



Legal Protection Against Victims of Bullying (Analysis of Law Number 35 Of 2014, Constraints, and Ideal Concepts)

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ABSTRACT

Bullying is a phenomenon that harms many individuals at various levels of society. In the context of legal protection, Law Number 35 of 2014 has been enacted as a measure to provide protection to victims of bullying. However, the implementation of this law still faces a number of obstacles that affect the effectiveness of legal protection for victims of bullying. Therefore, this study aims to analyze the legal protection given to victims of bullying based on Law Number 35 of 2014, identify the obstacles that affect this legal protection, and explore ideal concepts in increasing legal protection for victims of bullying. This study uses document analysis and literature review methods to collect relevant data. The results of the analysis show that Law Number 35 of 2014 provides an important legal basis for protecting victims of bullying. This law regulates the definition of bullying, school responsibilities, procedures for handling bullying cases, and sanctions given to perpetrators of bullying. However, the implementation of this law is still faced with a number of obstacles that hinder its effectiveness. Some of the obstacles identified include the lack of public awareness about the importance of reporting bullying cases, limited resources and training for those involved in handling bullying cases, as well as the expansion of forms of bullying in cyberspace that are difficult to legally address. To increase legal protection for victims of bullying, an ideal concept needs to be developed. This ideal concept includes a holistic approach that involves the active role of various parties, including schools, families, communities, and government. Within this ideal concept, it is important to increase public awareness about the negative effects of bullying, improve skills in identifying and handling bullying cases for related parties, and develop cross-sectoral cooperation in overcoming bullying in various environments, both offline and online.

Keywords: Legal Protection, Bullying Victims, Law Number 35 of 2014

Background

Children should be protected. This is because children are the successors of the nation in the future. So it is fitting that children's rights are considered. Witanto stated that children are individuals who continue the lineage of the family, nation and state. Thus, it can be said that children are the ones who carry forward the hopes of society and human resources when the national expansion is in the future. In Article 1 Paragraph 1 of Law no. 23 of 2002 concerning child protection states that, "A child is a minor if he is less than 18 years of age. Then, it is stated in the Civil Code, the age of a child is when he is 20 years and under and not yet married. Meanwhile, Article 45 of the Criminal Code states that the age of a child is 15 years and under. Meanwhile, based on the SPPA Law, children are children who have controversies and are aged between 12 and 18 years.

As a result of the limitations of a child, children also have rights that must be fulfilled. In the 1945 Constitution it is stated that, "Each child has the right to have a continuous life, the right to survival, progress in life, and grow." Based on Law Number 23 of 2002 concerning child protection, children's rights have been included, which include the right to live life, progress in life, develop, and participate optimally based on the dignity of position and human capacity. Children's rights are also stated in Articles 4 to 18 of Law Number 35 of 2014 concerning child protection. Maghfira concluded that children's rights include freedom from discrimination, attention to their interests, and the child's right to live and get protection from the state, government, community, and family. Meanwhile, according to Ulum, children's rights include the right to be protected physically, mentally, spiritually, and the right to live in society.

Children's personality is formed from the surrounding environment. So that if the environment is good, the child will have the potential to have a good personality too. And vice versa. So, it can be said that there are children who behave well and there are also children who behave badly. One of the bad behaviors that today plunges many children is bullying. Bullying is an action that aims to hurt people who are weaker which can have a lifelong negative effect on the victim. Other terms of bullying include persecution, bullying, torture, discrimination, oppression, and intimidation. In addition, other bullying behaviors can be in the form of hitting, butting, bullying, and so on.

Based on these definitions, of course this bullying behavior should not be ignored. This is because the act of bullying has the potential to have an effect or a negative effect on the victim. The impact of bullying on victims can result in victims feeling insecure, feeling alienated, low self-esteem, depression,

and can even lead to suicide. Especially if the victim is a minor who is still immature psychologically and emotionally. Based on research conducted by Erlina Harahap and Nor Mita Ika Saputra, children who are victims of bullying tend to withdraw from social situations due to a sense of trauma. In addition, the victim feels inferior. The impact received by an adult woman who experienced bullying when she was a teenager is feeling excessive anxiety, avoiding the environment, and always feeling hopeless.

One of the rights of children is to get an education. So that the fulfillment of this right is carried out by sending children to school. But in reality, the school environment can be a scary environment for children, especially for victims of bullying. It is written in the data from the Indonesian Child Protection Commission (KPAI) that there were 2437 reports of cases of bullying in the school environment and cyberbullying during 2011-2019. According to KPAI data in May 2018, 22.4% or 36 cases of children were victims of bullying. KPAI stated that there were 119 cases of bullying in children in 2020. This data shows an increase of 30-60 cases from previous years. Then in 2016-2020, based on KPAI data there were 480 reports of children falling prey to bullying behavior in educational institutions. The case of bullying that recently occurred and went viral on social media in July 2022, namely a case of bullying that befell a child in Tasikmalaya who was only 11 years old. The child was forced to have sex with the cat by his friends which resulted in depression which led to the victim's death.

Regarding this bullying or harassment, several positive laws have regulated this behavior. Verbal bullying such as insulting, criticizing, has been regulated in Article 310 of the Criminal Code. Bullying in cyberspace (cyberbullying) has been regulated in the ITE Law. Meanwhile, physical harassment, such as persecution, has been regulated in Article 351-Article 358 of the Criminal Code. Based on these articles, the sanction for acts of persecution is imprisonment.

Based on the explanations in the previous paragraphs, it is appropriate to pay more attention to the problem of bullying which is increasingly common in the school environment. It is necessary to pay attention to the enforcement of bullying problems in Indonesia, especially those that occur in school environments where perpetrators are underage. Then, the welfare of victims of bullying deserves attention.

Formulation of the problem

This study aims to examine legal protection for victims of bullying according to Law Number 35 of 2014, analyze the constraints that affect the effectiveness of this legal protection, and formulate the ideal concept of legal protection for victims of bullying.

Research methods

This study uses a literature approach and law analysis as the main method in studying legal protection for victims of bullying. The library approach is carried out by collecting and analyzing various relevant sources of literature, such as scientific journals, books, articles and related legal documents. These sources are used to obtain a comprehensive understanding of legal protection for victims of bullying in accordance with Law Number 35 of 2014. Furthermore, law analysis is carried out to understand in detail the provisions related to legal protection for victims of bullying in Law Number 35 of 2014. This analysis includes identification of the definition of bullying, school responsibilities, procedures for handling bullying cases, and sanctions given to perpetrators of bullying. Through analysis of the law, it is hoped that it can be assessed to what extent legal protection is given to victims of bullying in the context of existing regulations.

In conducting this research, it is important to find reliable and accurate sources of literature, including scientific journals published by institutions or researchers who have expertise in law and psychology. The data obtained from these sources will then be critically analyzed and synthesized to provide a comprehensive understanding of legal protection for victims of bullying according to Law Number 35 of 2014.

Discussion

Based on Law Number 35 of 2014 in Article 76C regarding Child Protection it is written that no one person may commit, allow, and participate in violence against children. So it is appropriate that bullying which is included in violence against children is not allowed to happen, especially in the school environment. Based on the Ministerial Regulation Article 1 Paragraph 1 it is explained that violence is an act that includes physical, psychological, sexual, and violence through cyberspace (cyberbullying). Based on the procedural principle, victims of bullying have the right to voice their opinions, to tell about the events they experienced in the judicial process. It is hoped that the involvement of the victim's child can restore his self-confidence which has receded due to the bullying that befell him. Meanwhile, based on the principle of the service model, victims are entitled to compensation. Based on this principle, children who are victims of bullying have the right to get services to restore their condition to normal.

Before a child becomes a victim, his welfare should be protected. This is because the child is a successor to the nation's generation, which will build civilization in the future. The state, parents, families and communities should work together to protect the welfare of children. In Law Number 35 of 2014 concerning Child Protection, this has also been explained. That it is appropriate for all parties to provide protection for children's rights. This protection includes physical, psychological, spiritual and social protection. This protection is described in Article 73A of the Child Protection Law which states that the government and related institutions are obliged to coordinate child protection. This coordination is carried out by monitoring, evaluating and reporting on the implementation of child protection. Furthermore, based on Article 74 of Law Number 35 of 2014 concerning Child Protection it is stated that in order for child protection to work effectively, an institution was created, namely the Child Protection Commission.

Victims of bullying in the school environment experience obstacles in their social development. This is because of his trauma so he decided to stay away from his social environment. In addition, the victim became a coward and could not concentrate during class. Priyatna stated that victims of bullying have the potential to experience anxiety, inferiority, feel alienated, decrease academic grades, consume illegal drugs, and can lead to suicide. Another impact is that victims don't want to socialize, worry about being considered unfavorable, and become shy. Victims of bullying will experience unnatural anxiety and hopelessness when they grow up.

In addition, bullying will affect the victim's self-compassion. Self-compassion consists of several elements including: (1) self-kindness, which is self-esteem, (2) mindfulness, which is the acceptance of an individual towards the various situations he experiences, (3) common humanity, namely the individual accepts all the bitter experiences in his life as a process of his life. Low self-compassion in individuals results in several behaviors including: often feel worried, feel low self-esteem, and always criticize yourself (self-judgment). In addition, low self-compassion makes a person less able to stabilize his emotions when facing problems so that he is less able to make strategies to solve the problem.

Based on Article 76C of Law Number 35 of 2014 concerning Child Protection it is stated that violence against children should not be allowed to occur. So that physical bullying which is a form of violence should not be allowed to happen to a child. So that one of the acts of bullying against children is regulated by Law Number 35 of 2014 concerning Child Protection.

The issue of bullying in Indonesia has not been specifically regulated in Indonesian law. Indonesian legislation only discusses indicators of bullying behavior. For example, one indicator of bullying behavior is persecution. Where abuse is already included in the crime of crime. Violence, which is one of the bullying behaviors, is also discussed in the legislation. However, it does not explain in detail the definition of violence itself, what form it takes. So that it creates an ambiguous perception that violence is only in the form of physical violence.

In the case of child bullying, what happens is not only bullying in the form of physical violence. However, there is also non-physical bullying such as swearing, insulting, which can also have a negative impact on the victim. For example, with the humiliation the victim received, the victim becomes traumatized by going to school and feeling inferior. So that it can affect the learning process at school and the growth and development of the victim himself. Apart from that, as a result of bullying experienced by victims, it can also affect their social life. Non-physical bullying, such as insulting or insulting, is actually included in the realm of criminal acts under Article 335 of the Criminal Code concerning unpleasant acts. However, non-physical bullying cases are still more difficult to file than bullying cases in the form of abuse and murder.

Bullying can also be categorized as an act of depriving freedom as contained in Article 333 of the Criminal Code. Where some of the elements of bullying can be categorized as depriving a person of independence, which include; disturb, disturb, and trouble someone who is done several times. Acts of bullying can also be categorized as acts of persecution based on Article 351, where abuse is an act that hurts someone physically and psychologically.

It is considered that the settlement of bullying cases in the school environment has not fully emphasized the rights of victims to be legally protected. This is because the perpetrators of bullying who are school children are only given sanctions in the form of expulsion from school. Even though bullying cases that occur have physical and psychological impacts on victims. This is similar to what happened to Alm B who was bullied during ospek activities at his school, based on research conducted by Bachtiar Hilmi, et al. Meanwhile, compensation that usually gets victims of bullying only in the form of an apology from the perpetrator and his family.

Even though the bullying case itself can be processed using Article 76C of Law Number 35 of 2014 concerning Child Protection, in fact cases of bullying have not really been taken into account. In fact, even cases of physical bullying, especially bullying that occurs in an academic environment, are only resolved by deliberation. The case was only resolved at school, not until it was referred to the police. This is of course very unfair to the victim. Meanwhile, cases of non-physical bullying such as verbal bullying are only considered as normal jokes between students. This is similar to what happened in the research conducted by Maria Cicilia, where the police in Malang City only considered verbal bullying as normal child delinquency that did not need to be taken seriously so that it needed to be acted upon legally.

Cases of bullying in the school environment, both physical and non-physical, are actually still difficult to criminalize. This is due to the existence of the SPPA Law which states that minors cannot be criminalized, except under certain conditions. So cases of bullying in the school environment with perpetrators who are underage, of course, are very difficult to prosecute. So this is of course very unprofitable for the victims themselves. Even though victims are also minors who also need to be legally protected and paid attention to in terms of their physical and psychological aspects.

The facts that occur in the field, when victims report to the authorities, for example such as P2TP2A institutions, are usually not taken seriously. P2TP2A only educates that bullying is a crime, but cannot guarantee safety for victims. They think that bullying is just a case that doesn't need too much attention and prioritizes other cases that are considered more severe. So the victim's courageous act to report does not guarantee anything for him. He even has the potential to be ridiculed by his friends because he is considered unable to joke around.

Based on Article 6 of Law Number 31 of 2014 concerning Protection of Witnesses and Victims, victims of bullying cases are included in conventional victims. Conventional victims do not have the right to medical assistance and psychosocial rehabilitation. These rights are only given to victims in cases of more serious human rights violations. Meanwhile, based on Article 5 Paragraph 2 of Law Number 31 of 2014, it is stated that witnesses and victims who are entitled to be given protection are only limited to narcotics or psychotropic cases, terrorism cases, and cases that threaten the victim's life. So, based on this, victims of bullying cases that are not life-threatening do not have the right to protection from witnesses and victims. This is because the Witness and Victim Protection Agency (LPSK) prioritizes more serious criminal cases.

Schools where children attend school, where children spend a lot of time, should provide full awareness of children's behavior at school. Especially against deviant behavior such as bullying. Most schools are not aware of the bad behavior of their students, because they think they are still small, and so on. So that way, the school is less able to detect early symptoms of bullying behavior that can start from ridicule, and so on. It is fitting that the school does not make it easy for students' behavior even though they are still small children. When there are irregularities at school, it is fitting for teachers to take precautions so that this behavior does not lead to bullying. The school can carry out an anti-bullying program, which serves to detect early symptoms of bullying behavior.

In addition, parents of victims who experience bullying tend to lack understanding of the actions that must be taken to protect their children. Based on research conducted by Nur Halisa et al, it was stated that all parents whose children had experienced bullying (in the study) chose to apologize to the perpetrators so that cases were resolved in a family manner. In addition, the victims' parents chose not to report the bullying for fear of not getting a good response from the authorities. Many parents also do not know that their children have been victims of bullying. Based on research conducted by Rizky Mailinda & Rina Hidayana, not a few students dared to reveal the bullying they experienced to the school and their parents.

The understanding of bullying cases carried out by the community and the school makes the perpetrators feel that the bullying behavior that is being carried out is not wrong. The attitude of people not caring about bullying behavior that occurs has led to an increase in cases of bullying. The students also felt that bullying was a natural thing to do and was not something serious. These perspectives were born possibly due to media impressions that seem to make bullying behavior normal. Where there are many TV programs showing violent behavior, both verbally and physically. Bullying behavior that arises can also be caused by media impressions.

In addition to media exposure, social media is also very influential on bullying behavior. Nowadays social media is not only accessed by adults, but young children can easily access social media. Where social media can easily display negative behaviors. So that children can imitate bullying behavior from social media. Based on research conducted by Wirmando, et al stated that access to social media influences student bullying behavior.

Law enforcement is someone or more who try to realize law enforcement, which includes police, prosecutors, judges and advocates. Law enforcement is an effort made by those who have the power to regulate people's lives. Where efforts to enforce the law are carried out on the basis of governing laws such as laws. Law enforcers as people with the authority to uphold the law in Indonesia in order to achieve justice for every citizen, are expected to be honest and trustworthy in carrying out their duties. This is so that a just life can be realized for every community.

Implementation of good tasks performed by law enforcers can create effective law enforcement. However, in reality, law enforcement in Indonesia is still weak. This is of course influenced by the role of law enforcers. Weak law enforcement in Indonesia is partly due to the weak morals of law enforcers. The reality that is happening on the ground is that there is still a growing culture of judicial corruption (corruption related to the court) within law enforcement circles. Thus, these law enforcers are easily bribed by perpetrators who want a lighter law. The dishonesty of law enforcers makes it difficult to build good governance. Weak law enforcement allows perpetrators to freely receive lighter sentences, which of course affects legal protection for victims.

Weak law enforcement carried out by law enforcement officers certainly affects public perceptions of the law itself. Many people have become less confident with the law. Society then perceives that it is money that plays a role in law enforcement itself. So that many people who become victims are reluctant to report because they do not trust law enforcement in Indonesia. People think why report it, if in the end the perpetrators will be released if they have money. Public distrust of the law certainly also affects the protection of the law itself. How can you get legal protection if the case is not reported. This is of course difficult to realize.

In addition to imposing fines and expulsion from school, the school also needs to provide counseling to the perpetrators so that the perpetrators will not repeat their actions. This action needs to be done before deciding the bullying case to be punished. The school and other authorities should pay more attention to the impact experienced by victims. For example, with counseling to restore the trauma of victims who experience bullying. So that it is possible for victims to be able to manage their emotions and the trauma they experienced so that the trauma can slowly improve. Then, to prevent bullying in the school environment, it is fitting for schools to intensively educate students about what to do if they experience bullying. In addition, schools can also provide education about bullying itself, such as how it impacts, and so on.

In addition, in dealing with cases of bullying, the role of parents is also needed. Among the roles of parents in preventing bullying behavior in their children include;

1. Build good communication with their children

With good communication between parents and children, it is hoped that children can be open with their parents about what events they experience. So that if a child becomes a victim of bullying, the child will tell his parents about it. So that children can easily share their experiences, parents need to be good listeners, so that children do not hesitate to tell their parents anything.

2. Parenting style

Children who are educated with good parenting tend to be able to overcome bullying. Children who are raised democratically will be more confident and able to relate to others.

In addition, good examples from parents will also be imitated by children, as well as examples of bad behavior. Children tend to imitate the behavior of their parents. Parents are role models for their children, so that the attitudes and roles of parents certainly greatly influence children's behavior.

3. Role playing

Parents should when playing with children, also insert character education in the game. For example, by playing a role, where while playing parents teach good behavior to children and what behaviors need to be avoided.

4. Supervision and attention

Parents should pay more attention and supervise their children's behavior. So that if there is a child's behavior that has the potential to lead to aggressive behavior, parents can take the initiative so that this behavior does not develop into bad behavior.

5. Cooperation with the school

Victims who experience bullying really need support from various parties to recover mentally. Especially the role of parents and the school. Among the roles that parents can do to support their children is taking the child for counseling with a psychologist or psychiatrist. Parents can also provide their ears to be ready to hear their children's stories. In addition, parents can also give good advice to their children so that they can recover mentally. In addition, parents must always supervise and be swift in dealing with their traumatized children. Support that parents can give to children who have experienced trauma include; (1) emotional support, parents empathize with their children's feelings, (2) information support, parents provide education to children in the form of advice to reduce stress, (3) relationship support, parents are always there when children need it, (4) instrumental support, parents facilitate children to get help from related institutions. Parents of victims of bullying must be able to think objectively about their child's problems, so they can analyze the causes of this behavior and then find solutions to these problems.

Schools, especially teachers, also need to provide support for children who are victims of bullying. Among them, teachers can provide assistance to children so that children can return to learning comfortably at school. The teacher can act as a friend of the victim so that the child feels safe in the school environment and builds self-confidence in the victim. Teachers must accompany children who are victims to reduce the anxiety experienced by victims. Teachers as parents in schools should build programs related to bullying. Teachers must be more sensitive and proactive towards incidents of bullying that occur in their schools. Programs that can be implemented by schools are for example programs where victims of bullying can report anonymously, so that the identity of the victim is not known.

The government and law enforcers should pay more attention to cases of bullying, in the form of handling it and preventing it. To prevent bullying itself, the government and law enforcers should provide education and understanding to all parties such as parents, children, the community, and so on. Such education, for example, can be conveyed through seminars, campaigns, posters. So that with these programs, awareness about bullying can be raised from all parties. So that in this way, related parties can work together in efforts to overcome and prevent bullying.

Law enforcers who also have an important role are expected to have good morality in order to realize fair law enforcement and fair legal protection for victims. Law enforcers should be indiscriminate in handling cases in Indonesia, especially in this case, namely bullying cases. It is fitting for law enforcers to apply the principle of justice, and not be easily bribed by anything. In addition, the culture of corruption within the law enforcement environment should be eradicated from its roots, by knowing the causes of this culture of corruption and then thinking about a solution. There is also a need for rewards for law enforcers who can carry out their duties properly and honestly. The reward given is expected to motivate law enforcers to compete to become good law enforcers.

The problem of bullying needs to be tackled from its roots. That is, it is necessary to do prevention from an early age. This is because there are many negative impacts on bullying behavior itself, both for perpetrators and victims, especially for the victims themselves. Among the preventive solutions that can be done is holding parenting education for prospective parents who will have children. This is because, as has been explained in the previous pages, parenting styles greatly influence children's behavior. So that one of the factors of bullying behavior is parenting style.

In addition, for the children themselves, character education needs to be held to prevent children from becoming perpetrators or victims of bullying. Then it is necessary to socialize bullying itself, which includes how to behave when they see other people being bullied, how to behave when bullied, how parents behave when children become perpetrators or victims of bullying, as well as what acts of bullying are and what are the impacts of bullying.

In addition to prevention solutions, it is necessary to provide gradual counseling to the victim and continue to control it until the victim's trauma recovers. Victims of bullying who are given counseling are not only victims of physical bullying, but also victims of verbal bullying and all other forms of bullying. Counseling costs come from the government or are paid for by the perpetrator. Many children who become victims come from underprivileged families, who even have difficulty eating. So to do counseling to the end, it's difficult for them. Even though the recovery of the victim's trauma is very important and will have an impact on his life. Where with trauma recovery, it is hoped that the behavior and attitude of the victim will return to the way it was before experiencing the bullying.

In Indonesia itself, there is no law that specifically addresses bullying. So that the government should design legislation that specifically addresses bullying. Where in the law contains indicators of bullying behavior, the severity of bullying behavior, as well as penalties for each indicator and severity level. Where in designing the legislation, the government needs to involve psychologists and educational experts. This is so that the legislation can be effective in protecting child victims legally and mentally. It is necessary to think about sanctions that can have a long-term deterrent effect. Among them, for example, the perpetrator provides compensation in the form of money that continues to be given until the victim is an adult. This of course still needs to be discussed again, and the benefits need to be weighed, both for the perpetrators and the victims, especially for the victims themselves.

Among the obstacles to legal protection for victims of bullying is the factor of the law enforcement officers themselves. As previously explained, many law enforcers still accept bribes from perpetrators. For this, it needs to be exterminated from the roots. For example, by carrying out a strict selection of candidates for law enforcement. Apart from being selected based on their abilities, law enforcers also need to be selected based on their personality, which includes honesty and so on. Where it is appropriate to choose a candidate for law enforcement who has honesty and integrity. Then there needs to be a routine evaluation of the performance of the apparatus, whether law enforcers carry out their duties honestly and fairly or not. There needs to be strict punishment or sanctions against law enforcers who accept bribes from perpetrators.

Conclusion

Based on this research, it can be concluded that legal protection for victims of bullying based on Law Number 35 of 2014, which regulates Child Protection, is based on the principles of non-discrimination, providing the best for children, the right to life and development, and respect for children. This law also emphasizes the importance of the role of all parties in protecting children's rights, including physical, psychological, spiritual and social protection. Even so, there are obstacles in legal protection for victims of bullying, such as the absence of laws specifically dealing with bullying, lack of public awareness, and law enforcement that is not yet firm. To improve legal protection for victims of bullying, ideal concepts that can be proposed include making special laws regarding bullying, support from families, schools and related parties, wider socialization about bullying, and appreciation for law enforcement who follows up bullying cases properly. . Therefore, cooperation from all parties is needed, improving legislation, increasing public awareness, and fair law enforcement to achieve ideal legal protection for victims of bullying.

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