



## Civil Aspects of Bullying Cases Against Children in Educational Institutions

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### ABSTRACT

This article reviews the civil aspects of bullying cases against children in educational institutions. This study shows that bullying behavior still exists today, ironically not only by adults but also by children at the elementary school level. For example, Mangkura V Elementary School (SD) where students often bully other students, this happens because of internal and external factors which then become the background for bullying. The type of this study is descriptive analytical, the instruments in the study are interviews and literature reviews and data sources come from stakeholder interviews and critical reading of related literature. The results of the study are that bullying behavior often occurs in Mangkura V Elementary School, with different patterns of both individuals and groups, so it is hoped that the settlement mechanism will prioritize civil aspects, in addition to being able to carry out recovery with compensation, it is also expected to provide a deterrent effect on perpetrators of bullying.

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## INTRODUCTION

Bullying is a negative behavior that causes someone to be uncomfortable or hurt and usually occurs repeatedly, marked by an imbalance of power between the perpetrator and the victim. This bullying behavior cannot be separated from the desire to dominate and also become a feared figure in the school environment. Bullying behavior is a form of aggressive behavior such as teasing, insults, and threats are often used as bait that can lead to aggression (Kartika, 2019).

The cases of bullying that have occurred in Indonesia have been very disturbing, various news reports that have emerged from several sources, make it clear that bullying cases are very concerning. Based on records from the Indonesian Child Protection Commission (KPAI) over a period of 9 years, from 2011 to 2019, there were 37,381 complaints of violence against children. For cases of bullying both in education and social media.

The form of bullying can sometimes occur in verbal and non-verbal forms, which have a psychological impact on the victims. Therefore, bullying behavior must receive special attention to get early prevention so that it can be eliminated in the educational environment. Victims of bullying are very vulnerable to trauma in carrying out school activities. Bullying behavior that can cause harm to the victim will certainly be the point of conflict between the parties, especially if it occurs in a school environment which is then carried out by students themselves to other students. As we

all know that bullying can be done non-physically and also physically, of course it has different impacts, so it needs different handling (Agus Samsadi, 2020).

Efforts to prevent this behavior are a priority as well as protection for victims. Such as child protection from the government with legal instruments on child protection and violence against children, it can be seen how child protection from an early age in the family environment such as parental affection for their children, avoiding behavior and examples of violence against children, in the school environment should also get attention and supervision from teachers (Arif Rahman Nurdianto, 2022).

In reality, there are still many children who have not received protection. Especially in schools, there is still a lot of violence against children that occurs in schools. Theoretically, violence against children can be defined as an event of physical, mental or sexual injury which is all indicated by the presence of harm and threats to the health and welfare of children (Suyanto, 2013).

## **METHOD**

The research method used is analytical descriptive research, which studies the object of research as something whole so that it can reveal and understand the truth about the object. Based on this analysis, it is expected to produce a descriptive analytical data description.

The data used are primary and secondary data, by conducting interviews with sources and literature studies through books, articles, and other supporting sources. Furthermore, the data obtained will be analyzed in depth. Furthermore, this research begins by identifying the practice of child bullying that occurs in educational institutions and then taking a legal approach to solving the problem through civil law, especially non-litigation.

## **RESULT AND DISCUSSION**

### **1. Bullying Practices Against Children in Educational Institutions**

Today, the school environment for children is quite concerning, schools which are supposed to be a place to gain knowledge that teaches science and character education are actually vulnerable to becoming places of bullying. Children in the education process as students must involve a conducive environment in order to support child development, so efforts are needed to provide child protection in the world of education from the school.

Bullying behavior often escapes the attention of parents and schools, generally parents and schools assume that the behavior of teasing, fighting, and even disturbing other children is common and common in school children that is considered not necessary to get serious attention. The problem is considered serious when the bullying behavior has caused victims such as physical injuries to children to the point of causing permanent disabilities (Anwer Jabbar Ali, 2022). In fact, the meaning of bullying should not be interpreted narrowly because bullying is not limited to acts of violence that cause physical injury.

It should be understood that the negative impacts caused by bullying behavior not only affect the victims, but can have a massive impact on the perpetrators themselves, people who witness it are also affected by the bullying. Bullies who do not get treatment have the potential to be involved in acts of violence and other risky behavior when they become adults because they consider what they do to be normal and carry over into adulthood (Angold, 2012).

Preventive efforts are good efforts to minimize the occurrence of bullying, this can be realized by identifying the factors that cause bullying behavior, meaning that to fix it, it is necessary to understand what causes it to happen. According to Ariesto, there are several factors that cause bullying, including (Ariesto, 2009):

1. Family

Bullying perpetrators often come from troubled families, parents who often punish their children excessively or home situations that are full of stress, aggression, and hostility. Children will learn bullying behavior when observing conflicts that occur between their parents, and then imitate them towards their friends. If there are no strict consequences from the environment for their behavior, they will learn that "those who have power are allowed to behave aggressively, and aggressive behavior can increase a person's status and power". From here, children develop bullying behavior.

2. School

Schools often ignore the existence of bullying, as a result, children as bullies will get reinforcement for their behavior to intimidate other children. Bullying develops rapidly in the school environment so that it provides negative input to its students, for example, punishment that is not constructive so that it does not develop a sense of respect and appreciation between fellow students.

3. Peer groups

Children when interacting at school with friends around their house, are sometimes encouraged to bully. Some children bully in an attempt to prove that the behavior.

4. Social environmental conditions

Social environmental conditions can also be a cause of bullying behavior. One of the social environmental factors that causes bullying is poverty. Those who live in poverty will do anything to meet their needs, so it is not surprising that extortion often occurs between students in the school environment.

5. Television and print media

Television and print media shape bullying behavior patterns in terms of the shows they show. A survey conducted by Kompas showed that 56.9% of children imitate scenes from the films they watch, generally they imitate 64% of movements and 43% of words.

It is understandable that the potential to influence children in carrying out bullying practices can occur anywhere, if accumulated from several factors that influence bullying behavior, the most potential is the environmental aspect, even the closest environment such as family, because what they see children will imitate. Not to mention in a very complex social environment, our limitations in always controlling children are risky for them to see bullying practices that actually occur in their playing environment (Al-Raqqad et al, 2017).

## 2. Forms of Bullying Practices

The forms of bullying practices that occur at SD Negeri Mangkura V Makassar, South Sulawesi can be described as follows.

Interview with teachers of Mangkura V Elementary School, July 20, 2022, Bullying practices can occur at every class level, from grade I to grade VI, but in this case, there is differentiation in bullying cases from severe to mild potential levels. Based on the results of an interview with one of the teachers, he said that the forms of bullying were indeed found in several cases in the activities of students at SD Mangkura, if observed, it can be concluded that the forms of bullying that occur can be

verbal and non-verbal. Based on the previous explanation, verbal bullying such as mocking, teasing using the parents' names, calling with insulting names, to physical insults. For example, a child who knows the name of the parent based on the contents of his friend's report card which then becomes the subject of ridicule to his friend. The tendency is that this is considered normal for students so that it becomes a habit in their social interactions. However, it is undeniable that this behavior is more towards insulting, children who feel that their parents' names are mentioned are uncomfortable with the remarks, especially if it lasts for a long time. Usually children who are victims tend to be silent, so their friends report it to the teacher to get reprimands and guidance.

In addition to verbal bullying practices, it also occurs non-verbally. Based on the explanation above, non-verbal is more towards bullying or exclusion in a particular group, or sentiment between groups. The case that occurred within the scope of Mangkura Elementary School, began with a dispute that occurred between a group of girls and a group of boys, this happened because the group of girls reported to the teacher that the group of boys were playing ball in class even though the prohibition on playing ball in class had been conveyed by the teacher but was ignored by the group of boys.

As a result, there is a sentiment of the male group towards the female group, especially in one class dominated by a male group so that superiority becomes one of the triggers for ostracizing the female group. During the dispute, the male group always disturbs and ostracizes the female group until this problem reaches the teacher because one of the female students reported the act (Bravo and Avila, 2022). Based on the events that have been described, that, the practice of bullying in the scope of educational institutions at the elementary school level will always occur if guidance on bullying behavior is not conveyed to students. Because the tendency for similar things to happen is still possible starting with jokes becoming a bad habit (Barlett and Coyne, 2014).

According to the teacher of Mangkura V Elementary School, the potential for legal problems that begin with bullying practices is due to the low level of parental understanding. For example, disputes that occur within the school environment between students should be resolved within the school environment, but because parents who do not understand the situation actually join in the dispute by coming to the school and reprimanding the child who bullied their child, both verbally and physically. This is what then triggers a dispute between parents which ends in a report to the police.

From the description above, it can be simplified that the bullying practices that occur within the Mangkura V Elementary School environment, there are several forms, namely verbal and non-verbal bullying. If described, the treatment of calling by name of parents, insulting, shouting, accusing falls into the verbal category. While acts of exclusion or relational towards individuals or groups fall into the category of non-verbal bullying.

### **3. Implications of Bullying for Children**

Bullying that occurs in the elementary school environment is not then seen simply, because there are implications that are very risky in affecting the growth and development of the child's psyche. From both verbal and non-verbal nature. As stated by the teacher of Mangkura V Elementary School, children who become the object of bullying will feel inferior, lack self-confidence, to being isolated in the school environment. Not only that, the result of feeling inferior and lacking self-confidence

has an impact on the achievement of students, starting from being lazy to go to school, being lazy to study so that concentration becomes unfocused as a result of school grades decreasing.

This means that the impact is so great for victims of bullying, especially elementary school children who are still in the process of growing, where the brain's motor processes and interests and talents are scattered, it is not impossible that children who are expected to become brilliant future generations will actually fall into deep sadness to the point of trauma (Cornell et al, 2013). Another fact revealed by the teacher of Mangkura Elementary School is that children who are quiet and like to be alone are often the target of bullying practices by their friends, so that things like this should be a special concern in educational institutions, to not only focus on subject achievement but also to form good character. Because intelligence is below the attitude and character of humans.

In short, what is presented is in line with Wiyani's (Novan Ardi Wiyani, 2012) opinion that the implications of bullying are experiencing various disorders such as low psychological well-being, victims will feel uncomfortable, inferior, afraid, and worthless, poor social adjustment, afraid to go to school and even not wanting to go to school. Including declining academic achievement due to difficulty concentrating on learning (Donald et al, 2003).

#### 1. Causes of Bullying Behavior

Based on teacher observations, there are several factors that trigger bullying behavior. The closest to children is the environment, a negative environment will also shape children to behave negatively, because all forms of behavior of people around them will be examples that will be imitated by the child, usually if this happens the child will practice it in the school environment. These actions are usually various, for example in the form of speech, then disturbing actions and so on. One more thing that is also difficult to avoid is the influence of viewing either through television media or social media or online, without restrictions and rules for accessing social media children will be free to open any viewing. Non-educational shows such as fights, inappropriate sentences and other negative behaviors can easily influence children, so that this becomes a bad influence that shapes the child's character (Fildza Malahati et al, 2022).

Apart from that, there are other factors that also have a very bad impact on children, and this enters the private sphere. For example, because of the influence of a disharmonious family because they show fights in front of children, to families whose parents are divorced (Faizah dan Amna, 2017). On the other hand, it also happens to children who do not get any attention from their parents at all, whether because they are busy working or because the child is entrusted to relatives, it could be their grandfather's house or their aunt's, so they miss the approach and touch of their parents so much, because of that their hatred is born due to lack of affection, the impact is that they vent at school to their friends or just make trouble to get attention from their parents.

So, the trigger for bullying can occur from several factors, both from external and internal influences. The point is that children show their expressions when they see, feel through their five senses and can also occur due to psychological influences that are not handled through loving touches. In short, what is presented is in line with Wiyani's opinion that the implications of bullying are experiencing various disorders such as low psychological well-being, victims will feel uncomfortable, inferior, afraid, and worthless, poor social adjustment, afraid to go to school and even not wanting to

go to school. Including declining academic achievement due to difficulty concentrating on learning (Feri, 2019).

#### 1. Causes of bullying behavior

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So, the trigger for bullying can occur from several factors, both from external and internal influences. The point is that children show their expressions when they see, feel through their five senses and can also occur due to psychological influences that are not handled through the loving touches of their parents. To reduce this behavior should be the concern of those closest to them, because schools also have limitations in monitoring their students. Therefore, quality education should start from home and the environment to reduce bullying in educational institutions.

#### 2. Actions to Resolve and Prevent Bullying Behavior

Bullying behavior should receive special attention, it is difficult to say that bullying behavior is ordinary behavior. Many cases that then cause victims not only hurt the psyche but also cause fatalities. Therefore, prevention and resolution efforts are the main thing in reducing this behavior.

In some forms of cases there are several methods used as the teacher's opinion quoted from the following interview results.

Handling bullying cases in verbal form begins with the teacher's behavior, warning teachers to set a good example for students, by not calling using names that tend to offend physically, parents' names and shouting in a loud tone. Because students will tend to imitate the behavior and actions of the teacher. In addition, teachers are also advised to provide spiritual guidance through the approach of stories of prophets or heroes that emphasize moral values to respect each other and be kind to others (Kowalski et al, 2014).

When non-verbal bullying occurs, the effort made is to call the perpetrator to be given advice and reprimanded directly in a persuasive manner, saying that bullying is a bad act, and reprimanding him not to do it again.

Basically, some children can be reprimanded once and some must be reprimanded repeatedly. Usually, children like this are given reprimands in stages, if the teacher does not heed it, we hand them over to the religious teacher to get a spiritual approach, if it is still done, we call the parents of the students to the school so that the parents can also guide their children at home (Lereya et al, 2013).

In addition, to anticipate bullying that is sexual in nature, we provide enlightenment to students in grades V and VI, especially girls, that there are certain body parts that should not be touched by others, even friends. Through this approach, it is hoped that girls can know early on so that when there is potential for harassment, at least they know that there are certain body parts that should not be touched by others, so that acts of harassment can be anticipated early on.

Providing understanding to students has become mandatory, considering that access to images and shows that should not be consumed are very easy to obtain through internet access, especially the use of cellphones has also become commonplace for children, so if parents or teachers do not provide preventive education early on, the possibility of bullying leading to harassment can be even more massive.

#### **4. Civil Aspects in Handling Bullying Practices**

Children are the shoots, potential, and young generation who continue the ideals of the nation's struggle, have strategic positions and have special characteristics and traits that guarantee the continued existence of the nation and state in the future. Children are assets for national regeneration, the Indonesian constitution emphasizes that children have a strategic role that the state guarantees the rights of every child to grow and develop as well as protection from violence and discrimination (Nugraheni, 2021).

The basic concept of child protection includes a comprehensive scope in the sense that protection of the child's soul and body also includes protection of rights and interests that can guarantee reasonable growth and development both spiritually, physically, and socially in order to achieve national development goals.

Children who are in the process of development encounter obstacles in fulfilling their needs and attention, causing the child's development to be hampered and can even cause mental disorders. Finally, it can cause the child to become a perpetrator of delinquency. Delinquency according to Ramli Atmasasmita is an action or action carried out by a child that is considered contrary to the provisions of the law in force in a country and which is connoted by society itself as a despicable act (UU No 23, 2002).

Based on Child Protection Law No. 35 of 2014, Article 1 number 16 concerning violence, is any act against a child that results in physical, psychological, sexual, and/or neglectful misery or suffering, including threats to commit acts, coercion, or unlawful deprivation of liberty (Wagiati Soetodjo, 2008).

Judging from the article, violence against children can take various forms, from the most fatal violence to violence that causes psychological suffering. From the explanation of the article, we can understand that in reality children are creatures who are vulnerable to acts that harm them physically or psychologically, even though the act could be based on a joke that is often considered commonplace in social circles both at school and outside of school (Maidin Gultom, 2008).

Bullying behavior can be seen from the perspective of criminal law and civil law, in the civil law aspect we can describe it according to the Child Protection Law, namely in this case the right of children who are victims of bullying to demand compensation both materially and immaterially from the perpetrator of bullying where

the legal basis can be found in Article 71D paragraph 1 Jo Article 59 paragraph 2 letter I of Law 35/2014 which is stated as follows (UU No 35, 2014):

*"Every child who is a victim has the right to file a lawsuit in the form of the right to restitution which is the responsibility of the perpetrator of the crime".*

"Also seen in Article 59 paragraph 2 that special protection for children as referred to in paragraph 1 that children are victims of physical and/or psychological violence."

From the description of the articles mentioned above, it provides clear emphasis that bullying requires the perpetrator to be responsible for his actions, meaning that there are legal consequences that follow from these actions.

Requests for compensation, both material and immaterial, can be related to the Civil Code, because in general in this case a civil lawsuit can also be filed to demand compensation from the perpetrator of bullying on the basis of an unlawful act referring to Article 1365 of the Civil Code (KUHPerdata).

*"Every act that violates the law and causes harm to another person, requires the person who caused the loss due to his mistake to replace the loss".*

Both laws, both the Child Protection Law and the Civil Code, are references for requesting compensation due to bullying that injures the victim, in this case a child, both physically and verbally (Sticca and Perren, 2013).

#### **a. Child Responsibility in Civil Law**

In this problem, the question arises how a child is responsible for his actions that commit unlawful acts, previously we need to understand that a child is defined in the Child Protection Law as someone who is not yet 18 (eighteen) years old, including a child who is still in the womb.

A child is actually someone who is considered not legally competent, meaning that biologically the child is not yet able to consider and know the consequences of his actions. So that legal burdens cannot immediately be given to children for what they have done.

Therefore, the responsibility of a child is legally transferred or *mutatis mutandis* transferred. In this case, parents can be held responsible for their child's actions to pay compensation, this is regulated in article 13367 paragraph 1 and paragraph 2 of the Civil Code.

*"A person is not only responsible for losses caused by his own actions, but also for losses caused by the actions of people who are his dependents or caused by goods under his control."*

"Parents and guardians are responsible for harm caused to minor children who live with them and over whom they exercise parental or guardian authority."

So, in the context of civil law, the responsibility of the child can be transferred to the parents or guardians, because the child is the person who is responsible, all forms of the child's actions are still the responsibility of the parents or guardians. This means that bullying actions carried out by children that then cause harm to others can be held accountable to the parents. Given that children are people who are not yet legally competent to be responsible for their actions (Takizawa et al, 2014).

#### **b. Settlement of Bullying Cases in Civil Law**

Handling the settlement of bullying cases can be done with several approaches, for example, persuasively, mediation to the legal realm. Regarding the *a quo* case, the author has described how bullying can occur and what forms of bullying are, if described based on the level of fatality, bullying starts from physical actions, namely injuring the victim, then verbal actions, namely statements that can damage the child's

mentality and non-verbally can be done by actions to distance the victim from the circle of friends.

It is important for us to understand that preventive measures are the main thing in this case, but what is no less important is how to resolve cases of bullying in children. A civil approach should be the main step when in a bullying case there is a loss, although criminal aspects can be included in this issue. In cases of bullying like this, the victim or the victim's parents should not rush to take criminal legal steps, considering that this happens to children where the perpetrators are also children, therefore criminal law should be the last alternative when the victim has received fatal physical injuries.

In cases of bullying like this, it is better for the victim or the victim's parents not to rush to take criminal legal steps, considering that this happens to children where the perpetrators are also children, therefore criminal law should be the last alternative if the victim has received fatal physical injuries (Zakiyah, 2017).

From the forms of bullying, we can identify using a legal approach, if the bullying behavior has physically injured or even disabled the victim, then a criminal approach can be taken, because in criminal procedure law it is known as diversion, namely juvenile criminal justice. If the bullying occurs physically but does not cause injury or disability, a civil approach can be taken (Rozaliyani et al, 2019).

Similarly, if bullying occurs in verbal or non-verbal forms, aka relational, then a civil legal approach should also be the legal choice in resolving bullying cases in children. Given that the civil approach is demanding compensation, so if a bullying case is attached to a child, then the losses experienced by the victim can be requested both materially and immaterially, moreover, the civil approach can also be carried out non-litigation.

In the law enforcement process, there is an adage called *ultimum remedium*, which is one of the principles contained in the context of criminal law. *Ultimum remedium* can be interpreted that criminal law should be used as a last resort in law enforcement. The nature of criminal sanctions is known to be harsh compared to administrative law and civil law (Zamzami, 2015). As a harsh sanction, criminal sanctions should be placed in the last position, not prioritized. Wirjono Prodjodikoro said that the nature of criminal sanctions as the ultimate weapon or *ultimum remedium* when compared to civil sanctions or administrative sanctions. This nature has given rise to a tendency to economize in imposing criminal sanctions. So, from here we know that *ultimum remedium* is a term that describes the nature of criminal sanctions (Eko Suseno, 2018).

Likewise with the opinion of Sudikno Mertokusumo who said that as a last resort in imposing criminal sanctions, other sanctions must therefore be sought for the perpetrators. Bullying cases that occur in children are appropriate if the resolution used can be done first with a persuasive approach or mediation, if it has caused losses that have a significant impact on the child, compensation can be requested using a civil law approach, then the criminal law approach should be set aside as long as it does not cause something fatal for the victim. So in this phenomenon, all stakeholders, both parents and teachers, do not understand this problem partially, considering that if it has entered the criminal realm, both victims and perpetrators will feel traumatized (Zakaria, 2015).

## CONCLUSION

The rampant bullying behavior that occurs in educational institutions has grown over time. The metamorphosis of bullying actions is increasingly massive, seen from various forms of bullying, from physical, verbal and non-verbal or relational bullying. It is undeniable that from the lowest level, namely elementary schools, it also often occurs, the motives vary depending on the situation, both personally and in groups. For example, children who tend to be quiet become the main target, due to the lack of resistance to this attitude or at least the initiative to report it to the teacher, because of fear, it finally becomes a habit, not to mention in certain groups, or between groups of girls and boys just because of ordinary disputes can trigger bullying against groups of girls. As a result, the child will experience deep trauma, the impact on the child's academic grades, including the intention to go to school has decreased because they feel uncomfortable and unsafe at school, which is supposed to be a place for the formation of character and children's mindsets. Handling the settlement of bullying cases can be done with several approaches, for example, persuasively, mediation to the legal realm. Regarding the a quo case, the author has described how bullying can occur and what forms of bullying are, if described based on the level of fatality, bullying starts from physical actions, namely injuring the victim, then verbal actions, namely statements that can damage the child's mentality and non-verbally can be done by actions to distance the victim from the circle of friends. It is important for us to understand that preventive measures are the main thing in this case, but what is no less important is how to resolve bullying cases in children. A civil approach should be the main step if a loss occurs in a bullying case, although criminal aspects can be included in this issue. In bullying cases like this, the victim or the victim's parents should not rush to take criminal legal steps, considering that this happens to children where the perpetrators are also children, therefore criminal law should be the last alternative if the victim has received fatal physical injuries.

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