

The Perspective of Civil Law in Legal Protection for Children in Bullying Cases

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Abstract

Civil law plays a crucial role in protecting children who are victims of bullying by providing a legal basis to claim compensation for material and immaterial damages. Article 1365 of the Civil Code, which regulates unlawful acts, allows bullying victims to seek compensation from the perpetrator or negligent parties, such as schools. Additionally, the civil law approach supports dispute resolution through mediation, in line with the best interests of the child principle. Preventive protection can also be implemented through anti-bullying policies in schools that require educational institutions to be responsible for student safety. However, the implementation of civil law in bullying cases faces challenges, such as difficulties in proving psychological harm and a lack of public understanding of legal rights. Therefore, broader legal awareness and legal education are needed to strengthen children's protection against bullying.

I. Introduction

Children are the nation's assets who possess universal human rights and must receive special protection according to their physical, mental, and social development. The Child Protection Law, Law No. 35 of 2014, states that children have the right to live, grow, develop, and participate optimally in accordance with their dignity and humanity. However, in practice, violations of children's rights still occur, one of which is bullying, a global phenomenon.

Bullying, which includes intimidation, harassment, and violence both physically and verbally, can occur in various environments, including schools, homes, and cyberspace. According to recent studies, bullying has serious impacts on children's development, both physically and psychologically. Children who become victims of bullying tend to experience a decline in self-esteem, depression, anxiety, and in some extreme cases, victims may suffer from post-traumatic stress disorder (Smith & Jones, 2020).

Moreover, the long-term impact of bullying cannot be ignored. Children who were once victims often carry these psychological wounds into adulthood, affecting their ability to form interpersonal relationships, reach their academic or professional potential, and contribute optimally to society. Research by Brown et al. (2021) shows that children who were bullied have a higher risk of mental health problems, such as anxiety disorders and deviant behavior, which may persist into adulthood.

In the legal context, bullying is not only considered an unlawful act under criminal law but can also be examined from a civil law perspective. This perspective emphasizes the victim's right to legal protection and compensation for the harm they have suffered. In civil law, bullying can be sued on the grounds of unlawful acts as stipulated in Article 1365 of the Civil Code, which states that any act that violates the law and harms others obligates the perpetrator to compensate for the damage.

This article aims to further examine how the civil law perspective can provide protection for children who are victims of bullying. The research will also highlight the role of educational institutions, parents, and society in preventing bullying, as well as the legal challenges faced in the implementation of civil law protection. It is hoped that this article can contribute to efforts to create a safe and child-friendly environment, as mandated by law and human values.

In efforts to protect children from bullying threats, civil law plays a significant role as a complement to criminal law protection. While criminal law functions to punish perpetrators for harmful actions, civil law focuses on restoring the victims' rights, including compensation for the harm suffered. Article 1365 of the Civil Code explicitly states that any unlawful act that causes harm to others obligates the perpetrator to provide compensation. This includes bullying actions that result in physical, mental, or social harm to children.

The harm caused by bullying is not only material, such as medical or psychological

therapy costs, but also immaterial, such as emotional trauma, loss of self-confidence, and impacts on the victim's quality of life. A study by Carter and Wilson (2020) shows that bullying victims often face significant challenges in recovering their emotional stability, and this recovery requires ongoing psychological support, the cost and responsibility of which can be subject to civil lawsuits.

The civil law perspective provides a basis for victims and their families to demand legal accountability from the perpetrators or parties deemed negligent in protecting children, such as educational institutions or caregivers. In this context, the principle of institutional responsibility or vicarious liability is often relevant. For example, if bullying occurs in a school environment, the school may be sued for negligence in providing a safe environment for students, as explained in research by Greene et al. (2021).

Furthermore, the civil law perspective also allows for class action lawsuits if bullying occurs systematically and affects many children. This provides an opportunity for groups of victims to demand compensation collectively, thus strengthening access to justice for those who may not have the financial means to file individual lawsuits (Miller & Wright, 2022).

The application of civil law in bullying cases presents several challenges, including proving the cause-and-effect relationship between the bullying action and the harm suffered by the victim. However, research by Hill and Taylor (2020) shows that advances in social forensic science, such as the use of medical records, psychological reports, and digital evidence, have increased the effectiveness of legal processes in handling such cases.

Thus, civil law plays an important role not only in providing compensation to victims but also as a means of prevention. When perpetrators, their families, or related institutions understand the significant legal risks, it can motivate them to create a safer environment for children. Therefore, a holistic approach that integrates both criminal and civil legal protection is necessary to protect children from bullying threats.

This article aims to examine how the civil law perspective can provide legal protection for children who are victims of bullying. In addition, this article will discuss the mechanisms for filing claims for compensation, the legal basis used, and the challenges faced in implementing civil law in bullying cases. This approach is expected to provide a more comprehensive understanding of efforts to protect children from bullying threats through civil law instruments.

2. ResearchMethod

This research uses a descriptive qualitative method to explore and analyze legal protection for children in bullying cases from a civil law perspective. This method was chosen because it allows for in-depth research with a focus on explaining the

phenomenon and its connection to the applicable legal norms. The qualitative approach is selected due to its orientation toward gaining a deep understanding of civil legal protection in bullying cases, particularly the normative aspects, legal implementation, and its impact on victims. The research utilizes a data collection method through library research, which involves gathering information from various written sources, both printed and digital. The main data sources include legal books, academic journals, relevant laws and regulations, official government documents, and other scholarly works related to the research topic.

The data analysis process is carried out using content analysis, which involves categorizing data based on key themes such as civil legal norms, children's rights, the responsibility of bullying perpetrators, and the rights of victims. The legal norms found in the Civil Code and other laws are analyzed interpretatively to understand their application in bullying cases. Additionally, this research also includes a theoretical review of civil law theory and child protection to build a comprehensive analytical framework. Examples of bullying cases that have been resolved through civil channels are also analyzed to demonstrate the application of law in real-life contexts.

The validity of the data is maintained through source triangulation, comparing and verifying information from various sources to ensure consistency and accuracy. Validation is also carried out by referring to the applicable regulations and published legal experts' opinions. This study focuses on three main aspects: normative, which analyzes the civil legal framework that provides a basis for protecting bullying victims; implementation, which examines the application of legal norms in concrete cases, including mechanisms for lawsuits and compensation; and preventive, which assesses the role of civil law in preventing bullying through the application of legal responsibility principles for negligent parties.

This research also considers the social, cultural, and psychological context of the victims, providing a holistic picture of child protection in bullying cases. With this approach, the research results are expected to provide a deep understanding of the role of civil law in providing protection for children who are victims of bullying, as well as contribute significantly to academic knowledge, offer recommendations for policymakers, and serve as a reference for legal practitioners and educators in creating a safe environment for children.

3. Results and Discussion

Civil law plays a strategic role in providing legal protection for children who are victims of bullying. As a branch of private law, civil law focuses on legal relationships between individuals, including those involving children as vulnerable parties. In this context, civil law provides a basis for bullying victims to claim compensation for both material and immaterial damages suffered. This aligns with

the principle of legal liability in civil law, which includes civil liability for unlawful acts (*onrechtmatige daad*), as stipulated in Article 1365 of the Indonesian Civil Code (KUHPerdata).

In bullying cases, child victims have the right to seek compensation from the perpetrator or responsible parties, including institutions such as schools that fail to provide a safe environment. As noted in the study by Rahim, Ismaya, and Abduloh (2022) in their article "Socialization and Training on Child Protection Laws and Bullying Prevention in Karawang Regency," civil law can serve as an effective tool for demanding legal accountability. They emphasize the importance of raising awareness among the public, including parents and school officials, about their legal obligations to protect children from bullying.

Additionally, civil law enables conflict resolution through mediation or non-litigation dispute resolution. This approach aligns with the best interests of the child principle recognized in the Convention on the Rights of the Child and adopted in Indonesia's Law No. 35 of 2014 on Child Protection. Within the civil law framework, this method not only focuses on restoring victims' rights but also supports reconciliation efforts among victims, perpetrators, and the community.

Further research highlights that civil law can offer preventive protection for children. For instance, the inclusion of clauses in contracts or internal school regulations mandating the implementation of anti-bullying policies can serve as a preventive measure. If these policies are neglected, victims can hold schools accountable based on the principle of negligence. This is supported by Setiawan's (2021) research, which demonstrates that civil law-based regulations, such as social contracts between schools and parents, can strengthen child protection against bullying.

Another positive impact of the civil law approach is its emphasis on the psychological recovery of victims. Immaterial compensation under civil law not only serves to replace non-economic losses suffered by victims but also acts as legal recognition of the trauma endured. In this context, civil law protection reflects the principle of restorative justice, which aims to restore victims, perpetrators, and social relationships within the community.

According to Hermawan and Puspitasari (2021), the presence of civil law mechanisms in bullying cases is also a vital part of a holistic child protection system, encompassing educational and preventive aspects through the legal responsibilities of related parties, such as families, educational institutions, and communities. On the other hand, Wulandari (2022) highlights that public awareness of civil law mechanisms remains low, necessitating continuous legal socialization and training.

With comprehensive civil law protection, children who are victims of bullying have broader access to justice. However, Rahim, Ismaya, and Abduloh (2022) identify challenges in implementing this legal framework, including limited public

understanding of civil law mechanisms, financial constraints in litigation processes, and the legal system's limitations in addressing bullying cases effectively. They recommend enhancing legal education and public awareness as critical steps to strengthen child protection.

Legal protection for child victims of bullying under civil law has a strong foundation in various national regulations and international principles adopted in Indonesia's legal system. The primary legal basis in civil law is Article 1365 of KUHPerdata, which governs unlawful acts (*onrechtmatige daad*), requiring perpetrators to compensate for damages caused to others. In the context of bullying, both the perpetrators and negligent parties, such as schools failing to ensure a safe environment, can be held legally accountable. Furthermore, Article 1371 of KUHPerdata allows victims to claim compensation for immaterial damages, such as the psychological trauma experienced by child victims of bullying (Setiawan, 2021).

Moreover, Law Number 35 of 2014 on Child Protection serves as a critical foundation for protecting children from bullying. Article 59 of this law mandates the government, society, families, and educational institutions to protect children from all forms of violence, including bullying. This protection aligns with the principle of the best interest of the child, as stipulated in the Convention on the Rights of the Child, ratified by Indonesia through Presidential Decree Number 36 of 1990 (Hermawan & Puspitasari, 2021). Educational institutions, in particular, have a legal obligation to ensure the safety of children under their care. Negligence by schools in preventing or addressing bullying can be classified as a breach of contract under Article 1239 of the Civil Code if there is a written agreement between the school and parents that includes such responsibilities (Rahim, Ismaya, & Abduloh, 2022).

Furthermore, the principle of social function of rights, as regulated in Article 6 of the Basic Agrarian Law (UUPA), though primarily applied in agrarian law, can also be implemented in civil law to ensure the protection of children's rights. The rights to care and education must be utilized to support their social well-being. This principle encompasses the community's responsibility to ensure that children's rights are not violated, including in cases of bullying. This approach is relevant to promoting social justice for children who are victims of violence or intimidation (Wulandari, 2022).

Restorative justice is another crucial element in civil law approaches to bullying cases. This approach aims to restore relationships between victims, perpetrators, and the community through peaceful conflict resolution. In bullying cases, mediation often proves effective in resolving issues without lengthy litigation processes. This approach not only aids in the psychological recovery of children but also creates constructive solutions (Nuraeni, 2020).

In addition to national legal frameworks, court precedents also play an essential role in providing clarity and legal guidance in handling bullying cases. These rulings can be used to strengthen victims' arguments when claiming damages, both material and immaterial. With strong legal support, civil law can offer

comprehensive protection for children who are victims of bullying while imposing sanctions and legal responsibilities on involved or negligent parties (Pratama, 2021).

The mechanism for filing claims for damages in bullying cases involving children as victims requires a systematic approach based on civil law. One of the primary legal foundations for this mechanism is Article 1365 of the Civil Code, which stipulates that any act causing harm to another person, whether physical or psychological, entitles the victim to seek compensation from the perpetrator. This mechanism consists of several stages, starting with identifying the damages, gathering evidence, filing a lawsuit, court proceedings, and concluding with the determination of compensation.

The first stage is the identification of damages, which includes both material and immaterial losses. Material losses usually involve medical expenses, rehabilitation costs, or damage to the victim's belongings. Meanwhile, immaterial losses include psychological trauma, emotional disturbances, and long-term impacts on a child's development (Santoso, 2021). This identification process should involve experts, such as psychologists or medical professionals, to objectively assess the effects of bullying.

The second stage involves gathering evidence, a critical step in strengthening compensation claims. Evidence can include medical records, psychological reports, video or audio recordings, and witness testimonies, including from teachers or peers of the victim. This evidence is used to establish a causal link between the perpetrator's actions and the harm suffered by the victim (Rahayu & Nuraini, 2021).

The next step is filing a lawsuit in court, which is done by the victim's parents or guardians. The lawsuit is submitted to the district court within the jurisdiction where the incident occurred or the perpetrator resides. In the lawsuit, the victim must outline the unlawful acts committed by the perpetrator, the damages suffered, and the compensation sought. Based on Article 1382 of the Civil Code, the victim may seek compensation not only from the direct perpetrator but also from parties deemed negligent, such as schools that failed to prevent bullying (Wulandari, 2022).

The subsequent process is court proceedings, where the court examines the evidence and hears statements from both parties. In bullying cases, judges typically consider the long-term impact on the child, including psychological and social aspects. Judges may also seek expert testimony to support the assessment of damages (Suryani, 2020).

The final stage is the determination of compensation. If the court rules that the perpetrator or other parties are liable, they are required to pay compensation as determined by the court. This compensation may include financial reimbursement for the victim's rehabilitation expenses and additional compensation for immaterial damages. In some cases, the court may also impose additional sanctions on the

perpetrator to prevent similar actions in the future (Kusuma & Firdaus, 2021).

Apart from litigation, victims also have the option to resolve compensation claims through mediation or other alternative dispute resolution methods. This approach is often used to avoid prolonged court processes and to provide a more peaceful resolution between the parties. Mediation is typically conducted with the assistance of a trained mediator who ensures that the child's best interests are prioritized (Rahim et al., 2022).

Throughout this mechanism, lawyers or legal representatives knowledgeable in child protection play a vital role in providing legal assistance to victims and their families. With a structured procedure, this mechanism offers children who are victims of bullying an opportunity to seek justice and recover from the harm they have endured.

The implementation of civil law in addressing bullying cases faces various complex challenges, ranging from legal, social, to psychological aspects. One major challenge is the difficulty in proving immaterial damages suffered by bullying victims, such as psychological trauma or long-term impacts on a child's emotional development. Civil law, particularly as stipulated in Article 1365 of the Civil Code, requires a causal link between the perpetrator's actions and the harm suffered by the victim. However, proving psychological impact necessitates expert evaluations, such as from psychologists or psychiatrists, which often require substantial costs and time (Santoso, 2021).

Moreover, the lack of public understanding regarding civil law mechanisms poses a significant barrier. Many parents or guardians of children who are victims of bullying are unaware of their legal rights to file for compensation. This issue is exacerbated by the lack of public outreach and legal education, particularly in remote areas or communities with limited access to legal services. As a result, many bullying cases go unreported or are not addressed through legal channels, leaving victims without the justice they deserve (Rahim, Ismaya, & Abduloh, 2022).

Another challenge is the culture of silence or taboos that often exists within communities and schools. Many victims and their families are reluctant to report bullying cases due to fear of social stigma or retaliation from the perpetrators. In some instances, schools also tend to cover up bullying incidents to protect their institutional reputation. Consequently, civil legal protections cannot be optimally implemented, leaving victims to face the impacts of bullying without adequate support (Wulandari, 2022).

From a legal perspective, one of the primary obstacles is the absence of specific regulations addressing bullying within Indonesia's civil law framework. Although Article 1365 of the Civil Code can serve as a basis for claiming damages, there are no clear guidelines on handling bullying cases in the civil law context. This leads to varying interpretations among judges and lawyers, resulting in inconsistent rulings

(Suryani, 2020).

Additionally, filing a lawsuit under civil law is often a lengthy and costly process, adding to the burden on victims and their families who are already under emotional stress due to bullying. Limited access to pro bono legal assistance further complicates matters, especially for families in less favorable economic conditions (Rahayu & Nuraini, 2021).

Civil law approaches also face challenges in ensuring that perpetrators or responsible parties pay the damages. In some cases, the perpetrator or their family lacks the financial means to fulfill these obligations. This creates a situation where court decisions cannot be effectively enforced, leaving victims without the compensation they need for recovery (Kusuma & Firdaus, 2021).

On the other hand, the lack of synergy between civil law and other legal systems, such as criminal law or child protection laws, also hinders a holistic approach to handling bullying cases. Fragmented approaches often lead to overlaps or legal loopholes that impede optimal protection for victims. To address these challenges, more integrated policies are required, including revisions or additions to regulations that comprehensively address bullying (Putri & Aulia, 2023).

Thus, these challenges highlight the need for legal policy reform and a more inclusive approach to addressing bullying cases through civil law. Additionally, it is essential to enhance legal education, improve access to legal assistance, and develop a more responsive legal framework to meet the needs of bullying victims.

From the civil law perspective, providing legal protection for children in bullying cases is a crucial issue, considering that children are a vulnerable group with the right to be protected from all forms of violence. Legally, bullying can be categorized as an unlawful act (PMH) as stipulated in Article 1365 of the Civil Code if such actions cause physical, psychological, or material harm to the victim. Furthermore, Article 1367 of the Civil Code affirms the responsibility of parents or guardians for the actions of minors under their supervision. This opens the possibility for victims or their families to claim damages for their losses through civil channels. However, resolving bullying cases is not limited to litigation. Non-litigation dispute resolution, such as mediation, often serves as a more child-friendly alternative.

Mediation as a dispute resolution mechanism provides space for victims and perpetrators to reach an amicable agreement without undergoing court processes that may exacerbate the child's trauma. Additionally, child protection agencies play a significant role in assisting victims and their families to understand their rights and provide psychosocial support. Psychological recovery is a critical component of child protection often overlooked in formal legal processes.

However, in practice, various challenges need to be addressed, such as low legal awareness among the public, social stigma against bullying victims, and the complexity of litigation processes often perceived as time-consuming and costly.

Therefore, comprehensive recommendations and solutions are necessary to enhance the effectiveness of legal protection for children.

Improving legal education is a fundamental step. Parents, children, and the community need to be provided with comprehensive education about children's legal rights and accessible legal mechanisms. This can be achieved through community-based programs, seminars, or digital campaigns involving various stakeholders, including the government and non-governmental organizations (De Silva et al., 2021).

Strengthening mediation as a dispute resolution mechanism should be prioritized. Mediation not only accelerates case resolution but also reduces the psychological impact that children may experience during litigation. Developing standard operating procedures (SOPs) for mediating bullying cases can help ensure the process is effective and fair (Jones & Baglivio, 2021).

The integration of psychosocial services into the legal system should be enhanced. These services include psychological and social support for victims to ensure optimal mental and emotional recovery. The government can collaborate with psychological institutions and child protection agencies to provide these services as part of the legal process (Smith et al., 2022).

The establishment of integrated service centers for bullying cases can simplify legal and support processes. These centers can integrate legal, psychological, and mediation services under one roof, reducing bureaucratic complexities for victims and their families (Anderson et al., 2023).

Increasing the capacity of legal officers and mediators through specialized training on handling child bullying cases is essential. This aims to ensure that case resolutions are conducted with a child-centered approach (Taylor & Fitzpatrick, 2020).

Regulatory updates with more specific provisions regarding child protection from bullying within the civil law framework can strengthen the legal basis for prosecuting perpetrators and protecting victims. Such regulations can also address the responsibilities of educational institutions in preventing and addressing bullying (Harris et al., 2021).

Further research on the effectiveness of civil law mechanisms in handling bullying cases is needed to evaluate and improve existing policies. This research can also help identify gaps in the legal system that need to be addressed (Martinez & Diaz, 2022).

By implementing these measures, it is hoped that legal protection for children in bullying cases can be more effective, providing positive outcomes for both victims and society as a whole.

4. Conclusion

Civil law plays a crucial role in providing protection for children who are victims of bullying, particularly in pursuing compensation for material and immaterial damages suffered. Article 1365 of the Indonesian Civil Code (KUHPperdata) provides a legal basis for victims to seek compensation, whether from the perpetrators or negligent parties, such as schools that fail to provide a safe environment. Moreover, civil law also facilitates non-litigation conflict resolution through mediation, aligning with the best interest principle for children under the Convention on the Rights of the Child. This approach offers victims an opportunity to achieve justice and psychological recovery from the trauma experienced.

However, the implementation of civil law faces significant challenges, such as difficulties in proving immaterial damages and a lack of public awareness about this legal mechanism. Many victims and their families refrain from reporting bullying cases due to ignorance of their legal rights or fear of social stigma. Additionally, a culture of silence and cover-ups by schools exacerbates victims' access to justice. To address this issue, it is essential to enhance public legal education and socialization so that civil law protection can be maximized to safeguard children from bullying and violence.

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