

# Legal Protection for Child Offenders in Bullying Cases: Challenges and Deviations in Restorative Justice Practice

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**Abstract:** This study examines legal protection for children as perpetrators of bullying through the application of restorative justice. The purpose of the research is to analyze how restorative justice is implemented in resolving bullying crimes committed by minors, identify the obstacles encountered in practice, and formulate relevant solutions. This research is normative legal research using a statutory approach. Data were collected through literature studies, including legislation, academic literature, and previous research findings, and then analyzed qualitatively. The results indicate that applying restorative justice to children who commit bullying can be carried out through the diversion mechanism, namely, the transfer of juvenile case settlement from the formal criminal justice process to non-litigation mechanisms outside the court system. This mechanism is in accordance with Law Number 11 of 2012 on the Juvenile Criminal Justice System, which prioritizes the best interests of the child. From the perspective of criminal law theory, the implementation of restorative justice represents a positive deviation from the retributive justice concept, which is oriented toward punishment and retribution. Restorative justice shifts the focus of criminal justice from punishing offenders toward restoring losses experienced by victims, repairing social harm caused by the crime, and reintegrating relationships between victims, offenders, their families, and the community. The academic contribution of this study lies in strengthening the discourse on restorative justice in bullying cases involving minors by providing normative arguments that the restorative approach aligns more closely with humanitarian principles, children's rights, and the best interests of the child than conventional retributive approaches. These findings offer theoretical and practical insights for policymakers, law enforcement officers, educators, and child protection institutions to optimize diversion mechanisms to address bullying that emphasizes punishment rather than social recovery and build awareness, empathy, and social recovery for all parties involved.

**Keywords:** Legal Protection, Child Perpetrators, Bullying, Restorative Justice.

**Abstrak:** Penelitian ini mengkaji perlindungan hukum terhadap anak sebagai pelaku bullying melalui penerapan keadilan restoratif (*restorative justice*). Tujuan penelitian adalah untuk menganalisis bagaimana keadilan restoratif diterapkan dalam penyelesaian tindak pidana bullying yang dilakukan oleh anak di bawah umur, mengidentifikasi hambatan dalam praktiknya, serta merumuskan solusi yang relevan. Penelitian ini merupakan penelitian hukum normatif dengan pendekatan perundang-undangan. Data dikumpulkan melalui studi kepustakaan yang meliputi peraturan perundang-undangan, literatur akademik, dan hasil penelitian terdahulu, kemudian dianalisis secara kualitatif. Hasil penelitian menunjukkan bahwa penerapan keadilan restoratif terhadap anak sebagai pelaku bullying dapat dilakukan melalui mekanisme diversi, yaitu pengalihan penyelesaian perkara anak dari proses peradilan pidana formal ke mekanisme non-litigasi di luar sistem peradilan pidana. Mekanisme ini sejalan dengan Undang-Undang Nomor 11 Tahun 2012 tentang Sistem Peradilan Pidana Anak yang menempatkan kepentingan terbaik bagi anak sebagai prioritas utama. Dari perspektif teori hukum pidana, penerapan keadilan restoratif merupakan bentuk penyimpangan positif dari konsep keadilan retributif yang berorientasi pada pembalasan dan hukuman. Keadilan restoratif mengalihkan fokus peradilan pidana dari penghukuman pelaku menuju pemulihan kerugian korban, pemulihan harmoni sosial, serta reintegrasi hubungan antara korban, pelaku, keluarga, dan masyarakat. Kontribusi akademik penelitian ini terletak pada penguatan wacana keadilan restoratif dalam kasus bullying yang melibatkan anak, dengan memberikan argumentasi normatif bahwa pendekatan restoratif lebih sejalan dengan prinsip kemanusiaan, hak anak, dan asas kepentingan terbaik bagi anak dibandingkan pendekatan retributif konvensional. Temuan ini memberikan dasar teoritik dan praktis bagi pembuat kebijakan, penegak hukum, pendidik, serta lembaga perlindungan anak untuk mengoptimalkan mekanisme diversi sebagai langkah penanganan bullying yang tidak hanya menekankan hukuman, tetapi juga membangun kesadaran, empati, dan pemulihan sosial bagi semua pihak yang terlibat.

**Keywords:** Legal Protection, Child Perpetrators, Bullying, Restorative Justice.

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## Introduction

The 1945 Constitution of the Republic of Indonesia, as the Indonesian constitution, demonstrates that children have a strategic role. It is expressly stated that the state guarantees every child's right to survival, growth, and development, as well as protection from violence and discrimination. The consequences of Article 28B of the 1945 Constitution of the Republic of Indonesia must be followed up by the creation of government policies to protect children.<sup>1</sup>

In Indonesia's legal context, which leans towards the *Rechtstaat* within a civil law system<sup>2</sup>, there is a pressing need for high-quality legislation, both in the process and the outcomes, to resonate with the public's sense of justice.<sup>3</sup> Children are an inseparable part of human survival and the survival of nations and states.<sup>4</sup> The Indonesian constitution affirms the strategic role of children, explicitly stating that the state guarantees every child's right to survival, growth, and development, as well as protection from violence and discrimination.<sup>5</sup> Therefore, the best interests of children should be considered as the best interests for the survival of humanity.

Basically, children are not small adults; they are humans whose condition has not yet reached a mature level of growth and development, so they differ from adults in

general.<sup>6</sup> This demonstrates that<sup>7</sup> there are individuals with limitations — both physical and psychological — and have not yet reached the full developmental level of adults.

News of bullying cases perpetrated by children frequently occurred and was posted this year on social media and the internet. Among these cases, the bullying case at Binus International School Serpong occurred in February 2024, with a total of 12 perpetrators identified, including eight children in conflict with the law (ABH) and four suspects. Furthermore, a bullying case against junior high school students in Temanggung occurred in July 2023. A junior high school student in Temanggung, Central Java, burned down his own school because he was hurt by constant bullying by his peers. Ibrahim Hamdi, a first-grade elementary school student in Medan, died after being bullied by five seniors. A similar case also occurred in North Sulawesi. A junior high school student in Kotamobagu, identified as BT, died after being attacked by nine of his friends.

Regarding the legal responsibility of minors under the Criminal Code and the criminal responsibility of minors under Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, it is clear that minors who commit crimes that result in the loss of life will be prosecuted according to applicable

<sup>1</sup> Marlina and M. Mulyadi, 'Building Restorative Justice in Gampong as a Bottom-up Legitimation of the Protection of Children in Conflict with the Law in Indonesia: Case Study in Aceh', *Cogent Social Sciences* 10, no. 1 (2024), Scopus, <https://doi.org/10.1080/23311886.2024.2347410>.

<sup>2</sup> Nashriana et al., 'Enhancing Restorative Justice in Indonesia: Exploring Diversion Implementation for Effective Juvenile Delinquency Settlement', *Sriwijaya Law Review* 7, no. 2 (2023): 318–34, Scopus, <https://doi.org/10.28946/slrev.Vol7.Iss2.2427.pp318-334>.

<sup>3</sup> Widayati, W., Winanto, W., Laksana, A. W., Huda, M. N., & Fareha, N. (2025). The Challenges of Using the Omnibus Law Method in Indonesia's Legal

System. *Volksgesetz: Jurnal Ilmu Hukum Dan Konstitusi*, 8(2), 459–477.

<https://doi.org/10.24090/volksgesetz.v8i2.13382>

<sup>4</sup> Nashriana et al., 'Enhancing Restorative Justice in Indonesia'.

<sup>5</sup> General Explanation of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System.

<sup>6</sup> Suryanah, 1996, *Keperawatan Anak Untuk Siswa SPK*, BGC Medical Book Publisher, Jakarta, p. 1

<sup>7</sup> S Rohmah, S J Fadil, and E Zuhriah, 'Resilience of Muslimah Sex Workers: Fulfilment of Children's Rights Based on Fiqh Hadhanah and the Child Protection Law', *Justicia Islamica*, 21.1 (2024), pp. 23–42, doi:10.21154/justicia.v21i1.9156.

provisions, namely by examining the elements of the articles charged, namely the articles contained in the Criminal Code.<sup>8</sup> However, the trial process is in accordance with the provisions of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System.

Imprisoning a child can disrupt their physical, mental, and psychological development. In reality, many victims' families demand the harshest possible punishment due to their reluctance to see a loved one die, even if it is accidental, even before reconciliation is achieved, which is very difficult to achieve.

In criminal law, children are legal subjects who require protection.<sup>9</sup> The definition of a child as it relates to children is contained in several rules and regulations, such as the Criminal Code (KUHP), Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, and Law Number 11 of 2012 concerning the Juvenile Criminal Justice System.<sup>10</sup>

Based on the explanation above, the author is interested in researching the application of restorative justice to provide legal protection for children who are perpetrators of bullying.

## Method

This study employs a normative legal research method that relies on library-based

research and secondary data. This method was chosen because the study focuses on understanding legal norms, statutory regulations, and theoretical foundations for protecting children who are perpetrators of bullying through restorative justice.<sup>11</sup> By examining authoritative legal sources, the research aims to develop a robust conceptual and normative framework for addressing the issue under study.

Data for this research were collected through an extensive review of legislation, academic literature, and prior scholarly work on the juvenile justice system, restorative justice, and child protection law. These sources provide essential materials, including theories, legal concepts, and principles, for analyzing the application of restorative justice in bullying cases involving minors. The use of secondary data ensures that the discussion remains grounded in legal doctrine and established regulatory standards.

The research adopts a descriptive-analytical approach, meaning the analysis proceeds by describing legal problems and then examining them using statutory and theoretical approaches. After data collection, the data were classified, interpreted, and linked to relevant legal principles. This process enables the formulation of logical arguments and solutions that comply with existing laws and regulations. Through this method, the study not only explains how restorative justice

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<sup>8</sup> F.S. Faried, H. Mahmud, and Suparwi, 'Mainstreaming Restorative Justice in Termination of Prosecution in Indonesia', *Journal of Human Rights, Culture and Legal System* 2, no. 1 (2022): 66–77, Scopus, <https://doi.org/10.53955/jhcls.v2i1.31>.

<sup>9</sup> A Rofiq, 'Legal Reasonings of Religious Court Judges in Deciding the Origin of Children: A Study on the Protection of Biological Children's Civil Rights', *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan*, 21.1 (2021), pp. 1–19, doi:10.18326/ijtihad.v21i1.1-19; T Susanti and R Syahmedi, 'Religious Protection of Children in Polygamic

Families in Langkat Regency Based on Law Number 35 of 2014 Concerning Child Protection', *Jurnal Ilmiah Mizani*, 9.2 (2022), pp. 320–28, doi:10.29300/mzn.v9i2.2936.

<sup>10</sup> Susanti and Syahmedi, 'Religious Protection of Children in Polygamic Families in Langkat Regency Based on Law Number 35 Of 2014 Concerning Child Protection'.

<sup>11</sup> Joko Darmawan and others, 'Incorporating Islah Principles into Restorative Justice: Bridging Contemporary Legal Practice and Islamic Values', *MILRev: Metro Islamic Law Review*, 4 (2025), pp. 269–94, doi:10.32332/milrev.v4i1.10435.

should be applied but also provides normative recommendations for improving the legal protection of children within the criminal justice system.

## Results and Discussions

### Findings on Legal Protection and Restorative Justice in Bullying Cases

This study identifies several normative and empirical findings regarding the legal protection of child offenders in bullying cases and the implementation of restorative justice within Indonesia's juvenile justice system. The first finding shows that Indonesian laws provide multiple and inconsistent definitions of a "child," which complicates the legal treatment of minors involved in bullying. The Criminal Code (KUHP) defines a child as someone under 16 years of age, while the Child Protection Law (Law No. 35 of 2014) defines a child as under 18 years old, including unborn children. Meanwhile, the Juvenile Criminal Justice System Law (Law No. 11 of 2012 / UU SPPA) categorizes children in conflict with the law as those aged 12 to under 18. Children under 12 cannot be prosecuted and must be returned to their parents or placed in an LPKS for a maximum of six months, whereas children under 14 cannot be detained and may only receive measures rather than criminal sanctions. These overlapping age thresholds lead to interpretative discrepancies when determining legal responsibilities and appropriate interventions in bullying cases.

The second finding concerns the gap between the normative mandate and practical implementation of restorative justice. UU SPPA legally requires diversion at the investigation, prosecution, and court examination stages for offenses punishable by less than seven years of imprisonment and committed by non-recidivist

minors. Diversion must commence within seven days of investigation and be completed within thirty days, involving the child, parents, the victim, Community Guidance Counselors (Bapas), and Professional Social Workers. However, the implementation of diversion in bullying cases remains inconsistent. Many eligible cases continue through punitive criminal processes because of public pressure, demands for harsh punishment from victims' families, or institutional misunderstanding of restorative justice principles.

The third finding emerges from documented bullying cases included in the article, which demonstrate significant deviations from restorative justice principles. In the Binus School Serpong case (February 2024), there were twelve perpetrators, including eight children categorized as ABH and four suspects aged 18 to 19. Although the case met the legal criteria for diversion, public outrage hindered restorative approaches, requiring intervention from KPAI and the Directorate General of Human Rights. In Temanggung, a junior high school student burned down his school in 2023 after prolonged bullying and was later processed through restorative justice. In another Temanggung case circulating in 2025, bullying was recorded in a viral video involving junior high school students, but the restorative process did not adequately involve Bapas or professional social workers. In Medan, the death of a first-grade student, Ibrahim Hamdi, after being beaten by five upperclassmen highlighted the complete absence of early restorative interventions. Similarly, in Kotamobagu, North Sulawesi, a student identified as BT died after severe assaults by nine classmates, revealing systemic failures in early prevention and restorative handling.

The fourth finding shows that institutional

understanding and readiness to apply restorative justice remain uneven. Schools lack standardized procedures for handling bullying through restorative mechanisms. Police and prosecutors differ in interpreting Perpol 6/2019 and Perpol 8/2021 on restorative justice, resulting in varied practices. Many cases are resolved through informal mediation rather than the formal restorative procedures mandated under UU SPPA, and key actors such as Bapas officers and professional social workers are often absent from the process. Victim participation is frequently limited or symbolic, undermining the central principle of restorative justice that emphasizes meaningful dialogue and reconciliation.

The fifth finding reveals that structural and sociocultural barriers significantly hinder the implementation of restorative justice. Media sensationalism, community stigma, and strong punitive expectations often discourage families from agreeing to diversion. Schools fear reputational damage and therefore lean toward punitive approaches. At the same time, there is a shortage of psychologists, social workers, and restorative justice facilitators needed to support proper implementation. These factors collectively prevent restorative justice from functioning optimally as intended by UU SPPA.

Overall, the results indicate a substantial gap between Indonesia's strong normative framework for protecting child offenders and the inconsistent, fragmented, and often punitive practices observed in bullying cases involving minors. These findings underscore the need for improved legal literacy, institutional coordination, and structural

support to ensure that restorative justice can operate effectively in addressing bullying committed by children.

### **Implementation of restorative justice to provide legal protection for children as perpetrators of bullying**

Viewed from a legal aspect, the definition of "child" in the eyes of Indonesian positive law is generally interpreted as a person who is not yet an adult (*minderjarig*/person under age), a person who is under age/state of being under age (*minderjarigheid*/inferiority) or is often also referred to as a child under the supervision of a guardian (*minderjarige ondervoordij*).<sup>12</sup>

According to Article 45 of the Criminal Code (KUHP), a minor is someone who is not yet 16 years old, whereas, according to psychiatric literature, a person is considered an adult, usually starting at the end of adolescence (approximately 20 years old).<sup>13</sup>

Article 1, point 1 of Law Number 23 of 2002 concerning Child Protection defines a child as a person under 18 years of age, including those still in the womb. Article 1, point 3 of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System states that a child in conflict with the law, hereinafter referred to as a child, is a child who is 12 (twelve) years of age but under 18 (eighteen) years of age and is suspected of committing a crime.

Article 45 of the Criminal Code defines a child as a person who commits a (criminal) act before the age of 16. According to Article 1, point 1 of Law Number 35 of 2014 concerning Child Protection, a child is a person under 18 (eighteen) years of age, including children still in the womb.

Law Number 11 of 2012 concerning the

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<sup>12</sup> Lilik Mulyadi, 2005, *Pengadilan Anak di Indonesia—Teori, Praktik dan Permasalahannya*, Mandar Maju, Bandung, p. 4.

<sup>13</sup> Wahjadi Dramabrata, Adhi WIBowo Nurhidayat, 2003, *Psikiatri Forensik*, EGC Medical Book Publisher, Jakarta, p. 52.



Juvenile Criminal Justice System stipulates age limits for children who can be prosecuted for their actions. Articles 2 and 3 state that children in conflict with the law are children who are victims of criminal acts, and children who are witnesses to criminal acts. A child in conflict with the law, hereinafter referred to as a child, is a child aged 12 (twelve) but under 18 (eighteen) years who is suspected of committing a crime.<sup>14</sup>

Children as perpetrators of criminal acts are frequently encountered in everyday life. The behavior of children who commit criminal acts is categorized as delinquent or violating the law. Children in such situations are referred to as children in conflict with the law. A child in conflict with the law can be defined as a child suspected, accused, or recognized as having violated criminal law.<sup>15</sup>

Several cases have occurred, including the bullying case at Binus International School Serpong. The case occurred in February 2024, with a total of 12 perpetrators identified, including details of 8 (eight) children in conflict with the law (ABH) and four suspects: E (18), R (18), J (18), and G (19). However, no mention was made of the eight children with ABH status. Of the 4 (four) suspects, 1 (one) is no longer attending a private high school, while 3 (three) are still attending. The resolution of the bullying case at Binus School Serpong has been encouraged by the Directorate General of Human Rights and the Indonesian Child Protection Commission (KPAI) to prioritize the

best interests of children and improve the perpetrators through a process of self-improvement rather than just punishment. Despite the investigation and identification of suspects, law enforcement that prioritizes a restorative justice approach continues to operate in accordance with the Child Protection Law and the Juvenile Criminal Justice System.<sup>16</sup>

In addition, a bullying incident occurred against a junior high school student in Temanggung in July 2023. A junior high school student in Temanggung, Central Java, burned down his own school because he was upset about being bullied by his friends. As a result of his actions, the student was placed under investigation and ultimately underwent restorative justice.

In 2025, another bullying incident occurred in Temanggung. A video depicting bullying, with the alleged perpetrator and victim both being junior high school students in Temanggung Regency, circulated on social media. The Department of Education, Youth, and Sports (Disdikpora) and the Temanggung Police intervened. One of the videos was uploaded to the Instagram account @kejadiantemanggung today. The video shows several junior high school students, still wearing their school uniforms, involved in the altercation.<sup>17</sup>

Bullying occurs at the elementary school (SD), junior high school (SMP), and senior high school (SMA) levels. The current state of

<sup>14</sup> Siti Nurjanah et al., 'Children's Rights in Islamic Law: A Contemporary Study of Family Practices', *MILRev: Metro Islamic Law Review* 4, no. 2 (July 2025): 933–53, <https://doi.org/10.32332/milrev.v4i2.10077>.

<sup>15</sup> Ika Saimima, *Perlindungan Terhadap Anak Yang Berkonflik Dengan Hukum*, *Jurnal Kajian Ilmiah Lembaga Penelitian Ubhara Jaya*, Vol. 9 No. 3 year 2008, p. 939

<sup>16</sup> BBC Indonesia, February 21, 2024, "Kasus bullying di Binus School Serpong, motif dan kronologi – Polisi

tetapkan empat tersangka", <https://www.bbc.com/indonesia/articles/c4njy81zodno>, accessed on September 21, 2025.

<sup>17</sup> detikjateng, "Viral Video Perundungan Siswi SMP di Temanggung gegara Saling Ejek" read more <https://www.detik.com/jateng/berita/d-7734256/viral-video-perundungan-siswi-smp-di-temanggung-gegara-saling-ejek>, accessed on September 23, 2025.

bullying is alarming and severe, with cases even resulting in death. Several other cases of bullying resulting in death occurred in Medan, North Sumatra. Ibrahim Hamdi, a first-grade elementary school student in Medan City, died after being bullied by five upperclassmen. The victim told his mother that his upper-level students had beaten him. His mother, Yusraini, said she took her son to the hospital because he was in pain and had a high fever. However, her son's life was unexpectedly lost.

A similar case also occurred in North Sulawesi. A student at an Islamic Junior High School in Kotamobagu, identified as BT, died after being attacked by nine of his classmates. The victim reportedly suffered physical violence, including being thrown and kicked repeatedly in the stomach. Due to the unbearable pain, the victim was rushed to the hospital, but died the next day.

Roeslan Saleh explains that "Criminal responsibility is defined as the continuation of objective blame that exists in a criminal act and subjectively meets the requirements for being punished for that act."<sup>18</sup> Objective blame can be said to refer to acts that are prohibited, prohibited, and contrary to the law. Meanwhile, assessments that refer to the perpetrator of the crime, or in other words, can be said to be subjective blame directed at the perpetrator of the prohibited, reprehensible, and indeed contrary to the law.<sup>19</sup>

The problem is that when a crime is committed by a child, resulting in injury or even death, there are many considerations regarding whether the child should be

punished. Therefore, various efforts are needed to provide guidance and protection for children, both regarding institutions and more adequate legal instruments.

Indonesian law is pluralistic regarding the definition of a child. This is because each statutory regulation has its own specific provisions regarding the definition of a child. The definition of a child in terms of legal status encompasses the legal system's perspective, also referred to as status in the special sense as an object of law.

Based on the definitions of a child in the various statutory regulations mentioned above, it can be concluded that the age limit for a child varies across them. In the juvenile criminal justice system, the age limit for a child, as outlined in Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, serves as the regulation specifically governing the juvenile criminal justice system.<sup>20</sup>

When connected with the juvenile criminal justice process according to Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, what is meant by a child can be described as follows:

1. Under 18 years of age: Can be brought before a juvenile court and subject to criminal and legal action;
2. Under 12 years of age: Return the child to their parents/guardian; or enroll them in an education, development, and guidance program at a government agency or Social Welfare Institution (LPKS) in an agency that handles social welfare, both at the

<sup>18</sup> Amir et al., 'The Contemporary Politics of Welfare and Anxiety: A Fiqh Siyasa Review of Indonesia's 2045 Vision', *NUSANTARA: Journal Of Law Studies* 4, no. 01 (July 2025): 29-43, <https://doi.org/10.5281/zenodo.17353871>.

<sup>19</sup> Santoso, Meilanny Budiarti, and Rudi Saprudin Darwis. "Peran Pembimbing Kemasyarakatan dalam

Penanganan Anak Berkonflik dengan Hukum oleh Balai Pemasyarakatan." *Share: Social Work Journal* 7, No. 1 (2017), p. 61-70

<sup>20</sup> Ansori, A. (2014). Criminal Justice System of Children in The Law Number 11 of 2012 (Restorative Justice). *Rechtsidee*, 1(1), 11-26. doi:<http://dx.doi.org>

- central and regional levels, for a maximum of 6 (six) months (Article 21 paragraph (1));
3. Under 14 years of age: No detention (Article 32 paragraph (2) letter a);
  4. Under 14 years of age: Can only be subject to legal action (Article 69 paragraph (2))

In Indonesia, criminal cases are resolved through the criminal justice system. According to Mardjono Reksodiputro, the criminal justice system is a societal system for combating crime. The purpose of the criminal justice system is to:<sup>21</sup>

1. Preventing people from becoming victims of crime;
2. Resolving crimes that occur so that the public is satisfied that justice has been served and the guilty have been punished; and
3. Ensuring that those who have committed crimes do not repeat them.

However, suppose it is connected with the history of the emergence of restorative justice. In that case, the criminal justice system does not run as expected because it fails to provide sufficient space for the interests of victims and perpetrators. In other words, the conventional criminal justice system in many countries around the world often gives rise to dissatisfaction and disappointment.<sup>22</sup>

Numerous criticisms have been raised, often directed at justice seekers, regarding the Indonesian justice system. Under Indonesian criminal law, cases are typically resolved through the justice system. This punitive justice approach should be replaced with restorative justice as an alternative to resolving criminal issues, focusing on resolving conflicts and

achieving balance within society.

Restorative justice arose from dissatisfaction with the existing criminal justice system, which fails to involve the conflicting parties and instead affects only the state and the perpetrator. Neither the victim nor the local community is engaged in conflict resolution, unlike the restorative justice system, where the victim and the community are parties to the process.

Through restorative justice, the aim is to achieve balance between the victim and the perpetrator. Criminal proceedings can then be conducted flexibly, thus not being limited to the need for justice. One such solution is the example of minors. The goal of restorative justice is to restore the consequences of child abuse and to improve children's morals, so they will not repeat their actions.

Furthermore, the application of restorative justice at the investigation level is specifically stipulated in Article 12 of Regulation of the Chief of the Indonesian National Police Number 6 of 2019 concerning Criminal Investigation, which states that restorative justice can be implemented during the investigation process if the following requirements are met.

In the implementation of criminal investigation functions, minor crimes can be resolved through restorative justice, while the handling of crimes based on restorative justice can be terminated.

Handling crimes based on restorative justice, as stipulated in Indonesian National Police Regulation Number 8 of 2021, must meet general and/or specific requirements. General

<sup>21</sup> Mardjono Reksodiputro, *Sistem Peradilan Pidana (Peran Penegak Hukum Melawan kejahatan )*, dikutip dari, *Hak Asasi Manusia dalam Sistem Peradilan Pidana: Kumpulan Karangan Buku Ketiga*, Pusat Pelayanan Keadilan dan Pengabdian Hukum Lembaga Kriminologi, Universitas

Indonesia, 1994, p. 84-8

<sup>22</sup> Nicola Lacey, 2004, *A Life of H.L.A Hart: The Nightmare and The Noble Dream*, Oxford: Oxford University Press. written in a book Eriyantouw Wahid, *Keadilan Restoratif Dan Peradilan Konvensional Dalam Hukum Pidana*, p. 43



requirements apply to the handling of crimes based on restorative justice in the implementation of criminal investigation functions, including investigations and inquiries. Meanwhile, specific requirements only apply to the handling of criminal offenses based on restorative justice during investigations or inquiries.

General requirements for handling criminal offenses based on restorative justice include the following material and formal requirements:

1. Material, including:
  - a. Does not cause public unrest or public rejection;
  - b. Does not result in social conflict;
  - c. Does not have the potential to divide the nation.
  - d. Does not exhibit radicalism or separatism;
  - e. Is not a repeat offender based on a court decision; and
  - f. Does not commit a crime of terrorism, a crime against state security, a crime of corruption, or a crime against human life.
2. Formal, including:
  - a. Peace between both parties, except for drug crimes.
  - b. Fulfillment of the victim's rights and the perpetrator's responsibilities, except for drug crimes.
  - c. Fulfillment of the victim's rights and the perpetrator's responsibilities may take the form of returning goods, reimbursing losses, reimbursing costs incurred as a result of the crime, and/or reimbursing damage caused by the crime.

Furthermore, the application of restorative justice to minors who commit bullying is carried out in accordance with Law Number 11 of 2012 concerning the Juvenile Criminal Justice System through diversion efforts. Diversion is an implementation of

restorative justice as stipulated in the Juvenile Criminal Justice System Law, as referred to in Article 1, point 6, which states that restorative justice is the resolution of criminal cases involving the perpetrator, victim, the perpetrator/victim's family, and other relevant parties to jointly seek a just solution, emphasizing restoration to the original state, rather than retaliation.

Article 5 paragraphs (1) and (3) stipulate that the Juvenile Criminal Justice System must prioritize a restorative justice approach, and diversion efforts must be implemented within the juvenile criminal justice system. Diversion efforts are mandatory at the investigation, prosecution, and examination levels of juvenile cases in the District Court.

Diversion is implemented when the crime committed is punishable by imprisonment of less than 7 (seven) years and does not constitute a repeat offense. This is stipulated in Article 7 of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System. Article 8 of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System states that the diversion process is conducted through deliberation involving the child and their parents/guardians, the victim and/or their parents/guardians, Community Guidance Counselors, and Professional Social Workers based on a Restorative Justice approach. If necessary, the deliberation may involve Social Welfare Workers and/or the community.

Investigators are required to attempt diversion within 7 days of the investigation's start. The diversion process must be implemented no later than thirty days after the diversion begins. If the diversion process successfully reaches an agreement, the investigator submits the diversion report and the diversion agreement to the Chief Justice of the District Court for a decision. If diversion

fails, the investigator must continue the investigation and refer the case to the Public Prosecutor, attaching the diversion report and the community research report. (Article 29 of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System).

The diversion process for resolving juvenile cases is carried out as quickly as possible. This relates to the minimum timeframe for the juvenile criminal justice process. Once investigators receive a report of an alleged crime committed by a juvenile, diversion is immediately implemented.

Based on Article 8 of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, the diversion process is carried out through deliberation involving the child and his/her parents/guardians, the victim and/or his/her parents/guardians, Community Guidance Counselors, and Professional Social Workers based on a Restorative Justice approach. If necessary, the deliberation may involve Social Welfare Workers and/or the community. The Diversion process must take into account:

1. The interests of the victim;
2. The welfare and responsibility of the child;
3. Avoiding negative stigma;
4. Avoiding retaliation;
5. Community harmony; and
6. Decency, morality, and public order.

When conducting investigations into cases involving children, investigators are required to seek advice or guidance from community counselors after a crime has been reported or a complaint has been made. If deemed necessary, investigators may seek advice or suggestions from educational experts, psychologists, psychiatrists, religious leaders, professional social workers or social welfare workers, and other experts. When examining child victims and child witnesses, investigators

are required to request a social report from a professional social worker or social welfare worker after a crime has been reported or complained about. This is as stated in Article 27 of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System. The results of the community research under Article 28 of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System must be submitted by the BAPAS to the investigator within a maximum of 3 x 24 (three times twenty-four) hours of receiving the investigator's request.

## Conclusion

The application of restorative justice to provide legal protection to children who are perpetrators of bullying is carried out by referring to Law Number 11 of 2012 concerning the Juvenile Criminal Justice System through diversion efforts. Deviations in case resolution through restorative justice involve the perpetrator, victim, the perpetrator/victim's family, and other related parties jointly seeking a fair solution that emphasizes restoration to the original state, not revenge. It is hoped that outreach efforts to prevent bullying will be carried out through education, building a positive environment, and empowering individuals. Education about the impacts of bullying should be provided to students, teachers, and parents. Furthermore, schools must create a supportive environment, be firm in their stance against bullying, and teach students to build self-confidence and social skills.

## Credit Authorship Contribution

Achmad Arifulloh conceptualised the core research idea on legal protection for child offenders in bullying cases, formulated the main objectives, and drafted the introduction and background while ensuring the study's

alignment with contemporary restorative justice discourse. Andri Winjaya Laksana developed the theoretical and legal framework, conducted doctrinal analysis of child protection and juvenile justice regulations, and refined the manuscript's argumentative structure, particularly regarding challenges and deviations in restorative justice practice. Moch Aris Siswanto collected and analyzed empirical data from case studies, field interviews, and legal documents, offering socio-legal insights into the implementation of restorative justice and contributing significantly to the synthesis of findings. Tony Triyanto supported the methodological design, reviewed key literature on bullying and child justice systems, and assisted in enhancing the analytical depth, coherence, and academic rigor of the manuscript. All authors collaboratively revised and approved the final version of the manuscript for publication.

### Declaration of Competing Interest

The authors declare that they have no known financial, institutional, or personal conflicts of interest that could have influenced the research results, analysis, or interpretations presented in this study

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### References

- Amir, Akmal Adzharuz Dzaki, Sandi Prayoga, and Aadil Ahmad Shairgojri. 'The Contemporary Politics of Welfare and Anxiety: A Fiqh Siyasah Review of Indonesia's 2045 Vision'. *NUSANTARA: Journal Of Law Studies* 4, no. 01 (July 2025): 29–43. <https://doi.org/10.5281/zenodo.17353871>.
- Ansori, A. (2014). Criminal Justice System of Children in The Law Number 11 of 2012 (Restorative Justice). *Rechtsidee*, 1(1), 11-26. doi:<http://dx.doi.org>
- BBC Indonesia, 21 Februari 2024, "Kasus bullying di Binus School Serpong, motif dan kronologi – Polisi tetapkan empat tersangka", <https://www.bbc.com/indonesia/articles/c4njy81zodno>.
- Darmawan, Joko, and others, 'Incorporating Islah Principles into Restorative Justice: Bridging Contemporary Legal Practice and Islamic Values', *MILRev: Metro Islamic Law Review*, 4 (2025), pp. 269–94, doi:10.32332/milrev.v4i1.10435
- detikjateng, "Viral Video Perundungan Siswi SMP di Temanggung gegara Saling Ejek" read more <https://www.detik.com/jateng/berita/d-7734256/viral-video-perundungan-siswi-smp-di-temanggung-gegara-saling-ejek>.
- Eriyantouw Wahid, *Keadilan Restoratif Dan Peradilan Konvensional Dalam Hukum Pidana*, Trisakti University Publisher, 2009.
- Faried, F.S., H. Mahmud, and Suparwi. 'Mainstreaming Restorative Justice in Termination of Prosecution in Indonesia'. *Journal of Human Rights, Culture and Legal System* 2, no. 1 (2022): 66–77. Scopus. <https://doi.org/10.53955/jhcls.v2i1.31>.
- H. S. Flora, "Restorative Justice in the New Criminal Code in Indonesia: A Prophetic Legal Study," *Rechtsidee*, vol. 11, pp. 10-21070, 2022
- Law Number 4 of 1979 concerning Child Welfare;
- Law Number 39 of 1999 concerning Human Rights;

- Law Number 11 of 2012 concerning the Juvenile Justice System;
- Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2012 concerning Child Protection;
- Lilik Mulyadi, 2005, *Pengadilan Anak di Indonesia—Teori, Praktik dan Permasalahannya*, Mandar Maju, Bandung.
- Marlina, and M. Mulyadi. 'Building Restorative Justice in Gampong as a Bottom-up Legitimation of the Protection of Children in Conflict with the Law in Indonesia: Case Study in Aceh'. *Cogent Social Sciences* 10, no. 1 (2024). Scopus. <https://doi.org/10.1080/23311886.2024.2347410>.
- Nashriana, D.R. Banjarani, M.S. Del Rosario, and V. Novianti. 'Enhancing Restorative Justice in Indonesia: Exploring Diversion Implementation for Effective Juvenile Delinquency Settlement'. *Sriwijaya Law Review* 7, no. 2 (2023): 318–34. Scopus. <https://doi.org/10.28946/slrev.Vol7.Iss2.2427>. pp318-334.
- Nurjanah, Siti, Ahmad Syarifudin, Muhammad Mujib Baidhowi, Elva Mahmudi, and Hidayat Darussalam. 'Children's Rights in Islamic Law: A Contemporary Study of Family Practices'. *MILRev: Metro Islamic Law Review* 4, no. 2 (July 2025): 933–53. <https://doi.org/10.32332/milrev.v4i2.10077>.
- Rahayu Sri Utami, Restorative Justice: A Comprehensive Shift Towards Victim-Perpetrator Reconciliation and Community Healing: Keadilan Restoratif: Pergeseran Komprehensif Menuju Rekonsiliasi Korban-Pelaku dan Penyembuhan Komunitas, Philosophy of Law, *Indonesian Journal of Law and Economics Review*, Vol. 18 No. 3 (2023): August.
- Rofiq, A, 'Legal Reasonings of Religious Court Judges in Deciding the Origin of Children: A Study on the Protection of Biological Children's Civil Rights', *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan*, 21.1 (2021), pp. 1–19, doi:10.18326/ijtihad.v21i1.1-19
- Rohmah, S, S J Fadil, and E Zuhriah, 'Resilience Of Muslimah Sex Workers: Fulfilment Of Children's Rights Based On Fiqh Hadhanah And The Child Protection Law', *Justicia Islamica*, 21.1 (2024), pp. 23–42, doi:10.21154/justicia.v21i1.9156
- Santoso, Meilanny Budiarti, and Rudi Saprudin Darwis. "Peran Pembimbing Kemasyarakatan dalam Penanganan Anak Berkonflik dengan Hukum oleh Balai Pemasyarakatan." *Share: Social Work Journal* 7, No. 1 (2017).
- Susanti, T, and R Syahmedi, 'Religious Protection of Children in Polygamic Families in Langkat Regency Based on Law Number 35 Of 2014 Concerning Child Protection', *Jurnal Ilmiah Mizani*, 9.2 (2022), pp. 320–28, doi:10.29300/mzn.v9i2.2936
- The 1945 Constitution of the Republic of Indonesia;
- The Criminal Code (KUHP);
- Widayati, W., Winanto, W., Laksana, A. W., Huda, M. N., & Fareha, N. (2025). The Challenges of Using the
- Omnibus Law Method in Indonesia's Legal System. *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi*, 8(2), 459–477. <https://doi.org/10.24090/volksgeist.v8i2.13382>