



Overcoming the Crime of Bullying with Child Perpetrators Against Children

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ABSTRACT

Abstract. *The purpose of this article is to outline the criminal liability system for bullying committed by children and to reimagine the role of criminal law policy in Indonesia in dealing with bullying situations to protect children. The research method used in this study is a doctrinal approach, which combines the principles of legal science and social science. Primary data for this article comes from original sources in the legal and social fields, while secondary data comes from literature, particularly relevant books and journals, which can be cited as supporting evidence. According to the research findings, current regulations do not adequately address the severity of bullying and do not deter bullies from engaging in such behavior. Victims of bullying are often in the same situation as the bully, who is also a child. Mechanisms that adopt the repressive, conservative and conventional types of accountability of the Juvenile Justice System Act continue to be considered in judicial proceedings relating to juvenile offenders. The increasing number of bullying crimes in Indonesia, including those resulting in death, physical disability and psychological trauma, suggests that the criminal justice system in Indonesia is still not functioning properly. The originality of this research is the application of the principles of the law of the Republic of Indonesia in providing justice.*

Keywords: *Bullying, Crimes, Children*

1. Introduction

Bullying is the act of intimidating one or more people by assuming that the target has flaws. Bullying is verbally demeaning the victim, forcing the victim to perform certain actions, or making the victim perform harmful actions that can cause adverse physical and psychological effects. Bullying can occur through face-to-face interactions or over the internet.

It refers to a primitive manifestation of hostile behavior, characterized by abusive actions that may involve physical violence, verbal abuse, or a combination of these three forms. The perpetrator exploits individuals he or she perceives as vulnerable to attack. A major causative component that significantly impacts the initiation of children engaging in bullying behavior is the absence of moral education or character development, leading to a lack of mutual respect among children.

The prevalence of bullying behavior in contemporary society largely involves young perpetrators, as most incidents occur in school settings [1]. *The National Institute for Children and Human Development (NICHD) in 2001 presented the results of its survey that more than 16% of school students in the United States admitted to being bullied by other students [2].* A study was conducted in Indonesia in 2018 by the Semai Jiwa Amini

Foundation. The study involved around 1,233 students from elementary, junior high, and senior high schools in three major cities: Jakarta, Surabaya, and Yogyakarta.

The findings showed that incidents of violence among students at the junior high school level occurred in Yogyakarta (77.5%), Jakarta (61.1%), and Surabaya (59.8%), respectively. Incidents of violence at the senior high school level were highest in Jakarta (72.7%), followed by Surabaya (67.2%) and Yogyakarta (63.8%) [3]. Based on these statistics, it is evident that bullying behavior by young people in Indonesia is still a significant and worrying problem.

Amy Huneck, a bullying intervention specialist, conducted a study which found that between 10% and 60% of students in Indonesia reported experiencing various forms of mistreatment such as teasing, ridicule, ostracism, physical assault, kicking, or pushing on a weekly basis [4]. This is also evidenced by data from the National Commission for Child Protection throughout 2011 as many as 339 cases of violence occurred in the school environment and 82 of them died [5].

This research examines the relationship between incidents of bullying and criminal offenses, focusing on how individuals responsible for such acts can be prosecuted under the relevant articles of the Criminal Code. Child bullying is an act of violence against children. In accordance with Law No. 35 of 2014, which amends Law No. 23 of 2002 on Child Protection, bullying is considered a criminal offense if it meets the criteria outlined in this law.

If a child is involved in a criminal act of bullying, they cannot be subject to criminal sanctions in accordance with the provisions listed in Law Number 11 of 2012, specifically in article 69. According to this law, children under the age of 14 can only be subject to alternative measures. Usually, when children are involved in bullying, they generally choose to use out-of-court punishment or diversion rather than going through the legal process.

The main issue regarding minors involved in criminal offenses is the lack of relevance of the Juvenile Justice System Law, which is no longer appropriate from a legal, philosophical and social perspective. It fails to offer an appropriate resolution for dealing with children in conflict with the law. When children involved in conflicts of law are brought to court, it creates mental and psychological stress that hinders their growth and development. However, the current regulations do not adequately reflect the severity of harm experienced by victims of bullying, and as a result, they do not effectively deter bullies from their harmful behavior.

Certain circumstances involving child victims of bullying involve child perpetrators, and the legal process for child perpetrators also focuses on the mechanisms outlined in the Juvenile Justice System Law (SPPA). Therefore, it is imperative to establish a comprehensive criminal law strategy to address the issue of bullying committed by children against minors, which is currently a growing concern in Indonesia.

2. Literature Review

According to Swearer Doll's (2013) description of the Legal Environment and Legal Principles, regulations were developed with the aim of protecting younger individuals to address the crime of bullying. The first group consists of suggestions to protect children and human dignity in the process of outlining best practices for child protection. However, the concrete form of the punishment system for children leads to fostering and parental responsibility along with some fine obligations. Secondly, the principle of nondiscrimination is important in any discourse on human rights. The idea of nondiscrimination is closely related to the ideas of freedom and justice.

This principle is sometimes referred to as the essence of human rights because its core purpose is to ensure that every individual in this world is placed in the same position and equal to each other, since the beginning of the concept of human rights. While the principle of equality is essentially understood in different ways by individuals. In Indonesia, the

principle of non-discrimination is described as a principle that prohibits differentiating the treatment of citizens based on factors such as ethnicity, race, religion, class, sex, and gender.

The purpose of Indonesian law implementing the principle of non-discrimination is to provide equal and fair opportunities to all individuals to access the opportunities available in society. Susanto and Erick (2016) discussing the Inter-Norm Approach in Child Protection explained that to achieve child protection, four main types of complementary tools are determined by child protection institutions which include management, the mindset of educators and education personnel, school norms, discipline, and discipline [6]. Within educational institutions, there is a strong dedication to protecting children, with the government guaranteeing that every child, no matter where they are, should have access to education.

However, the state strictly prohibits any form of violence against Indonesian children, anytime and anywhere. Lawrence Friedman proposes three components of a legal system, based on the theory of legal effectiveness: the substance, structure and culture of law. This normative approach aims to effectively prevent bullying across a wider range of bullying cases. Finkelhor, Turner, and Hamby (2013) briefly reviewed, the bullying act paradigm is defined as an aggressive act that has three distinctive features: a) "intentional"; the occurrence of bullying acts by "mere conflict" acts or acts that cause harm consciously or intentionally. b) "repetition" means that intentional acts of harm occur repeatedly, usually over a period of time. c) "bullying" can be "bias-based" (aggression or harassment) referring to bullying that occurs in conjunction with discriminatory prejudices such as racism, sexism, and homophobic slurs [7].

Previous research describes many theoretical investigations that serve as guidelines and rules in protecting children to address criminal cases of bullying committed by juveniles. The main purpose of sentencing policy in Indonesia is to offer an appropriate resolution to deal with juvenile offenders who have broken the law. However, it is important to ensure that the current regulations are aligned with the healing process and the consequences of bullying. This research examines strategies to address bullying offenses committed by children, as well as the concept of providing justice for victims and perpetrators. Various studies have also recognized that bullying is a major cause of trauma issues over the past decade, resulting in adverse impacts on the lives of both victims and perpetrators of bullying. For example, the Indonesian government could potentially implement the Anti Bullying Law enacted in the Philippines in 2013. The implementation of the law brought significant relief to parents and the wider community, as it provided a legal framework to address many unwanted behaviors among children that were previously overlooked [8].

3. Methodology

This research uses a doctrinal approach, namely conducting legal research studies using legal and social science methodologies. This writing uses primary data consisting of legal and social materials, as well as secondary data in the form of relevant literature such as books and journals. These sources serve as supporting evidence for the content of this paper. This research uses deductive methodology for data analysis. Deductive reasoning relies on basic principles to convey the subject matter by using major premises (legal rules) and minor premises (legal facts), resulting in a conclusion [9]. The major premise relates to standards, jurisprudence, and doctrine. The minor premise refers to the data obtained and processed, which may include secondary and primary data to some extent. The data sources obtained are then analyzed qualitatively, where the data is viewed and connected to relevant legal requirements and principles relating to the topic under investigation [10].

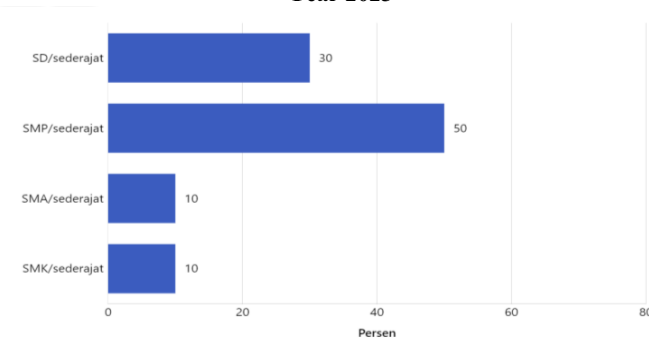
4. Findings and Discussions

4.1 Criminal Liability for Bullying Acts Committed by Children

Bullying behavior as a form of aggression is a worldwide problem, including in Indonesia. Bullying behavior is very vulnerable to occur in children in various places ranging from educational environments or schools, homes, neighborhoods, playgrounds and others. The prevalence of bullying behavior is increasing and has had an impact on victims or perpetrators of bullying [11]. Talking about bullying, Indonesian positive law has regulated the Juvenile Criminal Justice System (SPPA) and its protection [12].

Children involved in bullying can be classified as criminals when they commit violence in any way against another person. Such violence includes physical violence, psychological violence, sexual violence, and other criminal acts. Children who bully, especially by means of violence as previously described, may be subject to the provisions outlined in this article. Data from the Indonesian Child Protection Commission shows that physical violence is the most common type of crime committed by children, as shown in the table below:

Figure 1. Proportion of Bullying Cases in Indonesian Schools by Level of Education Year 2023



Source: <https://databoks.katadata.co.id/diakses> May 23, 2024

According to the data provided, there were a total of 30 bullying incidents reported in schools during 2023. The number of cases increased from the previous year which reached a total of 21 cases. A total of 80% of bullying incidents in 2023 occurred in schools under the jurisdiction of the Ministry of Education, Culture, Research and Technology (MoECristek), while the remaining 20% occurred in schools under the Ministry of Religious Affairs (MoRA). Of the total 30 bullying cases reported in 2023, 50% occurred at the junior high school (SMP) or equivalent level, 30% at the elementary school (SD) or equivalent level, 10% at the senior high school (SMA) or equivalent level, and the remaining 10% occurred at the vocational high school (SMK) or equivalent level. In 2023, bullying cases were reported in 12 provinces covering 24 districts/cities. The specific details are as follows:

Table 1. List of districts/cities in Indonesia for bullying cases in 2023

| Province | District/City |
|--------------------|---|
| Jawa Timur | Gresik, Pasuruan, Lamongan, Banyuwangi, dan Biltar |
| Jawa Barat | Bogor, Garut, Bekasi, Bandung, Bandung, Sukabumi, dan Cianjur |
| Jawa Tengah | Temanggung dan Cilacap |
| DKI Jakarta: | Jakarta Selatan |
| Kalimantan Selatan | Banjarmasin |
| Kalimantan Tengah | Palangkaraya |
| Kalimantan Timur | Samarinda |

| | |
|--------------------------|----------------------------|
| Bengkulu | Bengkulu dan Rejang Lebong |
| Sumatera Utara | Samosir |
| Sumatera Selatan | Palembang |
| Maluku Utara | Halmahera Selatan |
| Sulawesi Tenggara | Muna |

Source : <https://databoks.katadata.co.id/> accessed on May 23, 2024

Based on the available statistics [13], it is clear that there has been an increase in bullying incidents. In 2022, bullying cases were reported in 11 provinces, covering 18 districts or cities. However, in 2023, the number of provinces affected by bullying increased to 12 provinces, with 24 districts or cities affected.

As a result, it is evident that the number of child perpetrators involved in bullying incidents continues to increase year after year. However, the nature of criminal liability in situations involving children is different from those involving adults. This is because the state imposes punishment on individuals who are considered to be responsible beings and capable of taking responsibility for their actions. Meanwhile, children are recognized as individuals who do not yet have the capacity to take full responsibility for their actions.

Therefore, in the realm of legal proceedings and punishment (which is almost unavoidable in cases of lawlessness), it is imperative to provide children with different treatment that distinguishes them from adults. Indonesia's juvenile justice system covers the process of resolving cases involving children in conflict with the law. This procedure begins with the investigation stage and continues to the development stage after the child has served his/her sentence.

In the Juvenile Justice Law, which is a special law for the settlement of juvenile cases, there are three categories of children in the juvenile justice system. Children known in the juvenile justice system are known as children in conflict with the law. Children in conflict with the law, hereinafter referred to as children, are children who are 12 years old, but not yet 18 years old who are suspected of committing a criminal offense. (Article 1 Point 3 of the SPPA Law) Children who are victims of crime, hereinafter referred to as Child Victims, are children under the age of 18 who suffer physical, mental, and or economic losses due to crime.

(Article 1 Point 4 of the SPPA Law) Children who witness a crime, hereinafter referred to as child witnesses, are children who are not yet 18 years old who can provide information for the purposes of investigation, prosecution, and examination in a criminal trial that can be heard, seen, and/or resign. (Article 1 Point 5 of the SPPA Law) Punishment for bullying can be approached from a legal perspective, taking into account various factors.

These factors include whether the act is justified or considered fair, or whether it requires a punishment that serves as a deterrent and educates the perpetrator, to prevent them from repeating their actions in the future. In general, the actions of children that are legally categorized as against the law can be defined from the notion of juvenile delinquency. Online bullying covers a wide range of acts, including the use of offensive language such as swearing, diatribes, and inappropriate words, committed through electronic systems or social media. Perpetrators may also face charges under the category of minor insults, as shown in the table below:

Table 2. Criminal Responsibility for Bullying Under the Criminal Code

Article 315 of the Criminal Code which reads "any intentional insult which does not amount to libel or defamation in writing committed against a person, either in public orally or in writing, or in his own presence orally or by deed, or by a letter sent or delivered to him, shall, being guilty of simple contempt, be punished by a maximum imprisonment of 4 months and 2 weeks or a maximum fine of Rp4.5 million".

Article 436 of Law 1/2023 on the Criminal Code which reads "insults that are not in the nature of defamation or written defamation committed against another person either in public orally or in writing, or in front of the person insulted orally or by deed or by writing sent or received by him, shall be punished for minor insults with imprisonment for a maximum period of 6 months or a maximum fine of category II, namely IDR 10 million".

Article 170 of the Criminal Code on "beatings, with a maximum penalty of 5 years and 6 months imprisonment. This article can be applied if the bully commits physical violence together with other people against the victim".

Article 335 of the Criminal Code on "threatening, with a maximum penalty of 9 months imprisonment or a fine of Rp4,500. This article can be applied if the bully commits psychological violence against the victim, such as threatening to kill, injure, or harm the victim or their family".

Article 310 of the Criminal Code on "defamation, with a maximum penalty of 9 months imprisonment or a fine of Rp4,500. This article can be applied if the bully commits psychological violence against the victim by disseminating statements that are untrue and detrimental to the victim's good name".

Article 311 of the Criminal Code on "slander, with a maximum penalty of 4 years imprisonment. This article can be applied if the bully commits psychological violence against the victim by accusing the victim of unlawful acts without sufficient evidence".

Article 281 of the Criminal Code on "sexual harassment, with a maximum penalty of 9 years imprisonment. This article can be applied if the bully commits sexual violence against the victim, such as touching sensitive body parts without consent, forcing sexual intercourse or other sexual acts".

Criminal policy in Indonesia includes the prosecution of juvenile offenders, who are individuals under the age of majority. Therefore, it is crucial to give special consideration to sentencing procedures and the conduct of investigations, as they should not be treated in the same way as adult offenders. The use and mention of the SPPA (Juvenile Justice System) Law and the extent of evaluation of juvenile crime prevention policies result in children being categorized into two different roles: victims and offenders. Children involved in criminal activities exhibit behavioral problems that can be addressed through two methods: penal or non-penal facilities [14].

A child is someone who is still underage and needs legal attention and protection so that their rights as a child can be fulfilled. In this case, both the perpetrator and the victim are minors. Criminal liability for juvenile offenders is different from adult offenders. This is due to differences in cognitive development between children and adults. Children have a more malleable and impressionable mindset, as they are still in the process of identity formation and are very vulnerable to external influences.

4.2 Overcoming the Crime of Bullying Committed by Child Perpetrators Against Children

The legal remedies chosen to resolve problems arising in bullying cases should pay attention to the principles contained and embraced in the justice system. These principles will later become shared values for the perpetrators, so that later the perpetrators who are still

children do not experience trauma and / or wrongly accept their mistakes as revenge. For this reason, we need to pay attention to the principles contained. In accordance with Article 2 of the Juvenile Justice Law, the criminal justice system is organized on the basis of [15]:

- a) "Protection;
- b) Fairness;
- c) Non-discrimination;
- d) The best interests of the child;
- e) Respect for the child's opinion;
- f) Survival and growth of the child;
- g) Development and assistance of the child;
- h) Comparability;
- i) Independence and guidance as a last resort and;
- j) Avoidance of retaliation.

"In the juvenile justice system is known as Diversion. Diversion is the transfer of the settlement of children's cases from the criminal justice process to an extrajudicial process. In accordance with Article 6 this version aims to [16]:

- a). Achieving peace between the victim and the child;
- b). Resolving children's cases outside the judicial process;
- c). Avoiding children from deprivation of liberty;
- d). Encouraging the community to participate and;
- e). Instilling a sense of responsibility in the child.

The diversity introduced in the juvenile justice system is an effort to resolve problems that arise between children (perpetrators) and child victims. In resolving this issue, all parties, including the victim's family, need to be careful [17]. If the perpetrators are drawn from juvenile justice laws, they can be dealt with in accordance with the relevant laws. Furthermore, when examining the components of criminal offenses committed by minors according to the concept of juvenile delinquency and the acts covered therein, incidents involving assault and harassment are considered part of the criminal offense.

Upon investigation, it is clear that verbal and physical bullying is prevalent. This bullying inflicts physical and psychological trauma on its victims. The perpetrators can be followed up by following the Juvenile Justice Law. Article 20 reads "In the event that a criminal offense is committed by a child before the age of 18 years and is submitted to the court after the child has exceeded the age limit of 21 years, the child shall still be submitted to the Juvenile Panel".

Article 21 governs the conduct of Investigators, Counselors, and Professional Social Workers in the decision-making process. In this scenario, the term not only includes children involved in illegal activities but also includes children who experience harm or ill-treatment. A child victim, as defined in Article 1 of the SPPA Law, is a child under the age of 18 who experiences physical, emotional, mental suffering, and/or financial loss as a result of a criminal offense. According to Article 1 point 4, victims of bullying experience physical and mental suffering as a result of criminal acts committed by the perpetrator.

This criminal provision on child protection is not a criminal charge [18]. So that the legal process can still run without any complaints or prior consent from the child victim. By definition, child law is a set of legal rules governing children. Children's law covers various areas such as juvenile justice, child offenders, child victims of crime, child welfare, children's rights, child adoption, abandoned children, childhood, guardianship, delinquency, and many more. The Juvenile Justice Act stipulates that juveniles who engage in unlawful activities can be held criminally responsible and subject to legal proceedings.

The penalties imposed on juveniles are harsh, particularly those involving their placement in community institutions, such as detention, confinement, and their surrender to the state to receive education, guidance, and vocational training. Juvenile delinquency refers to the involvement of minors in acts or behaviors that violate legal and social norms. Juvenile court laws regulate the guidance and legal protection given to children involved in legal

conflicts. The aim is to protect children's rights and prioritize their best interests. In addition, to effectively address bullying, it is imperative to implement preventive measures aimed at preventing the recurrence of such behavior. Prevention can be short-term and long-term [19]. Short-term prevention can be done through treatment for those affected by bullying, while long-term prevention involves implementing comprehensive measures both in and out of school. This includes conducting role-playing activities to address and prevent bullying incidents [20]. Meanwhile, the strategy for long-term prevention is to provide saunges to underage individuals. Socialization can be effectively carried out continuously at the school and family levels [21].

The application of punishment for underage bullying perpetrators, considering that it is assumed that the perpetrator is also a child, it is necessary to pay attention to the Juvenile Justice Law which must prioritize a restorative justice approach [22]. The child responsible for the bullying is a delinquent child, i.e. a 12-year-old child who has not yet reached the age of 18 and is accused of engaging in illegal behavior [23]. When dealing with juvenile matters in the district court, diversion should be sought if the offense carries a potential prison sentence of up to 7 years and the offender is not a repeat offender [24].

Below is presented a classification of the criminalization system for juvenile offenders including in the criminal act of bullying:

Table 3. Classification of Juvenile Sentencing System

| Types of Measures for Juvenile Offenders Under 14 Years of Age | Jenis Pidana Pokok Bagi Anak | Types of Basic Criminal Punishment for Children |
|--|---|--|
| 1) return to parents/guardians; 2) surrender to someone; 3) treatment in a mental hospital; 4) treatment at LPKS; 5) obligation to attend formal education and/or training held by the government or private entities; 6) revocation of driving license; and/or 7) correction of the consequences of a criminal offense. | 1) warning punishment; 2) punishment with conditions: 3) coaching outside the institution; 4) community service; or supervision. 5) job training; 6) coaching in an institution; 7) imprisonment. | 1) forfeiture of benefits derived from criminal acts or fulfillment of customary obligations |

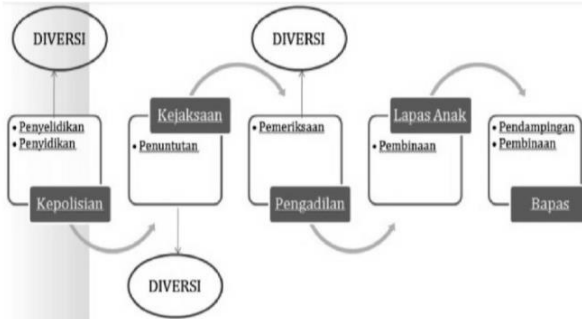
Source : data processed

In the Indonesian Criminal Law system, one of the methods of reform that can be carried out is by applying restorative justice which aims to achieve justice by repairing and restoring the situation after a criminal event. This approach is different from retributive justice which focuses on retaliation, and restitutive justice which emphasizes compensation. In the context of juvenile criminal cases, punishment is seen as a last resort, with the aim of improving and reducing the occurrence of criminal acts committed by children in conflict with the law. This approach also prioritizes the best protection for children [25].

Restorative Justice is a method of resolving criminal cases that involves the participation of offenders, victims, their families, and other relevant parties. The goal is to achieve a just resolution by focusing on restoring the affected individuals to their original state, rather than seeking revenge. Diversion is the transfer of juvenile cases from the criminal justice process to systems outside of criminal justice [26]. This process is basically carried out through discretion (policy) and diversion, which is a diversion from the criminal court

process out of the formal process to be resolved by deliberation. Diversion aims to: "a). achieve peace between the victim and the child; b). resolve the child's case outside the judicial process; c). prevent the child from deprivation of liberty; d). encourage the community to participate; e). instill a sense of responsibility in the child". The following is a scheme of diversion efforts in the Juvenile Justice System:

Figure 2. Scheme of Diversion Efforts in the Indonesian Juvenile Justice System



Diversion, depicted in the above scheme, is defined as a system in which a facilitator organizes conflict resolution between the parties to reach a mutually agreed settlement, known as restorative justice. The history and techniques of consensus deliberation are concrete expressions of strengthening longstanding community laws. The core of restorative justice lies in the principles of restoration, moral education, community involvement and focus, discussion, forgiveness, accountability, and implementation of necessary reforms.

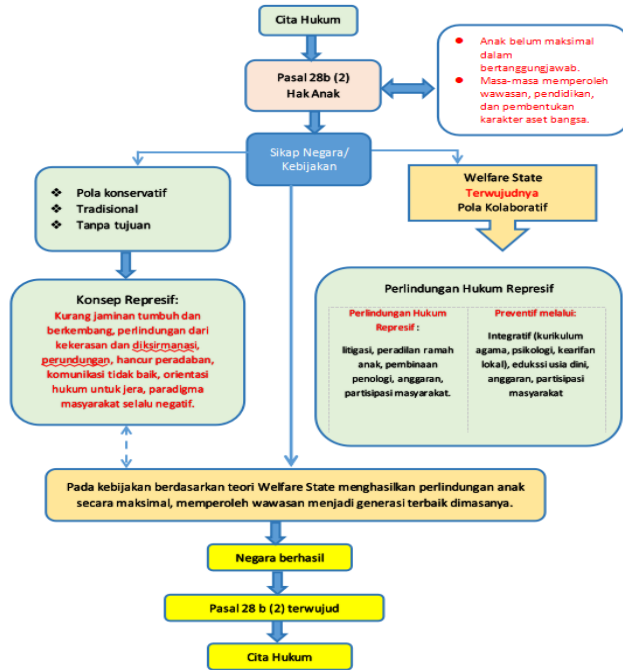
These principles serve as a guide for the restorative justice approach to the recovery process. If the diversion process proves ineffective, the judicial process will continue, and the judge will ultimately render a decision. At this point, the Lembaga Pembinaan Khusus Anak (LPKA) becomes involved in the proceedings, with BAPAS serving as the investigator of the child's activity report. However, if the LPKA has not yet been established, the child will be placed in a juvenile detention center. It should be noted that, according to the provisions of this law, LPKAs must be established nationwide within 3 years [27].

However, based on the implementation of the criminal justice system, the incidence of bullying is still very worrying. Several cases of bullying have been reported in Indonesia, such as one in Bekasi where a 12-year-old child died in 2023. Prior to his death, the child had undergone leg amputation due to alleged mistreatment by his schoolmates.

A child in Tasikmalaya, West Java, tragically died from depression allegedly caused by bullying. The bullying involved forcing the child to have sexual intercourse with a cat, filming the incident, and then sharing the video. This sad event is thought to have contributed to the child's depression in 2022. In addition, a recent incident occurred in Gresik, East Java, where a second-grade elementary school student was permanently blinded in his right eye as a result of an alleged stabbing by an older student in 2023.

Based on the above cases, it is very important to reconstruct the punishment policy to address the problem of bullying committed by children against other children. This will ensure that preventive measures and guidance can be effective, enabling victims or their families to obtain justice. The scheme of rebuilding Indonesia's criminal law system aims to address the problem of bullying committed by child perpetrators. This scheme can be summarized as follows:

Figure 3. Reconstruction Scheme of Indonesian Criminal Law System to Address Bullying Crimes Committed by Child Perpetrators



Based on the scheme above, it can be explained that the ideals of the law / Preamble of the 1945 Constitution of the Republic of Indonesia in the form of protecting the entire Indonesian nation and all Indonesian blood spills and to advance the general welfare, educate the nation's life, participate in implementing world order based on independence, eternal peace and social justice. Related to this, the Indonesian state constitution details the fulfillment of the rights of children as stated in article 28b paragraph 2 which reads that every child has the right to survival, growth and development and the right to protection from unfair treatment. The reasons for the state to provide protection for children; first, psychological and legal aspects, a child is not yet optimal in accepting responsibility. Second, the educational aspect; a child should have the opportunity to gain insight into knowledge, teaching, and curiosity. Third, in terms of nationality, children are assets and successors to the ideals of the nation.

Therefore, the state has a stance that basically two options are raised, namely: 1) welfare state and 2) night watchman state (Nachtwachterstaat). These two theories have their respective impacts, especially in relation to policy-making on child protection. For the theory of the state as a night watchman (Nachtwachterstaat), the regulations built are only oriented towards repressive, conservative, traditional concepts and an unclear vision and mission. Where this theory when implemented has the potential to lack guaranteed growth and development, protection from violence, discrimination, bullying, destruction of civilization, conflict and policies that are only oriented towards deterrent effects alone and negative community paradigms towards children who behave deviantly, so that the ideals of the law are not realized.

When the state chooses a policy option with a welfare state theory orientation, its realization has a collaborative pattern in the policy. The first is a preventive protection pattern where the policy contains: 1) integrative patterns from various fields such as religion, psychology, local wisdom. 2) Formal and non-formal education patterns. 3) Budget provided

by the Government/State. 4) Community participation. The second is a repressive protection pattern where the policy is oriented towards overcoming deviations in children's behavior in a measurable manner, such as a child-friendly judicial process, fostering child prisoners through a penology pattern, while they get guidance from the state with sufficient budgeting and community participation. This policy option is expected to realize the welfare state theory which is the responsibility of the state, such as maximizing education, even though the child has problems with the law. The avoidance of violence and patterns of discrimination and the achievement of child development and becoming the best generation in their time. That way the state succeeds in realizing article 28b paragraph 2 of the 1945 Constitution and the ideals of law.

5. Conclusion

Bullying behavior that occurs in Indonesia cannot be separated from the responsibility of the state. However, currently the policy chosen by the Indonesian State still uses a policy pattern like the *Nachtwachterstaat* theory, which has an impact on children's criminal liability only limited to conservative and traditional attitudes. The punishment system contained in the Criminal Code, the Child Protection Law or the Juvenile Criminal Justice System Law has not been able to overcome bullying by child perpetrators against children.

The reconstruction of Indonesian criminal law policy in overcoming acts of bullying committed by child perpetrators refers to the state's attitude to choose policy options with a welfare state theory orientation so that collaborative patterns in preventive protection patterns and repressive protection patterns will be realized in the form of child-friendly judicial processes, guidance for child prisoners through penology, guidance from the state with sufficient budgeting and community participation. This policy option is expected to be realized and the implementation of article 28b paragraph 2 of the 1945 Constitution of the Republic of Indonesia and the ideals of the Indonesian state law can be successfully carried out with an integrative pattern from various fields including aspects of religion, psychology, local wisdom, formal and non-formal education for both perpetrators and victims of bullying in children.

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