

**THE URGENCY OF IMPOSING SANCTIONS ON SCHOOLS THAT NEGLECT
CHILD VICTIMS OF BULLYING****Muhammad Rafi Risnawan**Legal Studies, Faculty of Law, Universitas Muhammadiyah Surakarta
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hf185@ums.ac.id**ABSTRACT**

This article reviews the urgency of imposing sanctions on schools that ignore child victims of bullying. This departs from the unrest over the rampant cases of bullying in the school environment that occur in Indonesia even at every level of education. Children who are vulnerable human beings should get legal protection for their rights that must be fulfilled as part of the subject of law. This research is normative juridical research that adopts a statutory approach. The data sources of this research are obtained from primary, secondary, and tertiary legal materials which all have relevance to the issues being studied. The objectives of this research are: 1) Knowing the sanctions received by schools that neglect child victims of bullying; and 2) Knowing the urgency of sanctions for schools that neglect child victims of bullying. The results show that there are still many cases of bullying that occur against the background of many factors. Based on the research results, it can be concluded that there are some cases where the school has firmly addressed bullying cases, but this is still not enough to represent the many other cases that have not been resolved. Schools that ignore child victims of bullying can be subject to administrative sanctions in the form of reprimands and suspensions. In addition, according to Article 76c of Law No. 35/2014, schools can be subject to criminal sanctions in the form of imprisonment and fines. The provision of sanctions against schools that commit negligence is important considering that currently there are no strict sanctions for schools that neglect victims of bullying. For this reason, sanctions are needed for schools so that in future cases the school will better protect victims of bullying.

Keywords: Bullying; Sanctions; School**INTRODUCTION**

Children are the generation that will inherit an important role in building the future of the Indonesian nation. They have the right and responsibility to contribute to the advancement of the Indonesian state and society. Children are seen as the subjects and objects of Indonesia's national development who have a crucial role in achieving the country's ideals, namely a just

and prosperous society. They are considered as development capital that will maintain, sustain, and develop the nation's development results for sustainability and prosperity together.(1) Schools have an important role in educating the nation's children and shaping the character of the younger generation. Law No. 20/2003 on the National Education System describes education as a conscious effort to develop learners' potential holistically, including spiritual aspects, personality, and skills needed for the benefit of individuals, communities, nations, and countries.

In the contemporary era of globalization, scientific and technological advances have had a profound impact on human life, including the emergence of novel social phenomena such as bullying, which has become a pervasive and persistent problem among adolescents, particularly within the school environment. Those who engage in bullying behaviors often do so by intimidating and ridiculing their peers. This is contrary to the principles of child protection as outlined in Law Number 23 of 2002 concerning Child Protection. The educational environment should be a safe and comfortable place for children, where bullying culture is considered unacceptable and should be avoided.

Bullying in *Kamus Besar Bahasa Indonesia* is an act of harassment, bullying, or intimidation using violence, threats, or coercion to intimidate others. According to Coloroso, it involves repeated intimidation by a stronger party against a weaker one, with the aim of hurting physically or emotionally through the abuse of power.(2) In schools, there is sometimes a tradition of condoning violence as a teaching method, which suggests that bullying is not a new phenomenon. (3)

Trini Handayani explained that bullying in developed countries is already at a very alarming level because it has an impact on the occurrence of suicides from victims of bullying. (4) Law enforcement officials need to conduct legal socialization to the community, especially parents so that parents understand more about the impact of bullying and it is hoped that in the future this bullying case can be minimized.(5)

According to a survey conducted by Latitude News in 40 countries, there are facts about bullying. One of the facts is that the perpetrators of bullying are usually male students. Meanwhile, female students gossip more than commit acts of physical violence.(6) In general, boys use more physical bullying and girls use more relational or emotional bullying, but both use verbal bullying. This difference has more to do with the pattern of socialization that occurs

between boys and girls. The Indonesian Child Protection Commission (KPAI) said that as many as 45% of male students and 22% of female students mentioned that teachers or school officials were abusers. KPAI noted that 84% of students in Indonesia have experienced violence at school. 40% of students aged 13-15 years reported having experienced physical violence by peers. Meanwhile, 75% of students admitted to having committed violence at school. In addition, 50% of children reported experiencing bullying at school.(7)

Law No. 23/2002 on Child Protection has undergone several amendments, including Law No. 35/2014 and Government Regulation in Lieu of Law No. 01/2016. (8) The document asserts that all children are entitled to live and flourish, and to be safeguarded from violence, whether verbal or physical, in alignment with the principles enshrined in the Constitution of the Republic of Indonesia. Furthermore, child protection encompasses the provision of optimal growth opportunities and the elimination of discriminatory practices within their immediate environment. The protection of victims of violence in educational settings is guided by a range of regulations, including Minister of Education and Culture Regulation No. 82/2015. (9) Despite this, bullying in Indonesia is still on the rise, with 379 cases of physical violence and bullying recorded in January-August 2023, showing that prevention efforts are still not optimal despite the policies that have been implemented.

There are several examples of real-life cases of bullying. First, in Gresik, East Java, a 2nd grade elementary school student suffered permanent blindness in her right eye after allegedly being stabbed by her older sibling. The victim's parent, Samsul Arif, stated that his child was traumatized and advised to change schools, while the legal process was handed over to the police.(10) In the second case, in Cilacap, a viral video was circulated showing a number of school children mistreating and bullying the 14-year-old victim FF. The perpetrators punched and kicked the victim until he fell down without resistance. The school dismissed the incident as a joke and provided no follow-up, but the police named two suspects, MK (15 years old) and WS (14 years old), from SMPN 2 Cimanggu. (11) Then in Sukabumi, a grade 3 elementary school student suffered a fractured right arm after being pushed and tripped by a classmate. The victim's father, DS (43), stated that despite mediation with the school, there was no bright spot in his son's problem. (12)

Previous research written by Hilmi et al. in 2022 with the title “Protecting Child Victims of Bullying in Schools (A Study of Criminal Law Reform)” discussed the legal

protection provided to child victims of bullying in schools and its legal formulation in the future.⁽¹³⁾ The two studies share a common focus on the legal protection of the rights of child victims of bullying at school. The distinction between the two research projects lies in the focus of the object of study. The research of Hilmi et al. is primarily concerned with the experiences of children, whereas this study places greater emphasis on the disciplinary measures imposed on educational institutions that permit bullying within their premises but fail to guarantee the legal rights of children.

Based on the above background, this research focuses on knowing the regulations and law enforcement against schools that neglect children as victims of bullying. This research is expected to contribute to science in the future, especially in terms of protecting children from bullying. In addition, it can also be an evaluation for existing regulations so that in the future it can provide legal certainty that is far more optimal and maximum.

RESEARCH METHOD

This research is a type of normative juridical research that examines a phenomenon from a legal perspective. This research is compiled through a literature study combined with a statutory approach to examine the laws and regulations related to the topic of the problem raised. The data processed in this research is obtained from secondary data sources consisting of primary legal materials such as laws, secondary legal materials such as books, articles, journals and other literacy, as well as tertiary legal materials whose number is limited as a complement to existing information. All data is then analyzed using the descriptive analysis method by dissecting and describing the data so as to arrive at the desired results.

RESULTS AND DISCUSSION

Applicable Legal Arrangements in Sanctioning Schools That Neglect Child Victims Of Bullying

Attention to children is a mirror of the progress of human civilization that continues to grow. They are an integral part of human survival and the continuity of a nation and state. As the young generation, children are valuable assets and successors to the nation's struggle. Their role in the development process is vital. Therefore, it is important to ensure their physical, mental and social growth and development. The presence of children must be safeguarded and

protected, considering that childhood is the most vulnerable phase in a person's life. Their spiritual and physical conditions are not yet fully mature, which makes them have different needs and perspectives from adults. This creates a child's world that is unique and different from adult reality.(14)

Bullying is a long-standing problem, both in Indonesia and abroad. Bullying knows no boundaries of age, education, or gender, and is often considered a joke, even though it can hurt verbally or physically. In Indonesia, many cases of bullying have occurred, even causing death. The government has regulated the protection of children from bullying in Law No. 35/2014 on Child Protection. The legislation encompasses socialization, monitoring, and sanctions for perpetrators of violence against children. Infringements of the legislation, particularly Article 76C, are subject to incarceration and a maximum financial penalty of five billion rupiah. In the event that the perpetrator is a parent, guardian, caregiver, educator, or an individual employed in an educational capacity, the prescribed punishment may be increased by one-third of the standard criminal penalty.

The legal protection of victims of bullying is regulated not only by Law No. 35 of 2014, but also by the Regulation of the Minister of Education, Culture, Research and Technology of the Republic of Indonesia No. 46 of 2023 on the Prevention and Handling of Violence within Education Units. (15) Schools should provide protection to victims of bullying based on these two regulations. Protection efforts must be carried out in accordance with existing legal provisions. Crime prevention can be done through penal (criminal law) or non-penal (prevention) channels. The penal approach emphasizes the suppression of crimes that have already occurred, while the non-penal approach focuses more on prevention before crime occurs.

Soerjono Soekanto stated that legal protection is an effort to fulfill the rights and provide assistance to witnesses and/or victims in order to create a sense of security. Legal protection of crime victims, as part of community protection, can be carried out through restitution, compensation, medical services, legal aid, compensation, and so on with a restorative justice approach. (16) The restorative approach aims, among other things, to reduce the accumulation of cases in court by actively involving the victim's role in case resolution. (17) Satjipto Rahardjo, Professor of the Faculty of Law, Diponegoro University, defines legal protection as providing security and protection of human rights for people who are harmed.

Such protection also includes providing security to the community so that they can enjoy the rights granted by law. According to him, the law not only functions to realize adaptive and flexible protection, but also predictive and anticipatory. (18) It cannot be denied that this legal protection is closely related to the combined work ethic between law enforcement officials, especially judges who are considered as key figures authorized to authorize a crime, so that the judge's decision indirectly describes law enforcement itself.(19)

The legal protection against cases of bullying in Indonesia can be classified into two categories: preventive and repressive protection. This distinction is made clear in the Regulation of the Minister of Education, Culture, Research and Technology of the Republic of Indonesia Number 46 of 2023 concerning Prevention and Handling of Violence within Education Units. For example, in the case of bullying at SDN 236 Gresik, which resulted in a student losing her eyesight after being stabbed in the eye with a meatball skewer by her seniors. The victim's father, Samsul Arif, said that the incident was not isolated and that the victim had often been forced to give money to the perpetrator. The Gresik Education Office promised to disclose all the results of the investigation to the public and impose sanctions in the form of coaching to the principal and changing the standard operating procedures (SOP) at the school to prevent similar incidents. However, the National Coordinator of the Indonesian Education Monitoring Network (JPPI), Ubaid Matraji, believes that these sanctions are not enough, and urges that principals who fail to protect their students be fired. (10)

A case of bullying at Binus School Serpong, as reported by the BBC NEWS INDONESIA page, involved the alleged perpetration of violence by a number of senior students against a fellow student. The police have conducted an investigation into the incident and identified several individuals believed to be involved. The violence occurred on two occasions: on February 2 and 13, 2024. The victim sustained significant injuries, including contusions, abrasions, and burns. The school is currently investigating the incident and has stated that any form of violence will not be tolerated. They pay special attention to the victim and are committed to preventing similar incidents from happening again. Regarding sanctions for the perpetrators, the school will follow the existing regulations. Even so, the school stated that the violence did not occur in the school environment, but outside the school area.(20)

The results showed that in two cases of bullying that occurred in Gresik and Binus Serpong, the Education Office and law enforcement have responded quickly. In Gresik, the

principal involved was given coaching and administrative sanctions, while the report was submitted to law enforcement. The school also changed its SOP to prevent similar incidents, in accordance with applicable regulations. In Binus Serpong, the school did not cover up the case and gave strict sanctions to the perpetrator, and committed to preventing violence in schools. These actions are in accordance with the principles of legal protection that focus on fulfilling the rights and safety of crime victims.

However, these two cases represent only a small proportion of the numerous similar incidents that occur. It is evident that there are numerous instances of bullying in educational institutions that remain unreported. This is evident in the lack of legal action taken against the perpetrators and the slow response from the educational establishment. It is crucial to recognize that the disciplinary action taken by educational institutions plays a pivotal role in combating bullying and safeguarding the rights of victims.

The Urgency of Sanctioning Schools For Neglecting Child Victims of Bullying

Children are considered a gift from God that is very valuable and must be protected because they have dignity and rights as human beings. R.A. Koesnoen said that children are young human beings, young in age, young in spirit and life experience, because they are easily affected by their surroundings. The protection of children's rights has been regulated in the 1989 Convention on the Rights of the Child (KHA), which has been ratified by 192 countries. In Indonesia, the global movement to improve children's rights is included in the 3rd amendment of the 1945 Constitution. In addition, there are several articles that serve as a constitutional basis for the need for attention and improvement of children's rights, such as regulated in Article 34 paragraph (1), Article 4 of Law No. 6 of 1974, Articles 11, 12 and 13 of Law No. 4 of 1979, Articles 55-58 of Law No. 23 of 2002 and Government Regulation No. 2 of 1999 which gives eight (8) authorities to the Minister of Social Affairs to carry out social welfare efforts for children. Although it has been regulated in the constitution and legislation, children's rights have not been fully protected legally, especially for street children.

Children have legal status and human rights that are inherent to them from the beginning of their lives, even before birth. The rights of children are regulated and safeguarded in the 1989 Convention on the Rights of the Child, which has been approved through Presidential Decree No. 36 of 1990 on the Rights of the Child, recognizing these rights. One

of the universally recognized rights of children is the right to be protected from all forms of physical, psychological violence, neglect, exploitation and sexual abuse. In addition, children also have the right to protection from discrimination and punishment that is not in accordance with their rights.(21) The implementation of child protection is a shared responsibility among the state, government, community, family, and parents. This encompasses the safeguarding of children in the realms of religion, education, health, and social welfare, with the same degree of excellence as that observed in the protection of adults. Furthermore, the government is bound by law to enact policies and implement programs that safeguard the rights of children, including those living on the streets, and to provide public services encompassing education, health, social welfare, and utilities.(22)

Children as the future generation still experience problems in obtaining their rights today, including the rights to life, growth, protection and participation. They are vulnerable to physical and psychological violence, human trafficking, bullying, sexual exploitation, even dangerous food snacks, both in the neighborhood and school, as well as other problems.(23) Bullying is one of the challenges that children often face, especially in the school environment. Bullying in schools is an aggressive act committed by a person or group of students who have power, against other weaker students, with the aim of hurting them. Bullying cases are increasing, occur at all levels of education, and are a form of child abuse. It is a common problem, especially among adolescents, both boys and girls. This behavior involves acts of aggression towards weaker individuals.(24)

A multitude of factors contribute to the occurrence of bullying behavior. These include family-related factors such as a lack of attention and supervision, family conflict, and a lack of communication between parents and their children. Furthermore, the school environment, socialization, social environment, and mass media also play a role. Bullying behavior may manifest in a variety of forms, including physical, non-physical, cyber, direct or indirect non-verbal contact, and verbal contact. Bullying behavior shows low morals and morals, and is contrary to the teachings of religions, including Islam. The Qur'an prohibits bullying behavior in several verses. Islamic law views bullying as a haram act. This is in line with the principles of Pancasila which states that every human being has the right to fair and civilized treatment, regardless of status or class.(25)

UNICEF Indonesia noted that 40% of suicides in Indonesia were related to bullying in

2020, which is believed to have increased since then. According to the Federation of Indonesian Teachers' Units (FSGI), bullying cases in schools increased by 9 cases, with 30 cases in 2023 and 21 cases in 2022, all of which involved legal proceedings. There were reports of fatalities in some cases. The Central Bureau of Statistics (BPS) also tested a survey in 2022 and found that most cases occurred among male students, but female students were also victimized. This finding is in line with a UNICEF Indonesia survey in 2018 which showed that males have a higher potential to be victims of bullying in education units. Physical, verbal and social threats such as ostracization are also high among male students according to UNICEF Indonesia. Based on Central Bureau of Statistics data, secondary and primary education units are still a source of bullying cases since 2022, according to Indonesian Federation of Teachers' Unions (FSGI's) findings in 2023. Indonesian Federation of Teachers' Unions (FSGI) also found that education units under the auspices of the Ministry of Education, Culture and Higher Education had the highest rate of bullying cases. (26)

The sanctioning of educational institutions for the neglect of victims of bullying represents a crucial and timely measure for the advancement of justice and the safeguarding of individuals within the academic context. It is the moral and educational responsibility of educational institutions to create safe and supportive learning environments for all students. However, when schools fail to act to protect victims of bullying, it is not only a failure of that responsibility, but also undermines the dignity and safety of students. Sanctioning schools that do not act can promote more effective prevention and response to bullying, and trigger a cultural change in schools where bullying is no longer taken lightly.

When a school allows bullying to occur without taking appropriate action, it is not just a simple administrative error, but a failure to protect the basic rights of students to feel safe and secure in the learning environment. In reality, bullying can have a damaging and lasting impact on the victim, both emotionally and psychologically. Providing legal sanctions to schools that allow bullying to occur is an important step. The sanctions serve as a stern warning, reminding schools that they have a moral and legal obligation to protect students from all forms of violence and bullying. The legal action taken also aims to create a deterrent effect for other schools to be more proactive in preventing and dealing with bullying.

A variety of sanctions may be imposed on the educational institution in question. In the initial stages of disciplinary action, the authorities may issue a verbal or written reprimand.

Nevertheless, should the situation persist or the case of bullying be deemed particularly egregious, the school may be subject to administrative sanctions, including license suspension or close supervision. Conversely, should the school's inaction with regard to bullying result in severe harm or even death, criminal proceedings may be initiated. In addition, the school may have to pay fines or compensation to the victim or their family. In extreme cases, the school's operational license may be revoked. All these penalties aim to uphold justice, emphasize the importance of safety in the educational environment, and provide incentives for schools to take serious action in preventing and dealing with cases of bullying.

In addition to sanctions, it is also necessary to take preventive measures through legal protection to prevent bullying in schools. This is a basic need considering its urgency to solve the problem of bullying that is rampant in schools. One of them is the establishment of the Minister of Education and Culture Regulation No. 82 of 2015. This Minister of Education and Culture Regulation provides protection to students from bullying behavior in the school environment, including the establishment of a school environment free from violence, reporting violence to parents/guardians, implementing Standard Operating Procedures (POS) related to violence, and establishing a violence prevention team involving principals, teachers, students, and parents/guardians. Article 8 letter h of Minister of Education and Culture Regulation No 82 of 2015 emphasizes the obligation to form a violence prevention team within the education unit, which has the main role in creating a safe and comfortable educational environment. Articles 10 and 11 of Minister of Education and Culture Regulation No 82 of 2015 regulate countermeasures against violence, including providing assistance to victims, reporting acts of violence, identifying the facts of the incident, following up on cases, sanctioning perpetrators, and reporting incidents to relevant agencies. Through this regulation, every educational institution is expected to provide optimal protection for students and create a supportive learning environment that is free from violence.

The Teacher Empowerment Program (TEP) or anti-bullying programme, which emphasises the role of teachers in eradicating bullying, is also one of the rapid actions in tackling bullying in schools. The programme is based on the belief that teachers are agents of change who are responsible for teaching positive values to students. The ultimate goal is to create a safe and comfortable school environment for students. The Teacher Empowerment Program entails training educators on values, as well as the establishment of anti-bullying

networks and systems within academic institutions. Additionally, the program encompasses the formation of student support groups with the objective of narrowing the existing gap between them. To fully realize the potential of teachers in preventing and addressing bullying within the school environment, it is imperative to expand anti-bullying efforts and programs on a larger scale.(27)

Minister of Education and Culture Regulation No.82 of 2015 has the main objective of ensuring that each education unit provides maximum protection to students and creates a learning environment that is safe, comfortable and free from all forms of violence. A preventive legal approach is an important foundation in the effort to prevent harmful or unlawful acts before they actually occur. It is important for all parties involved, from educators to parents to school staff, to take appropriate preventive and intervention measures to prevent and address cases of bullying in educational settings. This involves not only the enforcement of rules and sanctions, but also the establishment of an inclusive and supportive school culture where every individual feels valued and protected. Through close cooperation between all relevant parties, it is hoped that a learning environment conducive to the optimal growth and development of students can be created, without threats or intimidation from any party.

CONCLUSION

The issue of bullying in schools represents a significant challenge that can have far-reaching consequences for both the victims and the broader school environment. In addition to the perpetrators of bullying, schools bear significant responsibility for responding to instances of bullying that occur on their premises. In light of the findings presented in the author's research, it can be concluded that, in accordance with Article 76C of Law Number 35 of 2014 concerning Child Protection, any individual, including educational institutions, who permits children to be bullied may be subject to a prison sentence of up to 15 years and a maximum fine of 5 billion rupiah. However, these sanctions are sometimes not deterrent enough because bullying cases continue to occur. For this reason, stricter sanctions are needed because in fact there are still many cases of bullying in schools. This shows that existing laws have not been able to provide maximum protection.

Preventive and repressive measures taken together are key to preventing and handling

cases of bullying in the school environment. In addition to sanctioning perpetrators and schools, it is also important to empower teachers through anti-bullying programmes such as the Teacher Empowerment Program (TEP). Teachers can be effective agents of change in creating a safe and supportive learning environment for students. The availability of existing regulations is very important in accommodating the legal interests of all parties involved in bullying cases. All actions taken can be based on a clear and strong legal basis. This is crucial considering that there are still many cases of bullying in schools that require serious attention. Thanks to the optimal application of the law, it is hoped that this troubling bullying problem can immediately get maximum handling for the safety and welfare of all students.

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