

Bullying as A Criminal Act in the Perspective of Criminal Law in Indonesia

Ratri Novita Erdianti^{1*}, Isdian Anggraeny²

^{1,2} Law Faculty, Universitas Muhammadiyah Malang, Malang, Indonesia

*Corresponding author. Email: ratri@umm.ac.id

ABSTRACT

Juvenile delinquency is a dangerous condition for children as the nation's successors. One of the harmful forms of juvenile delinquency is bullying. The dangers of bullying can befall the victims from a mockery that is considered normal in the association of children in general to a fatal error for the Child's soul. Of course, this has a social impact that requires State intervention to provide protection. Therefore, with the normative research method, the researcher wants to examine the forms of bullying and the construction of bullying laws in criminal law in Indonesia. Based on criminal law in Indonesia, bullying is a criminal act that can be held criminally responsible. This is regulated in the KUP, the Child Protection Act, and the ITE Law.

Keywords: *bullying, crime, criminal law.*

1. INTRODUCTION

Children are the next generation of the nation who need the protection of their rights[1], so that in this case, a child should be avoided from all kinds of dangerous conditions. One of the conditions that are harmful to children as the future generation is juvenile delinquency(juvenileDelikuen).[2] If you look at the current conditions, one of the dangerous forms of juvenile delinquency is bullying.[3] One example commendable act of bullying or harassment against children re-occur and is viral in the social media universe. A child was bullied completely by being thrown into a puddle of water until he was carried on a motorbike without being given a seat. In the viral video, it appears that a child who was later identified with the initials Eg, from Citeureup, Bogor, West Java, received inappropriate treatment. At that time, he was seen with a teenage boy who was fishing. By the teenager, Eg was thrown into a puddle. After having managed to get out of the pool, Eg was again chased by one of the teenagers. After being chased, Eg was picked up and thrown back into the puddle. The Child seemed to be struggling. But what power, the little boy could not do much. In another video, the little boy is also seen riding an automatic motorbike. But as if to play tricks, the Child was not given a place in the motorcycle seat. He was forced to hang from the driver's shirt while the motorbike was moving.[4] This case is an example of the many bullying that occurs in children/adolescents today, which requires handling and mitigation from related parties to be able to prevent children from growing and developing conditions of a child.

From the case above, it can be concluded how dangerous the impact of bullying can be on its victims, from a mockery that is considered normal in the

association of children in general to a fatal error for the Child's soul. Bullying is usually done in schools that children can do to their friends. In the case of bullying, which party can be blamed or which party can be held responsible. For some cases of mild bullying that did not cause loss of life, it might be considered light by the school and the perpetrators, but not for the victims who experienced the impact of the bullying. Bullying, which is initially just a joke, can potentially become a psychological attack to a more severe form of physical aggression.[5] Children who are domiciled as students or students have the right to get a proper and quality education by the mandate of the legislation. The rights in question are not only limited to teaching but also to legal protection while in the school environment. Legal protection in question is legal protection from all forms of violence, both physical, sexual, and psychological violence. Legal protection for students is needed to ensure the continuity of the teaching and learning process.[6] The formulation of the problem that will be studied in this study is about how bullying and the construction of bullying laws in criminal law in Indonesia are.

2. METHODS

This study uses a normative juridical method [7]. The approach used in this study, namely: legislation, grammatical, and conceptual.[8] Based on this approach, several primary legal materials and secondary legal materials are used.[9] Primary legal materials used are laws and regulations that are relevant to the object of study. While the secondary legal materials used are books, journals, and other sources that contain explanations related to the object of study, these materials are used to find answers to the legal issues raised. Technical analysis of legal materials using

descriptive, evaluative, and argumentative techniques.[9]

3. DISCUSSION

The impact caused by acts of bullying is vast in scope. The risk posed by bullying is that it makes victims of bullying experience various physical and mental health problems.[10] There are cognitive problems that are often suffered by victims of bullying, including depression, anxiety, and inability to/sleep calmly, which carry over into adulthood. In addition, there were physical health complaints among the victims, such as headaches, stomachaches, insecurity, and discomfort at school. Even the worst impact is a decrease in the spirit of learning and the victim's achievement in school. [11]

The issue of bullying is still a topic that is always hot to talk about; this is because there are still many cases of bullying that occur in the community, mainly affecting children. Data in 2016-2020 was released by the Ministry of Women's Empowerment and Child Protection (Kemen-PPPA). There are 40% of students aged 13 to 15 years recorded as having been victims of physical violence by their peers. Furthermore, 75% of students were recorded as perpetrators of violence in schools. Some 50% of students have experienced bullying in their schools.[12]

Bullying or bullying itself is an activity of abuse of power or 'strength' that aims to hurt another person in the form of physical, psychological, or verbal. The victim will often feel pain, depression, or trapped in despair. Bullying is a form of violence in mental and physical coercion against parties considered weaker by the perpetrator.[13] The perpetrator of a bully, who is usually called a bully[13] can be a person. It can also be a group of people, and they perceive themselves as having the power to do anything to their victims. Victims also perceive themselves as weak, helpless and always feel threatened by bullies. In this case, most perpetrators think they have a higher or 'stronger' position than the victim.

Bullying can be grouped into 6 (six) categories:[14]

1. Direct physical contact. This physical contact is an action that uses physical to others such as beating, pushing others, biting, grabbing, kicking, locking someone in a room, and other behaviors that physically hurt other people. Even to the conduct of extortion and destruction of goods owned by others.
2. Direct verbal contact. Threatening, humiliating, demeaning, annoying, name-calling, sarcasm, put-downs, criticizing, intimidating, cursing, spreading gossip.
3. Direct non-verbal behavior. Direct non-verbal behavior is a physical action taken by the perpetrator to hurt the psyche of others, such as: looking at other people cynically, sticking out the tongue at others, looking down on others, and

threats that are usually accompanied by physical or verbal bullying.

4. Indirect non-verbal behavior act of silencing someone, manipulating friendships so that they become fractured, intentionally ostracizing or ignoring, sending anonymous letters.
5. Cyber Bullying The act of hurting others through electronic media (video recordings of intimidation, defamation through social media).
6. Sexual harassment. It is also considered an act of bullying, so that acts of harassment are categorized as physical or verbal aggression.

If examined further, bullying is an action where the community can take legal efforts to solve it. The term bullying is a term that exists in a society where the act can be categorized as a criminal act. Given the various forms of bullying, bullying will be classified as a crime by outlining the conditions of its actions linked to related criminal acts. *Bullying* is an action or series of adverse actions that are often aggressive and manipulative[15], perpetrated by one or more people against another person or persons over a period, containing violence, and involving an imbalance of power. Perpetrators usually steal opportunities to carry out their actions and intend to make other people feel uncomfortable/disturbed. At the same time, victims usually also realize that this action will happen to them repeatedly.

Looking at how *bullying* is done, some regulations protect victims of bullying, especially children. The crime of bullying can be included in various rules that already exist in criminal law in Indonesia, which is in the Criminal Code (KUHP). Regulating the crime of bullying is stated on Persecution which is held in articles 351 to 355 of the Criminal Code. In Persecution, the elements contained in it are an act that is intentionally carried out to cause pain, injury, and discomfort to the body.

In bullying, there are acts of violence on the body that meet the elements of a crime by giving pain and injury to a person's body. In addition to Persecution, the following form of bullying can also be categorized as an act of humiliation as regulated in Article 310 Paragraphs (1) and (2) of the Criminal Code. There is also legal protection for child victims of bullying according to Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection (Child Protection Law). Providing criminal penalties for perpetrators of violence against children is contained in Article 80 Paragraph (1), (2), (3), and (4). Legal protection for child victims of bullying according to Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions (UU ITE). It has regulated acts of violence through information media and social media, especially for cyberbullying perpetrators. This law applies prohibitions and criminal sanctions contained in

particular Article 27 paragraphs (1), (3), and (4) (UU ITE).

Article 76C of Law Number 35 of 2014, which is an amendment to Law Number 23 of 2002 concerning Child Protection, has stipulated that everyone is not allowed to be involved in any form of violence against children, regardless of its form. Furthermore, Article 80 of the Child Protection Law has regulated sanctions against perpetrators of violating Article 76 C with a maximum imprisonment of 3 (three) years and 6 (six) months and/or a maximum fine of Rp. 72,000,000.00 (seventy two million rupiah). However, the punishment will increase if the child as the victim is seriously injured. The prison sentence imposed is a maximum of 5 (five) years and/or a maximum fine of Rp. 100,000,000.00 (one hundred million rupiahs), as stipulated in Article 80 Paragraph (2) of the Child Protection Law. The punishment will increase if the victim (child) dies, namely imprisonment for a maximum of 15 (fifteen) years and a fine of a maximum of Rp. 3,000,000,000.00 (three billion rupiahs), as stipulated in Article 80 Paragraph (3) of the Law. Child protection. Furthermore, if the perpetrator is the victim's parent (child) then the criminal penalty is added to a third of the provisions stipulated in Article 80 paragraph (1)-(3) of the Child Protection Law.

The article is a regulation of violence against children, which is regulated in a lex specialist manner that can be charged to perpetrators. In addition to the Child Protection Act, the Criminal Code can also basically be accused of bullying perpetrators, but we need to look in more detail at what forms of bullying are done to victims.

4. CONCLUSION

Basically, bullying is an act that can be in the form of physical violence, psychological violence that is carried out verbally either directly, or violence committed in cyberspace. These actions can be categorized as criminal acts that can be held criminally responsible. This is regulated in the KUP, the Child Protection Act, and the ITE Law.

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