

Legal Analysis of Legal Protection for Children As Victims of Bullying

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Abstract

The phenomenon of bullying against children is a form of violence that has serious impacts on the physical, psychological, and social development of children. Legal protection for children as victims of bullying is crucial to ensure the fulfillment of children's rights as stipulated in Law Number 35 of 2014 concerning Child Protection. This discussion will further analyze legal protection for children as victims of bullying from a legal perspective, both at the normative and implementation levels. The approach used is a normative legal approach by examining laws and regulations related to child protection and the application of criminal law to perpetrators of bullying. The discussion concludes that legal protection for children as victims of bullying is not only repressive through legal proceedings against the perpetrators, but must also include preventive and rehabilitative aspects for victims. The government, together with law enforcement agencies and educational institutions, has a major responsibility in building a child protection system. However, various obstacles remain, such as weak law enforcement, a lack of public understanding, and minimal psychological support for victims. Therefore, synergy between families, schools, and the government is needed to create a safe and child-friendly environment and firmly enforce the law against perpetrators of bullying to provide a deterrent effect and protect the dignity of children as the nation's future generation.

Keywords: Legal Protection, Children, Victims, and Bullying

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Introduction

Child bullying is increasingly under scrutiny in protecting children's rights due to the physical, psychological, and social impacts that can disrupt their growth and development. In educational settings, bullying often occurs covertly or is considered commonplace by the school and community. For example, the case of a student with the initials MH (13) at SMPN 19, South Tangerang City, who was the victim of bullying, resulting in physical injuries and hospitalization. This case illustrates the urgency of protecting children who are victims of bullying.

The bullying case, which occurred on November 11, 2025, at SMPN 19, South Tangerang City, involved elements of violence, resulting in the victim sustaining serious physical injuries and severe trauma. The student, MH (13 years old), is suspected of being the victim of bullying by a peer at school. The victim was hit by a classmate with a bench, and as a result of this action, his physical condition deteriorated to the point of weakness and inability to perform activities. Even though the handling of bullying cases involves underage perpetrators, legal proceedings can still be carried out in accordance with Article 59 A of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System.

The phenomenon of bullying against children is not a one-off occurrence; it has emerged in numerous cases that require serious attention from the legal system and child protection advocates. Another example is the bullying incident at SMPN 3 Doko Blitar, East Java, where a seventh-grade freshman with the initials WV (12) was attacked by dozens of other students during a Community Service (MPLS) activity. These cases demonstrate that educational environments can be vulnerable to bullying, with children becoming victims.

Legally, the protection of children as victims of bullying is regulated by regulations, including Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection. Article 1, number (2) states that "Child Protection is all activities to guarantee and protect children and their rights so that they can live, grow, develop, and participate optimally in accordance with human dignity and honor, and receive protection from violence and discrimination." Therefore, children as victims of bullying have the right to legal protection.

The regulation emphasizes that children in educational settings must receive protection from physical and psychological violence, sexual violence, and other crimes perpetrated by educators, education personnel, fellow students, and/or other parties.[1] However, the reality is that the implementation of this legal protection still faces significant obstacles. This raises important questions about the effectiveness of the legal and social protection systems in addressing cases of child victims of bullying.

The impact of bullying on child victims is widespread and can be long-lasting. Children who are victims of bullying are much more likely to experience emotional and behavioral problems, sleep disorders, depression, and even suicidal thoughts.[2] This phenomenon emphasizes that bullying is not merely a casual experience for children, but a serious violation of children's rights that requires legal action.

From a criminal law perspective, elements of bullying can be linked to the crime of violence against children as stipulated in Law Number 35 of 2014, specifically Article 76C, which states that everyone is prohibited from placing, allowing, committing, ordering, or participating in violence against children. Criminal sanctions for perpetrators of bullying are also stipulated, namely a maximum imprisonment of 3 years and 6 months and/or a maximum fine of IDR 72 million. Based on this foundation, legal protection for child victims of bullying is based on strong normative legal provisions.

However, there is a gap between regulations and case management practices. For example, in the case of bullying in a Blora Middle School bathroom, 33 students were involved and summoned by the police, yet the enforcement process and victim recovery have not been consistent. This situation indicates that legal protection for child victims of bullying is not optimal in terms of reporting, handling, recovery, and social reintegration.

Protection for children as victims of bullying requires collaboration and coordination between various parties: the state, local governments, educational institutions, families, and the community. Law Number 35 of 2014 emphasizes that the state, government, local governments, communities, families, and parents or guardians are responsible for implementing child protection. Therefore, the legal protection approach cannot rely solely on the police or the judiciary but must be complemented by education, prevention, and rehabilitation.[3]

From a juridical-normative perspective, the protection of children as victims of bullying can also be seen through the principle of the best interests of the child, which is the basis of international and national children's law. In its implementation, it is crucial that victims of bullying receive recognition of their rights to recovery, psychosocial support, and safe reintegration into the social environment, and that the juvenile justice system treats victims with sensitivity to the child's age.

However, bullying victims are often placed in a "silent" or "submissive" position due to pressure from the school environment or a culture that normalizes bullying. This situation poses a risk that child victims do not receive full protection from the legal and social systems. For example, in the case of SMPN 3 Doko Blitar, the failure of the school's supervisory system was a major factor in the emergence of bullying. This situation reinforces the need for legal protection for child victims to be accompanied by strengthening facilities and mechanisms within the school environment.[4]

Another legal aspect is that victims of bullying also have the right to seek civil compensation for the physical, psychological, and social losses they experience. Perpetrators of bullying can be held criminally liable for both civil and criminal offenses, although the application of civil law in cases of child bullying within the school environment is still limited. Therefore, a legal analysis of legal protection for child victims of bullying must encompass criminal, civil, and administrative aspects.

Thus, legal protection for children as victims of bullying is crucial in order to understand the strength of the law, weaknesses in its implementation, and recommendations for improvement. From existing regulations to cases that occur, strategies need to be developed to strengthen the fulfillment of victims' rights, the handling of perpetrators, and an integrated prevention and recovery system.

Research Methodology

The type of research used in this study is normative legal research. Normative legal research focuses on applicable positive legal norms, legal principles, and legal doctrines relevant to the subject matter.[5] This research focuses on legal regulations governing the protection of children as victims of bullying, both those stipulated in national legislation and international legal instruments ratified by Indonesia.[6]

This normative legal research aims to examine the law on the books, namely,[7] to examine how written legal provisions regulate the protection of child victims of bullying, and the extent to which these regulations provide legal certainty, justice, and benefits for victims. This approach is used to examine the alignment of positive legal norms with the principles of child protection as stipulated in Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, as well as other instruments such as the 1989 Convention on the Rights of the Child.

This research is descriptive-analytical in nature, namely, describing in detail and systematically the legal provisions governing the protection of child victims of bullying, then analyzing them in depth to determine their application and effectiveness. Descriptive-analytical research serves to provide a comprehensive picture of the state of positive law, the implementation of norms in practice, and possible gaps between normative law and its implementation in the field.[8]

Thus, this research goes beyond simply explaining existing laws and regulations, but also attempts to analyze the relationship between legal norms and social reality, particularly in the protection of child victims of bullying, which frequently occurs in schools and the community.

Through its descriptive and analytical nature, this research is expected to provide a comprehensive understanding of the legal remedies that have been regulated and recommendations for addressing deficiencies that still need to be addressed in the child protection system in Indonesia.[9]

Data analysis in this normative legal research was conducted using qualitative analysis methods.[10] The data obtained, including primary, secondary, and tertiary legal materials, will be analyzed qualitatively to produce logical, systematic, and consistent legal arguments. Qualitative analysis is conducted by interpreting laws and regulations, legal principles, and legal doctrines related to the protection of child victims of bullying, then connecting these to relevant factual cases.

The analysis process is conducted through the stages of positive legal inventory, legal interpretation, and legal construction.[11] The inventory stage is carried out by identifying all relevant provisions; the interpretation stage is used to understand the meaning and intent of a legal norm; and the construction stage is used to develop new legal arguments that can address the problem of protecting child victims of bullying. Through this method, it is hoped that the research will make a tangible contribution to the development of legal science and the implementation of legal protection for children.

Results Legal Analysis of Legal Protection for Children as Victims of Bullying

From a social science perspective, crime is defined as a social phenomenon arising from structural injustice or a manifestation of diverse human behavior, which is a reaction to the socioeconomic conditions of an individual or social group. Regardless of origin, people in economically disadvantaged circumstances and facing pressing needs, coupled with a lack of faith, tend to think short-sightedly. They will arguably justify any means to meet their needs.[12]

In criminal law, criminalization is discussed as part of criminal policy. Criminal policy, which is the state's efforts to combat crime, is essentially an integral part of community protection efforts aimed at achieving social welfare.[13]

The Indonesian criminal law system has entered a new phase in its development. One form of reform within Indonesian criminal law is the regulation of criminal law from the perspective and achievement of justice, focusing on the improvement and restoration of conditions after an incident and the criminal justice process. This is known as restorative justice, which differs from retributive justice (which emphasizes justice in retribution) and retributive justice (which emphasizes justice in compensation).[14]

The draft Criminal Code (RUU KUHP) represents a material reform of criminal law. This reform is an effort to realize the ideals of the law. Therefore, it can be said that the RUU KUHP is a manifestation of the Indonesian character. The orientation of legal reform is not merely to improve the law, but to replace it with a better one. Therefore, the RUU KUHP not only makes changes deemed necessary to break away from the legal paradigm inherited from colonial times. Legal reform can serve as a basis for determining the direction of national character formation. The form of legal reform represents a real condition moving towards an ideal state. Therefore, the RUU KUHP is a method for planned social and cultural transformation. The principle of restorative justice accommodated in the Draft Criminal Code can be seen in the provisions of several articles, including Article 2, Article 12, Article 54 and Article 55.[15]

Regulations related to the protection of children as victims of bullying include Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection (Law No. 35 of 2014), which contains articles prohibiting violence against children, including that perpetrated by fellow students. For example, Article 76C states that everyone is prohibited from placing, allowing, committing, ordering, or participating in violence against children. This regulation normatively provides the basis for child victims of bullying having the right to legal protection.

Furthermore, the application of criminal law to perpetrators of bullying still faces obstacles. For example, in cases of bullying against children, the perpetrator can be subject to criminal sanctions under Article 76C of Law No. 35 of 2014. However, many cases ultimately do not proceed to criminal proceedings or only receive internal administrative sanctions at school, thus preventing the victim's right to legal justice.[16]

A case that illustrates the gap between norms and practice is when a junior high school student in Jakarta was physically bullied by his peers, but the legal process was not pursued optimally because it was deemed a "student-to-student problem." This situation demonstrates that schools and law enforcement often view bullying as normal or part of a child's "maturity," even though it is legally a violation of the victim's rights.[17]

In terms of social protection and victim recovery, regulations also require that children as victims of violence have the right to physical, psychological, and social recovery. However, in many practices, psychological support for victims is inadequately provided in schools or in local areas. Victims of bullying often experience prolonged trauma, sleep disturbances, or even suicidal thoughts, yet recovery mechanisms are not well-structured.

School environments are vulnerable to bullying. Although Minister of Education and Culture Regulation No. 82 of 2015 concerning the Prevention and Handling of Violence in Educational Units requires schools to have mechanisms for preventing and reporting violence, many schools lack a clear system or professional support. As a result, prevention and early response efforts are inadequate, further increasing the burden on victims.[18]

Children deserve full protection, but school and community cultures that normalize bullying create barriers to reporting. For example, victims or witnesses are often reluctant to report for fear of being judged by peers or school officials, or because it is considered "excessive" if brought to justice. This situation requires synergy between regulations, school institutions, and the community.

Recent cases demonstrate that bullying is no longer limited to physical spaces but has spread online (cyberbullying), requiring additional regulations, such as Law Number 19 of 2016 concerning Electronic Information and Transactions (ITE Law), to protect children as victims of insults, defamation, or intimidation via electronic media. While these regulations allow for handling, their implementation in children's environments remains limited, necessitating adjustments to the legal protection system.

Furthermore, providing legal protection to children as victims of bullying requires restoration and fostering good relationships between both the perpetrator and the victim. This is adjusted based on the severity of the perpetrator's actions and the victim's consent to resolve the matter through deliberation based on restorative justice.

Restorative justice is a resolution process conducted outside the criminal justice system, involving the victim, the perpetrator, the victim's family, the perpetrator, the community, and other stakeholders involved in a criminal act to reach an agreement and resolution. Restorative justice is a fair resolution involving the perpetrator, the victim, their family, and other noncriminal parties, working together to resolve the crime and its consequences, prioritizing restoration over retribution.[19]

The rationale and need for implementing alternative dispute resolution include guilt and remorse on the part of the perpetrator, followed by an agreement to reach a settlement between the perpetrator and the victim. Therefore, reasons for expungement of criminal penalties can generally be divided into two types: justification, which relates to the act, and forgiveness, which relates to the individual's or perpetrator's mental state.[20]

The reasons for parties to resolve disputes through deliberation or non-litigation are as a means or alternative to reaching consensus or deliberation, which is considered effective and efficient and produces a win-win solution for all parties. Whereas resolution through litigation or courts has both winners and losers, resulting in unsatisfactory decisions for the losing party.[21]

Conclusion

The legal framework has provided a strong foundation for protecting children from all forms of violence, including bullying. This is stipulated in Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, which affirms that every child has the right to protection from physical and psychological violence. Therefore, bullying that causes suffering to children must be considered a violation of children's human rights and not simply ordinary deviant behavior.

Many cases of bullying in schools are not prosecuted but are resolved through internal mediation, which often favors the victim. This demonstrates the continued lack of awareness among law enforcement officials and educational institutions regarding the urgency of legal protection for children. As a result, child victims' rights to a sense of security and recovery from trauma are often ignored.

Every act of bullying fulfills the elements of a violation as stipulated in Article 76C of Law No. 35 of 2014, which prohibits violence against children, and perpetrators can be sentenced to a maximum of three years and six months in prison and a maximum fine of seventy-two million rupiah. However, because most perpetrators are also children, the legal system is obliged to apply the principle of diversion and a restorative justice approach in accordance with the provisions of the Child Protection and Child Protection Act. Thus, justice does not only focus on punishment, but also on restoring the victim's condition.

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