



LAW ENFORCEMENT AGAINST ADULT CHILD MOBBING

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ABSTRACT

KEYWORDS

mobbing, victimization,
law enforcement

In general, mobbing is carried out by children against adults, but on the contrary mobbing is carried out by adults against children. The raid caused minor injuries and trauma to the child as a victim. Raids are included in the criminal act of persecution that must not be allowed and must be carried out by law enforcement. This study aims to analyze the law enforcement process against the criminal act of adult mobbing on children carried out by the Gempol Palimanan Sector Police of Cirebon Regency to the process at the Sumber Prosecutor's Office of Cirebon Regency. The type of research used qualitative research with a descriptive approach to analysis that describes and analyzes facts or data that exist and are collected when conducting research, research methods used empirical juridical or sociological, namely through interviews or interviews with related parties, police, perpetrators, victims and prosecutors. Based on the analysis, it was found that Gempol Police conducted law enforcement assisted by the victim's family in arresting the perpetrators, not all perpetrators were caught. Only one was caught and law enforcement proceedings were carried out. The law enforcement process continues to the Source Prosecutor's Office, the perpetrator asks for a resolution to be carried out by *Restorative Justice* at the Source Prosecutor's Office. Settlement through *Restorative Justice* is also agreed upon by the victim. For the sake of justice, Gempol Police should also process other perpetrators of mobbing, if possible, *Restorative Justice* is carried out in investigations and investigations at the police.

INTRODUCTION

Law is a series of rules that control certain behaviors and actions of human life in society (Permana & Sanusi, 2021). Law is a reflection of the social life of a society in which it is formed. It can be said that law is a function of the social history of a society. However, law is not a static social building, but can change and this change occurs because of its function to serve society (Akbar et al., 2021; Donnison et al., 2021; Sorokin, 2017; Sulistiyono, 2018). In concept the rule of law, the elements are rule of law, equality before the law, and a constitution that protects human rights (Firmansyah, 2021). In this concept, law enforcement is not always rigidly bound to positive law, but its main focus is to achieve justice (de La Feria, 2020; Norris, 2022; van Wormer & Bartollas, 2021), which sometimes requires discretion or deviation from judges against positive law in order to achieve justice.

The consequence of the rule of law is that every form of government administration and state life must be based on law. Therefore, every form of implementation of State administration, legal aspects should be used as guidelines. When there is a violation of the law or criminal act, law enforcement is needed, including regarding mobbing carried out by adults on children (Leksono et al., 2024; Sinaga et al., 2024; Swardhana et al., 2022).

The rise of cases of mobbing or criminal acts of persecution carried out together makes Indonesian people uneasy. Moreover, mobbing carried out by adults against children is not commonplace so law enforcement needs to be carried out. Like the case of mobbing by adults against children that occurred in June 2023 in the jurisdiction of the Gempol Palimanan Police Station, Cirebon Regency, where there has been a case of mobbing on the road Block Kiori RT

03 RW 04, East Palimanan Village, Palimanan District, Cirebon Regency, the case began with jealousy (emotion) caused by the instigation of the woman or the perpetrator's girlfriend so that the perpetrator who was 24 years old planned the mobbing along with 4 friends who are the same age as the perpetrator. While the victim is still in his 16 years which can be categorized as a child, because he is under the age of 18 years in accordance with Law No. 35 of 2014 concerning Amendments to Law No. 23 of 2002 concerning Child Protection.

The raid left the victim bruised and traumatized, so that a *visum et repertum* was carried out as evidence that there had been persecution carried out together. The victim's family searched for the perpetrator by asking for help from community organizations (CSOs), because it was difficult to find the perpetrator who had escaped and hid who finally the perpetrator was arrested at his brother's house in Girinata Palimanan Village, Dukupuntang District, Cirebon Regency. The problem of mobbing or collective abuse of children is often triggered by incitement or provocation that makes jealousy or resentment. In addition, there are social and economic factors, such as poverty, gender inequality, social interaction and low education. This can affect the level of compliance with the law and the effectiveness of law enforcement. In order to improve law enforcement against child abuse, holistic efforts are needed through education, advocacy, legal system improvement, and increased cooperation between institutions and communities.

Based on the description above, the problem to be examined is how the law enforcement process against adult mobbing of children by the Gempol Palimanan Sector Police of Cirebon Regency and the Process Restorative Justice at the Cirebon Regency Source Prosecutor's Office. This research certainly hopes that the law enforcement process can run well and try not to repeat the incident. In addition to the community understanding and knowing the existence of Restorative Justice, that the criminal becomes *ultimum remedium*, if there are still other efforts then other efforts are used such as civil law, administrative law, and customary law, criminal law becomes the ultimate weapon of law enforcement.

RESEARCH METHOD

The research used qualitative research with a descriptive analysis approach. The statute approach is carried out by reviewing all regulations and laws and regulations related to the legal issues to be examined. The source of data used in this study is taken from primary data through interviews or interviews with related parties, police, perpetrators, victims and prosecutors.

RESULTS AND DISCUSSION

Law Enforcement Process of Adult Raid on Children

With reports of mobbing carried out by adults on children in the Palimanan area, Cirebon Regency. The Gempol Palimanan Sector Police of Cirebon Regency followed up on the report. The chronology is as follows: Oji's victim invites a walk with the lover of the US perpetrator, Oji does not know if the woman has a lover. When Oji invites the woman's path to be read by her lover and her lover is jealous so she intends to carry out the persecution carried out with 4 friends. On June 27, 2023, Oji was invited by US perpetrators to Palimanan square. Oji asked to go home at 2 p.m. but was not allowed to go home with the U.S. perpetrator. After a while they took them around and ended up at the saung Block Kiori RT 03 RW 04, East Palimanan Village, Palimanan District, Cirebon Regency. When the victim reached the predetermined location point, the US perpetrator and 4 friends beat the victim until there was a bruise on the lower face of the eye. The victim did *visum et repertum* that day to strengthen as evidence when in court later. The results of the *visum et repertum* contained bruises under the eyes and on the victim's buttocks.

The victim's family reported to the police station where the crime occurred, namely the Gempol Palimanan police station, Cirebon Regency. After the report, the police followed up by directly looking for the US perpetrators, but due to the difficulty of finding the perpetrators who were hiding so they could not catch him. The arrest of the perpetrators of the mobbing became an obstacle for the police in carrying out law enforcement. The arrest of the perpetrator was also an attempt on the part of the victim's family who had friends in community organizations to find the perpetrator. When the perpetrator was caught, the police conducted further investigations related to evidence and there were confessions from the perpetrator and the victim's lover of the criminal abuse committed together as well as evidence of group chats. However, the police in that sector have not been able to proceed to the Source Prosecutor's Office on the basis that there are no eyewitnesses who know the incident of the case. The U.S. perpetrator could become an outside prisoner if no eyewitnesses see the events of the case until August 28, 2023, after all evidence has been gathered. Based on the chronology of events above, it can be analyzed as follows:

The term mobbing in the Criminal Code is unknown, there is only persecution regulated in Article 351 of the Criminal Code, in that article the act of persecution is the treatment of torture or oppression of people and causing pain or injury to the body of others. Raids are collective persecution. The report received by the Gempol Palimanan Police Station in the form of mobbing or persecution carried out by 5 people together is a criminal offense, which is contrary to Article 351 of the Criminal Code which reads: "Persecution is punishable by imprisonment for a maximum of 2 years and eight months or a maximum fine of Rp. 4,500,- "

Article 170 of the Criminal Code which reads: "Whoever openly and with joint force uses violence against persons or property, shall be punished with imprisonment for not more than 5 years and 6 months."

Because the victim is a child, it can also be subject to Law No. 35 of 2014 concerning Child Protection Article 76 C which reads: "Everyone is prohibited from placing, allowing, committing, ordering to commit, or participating in violence against children."

Article 80 paragraph 1 reads: "Any person who violates the provisions as referred to in Article 76 C shall be punished with a maximum imprisonment of 3 years 6 months and/or a maximum fine of Rp. 72,000,000,-"

Article 80 paragraph 2 reads: "In the event that the child referred to in paragraph 1 is seriously injured, the perpetrator shall be sentenced to a maximum imprisonment of 5 years and/or a maximum fine of Rp. 100,000,000,-"

Persecution is contrary to article 351 Jo Article 170 of the Criminal Code and Article 76 C, article 80 paragraphs 1 and 2 of Law No. 35 of 2014 concerning Amendments to Law No. 23 of 2002 concerning Child Protection, concerning the criminal act of maltreatment. The law enforcement process carried out by the Gempol Palimanan Police Station, only 1 (one) person, namely the initials AS, because the others have not been caught with the initials SF, DW, AN, and MA with the investigation and investigation, it turns out that it is true that the perpetrator has carried out a mobbing of the victim, namely Oji, then filing and collecting evidence, in the form of witnesses and *visum et repertum*. The law enforcement process carried out by the Gempol Palimanan Police Station certainly feels unfair, even though justice is expected in law enforcement when people commit an act should be held accountable for their actions.

Other perpetrators, may be subject to different articles, based on article 55 paragraph 1 to 1 of the Criminal Code, it is explained that there are several kinds of understanding of people who commit it, including:

- 1) The person who performs (*Pleger*). This person is a person who alone has done all the factors or elements of a criminal event;

- 2) People participate in doing (*medepleger*). In the sense of the word "jointly doing", there must be at least two people, namely the person who did (*pleger*) and the person who participated in doing (*medepleger*) this criminal event.

Perpetrators and others who have not been caught may also be acquitted, referring to Article 78 of the Criminal Code, that if the criminal threat is a maximum of 3 years, the expiration of the abolition of the prosecution is 6 years while if the criminal threat is more than 3 years, the expiration of the abolition of the prosecution is 12 years. When other perpetrators have not been arrested or found by the expiry date of abolition of prosecution, they have never been held accountable for their actions. This is not in accordance with Law No. 20 of 1982 concerning Defense and Security article 30 paragraph 4 letter b, namely: "Carry out the duties of the police as a protector in providing protection and services to the community for the upholding of statutory provisions".

It can be seen that the police have not been able to carry out their duties properly, if you see Article 30 paragraph 4 is not in accordance with Law No. 20 of 1982 concerning Defense and Security, which the police should find and arrest US perpetrators and others. Even until the Restorative justice process was carried out at the Cirebon Regency Source Prosecutor's Office, the four friends who carried out the mobbing have not been caught. Restorative justice should be carried out by the Gempol Palimanan Police Station, Cirebon Regency in accordance with the National Police Regulation of the Republic of Indonesia No. 8 of 2021 concerning Criminal Acts Based on Restorative Justice article 1 paragraph 3, namely: "Restorative Justice is the resolution of criminal acts by involving perpetrators, victims, perpetrators' families, victims' families, community leaders, religious leaders, indigenous leaders or stakeholders to jointly seek a just solution through peace by emphasizing restoration to the original state".

Laws and also legislation are made to be enforced, so if laws and legislation can no longer be enforced or never implemented, then the law can no longer be said to be law. The law can be said to be consistent in its understanding that the law is actually implemented, the law in the form of legal rules contains actions that must be carried out, which is in the form of law enforcement, law enforcement will always involve humans in it and thus will involve human behavior itself, because law enforcement itself comes from humans, the law will not be enforced by itself. This means that the law will not be able to realize its own promises and wills contained in the legal regulations themselves (Poernomo, 1976).

The law enforcement process begins at the first level, namely in the police whose job in law enforcement is to conduct investigations and investigations. In the case of adult mobbing of children that occurred in the Palimanan area of Cirebon Regency as the authorities, the police have not done their job properly because they encountered obstacles because the perpetrators ran away and it was difficult to find and arrest them, so they needed help from other parties. The victim's family who has friends in community organizations asked for help to find and find the perpetrators, but those who could be found and arrested by the party from the Gempol Palimanan Police Station were only the perpetrators with the initials US. Law enforcement does not merely mean the implementation of legislation, although in reality in Indonesia the tendency is that the main problem of law enforcement actually lies in the factors that may influence it. These factors are as follows (Soekanto, 2016):

- 1) Its own legal factors, which in it are limited to statutes only;
- 2) Law enforcement factors, namely those who form or apply the law;
- 3) Factors of facilities and infrastructure that support law enforcement;
- 4) Community factors, namely the environment in which the law applies or is applied
- 5) Cultural factors, namely as the result of creative works and taste based on charities man in the company of life.

The law enforcement process of the case of mobbing by adults against children did not reach the court, because there was a desire for the settlement to be carried out through restorative justice at the Prosecutor's level. The Gempol Police continued the case file to the Source Prosecutor's Office, because the perpetrator had fulfilled the elements of persecution and had also fulfilled at least 2 pieces of evidence in the form of Whatshapp group chats, victim witnesses from *visum et repertum* and the accused had given direct statements. refer to article 183 of the Code of Criminal Procedure for evidence of at least two and the case includes it. The law enforcement process is carried out with the aim of striving to uphold real legal norms as legal guidelines in people's lives.

Law enforcement requires a process that involves many things. Satjipto Rahardjo argues that law enforcement is an effort to translate ideas about legal certainty, social benefit, and justice into reality. The process of implementing such ideas is at the core of law enforcement. Law enforcement is closely related to compliance with legal regulations both by users and law enforcement, in this case the community and state governments, namely law enforcement agencies (Machmud, 2012).

Acts committed by perpetrators aged around 24 years by molesting together against victims who are still 16 years old may be subject to criminal sanctions based on article 80 paragraphs 1 and 2, Jo 76 C Law No. 35 of 2014 concerning amendments to Law No. 23 of 2002 concerning Child Protection and or maltreatment as referred to in article 351 of the Penal Code and Article 55 of the Criminal Code regarding participation.

Restorative Justice Settlement at the Source Prosecutor's Office

With the case file from the Gempol Palimanan Police Station, Cirebon Regency In the process after going through the stages of investigation and investigation by the police, the case file is transferred to the Prosecutor's Office for examination of the case file by the Public Prosecutor. Taking into account the results of investigations conducted by the police, in accordance with the authority of the Public Prosecutor stipulated in article 13 of the Code of Criminal Procedure which says the Public Prosecutor is authorized by law to conduct prosecutions and carry out the judge's determination, the authority of the Public Prosecutor must seek material truth as a basis for completing the case file by conducting additional examinations before later determining the charges against the accused.

In the case of the criminal act of mobbing adults on children, it does not reach the realm of the Court, because a settlement is made through restorative justice because the victim does not want to continue this case to the court. Restorative justice is a form of justice that centers on the needs of victims, perpetrators of crime, and society. Unlike retributive justice which emphasizes punishment for perpetrators of crimes, restorative justice is concerned with the recovery of victims, perpetrators of crimes, and society. This is because in every crime, it is the victim who suffers first as a result of the crime. Furthermore, the perpetrator of the crime as the party responsible for his actions. The responsibility of the perpetrator to the victim is in the form of reimbursement of medical expenses of Rp. 3,000,000.00 (Three Million Rupiah) which has been agreed upon by both parties, namely the US perpetrator and the victim Oji. It is with that accountability that his dignity as a person is restored (Tridiatno, 2015).

In the Prosecutor's Regulation of the Republic of Indonesia Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice Article 5 Paragraph 1 which reads: "Criminal cases may be closed in favor of law and stopped from prosecution under Restorative Justice if the following conditions are met:

- 1) The suspect is committing a criminal offense for the first time;
- 2) Criminal acts are only threatened with a fine or threatened with imprisonment of not more than 5 (five) years; and

- 3) The crime is committed with the value of evidence or the value of losses incurred as a result of the crime not exceeding Rp. 2,500,000.00 (two million five hundred thousand Rupiah).

Guided by the rules mentioned above, there is a desire from the perpetrator with the initials AS and from the victim to agree to a settlement through Restorative Justice, so that the case does not proceed to the Court, it is enough to only be resolved at the Prosecutor's Office by making the BAC settlement carried out through restorative justice signed by both parties and mediators from the Prosecutor's Office as witnesses.

CONCLUSION

The Gempol Palimanan Police Station in Cirebon Regency has not effectively utilized its law enforcement efforts due to unrecognized perpetrators and a lack of restorative justice. The case of adult mobbing of children did not reach the court, but was resolved through restorative justice. To ensure justice and effectiveness, the police need to provide more information, training, and education for officers, use technology, and improve supporting facilities. This will help restore the conditions of the crime and ensure the safety and well-being of the community.

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