

## Legal Review of Bullying or Bullying Behavior in Indonesia

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### ABSTRACT

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Bullying or bullying behavior is a social problem that is increasingly disturbing in various levels of society, including in Indonesia. Bullying is an action taken by someone to attack someone not only physically but also psychologically. The development of the times makes it easier for people to interact, so that people, especially students, can easily carry out bullying, most of which is caused by promiscuity, lack of parental attention and a free environment. This research aims to conduct a legal review of bullying behavior in the context of Indonesian law. The research method used is normative legal research with literature study by collecting data from various sources related to statutory regulations, court decisions, as well as legal and psychological literature. The results of the research show that based on the Child Protection Law, acts of bullying in the school environment are included as criminal acts of violence against children. Article 76C of the Law explains the prohibition against anyone committing violence against children. If this rule is violated, the perpetrator can be subject to sanctions in accordance with Article 80 of Law 35/2014, which can include imprisonment and a fine. For offenders under the age of 18, the Juvenile Criminal Justice System Law provides an approach that takes into account the best interests of the child, by prioritizing restorative justice and diversion as an alternative to the formal justice process. Apart from that, the SPPA Law also stipulates various measures that can be imposed on child perpetrators, including basic and additional penalties aimed at their recovery and social reintegration. Schools also have a legal obligation to protect their students from acts of violence, by implementing anti-bullying policies, raising awareness, and providing protection for victims. Thus, the regulations in the Child Protection Law and the SPPA Law emphasize the importance of protecting children from bullying in the school environment and handling cases with an approach that takes into account the child's best interests.

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### INTRODUCTION

Bullying has become a protracted problem in Indonesia, spreading from elementary school to tertiary level, and even appearing in various other social environments. This phenomenon not only poses a threat to the psychological well-being of individuals who are victims, but also disrupts the educational process and creates an environment that is not conducive to the growth and development of the younger generation. At the elementary school level, cases of bullying often occur in the form of verbal, physical intimidation or even via social media. Victimized children often feel afraid, embarrassed, and isolated, which can negatively impact their academic performance and emotional well-being. In high school settings, bullying often becomes more

complex with increased use of technology, expanding the range and intensity of verbal or social violence.

Not only limited to formal educational environments, bullying behavior can also be found in the workplace, social environment, and even in cyberspace. In the workplace, bullying can result in reduced productivity, increased stress levels, and potentially cause interpersonal conflict that is detrimental to the entire organization. In addition to its detrimental psychological and social impacts, bullying also raises important legal questions. Questions about legal responsibility, appropriate sanctions for perpetrators of bullying, and legal protection for victims are the main focus in this study.

In general, criminal acts of bullying or bullying are identical to acts of violence against children that occur in the school environment. In this context, bullying is defined as aggressive behavior carried out repeatedly by an individual or group of students who have certain power or superiority, against other students or students who are weaker or vulnerable, with the aim of hurting, degrading or discrediting that individual. physical, emotional, or psychological.

Bullying behavior often involves actions such as verbal insults, threats, physical harassment, spreading rumors or slander, social isolation, and the use of technology to worsen the victim's situation. Often, victims of bullying feel trapped in a cycle of violence from which it is difficult to escape, with potentially lasting impacts on their mental health and self-confidence. Thus, bullying at school is not only an interpersonal problem between students, but also involves violations of human rights and violence that can disrupt the educational process and the overall well-being of students. Top of Form

Juridically, Law of the Republic of Indonesia Number 35 of 2014 concerning amendments to Law Number 23 of 2002 concerning Child Protection provides a clear understanding of violence against children. Article 1 number 16 of the law defines violence as any act against a child that results in physical, psychological, sexual misery or suffering and/or neglect. This definition includes various forms of treatment that harm children, ranging from painful physical actions to threats that create fear and psychological pressure.

In the context of bullying at school, the definition of violence according to the Child Protection Law is very relevant. Aggressive behavior carried out by bullies, both verbally and physically, can cause emotional and psychological suffering to the victim. Threats, coercion, and denial of the victim's freedom are also forms of violence that can cause significant harm to children. Therefore, by referring to the definition of violence that has been regulated in the law, cases of bullying in schools can be analyzed and followed up more firmly and effectively in accordance with applicable legal provisions.

Most recently, a case involving an artist's child as the perpetrator of bullying, along with his gang, highlights the wider phenomenon of bullying behavior among teenagers. Although not all cases of bullying are exposed by the media, the reality is that bullying is still a disturbing problem in many schools and universities in Indonesia. Meanwhile, bullies often give various pretexts or excuses for their actions, which often vary from classic excuses to reasons that seem ridiculous.

One of the classic reasons that is often used is a lack of attention or supervision from parents. Some bullies may experience a lack of attention or support from their families, which may result in them seeking attention or a sense of power in their social environments, including at school. This lack of attention can include family problems such as parental divorce, lack of communication, or lack of adequate parental supervision of the child's behavior.

On the other hand, there are reasons that seem ridiculous or unreasonable that are used by bullies. One is the "joking" excuse, where the bully tries to reduce the seriousness of their actions

by claiming that they were just joking or fooling around. However, it is important to remember that bullying is not a joke, but a serious act with real impacts on the victim

The reasons often used by perpetrators of bullying are not comparable to the impact felt by each victim of bullying. The impact of bullying behavior can be very damaging to the victim's well-being, and can even lead to very serious consequences such as dropping out of school or even death. Victims of bullying often experience tremendous emotional stress, which can affect their mental health in the long term. Many experience decreased self-esteem, anxiety, depression and lasting trauma due to their experiences of bullying.

Apart from the significant psychological impact, bullying can also impact the victim's academic performance and social life. Many victims of bullying experience difficulties in learning, and even drop out of school because they no longer feel safe in the school environment. Additionally, the social isolation that victims of bullying often experience can limit their ability to form healthy, sustainable relationships with others, potentially impacting their overall social and emotional development. Therefore, it is important for us to realize that the impact of bullying behavior is much greater than just the excuses that the perpetrator may use, and preventive measures and appropriate treatment are very necessary to protect victims of bullying and prevent the recurrence of this detrimental incident in the future.

## METHOD

This research uses normative legal methods with a focus on a descriptive approach. This method focuses on analyzing legal norms related to the topic discussed, especially in the context of gender discrimination in the workplace, as described by Soekanto (2007). This research focuses on relevant research sources, such as legal literature, statutory documents, notes, and theses that support an understanding of the role of law in dealing with gender discrimination. The primary source used is Law of the Republic of Indonesia Number 35 of 2014 concerning amendments to Law Number 23 of 2002 concerning Child Protection, which provides a clear definition of violence against children, as the main legal basis relating to bullying behavior in Indonesia and Law Number 11 of 2012 concerning the Juvenile Criminal Justice System. Through this normative and descriptive legal method approach, it is hoped that an in-depth understanding of the legal framework and its implementation in dealing with bullying behavior problems in Indonesia can be obtained.

## RESULTS AND DISCUSSION

Based on the provisions in the Child Protection Law and its amendments, bullying can indeed be categorized as a criminal act because it is a form of violence against children. Specifically, related to bullying in the school environment, whether in the form of physical or verbal bullying, Article 76C of Law Number 35 of 2014 concerning amendments to Law Number 23 of 2002 concerning Child Protection provides clear provisions. This article stipulates that every person is prohibited from placing, allowing, carrying out, ordering to carry out, or participating in violence against children.

Article 76C emphasizes that acts of bullying, both physical and verbal, in the school environment can be subject to legal sanctions in accordance with the provisions regulated in the law. This shows that the government is serious about protecting children from various forms of violence, including bullying at school. With this article, it is hoped that it can increase awareness of the importance of preventing and following up on every case of bullying that occurs in the educational environment, as well as providing more effective protection for victims of bullying.

Furthermore, if the prohibition above is violated, the perpetrator can be charged under Article 80 of Law 35/2014, namely:

1. Any person who violates the provisions of Article 76C of Law 35/2014 will be sentenced to imprisonment for a maximum of 3 years and 6 months and/or a fine of a maximum of IDR 72 million.
2. If a child suffers serious injuries, the perpetrator will be sentenced to imprisonment for a maximum of 5 years and/or a fine of a maximum of IDR 100 million.
3. If the child dies, the perpetrator will be sentenced to imprisonment for a maximum of 15 years and/or a fine of a maximum of IDR 3 billion.
4. The penalty is increased by one-third of the provisions in paragraphs (1), (2), and (3) if the parents are the ones carrying out the abuse.

If the perpetrator of the bullying is a minor, the handling must take into account the provisions in the Juvenile Criminal Justice System Law (SPPA). Law Number 11 of 2012 concerning the Juvenile Criminal Justice System establishes special principles in handling cases involving children as perpetrators of criminal acts. One of the main principles regulated in the SPPA Law is the restorative justice approach, which is explained in Article 5 paragraph (1) of the Law.

The restorative justice approach emphasizes the process of reconciliation and recovery, not just punishment as a form of retribution. In the context of bullying cases involving minors as perpetrators, this approach makes it possible to understand the root causes of the perpetrator's behavior, provides an opportunity for the perpetrator to correct his mistakes, and restores the relationship between the perpetrator and the victim. Thus, the implementation of the principles of restorative justice in handling cases of bullying by minors is expected to create a safer environment and support the formation of positive character for children, while still paying attention to their rights as individuals who are still in the developmental stage.

Article 1 number 3 of the Juvenile Criminal Justice System Law (SPPA) stipulates that child perpetrators who carry out bullying are included in the category of children in conflict with the law. This refers to children who have reached the age of 12 years, but have not yet reached the age of 18 years, and are suspected of committing a criminal act, including in this case acts of bullying. As children in conflict with the law, perpetrators of bullying have special rights regulated in the SPPA Law, including the right to be treated in accordance with the principles of protection and recovery that prioritize the best interests of the child.

In handling cases of child perpetrators who carry out bullying, the SPPA Law emphasizes the importance of approaches that support children's recovery and prevent the repetition of harmful behavior. A restorative approach is prioritized in handling cases of juvenile bullying, which emphasizes reconciliation between the perpetrator, victim and society. Through this approach, it is hoped that bullies can understand the consequences of their actions, correct their mistakes, and be given the opportunity to improve their behavior without sacrificing their rights as children.

Article 7 of the Juvenile Criminal Justice System Law (SPPA) confirms that in the stages of investigation, prosecution and examination of children's cases in district courts, diversion efforts must be made if the criminal act allegedly committed by the child is punishable by imprisonment for less than 7 years and does not constitute a repetition of a criminal act. Diversion is one of the approaches emphasized in the juvenile criminal justice system, which aims to avoid harsher formal justice processes and provide opportunities for children to receive recovery without having to go through lengthy court processes.

By applying the principle of diversion, the juvenile criminal justice system seeks to provide alternative case resolution that is more appropriate and in line with the best interests of the child. Through diversion, children who are suspected of committing criminal acts, including in the context of bullying cases, can be given the opportunity to improve their behavior, avoid the stigma of being criminals, and continue to participate in educational or rehabilitation activities that support their recovery. Thus, diversion becomes an important instrument in efforts to prevent repetition of criminal acts and to build positive character for children, in accordance with the principles of protection and best interests of children as regulated in the SPPA Law.

Article 69 paragraph (2) jo. Article 82 paragraph (1) of the Juvenile Criminal Justice System Law (SPPA) regulates various actions that can be applied to child perpetrators who are not yet 14 years old. This provision is designed to provide a response that is appropriate to the special characteristics and needs of children in this age range. Actions that can be implemented include returning parents or guardians, in an effort to restore family relationships and providing more intensive supervision in a more structured environment.

Apart from that, child offenders who are under 14 years old can also be handed over to someone who is deemed capable of providing appropriate care and guidance. Apart from that, if necessary, the child perpetrator can also undergo treatment at a mental hospital or Special Child Development Institute (LPKS), which aims to provide the necessary assistance and rehabilitation. This effort reflects a more holistic approach in handling cases involving children, taking into account their mental and social health aspects.

Apart from these measures, child perpetrators who are not yet 14 years old are also subject to the obligation to attend formal education and/or training organized by the government or private bodies. This aims to ensure that the child remains involved in educational activities that support their development. Apart from that, revocation of a driving license can also be implemented as an enforcement measure and to limit activities that can be carried out by children who have not reached the age required to drive a motorized vehicle. All of these actions are directed at providing responses that are appropriate to the developmental stage and special needs of children under the age of 14, while still paying attention to the principles of justice and the best recovery for children.

Article 71 paragraph (1) of the Juvenile Criminal Justice System Law (SPPA) determines the main types of punishment that can be applied to children who commit criminal acts. This type of punishment is specifically designed to take into account the child's age, level of development, and rehabilitation needs, placing emphasis on their recovery and reintegration into society. One type of punishment that can be imposed is a warning penalty, which aims to provide a warning for behavior that violates the law and encourage children not to repeat the action in the future.

Apart from that, Article 71 paragraph (1) of the SPPA Law also mentions punishment with conditions, which include various forms of guidance outside the institution, community service and supervision. Sentencing with these conditions provides an alternative to avoid detention in a coaching institution and provides an opportunity for children to undergo coaching and take responsibility for their actions. Furthermore, job training is also included as a basic type of punishment that can be imposed, by providing opportunities for children to develop skills and prepare for social reintegration. However, coaching in institutions and prisons remains the last option if other approaches are ineffective or if the child's actions are very serious and require more firm treatment. Thus, these types of punishment reflect a more humane approach in dealing with children involved in the criminal justice system, prioritizing their recovery, development and reintegration into society.

Article 71 paragraph (2) of the Juvenile Criminal Justice System Law (SPPA) states the types of additional penalties that can be imposed on children involved in criminal acts. One type of additional crime is confiscation of profits obtained from criminal acts, which aims to reduce incentives to commit criminal acts and punish perpetrators in a way that is more economical. Apart from that, fulfilling customary obligations can also be an additional type of crime, which requires children to fulfill obligations or restitution to victims or indigenous communities affected by the criminal acts they commit.

It should be noted that in cases where the child's circumstances and actions are deemed to be dangerous to the general public, the child can be sentenced to imprisonment at the Special Child Development Institution (LPKA). This provision is regulated in Article 81 paragraphs (1) and (2) of the SPPA Law, which stipulates that imprisonment in LPKA can be imposed for a maximum duration of half the maximum threat of imprisonment for adults. This shows that prison at LPKA is a last alternative and is enforced only if the security of the general public is truly threatened by the child's behavior. Thus, the regulations regarding additional types of punishment and imprisonment in the LPKA in the SPPA Law illustrate a careful and proportional approach in dealing with children involved in criminal acts, taking into account special factors and the best interests of the child.

Article 9 paragraph (1a) of Law Number 35 of 2014 concerning amendments to Law Number 23 of 2002 concerning Child Protection confirms that every child has the right to receive protection from educational units against sexual crimes and violence committed by educators, educational staff, others students, and/or other parties. This shows that schools have a legal obligation to protect their students from all forms of violence, including bullying, which can harm children in the educational environment. This protection includes the responsibility to prevent, resolve and provide assistance in cases of violence that occur within the school environment.

Furthermore, Article 54 of the Law also confirms that a child who is in an educational unit environment has the right to be protected from acts of physical, psychological violence, sexual crimes, and other crimes that may be committed by educators, educational staff, fellow students, and /or other parties. In the context of bullying, this protection includes efforts to prevent and take firm action against bullying that occurs at school. The responsibility to provide this protection is not only the responsibility of the school, but also the collective responsibility of all components of society involved in children's education.

To carry out this obligation, schools must be active in taking steps to prevent and handle bullying cases. This involves implementing a clear anti-bullying policy, raising awareness among students and staff about the dangers of bullying, and providing support and protection for victims. Apart from that, schools must also provide education about positive values, empathy and tolerance, to create a safe and supportive environment for all students.

When cases of bullying occur, schools also have a responsibility to intervene quickly and effectively, including investigating the case, providing appropriate sanctions to the perpetrator, and providing the necessary support for the victim. Thus, the provisions in the Child Protection Law underline the important role of schools in providing a safe, secure and supportive educational environment for all their students.

## CONCLUSION

Bullying is a serious problem that affects children in educational environments. Various regulations, including the Child Protection Act and the Juvenile Criminal Justice System Act, emphasize schools' legal obligations to protect students from all forms of violence, including bullying. The articles in these two laws emphasize children's rights to receive protection from acts

of physical, psychological violence and sexual crimes committed by anyone in the educational environment. This protection includes prevention efforts, handling cases, and providing support for victims. Schools have a responsibility to implement anti-bullying policies, raise awareness, provide education about positive values, and provide quick and effective intervention when bullying cases occur. In the case of juvenile offenders, the juvenile criminal justice system provides an approach that considers age, development and rehabilitation factors, by prioritizing diversion and restorative approaches. In conclusion, protecting children from bullying requires active involvement from all components of society, including schools, government and society at large. Only with coordinated, collective efforts can we create a safe, secure and supportive educational environment for children's development, and send a clear message that bullying will not be tolerated in a just and civilized society.

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