

**THE DISPUTE SETTLEMENT MECHANISM FOR BULLYING CASES  
IN HIGH SCHOOL PROCEDURES IN YOGYAKARTA**

**THESIS**



Arranged by:

**TATA ANGELIA**

Student Number: 19410638

**INTERNATIONAL PROGRAM  
UNDERGRADUATE STUDY PROGRAM IN LAW  
FACULTY OF LAW  
UNIVERSITAS ISLAM INDONESIA  
YOGYAKARTA**

**2023**

**THE DISPUTE SETTLEMENT MECHANISM FOR BULLYING CASES  
IN HIGH SCHOOL PROCEDURES IN YOGYAKARTA**

**THESIS**

**Presented as the Partial Fulfillment of the Requirements to Obtain  
a Bachelor's Degree at the Faculty of Law,  
Universitas Islam Indonesia,  
Yogyakarta**



Arranged by:

**TATA ANGELIA**

Student Number: 19410638

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UNIVERSITAS ISLAM INDONESIA  
YOGYAKARTA**

**2023**

## PAGE OF APPROVAL




### THE DISPUTE SETTLEMENT MECHANISM FOR BULLYING CASES IN HIGH SCHOOL PROCEDURES IN YOGYAKARTA

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ke depan TIM Penguji dalam Ujian Tugas Akhir / Pendaratan  
pada tanggal 10 April 2023



Yogyakarta, 19 April 2023  
Dosen Pembimbing Tugas Akhir,

  
Aroma Elmina Martha, Dr., S.H., M.H.

## PAGE OF APPROVAL



### THE DISPUTE SETTLEMENT MECHANISM FOR BULLYING CASES IN HIGH SCHOOL PROCEDURES IN YOGYAKARTA

Telah Dipertahankan di Hadapan Tim Penguji dalam  
Ujian Tugas Akhir / Pendadaran  
pada tanggal dan Dinyatakan LULUS

Yogyakarta, 10 April 2023

Tim Penguji

1. Ketua : Aroma Elmina Martha, Dr., S.H., M.H.
2. Anggota : Mahrus Ali, Dr., S.H., M.H.
3. Anggota : Fuadi Isnawan, S.H., M.H.

Tanda Tangan

Mengetahui:  
Universitas Islam Indonesia  
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Dekan,

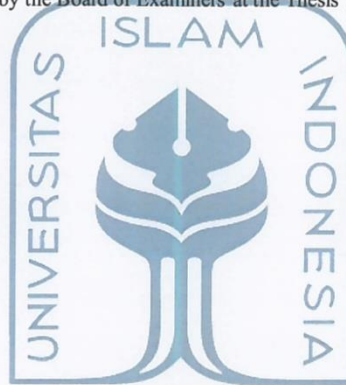


**Prof. Dr. Bud. Agus Riswandi, S.H., M.H.**  
NIK. 014100109


بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

**THE DISPUTE SETTLEMENT MECHANISM FOR BULLYING CASES IN HIGH SCHOOL PROCEDURES IN YOGYAKARTA**

This bachelor degree thesis has been Examined and Approved by Language Advisor to be examined by the Board of Examiners at the Thesis Examination



Yogyakarta, March 21<sup>st</sup>, 2023  
Language Advisor,



Ima Dyah Savitri, S.S., M.A.

## ORIGINALITY STATEMENT

### SURAT PERNYATAAN

#### ORISINALITAS KARYA ILMIAH BERUPA TUGAS AKHIR

#### MAHASISWA FAKULTAS HUKUM UNIVERSITAS ISLAM

#### INDONESIA

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

Yang bertanda tangan di bawah ini, saya:

**Nama : Tata Angelia**

**NIM : 19410638**

Adalah benar-benar Mahasiswa Fakultas Hukum Universitas Islam Indonesia Yogyakarta yang telah melakukan Karya Tulis Ilmiah (Tugas Akhir) berupa Skripsi dengan judul:

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**TATA ANGELIA**

NIM: 19410638

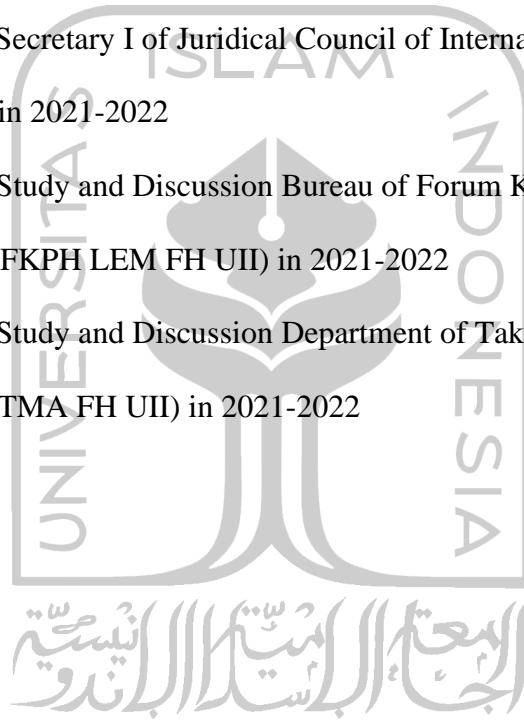
## CURRICULUM VITAE

1. Name : Tata Angelia
2. Place of Birth : Pati
3. Date of Birth : February 7<sup>th</sup>, 2002
4. Gender : Female
5. Blood type : O
6. Last Address : Kimpulan Street, Number 13C, Sleman,  
Yogyakarta
7. Home Address : Makam Street, Doropayung Village,  
Kec. Juwana, Pati, Central Java, 59185.
8. Parents identity
  - a. Father : Sumani  
Occupation : Entrepreneur
  - b. Mother : Sri Sulistiyani  
Occupation : Housewife
9. Education
  - a. Elementary School : SD Negeri Kauman 01 Juwana
  - b. Junior High School : SMP Negeri 03 Pati
  - c. Senior High School : SMA Negeri 01 Pati
  - d. College : Universitas Islam Indonesia



## 10. Organization Experiences

- a. Member of Student Creation Department of LEM FH UII in 2019-2020
- b. Member of HRD Division of Juridical Council of International Program (JCI FH UII) in 2020-2021
- c. Member of Department of Study and Discussion of Forum Kajian dan Penulisan Hukum (FKPH LEM FH UII) in 2020-2021
- d. General Secretary I of Juridical Council of International Program (JCI FH UII) in 2021-2022
- e. Head of Study and Discussion Bureau of Forum Kajian dan Penulisan Hukum (FKPH LEM FH UII) in 2021-2022
- f. Head of Study and Discussion Department of Takmir Masjid Al-Azhar FH UII (TMA FH UII) in 2021-2022



## MOTTO

Angin tidak berhembus untuk menggoyahkan pepohonan, melainkan menguji  
kekuatan akarnya

**(Ali bin Abi Thalib)**

Fighting has been enjoyed upon you while it is hateful to you. But perhaps you  
hate a thing and it is good for you; and perhaps you love a thing and it is bad for  
you. And Allah knows, while you know not

**(Q.S. Al-Baqarah verse 216)**

And when you become a diamond, you will see why life had to pressure you

**(Unknown)**

Do anything that makes your parents happy, surely all affairs of this world and the  
hereafter will be made easier by Allah

Prioritize yourself over someone because eventually everyone will leave you

**(Tata Angelia)**

## **DEDICATION**

This thesis is dedicated wholeheartedly to:

**With gratitude to Allah *Subhanallahu wa ta'ala*,**

Alhamdulillah, I can finish my thesis because of the ease and smoothness given to me from Allah. Thanks Allah who always gives me calmness, courage, focus, health, smoothness, strength, people who help me to complete my thesis;

**My beloved parents,**

who always take care me, pray for me to be given smoothness and ease in working on my thesis, giving support and love;

**My beloved lecture,**

who have taught and guided me patiently from the beginning until I can complete my thesis. Thankyou Dr. Aroma Elmina Martha, S.H., M.H. for all your support and remind me for encouragement and finish my thesis as soon as possible;

**All of my friends,**

who always in my side, accompany me in obtain data, support, and all the prayer for me;

**My Almamater, Universitas Islam Indonesia,**

Thankyou for having me as the one of students in this university, provide the best lectures, facility, and giving me kind and humble friends.

**All of my lectures of Faculty of Law, Universitas Islam Indonesia,**

who have taught and guided me to complete my study in international program class;

**All Staff of Faculty of Law, Universitas Islam Indonesia,**  
who always help me since the beginning until the end of my study;

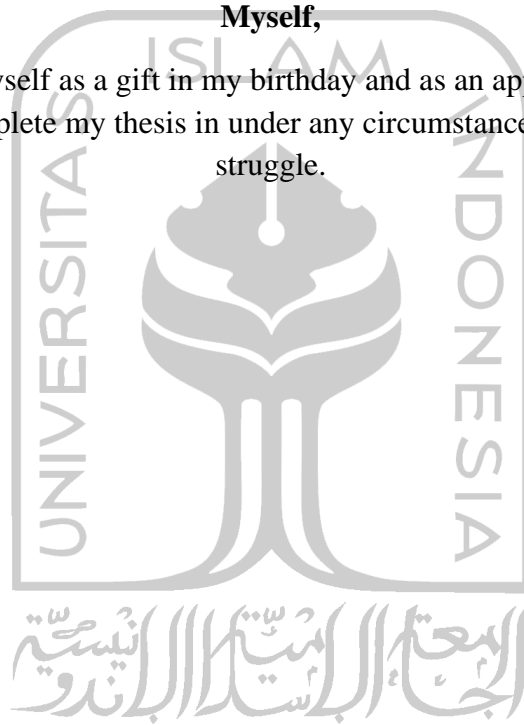
**My future,**

Thankyou for always supporting me in my ups and downs, encourage me to  
complete my thesis, and always send me prayers;

and

**Myself,**

I dedicated to myself as a gift in my birthday and as an appreciation because  
finally I can complete my thesis in under any circumstances, all my tears and  
struggle.



## FOREWORDS

First and foremost, *Alhamdulillah* *rabbil'alamin*, all praise and thank to Allah Subhanallahu wa ta'ala who has given me blessing and guidance to complete my entire thesis with convenience and smoothness. *Shalawat* and *Salam* shall be granted to Prophet Muhammad *Shallallahu'alaihi wasallam* who became a role model for humankind. So, I can complete my thesis as one of the most important requirements to achieve bachelor degree in International Undergraduate Program in Law Universitas Islam Indonesia, in which the thesis is entitled, **“THE DISPUTE SETTLEMENT MECHANISM FOR BULLYING CASES IN HIGH SCHOOL PROCEDURES IN YOGYAKARTA”**.

I could not be at this point without the help, support, prayers from my beloved parents, family, lectures, and friends. All gratitude shall be honored to:

1. Mr. Prof. Fathul Wahid, S.T., M.Sc., Ph.D., as the Rector of Universitas Islam Indonesia.
2. Mr. Prof. Dr. Budi Agus Riswandi, S.H., M. Hum., as the Dean of Faculty of Law, Universitas Islam Indonesia.
3. Mrs. Dr. Aroma Elmina Martha, S.H., M.H., as as the Secretary of International Program Faculty of Law Universitas Islam Indonesia and my thesis advisor. Thank you for guiding, teaching, encouraging and giving me directions to complete my thesis.

4. Mr. Dodik Setiawan Nur Heryanto, S.H., M.H., LL.M., Ph.D., as the Head of Study Program Faculty of Law Universitas Islam Indonesia and as my Academic Advisor.
5. Mrs. Ima Dyah Savitri, S.S., M.A., as my language advisor. Thank you for your guidance in reviewing and helping my thesis, and praying for me.
6. The entire staff of the International Undergraduate Program in Law, Faculty of Law Universitas Islam Indonesia, who always help me regarding the campus administration
7. My beloved parents, Sri Sulistiyani and Sumani. Thank you so much for being a very caring parents, full of love and affection, support, believing in me that I can do anything, cheer me up, and always pray for me.
8. The owner of student number 19410005, who always accompanies in any circumstances and is always present when everyone else disappears. Thank you for accompanying the author from beginning until the end, from the first time the author compiled to complete this thesis. Thank you for being part of the journey of life, my 24/7, and being a comfortable home.
9. The entire of Undead members, my endless support systems who makes me laugh every day, made my day, always accompany author in ups and downs, Talitha Tansha Nastiti, Sheilla Eka Putri, Rafifah Uswatun Hasanah, and Umi 'Arifah. Thankyou for everything.
10. My 24/7, Elvania Rachmasya Ratu Ardiananta. Thankyou for your magic words, support, help, and accompany me until the end of my study. Thank you very much for sparing time for me in spite of your busy schedule.

11. My beloved old sister, Kurniati Mulqiyah, S.H., who always helping, guiding, and giving me advice regarding the academics, campus organization, thesis, seeking data, and so on. Thank you for always in my side and accompany me while you were in Yogyakarta. I hope I can see you as soon as possible.
12. My sweetest bestie, Hanabila Zahra Widyatmaka, who always gave sweet words, calmness, always proud of me, supporting me when I am sad, and others. Thank you for all the memories from playing scooters in Malioboro, drinking warm milk, seeing makeup, exploring food, one night ride, and so on.
13. My senior high school friend and my partner in crime. Sindy Nur Safa'ati, Julia Isna Rahma, and Salsabila Nanda Kisfaranti. Thank you for your supporting and helping me in completing my thesis.
14. My junior high school friends, Nabella Cikita Putri Naratama, Angelia Kusuma, and Ari Kristinaningrum. Although we are far away from each other and rarely meet, but I am really grateful to have you all. Thank you for your endless support. See you on top guys.
15. My best classmates, Dinah Faizah Syahbur, Veni Nur Setyaningsih, Devita, Muhammad Sulhan, Risang Mahesa, Rifaldi Rizmawan, Salsabila Indira, and Dinda Marsya. Thank you for your kindness, for coloring my college life with your discussing lesson before exam, funny jokes and fun experiences. Thank you for the best memories and togetherness, it is really means to me.
16. My close friends, Shafira Aretha, Chesantia, and Aisyah. Thank you for being kind and humble to me and supporting all forms of my academic activities.

17. My younger sister in campus, Amelia Salsabil, Ismy Khairiyatul, Anindya

Naila Nabilasari, Aqila Nuruttazkia Ahsan, Nadisyah, and Fitti Muzadha.

Thank you for cheer me up to complete my thesis, always praises me with words that make me touched and tearful. Thankyou for being a kind and positive vibes for me.

18. All the members of JCI, FKPH, and Takmir Masjid Al-Azhar FH UII. Thank you for all the lessons and memories that I got.

19. Thankyou for everyone who I haven't mentioned yet. Thankyou for all prayers, hopes, positive vibes, and so on.

Finally, I hope this research can be useful for everyone who reads. The author realizes that there are still many things that need to be improved, therefore any form of suggestion will be gladly received and considered for better knowledge in the future.

Yogyakarta, March 21<sup>st</sup>, 2023

Author,



**Tata Angelia**



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## **ABSTRACT**

The rise of bullying committed by minors is a crucial problem, especially in the school environment. Bullying are violates Article 4 of Law Number 23 of 2002 concerning Child Protection. Data from Commission on Child Protection shows that in 2021 and 2022, there were cases of children as victims of bullying in education units (without reporting to the police), totaling 190 cases. So, this is a part of problem because is very disturbing for the victim future.

This research is based on the method conducted by the author is normative and supported by empirical data. The author used normative legal research carried out using literature which focused on the factors that cause children as perpetrator in the school environment and the mechanism of dispute settlement according to Law Number 11 of 2012 concerning the Juvenile Criminal Justice System. Furthermore, the author also conducted a direct survey to collect data from information sources as empirical data such as interviews. The interview would contained about the dispute settlement mechanism of high school in Yogyakarta in resolving bullying cases and also the behavior of police in resolving this case as a third party. Author also obtain the data of children case of bullying as a victim and perpetrator from The Commission on Child Protection.

The result of this research showed that, firstly, bullying behavior occurred at schools because several factors namely a lack of supervision, the implementation of regulations and sanctions were weak or not strict, and school officials did not care about bullying that occurred at schools. Secondly, most of the dispute settlement mechanisms of bullying cases in every high school in Yogyakarta was simply calling victim and perpetrator, where they would be questioned and conducted separately. In addition, the school did not have violence prevention team.

This research gave recommendation to the school which must pay attention to this bullying case committed by children in school environment. For example, enforcing the law, more assertive in sanctioning students who committed bullying. In addition, counseling guidance teachers are expected to be more active in supervising students and involving parents to take an active role in preventing bullying. Also, school must have violence prevention team to decrease the school bullying and obliged to report to parents or guardians if their children become perpetrators or victims of bullying.

**Keywords:** Bullying, Children, and Dispute Settlement Mechanism.

## CHAPTER I

### INTRODUCTION

#### A. Background of Study

In realizing the ideals of a nation cannot be separated from the role of a child. Children are the golden generation in realizing the nation's ideals and as the holder of the leadership. Children have a strategic role and unique characteristics, so guidance and protection are needed to ensure balanced physical, mental, social growth and development.<sup>1</sup> Protection and fulfillment of rights comprehensively and sustainably are undoubtedly needed to ensure that children's growth and development optimally.<sup>2</sup>

Bullying who commit by children are violates Article 4 of Law Number 2002 concerning Children Protection which state "every child is entitled to live, grow, develop, and participate decently in line with dignity of humanity, and acquire protection from violence and discrimination." The state upholds human rights, including children's rights, marked by guarantees of protection and fulfillment in the 1945 Constitution of the Republic of Indonesia and its derivative laws and regulations.<sup>3</sup> This is proven by the existence of regulations regarding the legal protection of children, namely in Article 28B verse 2, which stated that "every child has the right to survival and development, and is entitled to protection from

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<sup>1</sup> Anita dan Meidy Triasavira, "Perlindungan Hukum terhadap Korban dan Pelaku Tindak Pidana Praktik Bullying di Lingkungan Sekolah", *Jurnal Jendela Hukum*, Universitas Wiraraja, 2021, p. 88.

<sup>2</sup> Astuti Nur Fadillah, "Perlindungan Hukum terhadap Anak yang Menjadi Korban Aksi Perundungan", *Jurnal Belo*, Vol. V No.1, Universitas Pattimura, 2020, p. 87.

<sup>3</sup> *Ibid*, p. 86.

violence and discrimination.”<sup>4</sup> Therefore, as legal subjects and citizens, children must receive legal protection from the state, and their rights must be fulfilled. Children must be free from the treatment of violence and discrimination both in the home, school, and other environment. However, there were many cases of bullying in the school environment.

Cases of bullying that occur in Indonesia are not a new phenomenon. A survey conducted by Plan Indonesia and Semai Jiwa Amini (SEJIWA) in 2008 proved that bullying had occurred at schools.<sup>5</sup> This survey involved 1,500 junior and senior high school students in three big cities in Indonesia, namely Jakarta, Surabaya, and Yogyakarta, which recorded a violence rate of 67.9 percent at the high school level and 66.1 percent at the junior high school level.<sup>6</sup> The percentage of violence is high, proving that bullying occurs in the school environment even though schools are educational institutions that should provide protection and character education.

The definition of bullying is when one or more people try to hurt or control others using violence, physical harm, and verbal bullying. Physical harm such as hitting, pushing, and so on. Verbal bullying includes insulting, yelling, using harsh words, and posting things that can intimidate someone on social media or anywhere else.<sup>7</sup> Bullying can be done by insulting/

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<sup>4</sup> 1945 Constitution of the Republic of Indonesia.

<sup>5</sup> Hariyanto Wibowo, Fijriani Fijriani, dan Venno Dwi Krisnanda, “Fenomena Perilaku Bullying di Sekolah”, *Jurnal Cakrawala Ilmiah Mahasiswa*, Vol. 1 No. 2, Universitas Indrapasta PGRI, 2021, P. 157.

<sup>6</sup> *Ibid.*

<sup>7</sup> Evita Monica Chrysan, Yiska Marva Rohi, dan Dini Saputri Fredyandani Apituley, “Penerapan Sanksi Tindakan Anak yang Melakukan Bullying dalam Perspektif Sistem Peradilan Pidana Anak”, *Jurnal Hukum Magnus Opus*, Vol. 3 No. 2, Universitas Airlangga, 2020, p. 162.

ridiculing the victim or telling the victim to do something that can harm or hurt the victim, both physically and psychologically from the victim.<sup>8</sup> Children who became bullying victims are generally physically weaker than perpetrators, quiet, shy, or have disabilities.

One of the causal factors that most influence the emergence of child bullying is the lack of moral education or manners in children to respect other people.<sup>9</sup> Then, several factors that generally cause a child to be bullied by his/ her friends are differences in race, religion, economic/social factors, and psychological factors.<sup>10</sup> Sometimes, bullying is still taken for granted by teachers because they think it is just joking with their peer's children, and the perpetrator is a minor. Therefore, the perpetrators are not punished under the existing regulations. The behavior of bullying crimes is still ongoing today, and there are even victims who have been traumatized to commit suicide.

Bullying has a negative impact in the form of physical and psychological for the victim of bullying. The physical impact on the victim is in the form of bruises, cuts, and even results in death. Meanwhile, the psychological impacts such as depression, moodiness, stress, fear, and others. Therefore, bullying can psychologically damage the victim if not taken seriously. Nevertheless, often the school does not address the bullying committed by perpetrators firmly and tends to underestimate it. In addition,

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<sup>8</sup> Priscillia, Mahmudah & Silaban, "Analysis of Legal Policy Enforcement Against Child Bullying Perpetrators", *Journal of Creativity Student*, 2022, Vol. 8(1), p. 70.

<sup>9</sup> Priscillia, Mahmudah & Silaban, *Op. Cit.*

<sup>10</sup> *Ibid.*

the lack of preventive measures by schools to prevent bullying is also behind the occurrence of cases of bullying carried out by children.

As for the concrete case regarding acts of bullying that occurred in SMA N 6 Yogyakarta, the junior (10<sup>th</sup> grade) received threats from the senior inviting them to hang out or play together. If the junior do not obey these words, they will be intimidated and threatened with punishment. The cases of bullying also occurred at the SMA N Yogyakarta which categorized as verbal, physical, and cyberbullying because the perpetrator and victim still meet at school and are in the same WhatsApp group. The perpetrator and victim mocked each other on WhatsApp chat. At that time, the junior was playing basketball on field, and the senior saw the junior (at that time, the situation was quiet because the students had all gone home).

Bullying by children in the school environment are increasingly prevalent and will never break or stop. It is caused by several factors, namely lack of supervision by teacher, the implementation of regulations and sanctions are weak or not strict, and school officials do not care about bullying that occurs at schools. So that perpetrators will feel that bullying behavior is common thing. If the school environment doesn't prove or warning that bullying behavior is a dangerous or there is no real action from school to solve bullying case, so the case will develop and become more severe in the school environment.

It can be seen that bullying cases that occur in the school environment are also high. Cases of bullying committed by children are caused by internal and external factors. Internal factors are factors that come from within the child, while external factors come from outside the child or the surrounding environment. So, the factors that cause bullying committed by children in the school environment are the school's lack of assertiveness in punishing perpetrators, the absence of a violence prevention team and complaint service board for those affected by bullying.

Due to the high number of cases of bullying in Indonesia, the Government of Indonesia must provide legal protection for children, guarantee and fulfill their rights because they are a leader for our nation's future. The recognition of the rights and best interests of children contained in the Convention on the Rights of the Child can be divided into four parts.<sup>11</sup> The first is the right to survive, the second is the right to develop, the third is the right to protect, and the fourth is the right to participate.<sup>12</sup>

In Indonesia, the regulations have been made that highly uphold and pay attention to children's rights, namely the ratification of the Convention on the Rights of the Child (KHA) by Presidential Decree Number 36 of 1990.<sup>13</sup> Other laws and regulations that have been made by the Indonesian

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<sup>11</sup> Rhani Rezki Yulianti, "Penyelesaian Tindak Pidana Bullying Dengan Diversi (Studi Kasus Di Polrestabes Palembang)," Fakultas Hukum Universitas Sriwijaya, 2016.

<sup>12</sup> *Ibid.*

<sup>13</sup> Amrizal Siagian, Wiwit Kurniawan, dan Tri Hidayati, "Sanksi Pidana Kenakalan Anak Sebagai Pelaku Bullying menurut UU Nomor 11 Tahun 2012 tentang Sistem Peradilan Pidana Anak", Universitas Pamulang, *Jurnal Ilmu Sosial, Pendidikan, dan Humaniora*, 2020, Vol. 3 No.3, p. 4.



government include Law No. 39 of 1999 concerning Human Rights, Law No. 3 of 1997 concerning Juvenile Courts, Law No. 23 of 2002 concerning Child Protection.<sup>14</sup> According to Article 54 verse 1 of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection state that “Children in and within an education unit are required to receive protection from acts of physical, psychic, sexual crimes, and other crimes committed by educators, education personnel, fellow learners, and/or other parties.”<sup>15</sup> Since living in their mother’s womb means every child has human rights that are free from discriminatory treatment and entitled to protection against such discriminatory treatment. Then, a child must be protected from verbal and physical violence by the primary state rules, namely the 1945 Constitution of the Republic of Indonesia.<sup>16</sup>

The application of criminal penalties for criminal cases minors raises many pros and cons in its application.<sup>17</sup> One of the pros of applying criminal penalties for bullying cases is that children are the next golden generation of the nation, so they deserve to be punished relatively for their crimes so that they do not repeat their actions. Nevertheless, putting the perpetrator in prison will affect the child’s development and not succeed in becoming a better person. Prison often makes children more professional in committing crimes.<sup>18</sup> So, instead of being punished under applicable laws, it is better to

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<sup>14</sup> *Ibid.*

<sup>15</sup> Article 54 of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection.

<sup>16</sup> Priscillia, Mahmudah & Silaban, *Op. Cit.*, p. 72.

<sup>17</sup> *Ibid.*

<sup>18</sup> Amrizal Siagian, Wiwit Kurniawan, dan Tri Hidayati, *Op.Cit.*, p. 4.

be advised not to repeat bullying acts against others and provide guidance to live a better life.

Nevertheless, one of the cons is not fair for the victim because the victim has suffered losses where the victim has been psychologically disturbed, getting traumatized by the act of bullying from perpetrators, physical injuries, and others. Also, it is feared that they will bully other victims, will not regret their actions, will not understand that their actions have harmed others, and will include criminal acts. Furthermore, the perpetrators will think that if they commit bullying again for other children, everyone will forgive their mistakes and assume it will be fine and clear. Because the perpetrator only say sorry and promise not to repeat it without regretting their actions and understanding that bullying is a criminal act.

Law enforcement against children raises a heated debate because there are many pros and cons in dispute settlement mechanisms and applying for punishing perpetrators for bullying cases. In providing criminal responsibility for children, they must consider the development and best interests of children in the future.<sup>19</sup> Incorrect handling will cause damage and even destruction of the nation in the future because children are the nation's next generation and the ideals of the state.<sup>20</sup> Seeing the problem of bullying where it happened in the school environment, the authors wanted to know how the factors that caused children to commit bullying in the

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<sup>19</sup> Evita Monica Chrysan, Yiska Marva Rohi, dan Dini Saputri Fredyandani Apituley, *Op. Cit.*, p. 164.

<sup>20</sup> Marlina, *Peradilan Pidana Anak di Indonesia*. Ctk. Pertama, Refika Aditama, Bandung, 2009, p. 73.

school environment and to find out the mechanism dispute settlement for bullying cases in high school procedure and the proper sanctions of perpetrators in committing bullying according to Law Number 11 of 2012 concerning the Juvenile Criminal Justice System.

## **B. Problem Formulation**

From the background above, there are two formulations of the problem to conduct the author's research. The problem formulation is:

1. What are the factors that cause children to commit bullying in the school environment?
2. How is the dispute settlement mechanism for bullying cases in high school procedure in Yogyakarta?

## **C. Research Objectives**

The objectives to be achieved by the author in this research include:

1. To find out the factors that cause children to commit bullying in the school environment.
2. To identify the dispute settlement mechanism for bullying cases in high school procedure in Yogyakarta.

#### **D. Research Originality**

The existence of research originality is an overview regarding the difference of thesis themes by authors. The purpose of research originality is to prevent plagiarism and repetition of the author's studies with the previous researcher. So, the author found the previous research with the same bullying topic in high school, namely:

First, a research journal entitled "*Kasus Bullying dalam Kalangan Pelajar (Suatu Tinjauan Kriminologi)*" arranged by Nunuk Sulisrudatin, S.H., S. I. P., M. Si.as a lecturer from Faculty of Law, Universitas Suryadarma Jakarta, published by Jurnal Ilmiah Hukum Dirgantara in 2015. The journal discussed about the behavior of teenagers in committing bullying, criminological reviews of student bullying, and prevention of bullying among students.

Second, a research journal entitled "Kebijakan Hukum Pidana terhadap Pelaku Perundungan Anak (Bullying) di Bawah Umur" arranged by Siti Iba Iga Farida and Rochmani from Faculty of Law, Universitas Stikubank (UNISBANK) Semarang published by Jurnal Ilmiah Dinamika Hukum in 2020. This journal explains about the settlement of criminal law for perpetrators of bullying against student victims of violence at schools and the factors that hinder the settlement of criminal law against perpetrators.

Third, a research journal entitled “Sanksi Pidana Kenakalan Anak Sebagai Pelaku Bullying menurut UU No. 11 Tahun 2012 tentang Sistem Peradilan Pidana Anak” written by Amrizal Siagian, Wiwit Kurniawan, and Tri Hidayati from Universitas Pamulang published by Jurnal Ilmiah Humanika in 2020. This journal explains about forms of child criminal responsibility in cases of bullying, protection for perpetrators and victims of bullying.

Fourth, a thesis entitled “Perlindungan Hukum terhadap Pelaku dan Korban Bullying di Indonesia” written by Resti Amelia from Faculty of Law, Universitas Negeri Semarang. This thesis explained about legal protection for perpetrators and victims of bullying in Indonesia according to the Child Protection Act and formulation of appropriate and effective criminal law in tackling bullying in Indonesia.

Based on this explanation regarding the formulation of previous research above, the author’s research is clearly different from previous research. The differences between previous research and author’s research is in the problem formulation which the problem formulation of author’s research are discussing concerning the mechanism dispute settlement for bullying case in high school procedure and whether the teenager as perpetrators of bullying who cause trauma victims can be subject to action sanctions in terms of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System.

## **E. Literature Review**

### **1. An Overview of Bullying**

One of the criminal acts that occurred in Indonesia is bullying committed by children at school. According to the National Human Rights Commission (KOMNAS HAM), bullying is a form of long-term physical and psychological violence perpetrated by a person or group against someone unable to defend themselves from situations where there is a desire to injure or frighten people or make depressed, traumatized, and helpless people.<sup>21</sup> Furthermore, this bullying phenomenon has occurred for a long time and occurs in various aspects of life, including in the world of education.<sup>22</sup>

Bullying is categorized as criminal behavior because the perpetrator will harm the victim physically and psychologically, and the victim will get traumatized. Bullying has three forms, namely verbal, physical, and psychological:

1. Verbal bullying is the bullying that is most often done. Examples of verbal bullying are insulting, mocking, cursing, and others.
2. Physical bullying is the perpetrator uses physical violence by slapping, hitting, kicking, and causing a scar.
3. Cyberbullying is the bullying through social media. The example is sending messages of an intimidating, threatening, coercing people

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<sup>21</sup> Priscillia, Mahmudah & Silaban, *Op. Cit*, p. 74.

<sup>22</sup> Amrizal Siagian, Wiwit Kurniawan, dan Tri Hidayati, *Op.Cit*, p. 1.

using electronic forms such as instagram, whatsapp, line, and others.

## **2. Dispute Settlement Mechanism**

In general, there are two ways to settle a dispute namely litigation and non-litigation. Settlement of disputes was through court or litigation is a process of settling disputes in court, which requires all disputing parties to express arguments to each other and hold on to their rights before the court. Meanwhile, out-of-court or non-litigation dispute resolution is the settlement of disputes from differences of opinion that have carried out the path determined by all parties, which is carried out through mediation and expert judgment.<sup>23</sup>

Non-litigation dispute resolution in bullying cases is diversion through a restorative justice approach that focuses on and involves all parties, both perpetrators, victims, and the community, to achieve peace over an agreement in resolving a quo case. Restorative justice is the best way to settle the bullying case because the approach will find the solution based on the party's consent. The concept of restorative justice prioritizes welfare and justice for all parties.

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<sup>23</sup> I Made Rai Dwi Surya Atmaja, Anak Agung Sagung Laksmi, dan Ni Made Sukaryadi Karma, "Tindak Pidana Bullying yang Dilakukan Anak dibawah Umur melalui Keadilan Restorative Justice", *Jurnal Interpretasi Hukum*, Edisi No. 2 Vol. 1, 2020, p. 70.

### **3. An Overview of Law Number 11 of 2012 concerning Juvenile Criminal Justice System**

The drafting of this law is a replacement for Law Number 3 of 1997 concerning Juvenile Courts (State Gazette of the Republic of Indonesia of 1997 Number 3, Supplement to the State Gazette of the Republic of Indonesia Number 3668) to realize a judiciary that indeed, guarantees the rights children and provide legal protection for children who conflict with the law. Law No. 3 of 1997 is also no longer following the developments and legal needs of the community because it has yet to comprehensively provide legal protection for children, so we need a new regulation to protect the children. Law Number 11 of 2012 concerning the Juvenile Criminal Justice System regulates the entire process of resolving cases of children in conflict with the law, starting from the investigation stage to the counseling stage after serving a sentence. This law also emphasizes the substance of restorative justice to avoid social stigma against children as perpetrator so they can be accepted back into their social environment.

Law Number 11 of 2012 uses the name Juvenile Criminal Justice System which is not interpreted as a judicial body as stipulated in Article 24 paragraph (2) of the 1945 Constitution of the Republic of Indonesia, which states that judicial power is exercised by a Supreme Court and judicial bodies that are under Supreme Court is in the general court environment, the religious court environment, the



military court environment, the state administrative court environment, and by a Constitutional Court.<sup>24</sup> However, this law is part of the general court environment.

#### **4. An Overview of Juvenile Delinquency**

Juvenile delinquency is a crime committed by minors that is an act that is contrary to law, religious, moral, and society norms. Factors behind the occurrence of juvenile delinquency can be grouped into internal factors and external factors. Internal factors of juvenile delinquency are in the form of identity crisis and weak self-control.<sup>25</sup> In comparison, external factors include lack of attention from parents, lack of understanding of religion, influence from the surrounding environment and the influence of western culture and association with peers, and place of education.<sup>26</sup>

#### **5. Criminal Justice System**

According to Romli Atmasasmita, quoted from a journal written by Michael Barama, the criminal justice system, as a law enforcement system, contains legal aspects that focus on operationalizing the running of statutory regulation in terms of seeking crime prevention and aiming to achieve legal certainty.<sup>27</sup> Each institution has a different criminal justice system. There is a polemic

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<sup>24</sup> 1945 Constitution of the Republic of Indonesia.

<sup>25</sup> Dadan Sumara, Sahadi Humaedi, dan Meilanny Budiarty Santoso, "Kenakalan Remaja dan Penanganannya", *Jurnal Penelitian dan PPM*, Vol. 4, No. 2, p. 352.

<sup>26</sup> *Ibid.*

<sup>27</sup> Michael Barama, "Model Sistem Peradilan Pidana dalam Perkembangan". *Jurnal Ilmu Hukum*, 2016, Vol. 3, No. 8, p. 9.

about giving sanctions to perpetrators of bullying. For example, the settlement of bullying cases by the school is not fair because victims feel that the sanctions for perpetrators do not have a deterrent effect on the perpetrators.<sup>28</sup> The school have obligation to provide the guidance and counseling services in settling cases of bullying.

Police is a state institution that is the first to carry out the judicial process against perpetrators and victims in law enforcement for children in conflict with the Law.<sup>29</sup> The authority of the police in the juvenile justice system is at the stage of arrest, inquiry, investigation, and detention. In implementing diversion in juvenile justice from investigations, the police is given authority which is called discretion or discretionary power.<sup>30</sup> So that diversion can resolve several cases through a restorative justice approach.

## **6. Social Control Theory**

Bullying is one form of criminal behavior committed by teenager. According to Travis Hirschi, the criminal influence four condition of social bonds in society: attachment, commitment, involvement, and belief. So, whether a person's behavior is good or bad depends on the society. Furthermore, teenagers who commit bullying in high school are influenced by social control with their

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<sup>28</sup> Raoudathul Jannah, "Pertanggungjawaban Pidana oleh Anak Pelaku Bullying", *Jurnal Lex Crimen*, Vol. 7, No. 3, 2018, p. 105.

<sup>29</sup> Selamat Riadi. "Peran Penyidik Polri dalam Penerapan Diversi terhadap Anak yang Berkonflik dengan Hukum (Studi di PPA Polres Lombok Barat)". *Jurnal IUS*, 2016, Vol. IV, No. 2, p. 131.

<sup>30</sup> *Ibid.*

school environment. For example, whether or not a student actively participated in organizational activities in high school. If the teenager is active in an organization, it is unlikely that the teenager will engage in deviant behavior. Deviant behavior by teenagers is caused by the absence or lack of individual attachment to society.

Meanwhile, the definition of social control theory refers to discussions of delinquency and crime associated with sociological variables, including family structure, education, and dominant groups.<sup>31</sup> Reiss argued that there are three components of social control in explaining child/adolescent delinquency. These three components are:<sup>32</sup>

- 1) lack of reasonable internal control during childhood;
- 2) loss of such control; and
- 3) there are no social norms or conflicts between these norms.

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<sup>31</sup> Romli Atmasasmita, *Teori dan kapita Seleakta Kriminologi*, Cetakan Ketiga, PT Eresco, Bandung, 1992, p. 41.

<sup>32</sup> Dr. Aroma Elmina Martha, *Kriminologi Sebuah Pengantar*, Ctk. Pertama, Buku Litera, Yogyakarta, 2020, p. 84.

## **F. Operational Definition**

The purpose of the definition of terms is to avoid misunderstanding and explain the term in the research title. The title of the author's research is "THE DISPUTE SETTLEMENT MECHANISM FOR BULLYING CASES IN HIGH SCHOOL PROCEDURES IN YOGYAKARTA" the definition of terms that needs to be explained namely:

### **1. Bullying**

The term bullying is inspired by the word Bull (from english language) which means "bull" who likes to gore.<sup>33</sup> *Bullying* is a deliberate and conscious act aimed at injuring and oppressing victims so that the victim will be afraid and submit to the perpetrator.

Furthermore, perpetrators can be individuals or groups that consider themselves to have strong power and the ability to perpetrator their victims.

### **2. Juvenile Criminal Justice System**

According to Article 1 poin 1 of Law No. 12 of 2011, the definition of juvenile criminal justice system is the entire process of resolving cases of children in conflict with the law, from the investigation stage to the mentoring stage after serving a sentence. In the juvenile criminal justice system, striving for a settlement process outside the court is mandatory, namely, diversion based on a restorative justice approach.

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<sup>33</sup> Yusnanik Bakhtiar, "Kebijakan Hukum Pidana dalam Penyelesaian Kekerasan Bullying di Sekolah", *Legitimasi Jurnal Hukum Pidana dan Politik Hukum*. Vol. IV, 2017, p. 117.

## **G. Research Methodology**

### **1. Type of Research**

The type of research author used normative legal research supported by empirical research data. Normative legal research is legal research that perceived law as a norm, including values, positive law, and court decisions. Meanwhile, empirical legal research is legal research that conceptualized law as a pattern of behavior or action of social interaction. Empirical legal research is to see the law in a real sense (law in the books) and examine how law works in society (law in action). In this thesis, the author used normative legal research carried out using literature focusing on the factors that caused children to perpetrator in the school environment and the mechanism of dispute settlement according to Law Number 11 of 2012 concerning the Juvenile Criminal Justice System. Furthermore, the author also conducted a direct survey to collect data from information sources such as interviews.<sup>34</sup> The interview contained about the procedure of high school in Yogyakarta in resolving bullying cases and the behavior of police in solving this case as a third party. Author also obtained the data of children's case of bullying from The Commission on Child Protection.

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<sup>34</sup> F.C. Susila Adiyanta, "Hukum dan Studi Penelitian Empiris: Penggunaan Metode Survey sebagai Instrumen Penelitian Hukum Empiris", *Administrative Law & Governance Journal*. Volume 2 Issue 4, Nov 2019, p. 3.

## **2. Research Approach**

### **a. Approach Method**

The author used a method of approach to legislation. Because the author also used empirical data such as interviews, the author also used criminology and criminal law approach methods.

### **b. Research Object**

The research object was the factor that caused children committing bullying in the school environment and the mechanism dispute settlement of bullying case in high school procedure in Yogyakarta.

### **c. Research Subject**

The research subject was the people who were chosen by the author to provide information about the problem being researched based on their knowledge or competence. The subject is high school and police.

## **3. Type of Data**

### **a. Primary Legal Material**

Primary legal material consisted of statutory legislation namely Law Number 11 of 2012 concerning Juvenile Criminal Justice System and Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection. In order to conduct this research, the author will observe the mechanism dispute settlement for bullying case in high school procedure and police. This primary legal material is obtained from interview with the

teacher in high school and legal officers which related to the mechanism dispute settlement and sanctions in terms of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System. In addition, the author also obtained where the author also requested a recapitulation of data on children as perpetrators or victims of bullying at the Indonesian Child Protection Commission.

**b. Secondary Legal Material**

Secondary legal material is the material law that explained to primary legal materials such as journal, literature books, and other that support this research. Secondary Legal Material Source of this research is obtained through literatures and journals for references that is related to the topic of research.<sup>35</sup>

**c. Tertiary Legal Material**

Tertiary legal materials is namely materials that provide instructions and explanations of primary legal materials and secondary legal materials, namely the Big Indonesian Dictionary.

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<sup>35</sup> I Ketut Suardita, "Pengenalan Badan Hukum (PBH): Hukum Administrasi Negara Bagi Mahasiswa Semester I", Fakultas Hukum Universitas Udayana, 2017, p. 3.

#### **4. Method of Data Collection**

The method to collect was through literature study and observation. Literature study carried out by collecting, reading, and analyzing the regulation, journals, opinion of expert, and data from Indonesian Child Protection Commission. Author also did interviews with the teacher in high school and police.

#### **5. Method of Data Analysis**

This study is conducted qualitative-descriptive analysis method which meant a research and understanding process based on a methodology that investigated social phenomena and human problems. The data was obtained from written materials such as legislation and books related to this topic and interview. In this approach, researchers created a complex picture, examine words, provide detailed reports from respondents' views, and conduct studies in natural situations. The result of the analysis is described in narrated and deductive form.



## CHAPTER II

### LITERATURE REVIEW

#### 1. An Overview of Bullying

##### 1.1 Definition of Bullying

The term of bullying is from the word perpetrator which means “bully” of people who annoy weak people.<sup>36</sup> Bullying is a form of a universal problem and has become a serious problem that touches almost everyone in the family, school, community, and others. The effects of bullying can last a lifetime because it results in deep trauma for the victim. Bullying can be seen when someone or a group of people tries to hurt or annoy another person repeatedly, such as by hitting, kicking, mocking or insulting, cornering, and much more.

The definition of bullying, according to the National Commission on Human Rights (KOMNAS HAM), is a form of long-term physical and psychological violence that a person or group commits against someone unable to defend themselves from a situation of desire to hurt or frighten people or make people depressed, traumatized, depressed and helpless.<sup>37</sup> Demaray and Malecki, in their article, explain that bullying behavior is a harmful act that a stronger or more powerful person does to someone who is weaker or less powerful

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<sup>36</sup> Masdin, “Fenomena Bullying dalam Pendidikan”, *Jurnal Al-Ta'dib*, Vol. 6, No.2, Dosen Jurusan Tarbiyah STAIN Kendari, 2013, p. 76.

<sup>37</sup> Fitria Chakrawati, *Bullying Siapa Takut?: Panduan untuk Mengatasi Bullying*, Ctk. Pertama, Tiga Serangkai, Solo, 2015, p. 11.

repeatedly.<sup>38</sup> Olweus mentioned that perpetrators are usually more aggressive, have a more muscular, stockier body, and are bigger than the victim. Usually, the gender of perpetrators is more male students than female students.<sup>39</sup>

Bullying is one of the forms of aggression behavior.<sup>40</sup> Aggression is a behavior that aims to physically and psychology harm others. Nevertheless, if it hurts another person because of an element of involuntariness, the behavior is not categorized as aggression. For example, if medical procedures cause pain, then this is not a behavior of aggression. However, when a person intends to harm others and even if the person fails to harm others, his or her actions are included as aggression behaviors. The definition of aggression itself refers to behavior or drive motivation to make the object experience danger and pain.

Bullying, according to Ken Rigby, is a desire to hurt. This desire is shown in action, causing a person to suffer. This action is carried out by a person or group of people that is more powerful, irresponsible, usually repetitive, and performed with a sense of

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<sup>38</sup> Michelle K. D. and Christine K., "Perceptions of the Frequency and Importance of Social Support by Students Classified as Victims, Perpetrators, and Bully/Victims in an Urban Middle School", *School Psychology Review*, Vol. 32, No. 3, Psychology Department at Northern Illinois University, 2003, p. 471- 489.

<sup>39</sup> D. Olweus, "Bullying at School: Basic Facts and Effects of a School Based Intervention Program," *Journal of Child Psychology and Psychiatry*, Vol. 35, Department of Psychosocial Science, Division of Personality Psychology, University of Bergen, 1994, p. 1171-1190.

<sup>40</sup> Ahmad Baliyo Eko Prasetyo, "Bullying di Sekolah dan Dampaknya bagi Masa Depan Anak", *Jurnal Pendidikan Islam*, Vol. 4, No. 1, 2014, p. 20.

pleasure.<sup>41</sup> Bullying in an educational context is referred to specifically as school bullying. Riauskina, Djuwita, and Soesetio define school bullying as aggressive behavior that is carried out repeatedly by a person or group of students who have power, against other, weaker students, with the aim of hurting that person.<sup>42</sup>

According to Dan Olweus in his book entitled “Bullying at School: What We Know and What We Can Do” (1993) said that “a person is bullied when he or she is exposed, repeatedly and over time, to negative actions on the part of one or more other persons, and he or she has difficulty defending himself or herself”. So, the definition of bullying is anyone who is being bullied or victimized when bullied repeatedly and over time by one or more other students to hurt the victim physically and psychologically. Three essential components in bullying are bullying is aggressive behavior, involves a pattern of behavior repeatedly, and imbalance of power or strength.

With the development of this digital era and information technology, bullying behavior are not only carried out traditionally. However, they can also be done in cyberspace, such as through Facebook and Twitter, BBM, WhatsApp, Instagram, and other platforms that aim to hurt or humiliate victims. So, there are two types

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<sup>41</sup> Ponny Retno Astuti, *Meredam Bullying: 3 Cara Efektif Menanggulangi Kekerasa pada Anak*, Grasindo, Jakarta, 2008, p. 3.

<sup>42</sup> Yusnanik Bakhtiar, “Kebijakan Hukum Pidana dalam Penyelesaian Kekerasan Bullying di Sekolah”, *Legitimasi Jurnal Hukum Pidana dan Politik Hukum*, Vol. 6, No. 1, Faculty of Sharia and Law, Universitas Islam Negeri Ar-Raniry, Banda Aceh, 2017, p. 118.

of bullying: traditional bullying and cyberbullying. Traditional bullying is bullying that occurs offline. For example, the perpetrator kicks, insults, and mocks the victim directly in the school environment. Meanwhile, cyberbullying is bullying that occurs online or on cyber platforms. For example, the perpetrator comments on or insults the victim through chat and other social media platforms of the victim.

In addition, bullying has various forms, such as verbal bullying, cyberbullying, and physical bullying.

a. Verbal bullying

Verbal bullying is the most common bullying practiced by children because it is easy to do and is still considered trivial by adults. Verbal bullying is the forerunner or first step for perpetrators to commit further violence. This verbal bullying is in the form of statements that are abusive, sexual, slanderous, cruel criticism, insults, reproach, intimidation, threats of violence, or a statement that is not appropriate or appropriate to be said. Verbal bullying has similarities with the criminal act of contempt regulated in Article 310 of the Criminal Code.

b. Cyberbullying

Cyberbullying has been defined as willful and repeated harmful behavior using electronic devices such as computers, cell phones, and others. Cyberbullying is a form of behavior carried out by perpetrators through various electronic media such as texting

(perhaps including video or picture messages), phone calls, e-mails, social networking platforms (e.g., Facebook, Instagram, Tiktok, Twitter), websites, and others. Cyberbullying can be teasing, rumour-spreading, flaming, online harassment, cyberstalking, catfishing, and others.<sup>43</sup>

c. Physical bullying

Physical bullying is the most visible and straightforward type of bullying to identify among other bullying.<sup>44</sup> This bullying is a form of bullying with physical contact in the form of violence committed by the perpetrator against the victim to make the victim helpless. Examples of physical bullying are hitting, strangling, kicking, biting, and spitting on the victim to cause injuries, and even the victim's life is threatened. This physical bullying is similar to the criminal act of persecution regulated in Article 351 of the Criminal Code.

Bullying behavior has a negative impact, especially on victims. There are two forms of bullying on victims: short-term and long-term effects. The short-term effects caused by bullying behavior are that the victim feels insecure, isolated, depressed, feels broken and lonely, feels useless, prolonged stress and ends up committing suicide. While the

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<sup>43</sup> Public Safety Canada, Info Sheet Cyberbullying, R-038, 2015, p. 1, found on <https://www.publicsafety.gc.ca/cnt/rsrscs/pblctns/2015-r038/index-en.aspx/> accessed on January 12, 2023.

<sup>44</sup> *Ibid.*

long-term effect is more psychic and invisible emotions, lasting a long time, the process is slow and does not even appear instantly. Even these long-term effects often go unnoticed by perpetrators, victims, parents, as well as teachers.

For example, when the victim is ridiculed and bullied by the perpetrator very intensely, repeatedly, almost every day, and in groups, then the ridicule will form a suggestion where the victim will think in victim's brain, "when there are many people, and in the crowd situation, I will be ridiculed and humiliated". So that the victim has a phobia of crowds, and when the victim is in a crowded situation and condition, the victim will feel scared, uncomfortable, dizzy, anxious, and nauseous. If it cannot be adequately handled, the trauma or phobia will carry over into adulthood, be difficult to forget, and interfere with the victim's aspirations in achieving studies, career, social relationships, and others.

## **1.2 Bullying is a Criminal Act of Persecution**

There is no legislation that specifically, clearly and thoroughly regulates the issue of bullying itself. So that the act of bullying can be classified into several criminal acts that have been regulated in the Criminal Code such as persecution, extortion, insults, and so on. Bullying can be categorized as a form of criminal abuse in mild to severe forms, such as mobbing. The definition of abuse itself is an arbitrary treatment carried out by a person intentionally aimed at causing bad

feelings (suffering), pain, or injury to others, not with the aim of saving the health of the body.<sup>45</sup>

Physical bullying is one of the criminal acts where the perpetrator can be sanctioned in accordance with Article 351, paragraphs 1-5 of the Criminal Code. Persecution in Article 351 of the Criminal Code explains that bullying is in the form of persecuting and causing others to feel physically and psychologically hurt. The form of bullying in the article is ganging up, hitting, slapping, and grabbing. For example, a weaker child is used as a joke by their friends, being beaten, kicked, and others.

Physical bullying can be categorized as an unlawful crime and includes a criminal offence. The following are the elements of the criminal act of persecution:

1) The existence of intentionality

Bullying behavior has fulfilled the first element of persecution because bullying carried out by children is the presence of intentionality. Intentionality means that the perpetrator knows and intends the act of bullying in a state of consciousness to harm the victim physically and psychologically.

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<sup>45</sup> Leden Marpaung, *Tindak Pidana Terhadap Nyawa dan Tubuh: Pemberantasan dan Prevensinya*, 2000, Sinar Grafika, Jakarta, hlm.5.

## 2) Existence of Deeds

Bullying is an unlawful criminal act (*wederechtelijk*).

Moeljatno defined a criminal act as an act prohibited by the rule of law, in which prohibition is accompanied by threats (sanctions) in the form of a specific criminal offence for whoever violates the prohibition.<sup>46</sup>

## 3) As a result of actions that damage health

Bullying has a negative impact on the victim which has a bad influence on the physical and mental health of the victim. This is in line with Article 351 paragraph 4 of the Criminal Code, which reads, “damaging the health of people”.<sup>47</sup> What is meant by health in this article is that it is good at damaging physical health such as scars on the body, pinches, bruises, and also damaging mental health such as bullying victims will be traumatized and depressed due to actions caused by perpetrators.

The environment around the child will influence and shape the child’s behavior. Each individual will have a tendency to the trait, whether the individual becomes good or evil. The good and evil of a person depends entirely on society. Deviant behavior will not occur if each individual has a strong attachment to society. This is called social control.

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<sup>46</sup> Moeljatno, *Perbuatan Pidana dan Pertanggungjawaban Pidana dalam Hukum Pidana*. Bima Aksara, Jakarta, 1993, p. 38.

<sup>47</sup> Looks on Article 351 paragraph 4 Criminal Code.



The definition of social control theory refers to discussions of delinquency and crime associated with sociological variables, including family structure, education, and dominant groups.<sup>48</sup> Social control at schools has an important role to bind a child so as not to behave defiantly like bullying. Moreover, children must participate and be actively involved with the community and the surrounding environment. Travis Hirschi explains that there are four elements of social bonds in social ties proposed by Travis Hirschi:

a. Attachment

Explain about how the defendant is physically, psychologically, and socially bound to other people. Suppose someone has good communication with their family, community, and others. So, the possibility of doing criminal behavior will decrease. For example, the student who is active in the organization on campus discusses something with the lecturer or friends, and so on.

b. Commitment

People with integrity will treat people kindly if they have a bond with institutions such as religion, sports, campus, music, and others.

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<sup>48</sup> Romli Atmasasmita, *Teori dan kapita Selekt Kriminologi*, Cetakan Ketiga, PT Eresco, Bandung, 1992, p. 41.

c. Involvement

If a person becomes more active in various organizations, it is very unlikely that the child will behave defiantly.

d. Belief

Believe in the moral values of the norms and values of life associations.

Reiss argued that there are three components of social control in explaining child/adolescent delinquency, namely<sup>49</sup>:

- 1) Lack of reasonable internal control during childhood,
- 2) Loss of such control, and
- 3) There are no social norms or conflicts between these norms.

### 1.3 Regulation in Indonesia

The act of bullying that the author in this thesis will discuss is about persecution, so the act has been regulated in Article 351 of the Criminal Code on Persecution, which reads:

- 1) Persecution is punishable by imprisonment for a maximum of two years and eight months or a maximum fine of four thousand five hundred rupiah.
- 2) If the act results in serious injury, the guilty shall be punished with imprisonment for a maximum of five years.

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<sup>49</sup> Aroma Elmina Martha, *Kriminologi Sebuah Pengantar*, Ctk. Pertama, Buku Litera, Yogyakarta, 2020, p. 84.

- 3) If it results in death, it is threatened with imprisonment for a maximum of 7 (seven) years.
- 4) By persecution is equated deliberately damaging health.<sup>50</sup>

Bullying is often experienced by children in the school environment. If bullying occurs in the educational environment, the regulations governing this matter have been stated in Article 54 of Law 35 of 2014 Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, which reads:

- (1) Children in and within the education unit environment must receive protection from acts of physical, psychological, sexual crimes, and other crimes committed by educators, education staff, fellow students, and/or other parties.
- (2) Protection as referred to in paragraph (1) shall be carried out by educators, education personnel, government officials, and/or the community.

What is meant by “educational unit environment” is the place or region where the education process takes place.<sup>51</sup> What is meant by “other parties” include security officers, cleaning staff, food vendors, canteen staff, school pick-up staff, and school guards.<sup>52</sup>

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<sup>50</sup> Looks on Article 351 of Criminal Code.

<sup>51</sup> Looks on Explanation of Article 54 paragraph (1) Law Number 35 of 2014 concerning Juvenile Criminal Justice System.

<sup>52</sup> *Ibid.*

#### **1.4 Influencing Factors of Bullying Behavior**

One of the causes of bullying is the abuse of power imbalance between the perpetrator and the victim of bullying. The meaning of power imbalance is between stronger perpetrators and weaker victims. In this case, the imbalance of power can be seen in terms of physical as well as social status. One example of an imbalance of power is seen in physical terms where the size of the body is bigger than the victim, the amount of perpetrators, intelligence and courage in speaking, and social status.

Internal and external factors also cause the rise of bullying cases in the school environment. Internal factors, namely originating from within the perpetrator, such as temperamental and psychological factors towards the intensity of bullying. Perpetrators are often impulsive, have low empathy for the victim because they do not feel guilty after bullying, and have low social skills.

While external factors come from outside the child. Usually external factors can be triggered from various things, such as from the family environment, peers, school, mass media or social media, and the surrounding environment. Parental parenting also influences the children's behavior. For example, the parents apply authoritarian parenting to their children for punish when their children doing mistakes. An example of authoritarian parenting is punishment as a form of high discipline, such as committing physical and psychological

violence against children. It makes the child has no empathy for others, so he or she thinks that it is permissible to physically abuse other people.<sup>53</sup> They will also see and observe how their parents physically abused them. So that the child will perform practical actions towards other people or their peers.

Bullying exists in almost every school, both public and private schools.<sup>54</sup> The school environment shapes bullying behavior in students.<sup>55</sup> When the child's school has strict regulations regarding bullying, the child especially victims will be comfortable. Nevertheless, on the contrary, when schools allow or underestimate cases of bullying, bullying cases will increase because there are no strict sanctions for perpetrators. Bullying cases are not strictly sanctioned because teachers will assume that children are just joking or playing.

Another factor causing bullying behavior is peer. When children have friend who tend to be hostile or who have problems at school, it will also negatively impact other friends. In addition, to prove their existence at school, students usually form friendship groups, also known as gangs. Their goal in forming a gang is because they want to

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<sup>53</sup> Pipih Muhopilah dan Fatwa Tentama, "Faktor-faktor yang Mempengaruhi Perilaku Bullying", *Jurnal Psikologi Terapan dan Pendidikan*, Universitas Ahmad Dahlan, Vol. 1, No. 2, 2019, p. 102.

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<sup>55</sup> Ayu Muspita, Nurhasanah, dan Martunis. "Analisis Faktor-Faktor Penyebab Perilaku Bullying pada Siswa SD Negeri Kecamatan Bukit Kabupaten Bener Meriah", *Jurnal Ilmiah Mahasiswa Bimbingan dan Konseling*, Fakultas Keguruan dan Ilmu Pendidikan, Universitas Syiah Kuala, Vol. 2, No. 1, 2017, p. 35.

be the superior, to be considered powerful, and to be feared by other students.<sup>56</sup> Regarding the mass media factor where uneducated television shows and uncontrolled use of social media are also the causes of bullying actions.<sup>57</sup>

According to B. Coloroso, there are four (4) elements in bullying behavior to someone, namely as follows:<sup>58</sup>

1) Imbalance power

Perpetrators and victims of bullying have an imbalance power that can be seen in physique, social status, intelligence, speech skills, and much more. Usually, victims of bullying are physically weaker than perpetrators.

2) Intention to injure

The perpetrators of bullying have the intention and deliberately bullied his/her friend, where they aim to physically and psychologically harm the victim.

3) The threat of further aggression

Bullying is done repeatedly and will never stop. Perpetrators repeatedly doing bullying to others because they do not feel guilty, have no empathy, and can't appreciate other people.

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<sup>56</sup> Risha Desiana Suhendar, "Faktor-Faktor Penyebab Perilaku Bullying Siswa di SMK Triguna Utama Ciputat Tangerang Selatan", *Empati: Jurnal Ilmu Kesejahteraan Sosial*, UIN Syarif Hidayatullah Jakarta, Vo. 8, No. 2, 2019, p. 184.

<sup>57</sup> *Ibid.*

<sup>58</sup> Coloroso, *Penindasan Tertindas Dan Penonton. Resep Pemutus Rantai Kekerasan Anak Dari Prasekolah hingga SMU*, Serambi, Jakarta, 2006, p. 44.

#### 4) Terror

Bullying is systematic violence used to intimidate and maintain dominance. The terror that pierces right in the heart of the victim is not only a way to achieve the purpose of the act of bullying, but it also the terror that is the purpose of the act of bullying.<sup>59</sup>

## 2. An Overview of Children

### 2.1 Definition of Children

The child is the mandate and gift of God Almighty who has the mark, dignity, and human rights inherent in him or her since being in the womb. According to M. Nasir Djamil, children are the next generation. The good and bad of the nation's future also depend on the good and bad condition of the child at this time.<sup>60</sup> Therefore, children must get protection as an asset for the nation's future. Child protection is any activity to guarantee and protect children and their rights to live, grow, develop, and participate optimally, following the dignity of humanity, and to receive protection from violence and discrimination.<sup>61</sup>

In terms of national and state life, children are also roots, potentials, and the younger generation who have an essential role in continuing the ideals of the nation's struggle and maintaining the continuity of the existence of the nation and state. Therefore, the

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<sup>59</sup> *Ibid.*

<sup>60</sup> M. Nasir Djamil, *Anak Bukan untuk Dihukum Catatan Pembahasan UU Sistem Peradilan Pidana Anak (UU-SPPA)*, Ctk. Kedua, Sinar Grafika, Jakarta, 2013, p. 11.

<sup>61</sup> Abdi Koro, *Perlindungan Anak di Bawah Umur dalam Perkawinan Usia Muda dan Perkawinan Siri*, Cet. Pertama, PT Alumni, Bandung, 2012, p. 63.

Indonesian government must strive to protect and realize child welfare by providing guarantees for the protection and fulfilment of every child's rights without discriminatory treatment. Protection is to protect the human rights of those harmed by others and that protection is given to society in order to enjoy all the rights granted by law.<sup>62</sup> Protection of children's rights is a form of embodiment of human rights protection.<sup>63</sup>

According to R.A. Koesnon, children are young human beings in age, young in soul and in their life experience because they are easily affected by the surrounding circumstances.<sup>64</sup> Therefore, children need to be taken seriously because children are the most vulnerable social beings in doing anything. After all, they have limitations both in terms of knowledge, experience, and ability in any field. Kartini Kartono stated that children are normal human beings who are still young and are determining their identity.<sup>65</sup> They are very unstable in their souls, so they are very quickly affected by the environment. The national definition of a child is based on the child's age limit according to Criminal Law, Civil Law, Customary Law, and Islamic Law.<sup>66</sup> Internationally, the definition of children is contained in the United Nations Convention on the Rights of the Child of 1989, the United

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<sup>62</sup> Satjipto Raharjo, *Ilmu Hukum*, Citra Aditya Bakti, Bandung, 2000, p. 54.

<sup>63</sup> Konsideran Bagian Menimbang Undang-Undang Republik Indonesia Nomor 11 Tahun 2012 Tentang Sistem Peradilan Pidana Anak (UU SPPA).

<sup>64</sup> R.A. Koesnon, *Susunan Pidana Dalam Negara Sosial Indonesia*, Sumur, Bandung, 1946, p. 120.

<sup>65</sup> Kartini-Kartono, *Gangguan-Gangguan Psikis*, Sinar Baru, Bandung, 1981, p. 187.

<sup>66</sup> Marlina, *Peradilan Pidana Anak Di Indonesia, Pengembangan Konsep diversi dan Restratif Justice*, Bandung, PT Refika Aditama, 2009, p. 33.



Nations Minimum Standard Rules for the Administration of Juvenile Justice (Beijing Rules) of 1985 and the Universal Declaration of Human Rights of 1948.<sup>67</sup>

The definition of a child according to laws and regulations differs from the definition according to Islamic Law and Customary Law. The definition of a child according to Islamic Law can be seen from the signs of whether a person is an adult or not. Which means a person is still declared a child if the child does not have the signs that the adult has as prescribed in Islamic Law. Children are considered to be adults or *baligh* if they have experienced menstruation for women and have dreamed of sperm (seminal) for men. Meanwhile, in Customary Law, there is no definite age provision on the age limit of children. Soedjono posits that according to Customary Law, “minors are those who have not shown concrete physical signs, that they have grown up”.<sup>68</sup> Iman Sudiat in his book entitled Customary Law, sketches the principle of Ter Haar. This traditional figure said that Customary Law provides a basis for determining whether a person is a child or an adult, namely looking at the elements that a person fulfills, namely whether the child is married, leaving the parent’s house or the in-law’s house and establishing his own family life.<sup>69</sup>

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<sup>67</sup> *Ibid.*

<sup>68</sup> Sudjono Dirdjosisworo, *Penanggulangan Kejahatan*, Alumni, Bandung, 1983, p. 230.

<sup>69</sup> Iman Sudiat, *Hukum Adat Sketsa Asas*, Yogyakarta, Liberty, 1981, p. 98.

The following laws and regulations regarding the definition of children when viewed based on age limits:

a. Law Number 1 of 1974 concerning Marriage

According to Article 7, marriage is permitted only when the man has reached the age of 19 years and when the woman has reached the age of 16 years. So, when the child has been married at the age of 16 and 19 years old, then they are already adults and are not in childhood anymore.

b. Criminal Code

Law Number 1 of 1946, concerning Criminal Law, does not directly regulate the definition of children. However, the provisions of Articles 45, 46, and 47 of the Criminal Code only stipulate that the age limit for children is before the age of 16 (sixteen) years or *minderjarig*. However, these articles have been repealed and declared invalid with the issuance of Law Number 21 of 2007 concerning the Eradication of Trafficking in Persons which the definition of children is a person who is not yet 18 (eighteen) years old, including a child who is still in the womb.

c. Civil Code

According to Article 330 of the Civil Code states that “The immature are those who have not reached the age of even twenty-one years and have not marriage before”.<sup>70</sup> Nevertheless, if the child has been married before age 21 and then divorced or left to die with his wife or husband, then the child’s status has matured and does not return to the children again.

d. Law Number 4 of 1979 concerning Child Welfare

In paragraph 1 number 2, the definition of a child is someone who has not reached the age of 21 (twenty-one) years and has never married.<sup>71</sup>

e. Law Number 39 of 1999 concerning Human Rights

The definition of a child in Article 1 number 5 is any human being who is under the age of 18 (eighteen) years old and has never been married, including a child who is still in the womb if it is for his benefit.<sup>72</sup>

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<sup>70</sup> Looks on Article 330 Civil Code.

<sup>71</sup> Looks on Article 1 number 2 UU Nomor 4 Tahun 1979.

<sup>72</sup> Looks on Article 1 poin 5 Law Number 39 of 1999.

f. Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection.

According to Article 1 number 1, the definition of a child is a person who is not yet 18 (eighteen) years old, including a child who is still in the womb.<sup>73</sup>

g. Law Number 11 of 2012 concerning the Juvenile Criminal Justice System

Article 1 number 3 explains that a child in conflict with the law hereinafter referred to as a child is a child who is 12 years old, but not yet 18 years old who is suspected of committing a criminal act.<sup>74</sup>

Thus, in positive law in Indonesia, there is no similarity in age limits regarding who can be classified as a child. The determination of the child's age limit depends mainly on the legal interests of the child concerned. Each regulation provides a different understanding according to its needs. Furthermore, from the various definitions of children that have been mentioned earlier, the author's guidelines in writing this thesis are Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, with the understanding that children who are in conflict with the law are children who are 12 years old but have not reached the age of 18 (eighteen) years who are suspected of committing criminal acts.

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<sup>73</sup> Looks on Article 1 poin 1 Law Number 35 of 2014.

<sup>74</sup> Looks on Article 1 poin 3 Law Number 11 of 2012.

## 2.2 Right and Obligation of Children

### a. Right of Children

As part of the family, the child needs special care and protection and depends on the help and assistance of adults, especially in the first years of his life.<sup>75</sup> In fulfilling the rights of a child, a child cannot do it alone due to limited abilities and experience. So, children need adults to fulfill their rights. Adults, in this case, are the main ones, the parents of the child himself, because they have an essential role in fulfilling the child's right.

In the 1945 Constitution as the highest legal norm, precisely in Article 28 paragraph 2 state that "every child has the right to protection from violence and discrimination". The position and protection of children's rights are essential things that must be considered and realized in real life. Furthermore, in Law Number 39 of 1999 concerning Human Rights, legislators formulated 15 articles specifically to formulate children's rights because the legislators realized that children are vulnerable to human rights violations.<sup>76</sup>

According to Article 1 point 12 of Law Number 35 of 2014 states that "the rights of the child are part of the human rights that must be guaranteed, protected and fulfilled by parents, families, communities, states, governments, and local governments". The

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<sup>75</sup> M. Nasir Djamil, *Op. Cit.*, p. 12.

<sup>76</sup> *Ibid.*

Indonesian government is obliged, responsible, and guarantees the fulfilment of children's rights without discriminating against ethnicity, religion, race, class, culture, physical and/or mental conditions, and others.

As stated in Article 21, paragraphs 2 to 5 of Law Number 35 of 2014, the state is obliged to take responsibility for and fulfil all children's rights. Also, pursued by implementing policies in the field of child protection, such as building child-friendly districts/cities. The effort of the government to guarantee and protect children's rights must be based on human rights principles, namely respect, fulfilment, and protection of children's rights.

The Rights of the Child are also regulated in Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, including<sup>77</sup>:

1) Article 4

Every child has the right to live, grow, develop, and participate reasonably in accordance with the dignity and prestige of humanity, and to be protected from violence and discrimination.

2) Article 5

Every child is entitled to a name as self-identity and citizenship status.

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<sup>77</sup> Looks on Law Number 35 of 2014 concerning on the Amendments of the Law Number 23 of 2002 concerning Child Protection.

3) Article 6

Every child has the right to worship according to his religion, think, and express according to his level of intelligence and age, under the guidance of a Parent or Guardian.

4) Article 8

Every child has the right to health services and social security according to physical, mental, spiritual, and social needs.

5) Article 9 paragraph 1, 1a, and 2

(1) Every child has the right to education and teaching in the context of his personal development and level of intelligence in accordance with his interests and talents.

(1a) Every Child has the right to protection in the education unit from sexual crimes and violence committed by educators, education personnel, fellow students, and/or other parties.

(2) In addition to obtaining the Rights of the Child as referred to in paragraphs (1) and (1a), Children with Disabilities are entitled to extraordinary education and Children who have excellence are entitled to special education.

6) Article 11

Every child is entitled to rest and make use of leisure times, socialize with peers, play, recreate and create in line with interest, talent, and level of intelligence for developing him/herself.

7) Article 13 paragraph 1

(1) Every child, so long as he/she is under parents' care, guardians', or any other party's responsible of caregiving, is entitled to have protection and treatment of:

1. discrimination;
2. exploitation, be it economic or sexual;
3. abandonment;
4. cruelty, violence, and molestation;
5. injustice; and
6. other mistreatment.

8) Article 15

Every child is entitled to acquire protection from:

- a. misuse for political activities;
- b. being involved in an armed dispute;
- c. being involved in social riots;
- d. being involved in events that contain elements of violence;
- e. being involved in a war; and
- f. sexual crimes.

9) Article 16 paragraph 1 and 2

(1) Every child is entitled to acquire protection from targets of molestation, torture, or inhuman punishment.

(2) Every child is entitled to have freedom in accordance with law.



10) Article 17 paragraph 1

(1) Every child stripped of his/her freedom is entitled to:

- a. get humane treatment and his/her place of containment is separated from that of adults;
- b. get legal aids or other assistance effectively given in every phase of existing legal process; and
- c. defend him/herself and acquire justice in front of a child's court which is objective and impartial in a closed trial for public.

11) Article 18

Every child who becomes a victim of crime or a criminal actor is entitled to get legal aids and other aids.

According to Convention on the Rights of the Child, the rights of the child can generally be grouped into four (4) categories of children's rights, including<sup>78</sup>:

a) Right to Survival

namely, the right to preserve and maintain life and the right to obtain the highest health standards and the best possible care.

b) Protection Rights

namely the rights in the Convention on the rights of the child which includes the right to protection from discrimination of

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<sup>78</sup> Mohammad Joni dan Zulchaina Z. Tanamas, *Aspek Hukum Perlindungan Anak dalam Perspektif Konvensi Hak Anak*, Citra Aditya Bakti, Bandung, 1999, p. 35.

violence and neglect for children who do not have a family and for refugee children.

c) Development Rights

namely the rights of the child in the Convention on the Rights of the Child which includes all forms of education (formal and non-formal) and the right to achieve a decent standard of living for the physical, mental, spiritual, moral, and social development of the child (the right of standart of living).

d) Participation Rights

namely the rights of a child to express her/his views freely in all matters affecting the child. It is also a child's right regarding the child's fundamental cultural identity, childhood, and the development of his or her involvement in society at large.

As mentioned in various regulations regarding children's rights, the Indonesian government has sought the protection of children's rights by accommodating Article 28 paragraph 2 of the 1945 Constitution, Law Number 39 of 1999 concerning Human Rights, Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection.

## **b. Obligation of Children**

Of all the rights of children as mentioned above, according to Article 19 of Law Number 23 of 2002 concerning Child Protection regulates the obligations of children that must be carried out as a child, namely:

- a) respect parents, guardian, and teachers;
- b) love his/her family, communities, and care for friends;
- c) love the motherland, country and nation;
- d) worship in accordance with religious teachings; and
- e) practice ethics and possess noble morals.<sup>79</sup>

We must fulfill all our obligations as social beings. The notion of obligation itself is an action that must be worked out and completed. Rights and obligations must always coexist and cannot be separated from each other. According to Setya Wahyudi, children perform obligations not only as a burden, but rather by performing obligations to make the child as a “good child”.<sup>80</sup> A good child should do his/her duty as a child and not just ask for their rights.

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<sup>79</sup> Looks on Article 19 Law Number 23 of 2002.

<sup>80</sup> Setya Wahyudi, *Implementasi Ide Diversi dalam Pembaruan Sistem Peradilan Pidana Anak di Indonesia*, Yogyakarta, Genta Publishing, 2011, p. 26.

### 2.3 Children in Conflict with the Law

According to Article 1 point 3, a child in conflict with the law hereinafter referred to as a child, is a child who has been 12 (twelve) years old, but not yet 18 (eighteen) years old who is suspected of committing a criminal act. According to A. Syamsudin Meliala and E. Sumaryono, some of the causative factors that most influence the incidence of child crime are environmental factors, economic/social factors, and psychological factors.<sup>81</sup> Children who are in conflict with the law are a part of society that is powerless both physically, mentally, and socially.<sup>82</sup> So, it needs special attention. If children get protection from the state and society well, they can create a quality generation to maintain the existence of the state.

Children who are in conflict with the law are entitled to protection from the target of inhuman persecution, torture, or punishment, and have the right to freedom in accordance with the law, the arrest, detention, or imprisonment of children is only carried out if it is in accordance with applicable law and can only be done as a last resort.<sup>83</sup> Children who are in conflict with the law are also entitled to protection and fulfillment of children's rights as citizens in terms of law enforcement toward the criminal acts they commit.

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<sup>81</sup> A. Syamsudin Meliala dan E. Sumaryono, *Kejahatan Anak Suatu Tinjauan dari Psikologi dan Hukum*, Yogyakarta, Liberty, 1985, p. 31.

<sup>82</sup> Emy Rosna Wati, "Penanganan Anak yang Berkonflik dengan Hukum", *Justitia Jurnal Hukum*, Vol. 1, No. 2, Fakultas Hukum Universitas Muhammadiyah Surabaya, 2017, p. 291.

<sup>83</sup> Looks on Article 16 Law Number 23 of 2002 concerning Child Protection.

According to Article 64 paragraph 1 of Law Number 23 of 2002 concerning Child Protection state that “Special protection for children facing the law as referred to in Article 59 includes children who are in conflict with the law and children victims of criminal acts, is the obligation and responsibility of the government and society”.<sup>84</sup> So, children who are in conflict with the law also get special protection from the government and society. One of the special protections is the protecting children’s identity as perpetrators in various media, such as in the mass media and social media, where to avoid labelling from society.

The handling of children in conflict with the law was realized by the enactment of Law of the Republic of Indonesia Number 11 of 2012 concerning the Juvenile Criminal Justice System by repealing Law Number 3 of 1997 concerning Children’s Courts. Law of the Republic of Indonesia Number 11 of 2012 concerning the Juvenile Criminal Justice System prioritizes children who are in conflict with the law through restorative justice settlement which means the settlement of cases involving the perpetrator, victim, family of the perpetrator/victim, and other related parties to jointly seek a fair solution by emphasizing restoration of the original situation.

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<sup>84</sup> Looks on Article 64 Law Number 23 of 2002 concerning Child Protection.

### **3. An Overview of the Juvenile Criminal Justice System**

#### **3.1 Definition of the Juvenile Criminal Justice System**

The term juvenile criminal justice system is used in conjunction with several institutions incorporated in the courts, including police, public prosecutors and legal advisors, supervisory agencies, child detention centers, and child development facilities.<sup>85</sup> According to article 1 point 1 of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, it is stated that what is meant by the Juvenile Criminal Justice System is the entire process of resolving children's cases facing the law, starting from the investigation stage to the guidance stage after becoming a criminal. The term criminal justice system is well-known for solving criminal cases involving adults. In the word juvenile criminal justice system, there is the term "criminal justice system" and the term "child". The word "child" in the phrase "juvenile criminal justice system" should be included, because it is to distinguish it from the adult criminal justice system.<sup>86</sup>

However, the juvenile criminal justice system is different from the adult criminal justice system in various aspects, where various terms and provisions that are only explicitly regulated in the juvenile criminal justice system. Juvenile criminal justice includes all activities

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<sup>85</sup> Setya Wahyudi, "Penegakan Peradilan Pidana Anak dengan Pendekatan Umum Progresif dalam Rangka Perlindungan Anak", *Jurnal Dinamika Hukum*, Vol. 9, No. 1, Fakultas Hukum, Universitas Jenderal Soedirman Purwokerto, 2009, p. 29-30.

<sup>86</sup> M. Nasir Djamil, *Op. Cit.*, p. 43.

of examination and termination of cases concerning the interests of the child.<sup>87</sup> Emphasizing or focusing on the interests of the child should be the center of attention in Juvenile Criminal Justice System.<sup>88</sup> One of the inherent characteristics of the juvenile criminal justice system is that legal actors can terminate the judicial process at any time, from the moment certain circumstances become known by the authorities to terminate it.<sup>89</sup>

According to Yahya Harahap, the juvenile delinquency system consists of institutions that handle child investigations, child investigations, child prosecutions, juvenile courts, and juvenile correctional services.<sup>90</sup> In conclusion, the juvenile criminal justice system is all elements of the criminal justice system involved in handling juvenile delinquency cases. The first element of the judicial system is the police, as a formal institution with the authority to determine whether a child in conflict with the law will be released or further processed. The second element of the judicial system is the prosecutor and the parole agency, which determines whether the child will be released or processed to the juvenile court. The third element of the judicial system is the juvenile court. Children in conflict with the

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<sup>87</sup> Abintoro Prakoso, *Politik Hukum Pidana*, Fakultas Hukum, Diskresi pada Tahap Penyidikan dalam Rangka Mewujudkan Perlindungan Hukum bagi Anak Nakal, Disertasi pada Program Pascasarjana Fakultas Hukum Universitas Brawijaya, Malang, 2010, p. 141.

<sup>88</sup> Nandang Sambas, *Pembaruan Sistem Pemidanaan Anak di Indonesia*, Graha Ilmu, Yogyakarta, 2010, p. 4.

<sup>89</sup> Abintoro Prakoso, *Op. Cit.*, p. 201.

<sup>90</sup> Yahya Harahap, *Pembahasan Permasalahan dan Penerapan KUHAP*, Pustaka Kartini, Jakarta, 1993, p. 5.

law will be placed in several options, starting from being released or included in the institution of punishment.<sup>91</sup>

### **3.2 Legal Basis**

The Juvenile Criminal Justice System in Indonesia is regulated under Law Number 11 of 2012 concerning the Juvenile Criminal Justice System established and enacted by President Dr. H. Susilo Bambang Yudhoyono on July 30, 2012, in Jakarta. Furthermore, this law came into force after 2 (two) years from the date of enactment, namely on July 30, 2014, and repealed law Number 3 of 1997 concerning Children's Courts. The preparation of this law is a replacement for Law Number 3 of 1997 concerning Children's Courts (Statute Book of the Republic of Indonesia of 1997 Number 3, Supplement to the State Gazette of the Republic of Indonesia Number 3668), which is carried out with the aim of realizing a judiciary that indeed guarantees the protection of the best interests of children facing the law as the successor of the nation.<sup>92</sup>

One of the backgrounds for establishing and ratifying the law is the increasing number of children in conflict with the law in Indonesia. The need for special protection for children so that their dignity of children are always guaranteed, and what must be prioritized is legal

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<sup>91</sup> Purnianti, Mamik Sri Supatmi, dan Ni Made Martini Tinduk, *Analisa Situasi Sistem Peradilan Anak (Juvenile Justice System) di Indonesia*, Unicef Indonesia, Jakarta, 2003, p. 5.

<sup>92</sup> Looks on General Explanation of Law Number 35 of 2014 concerning Juvenile Criminal Justice System.



protection for children when faced with the justice system.<sup>93</sup> The legal protection, as referred to, is that the Government of Indonesia has enacted Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection. The law aims to ensure that all rights of children facing the law, both for children in conflict with the law, children who are victims of criminal acts, and children who are witnesses to criminal acts can be fulfilled and fully guaranteed by the state.

Protection in Law Number 23 of 2002 concerning Child Protection is carried out based on the principles of non-discrimination, the best interests of children, respect for children's opinions, the right to life, and the right to grow and develop. Children as human beings also have the same right to grow and develop in accordance with the mandate of the Constitution of the Republic of Indonesia. In conclusion, the legal basis of the juvenile criminal justice system is Law Number 11 of 2012 concerning the Juvenile Criminal Justice System and Law Number 23 of 2002 concerning Child Protection.

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<sup>93</sup> Andi Hamzah, *Perlindungan Hak Asasi Manusia dalam Kitab Undang-Undang Hukum Acara Pidana*, Bina Cipta, Bandung, 1986, p. 33.

### 3.3 Purpose of the Juvenile Criminal Justice System

The purpose of the Juvenile Criminal Justice System is inseparable from the purpose of the Criminal Justice System in general, which includes three (3) things, namely short-term, medium-term, and long-term goals.<sup>94</sup> The short-term goal is that children who face the law are expected to be aware and know that the acts committed are criminal acts and violate legal provisions so as not to repeat their actions again. When the child is aware of his or her actions and promises not to repeat their actions again, the rate of crimes committed by the child will decrease. The medium-term goal of the system is that when a crime committed by a child is resolved either by litigation or non-litigation, it is hoped that it will foster harmony between the perpetrator, victim, and their own family. Lastly, the long-term goal is to create legal protection between the perpetrator and the victim, fulfilling and guaranteeing all rights for the victim and the perpetrator so that they live in a state of peace.

The purposes of juvenile justice is organized to re-educate and improve the child's attitude and behavior so that he or she can abandon the bad behavior that he has been doing.<sup>95</sup> In organizing the juvenile criminal justice, which has a purpose, according to Law Number 11 of 2012 in its explanation, is to achieve a judiciary that indeed guarantees

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<sup>94</sup> Rusli Muhammad, *Sistem Peradilan Pidana Anak di Indonesia*, Ctk. Pertama, FH UII Press, Yogyakarta, 2020, p. 19.

<sup>95</sup> Maidin Gultom, *Perlindungan Hukum Terhadap Anak Dalam Sistem Peradilan Pidana Anak di Indonesia*, Refika Aditama, Bandung, 2008, p. 77.

the protection of the best interests of children facing the law.<sup>96</sup> The Beijing Rules contain the purpose of the juvenile criminal justice system, which is stated in Rule 5.1, Aims of juvenile justice state that “The juvenile justice system shall emphasize the well-being of the juvenile and shall ensure that any reaction to juvenile perpetrators shall always be in proportion to the circumstances of both the perpetrators and the offense.” Which means the important purpose of juvenile justice is to advance the child’s welfare, when the child is in conflict with the law can be avoided from sanctions that are merely to punish without knowing the essence and purpose of the punishment and not understand that their actions violate the law.

While the purposes of the juvenile criminal justice system, according to UN Resolution 45/113 dated December 14, 1990, United Nations for the Protection of Juvenile Deprived of Liberty, the court system for children must advance and uphold the rights, safety, physical and mental well-being of children. The penalty of imprisonment for a child in conflict with the law should be used as a last resort.

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<sup>96</sup> Abintoro Prakoso, *Op. Cit*, p. 144.

In addition, the purposes of the juvenile criminal justice system, according to Muladi, are to<sup>97</sup>:

- 1) Resocialization and rehabilitation of criminal perpetrators;
- 2) Eradication of crime; and
- 3) To achieve social welfare.

Gordon Bazemore states that the goals of the juvenile criminal justice system vary and depend on the paradigm of the Juvenile Criminal Justice System that adopted.<sup>98</sup> There are three well-known juvenile justice paradigms namely, the individual treatment paradigm, the retributive paradigm, and the restorative paradigm.<sup>99</sup> The explanation of the three paradigms includes:

a. Objectives of the Juvenile Criminal Justice System with an Individual Development Paradigm

The individual coaching paradigm emphasizes the problems faced by the perpetrator, not the consequences that cause actions/losses. This responsibility lies in the responsibility of the system to meet the needs of the perpetrator.<sup>100</sup> The imposition of sanctions with this paradigm is irrelevant, incidental and generally unfeasible. The achievement of the objectives of sanctions is

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<sup>97</sup> Muladi, *Lembaga Pengawasan: Sistem Peradilan Terpadu*, Mappi FHUI, [www.pemantauperadilan.com](http://www.pemantauperadilan.com)., dalam Purnianti, Mamik Sri Purwanti, dan Ni Made Martini Tinduk, 2003, p. 5.

<sup>98</sup> Setya Wahyudi, *Implementasi Ide Diversi dalam Pembaruan Sistem Peradilan Pidana Anak di Indonesia*, Genta Publishing, Yogyakarta, 2011, p. 38-40.

<sup>99</sup> M. Nasir Djamil, *Op. Cit.*, p. 45.

<sup>100</sup> Setya Wahyudi, *Ibid.*

highlighted in the indicators regarding the alleged whether the perpetrator needs to be identified, whether the perpetrator has been requested to be fostered in a special fostering program, and the extent to which the program can be completed.

In general, the perpetrator needs to be fostered so that the perpetrator is able to do rational things. The achievement of the objectives of the SPPA paradigm are the individual awareness of the perpetrator to avoid the ugly influence of certain people/ environments, obey coach's rules, and whether the perpetrator is present and plays a role in coaching.<sup>101</sup> Group and family counseling; probation work has been drawn up, and recreational activities, which have taken place, are the most crucial thing in practice.<sup>102</sup>

b. Objectives of the Juvenile Criminal Justice System with Retributive Paradigm

Focus on revenge for the actions/losses caused by the perpetrator and determine at the time the perpetrator has been sentenced to a criminal conviction.<sup>103</sup> The purpose of imposing sanctions can be seen in whether the perpetrator has been convicted with appropriate punishment for his or her actions that caused harm, and whether the criminal sanctions imposed on the perpetrator have been fair to the victim. The forms of punishment include

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<sup>101</sup> Emy Rosna Wati, *Op. Cit.*, p. 292.

<sup>102</sup> M. Nasir Djamil, *Op. Cit.*, p. 46.

<sup>103</sup> *Ibid.*

confinement, electronic supervision, punitive sanctions, fines, and fees.<sup>104</sup> Electronic detention, confinement, and surveillance are the best strategies for policing perpetrators to create community protection. The success of community protection is seen in the circumstances of whether the perpetrator has been detained, whether repetition by prevention or detention.

c. Objectives of the Juvenile Criminal Justice System with Restorative Paradigm

In achieving the goal of imposing criminal sanctions on child perpetrators with a restorative paradigm, it is mandatory to include victims and/or families of victims, perpetrators, communities, and law enforcement to be actively involved during the judicial process. Strictly speaking, restorative justice is the settlement of criminal cases involving the perpetrator, victim, family of the perpetrator/victim, and other related parties to jointly seek a fair solution by emphasizing recovery to their previous condition and without retaliation.

Indicators of achieving the purpose of imposing criminal sanctions in this paradigm can be seen from whether the victim has been restored, the victim is satisfied with the imposition of sanctions on the perpetrator, the amount of compensation given to the perpetrator, the perpetrator is aware of their actions, compensation of

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<sup>104</sup> *Ibid.*

the amount in accordance with the wishes of the victim and has been agreed by both parties, and so on. The forms of sanctions are restitution, mediation of victim perpetrators, victim services, community restoration, and direct service to victims or restorative fines.<sup>105</sup>

The role of victims in determining the imposition of criminal sanctions is to work actively to determine sanctions against perpetrators due to actions/ losses caused. The perpetrator is active in responsible for all losses incurred in the form of restitution to the victim and facing and apologizing for the guilt to the victim and/or the victim's family. As a mediator between the victim and the perpetrator, the community helps the victim get restitution and supports fulfilling of the perpetrator's obligations to the victim. Furthermore, law enforcement can facilitates mediation.

Restorative justice boils down to achieving community protection with collaborative efforts of the justice system and society. The community is actively responsible for organizing the restoration. The indicator of achieving community protection is that when the recidivist rate falls, the perpetrator has been under the supervision of the community, and the community feels safe and at ease. This is in line with the role of the juvenile justice system, which involves other

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<sup>105</sup> *Ibid*, p. 47.

parties, such as schools, families, and community institutions, to prevent crimes committed by children.

Perpetrators, victims, communities, and law enforcement in juvenile justice must be actively involved in their roles to enhance community protection. Actors must be constructively involved to develop restorative competencies and activities, develop internal and external controls, and commit to peers and organizations in the school. Victims provide helpful input to continue the mission of protecting society from fear and the need for surveillance of delinquent perpetrators and protecting victims of other crimes.<sup>106</sup> The community plays an active role in mentoring, providing guidance to the perpetrator, and providing input to the judiciary on background information on the occurrence of crimes committed by the child perpetrator. Meanwhile, law enforcement or professionals in juvenile justice are developing a scale of incentives and ensuring the fulfillment of the obligations of perpetrators and supervision to assist schools and families in an effort to supervise or defend or avoid child perpetrators from labeling or stigmatization in society.

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<sup>106</sup> *Ibid*, p. 48.



### **3.4 The Principle of the Juvenile Criminal Justice System**

The principles contained in Law Number 11 of 2012 concerning the Juvenile Criminal Justice System are different from the principles contained in the Criminal Code (KUHP), which contains violations and crimes, as well as the principles contained in the Criminal Procedure Code (KUHAP). In this case, the SPPA Law, in addition to material law, also contains formal law (called procedural law in juvenile criminal justice). According to Article 2 of the SPPA Law, the Juvenile Criminal Justice System is implemented based on the principles:

a. Protection

Includes are direct and indirect activities from actions that endanger the child physically and/or psychically.<sup>107</sup> Protection here is intended to protect children who face the law when undergoing trial so that all their rights can be fulfilled.

b. Justice

Any trial process or settlement of children's cases must reflect a sense of justice for all parties, especially for children who face the law, both children who are in conflict with the law, children who are victims of criminal acts, and children who are witnesses to criminal acts.

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<sup>107</sup> Looks on Explanation of Article 2 letter a of Law Number 11 of 2012 concerning Juvenile Criminal Justice System.

c. Non-discrimination

There is no treatment by law enforcement officials in discriminating against children based on ethnicity, religion, race, class, gender, ethnicity, culture and language, the legal status of children, order of birth of children, and physical and/or mental conditions.<sup>108</sup>

d. Best interests for Children

All actions and decision-making concerning children must always consider all aspects of the child, namely survival, child growth and development, physical and/or mental condition. All decisions made must prioritize the welfare of children both for the present and the future.

e. Respect for Children's opinions

The purpose of giving appreciation to children is so that the child is brave in expressing opinions and making decisions, especially things that affect the child's life. An award is a form of appreciation and respect for children for participating in expressing opinions.

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<sup>108</sup> Looks on Explanation of Article 2 letter c of Law Number 11 of 2012 concerning Juvenile Criminal Justice System.

f. Survival and development of children

What is meant by “survival and development of the Child” is the most basic human right for the child that protect by the state, government, society, family, and parents.<sup>109</sup>

g. Child guidance and mentoring

What is meant by “gudance” is activities to improve the quality, piety to God Almighty, intellectual, attitude and behavior, skills training, professional, and physical and spiritual health of children both inside and outside the criminal justice process.<sup>110</sup>

What is meant by “mentoring” is the provision of guidance to improve the quality of piety to God Almighty, intellectual, attitude and behavior, skill training, professional, physical and spiritual health of correctional clients.<sup>111</sup>

h. Proportional

All treatment of children must pay attention to the limits of the child’s needs, age, and condition.<sup>112</sup> Children who are in conflict with the law must receive assistance and protection so that their rights in the trial are still fulfilled and not violated. The child should be

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<sup>109</sup> Looks on Explanation of Article 2 letter f of Law Number 11 of 2012 concerning Juvenile Criminal Justice System.

<sup>110</sup> Looks on Explanation of Article 2 letter g of Law Number 11 of 2012 concerning Juvenile Criminal Justice System.

<sup>111</sup> *Ibid.*

<sup>112</sup> Looks on Explanation of Article 2 letter h of Law Number 11 of 2012 concerning Juvenile Criminal Justice System.

treated according to the situation, mental and physical state, and social justice with his abilities at a certain age.

i. Deprivation of liberty and conviction as a last resort

Basically, the Child cannot be deprived of his or her independence unless it is forced to do so in the interest of resolving the case. Deprivation of liberty and conviction should be carried out as a last resort in the settlement of juvenile criminal cases.

j. Avoidance of retaliation

The principle explains the distancing retaliation in criminal justice proceedings. All parties involved in criminal acts (victims, perpetrators, and society) must achieve a win-win solution that can be to improve, reconcile, and reassure the heart and not based on retribution.

The absolute competence of the Juvenile Court is with the General Judicial Body, meaning that the Juvenile Court is part of the General Judicial Body, i.e., the District Court and the High Court, to hear the case of Delinquent Children and boils down to the Supreme Court as the Supreme Judicial Institution.<sup>113</sup> If there is a case of a child committing a criminal act with an adult with military status, the case must be separated. The child will be tried in a Children's Court hearing and a Military Court will try adult criminals. The relative competence

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<sup>113</sup> Maidun Gultom, *Perlindungan Hukum terhadap Anak dalam Sistem Peradilan Pidana Anak*, Cet. Keempat (Revisi), PT Refika Aditama, Bandung, 2014, p. 106.

of the Children's Court is in accordance with the scene of child delinquency, which means that the court authorized to try the case is a court whose jurisdiction includes the place where the crime occurred.

The articles contained in Law Number 11 of 2012 adhere to several principles that distinguish it from the trial of criminal cases for adults. The principles are as follows<sup>114</sup>:

1. Age restrictions

According to Article 1 number 3 of Law Number 11 of 2012, the definition of a child in conflict with the law, from now on referred to as a child, is a child who is 12 (twelve) years old but not yet 18 (eighteen) years old who is suspected of committing a criminal act.<sup>115</sup> According to Article 20 of Law Number 11 of 2012, in the event that a criminal act is committed by a Child before the age of 18 (eighteen) years and is submitted to a court hearing after the Child concerned exceeds the age limit of 18 (eighteen) years, but has not reached the age of 21 (twenty-one) years, the Child is still submitted to the child trial.<sup>116</sup>

2. The scope of the issue is limited

Juvenile court hearings are only authorized to examine, decide, and resolve juvenile criminal cases.

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<sup>114</sup> *Ibid.*

<sup>115</sup> Looks on Article 1 poin 3 Law Number 11 of 2012 concerning Juvenile Criminal Justice System.

<sup>116</sup> Looks on Article 20 Law Number 11 of 2012 concerning Juvenile Criminal Justice System.

3. Handled by specialized officers

Children's cases are only handled by specialized officers, namely child investigators, child public prosecutors, and juvenile judges.

4. The role of community advisors

Law Number 11 of 2012 recognizes the role of community mentors, social workers, and volunteer social workers.<sup>117</sup>

5. Examination and family atmosphere

Examining children's cases is carried out in a family setting where judges, public prosecutors, investigators, and legal counsel do not wear a toga. Article 18 of Law Number 11 of 2012 specifies that in handling cases of Children, Child Victims, and/or Child Witnesses, Community Advisers, Professional Social Workers and Social Welfare Workers, Investigators, Public Prosecutors, Judges, and Advocates or other legal aid providers must pay attention to the best interests of the Child and strive for a family atmosphere to be maintained.<sup>118</sup>

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<sup>117</sup> Maidin Guldom, *Pidana Anak*, Cet. Keempat (Revisi), PT Refika Aditama, Bandung, 2014, p. 107.

<sup>118</sup> Looks on Article 18 Law Number 11 of 2012 concerning Juvenile Criminal Justice System.

#### 6. Necessity of splitsing

When there are cases of crimes committed by adults and children together, the prosecution must be carried out separately where the child cannot be tried with an adult of either military or civilian status.

#### 7. Closed examination event

According to the provisions of Article 54 of Law Number 11 of 2012, the judge examines the case of the Child in a hearing that is declared closed to the public, except for the reading of the judgment.<sup>119</sup> So, the proceedings of the examination in the juvenile court are conducted behind closed doors, but in the hearing the reading of the judgment is open publicly.

#### 8. Examined by a single judge

According to Article 44 paragraph 1 of Law Number 11 of 2012, the Magistrate examines and decides the case of the Child in the first instance with a single judge.<sup>120</sup> However, if the crime is threatened with imprisonment of 7 (seven) years or more or difficult to prove, the case will be examined with a panel judge. Which according to Article 44 paragraph 2 state that “The chief justice of the district court may establish the examination of the case of the child with the judge of the tribunal in the case of a criminal offence

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<sup>119</sup> Looks on Article 54 Law Number 11 of 2012 concerning Juvenile Criminal Justice System.

<sup>120</sup> Looks on Article 44 paragraph 1 Law Number 11 of 2012 concerning Juvenile Criminal Justice System.

punishable by imprisonment of 7 (seven) years or more or difficulty proving it”.<sup>121</sup>

If this is viewed in terms of child protection, it can be seen that Law Number 11 of 2012 does not provide legal protection for children due to the lack of firmness regarding the obligations of the panel judges in the examination of juvenile criminal cases. It may be that the Chief Justice considers that the case is not difficult to prove, but in fact, it is difficult. This will affect the quality of child protection, which is reflected in the judge’s decision on the criminal case of the child.<sup>122</sup> So that the child, in this case, can be a victim of the indecision of Law Number 11 of 2012 regarding the Juvenile Criminal Justice System (Structural Victimization).

#### 9. A shorter period of detention

The period of child detention in Law Number 11 of 2012 regarding the Juvenile Criminal Justice System is shorter than the provisions stipulated in the Criminal Procedure Code (KUHAP). It also provides legal protection for children in conflict with the law due to the incarceration of children for not so long. So, it will not significantly affect children’s physical, mental, and social development.

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<sup>121</sup> Looks on Article 44 paragraph 2 Law Number 11 of 2012 concerning Juvenile Criminal Justice System.

<sup>122</sup> Maidin Guldom, *Op. Cit*, p. 108.



## 10. Lighter sentences

The maximum sentence imposed on a child under Article 81 paragraph 6 of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System is 10 (ten) years. When viewed from the aspect of child protection, the prison sentence reflects the legal protection of children compared to the provisions of Article 10 of the Criminal Code. Nevertheless, juvenile court judges must be observant in considering and understanding that criminal charges against children are a last resort (*ultimum remedium*).

### **3.5 The Mechanism Dispute Settlement and Sanction in terms of Law Number 11 of 2012 concerning the Juvenile Criminal Justice**

The mechanism for settling children's cases in conflict with the law in the juvenile criminal justice system must prioritize a restorative justice approach. This is in line with Article 5 Paragraph 1 of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System. The purpose of the restorative justice approach in resolving children's cases is to resolve criminal issues by involving the perpetrator, victim, family of the perpetrator/victim, and other parties to seek a fair solution by emphasizing the restoration or improvement of the actions that have been done by the perpetrator and not revenge together.

One of the efforts to achieve restorative justice is through diversion efforts. According to Article 1 point 7 concerning the Juvenile Criminal Justice System, the definition of diversion is the transfer of the

settlement of a child's case from a criminal justice process to a process outside of criminal justice.<sup>123</sup> Diversion aims to<sup>124</sup>:

- a. achieve peace between the victim and the Child;
- b. resolving the Child's case outside the judicial process;
- c. prevent the Child from deprivation of liberty;
- d. encourage the public to participate; and
- e. instil a sense of responsibility in the Child.

If the diversion process between the victim and the perpetrator is unsuccessful or does not find common ground, the juvenile criminal justice process continues. According to Article 20 of Law Number 11 of 2012 concerning Juvenile Criminal Justice state that "In the event that a criminal offense is committed by a child before the age of 18 (eighteen) years and is brought before the court after the child has exceeded the age limit of 18 (eighteen) years, but has not reached the age of 21 (twenty-one) years, the child shall still be submitted to the child court." This means that when a child who is not yet 18 years old commits a criminal act, it can be submitted to a court hearing after the child exceeds 18 years. And when the Child has not reached the age of 21 years, the Child is still submitted to the children's trial.

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<sup>123</sup> Looks on Article 1 poin 7 Law Number 11 of 2012 concerning Juvenile Criminal Justice System.

<sup>124</sup> Looks on Article 6 Law Number 11 of 2012 concerning Juvenile Criminal Justice System

According to the SPPA Law, children as perpetrators of criminal acts will be subject to two types of sanctions, namely only subject to actions for perpetrators of criminal acts who are not yet fourteen (14) years old and perpetrators who are fourteen years old and above will be subject to criminal sanctions. Regarding perpetrators of criminal acts who are not yet fourteen (14) years old, they will be subject to actions as stated in Article 69 paragraph 2. According to Article 82 paragraph 1, the intended actions that can be imposed on children include:

- a. return to parents/guardians;
- b. submission to a person;
- c. treatment in a psychiatric hospital;
- d. treatment at LPKS;
- e. the obligation to attend formal education and/or training held by the government or private entities;
- f. revocation of driving license; and/or
- g. reparations of the consequences of the criminal acts.

Children as criminal perpetrators who are 14 years old and above will be subject to criminal sanctions. According to Article 71, paragraphs 1-4 of Law Number 11 of 2012 concerning the Juvenile Criminal Justice explains the principal and additional criminal charges for children in conflict with the law:

- (1) The principal crimes for children shall consist of <sup>125</sup>:
  - a. warning punishment;
  - b. punishment with condition:
    - 1) coaching outside the institution;
    - 2) community service; or
    - 3) supervision.
  - c. job training;
  - d. coaching within the institution; and
  - e. imprisonment.
- (2) Additional criminal charges shall consist of the following<sup>126</sup>:
  - a. deprivation of profits derived from criminal acts; or
  - b. fulfilment of customary obligations.
- (3) If a cumulative penalty of imprisonment and fine is threatened in material law, the fine is replaced by job training.<sup>127</sup>
- (4) Criminal punishment imposed on the child is prohibited to violate the dignity of the child.<sup>128</sup>

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<sup>125</sup> Looks on Article 71 paragraph 1 Law Number 11 of 2012 concerning Juvenile Criminal Justice System.

<sup>126</sup> Looks on Article 71 paragraph 2 Law Number 11 of 2012 concerning Juvenile Criminal Justice System.

<sup>127</sup> Looks on Article 71 paragraph 3 Law Number 11 of 2012 concerning Juvenile Criminal Justice System.

<sup>128</sup> Looks on Article 71 paragraph 4 Law Number 11 of 2012 concerning Juvenile Criminal Justice System.

## 4. An Overview of Islamic Criminal Law against Bullying

### 4.1 Definition of Islamic Criminal Law

Islamic Criminal Law is a translation of the word *fiqh jinayah*. *Fiqh Jinayah* is any legal provision regarding criminal acts or criminal acts committed by *mukallaf* people (persons who can be burdened with obligations), as a result of an understanding of the detailed legal postulates of the Qur'an and hadith.<sup>129</sup> The definition of *fiqh* in terms proposed by Abdul Wahab Khallaf is: *Fiqh* is the science of practical laws taken from detailed postulates. In addition, *fiqh* is a practical set of laws taken from detailed postulates.<sup>130</sup> As for *jinayah* in terms as stated by Abdul Qadir Audah, namely: *Jinayah* is a term for deeds prohibited by the *syara'*, whether the deed is about soul, property, or others.<sup>131</sup>

Islamic Criminal Law is Allah's *sharia*, which contains benefits for human life both in the world and hereafter. Islamic *Sharia* means material and contains a fundamental obligation for every human being to carry it out. The concept of *sharia* is a human obligation to place Allah as a right, both in oneself and in others.<sup>132</sup> In criminal cases, the Messenger of Allah decided on the form of punishment against the perpetrators of criminal acts in accordance with the revelation of Allah.

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<sup>129</sup> Ahmad Wardi Muslich, *Hukum Pidana Islam*, Sinar Grafika, Jakarta, 2005, p. 9.

<sup>130</sup> Abdul Wahab Khallaf, *Ilmu Ushul Al Fiqh*, Ad Dar Al Kuwaitiyah, cet. VIII, 1968, p. 11.

<sup>131</sup> Abdul Qadir Audah, *At Tasyri' Al Jina' I Al Islami*, Beirut, Dar Al-Kitab Al-'Araby, tt, p. 67.

<sup>132</sup> Zainuddin Ali, *Hukum Pidana Islam*, Ctk.Kesatu, Sinar Grafika, Jakarta, 2007, p. 1.

After the Prophet's death, the community and religious leadership task was continued by "al-Kulafa'ar-Rasyidun" as the leader of the Muslims, who held central power. The Caliph directly referred to the Qur'an and the Sunnah of the Messenger of Allah to decide a criminal case and the form of punishment against the perpetrator. If there is a case that is not explained by the two sources, the caliph holds consultations with the companions, and his decision is based on *ijtihad*.

#### **4.2 Source and Purpose of Islamic Criminal Law**

Islamic Criminal Law is part of Islamic Law. The source of Islamic Criminal Law is based on the Qur'an, As-Sunnah, *ijma'* and *qiyas*.

##### **a. Qur'an**

The primary source of law in Islamic Criminal Law is Qur'an. The Qur'an is a collection of the words of Allah that were handed down to the Prophet Muhammad SAW to become a guide for life for mankind from the apostolic time of the Prophet to the end of time. The word Qur'an comes from Arabic, which means reading. The paragraphs in the Qur'an specifically talk about the law (*ahkam* verse). There are about 350 (three hundred and fifty) verses that are the source of the fundamental law and the source of all sources of law. The text (*nash*) in the Qur'an must have come from Allah

whose point of appointment to the law has 2 (two) forms, namely as follows<sup>133</sup>:

- 1) Qathi'iy al-dalalah i.e., his appointment is specific because it has only one sense; and
- 2) Dhanniy al-dalalah i.e., his appointment to the law, was based only on factual allegations because they had two or more meanings, so there were frequent scholarly disputes.

The laws contained in the Qur'an include<sup>134</sup>:

- a) The laws of *I'tiqadiyyah* are the laws relating to faith in Allah, to angels, to the Books, to the Apostles of Allah and to the hereafter.
- b) The laws of *Khuluqiyyah*, that is, laws related to morals. Human beings are obliged to have good character and stay away from destructive behavior.
- c) The laws of *Amaliyah*, that is, laws relating to human deeds. This law of *Amaliyah* is twofold; concerning worship and about *muamalah* in a broad sense. The rulings in the Qur'an relating to the field of worship and the field of *al-Ahwal al-Syakhshiyah* / individual or family matters are mentioned in more detail than the other areas of law.

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<sup>133</sup> Ahmad Wardi Muslich, *Op. Cit.*, p. 35-37.

<sup>134</sup> Siska Lis Sulistiani, "Perbandingan Sumber Hukum Islam", *Jurnal Peradaban dan Hukum Islam*, Vol. 1, No. 1, Prodi Hukum Keluarga Islam, Fakultas Syariah, Universitas Islam Bandung, 2018, p. 105.

b. As-Sunnah

As-Sunnah linguistically (etymologically) is a path, a rule, a habituated way or a commendable way. Sunnah is more commonly referred to as hadith which has several etymological meanings, namely *Qorib* which means close, *Jadid* means new, and *Khobar* which means news or news. Sunnah linguistically means “habituated way” or “commendable way”. Sunnah (hadith) is a word, deed, as well as confession and nature narrated from the Prophet Muhammad SAW.<sup>135</sup> The Sunnah has the following functions<sup>136</sup>:

- 1) Explain the rulings contained in the Quran;
- 2) Strengthening the laws that have been stated in the Qur'an; and
- 3) As an independent source of law.

c. *Ijma'*

*Ijma'* is one of the *syara'* postulates with a level of argumentative power below the *nash* postulates (Qur'an and Hadith). It is the first postulate after the Qur'an and Hadith, which can be used as a guide in exploring the laws of the *syara'*.<sup>137</sup> According to Romli in his book “Muqaranah Mazahib Fil Ushul” revealed that *Ijma'* can mean the agreement or consensus of several

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<sup>135</sup> Ahmad Wardi Muslich, *Op. Cit.*, p. 41.

<sup>136</sup> *Ibid*, p. 45.

<sup>137</sup> Muhammad Abu Zahrah, *Ushul Fiqih*, Pustaka Firdaus, Jakarta, 2010, p. 307.



people on a matter.<sup>138</sup> In other word, *ijma* ' is scholarly consensus to give solution and resolved a problem.

d. *Qiyas*

*Qiyas* or analogy is an important instrument in making islamic law decisions to overcome legal void.<sup>139</sup> This is a principle of analogy in the interpretation of Islamic Law, which is not clearly covered in Qur'an or Sunnah. According to Abdul Wahab Al-Khallaf in his book "The Science of Ushul Fiqih" argues that *qiyas* is to equate a case for which there is no legal text (*nash*) with a case for which there is nash the law (in the existing law *nash*), because the second similarity is in the *illat*<sup>140</sup> of the law.<sup>141</sup>

In addition, Islamic Law has other sources of law that also come from the human mind, but these sources are still partly debated among scholars, namely<sup>142</sup>:

1. *Istihsan*, i.e., prioritizing justice and social interests by deviating from existing provisions;
2. *Maslahah mursalah*, i.e., filling the legal void by considering the public interest;

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<sup>138</sup> Romli, *Muqaranah Mazahib Fil Ushul*, Gaya Media Pratama, Jakarta, 1999, Cet. Pertama, p. 78.

<sup>139</sup> Ahmad Wardhi Muslich, *Pengantar dan Asas Hukum Pidana Islam: Fiqh Jinayah*. Ctk. Kedua, Sinar Grafika, 2006, p. 50-53.

<sup>140</sup> *Illat* is a trait found in an ashli (principal), which is the basis of its law, and by that nature, it can be known the existence of that law in the far' (branch).

<sup>141</sup> Asrowi, "Ijma dan *Qiyas* dalam Hukum Islam", *Jurnal Aksioma Al-Musaqoh*, Vol. 1, No. 1, STAI La Tansa Mashiro Indonesia, 2018, p. 35.

<sup>142</sup> Mohammad Daud Ali, *Asas-asas Hukum Islam: Pengantar Ilmu Hukum dan Tata Hukum Islam di Indoneseia*, Rajawali, Jakarta, 2004, p. 100-111.

3. *Istidal*, i.e., drawing legal conclusions through two different acts;
4. *Urf* or customs are customs or habits that do not contradict the principles of Islamic law.

The purpose of Islamic Criminal Law is undoubtedly also in line with the purpose of human life, which does not deviate from the national ideals of the Unitary State of the Republic of Indonesia (NKRI), namely happiness and justice of living both in the world and the hereafter and for the benefit and welfare of mankind on earth. According to al-Syathibi, what is meant by benefit can be realized if five main elements are realized: religion, soul, descent, reason, and property.<sup>143</sup> According to al-Syathibi, the determination of the five basic human needs is based on the postulates of the Qur'an and Hadith. These postulates serve as *al-qawaid al-kulliyah* (general rules) in establishing *al-kulliyah al-khamsah* (five basic needs). Another goal is to guarantee the necessities of life (secondary needs) or *Hajiyat*.

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<sup>143</sup> Adimarwan Azwar Karim, *Sejarah Pemikiran Ekonomi Islam*, Raja Grafindo, Jakarta, 2012, p. 380.

The purpose of Islamic legislation is to make various improvements, namely to make humans able to organize and fill social life better or *tahsinat*.<sup>144</sup> In the Qur'an, Allah has also explained how to decide Islamic criminal cases, which is stated in Surah Al-Ma'idah verse 48, which reads:

وَأَنْزَلْنَا إِلَيْكَ الْكِتَابَ بِالْحَقِّ مُصَدِّقًا لِمَا بَيْنَ يَدَيْهِ مِنَ الْكِتَابِ وَمُهَيِّمًا عَلَيْهِ  
فَاحْكُم بَيْنَهُم بِمَا أَنْزَلَ اللَّهُ وَلَا تَتَّبِعْ أَهْوَاءَهُمْ عَمَّا جَاءَكَ مِنَ الْحَقِّ لِكُلِّ  
جَعَلْنَا مِنْكُمْ شُرَعًا وَمِنْهَا جَاءَ وَلَوْ شَاءَ اللَّهُ لَجَعَلَكُمْ أُمَّةً وَاحِدَةً وَلَكِنْ  
لِيَبْلُوَكُمْ فِي مَا آتَاكُمْ فَاسْتَبِقُوا الْخَيْرَاتِ إِلَى اللَّهِ مَرْجِعُكُمْ جَمِيعًا فَيُنَبِّئُكُمْ  
بِمَا كُنْتُمْ فِيهِ تَخْتَلِفُونَ

Means:

We have revealed this book with the truth to you (O Prophet) as a confirmation of previous Scriptures and a supreme authority on them. So, judge between them by what Allah has revealed, and do not follow their desires over the truth that has come to you. We have ordained a code of law and a way of life to each of you. If Allah had willed, He would have made you one community, but His Will is to test you with what He has given (each of) you. So, compete with one another in doing good. To Allah you will all return, then He will inform you (of the truth) regarding your differences.

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<sup>144</sup> Wael B.Hallaq, *Sejarah Teori Hukum Islam*, PT Raja Grafindo Persada, Jakarta, 2000, p. 246-248.

### 4.3 Definition of Bullying in Islamic Criminal Law Perspective

Bullying in Islamic Criminal Law is called *jarimah pelukaan*. Islamic Criminal Law (*fiqh jinayah*) distinguishes criminal acts on soul (murder) and criminal acts over other than soul (persecution).<sup>145</sup> According to the *fuqaha*, a criminal act other than soul (persecution) is any act that hurts a person's body in the form of injuring, kicking, hitting, pushing, strangling, and so on but does not cause death. This understanding is in line with the definition proposed by Wahbah Zuhaili that the criminal act of persecution is "any unlawful act against the human body in the form of limb cutting, sedition, or beating, while his soul/life and life are still undisturbed."<sup>146</sup>

In the sahih hadith, Prophet Muhammad SAW said "Verily your blood, your property, your honor, is haram upon you as it is forbidden in this day, this month and this country. Should those present convey to the absent" (H.R. Bukhârî). Thus, one's life and honor must be respected, protected, and guarded. So that no one has the right to insult, damage, and hurt others without a reason justified by Islamic Law.

The act of bullying that is identic with physical and mental violence is very contrary to Islamic Law. In Islamic Criminal Law (*jinayah*), perpetrators can be subjected to *jinayah hudud*, *qishah*, and *ta'zir*. If the perpetrators of bullying commits an act of extortion and

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<sup>145</sup> Ahmad Hanafi, *Asas-Asas Hukum Pidana Islam*, Bulan Bintang, Jakarta, 1976, p. 9.

<sup>146</sup> Muhammad Ahsin Sekho, *Ensiklopedia Hukum Pidana Islam*, PT. Kharisma Ilmu, Jakarta, 2007, p. 1.

takes the victim's property, then the perpetrator may be subject to *jinayah hudud*. As for the consequences of the perpetrator causing the victim injuries or taking the victim's life, the act can be subject to *jinayah qishash*. Lastly, the act of bullying results in the victim being frightened, depressed, or psychologically depressed so that the perpetrator can be punished in the form of *ta'zir*.

If the perpetrator commits an act of extortion and takes the victim's property, then the perpetrator may be subject to *jinayah hudud*. As for the consequences of the perpetrator causing the victim injuries or taking the victim's life, the act can be subject to *jinayah qishash*. Lastly, the act of bullying results in the victim being frightened, depressed, or psychologically depressed so that the perpetrator can be punished in the form of *ta'zir*.

In addition, Islam has also banned acts of bullying in any form, and it has been stated in Surah Al-Hujurat verse 11, which reads:

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا يَسْخَرُ قَوْمٌ مِّنْ قَوْمٍ عَسَىٰ أَن يَكُونُوا خَيْرًا مِنْهُمْ وَلَا نِسَاءٌ مِّنْ نِّسَاءٍ عَسَىٰ أَن يَكُنَّ خَيْرًا مِنْهُنَّ وَلَا تَلْمِزُوا أَنفُسَكُمْ وَلَا تَنَابَزُوا بِاللُّغَابِ بِسُوءِ الْأَسْمَاءِ الْفُسُوقِ بَعْدَ الْإِيمَانِ وَمَن لَّمْ يَتُبْ فَأُولَٰئِكَ هُمُ الظَّالِمُونَ

Means:

O you who have believed, let not a people ridicule (another) people; perhaps they may be better than them; nor let women ridicule (other) women; perhaps they may be better than them. And do not insult one

another and do not call each other by (offensive) nicknames. Wretched is the name of disobedience after (one's) faith. And whoever does not repent – then it is those who are the wrongdoers.

In the paragraph, there is the word “Laa-yaskhor,” which means no mockery. This meaning becomes a keyword in this thesis, where the author argues that the word “mockery” has a similar meaning that corresponds to the act of bullying.

#### **4.4 Legal Basis of Bullying**

The legal basis of bullying in the Qur'an is Surah Al-Hujurat verse 11. There are three explanations regarding the prohibition of bullying in this surah, namely:

1. Prohibition of making fun of or demeaning (*sukhriyah*)

The word “yaskhor” or mockery is mentioning the other party with the aim of laughing at the person concerned, either by speech, action, or behavior.<sup>147</sup> Dr. Wahbah Zuhaily in Tafsir Al-Munir says “O you who believe in Allah and His Messenger, do not make fun of each other, and sometimes the one who is mocked is better than the one who mocks”. In this interpretation, it can be said that the victim of bullying is better in rank in the sight of Allah and is more loved than the perpetrators.

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<sup>147</sup> Quraish Shihab, *Tafsir Al-Misbah: Pesan, Kesan, dan Keserasian Al-Qur'an*, Vol. 12, Ctk. Pertama, Lentera Hati, Tangerang, 2017, p. 608.

## 2. Prohibition of criticizing others (*lamz*)

The word “*talmizū*” means mockery which means mocking others. Mocking others is a form of verbal bullying. When a person mocks other people or believers, it is the same as mocking oneself, because the relationship between a believer and another believer is like a person's whole body. So, when a believer mocks another believer, it is like mocking himself.

## 3. Prohibition of calling people ugly names (*tanabuz*)

The word “*wa lā tanābazu*” means calling with a bad nickname that is disliked such as a Muslim calling his fellow Muslims "hi hypocrite", "hi pig", "hi dog", and others. So, those behavior will make the person whose name is called feel hurt, sad, and angry.

From the three types of prohibitions above, namely making fun (*sukhriyah*), mocking (*lamz*), and calling ugly names (*tanabuz*), Allah forbids his servants to do these three despicable acts. In addition, Allah will categorize people who do this into people who are *dholim*, not only harming others but also harming themselves.

In the case of bullying, what must be proven is that the perpetrator has intentionally committed acts of bullying both physically, verbally and in other forms against the victim. Acts of bullying that can be physically injured, such as hitting, slapping, strangling, or kicking whether done using hands, feet, weapons or other tools are an act

forbidden by Islam and are an act of *jinayah* and can be punished if the act is done intentionally. In the Qur'an, Allah has been said in several paragraphs concerning the existence of *qishash* punishment, such as Surah Al-Maidah verse 45, which reads:

وَكَتَبْنَا عَلَيْهِمْ فِيهَا أَنَّ النَّفْسَ بِالنَّفْسِ وَالْعَيْنَ بِالْعَيْنِ وَالْأَنْفَ بِالْأَنْفِ  
وَالْأُذُنَ بِالْأُذُنِ وَالسِّنَّ بِالسِّنِّ وَالْجُرُوحَ قِصَاصًا فَمَن تَصَدَّقَ بِهِ فَهُوَ  
كَفَّارَةٌ لَهُ وَمَن لَّمْ يَحْكَمْ بِمَا أَنزَلَ اللَّهُ فَأُولَئِكَ هُمُ الظَّالِمُونَ

Means:

We ordained for them in the Torah, “A life for a life, an eye for an eye, a nose for a nose, an ear for an ear, a tooth for a tooth—and for wounds equal retaliation.” However, whoever waives it charitably, it will be atonement for them. Furthermore, those who do not judge by what Allah has revealed are (indeed) the wrongdoers.

The practice of *qishash* is also mentioned in surah al-Baqarah, which reads “O people of faith! It is obligatory upon you (to perform) *qishash* with respect to the person who was killed. Free people with free people, servants with servants, and women with women...” (Q.S. al-Baqarah/2: 178). As well as surah an-Nisâ', Allah said “Whoever commits a crime, he will be repaid with that evil” (Q.S. an-Nisâ'/4: 123).



Meanwhile, acts of bullying that can result in the victim's psychology such as rebuking, yelling, reproaching, cursing, making fun, scaring, mentioning something connoted with ugly things, then the act is forbidden by Islam and is considered an act of *jinayah*. Allah said "and whoever commits evil though as big as zarrah undoubtedly Allah sees it" (Q.S. al-Zâlzâlâh/99:8).<sup>148</sup>

According to al-Mawardî, *jinayah* deeds can be done actively as well as passively and both are illegitimate acts that can be punished according to the wrongs committed.<sup>149</sup> Whenever associated with al-Mawardî's opinion, then acts of bullying can be done actively as well as passively. Both are illegitimate acts that can be punished according to the wrongs committed. Whenever associated with with al-Mawardî's opinion, then acts of bullying can be actively such as slapping, hitting, kicking, silencing and molesting to result in injuries, disability and even death of the victim. It can be punished with the punishment of *hudud*, *qishash* and *ta'zir*. In addition, bullying can also be carried out passively such as threatening, rebuking, harassing, making fun, scaring, insulting and calling the victim's name with other designations so as to cause the victim to be frightened, depressed and traumatized, then the perpetrator's actions can be categorized as *jinayah* acts.

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<sup>148</sup> Muhammad Hatta, "Tindakan Perundungan (Bullying) dalam Dunia Pendidikan ditinjau berdasarkan Hukum Pidana Islam", Jurnal Miqot, Vol. XLI, No.2, 2017, Fakultas Hukum Universitas Malikussaleh, 2017, p. 290.

<sup>149</sup> Abul Hasan Ali ibn Muhammad Mawardî, *al-Ahkam al-Sulthaniyah (The Laws of Islamic Governance)*, Dar Ul Thaqaah, Amazon Book, 2018, p. 222.

#### 4.5 Children as Perpetrators of Bullying in Islamic Criminal Law

In Islamic Law, children aged nine to ten years are categorized as *tamyiz*. The *fuqaha* stipulate that the minimum age of *tamyiz* is seven years.<sup>150</sup> *Tamyiz* are children who are not perfectly sensible but can think and distinguish between good and bad deeds or already have knowledge. However, the abilities and experiences of these children are considered weak or imperfect when compared to adults. However, the abilities and experiences of these children are considered weak or imperfect when compared to adults.

The act of jinayah bullying committed by minors cannot be confused with the act of jinayah bullying committed by adults. When children commit acts of abuse and result in the victim being injured, distressed, or even deprived of life, the perpetrator is sentenced to ta'zir. The punishment of ta'zir here means that its form and degree are determined by the government (judge) which is adjusted to the acts committed by the perpetrator by upholding the principle of reasonableness.<sup>151</sup> In general, children who perpetrator will be subject to *diat*, *kafarat* or alternative punishments (*'uqubat al-badilah*) that are more of an educational or teaching nature.

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<sup>150</sup> Muhammad Abu Zahrah, *al-Jarîmah wa al-'Uqubah fî al-Fiqh al-Islam*, Kairo, Maktabah al Nahdlah al Misriyah, 1987, p. 462.

<sup>151</sup> Muhammad Hatta, *Op. Cit*, p. 297-298.

Even though the perpetrator is a minor and is still in education, if someone is proven to have committed bullying, no matter how small the act is committed, the perpetrator must get punishment. So that the nature of the punishment is not to hurt the minor as the perpetrator but the punishment aims to provide understanding or education to the child, that the act of bullying is an act that is contrary to Islamic Law because it is a very detrimental act towards the victim both physically and mentally. So, it is hoped that the perpetrator will not repeat the deed. This is in accordance with the word of Allah which means “Whoever does good as hard as *dzarra*, he will undoubtedly see (the reply) to it. And whoever works a crime as big as *zarr*, he will undoubtedly see (the reply) as well” (Q.S. al- Zâlzâlâh/99:7-8).

## CHAPTER III

### DISCUSSION AND RESULT

#### 1. The Factors that Cause Children to Commit Bullying in the School Environment

The child is a mandate from God Almighty, which is attached to him the dignity of being a whole person. Children are the buds, potentials, and the next generation of young people who succeed in the ideals of the nation's struggle, have a strategic role and have unique characteristics and traits that ensure the continuity of the existence of the government and state in the future.<sup>152</sup> Therefore, the legal treatment of children should receive serious attention because children are the future of a nation.

The child's position in the legal environment as a legal subject is determined by the legal system against the child as a group of people who are in lawful status and classified as incapable or underage.<sup>153</sup> What is meant by the word "incapable" is lacking experience and knowledge compared to adults. So, they need the help of adults because, in childhood, they are in a period of growth and development of intelligence and physique.

The General Explanation of Law Number 23 of 2002 concerning Child Protection explained that children are a mandate and a gift of God Almighty that must always maintain because they are attached to dignity

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<sup>152</sup> Bilher Hutahaean, "Penerapan Sanksi Pidana bagi Pelaku Tindak Pidana Anak", *Jurnal Yudisial Vol. 6, No. 1*, Fakultas Hukum, Universitas Trunajaya Bontang, 2013, p. 64.

<sup>153</sup> *Ibid*, p. 66.

and rights as human beings. Regarding national and state life, children are the nation's future and the next generation of national ideals. So that every child has the right to survival, growth, and development and is entitled to protection from acts of violence and discrimination, civil rights, and freedoms.<sup>154</sup>

According to Sri Soemantri, as quoted by Mien Rukmini<sup>155</sup>, “a country of law must fulfill several elements, namely the Government in carrying out its duties and obligations must be based on laws or regulations, guarantees of human rights (citizens), separation of power, and the supervision of judicial bodies.” Therefore, the Government of Indonesia is obliged to guarantee and protect the human rights of children as subjects of law.

The definition of a child is based on Law Number 11 of 2012 concerning the Juvenile Criminal Justice System listed in Article 1 paragraph (3), which reads, “A child in conflict with the law from now on referred to as a child is a child aged 12 (twelve) years who is suspected of committing a criminal act. Regarding the conviction of a child, under Article 69, paragraph 2 of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System states, “A child who is not yet 14 (fourteen) years old can only be subjected to action.” The actions in question are to be

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<sup>154</sup> Anis Mohamad dan Siti Afiyah, “Putusan Hakim berupa Pemidanaan Perkara Tindak Pidana Perbuatan Cabul terhadap Anak di Bawah Umur”, *Mimbar Yustisia: Jurnal Hukum dan Hak Asasi Manusia*, Vol. 2, No. 1, Universitas Islam Darul ‘Ulum, 2018, p. 80.

<sup>155</sup> Mien Rukmini, *Perlindungan HAM Melalui Asas Praduga Tak Bersalah dan Asas Persamaan Kedudukan Dalam Hukum Pada Sistem Peradilan Pidana Indonesia*, Alumni, Bandung, 2003, p.1.

returned to parents/guardians, submission to a person, treatment in a psychiatric hospital, treatment at LPKS, the obligation to attend formal education and/or training held by the government or private entities, revocation of a driving license, and/or reparations of the consequences of the criminal acts.<sup>156</sup>

Meanwhile, criminal sanctions are explained in Article 71 of the SPPA Law, which consists of the major crimes, namely warning punishment and punishment with conditions such as coaching outside the institution, community service or supervision, job training, and coaching within the institution, and imprisonment.<sup>157</sup> Meanwhile, additional crimes involve the deprivation of profits derived from criminal acts or fulfilling customary obligations.<sup>158</sup>

One example of a child in conflict with the law is a perpetrator of bullying. The definition of bullying is an act that a person or group of people performs intentionally and repeatedly in which it takes advantage of a power imbalance to harm others both physically and psychically. Meanwhile, according to the Merriam-Webster Online Dictionary, bullying is a blustering or browbeating person, especially one who is habitually cruel to

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<sup>156</sup> Looks on Article 82 verse 1 of Law Number 11 of 2012 concerning Juvenile Criminal Justice System.

<sup>157</sup> Looks on Article 71 verse 1 of Law Number 11 of 2012 concerning Juvenile Criminal Justice System.

<sup>158</sup> Looks on Article 71 verse 2 of Law Number 11 of 2012 concerning Juvenile Criminal Justice System.

others who are weaker.<sup>159</sup> To perpetrator means to treat someone abusively or to affect them through force or coercion.

The Commission on Child Protection (KPAI) also defines bullying as long-term physical and psychological violence committed by a person or group against someone unable to defend themselves in situations where there is a desire to hurt or frighten people or make people depressed, traumatized, and helpless. So that children as victims of bullying will experience psychological and/or physical disorders.

Bullying has various forms, namely verbal bullying, cyberbullying, and physical bullying. According to Duke University, research published May 12, 2014, in the Proceedings of the National Academy of Sciences, the impact of bullying in childhood can last a lifetime, both for the victim and the perpetrator himself.<sup>160</sup>

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<sup>159</sup> Found on <https://www.merriam-webster.com/dictionary/bully>, accessed on January 30, 2023.

<sup>160</sup> Sufriani and Eva Purnama Sari, "Faktor yang Mempengaruhi Bullying pada Anak Usia Sekolah di Sekolah Dasar Kecamatan Syiah Kuala Banda Aceh", *Idea Nursing Journal*, Vol. VIII, No.3, Universitas Syiah Kuala, 2017, p. 2.

The author doing an interview with five counseling guidance teacher regarding the factors that cause children commit bullying in the school environment:

School	Factor
SMA N 9 Yogyakarta	<ul style="list-style-type: none"> <li>- The condition of perpetrator is lower economic condition and intelligence than the bullying victim</li> <li>- Jealous or envious Not happy with the achievements of the bullying victim, smarter, more liked by many people, more active in organizations. Therefore, the bully feels jealous because he is not better than the victim of bullying</li> <li>- Revenge (having been a victim of bullying and then wanting revenge so that he becomes a perpetrator)</li> </ul>



	<ul style="list-style-type: none"> <li>- Friendship and environment When his friend has become a bully, then over time the child will imitate and become a bully too</li> <li>- Experiencing violence at home When children experience violence by their parents at home, they will imitate and commit such violence to others</li> </ul>
MAN 1 Yogyakarta	<ul style="list-style-type: none"> <li>- Family factor, parents who are always busy with work so there is no time to be with family, especially time with children. So, children will vent in other forms in other places, namely in the school environment and society</li> <li>- Environmental factors, viewing YouTube or social media so that children can easily imitate behaviors that are actually deviant but children do not understand or</li> </ul>

	do not know that the behavior is wrong
SMA N 3 Yogyakarta	<ul style="list-style-type: none"> <li>- Excessive use of social media without parental supervision</li> <li>When children see violent behavior on social media, they will imitate the behavior they see.</li> <li>- The nature of children who lack empathy for each other</li> <li>- The role of schools in monitoring and preventing bullying. For example, regarding school rules and the role of teachers</li> </ul>
SMA N 6 Yogyakarta	<ul style="list-style-type: none"> <li>- Less empathy</li> <li>- Social environmental conditions such as friends, family, neighbor, school, and others</li> <li>- Want to gain popularity</li> </ul>
SMA Bopkri 1 Yogyakarta	<ul style="list-style-type: none"> <li>- Environmental factors, especially family</li> <li>- Peers</li> <li>- School regulation</li> </ul>

The act of bullying carried out by children is caused by two factors, namely:

#### 1) Internal Factors

Internal factors are factors that come from within a person or individual himself. Internal factors that cause perpetrators to commit criminal acts of bullying are the attitudes or traits that have been attached to a person or individual. Here are the internal factors that cause individuals to commit bullying:

##### a. Reasons for happiness and lack of empathy

When the child lacks attention and supervision from the parents, it will impact the child's lack of empathy so that they feel happy if they hurt someone. So, when they hurt others both physically and mentally, the perpetrator of bullying will feel satisfied and comforted when they see their victims tormented for their actions. So, bullying is also used as a place to find happiness.

##### b. Desire to gain popularity

Perpetrators commit bullying because they have aim to gain popularity, considered excellent and respected by their friends. They commit bullying to gain social status among peers and are considered popular.<sup>161</sup> These children tend to perpetrator children who look

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<sup>161</sup> Sahabat Orangtua dan Anak (SOA), *Apa yang Menjadi Penyebab Bullying di Lingkungan Sekolah*, found on <https://soa-edu.com/apa-yang-menjadi-penyebab-bullying-di-lingkungan-sekolah/>, accessed on February 1, 2023.

helpless or are perceived as strange by hurting the victim through words such as ridicule or even physical actions.

c. Revenge events

Perpetrators and victims of bullying usually form an unhealthy cycle. It could be that people who are currently become perpetrators have been victims in the past. A child who commits bullying as revenge considers this action reasonable because they have also been bullied in the past. After the perpetrator commit bullying, their feelings become relieved and satisfied. Their goal in committing bullying is for other people to feel what they have felt when they were victims of bullying.

d. Want to gain power and become dominant

Children who commit bullying to someone because they want to feel prominent and powerful in the surrounding environment. This dominant attitude is shown because the perpetrator wants the victim and others to view him/her as someone with a higher social position.<sup>162</sup> When perpetrators are powerful and dominant, they will be respected and underestimate their friends.

e. Lack of self-introspection

Bullying will never stop because perpetrators lack awareness that their behavior is detrimental to many people and has a negative

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<sup>162</sup> Sri Mulyati, *5 Alasan Ilmiah Kenapa Orang Melakukan Bullying*, found on <https://www.idntimes.com/science/discovery/sri-mulyati-2/alasan-ilmiah-perilaku-bullying-c1c2>, accessed on February 1, 2023.

impact. They will continue to repeat the bullying behavior and consider their behavior were ordinary and reasonable.

## 2) External Factors

External factors are factors that come from outside of an individual. This factor includes the surrounding environment and the closest people. Here are the external factors that cause bullying behavior:

### a. Family

Family is the closest social environment to raising, caring for, and maturing children. The first education obtained by children is from the family. Parents are obligated to guide children by being good role models and not allowing children to do things without parental supervision, such as electronic media and mass media.<sup>163</sup> Therefore, the family has an essential role in developing and forming children's behavior. In addition, children begin to know what is right and wrong from the family, especially parents. Also, in the family, children get values and norms that are adhered to by the culture and beliefs of the local community.<sup>164</sup>

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<sup>163</sup> *Ibid*, p. 8.

<sup>164</sup> Sufriani and Eva Purnama Sari, *Op.Cit.*, p. 5.

The transfer of values and norms is inseparable from how the parenting style is applied to the child. There are three types of parenting for their children, namely:

1) Permissive parenting

This parenting style is very responsive (willing to listen) but tends to be too loose and free. Parents with this permissive parenting style are characterized by educating children by giving the broadest possible freedom to do anything. The nature of this parenting style is children centered, which means, all family rules and regulations are in the hands of the child. So, what the child does will be allowed by the parents, and the parents will obey all the child wants.

2) Democratic parenting

This parenting style uses a rational and democratic approach which characterizes how parents give freedom of responsibility to the child. Freedom of responsibility means that what the child does must still be under the supervision of the parents, and the child can be morally responsible for his/her actions towards their parents. In addition, the position between parent and child in democratic parenting is equal, where all decisions are taken together and consider both parties, i.e., between parent and child.

### 3) Authoritarian parenting

Authoritarian parenting uses a will-imposing approach which characterized the way parents educate the child by emphasizing various kinds of rules that the child must obey it. If the children violate the laws, the parents will punish them. Parents can act arbitrarily towards their children, and children must abide by all parental commands and must not refute them.

Therefore, the type of parenting of children is very influential in shaping the personality and behavior of a child. When parents apply authoritarian parenting, when their child makes a mistake, they will punish them, such as being beaten, locked up, and reviled. Their parent's behavior will be imitated and embedded in their brain's memory. And children will consider it normal to do things of violence to others people. Another influence of bullying behavior is that when the child lives with parents who fight almost every day and the child often witnesses the commotion of both parents, they will be at huge risk of becoming perpetrators of bullying. Moreover, it will make children feel less affectionate and considerate, so he attracts the attention of people around, especially parents' attention by bullying their friends.

b. Television and social media

Television and the use of social media without parental supervision can form bullying behavior patterns. Uneducated television shows with scenes of fighting, ridicule, violence, and so on can negatively impact children who watch without parental supervision. Less supervision of children from parents because both parents are workers is also one of the causes of children freely watching television without screening so that children freely watch and imitate scenes in the show without supervision from parents.<sup>165</sup> The parents should be companions, supervisors and allow schedules or time durations for children to watch television.

In addition, using social media use with excessive intensity also harms children. According to a Social Psychologist from Gadjah Mada University, Koentjoro, social media can affect a person's social behavior, including bullying.<sup>166</sup> "Social media has a big influence in triggering bullying", he explained, as reported by UGM's official website.<sup>167</sup> When the parents do not control and supervise the use of gadgets and social media for children, they will feel free to use social

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<sup>165</sup> Novita Astarini, dkk. "Studi Dampak Tayangan Televisi terhadap Perkembangan Perilaku Sosial Anak", *Cakrawala Jurnal Pendidikan Anak Usia Dini*, Vol. 8, No. 1, 2017, p. 3.

<sup>166</sup> Hesti Widianingtyas, "Psikolog: Media Sosial bisa Memicu Perilaku Bullying", found on <https://kumparan.com/millennial/psikolog-media-sosial-bisa-memicu-perilaku-bullying-1qs5OBafutX/2>, accessed on February 2, 2023.

<sup>167</sup> *Ibid.*



media, such as being free to write status and comment that smells of hate speech intentionally or unintentionally.

Even though these sentences are a form of bullying. But because there is no parental supervision, the child will consider that their behavior are normal and no hurt people. When children have been affected by soap opera shows on television and excessive use of social media, they will negatively impact their relationships in the social environment, especially with their peers. The impact caused by television dramatically affects children's social behavior, especially the mindset of children's social behavior toward peers and adults.<sup>168</sup>

c. Peers

The factors causing bullying behavior from peers are caused by interactions at school and in the environment around the house, sometimes encouraging children to commit bullying.<sup>169</sup> Some children commit bullying in an attempt to prove that they can belong to a certain group or gang, even if they feel uncomfortable with their behavior. So, bullying behavior is caused by peers because the perpetrator gets encouragement from his/her friends to commit bullying actions against other people.

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<sup>168</sup> Novita Astarini, dkk. *Op. Cit.*, p. 1.

<sup>169</sup> Fransisca Mudjijanti, "School Bullying dan Peran Guru dalam Mengatasinya", *Jurnal Naskah Krida Rakyat*, Program Studi Bimbingan dan Konseling, Universitas Katolik Widya Mandala Madiun., 2011, p. 2.

d. Social environmental conditions

The conditions of the social environment around the child also greatly influence and shape the child's behavior and personality. If the society around the child is good, then the child's behavior is automatically good. So, the child's behavior depends on society's behavior towards the child. The statement is supported by the theory of social control by Travis Hirschi. Hirschi explained that social linkages include four elements: attachment, involvement, commitment, and belief.<sup>170</sup> Attachment is defined as a person's attachment to another person or institution that can hinder or prevent a person from committing suicide. Involvement is defined as the frequency of a person's activities that will reduce the tendency of a person to commit suicide. Commitment is defined as integrity when a person enters a system in society. Meanwhile, belief is defined as an element that embodies a person's recognition of the existence of reasonable and fair norms in society or in the form of trust.<sup>171</sup>

e. Schools

The school is a formal educational institution where it has an obligation and is responsible for educating and nurturing children to develop potential in terms of academics, norms, personality, and others. Schools that are prone to bullying behavior lack teachers'

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<sup>170</sup> Aroma Elmina Martha, *Op. Cit.*, p. 83.

<sup>171</sup> Romli Kartsasmita. *Kriminologi*, Mandar Maju, Ctk. Ketiga, Bandung, 1997, p. 41.

supervision, especially for students who live in classes that are behind or far from teacher supervision.<sup>172</sup> Teachers are expected to play an active role in preventing bullying at schools, giving a good example, reducing acts of violence as punishment, and providing information about good spectacles or television shows to watch students.<sup>173</sup> In addition, the specific regulations in punishing bullying make the students not deterrent and afraid.

Bullying between students at schools is increasingly prevalent at schools. The school is a systematic formal educational institution to carry out guidance, teaching, and training programs to help students develop the potential of moral, spiritual, intellectual, emotional, and social aspects. The most common form of bullying cases at schools is verbal abuse, such as insulting, mocking, speaking harshly or teasing someone. Cases of bullying that are initially only verbal can also lead to the emergence of more dangerous treatment, namely physical bullying. Because of a misunderstanding, this kind of action is considered natural or normal without anyone realizing its long-term impact on both the victim and the perpetrator.

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<sup>172</sup> Sri Lestari, dkk. "Bentuk dan Faktor Penyebab Perilaku Bullying", *Alibkin: Jurnal Bimbingan Konseling*, Vol. 6, No.2, 2018, Universitas Lampung, p. 7.

<sup>173</sup> Sufriani and Eva Purnama Sari, *Op.Cit.*, p. 8.

As a result, acts of bullying continue to occur today at schools. Bullying by children in the school environment is increasingly prevalent and will never break up or stop. This is evidenced by the Indonesian Child Protection Commission (KPAI), which revealed the details of reports of violations of children's rights in the field of education from January to April 2019.<sup>174</sup> This report is the result of KPAI supervision and found that cases of violations of children's rights in the field of education are still dominated by bullying in the form of physical, psychological, and sexual violence.<sup>175</sup> In addition, UNICEF in 2016 released that Indonesia ranked first in cases of violence against children at schools, with a percentage of 84%.<sup>176</sup>

Bullying is carried out in various ways and on any platform, either in the real world or cyberspace, repeatedly towards the victim, which aims to hurt the victim, cause discomfort, make the victim feel depressed, intimidated, cornered, and injured. In 2021, KPAI recorded 53 cases of child victims of bullying at school settings and 168 cases in cyberspace.<sup>177</sup> Meanwhile, from January to October 2022, bullying at

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<sup>174</sup> Found on <https://www.kpai.go.id/publikasi/pelanggaran-hak-anak-bidang-pendidikan-masih-didominasi-perundungan>, accessed on February 1, 2023.

<sup>175</sup> *Ibid.*

<sup>176</sup> Wenny Theodore, "Faktor-faktor Perilaku Perundungan pada Pelajar Usia Remaja di Jakarta", *Jurnal Psibernetika*, Vol. 12, No. 2, Prgram Studi Psikologi, Universitas Bunda Mulia, 2019, p. 68.

<sup>177</sup> BBC, "Perundungan, gim, dan tantangan viral, sekolah masih teragap-gagap menghadapi kasus bully", found on <https://www.bbc.com/indonesia/articles/czkdgve3840o>, accessed on February 1, 2023.

schools increased to 81 cases.<sup>178</sup> In contrast, cases of cyberbullying decreased to 18 cases.<sup>179</sup>

Cases of bullying often occur in educational institutions, and bullying behavior becomes an unbreakable link. This is evidenced by data from KPAI from 2015-2022, as follows:

Table 1.1 Details of Child Complaint Cases in 2015-2020

No.	Child Protection Cases	Year						Total
		2015	2016	2017	2018	2019	2020	
603	Child as Victims of School Violence (Bullying)	154	122	129	107	46	76	634
604	Children as Perpetrators of School Violence (Bullying)	93	131	116	127	51	12	530
705	Children as Victims of Bullying on Social Media	0	34	55	109	117	46	361
706	Children as Perpetrators of Bullying	0	56	73	112	106	13	360

<sup>178</sup> *Ibid.*

<sup>179</sup> *Ibid.*

	on Social Media							
801	Children as Perpetrators of Physical Violence (Abuse, Mobbing, Fighting, etc.)	81	108	112	107	121	58	587
802	Children as Perpetrators of Psychic Violence (Threats, Intimidation, etc.)	22	39	41	32	26	11	171
812	Children as Victims of Physical Violence (Abuse, Mobbing, Fighting, etc.)	197	146	173	166	157	249	1.088
813	Children as Victims of Psychic Violence (Threats, Intimidation, etc.)	58	64	62	51	32	119	386

Table 1.2 Tabulation of Indonesian Child Protection Commission

Data in 2021 and 2022

No.	Case Clusters	Year		Total
		2021	2022	
4.11	Children as Victims of Bullying in Education Units (without police reporting)	53	137	190
4.12	Children as Perpetrators of Bullying in Education Units (without police reporting)	0	1	1
2.14	Children as Perpetrators of Cyberbullying	6	0	6
2.18	Children as Perpetrators of Psychic Violence (Threats,	43	1	44

	Intimidation, Bullying, etc.)			
2.26	Children as Perpetrators	1	4	5
6.2	Children as Victims of Cyberbullying	168	23	191
9.4	Children as Victims of Psychic Violence	515	63	578

Based on data obtained from the Indonesian Child Protection Commission (KPAI), data entered on February 1, 2023, shows several cases related to bullying, namely:

a) Children as Victims of Bullying

Based on the data obtained by the author, there are cases of child complaints based on the Education Cluster. The number of data obtained from the Indonesian Child Protection Commission from 2015 until 2020 regarding children as school violence (bullying) victims was 634 cases. Meanwhile, in 2021 and 2022, there were cases of children as victims of bullying in education units (without reporting to the police), totaling 190 cases.

b) Children as Perpetrators of Bullying

Based on the details of the table above, the number of cases of children as perpetrators of violence or bullying at schools from 2015-2020 is 530 cases. Meanwhile, the total number of cases of



children as perpetrators in the education unit (without reporting to the police) in 2021 and 2022 is 1 case. The factor that causes a person to become a perpetrator is that the perpetrator feels that he/she is in a higher social class than the victim and has the power to intimidate the victim so that the victim becomes powerless to attack.

In addition, such perpetrators get satisfaction for what they do to the victim over a relatively long period. Parenting factors can also shape a child's behavior in which the child often gets physical punishment from the parents if they violate the rules or disobey. So, the children will imitate and practice the parent's behavior with their friends in the school environment.

There are two factors that cause children to commit bullying in the school environment, namely internal and external factors. Internal factors of children bullying are factors that come from within the child, which include personality and attitudes. The formation of personality and attitudes is also influenced by external factors of the child, namely factors derived from parental parenting in the family environment, peers, television and social media without parental supervision, environmental conditions around the child, and the school environment.

Children in committing bullying is affect by social control. Travis Hirschi refers to four elements which constitute the bound of society. When one of those four elements are break down, so, the individual have possibility doing criminal behavior. The four elements are:

1. Attachment

It is the bound with the other individuals. Affection or attachment is a source of strength that arises from socialization within the primary group (e.g. family), so that individuals have a strong commitment to obey the rules. If the children have relationship with friends who give bad impact or his friend are naughty, so the children will follow their bad behavior.

2. Commitment

Commitment is related with responsibility to the rules. If the children obey the regulation and have integrity, so children will consider to do criminal. A strong sense of responsibility to the rules can provide a framework of awareness about the future. This form of commitment includes the realization that the future will be bleak if commits a deviant act or crimes. The environment in which we live can make us committed.

### 3. Involvement

Involvement will encourage individuals to behave participatively and engage in the provisions that have been set by the community. The intensity of one's involvement in conventional normative activities will automatically reduce one's chances of committing unlawful acts.

### 4. Belief

Related with a basic value system such as religion and norm. Believe or trust, loyalty, and compliance with social norms or community rules will finally be firmly embedded in a person and that means social rules have been self-enforcing and their existence (for each individual) is also getting stronger. If the children do not have a norm such as attitude, so the children can not respect other people, do not have empathy, do not feel guilty if doing crimes. But if they have a basic norm and understand about religious values which prohibited to hurt each other, so the children will not doing crimes.

Bullying behavior can occur at schools with a lack of supervision, the implementation of regulations and sanctions are weak or not strict, and school officials do not care about bullying that occurs at schools. So that perpetrators will feel that bullying behavior is common thing. So, the school environment does not prove that bullying is dangerous or that there is no real action from the school to solve the bullying case. As the result, case of bullying will continue to develop and become more severe in the school environment.

## **2. The Dispute Settlement Mechanism for Bullying Cases in High School Procedures in Yogyakarta**

The mechanism for resolving children in conflict with the law must be completed in accordance with the provisions of Law Number 12 of 2011 concerning the Juvenile Criminal Justice System, which must prioritize restorative justice. The Juvenile Criminal Justice System prioritizes the Restorative Justice approach in resolving criminal cases. Restorative justice, referred to in the SPPA Law, is a diversion. Diversion is the transfer of the settlement of juvenile cases from the criminal justice process to a process outside of criminal justice.<sup>180</sup>

The rise of bullying cases depends on the dispute settlement mechanism to settle bullying case in high school. If the dispute settlement mechanism for resolving cases is fair to victims and perpetrators, so the number of bullying case will decrease. Also, if the school only warns the perpetrator but does not explain why bullying is prohibited, then the perpetrator will assume that his or her behavior can be normalized and is just a joke between friends.

The criminal law analysis toward bullying case is bullying violates article 4 of law number 23 of 2002 concerning children protection. The definition of bullying itself is an action of person or group of people which

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<sup>180</sup> Anselmus S. J. Mandagic, "Proses Hukum Tindak Pidana Pembunuhan yang dilakukan oleh Anak di Bawah Umur Ditinjau dari Undang-Undang Nomor 11 Tahun 2012 tentang Sistem Peradilan Pidana Anak", *Lex Crimen*, Vol. IX, No. 2, 2020, p. 60.

carried out repeatedly and over time, intentionally hurts the victim physically and psychologically, and is caused by an imbalance of power or strength between perpetrator and victim. so, the action is a form of violence. the factors that generally cause children to commit bullying to their friends are differences in race, religion, economic/social factors and psychological factors. It is a form of discrimination. So, it can conclude that bullying action is a form of violence and discrimination. Automatically, its violate article 4 of law number 23 of 2002 concerning children protection.

Bullying is categorized as criminal action as regulated in article 71 paragraph 1 of law no 11 of 2012 concerning juvenile criminal justice system. Bullying is a phenomenon that has three characteristics, namely: (a) an aggressive behavior or intentional harm-doing, (b) carried out repeatedly and over time, and (c) in an interpersonal relationship characterized by an imbalance of power. Sanctions for children who commit bullying are listed in Article 71 paragraph 1 of Law No. 11/2012 on the Juvenile Criminal Justice System.

Diversion can be sought for criminal offences if the imprisonment is under 7 (seven) years and is not a repeat offence. Suppose the criminal offence committed by the child is punishable by imprisonment of more than 7 (seven) years and is a repetition of the criminal act. In that case, diversion cannot be sought, and the juvenile criminal justice process will be carried

out. Diversion can occur if the victim agrees to make peace with the perpetrator, but diversion cannot be made if the victim does not agree.<sup>181</sup>

Furthermore, according to Article 16 of Law Number 12 of 2011 concerning the Juvenile Criminal Justice System states that the provisions of the Criminal Procedure Law also apply in juvenile criminal justice proceedings unless otherwise specified in this Law. This means they must pay attention to and be guided by the principles of juvenile criminal justice in criminalizing children, which are carried out based on the principles of protection, justice, non-discrimination, the best interests of the child, respect for the child, survival and growth of the child, guidance and guidance of the child, proportionality, punishment as a last resort, and avoidance of retaliation against children.

In principle, juvenile criminal justice aims to provide the best for children without compromising children's and society's interests in upholding justice.<sup>182</sup> Because the SPPA Law has regulated the procedure of how to treat children as perpetrators when in conflict with the law.<sup>183</sup> Criminalization in the juvenile criminal justice system is more about children's moral and mental rehabilitation. Also, must have regard for the

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<sup>181</sup> Interview with Mrs. Lidwina Esti, Police at the Women and Children Protection Unit of the Directorate of General Criminal Investigation of the Yogyakarta Special Region Police, on January 17th 2023.

<sup>182</sup> Febriani Seyna Tuturoong, Michael Barama dan Boby Pinasang, "Pemidanaan terhadap Anak menurut Hukum Pidana di Indonesia", *Lex Crimen*, Vol. X, No. 5, Universitas Sam Ratulangi, 2021, p. 166.

<sup>183</sup> Interview with Mrs. Lidwina Esti, Police at the Women and Children Protection Unit of the Directorate of General Criminal Investigation of the Yogyakarta Special Region Police, on January 17th 2023.

child's best interests, which is one of the basic principles of the Convention on the Rights of the Child, further formulated in Article 2 of the Law on Child Protection.<sup>184</sup> Social workers or social services will accompany children as victims and perpetrators.<sup>185</sup>

Verbal and physical bullying are considered acts of violence. The definition of violence according to Article 1 number 16 of Law Number 35 of 2014 concerning the Amendments of the Law Number 23 of 2002 concerning Child Protection states that "violence is any act against a child that results in physical, psychological, sexual, and/or neglect, including threats to commit acts, coercion, or unlawful deprivation of liberty".<sup>186</sup> Those article does not limit what actions are classified as violence. However, if these actions cause physical, psychological, or sexual misery or suffering, this behavior can be categorized as violence.

Perpetrators of bullying can be charged with Article 80 paragraph 1 jo. Article 76C Law Number 35 of 2014 concerning on the Amendments of the Law Number 23 of 2002 concerning Child Protection states that "every person who violates the provisions referred to in Article 76C shall be punished with imprisonment for a maximum of 3 (three) years, 6 (six) months, and/or a maximum fine of Rp72,000,000.00 (seventy-two million

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<sup>184</sup> Febriani Seyna Tuturoong, Michael Barama dan Bobby Pinasang, *Ibid.*

<sup>185</sup> Interview with Mrs. Lidwina Esti, Police at the Women and Children Protection Unit of the Directorate of General Criminal Investigation of the Yogyakarta Special Region Police, on January 17<sup>th</sup> 2023.

<sup>186</sup> Looks on Article 1 angka 16 of Law Number 35 of 2014 concerning on the Amendments of the Law Number 23 of 2002 concerning Child Protection.

rupiahs)” and “every person is prohibited from placing, allowing, committing, ordering to commit, or participating in violence against children.” However, in the implementation of Child Protection Law, what must be considered and prioritized is the interests and welfare of children. Child protection activities are legal actions that carry legal consequences, so it is necessary to guarantee legal protection for child protection activities, which are more directed at child development, so that children can grow and develop according to physical, mental and social needs.

The SEJIWA Foundation (in Fitria & Aulia, 2016) conducted research in 2008 on bullying cases among students and found that the most prominent bullying cases in Indonesia occurred in the cities of Yogyakarta, Surabaya and Jakarta.<sup>187</sup> To suppress and reduce the number of bullying in educational institutions, the mechanism for resolving bullying cases at schools must be in accordance with the Regulation of the Minister of Education and Culture of the Republic of Indonesia Number 82 of 2015 concerning Prevention and Response to Violence in Education Units. Therefore, the author interviewed five schools in Yogyakarta to find out how to resolve bullying cases in high schools in Yogyakarta. The five schools include SMA Negeri 9 Yogyakarta, MAN 1 Yogyakarta, SMA Negeri 3 Yogyakarta, SMA Negeri 6 Yogyakarta, and SMA Bopkri 1 Yogyakarta.

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<sup>187</sup> Wenny Theodore dan Shanty Sudarji, *Ibid*.



Bullying cases were found in SMA Negeri 9 Yogyakarta, MAN 1 Yogyakarta, SMA Negeri 3 Yogyakarta, SMA Negeri 6 Yogyakarta, and SMA Bopkri 1 Yogyakarta. Most of the bullying cases in the five high schools were verbal bullying. The following is an explanation of the occurrence of bullying cases, dispute settlement mechanisms, and preventive efforts in each school:

### 1) SMA N 9 Yogyakarta

Bullying cases at SMA N 9 are dominated by verbal bullying and cyberbullying. In 2022 there was a case of physical bullying where two students fought in the field in the afternoon. At that time, the security guard found out about the incident and immediately reported it to the guidance and counseling teacher. After that, the counseling teacher asked the perpetrator and victim about the truth of accident. The beginning of the problem was that the senior did not accept that the basketball coach was unfair in making decisions, and the senior thought the coach was defending his junior.<sup>188</sup> After that, it continued to WhatsApp chat, or in this case, it included cyberbullying because the senior spoke harshly and cornered the junior.<sup>189</sup> According to Mrs. Nur, the types of bullying that occur are not only cyberbullying, physical bullying, or verbal bullying because the three types of bullying are very

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<sup>188</sup> Interview with Mrs. Nur as counseling guidance teacher at SMA N 9 YK, on January 12<sup>th</sup>, 2023.

<sup>189</sup> *Ibid.*

related and can coincide.<sup>190</sup> Even bullying can start from verbal bullying and move towards cyberbullying or vice versa.<sup>191</sup>

The case at SMA N 9 Yogyakarta is categorized as verbal, physical, and cyberbullying because the perpetrator and victim still meet at school and are in the same WhatsApp group. The perpetrator and victim mocked each other on WhatsApp chat. At that time, the junior was playing basketball on field, and the senior saw the junior (at that time, the situation was quiet because the students had all gone home).<sup>192</sup> So, the senior hit his junior. Then, the case ended peacefully, and they forgave each other because they were a basketball team.<sup>193</sup>

The mechanism for resolving bullying cases at SMA N 9 Yogyakarta is as follows<sup>194</sup>:

1. Bullying behavior report

Reports of bullying from victims, friends, homeroom teachers, subject teachers, vice principal for student affairs, security guards, or school residents go to guidance and counseling. If there is no bullying report, it is considered that there is no bullying behavior. Alternatively, the child as a victim who is affected by bullying can overcome the bullying, so he/she does not report it. The victim

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<sup>190</sup> *Ibid.*

<sup>191</sup> *Ibid.*

<sup>192</sup> *Ibid.*

<sup>193</sup> *Ibid.*

<sup>194</sup> *Ibid.*

thinks they can overcome the bullying and behave okay towards the bullying behavior.

2. Confirm with the victim and perpetrator first

In confirming the incident of bullying behavior, the victim and the perpetrator were questioned separately.

3. Mediation

The counseling teacher told the perpetrator and the victim to forgive each other.

4. If the problem is solved, the counseling and guidance teacher will only monitor and supervise the perpetrator's behavior.

5. Nevertheless, the counseling teacher will involve other parties if the perpetrator commits bullying again. Other parties, in this case, are the parents of the victim and the perpetrator.

6. When the victim reports to the parents and the parents do not accept it, the counseling guidance teacher will conduct mediation. The counseling guidance teacher will call the victim's parents and the perpetrator's parents, but it is not done simultaneously or separately.

If the bullying is mild, it will be resolved first with the perpetrators and victims, such as calling the perpetrators and victims to be questioned separately. Moreover, do not call or notify the victim's parents that their child has been bullied. Likewise, also do not tell the perpetrator's parents that their child is the perpetrator of bullying in the high school. Because according to Mrs. Nur, these high school children

are no longer elementary school or not children anymore. They must be able to be independent and apply the principle that high school students must be able to solve their problems. In addition, parents are also not often called to school because of this bullying problem.<sup>195</sup>

Sanctions for bullying provided by SMA N 9 Yogyakarta depend on the case if the bullying leads to criminal or physical bullying, such as the victim being hospitalized or the victim reporting to the police.<sup>196</sup> Students will be processed in accordance with the law by the police officer. The perpetrator must pay the hospital fees if the victim is hospitalized. The school once expelled a student, but the parents did not want to, and the Sleman Education, Youth, and Sports Office did not agree to expel the student.<sup>197</sup> So, the student only goes to the guidance of delinquent children in social services.<sup>198</sup> They were also mediating between the victim and the perpetrator at the police.<sup>199</sup> In the morning, the student goes to high school, and in the afternoon, he goes to delinquent coaching.<sup>200</sup>

Preventive efforts made at SMA N 9 Yogyakarta are to conduct socialization in class directly and through social media. In addition, teachers also remind students not to perpetrator their friends. Based on the interview, when a bullying case occurred a few years ago, SMA N 9

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<sup>195</sup> *Ibid.*

<sup>196</sup> *Ibid.*

<sup>197</sup> *Ibid.*

<sup>198</sup> *Ibid.*

<sup>199</sup> *Ibid.*

<sup>200</sup> *Ibid.*

Yogyakarta followed up with a treatment for assistance for the victims and collaborated with psychology master students from Gadjah Mada University who were interning at the school to become resource persons.<sup>201</sup>

## 2) MAN 1 Yogyakarta

Bullying cases also occur at MAN 1 Yogyakarta, verbal bullying is the most common. Based on the interview, bullying has occurred, and the counseling teacher has confirmed to the victim and the perpetrator that verbal bullying did occur but said it was just a joke.<sup>202</sup> Counseling guidance teachers have also been educated that this behavior is bullying. Here is the dispute mechanism settlement<sup>203</sup>:

1. Getting reports from teachers, deputy head of madrasah, or watching CCTV in the classroom.
2. Calling the child, subject teacher, or homeroom teacher who is aware of the bullying behavior for questioning.
3. If it is finished with the guidance and counseling teacher, the case will not be forwarded to the school's deputy head.
4. If parents do not accept that their children are victims of bullying, the guidance and counseling teacher will call the parents and *tabayun*.
5. The guidance and counseling teacher only warn of sanctions for bullying perpetrators.

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<sup>201</sup> *Ibid.*

<sup>202</sup> Interview with Mrs. Farah as a counseling guidance teacher at MAN 1 Yogyakarta, on January 17, 2023.

<sup>203</sup> *Ibid.*

6. The guidance and counseling teacher will monitor the perpetrator after the bullying case until school graduation. Furthermore, keep communicating with homeroom teachers and parents.

The preventive efforts made by MAN 1 Yogyakarta are homeroom teachers, or teachers provide education in class and remind children that they can joke, but there are still limits. In addition, in preventing bullying, namely by holding bullying socialization and working with institutions related to adolescents.

### 3) SMA N 3 Yogyakarta

Bullying at SMA N 3 Yogyakarta is verbal because students like to joke with their friends.<sup>204</sup> If there are students who make circles or choose friends, it is a natural thing, according to Mrs. Septi, because when we make friends, we will choose friends who are on the same frequency and match each other.<sup>205</sup> The mechanism for resolving bullying cases is as follows<sup>206</sup>:

1. Students will report to counseling guidance teacher
2. Calling the perpetrator and victim

The counseling teacher will look for the root of the problem and the cause or trigger of bullying by calling the victim and the perpetrator

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<sup>204</sup> Interview with Mrs. Septi as a counseling guidance teacher at SMA 3 Yogyakarta on January 24<sup>th</sup>, 2023.

<sup>205</sup> *Ibid.*

<sup>206</sup> *Ibid.*

separately. Furthermore, it will provide solutions to victims of bullying.

3. Request information from the victim first

When questioning the victim, the counseling teacher will build a good relationship to get the student to open up and tell about the problem. Because if they ask directly or to the point, it is feared that students will feel intimidated.

4. Summoning the victim's parents and the perpetrator's parents separately

The counseling guidance teacher will call separately the family of the victim or the perpetrator to avoid arguments between the two parties. If there is a meeting point, then it is considered over, but if it has not found a meeting point, then mediation will be held.

5. Case conference

Case conferences are held in cases of physical violence. It is usually conducted after a summons between the victim and the perpetrator. Counseling guidance will hold a case conference to discuss the case or a discussion session. The parties that must be present in the case involvement are the principal, the counseling teacher, and the victim. Case conferences are held in private, and parents are not involved.

Based on the interview, sanctions for students who commit bullying are getting a warning, coaching, calling parents, or suspension.<sup>207</sup> If the school cannot foster, the student will be returned to the parents.<sup>208</sup> Regarding the preventive efforts made by SMA N 3 Yogyakarta, the school has provided material on bullying because the Office of Education, Youth and Sports has provided bullying material during the admission of new students (school environment introduction period). Seniors have equipped new students and provided good examples for their younger siblings. In addition, alumni also contribute significantly, and alumni's success will also be an example for students here.<sup>209</sup>

#### **4) SMA N 6 Yogyakarta**

In SMA 6 Yogyakarta, there was a case where the junior (10th grade) received threats from the senior inviting them to hang out or play together. If the junior do not obey these words, they will be intimidated and threatened with punishment. Threats and intimidation are a form of verbal bullying because the victim (junior) feels afraid. After that, the victim reported to the guidance and counseling teacher. The guidance and counseling teacher called the perpetrator and asked for information.

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<sup>207</sup> *Ibid.*

<sup>208</sup> *Ibid.*

<sup>209</sup> *Ibid.*



There are three types of violations in the rules of discipline at SMA 6 Yogyakarta: mild, moderate and severe.<sup>210</sup> Bullying cases are categorized as serious violations and are subject to a minimum three-day suspension or community service because it is more educational.<sup>211</sup> In addition, verbal bullying at SMA 6 Yogyakarta is common, and teachers have warned and told that this behavior is bullying. However, students already think verbal bullying is natural, so eliminating it is not easy.<sup>212</sup>

The dispute settlement mechanism in case of bullying in this school is as follows<sup>213</sup>:

1. If a student reports that he/she is a victim of bullying, it must be accompanied by evidence first. Because there must be concrete evidence that can only be followed up and avoid false reports.
2. The counseling teacher will call the perpetrator to be questioned about the bullying incident.
3. If proven to have committed bullying, the perpetrator will be given sanctions according to the applicable rules, such as a minimum three-day suspension or community service.

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<sup>210</sup> Interview with Mrs. Nana as a counseling guidance teacher at SMA 6 Yogyakarta on January 24<sup>th</sup>, 2023.

<sup>211</sup> *Ibid.*

<sup>212</sup> *Ibid.*

<sup>213</sup> *Ibid.*

4. If the perpetrator bullies the victim repeatedly and there is concrete evidence, the perpetrator can be expelled from school.<sup>214</sup>

SMA 6 Yogyakarta has made preventive efforts, namely holding anti-bullying socialization from KPAI during the introduction of the school environment (before new students enter the class).

##### **5) SMA Bopkri 1 Yogyakarta**

Based on interviews, SMA Bopkri 1 Yogyakarta has never had a bullying case because there are no student reports.<sup>215</sup> The dispute settlement mechanism if there is any bullying case, namely:

1. If there is a case of bullying, the school will follow up with the bullying task force team formed by the school.
2. Call the perpetrator and victim to check the truth about the bullying.
3. Calling both families to make peace.

The sanctions given to the perpetrators must provide appropriate sanctions such as giving warning letters and suspensions to the perpetrators.<sup>216</sup> Regarding being expelled from school, of course, the school will look at the severity of the bullying act.<sup>217</sup> The school's preventive effort is to provide socialization about bullying, especially during the introduction of the school environment or when students first

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<sup>214</sup> *Ibid.*

<sup>215</sup> Interview with Mrs. Evita as a teacher counseling guidance teacher at SMA Bopkri 1 Yogyakarta on January 27<sup>th</sup>, 2023.

<sup>216</sup> *Ibid.*

<sup>217</sup> *Ibid.*

enter SMA BOPKRI 1 Yogyakarta.<sup>218</sup> In addition, the school also formed a Bullying Task Force to handle bullying in the school.

The dispute settlement mechanism of bullying in educational institutions has been regulated clearly in the Regulation of the Minister of Education and Culture of the Republic of Indonesia No. 82 of 2015 concerning the Prevention and Mitigation of Violence within Education Units. Countermeasures in the regulation are the action/way/process to deal with acts of violence within the education unit systemically and comprehensively.<sup>219</sup> Bullying is also one of the acts of violence in the education unit environment, which is clearly stated in Article 6 point b of Regulation of the Minister of Education and Culture of the Republic of Indonesia No. 82 of 2015 concerning the Prevention and Mitigation of Violence in the Education Unit Environment.

Some preventive measures that the education unit must take are obliged to immediately report to parents/guardians, including seeking initial information if there are allegations/symptoms of violence involving students both as victims and perpetrators.<sup>220</sup> Moreover,

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<sup>218</sup> *Ibid.*

<sup>219</sup> Looks on Article 1 paragraph 5 of Regulation of the Minister of Education and Culture of the Republic of Indonesia No. 82 of 2015 concerning the Prevention and Mitigation of Violence in the Education Unit Environment.

<sup>220</sup> Looks on Article 8 paragraph 1 poin d of Regulation of the Minister of Education and Culture of the Republic of Indonesia No. 82 of 2015 concerning the Prevention and Mitigation of Violence in the Education Unit Environment.

schools are also required to form a violence prevention team with a principal's decision consisting of the following<sup>221</sup>:

- 1) Principal;
- 2) Teacher representative;
- 3) Student representatives; and
- 4) Parent/guardian representative.

Furthermore, schools are also required to install a violence complaint service board in the foyer of the education unit that is easily accessible to students, parents/guardians, teachers/educational staff, and the community.<sup>222</sup> Nevertheless, some schools do not have a violence prevention team.

Table 1.3 Data regarding Violence Prevention Team in Five School

No.	School	Explanation
1.	SMA N 9 Yogyakarta	- Does not have a violence prevention team. - Did not install a complaint board.
2.	MAN 1 Yogyakarta	- Does not have a violence prevention team. But all

<sup>221</sup> Looks on Article 8 paragraph 1 poin h of Regulation of the Minister of Education and Culture of the Republic of Indonesia No. 82 of 2015 concerning the Prevention and Mitigation of Violence in the Education Unit Environment.

<sup>222</sup> Looks on Article 8 paragraph 1 poin i of Regulation of the Minister of Education and Culture of the Republic of Indonesia No. 82 of 2015 concerning the Prevention and Mitigation of Violence in the Education Unit Environment.

		<p>school community members are involved in preventing violence at schools.<sup>223</sup></p> <ul style="list-style-type: none"> <li>- Already have a complaint board and are informed about P2PA (Protection of Children and Women).</li> </ul>
3.	SMA N 3 Yogyakarta	<ul style="list-style-type: none"> <li>- Does not have a violence prevention team.</li> </ul> <p>There is no violence prevention team. This school has entered a child-friendly school with a team, namely guidance and counseling, to be a place of complaint if bullying cases.</p> <ul style="list-style-type: none"> <li>- Have installed a violence complaint service in the school.</li> </ul>

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<sup>223</sup> Interview with Mrs. Farah as a counseling guidance teacher at MAN 1 Yogyakarta, on January 17, 2023.

4.	SMA N 6 Yogyakarta	<ul style="list-style-type: none"> <li>- Does not have a violence prevention team.</li> <li>- Did not install a complaint board.</li> </ul>
5.	SMA BOPKRI 1 Yogyakarta	<ul style="list-style-type: none"> <li>- Already have a violence prevention team.</li> <li>- The violence complaint service board has been installed.</li> </ul>

The dispute settlement mechanism for bullying cases that occur in high schools in Yogyakarta is carried out in the following way:

1. Calling the victim and perpetrator separately for asking the truth of accident.
2. Conduct mediation between the perpetrator and the victim.
3. If the parents do not accept, then the parents will be called to the school and explained about the case.
4. The perpetrator will be given punishment such as a warning, suspension, or community service.
5. Counseling guidance teachers will monitor and supervise the perpetrators.

Most of these five schools did not inform the parents of the victims and perpetrators about the bullying cases that occurred. Even though it is clearly stated in Article 10 paragraph 1 point b of Regulation of the Minister of Education and Culture of the Republic of Indonesia No. 82 of 2015 concerning the Prevention and Mitigation of Violence in the Education Unit Environment where schools are obliged to inform the parents/guardians of students of any acts of violence involving students both as victims and perpetrators. This clearly violates the rules of countermeasures that should be taken by the education unit as stated in the Ministerial Regulation.

The settlement is when a case of bullying occurs in high school and involves the police. In this case, the author has also interviewed Mrs. Lidwina Esti, as Police at the Women and Children Protection Unit of the Directorate of General Criminal Investigation of the Yogyakarta Special Region Police (POLDA DIY), regarding the dispute settlement mechanism in the police. When there is a case of bullying at school committed by children and involving the police. The Police of Yogyakarta Special Region (POLDA DIY) will cooperate with BAPAS (Correctional Center).<sup>224</sup> The Correctional Center is in charge of conducting research into the community (i.e. it will conduct research in the perpetrator's neighborhood). Then, the child, as a victim, will be accompanied by a social worker or social service.

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<sup>224</sup> Interview with Mrs. Lidwina Esti, Police at the Women and Children Protection Unit of the Directorate of General Criminal Investigation of the Yogyakarta Special Region Police, on January 17th 2022.

The mechanism dispute settlement for bullying cases must prioritize restorative justice. Sanctions against children can be seen from the threat of punishment (in accordance with the relevant article), whether restorative justice can be done through diversion or not.<sup>225</sup> Sanctions for bullying perpetrators are Articles 70, 310, 351, and 311 of the Criminal Code.<sup>226</sup> If bullying leads to persecution, it will be subject to Article 351 of the Criminal Code with a sentence of two years and eight months.<sup>227</sup>

If the threat of punishment is less than seven years, a diversion can be made, but it depends on whether the victim agrees to make a diversion. If the victim disagrees, then diversion cannot be made.<sup>228</sup> However, in the event of diversion, the victim can request reasonable compensation.<sup>229</sup> Furthermore, the diversion must be implemented by lawyers, guardians or parents, religious leaders, community leaders, community leaders, social workers, and correctional centers. If they are not present, the diversion will be cancelled.<sup>230</sup>

Preventive efforts made by the police to prevent bullying behavior at schools committed children are the police, and social services will work with schools to provide counseling on bullying. In addition, the police implement a child-handling network. The child handling network in the

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<sup>225</sup> *Ibid.*

<sup>226</sup> *Ibid.*

<sup>227</sup> *Ibid.*

<sup>228</sup> *Ibid.*

<sup>229</sup> *Ibid.*

<sup>230</sup> *Ibid.*



police is to take firm action against the perpetrator using repressive methods, namely applying the article. In addition, the child handling network in the police will work with social workers or social services to assist children as victims, and there is a safe house in collaboration with the Office of Women's Empowerment and Child Protection.

## CHAPTER IV

### CLOSING

#### A. Conclusion

Based on the research that has been done, it can be concluded that:

1. Bullying is a phenomenon that had three characteristics, namely: (a) an aggressive behavior or intentional harm-doing, (b) carried out repeatedly and over time, and (c) in an interpersonal relationship characterized by an imbalance of power. So, it is defined as an aggressive behavior carried out repeatedly and over time, intentionally hurts the victim physically and psychologically, and is caused by an imbalance of power or strength between perpetrator and victim. The acts of bullying committed by these children are caused by two factors, namely internal and external factors. Internal factors were factors that came from within the child, namely in the form of personality and attitudes that have been attached to a person. Meanwhile, external factors that came from outside a person included the family environment, television and social media broadcasts, peers, social and environmental conditions, and schools. Bullying behavior at schools is caused by several factors, namely lack of supervision, weak rules and sanctions, and school officials who do not care about bullying cases. This caused the perpetrators would felt that bullying behavior is ordinary. So, if the school environment did not provide and announce that bullying is a dangerous act or there is no real action from the school,

then bullying would continued to grow and became worse in the school environment.

2. Most of the mechanisms for resolving bullying cases in every high school in Yogyakarta are simply calling the victim and the perpetrator, where they are questioned and conducted separately. The main problem was that the parents were not informed that their children were becoming victims or perpetrators of bullying. This is very unfortunate because parents are the closest people to their children, and parents should be the ones to tell them that bullying is an act that has a very negative impact, profound loss, or trauma for victims. In addition, in the five schools the author interviewed, four schools did not have a violence prevention team and had not installed a violence complaint service board.

## **B. Recommendation**

1. Schools should be more assertive in sanctioning students who have committed bullying. The provision of sanctions to perpetrators is stated in Article 11, paragraph 1 of Regulation of the Minister of Education and Culture of the Republic of Indonesia No. 82 of 2015 concerning the Prevention and Mitigation of Violence in the Education Unit Environment, where sanctions are given in the form of verbal warnings, written warnings, and other educational actions. In addition, in following up on bullying behavior, counseling guidance teachers must be able to guide the perpetrators. So, they do not repeat their actions by

giving them the understanding that their actions are wrong, result a negative impact and can hurt other people. In addition, counseling guidance teachers are expected to be more active in supervising students and involving parents to take an active role in preventing bullying because the level of supervision at school determines how much and how often bullying occurs.

2. Schools should be obliged to report to parents or guardians if their children become perpetrators or victims of bullying because this has been regulated in Article 8 point d of Regulation of the Minister of Education and Culture of the Republic of Indonesia No. 82 of 2015 concerning the Prevention and Mitigation of Violence in the Education Unit Environment. In addition, schools must form a team to deal with acts of violence, including bullying. The Indonesian government has made a Regulation of the Minister of Education and Culture No. 82 of 2015, on preventing and mitigating violence in the education unit environment. Supposedly, every school must establish the team of violence prevention and handling task force consisting of the principal, teachers, parents, or school committee. The regulation also states that schools must install a violence complaint service board that is easily accessible to students, parents, or teachers. The absence of a bullying prevention team and complaint system has resulted in students needing more courage to report bullying against themselves or their peers.

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## **INTERVIEW**

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Interview with Catharina Evita Eprilianti, S. Kom., M. Eng., as counseling guidance teacher at SMA Bopkri 1 Yogyakarta on January 27<sup>th</sup>, 2023.



## Attachment

### Interview with Perpetrator

#### 1. Interview with DM<sup>231</sup>

Author	:	Have you ever doing bullying? Since when and last time did you bully?
DM	:	Yes, I ever bullying my friend with verbal and physical bullying. When I am in 10 <sup>th</sup> grade.
Author	:	Why are you commit bullying to your friend?
DM	:	Because I want to revenge the bullying behavior with other people
Author	:	Have you ever a victim in the past?
DM	:	Yes, I ever became a victim when I am in junior high school
Author	:	Do your parents know that you are bullying?
DM	:	No, my parents didn't know what I was doing at school
Author	:	Do you bully individually or in groups?
DM	:	Individually
Author	:	When you were bullied in the school environment and were caught by the teacher, what punishment was given to you at that time?
DM	:	My teacher just warning to me to not doing bullying
Author	:	Did you know that bullying has a negative impact on both victims and perpetrators?
DM	:	No

#### 2. Interview with AL<sup>232</sup>

Author	:	Have you ever doing bullying? Since when and last time did you bully?
AL	:	Yes, I ever bullying my friend with verbal bullying. When I am in 11 <sup>th</sup> grade.
Author	:	Why are you commit bullying to your friend?
AL	:	Because I am jealous with my friend's achievement. She is smarter dan more active than me in my school
Author	:	Have you ever a victim in the past?
AL	:	No
Author	:	Do your parents know that you are bullying?

<sup>231</sup> Interview on Tuesday, April 11, 2023.

<sup>232</sup> Interview on Tuesday, April 11, 2023.

AL	:	No
Author	:	Do you bully individually or in groups?
AL	:	Individually and by group
Author	:	When you were bullied in the school environment and were caught by the teacher, what punishment was given to you at that time?
AL	:	My teacher just reminds me because they think that I'm only joking and playing
Author	:	Did you know that bullying has a negative impact on both victims and perpetrators?
AL	:	No

### 3. Interview with BC<sup>233</sup>

Author	:	Have you ever doing bullying? Since when and last time did you bully?
BC	:	Yes, I ever bullying my friend with verbal and physical bullying. Since junior high school
Author	:	Why are you commit bullying to your friend?
BC	:	Because my parents are strict to me and doing physical abuse, so I want to revenge to my friends
Author	:	Have you ever a victim in the past?
BC	:	No
Author	:	Do your parents know that you are bullying?
BC	:	No
Author	:	Do you bully individually or in groups?
BC	:	Individually
Author	:	When you were bullied in the school environment and were caught by the teacher, what punishment was given to you at that time?
BC	:	I was threatened with expulsion and reprimand
Author	:	Did you know that bullying has a negative impact on both victims and perpetrators?
BC	:	No

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<sup>233</sup> Interview on Tuesday, April 11, 2023.

4. Interview with MZ<sup>234</sup>

Author	:	Have you ever doing bullying? Since when and last time did you bully?
MZ	:	Yes, I ever bullying my friend with physical bullying. When I am in class and playing with my friends
Author	:	Why are you commit bullying to your friend?
MZ	:	I am only joking and saying to my friend. I am watching youtube and I imitate the statement that I consider it was cool sentences
Author	:	Have you ever a victim in the past?
MZ	:	No
Author	:	Do your parents know that you are bullying?
MZ	:	No
Author	:	Do you bully individually or in groups?
MZ	:	Individually
Author	:	When you were bullied in the school environment and were caught by the teacher, what punishment was given to you at that time?
MZ	:	Just remind and warning to me
Author	:	Did you know that bullying has a negative impact on both victims and perpetrators?
MZ	:	No

5. Interview with FW<sup>235</sup>

Author	:	Have you ever doing bullying? Since when and last time did you bully?
FW	:	Yes, I ever bullying my friend with verbal bullying. I am in 11 <sup>th</sup> grade.
Author	:	Why are you commit bullying to your friend?
FW	:	Because my friends do the same. They doing verbal bullying and we think that only joking. So, I doing the same to my friend.
Author	:	Have you ever a victim in the past?
FW	:	No
Author	:	Do your parents know that you are bullying?
FW	:	No
Author	:	Do you bully individually or in groups?
FW	:	Groups

<sup>234</sup> Interview on Wednesday, April 12, 2023.

<sup>235</sup> Interview on Wednesday, April 12, 2023.

Author	:	When you were bullied in the school environment and were caught by the teacher, what punishment was given to you at that time?
FW	:	My teacher just warning to me
Author	:	Did you know that bullying has a negative impact on both victims and perpetrators?
FW	:	Only know to victim

6. Interview with AS<sup>236</sup>

Author	:	Have you ever doing bullying? Since when and last time did you bully?
AS	:	Yes, I ever bullying my friend with verbal and physical bullying. I am in 12 <sup>th</sup> grade.
Author	:	Why are you commit bullying to your friend?
AS	:	Because it's a whim and likes to see my friends tormented or crying because of my actions
Author	:	Have you ever a victim in the past?
AS	:	Yes, I ever became a victim when I am in junior high school
Author	:	Do your parents know that you are bullying?
AS	:	No, my parents didn't know what I was doing at school
Author	:	Do you bully individually or in groups?
AS	:	Individually
Author	:	When you were bullied in the school environment and were caught by the teacher, what punishment was given to you at that time?
AS	:	Threatened with expulsion and reprimanded sanction
Author	:	Did you know that bullying has a negative impact on both victims and perpetrators?
AS	:	Only for victims

7. Interview with VN<sup>237</sup>

Author	:	Have you ever doing bullying? Since when and last time did you bully?
DM	:	Yes, I ever doing bullying when I am in elementary school. I did verbal bullying like calling my friend with ugly names
Author	:	Why are you commit bullying to your friend?
DM	:	I like my friend when they get angry and cry because of my behavior
Author	:	Have you ever a victim in the past?

<sup>236</sup> Interview on Wednesday, April 12, 2023.

<sup>237</sup> Interview on Wednesday, April 12, 2023.

DM	:	No
Author	:	Do your parents know that you are doing bullying?
DM	:	No
Author	:	Do you bully individually or in groups?
DM	:	Individually and groups
Author	:	When you were bullied in the school environment and were caught by the teacher, what punishment was given to you at that time?
DM	:	My teacher just warning to me to not doing bullying
Author	:	Did you know that bullying has a negative impact on both victims and perpetrators?
DM	:	No

8. Interview with RH<sup>238</sup>

Author	:	Have you ever doing bullying? Since when and last time did you bully?
DM	:	Yes, I ever bullying my friend with verbal and physical bullying. When I am in 10 <sup>th</sup> grade.
Author	:	Why are you commit bullying to your friend?
DM	:	Because I want people to feel the injury when they were bullied by me
Author	:	Have you ever a victim in the past?
DM	:	Yes, I ever became a victim when I am in elementary school
Author	:	Do your parents know that you are doing bullying?
DM	:	No, my parents didn't know about me
Author	:	Do you bully individually or in groups?
DM	:	Individually
Author	:	When you were bullied in the school environment and were caught by the teacher, what punishment was given to you at that time?
DM	:	I got violation points
Author	:	Did you know that bullying has a negative impact on both victims and perpetrators?
DM	:	Yes, only know for victims

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<sup>238</sup> Interview on Thursday, April 13, 2023.

9. Interview with DS<sup>239</sup>

Author	:	Have you ever doing bullying? Since when and last time did you bully?
DM	:	Yes, I ever bullying my friend with verbal when I am in 10 <sup>th</sup> grade
Author	:	Why are you commit bullying to your friend?
DM	:	Because I follow my friend's behavior in school
Author	:	Have you ever a victim in the past?
DM	:	No
Author	:	Do your parents know that you are doing bullying?
DM	:	No
Author	:	Do you bully individually or in groups?
DM	:	Groups
Author	:	When you were bullied in the school environment and were caught by the teacher, what punishment was given to you at that time?
DM	:	My guidance and counseling teacher warn and remind me to not doing bullying
Author	:	Did you know that bullying has a negative impact on both victims and perpetrators?
DM	:	No

10. Interview with HKf<sup>240</sup>

Author	:	Have you ever doing bullying? Since when and last time did you bully?
DM	:	Yes, I ever bullying my friend with verbal bullying. When I am in 11 <sup>th</sup> grade.
Author	:	Why are you commit bullying to your friend?
DM	:	Because after I did bullying to other friend, I will feel like superior and cool
Author	:	Have you ever a victim in the past?
DM	:	No
Author	:	Do your parents know that you are doing bullying?
DM	:	No
Author	:	Do you bully individually or in groups?
DM	:	Individually
Author	:	When you were bullied in the school environment and were caught by the teacher, what punishment was given to you at that time?

<sup>239</sup> Interview on Thursday, April 13, 2023.

<sup>240</sup> Interview on Thursday, April 13, 2023.

DM	:	My teacher just warning to me that verbal bullying is a bad behavior
Author	:	Did you know that bullying has a negative impact on both victims and perpetrators?
DM	:	No

#### 11. Interview with RR<sup>241</sup>

Author	:	Have you ever doing bullying? Since when and last time did you bully?
DM	:	Yes, I ever bullying with verbal and physical bullying when I am in 11 <sup>th</sup> grade
Author	:	Why are you commit bullying to your friend?
DM	:	I have a friend that different from me from religion and race
Author	:	Have you ever a victim in the past?
DM	:	No
Author	:	Do your parents know that you are doing bullying?
DM	:	Only know that I mocking my friends with ugly names
Author	:	Do you bully individually or in groups?
DM	:	Individually
Author	:	When you were bullied in the school environment and were caught by the teacher, what punishment was given to you at that time?
DM	:	My teacher calls me personally and told me that my behavior is bad for my friends
Author	:	Did you know that bullying has a negative impact on both victims and perpetrators?
DM	:	No

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<sup>241</sup> Interview on Thursday, April 13, 2023.

## Attachment of Plagiarism



FAKULTAS  
HUKUM

Gedung Fakultas Hukum  
Universitas Islam Indonesia  
Jl. Kalurangkem 14,5 Yogyakarta 55584  
T. (0274) 7070222  
E. fh@uii.ac.id  
W. law.uoi.ac.id

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NIK : **961002136**  
Jabatan : **Staf Perpustakaan Referensi Fakultas Hukum UII**

Dengan ini menerangkan bahwa :

Nama : Tata Angelia  
No Mahasiswa : 19410638  
Fakultas/Prodi : Hukum  
Judul karya ilmiah : **THE DISPUTE SETTLEMENT MECHANISM FOR  
BULLYING CASES IN HIGH SCHOOL PROCEDURES IN  
YOGYAKARTA**

Karya ilmiah yang bersangkutan di atas telah melalui proses uji deteksi plagiasi dengan hasil **16.%**

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