

The Implementation of Legal Protection for Child Perpetrators of Bullying (A Comparative Study of Indonesia and Finland)

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Abstract

Bullying involving children has become an increasingly serious issue in Indonesia and poses complex legal challenges, particularly when children are positioned not only as victims but also as perpetrators. The prevailing legal framework requires a careful balance between legal accountability and the protection of children's rights. This article aims to analyze the implementation of legal protection for child perpetrators of bullying in Indonesia and to compare it with the juvenile justice approach applied in Finland. This research employs a normative legal research method using statutory, conceptual, and comparative approaches. The study examines legislation concerning child protection and the juvenile criminal justice system in Indonesia, relevant international legal instruments, as well as



policies on bullying prevention and child protection in Finland. The findings indicate that, although Indonesian law normatively emphasizes the principle of child protection, including the application of diversion and restorative justice, its implementation in cases involving child perpetrators of bullying remains inconsistent and tends to be oriented toward punitive measures. In contrast, Finland prioritizes preventive efforts, psychosocial interventions, and school-based accountability mechanisms, thereby minimizing the use of criminal sanctions against children. This study concludes that enhancing the effectiveness of legal protection for child perpetrators of bullying in Indonesia requires strengthening restorative justice mechanisms, improving inter-agency coordination, and integrating prevention models that are non-punitive in orientation and centered on the best interests of the child.

KEYWORDS

Child Protection; Bullying; Juvenile Justice; Comparative Law.

Introduction

In essence, the law bears the obligation to guarantee the protection of human rights for every citizen without discrimination, including children.¹ This principle of protection applies not only to children as victims of criminal offenses but also to children in conflict with the law as perpetrators. Within the Indonesian legal system, the principle of *due process of law*, as regulated in the Criminal Procedure Code (KUHP) under Law Number 20 of 2025, is intended to limit the exercise of state power in order to prevent arbitrariness and to ensure the protection of human dignity and worth.²

¹ Rizki Hadi Nugroho Muhammad Fachri , M. Azham, "Analisis Hukum Terhadap Perlindungan Dan Integrasi Hak Anak Sebagai Hak Asasi Manusia Dalam Sistem Hukum Indonesia" 6, no. 2 (2025), <https://doi.org/10.33648/jtm.v6i2.1165>.

² Putu Ayu, Veguita Putri, and Irsyaf Marsal, "Politik Hukum Pembentukan Rancangan Kitab Undang-Undang Hukum Acara Pidana : Peluang Dan Hambatannya Dalam

This principle likewise applies to children who commit criminal offenses, who, both constitutionally and juridically, continue to possess fundamental rights that must be protected by the state.

Children, as subjects of law, occupy a distinct position because psychologically, emotionally, and socially they remain in a stage of development.³ Therefore, the juvenile criminal justice system cannot be equated with the adult criminal justice system. Legal protection for children in conflict with the law is specifically guaranteed under Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (SPPA), which emphasizes a restorative justice approach as a means of recovery, rehabilitation, and social reintegration of the child.⁴ This approach aims to prevent stigmatization, reduce recidivism, and ensure the child's future as a member of the nation's next generation.

Along with social developments and advances in information technology, various forms of deviant behavior have emerged among children, one of which is bullying. Bullying constitutes aggressive behavior carried out repeatedly, whether in the form of physical, verbal, psychological violence, or through digital media (cyberbullying).⁵ This phenomenon not only causes suffering to victims but also has negative implications for children as perpetrators, as it may affect their personal, moral, and social development. In many cases, child perpetrators of bullying act without full awareness of the legal and social consequences of their conduct and are often influenced by their family environment, school setting, and peer associations.

Penegakan Hukum Di Indonesia,” *Al-Zayn: Jurnal Ilmu Sosial & Hukum*, 2026, 7373–91, <https://doi.org/10.61104/alz.v3i5.2375>.

³ Imelda Martinelli and Universitas Diponegoro, “Jurnal Hukum & Pembangunan PERSPEKTIF PSIKOLOGIS” 53, no. 2 (2023), <https://doi.org/10.21143/jhp.vol53.no2.1560>.

⁴ Mulyadi, Dr Lilik, and MH SH. “*Wajah sistem peradilan pidana anak Indonesia*,” Penerbit Alumni, 2023.

⁵ Nuraenidan I Made Sonny Gunawan, “Dampak Cyberbullying Terhadap Siswa Yang Menjadi Korban Perundungan Di Sekolah,” *Jurnal Realita Bimbingan Dan Konseling (JRbk)* 8 (2023), <https://doi.org/10.33394/realita.v8i2.8543>.

Cases of bullying among children are manifested in various forms, including physical, verbal, psychological violence, as well as through digital media (cyberbullying), which is regulated under Article 29 of Law Number 11 of 2008 concerning Electronic Information and Transactions.⁶ This phenomenon generates serious consequences for children's development and gives rise to legal issues when children are positioned as perpetrators of criminal offenses, as in practice the handling of such cases often remains punitive in orientation and risks disregarding the principle of child protection within the Juvenile Criminal Justice System. Normatively, Law Number 17 of 2016 has affirmed the child's right to humane treatment, rehabilitation, and case resolution through diversion mechanisms; however, its implementation continues to face various obstacles, thereby rendering the effectiveness of legal protection for child perpetrators of bullying an issue that warrants further examination.⁷

The ineffectiveness of the implementation of a restorative approach in bullying cases has implications for the emergence of stigmatization toward child perpetrators.⁸ Children who should be guided and rehabilitated instead face the risk of being labeled as criminals, which ultimately exacerbates the cycle of violence and hinders the process of social reintegration. Therefore, a comprehensive evaluation of the legal protection system for children as perpetrators of bullying is required, so that law enforcement is not solely oriented toward punishment, but also toward recovery and prevention.

In contrast to Indonesia, Finland is recognized as one of the countries that has successfully addressed the issue of bullying through a comprehensive and preventive approach. Finland integrates child protection policies with its national education system.⁹ The approach

⁶ Silatul Rahmi, Shermin Oruh, and Andi Agustang, "Cyberbullying di Kalangan Remaja Pada Perkembangan Teknologi Abad 21," *GOVERNANCE: Jurnal Ilmiah Kajian Politik Lokal Dan Pembangunan* 10 (2024): 101–6, <https://doi.org/10.56015/gjklp.v10i3.155>.

⁷ Royke Adrianus Taroreh, Jolanda Marlien Korua, and Nurhikmah Nacrawy, "Perlindungan Hukum Bagi Anak Dengan Diversi Dalam Sistem Peradilan Pidana Anak Indonesia," *JURNAL NUANSA AKADEMIK: Jurnal Pembangunan Masyarakat* 10, no. 2 (2025): 701–16, <https://doi.org/10.47200/jnajpm.v10i2.3213>.

⁸ Rudi Haryanto, Kristiawanto, and Basuki, "Jurnal Riset Ilmiah" 2, no. 06 (2025): 2913–24.

⁹ Claire F Garandau et al., "Effects of the KiVa Anti-Bullying Program on Affective and Cognitive Empathy in Children and Adolescents Effects of the KiVa Anti-Bullying Program

implemented in Finland is grounded in the principles of the United Nations Convention on the Rights of the Child, which places the best interests of the child as a primary consideration.¹⁰ Child perpetrators of bullying are not positioned as subjects of criminal punishment, but rather as individuals in need of guidance, counseling, and social support. This approach has proven effective in significantly reducing the incidence of bullying and in preventing the recurrence of deviant behavior among children.

A number of previous studies have examined the phenomenon of bullying from the perspective of child protection law; however, the majority continue to position children primarily as victims and emphasize the punitive aspects imposed upon perpetrators. These studies generally discuss the regulation of criminal sanctions, the legal responsibility of offenders, as well as the role of the state and educational institutions in preventing bullying. Meanwhile, research that specifically analyzes legal protection for children as perpetrators of bullying remains relatively limited, particularly studies that examine the conformity between child protection norms and law enforcement practices within the juvenile criminal justice system. Furthermore, comparative analyses that juxtapose Indonesia's legal approach with that of countries adopting preventive and rehabilitative models, such as Finland, are also still relatively scarce.

Unlike previous studies, this research is directed at addressing the question of how legal protection is implemented for children as perpetrators of bullying in Indonesia and Finland. In line with this inquiry, the study aims to analyze the implementation of legal protection for child perpetrators of bullying within the legal systems of Indonesia and Finland by examining the statutory framework, the legal principles applied, and the practices adopted in handling such cases.

on Affective and Cognitive Empathy In," *Journal of Clinical Child & Adolescent Psychology* 51, no. 4 (2022): 515–29, <https://doi.org/10.1080/15374416.2020.1846541>.

¹⁰ Suryani, Lilis, and Naura Puspa Nirwani., "Kebijakan Hukum dan Perlindungan Anak: Langkah Strategis Menjamin Hak-hak Anak," Deepublish, 2025.

The contribution of this research lies in strengthening the perspective of legal protection for children as perpetrators of bullying, which has thus far been predominantly examined from the standpoint of children as victims. Academically, this study is expected to enrich scholarship on child protection law and the juvenile criminal justice system through a comparative legal approach. Practically, it is anticipated that this research may serve as a normative foundation for the formulation of child protection policies in Indonesia that are more restorative, preventive, and oriented toward the best interests of the child.

Methods

This study constitutes normative legal research focused on the examination of legal norms and principles governing legal protection for children as perpetrators of bullying within the legal systems of Indonesia and Finland¹¹. The research is grounded in a legal issue concerning the conformity between the regulatory framework on child protection and the practical handling of child perpetrators of bullying within both legal systems.

The approaches employed in this study include the statutory approach, the conceptual approach, and the comparative legal approach, all of which are analyzed prescriptively. The statutory approach is utilized to examine Indonesian national legislation, Finnish law, and international legal instruments related to child protection. The conceptual approach is applied to analyze legal concepts, principles, and doctrines relevant to child protection, the best interests of the child, and restorative justice. Meanwhile, the comparative legal approach is used to compare the regulation and implementation of legal protection for child perpetrators of bullying in Indonesia and Finland.

The legal materials used in this study consist of primary and secondary legal materials. Primary legal materials include statutory regulations and

¹¹ Pieter Mahmud Marzuki, "Penelitian Hukum", Jakarta: Kencana Prenada Media Group, (2017).

legal policies relevant to child protection and the handling of bullying. Secondary legal materials comprise legal textbooks, national and international scholarly journal articles, and the opinions of legal scholars related to the legal issues under examination.

The analysis of legal materials is conducted through deductive legal reasoning in order to produce prescriptive legal arguments. Such reasoning is employed to assess the conformity between legal norms and the practice of protecting child perpetrators of bullying, as well as to formulate normative recommendations oriented toward strengthening legal protection for children.

Result and Discussion

1. The Implementation of Legal Protection for Children as Perpetrators of Bullying

The implementation of legal protection for children as perpetrators of bullying cannot be understood merely as a matter of imposing criminal sanctions, but rather as a comprehensive legal and policy framework aimed at ensuring the best interests of the child at every stage of case handling. Legal protection is fundamentally construed as a mechanism to limit the exercise of state power so that it is not carried out arbitrarily or in contravention of prevailing legal provisions, thereby ensuring legal certainty and safeguarding human dignity and worth.¹²

A child as a perpetrator remains a subject of law who is entitled to humane treatment, a proportionate legal process, and the opportunity to obtain guidance and rehabilitation. Therefore, an analysis of the implementation of legal protection in bullying cases must consider not only the existence of legal norms, but also the orientation of policies, law enforcement practices, and the institutional support systems that

¹² Tedi Sudrajat, S. H., and S. H. Endra Wijaya., “*Perlindungan Hukum Terhadap Tindakan Pemerintahan*,” Bumi Aksara, 2021.

accompany them. Within the realm of child protection, legal protection is directed toward ensuring that every right of the child is respected and fulfilled, while simultaneously guaranteeing that the child's needs are met in order to enable a proper process of life, growth, and development.

The following discussion will systematically elaborate on how the implementation of legal protection for child perpetrators of bullying is carried out in Indonesia and Finland, before subsequently formulating a more ideal model of legal protection for Indonesia in the future.

The Implementation of Legal Protection in Indonesia

Law Number 35 of 2014 concerning Child Protection and Law Number 11 of 2012 concerning the Juvenile Criminal Justice System explicitly position children, whether as victims or as perpetrators of criminal offenses, as subjects of law requiring special treatment and protection. Such protection cannot be set aside for any reason, including on the grounds of the gravity or seriousness of the criminal act committed by the child.¹³ In line with this, the Convention on the Rights of the Child affirms that the rights to life, development, protection, and participation constitute fundamental rights of the child that must be guaranteed by the state. Therefore, research on the implementation of legal protection for children as perpetrators of bullying is insufficient if based solely on national legal provisions; rather, it must also be situated within the framework of Indonesia's international commitments and obligations to ensure the comprehensive fulfillment of children's rights.¹⁴

The position of children as perpetrators of bullying within the Indonesian legal system must be understood through the principle of *lex specialis derogat legi generali*, which affirms that specific legal provisions

¹³ Tri Afandy and Yati Sharfina Desiandri, "Tinjauan Implementasi Kebijakan Perlindungan Dan Pemenuhan Hak Anak," *Iuris Studia: Jurnal Kajian Hukum* 4 (2024): 145–55, <https://doi.org/10.55357/is.v4i3.411>.

¹⁴ Trias Saputra, "Penerapan Pidana Penjara Sebagai Upaya Terakhir Bagi Anak Yang Berkonflik Dengan Hukum: Telaah Pembentukan Ruu Sistem Peradilan Pidana Anak," *Jurnal Hukum Visio Justisia* 2 (2022): 44–58, <https://doi.org/10.19166/vj.v2i1.4888>.

prevail over general ones.¹⁵ The application of this principle is relevant because the regulation concerning children in conflict with the law has been specifically governed under Law Number 11 of 2012 concerning the Juvenile Criminal Justice System as a special criminal law regime for children. Article 1 point 3 of this law defines a child in conflict with the law as a person who has reached the age of at least 12 (twelve) years but has not yet attained the age of 18 (eighteen) years and is suspected of committing a criminal offense, including acts of bullying that fulfill the elements of a crime. Based on this provision, a child who commits bullying cannot be directly subjected to the general criminal law mechanisms applicable to adults, but must instead be processed through a judicial system specifically designed for children. This regulation underscores that legal protection for child perpetrators of bullying is not intended to eliminate legal accountability, but rather to ensure that law enforcement is carried out with due consideration of the child's psychological and social conditions, as well as their stage of development, and is directed toward rehabilitative measures consistent with the principle of the best interests of the child.

Special protection for children in conflict with the law is explicitly regulated under Law Number 35 of 2014 concerning Child Protection. Article 64 of the law affirms that detention and imprisonment of children shall not be used as the primary instruments of law enforcement, but may only be imposed as a measure of last resort and for the shortest possible period of time. This provision is not merely procedural in nature, but reflects an evaluative standard in the treatment of children in conflict with the law. Such an approach is consistent with international principles, particularly the Beijing Rules, which emphasize that responses to child offenders must take into account their age, level of maturity, and the objective of rehabilitation, rather than focusing solely on retribution. A similar principle is reflected in Indonesia's juvenile criminal justice system,

¹⁵ Ismoyo, Jarot Digo, Gunawan Hi Abas, Loso Judijanto, Irsan Irsan, Muhammad Topan, and Andi Annisa Nurlia Mamonto., "*Dasar-Dasar Hukum: Pedoman Hukum di Indonesia*," PT. Sonpedia Publishing Indonesia, 2025.

which upholds the principles of non-discrimination, the best interests of the child, and the guarantee of the child's right to growth and development.¹⁶ Therefore, the imposition of imprisonment on children is justified only as an *ultimum remedium* and must not exceed the limits prescribed by law. The imposition of excessive sanctions, particularly long-term imprisonment, not only contravenes Article 64 of the Child Protection Law and Article 81 paragraph (6) of the Juvenile Criminal Justice System Law, but also disregards the principle of proportionality and the rehabilitative objectives recognized in international legal instruments. The imposition of penalties exceeding the statutory maximum demonstrates a shift in orientation from protection and rehabilitation toward a punitive approach, which may adversely affect the child's psychological development and hinder the process of social reintegration.¹⁷ Accordingly, legal protection for children as perpetrators of bullying requires the application of sanctions that are proportionate, rehabilitation-oriented, and aligned with the primary objective of the juvenile criminal justice system, namely to prevent children from reoffending in the future.

Legal regulation concerning bullying is not solely directed toward the protection of victims, but also specifically governs the handling of children as perpetrators of bullying through an approach that emphasizes guidance and recovery. Law Number 35 of 2014 concerning Child Protection places child perpetrators of violence, including bullying, within a framework of special protection that prioritizes case resolution outside formal judicial proceedings.¹⁸ This approach is realized through the implementation of

¹⁶ Dina Pungkas, Amir Junaidi, and Femmy Silaswaty Faried, "Analisis Yuridis Implementasi Prinsip-Prinsip Hak Anak Dalam Sistem Peradilan Anak Yang Ada Di Indonesia," *JURNAL BEVINDING* 01, no. 11 (2024): 66–73, <https://journal.uniba.ac.id/index.php/JB/article/view/1113>.

¹⁷ Fitriyah Ingratubun, S. H., Junaidi Abdullah Ingratubun, MH SH, M. Kn, Muhammad Hafiz Ingsaputro, and MH SH., "Sistem Peradilan Pidana Anak Di Indonesia," Dunia Penerbitan buku, 2025.

¹⁸ Asha Ladesya Purnasya et al., "Penegakan Hukum Tindak Pidana Bullying Terhadap Anak Di Bawah Umur Berdasarkan Undang-Undang Nomor 35 Tahun 2014," *Jurnal Hukum Dan Kewarganegaraan* 14, no. 5 (2025), <https://doi.org/10.8734/CAUSA.v1i2.365>.

diversion mechanisms and restorative justice aimed at constructively restoring social relationships between the perpetrator and the victim, as well as preventing long-term adverse effects on the child's development. The process is conducted through deliberative dialogue involving the perpetrator, the victim, parents or guardians, and professional facilitators, with an orientation toward fostering the perpetrator's awareness of the consequences of their actions and restoring the disrupted social conditions. Nevertheless, the state maintains firmness in addressing bullying that involves elements of physical, psychological, or sexual violence through the penal provisions stipulated in the Child Protection Law, thereby affirming that acts of bullying carry legal consequences and cannot be tolerated, even when committed by a child.

There remains room for improvement in the construction of the Juvenile Criminal Justice System. The reformulation of the juvenile criminal justice system should be directed toward a paradigm of Pancasila justice, which positions the child as a subject to be comprehensively protected rather than merely as an offender processed solely on the basis of the fulfillment of the elements of a criminal offense.¹⁹ Provisions concerning the minimum age of criminal responsibility and the limitations on the scope of diversion indicate that the system's orientation still tends to be act-based and classificatory in nature, thereby not yet fully reflecting the principle of the best interests of the child and a sustainable rehabilitative approach. In the context of child perpetrators of bullying, such criticism demonstrates that legal protection cannot be limited to the mere availability of diversion mechanisms, but requires a reorientation of the system to ensure greater consistency with preventive, rehabilitative, and social reintegration objectives for children.

Beyond the mechanisms of criminal law, administrative policies in the field of education play a strategic role in preventing and addressing bullying within the school environment. Regulation of the Minister of Education,

¹⁹ Rasdi Rasdi et al., "Reformulation of the Criminal Justice System for Children in Conflict Based on Pancasila Justice," *Lex Scientia Law Riview* 6, no. 2 (2022): 479–518, <https://doi.org/10.15294/lesrev.v6i2.58320>.

Culture, Research, and Technology Number 46 of 2023 stipulates the obligation of educational institutions to provide guidance to perpetrators of bullying through counseling, educational activities, and programs aimed at raising awareness of the negative impacts of bullying. Schools are also granted the authority to impose administrative sanctions in certain cases, provided that such measures are preceded by rehabilitative efforts and involve the child's parents or guardians. This regulatory framework affirms that the handling of bullying constitutes a shared responsibility among the state, educational institutions, and society.²⁰ Nevertheless, empirical realities indicate that cases of bullying continue to occur and have even increased in recent years, particularly within educational settings and digital spaces. This condition demonstrates a gap between legal norms and practical implementation, thereby rendering the presentation of bullying case data over the past five years essential in illustrating the level of effectiveness of the implementation of legal protection for children as perpetrators of bullying in Indonesia.

TABLE 1. Data on Violence Cases in Indonesia

Year	Number of Violence Cases
2021	142
2022	194
2023	285
2024	573
2025	614

Source: Jaringan Pemantauan Pendidikan Indonesia (JPPI).²¹

The data on violence cases as presented in the table indicate a significant upward trend from year to year, with the sharpest increase occurring in the past two years. Of the total number of cases, approximately 31 percent are

²⁰ Uly Junimilisa Lugin and Suryanef, "Implementasi Peraturan Menteri Pendidikan Kebudayaan Riset Dan Teknologi Nomor 46 Tahun 2023 Tentang Pencegahan Tindakan Kekerasan Studi Di Madrasah Tsanawiyah Negeri 6 Kerinci," *EDU RESEARCH* 6, no. 46 (2025): 2940–57, <https://doi.org/10.47827/jer.v6i2.1122>.

²¹ Jaringan Pemantau Pendidikan Indonesia (JPPI), *Kekerasan Di Satuan Pendidikan : Temuan Dan Tantangan Perlindungan Anak*, 2025.

directly related to bullying. This figure demonstrates that bullying remains the most dominant form of violence in schools. The increase suggests that bullying against children continues to constitute a serious issue that has not yet been effectively controlled, particularly within formal educational environments that are intended to function as safe spaces for children. This condition reflects a gap between the normative framework of child protection established through the Child Protection Law, the Juvenile Criminal Justice System Law, and sectoral policies in the field of education, and their practical implementation. The handling of bullying cases still tends to be reactive and oriented toward post-incident resolution, while the principles of restorative justice and the rehabilitation of child perpetrators have not been fully internalized within law enforcement mechanisms and school policies. Consequently, child perpetrators of bullying are often processed through formal mechanisms without adequate psychosocial rehabilitation support, thereby risking stigmatization and hindering the process of social reintegration. Furthermore, although administrative policies in the education sector have regulated guidance and sanctions for perpetrators of bullying, such policies have not been optimally integrated with the juvenile criminal justice system, a situation exacerbated by weak coordination among schools, law enforcement authorities, and child protection institutions.

The enactment of the new Criminal Procedure Code through Law Number 20 of 2025 introduces significant changes to the role of investigators in handling cases involving children, including children as perpetrators of bullying. Within the juvenile criminal justice system, investigators no longer function solely as authorities oriented toward proving the elements of a criminal offense, but rather serve as initial actors who determine the direction of legal protection and the realization of the best interests of the child. The principle of *due process of law* as affirmed in the 2025 Criminal Procedure Code requires that every investigative action be carried out proportionately, with due regard to the psychological

condition and vulnerability of the child as a subject of law. Accordingly, child investigators bear the responsibility to ensure that the investigative process does not impose excessive pressure, does not undermine the child's dignity, and remains consistent with the objectives of rehabilitation and guidance as emphasized in the Juvenile Criminal Justice System.²²

This role becomes increasingly crucial in bullying cases, given that bullying generally originates from children's social relationships within school environments and peer interactions. A hasty response through formal criminal proceedings without consideration of alternative resolution mechanisms may, in fact, exacerbate the condition of child perpetrators by subjecting them to stigmatization and labeling as criminals. In this context, following the enactment of the 2025 Criminal Procedure Code, child investigators are expected to take a more active role in filtering cases to assess whether a particular bullying incident is appropriate for criminal prosecution or more suitably resolved through restorative and non-penal approaches oriented toward recovery.

The diversion and restorative justice approach constitutes a fundamental principle within the Juvenile Criminal Justice System, although its application in severe bullying cases frequently generates debate. Article 7 of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System explicitly mandates the pursuit of diversion at every stage of the juvenile justice process, provided that the stipulated requirements are fulfilled. This provision affirms that diversion is not merely a discretionary option, but a legal obligation that must be undertaken by law enforcement authorities. Furthermore, empirical studies on diversion practices indicate that procedural success in resolving cases does not necessarily correlate with victim recovery or sustained behavioral change on the part of the offender. The effectiveness of diversion largely depends on the quality of supervision and follow-up assistance after an agreement has been reached, ensuring

²² Suprpto, Ali Subroto., "*Penjara Tanpa Anak: Akses Keadilan Restoratif dan Masa Depan Anak Berhadapan Hukum*," Deepublish, 2023.

that restorative justice does not end as a mere administrative formality.²³ Nevertheless, in practice, bullying cases involving physical violence or causing serious psychological harm are often immediately classified as criminal matters deemed unsuitable for diversion. Such an approach risks disregarding the primary objective of diversion, namely to prevent the deprivation of a child's liberty and to promote resolution mechanisms oriented toward recovery. Normatively, the law does not preclude the application of diversion in severe bullying cases, provided that due consideration is given to the interests of the victim, the accountability of the offender, and assurances against the recurrence of the conduct.²⁴

This situation demonstrates the existence of a normative dilemma in handling bullying cases involving children, namely between the protection of victims and the protection of children as perpetrators. Victims of bullying are entitled to safety, recovery, and protection from physical and psychological harm; at the same time, child perpetrators remain subjects of law who are entitled to humane treatment and protection from repressive legal processes.²⁵ In practice, this dilemma is often oversimplified by positioning the interests of the victim as the primary justification for imposing criminal sanctions upon child perpetrators. In fact, the juvenile criminal justice system is designed to balance the interests of victims, offenders, and society. Victim protection need not be realized through severe punishment of the child offender, but rather through mechanisms capable of effectively restoring the victim while simultaneously preventing the recurrence of the conduct, as offered by the restorative justice approach.

²³ Fiorentina Elfrida Shanty and Rasdi Rasdi, "The Effectiveness of Diversion In Resolving Juvenile Breast Groping Cases," *Legitimacy: Journal of Criminal Law and Legal Politics* 14, no. 2 (2025): 222–42, <https://doi.org/10.22373/legitimasi.v14i2.3015>.

²⁴ Celsy Rahmadani, Hartiwiningsih, and Sulistyanta, *The Law Enforcement Against Teenagers as Perpetrators of Bullying from the Perspective of Victim Justice* (Atlantis Press SARL, 2024), <https://doi.org/10.2991/978-2-38476-218-7>.

²⁵ Vicky Roland Manus, Selviani Sambali, and Yumi Simbala, "Implementasi Dasar Keadilan Dan Perlindungan Terhadap Korban Kejahatan," *LEX CRIMEN*, no. 2 (2023): 1–10.

Legal protection for child perpetrators of bullying is also reflected in the regulation of types of penalties and measures as stipulated in Articles 71 and 82 of the Juvenile Criminal Justice System Law. Article 71 affirms that imprisonment is to be imposed as a measure of last resort, while alternative sanctions such as warnings, conditional sentences, job training, and institutional guidance are prioritized. This provision demonstrates the commitment of juvenile criminal law to avoid a punitive approach as the primary response to children's misconduct.²⁶ Furthermore, Article 82 provides room for the application of non-penal measures, such as returning the child to their parents or guardians, imposing an obligation to participate in education or training programs, and placement in specific care institutions. In the context of bullying, these provisions offer flexibility for law enforcement authorities to adopt responses that are educational and rehabilitative in nature; however, in practice, such approaches remain infrequently utilized due to the prevailing dominance of conventional punitive paradigms.²⁷

A concrete illustration of the complexity of handling bullying can be observed in the case of bullying against a junior high school student in Sawangan, Depok, whose video circulated widely on social media. The incident originated from mutual insults exchanged in a WhatsApp group and subsequently escalated into physical violence in the offline setting, reflecting a pattern of conflict escalation from digital spaces to social environments.²⁸ This case demonstrates that bullying among children frequently occurs within the context of ongoing social relationships, such that resolution through formal criminal mechanisms risks prolonging the

²⁶ Desy Rizky Mahrunnisa and Rasdi Rasdi, "Optimizing the Imposition of Conditional Sentences for Children Through the Role of Community Research Reports," *Legitimacy: Journal of Criminal Law and Legal Politics* 14, no. 1 (2025): 91–107, <https://doi.org/10.22373/legitimasi.v14i1.30452>.

²⁷ Mulyadi, Dr Lilik, and M. H. Sh. *Bunga rampai hukum pidana umum dan khusus*. Penerbit Alumni, 2023.

²⁸ Tempo.co, "Video Viral Bullying Siswi SMP di Sawangan Diawali Saling Ejek di WA," *Tempo*, 31 Oktober 2023, <https://www.tempo.co/arsip/video-viral-bullying-siswi-smp-di-sawangan-diawali-saling-ejek-di-wa-126203>.

conflict and generating long-term stigmatization for the child perpetrator. Normatively, cases of this nature are more appropriately addressed within the framework of the Juvenile Criminal Justice System by prioritizing diversion and restorative justice, involving the perpetrator, the victim, parents, the school, and professional facilitators to achieve victim recovery, offender accountability, and the reconstruction of social relationships.

The Implementation of Legal Protection in Finland

Finland adopts a child protection approach that is consistently oriented toward prevention and rehabilitation. Such protection is grounded in the Convention on the Rights of the Child and is implemented through national education policies and the student welfare system. Within this framework, bullying is understood as an issue of children's social development requiring systemic and sustained intervention, rather than merely as a legal violation to be resolved through criminal punishment. This approach positions criminal law as an *ultimum remedium*, ensuring that children are not automatically criminalized for bullying behavior that can still be addressed through educational and social welfare mechanisms.²⁹

This preventive approach is reflected in Finland's education policy, which obliges schools to provide a safe and violence free learning environment. Various empirical studies conducted over the past five years indicate that bullying behavior in Finland is influenced by individual, relational, and institutional factors, including school climate, peer relationships, and teachers' capacity to carry out early interventions. In practice, Finland implements school based anti bullying programs that are systematically designed and periodically evaluated. Official government evaluations of various anti bullying methods during the 2021–2022 period demonstrate that schools consistently implementing such programs experienced a decline in the prevalence of bullying, whether physical,

²⁹ Eerika Johander, "Different Approaches to Address Bullying in KiVa Schools : Adherence to Guidelines , Strategies Implemented , and Outcomes Obtained," 2021, 299–310.

verbal, or cyberbullying, compared to schools lacking a clear preventive framework.³⁰

Such effectiveness is strongly influenced by the quality of implementation fidelity. Schools that implement programs comprehensively and on a sustained basis demonstrate better outcomes compared to those applying them only partially. This condition underscores that the mere existence of policy is insufficient, and it must be supported by institutional commitment and adequate monitoring mechanisms.³¹ The level of teachers' confidence and competence in addressing bullying also significantly affects the success of interventions within schools.³²

The approach to legal protection for children as perpetrators of bullying in Finland demonstrates a fundamentally different orientation when compared to Indonesia. Conceptually, the Finnish system does not position bullying as an issue that must immediately be brought into the realm of criminal law, but rather as a social and educational problem requiring early, sustained, and school based intervention. Within this framework, criminal law functions as an *ultimum remedium*, while the primary instruments of child protection are directed toward preventive policies, psychosocial support, and the institutional responsibility of schools. In contrast to Indonesia, which continues to combine penal and restorative approaches in an inconsistent manner, Finland constructs its child protection system through an integrated preventive, school centered, and psychosocial model.

The effectiveness of Finland's approach, from a sociological perspective, is inseparable from several key factors. First, bullying is understood as part of children's social developmental dynamics, such that the responses

³⁰ C. Kärnä, A. Voeten, M., Little, T.D Poskiparta, E., Kaljonen, A., & Salmivalli, "A Large-Scale Evaluation of the KiVa Antibullying Program: Grades 4–6," 2011, 1–5.

³¹ Sanna Herkama et al., "Facilitators and Barriers to the Sustainability of a School - Based Bullying Prevention Program," *Prevention Science*, 2022, 954–68, <https://doi.org/10.1007/s11121-022-01368-2>.

³² Juha Kokkonen, Arto Gråstén, and Marja Kokkonen, "Relationships between Teachers' Self - Efficacy and Inter - Student Bullying in Finnish Physical Education," *International Journal of Bullying Prevention*, no. 0123456789 (2024), <https://doi.org/10.1007/s42380-024-00280-3>.

provided emphasize behavioral formation, empathy, and social responsibility rather than punishment. Second, interventions are carried out collectively through the involvement of teachers, school counselors, psychologists, and social workers, thereby ensuring that child perpetrators of bullying are not positioned as personally problematic individuals, but as part of a broader social relational system requiring improvement. Third, anti bullying policies in Finland are supported by a high level of trust in educational institutions and educators, enabling teachers to intervene without fear of excessive legal consequences.

A number of empirical studies demonstrate that the school based approach in Finland, particularly through national programs such as the KiVa Anti Bullying Program, has proven effective in reducing the prevalence of bullying and preventing the recurrence of such behavior. The implementation of KiVa not only decreases the frequency of bullying but also enhances students' affective and cognitive empathy, including among children who previously acted as perpetrators. The program emphasizes transformation of peer group norms rather than mere individual correction, thereby influencing the overall social climate of the school. Schools that implement anti bullying programs comprehensively and sustainably produce significantly greater impact compared to partial implementation. This confirms that the effectiveness of child protection is determined not merely by the existence of policies or legal norms, but by the quality of implementation and institutional commitment.³³

Nevertheless, the Finnish model cannot be wholly implemented in Indonesia without adaptation. Differences in school capacity, teacher and counselor ratios, disparities in psychosocial services, and the severity of certain bullying cases constitute structural challenges. Therefore, the adoption of a preventive approach must be carried out selectively while maintaining the existing framework of the Juvenile Criminal Justice System

³³ Sara Kovanen, "Koulun Sosiaalityö Koulukiusaamista Vastustamassa," *Master's Thesis, Itä-Suomen Yliopisto*, 2024.

and the Child Protection Law. The principal lesson from Finland does not lie in eliminating the role of criminal law, but rather in shifting the focus toward a protection system grounded in prevention, early intervention, and integrated rehabilitation.

2. A Prospective Model of Legal Protection for Child Perpetrators of Bullying in Indonesia

Finland's experience demonstrates that the reduction of bullying rates is not primarily determined by the severity of criminal provisions, but rather by policies designed in an integrated manner that combine school based prevention, early intervention, student welfare support, and continuous evaluation systems. Assessments of national programs such as KiVa indicate significant outcomes, including a decrease in bullying practices and an increase in students' willingness to defend victims, particularly when the program is implemented consistently and in accordance with established standards of implementation. This demonstrates that effective handling of bullying requires comprehensive and sustainable policies, rather than reliance solely on the regulation of criminal sanctions.³⁴

Based on these findings and the realities in Indonesia, where legal instruments on child protection and the Juvenile Criminal Justice System are already in place but have not yet been implemented in an integrated manner, an ideal model of legal protection should be directed toward achieving two primary objectives simultaneously. First, preventing the occurrence of bullying through interconnected education and child welfare policies. Second, where bullying nevertheless occurs, the response provided should prioritize recovery, rehabilitation, and social reintegration of the child, rather than immediately resorting to criminal punishment. Various systematic and meta analytic studies on school based interventions affirm

³⁴ Claire F Garandean et al., "Effects of the KiVa Anti-Bullying Program on Defending Behavior: Investigating Individual-Level Mechanisms of Change," *Journal of School Psychology* 99, no. July (2023): 101226, <https://doi.org/10.1016/j.jsp.2023.101226>.

that comprehensive approaches involving teacher training, the integration of anti bullying curricula, as well as the involvement of parents and cross sectoral actors have proven most effective in reducing the incidence of bullying.³⁵

In juvenile justice practice, strengthening the implementation of diversion and restorative justice in handling bullying cases constitutes a necessity that cannot be overlooked. A number of studies on restorative justice in juvenile criminal cases demonstrate its capacity to reduce the negative impacts of legal stigmatization while encouraging offenders to assume responsibility for their actions. However, the success of this approach is largely determined by the preparedness of mediators and social workers, as well as the existence of a continuous monitoring system following the conclusion of an agreement. Therefore, diversion mechanisms must be complemented by clear procedures, measurable recovery benchmarks, and access to psychosocial services to ensure that their implementation does not end as a mere formality of meetings.³⁶

The effectiveness of bullying prevention programs is also highly dependent on the quality of policy implementation in practice. Without adequate teacher training, continuous supervision, and institutional commitment from educational institutions, program impact tends to weaken and lack long term sustainability. Empirical evidence indicates that schools implementing anti bullying programs comprehensively and consistently experience a more significant reduction in bullying cases compared to schools that apply only selected components of such programs. Therefore, the future direction of legal protection in Indonesia must incorporate funding support, nationwide training initiatives, and

³⁵ Hannah Gaffney, Maria M Ttofi, and David P Farrington, "Effectiveness of School - Based Programs to Reduce Bullying Perpetration and Victimization : An Updated Systematic Review and Meta - Analysis," 2021, <https://doi.org/10.1002/cl2.1143>.

³⁶ Ernesto Lodi et al., "Use of Restorative Justice and Restorative Practices at School : A Systematic Literature Review," 2022.

standardized evaluation systems as integral obligations in policy implementation.

Within this framework, criminal law must be positioned proportionately as a measure of last resort. Penal provisions as stipulated in the Child Protection Law remain necessary for addressing severe violence or repeated misconduct, yet initial responses to bullying should be directed toward prevention, early detection, diversion, therapeutic intervention, and recovery evaluation. Effective policy likewise requires cross sectoral data integration involving schools, mental health services, child protection institutions, and law enforcement authorities to ensure that responses are prompt, measurable, and interdisciplinary in nature.

In line with the foregoing discussion, future legal protection for children as perpetrators of bullying in Indonesia should be oriented toward an approach that balances penal and non penal instruments. Such an approach is essential given that current practices in handling bullying remain predominantly reactive and sanction oriented, while rehabilitation and the long term psychological and social impacts on children have not yet received sufficient attention. Accordingly, the ideal direction of legal protection policy must be grounded in the best interests of the child, recovery, and the prevention of recurrent misconduct.

Strengthening non penal approaches based within educational institutions should be positioned as the principal pillar in the prevention and handling of bullying. Drawing from the Finnish experience, schools should not be viewed merely as locations where bullying occurs, but as key institutions for prevention, early detection, and early intervention. In the Indonesian context, this approach may be realized through the implementation of standardized anti bullying programs, continuous capacity building for teachers and educational personnel, and the provision of counseling services for both perpetrators and victims. This school based

approach has proven more effective than legal responses that focus exclusively on punishment.

Furthermore, optimizing diversion mechanisms and restorative justice within the Juvenile Criminal Justice System must become a sustained policy priority. Child perpetrators of bullying who meet certain criteria should first be directed toward out of court settlement through mediation and restorative justice, involving the victim, families, schools, and professional facilitators. This approach emphasizes offender accountability and the restoration of social relationships rather than punishment. To function effectively, such mechanisms require clear operational standards, post agreement supervision, and continuous psychosocial support.

Aligning child protection policies with the direction of national criminal law reform as stipulated in Law Number 1 of 2023 concerning the Criminal Code also constitutes a crucial element. The law affirms sentencing objectives oriented toward prevention, restoration of social balance, and respect for human dignity. In the context of bullying committed by children, this provision provides a normative basis for limiting the use of imprisonment and expanding the application of non custodial sanctions, such as supervision and community service, thereby ensuring that criminal law truly functions as a last resort.

In addition, strengthening cross sectoral coordination among schools, law enforcement authorities, and child protection institutions is a fundamental prerequisite for the effectiveness of legal protection. To date, weak coordination has resulted in partial and inconsistent handling of bullying cases. An integrated approach requires clear cooperation mechanisms, including data sharing, psychosocial service referrals, and well defined institutional roles. Effective coordination not only enhances the quality of case handling but also prevents the stigmatization of child perpetrators of bullying.

By integrating school based prevention, strengthening restorative justice, and supporting a more humane sentencing framework as provided under the new Criminal Code, legal protection for children as perpetrators of bullying in Indonesia can be directed toward a system that is more preventive, rehabilitative, and sustainable. This approach is not only consistent with international best practices but also aligned with the national legal system, thereby ensuring fair protection for children while safeguarding the interests of victims and society.

Prospectively, the model of legal protection for children as perpetrators of bullying in Indonesia should be oriented toward a more integrated approach emphasizing prevention and rehabilitation rather than merely reactive responses after incidents occur. Practical experience demonstrates that handling cases solely through law enforcement authorities often produces partial solutions that fail to address the root causes of the problem. Consequently, a multi actor model is required, involving the police, prosecution service, schools, psychologists or counselors, and child protection institutions within a coordinated and sustainable framework.

The roles of the police and prosecution service remain important as guardians of legal certainty, yet their function should focus on case screening and initial decision making that is sensitive to the child's condition. Law enforcement authorities must not only assess the fulfillment of criminal elements, but also consider psychological factors, social relationships, and the possibility of resolution through diversion and restorative justice mechanisms. Schools should be positioned at the forefront of prevention and early intervention, given that bullying generally occurs within social relationships in educational settings. Meanwhile, psychologists and counselors ensure that the handling of child perpetrators encompasses behavioral guidance and psychosocial recovery rather than merely legal aspects. This approach aligns with findings that appropriate psychosocial intervention is more effective in preventing recidivism than punishment alone.

National criminal law reform through Law Number 1 of 2023 concerning the Criminal Code and Law Number 20 of 2025 concerning the Criminal Procedure Code reinforces the urgency of such an integrative model. The new Criminal Code affirms sentencing objectives oriented toward prevention, restoration of social balance, and respect for human dignity, thereby limiting the use of imprisonment for children. The new Criminal Procedure Code likewise emphasizes substantive due process of law, including the obligation of authorities to consider the vulnerability of children at every stage of legal proceedings. This policy direction provides broader space for the application of non custodial sanctions and restorative approaches for child perpetrators of bullying.

Narratively, the prospective legal protection flow may be described as follows: allegations of bullying are initially addressed by schools through preventive and guidance mechanisms, if the conduct persists or results in serious harm, a psychosocial assessment is conducted involving parents and professional facilitators, subsequently, if the matter enters the legal domain, law enforcement authorities prioritize diversion and restorative justice with the support of psychologists and social workers, and only under specific circumstances is the case brought before formal judicial proceedings, with imprisonment imposed strictly as a last resort. This model affirms that effective legal protection for child perpetrators of bullying can only be achieved through consistent cross sectoral coordination oriented toward the best interests of the child, without neglecting the rights of victims.

Conclusion

The implementation of legal protection for child perpetrators of bullying in Indonesia, from a normative perspective, already possesses a relatively comprehensive foundation through the Juvenile Criminal Justice System Law and the Child Protection Law, both of which emphasize diversion,

restorative justice, and the limitation of imprisonment as an *ultimum remedium*. However, at the level of implementation, inconsistencies remain evident, particularly in the quality of diversion practices, the provision of psychosocial assistance, and coordination among relevant actors. By contrast, Finland demonstrates a more preventive orientation by positioning schools and the welfare system at the forefront, while criminal law functions strictly as a last resort. This comparison indicates that the effectiveness of legal protection for child perpetrators of bullying depends not merely on the completeness of legal norms, but on policy consistency and the quality of their implementation.

Based on these findings, the future model of legal protection for child perpetrators of bullying in Indonesia should be directed toward strengthening school based preventive approaches, optimizing substantive diversion, enhancing the role of community counselors, and integrating the legal system with sustained psychosocial support. Criminal law remains necessary as a safeguard of last resort, yet it must be applied proportionately and with sensitivity to children's developmental conditions. In this manner, legal protection does not end at formal procedures, but genuinely ensures rehabilitation, social reintegration, and balanced justice for both child perpetrators and victims.

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