
PANCASILA PHILOSOPHY: THE RELEVANCE OF THE CRIME OF BULLYING

Dewi Iriani¹, Widya Nurreni Astuti² (corresponding author)¹Fakultas Syariah IAIN Ponorogo, Indonesia (de.callista8113@gmail.com)²Fakultas Syariah IAIN Ponorogo, Indonesia (widyannurreni@gmail.com)Submitted: 10/08/2021 Revised: 11/09/2021 Accepted: 30/09/2021

ABSTRACT

Bullying, better known as oppression, is a form of violence committed by a person or group who is stronger against another person with the aim of hurting. During the period of 9 years from 2011 to 2020 there were 37,381 complaints of bullying cases. From the complaint data, the author raises bullying cases that occur at school, home, and social media. So this essay raises the study of the Character of Pancasila to Reject the Crime of Bullying. So this essay examines 1) how is the spirit of Pancasila's character in rejecting bullying? 2) how are bullying crimes enforced? . This study uses a library research approach in the form of bullying case studies which are examined using analysis of statutory regulations and Pancasila as the character of Pancasila in rejecting bullying crimes.

The results of this study 1) The spirit of the Pancasila Character to Reject Crime which is the character of the Indonesian national identity as follows: First Principle of Pancasila, the divine value in every religious teaching of the Second Principle of Pancasila; foster a sense of empathy and compassion to do justice without committing violence. The Third Principle of Pancasila; foster mutual respect, respect for differences. The Fourth Precept of Pancasila; the government is more concerned with its people in order to avoid acts of violence. The Fifth Precept of Pancasila; Provide fair sanctions. Law enforcement against bullying crime requires the role of the community, parents, social environment, legal officials, 2) Law enforcement by providing strict sanctions in accordance with the laws and regulations on bullying, namely the 1945 Constitution, Constitutional Court Decision Number 50 / PUU -VI / 2008 regarding the constitutionality and Article 27 paragraph (3) of the ITE Law confirms that Article 27 paragraph (3) of the ITE Law, Law Number 8 of 1981 concerning Criminal Procedure Law, Law of the Juvenile Court No 11 of 2012.

Keywords: Marwah, Pancasila, Bullying

INTRODUCTION

The commitment to recognize and protect children's rights has been guaranteed in the 1945 Constitution of the Republic of Indonesia Article 28B paragraph 2. The law states that every child has the right to survive, grow and develop and is entitled to protection from violence and discrimination. Many laws and regulations related to children have been issued, but in their implementation there is still violence, especially the younger generation, including bullying

Bullying, better known as oppression, is a form of violence carried out by a stronger person or group against another person with the aim of hurting. According to a statement by the Commissioner of the Indonesian Child Protection Commission (KPAI), Mr. Jasra Putra, "cases of bullying have continued to increase, recorded for a period of 9 years from 2011 to 2020 there were 37,381 complaints of bullying cases. From the complaint data, the authors raised cases of bullying that occurred at school, home, and social media as follows :

A case of bullying at school occurred in a high school student with the initials FA in Riau with a broken nose bone due to bullying behavior carried out by his friends at school. At first the FA only issued a joke but the perpetrator did not accept it so he hit and banged the FA's head(1). The cyberbullying case experienced by Amanda Todd. Initially Amanda had acquaintances from social media, these acquaintances asked for live sex without thinking Amanda agreed. However, it is unfortunate that the live sex video was spread through social media(2). Meanwhile, the bullying case that occurred at home began with the actions of one of The Voice Indonesia contestants with the initials T who brutally abused his biological mother in February 2020(3).

Some of the cases that have occurred reflect that the character of Pancasila has faded among the younger generation. As the younger generation, they should have good character, because they are the successors to the ideals of the Indonesian nation in realizing national development. No, on the contrary, those who violate the law that result in harm to themselves and others.

So this essay raises the study of the Pancasila Character Marwah to Reject the Crime of Bullying. So this essay explores how the dignity of the Pancasila character in rejecting the crime of bullying? How is bullying law enforced? . This study uses a library research approach in the form of a case study of bullying which is studied using an analysis of legislation and Pancasila as the character of Pancasila in rejecting the crime of bullying.

METHODS

This research methods was juridical normative methods. The Juridical normative methods was an library research. Data from library, book, journal and others source was collected and examined to answers the research problem. Analytics of this research uses the content analytics with philosophical approach. As philosophical approach uses, this research was an philosophical juridical research

RESULTS

Pancasila Character in Rejecting Bullying

Prof. Kaelan as an expert in the philosophy of Pancasila stated that Pancasila as the philosophy of the Indonesian state, Filosofische Grondslag has consequences for every state administrator based on the Pancasila philosophy, including state laws and regulations. The Pancasila philosophy also regulates the ethical behavior of the Indonesian nation. PP No. 66 of 1951, promulgated October 17, 1951 contained in the State Gazette No. II in 1951 the creation of the motto of Pancasila, namely Bhineka Tunggal Ika, which means respecting differences to create national unity(5).

This is stated juridically in the preamble of the 1945 Constitution paragraph IV "then the independence of the Indonesian nation is compiled in a Constitution of the Indonesian state, which is sovereign by the people based on the One Supreme Godhead, just and civilized humanity, Indonesian Unity, democracy led by wisdom in deliberation/representation, Justice for All Indonesian People(6).

The case that has been described by the author, requires the Pancasila Character Marwah to Reject Evil, which is the character of the Indonesian nation's identity as follows: The First Precept of Pancasila "Belief in One God". In the case of bullying, it strengthens the divine value in every religious teaching, which is based on faith. In the case of bullying, it is not taught in every religion to discriminate against each other. But every religion teaches to love each other. The Second Precept of Pancasila "Just and Civilized Humanity". Bullying should humanize humans in the sense that the behavior of the younger generation must foster a sense of empathy and compassion to do justice without resorting to violence. The Third Precept of Pancasila "Indonesian Unity". Bullying violations from the younger generation can be prevented by fostering mutual respect, respect for differences so as to create unity, unity. The Fourth Precepts of Pancasila "Popularity Led by Wisdom in Wisdom in Representative Deliberation". With bullying, the government is expected to care more about the younger generation so that the younger generation can develop their abilities and can avoid acts of violence. The Fifth Precept of Pancasila "Social Justice for All Indonesian People". Provide fair sanctions for the younger generation, both social and legal sanctions in accordance with community norms and applicable laws and regulations.

DISCUSSION

Law Enforcement Of The Crime Of Bullying

The era of 2010 appeared a new term in crime, if previously crime was only violence and persecution. In 2010 persecution and violence had a new term, namely bullying. Bullying is violence that is done by people who have power to people who are considered weak.

Regulation of the Minister of Education and Culture Number 18 of 2016 concerning Introduction to the School Environment for New Students ("Permendikbud 18/2016") Article 27 paragraph (3) of Law 19/2016 The criminal threat for those who meet the elements in Article 27 is sentenced to imprisonment a maximum of 4 (four) years and/or a maximum fine of Rp. 750 million(7).

Defamation on Social Media Insult is an offense Verbal bullying complaints often occur on social media, both on WhatsApp, Facebook, Instagram, and the YouTube comment column. Complaint offenses, victims who feel aggrieved can process through the Ministry of Communications and Information Technology's Content Complaint Service. As stipulated in the Constitutional Court Decision Number 50/PUU-VI/2008 regarding constitutionality and Article 27 paragraph (3) of the ITE Law, it is stated that Article 27 paragraph (3) of the ITE Law(8).

According to the legal process, a person if his name is tainted can report it to the local police. Article 108 paragraph (1) and paragraph (6) of Law Number 8 of 1981 concerning the Criminal Procedure Code ("KUHP") regulates: Everyone who experiences, sees, witnesses and or becomes a victim of an event that constitutes a criminal act has the right to file a report or complaints to investigators and or investigators both verbally and in writing; After receiving a report or complaint, the investigator or investigator must provide a letter of receipt of the report or complaint to the person concerned(9). However, to note, acts of defamation, humiliation, blasphemy, and others are included in the form of hate speech as referred to in the Circular Letter of the Head of the Indonesian National Police Number SE/6/X/2015 of 2015 concerning the Handling of Hate Speech(10).

If the perpetrator of the crime of bullying is an adult, then the legal arrangements are regulated and get sanctions according to the applicable laws and regulations. However, if the perpetrators of bullying are still children, they are not treated like adults. In the following, the authors explain the regulation of bullying crimes that are carried out if the perpetrator is a child(11):

The arrest of a child is carried out for the purpose of investigation for a maximum of 24 hours. The arrested child must be placed in a special service room for children. In the event that a special service room for children does not yet exist in the area concerned, the child is deposited in the LPKS. The arrest of children must be carried out humanely by taking into account the needs according to their age. The cost for each child placed in LPKS is charged to the budget of the ministry that carries out government affairs in the social sector. In carrying out the investigation, the investigator coordinates with the public prosecutor. The coordination as referred to in paragraph (1) is carried out within a maximum period of 1 X 24 (one time twenty four) hours from the start of the investigation. However, in Ponorogo there is an LPKS, but there is no seconded manpower to guard it, so that if the crime committed is not serious, it will eventually be returned to the parents, but must report it every day. Meanwhile, if the crime committed is serious, then it is deposited in prison.

Detention of a child may not be carried out in the event that the child obtains a guarantee from the parent/guardian and/or institution that the child will not escape, will not destroy or destroy evidence, and/or will not repeat the crime. Detention of a child can only be carried out with the following conditions: the child is 14 (fourteen) years old or more, is suspected of committing a crime with a threat of imprisonment for 7 (seven) years or more. The terms of detention are expressly stated in the detention order.

As long as the child is detained, the child's physical, spiritual and social needs must be met. To protect the safety of the child, the child can be placed in LPKS. Detention for the purpose of investigation is carried out for a maximum of 7 (seven) days, the period of detention as referred to in paragraph (1) at the request of the Investigator may be extended by the Public Prosecutor for a maximum of 8 (eight) days. In the event that the period as referred to in paragraph (2) has expired, the child must be expelled by law. Detention of children is carried out in LPAS. If there is no LPAS, detention can be carried out at the local LPKS. In the event

that the detention is carried out for the purpose of prosecution, the Public Prosecutor may make a detention for a maximum of 5 (five) days.

The period of detention as referred to in paragraph (1) at the request of the Public Prosecutor, may be extended by a District Court Judge for a maximum of 5 (five) days. In the event that the period of time has expired, the child must be expelled by law. In the event that the detention is carried out for the purpose of examination in a court session, the Judge may make a detention for a maximum of 10 (ten) days. The term at the request of the judge may be extended by the chairman of the district court for a maximum of 15 (fifteen) days. In terms of the period of time, the judge has not given a decision, the child must be released by law.

The court's decision regarding the confiscation of evidence in the case of a child must be determined no later than 2 (two) days. detention is carried out for the purpose of examination at the appellate level, the Appeals Judge may make a detention for a maximum of 10 (ten) days. at the request of the Judge of Appeal may be extended by the head of the high court for a maximum of 15 (fifteen) days. the period has expired and the Appeals Judge has not rendered a decision, the child must be expelled by law. In the event that the detention is forced to be carried out for the purpose of examination at the cassation level, the Judge of Cassation may make a detention for a maximum of 15 (fifteen) days. the request of the Judge of Cassation may be extended by the Chief Justice of the Supreme Court for a maximum of 20 (twenty) days. period of time, the Judge of Cassation has not given a decision, the child must be issued by law.

The official who makes the arrest or detention is obligated to notify the child and his/her parents/guardian regarding the right to obtain legal assistance. officials do not carry out the provisions of the arrest or detention of the child is null and void. Prosecution of children's cases is carried out by the Public Prosecutor who is determined based on the decision of the Attorney General or other officials appointed by the Attorney General. The requirements to be appointed as a Public Prosecutor as referred to in paragraph (1) include: having experience as a public prosecutor; have interest, concern, dedication, and understand the problem of the Child; and has attended technical training on juvenile justice. The Public Prosecutor is obliged to seek Diversion no later than 7 (seven) days after receiving the case file from the Investigator. The diversion as referred to in paragraph (1) is carried out no later than 30 (thirty) days. In

the event that the Diversion process is successful in reaching an agreement, the Public Prosecutor shall submit the minutes of the Diversion along with the Diversion agreement to the head of the district court for determination. In the event that Diversion fails, the Public Prosecutor is required to submit an official report on the Diversion and delegate the case to the court by attaching a report on the results of community research(12).

Sajipto Raharjo stated that law enforcement is a social process, between humans, elements of political culture and others. According to Soerjoono Soekanto, the factors that influence law enforcement are the law itself, law enforcement factors, community factors and cultural factors. Quoting the theory from Lawrence Meir Friedman, the success or failure of law enforcement depends on: legal substance, legal structure/legal institutions and legal culture(13).

Law enforcement efforts are only one element of our overall problem as a State of Law that aspires to uphold and realize social justice for all Indonesian people. It is impossible for the law to be enforced, if the law itself does not reflect the values of justice that live in society. This means that the problems we face are not only related to law enforcement efforts but also legal reform(14).

Pancasila as a source of norms, namely; legal norms, moral norms, ethical norms. The fundamental foundation of Pancasila is to live as a nation and state to regulate human behavior. Moral norms relate to good and bad. The ethical norm is to behave according to the ethics of society, nation and state. Legal norms are norms that refer to the rule of law, Pancasila as the highest norm in the laws and regulations in Indonesia. So Pancasila is not directly normative and practical but is an ethical system that is the source of moral norms and legal norms. Law enforcement against the crime of bullying requires the role of the community, parents, the social environment, law enforcement agencies, law enforcement by providing strict sanctions according to the legislation on the crime of bullying(15).

CONCLUSION

The character of Pancasila to Reject Evil, which is the character of the identity of the Indonesian nation as follows: The First Precept of Pancasila "Belief in One God". divine values

in every religious teaching of the Second Precept of Pancasila "Just and Civilized Humanity". cultivate a sense of empathy and compassion to do justice without resorting to violence. The Third Precept of Pancasila "Indonesian Unity". foster mutual respect, respect for differences so as to create unity, unity. The Fourth Precepts of Pancasila "Popularity Led by Wisdom in Wisdom in Representative Deliberation". the government cares more about its people to avoid acts of violence. The Fifth Precept of Pancasila "Social Justice for All Indonesian People". Give fair sanctions

Law enforcement against the crime of bullying requires the role of the community, parents, the social environment, law enforcement, law enforcement by providing strict sanctions according to the legislation on the crime of bullying, namely the 1945 Constitution, Constitutional Court Decision Number 50/PUU-VI/ 2008 regarding constitutionality and Article 27 paragraph (3) of the ITE Law confirms that Article 27 paragraph (3) of the ITE Law, Law No. 8 of 1981 concerning Criminal Procedure Law, Juvenile Justice Law No. 11 of 2012.

Suggestion ; To suppress the crime of bullying, it is necessary to turn on the education of Pancasila values from an early age

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