilty, this is confirmed. This is emphasized in Article 45 of the Criminal Code.

In terms of imposing punishment on individuals under the age of 16 (sixteen), Article 47 of the Criminal Code stipulates that the judge may impose maximum punishment. Article 47 of the Criminal Code stipulates that the judge may impose a maximum sentence of principal punishment which is reduced by one third. If the crime committed reaches the stage of stage of death or life imprisonment, then the judge is sufficient to impose a maximum of 15 (fifteen) maximum sentence of 15 (fifteen) years imprisonment. Additional punishment in KUHP cannot be imposed to juvenile offenders who are 12 (twelve) years old.

⁴ Cevonie M. Susan Kezia Valerrie Siahaya, Harly Stanly Muaja, Ngantung, "PENEGAKAN HUKUM TERHADAP PELAKU PENINDASAN ATAU BULLYING DI SEKOLAH," *Lex Crimen* x, no. 3 (2021): 237.

⁵ Hasaziduhu Moho, "Penegakan Hukum Di Indonesia Menurut Aspek Kepastian Hukum, Keadilan, Dan Kemanfaatan," *Universitas Dharmawangsa* 13, no. 1 (2019): 138-149.

Unlike the case with children under the age of 12 (twelve) more precisely children aged 8 (eight) years, who commit criminal acts cannot yet be tried in a juvenile court. This is influenced by sociological, psychological, and pedagogical factors⁶. Children who are not yet 8 (eight) years old are still questionable his responsibility in his actions. If the child is already 8 (eight) years of age or older can be submitted to the juvenile court. The age limit that can be tried in juvenile court is a maximum of 18 (eighteen) years old.

E. Conflict of Laws and Countermeasures for Child Bullying

The term juvenile delinquency or bullying was used as a category of problem children before the birth of state regulations on child protection in 2002, this category of bullying / juvenile delinquency refers to Law Number 3 of 1997 concerning Juvenile Courts. After the enactment of the Child Protection Law, the term child delinquency was changed, namely as a child in conflict with the law or can be abbreviated as ABH (children in conflict with the law), and currently in the provisions of the juvenile justice system. the term child in conflict with the law is used in the provisions of Article 1 paragraph (2) of law Number 11 of 2012.

One of the characteristics of a delinquent child in the perspective of the view of the law is that it has the characteristics of a child who commits a criminal offense or commits an act prohibited by state regulations, this is confirmed in the rules regarding juvenile courts, namely Law Number 3 of 1997, but after the change from the juvenile court law to the law on the juvenile justice system, namely Law Number 11 of 2012, then the definition of a child as a delinquent is the definition of a juvenile.

law Number 11 of 2012, the definition of a delinquent child was changed to a child's conflict with the law. In general, the definition of a delinquent child is very much because there are things that are considered harmless delinquency of a child. But what happens if a delinquency results in the loss of a person's life. This is the focus of the provisions in the state regulations regarding the protection and juvenile justice system in Indonesia. Indonesia.

V. CONCLUSION

Based on the results of legal studies and discussions regarding bullying actions seen from the existing legal rules can be concluded as follows:

Bullying is a form of pressure carried out by minors against their friends of the same age. against their friends of the same age, where the action is carried out either physically, verbally, or psychologically. physical, verbal, or psychological. The practice of bullying that befalls a child is an example of excessive delinquency and an act that is and also an act that takes away the rights to the development of a child. With the existence of rules that classify the sovereignty of children's rights such as in the 1945 Constitution of the Republic of Indonesia Article 28b paragraph (2) and Law Number 35 Year (2) and Law No. 35 of 2014 concerning Child Protection, then if the sovereignty of a child's rights is violated, the child's rights will be violated the sovereignty of a child's rights is violated, then it is an act that is against the law, including one of them, namely bullying. so bullying is not an ordinary act of child delinquency but a criminal offense.

Bullying falls into the category of children in conflict with the law. Therefore, legal action that can be imposed on children who perpetrate bullying can be subject to basic punishment in the rules of the juvenile justice system in the form of providing warning, conditional punishment, providing job training to children, coaching, and juvenile imprisonment.

⁶ Hutahaean, B. (2013). Penerapan Sanksi Pidana Bagi Pelaku Tindak Pidana Anak. *Jurnal Yudisial*, 6(1), 72.

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