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## DISPARITY OF BULLYING CRIMINAL SANCTIONS REGARDING VICTIM PROTECTION

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**Abstract:** *The disparity in the judge's considerations that occurred regarding the two decisions regarding the criminal act of bullying was due to the fact that the judge had the authority to impose a sentence based on the chronological background and aim and cause of the criminal act. As well as other reasons, such as the law which in essence only provides provisions for minimum and maximum limits of sanctions, which means that the nature of the sanctions is uncertain, apart from that, the methods used for criminal acts are different, even though the case is the same, the impacts caused are also different and not the same. , as well as the consideration of the panel of judges in several situations during the course of the trial, also considering and paying attention to the condition of the defendant. As in the Child Protection Law, it provides special protection guarantees for children who are in conflict with the law, whether children as victims or children as perpetrators, especially in cases of bullying. Victimology recognizes the rights of victims. This point of view is very important because bullying is seen as something that happens in childhood and is not seen as a problem. Despite the fact that bullying has very real effects, the rights of victims have not been widely recognized from this perspective. Because witness and victim protection institutions only exist at the center and do not yet exist in the regions, Law Number 31 of 2014 concerning Witness and Victim Protection cannot be implemented effectively to handle victims and accompany them during the legal process. so that only relevant organizations and the police can protect witnesses and victims.*

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## INTRODUCTION

Bullying or what is better known as bullying is a phenomenon that is familiar in Indonesia and abroad. The parties involved are usually school age children, until now the practice of bullying is still widespread in elementary to senior level schools, it is even possible that bullying practices are still carried out at the university level, although in relatively small numbers. Some of the perpetrators and victims come from people who are educated, so we can be sure that these perpetrators have received sufficient education to be able to introduce that bullying is something that can have an impact on the victims. Of

course this is a big question for all groups, child and adult perpetrators. given informal education through their parents, or taking formal education, they should be able to think again about whether the act of bullying is justified and think about what impact it will have on the victim of bullying.

The worrying impact of bullying is that it can cause someone to have the desire to commit suicide. It cannot be denied that bullying has quite a "terrifying" impact, especially for those who are victims of bullying repeatedly or are victims of physical bullying. Physical bullying can usually be recognized by signs of violence such as bruises. Apart from physical bullying, there is also verbal bullying. This type of bullying is more difficult to identify because there are no signs that can be seen with the naked eye to identify verbal bullying. Even though it is not clearly visible, this does not mean that bullying is not dangerous for the victim. This type of bullying This verbal attack actually attacks psychologically, which if left without special treatment can also cause someone to have a strong desire to commit suicide.

In general, bullying is divided into three categories, namely physical, verbal or oral and anti-social. Physical and verbal bullying is referred to as actions that annoy or annoy the victim directly, such as insulting them, calling them certain names, hitting or injuring them. However, bullying in the anti-social category is an act carried out indirectly against the victim, such as excluding someone from a group of friends or forcing everyone to distance themselves from various activities and social interactions.

Currently, there are many cases of bullying in society, the most frequent cases of bullying that occur against children are in the educational/school environment. The perpetrators of bullying are usually only their own friends who intimidate/taunt the victim so that the victim becomes annoyed.

An even worse negative impact is that victims of bullying will experience depression and even feel suicidal. Bullying must be avoided because if, for example, it happens at school, the victim will think about not going to school because at school he will be bullied by the perpetrator. Apart from that, if bullying happens to a child, it can cause the child's performance to decline because they feel pressured by being frequently bullied by the perpetrator.

In Indonesian law, bullying itself has not been regulated in law or specific regulations that regulate it because bullying itself is broad in nature. However, if you look at the subject matter of the case, the elements of the criminal act of bullying can be charged with the articles listed in the Criminal Code, namely articles 310, 315, namely regarding insults, article 351 regarding abuse, article 368 regarding extortion and threats.

If a criminal act of bullying occurs, a minor perpetrator can be charged with the legal basis regulated in Law Number 35 of 2014 concerning amendments to Law No. 23 of 2002 concerning Child Protection, namely article 54, article 76 A, article 76 C and article 80.

BullyingAlso, it doesn't only focus on direct or verbal actions, but bullying can occur through electronic media such as social networks. Acts of bullying for perpetrators on social media can be charged on the legal grounds regulated in Law Number 19 of 2016 concerning Information and Electronic Transactions, namely article 27 paragraph 3 and article 27 paragraph 4.

There is a need for prevention and mitigation efforts so that victims feel that their rights are fulfilled and that perpetrators do not repeat criminal acts of bullying because sanctions provide sufficient deterrent effect, as well as finding criminal law formulations that can overcome or reduce the number of criminal acts of bullying in Indonesia. Bullying cases still receive little attention. Victims of bullying in Indonesia are not recognized by the perpetrators of bullying. Victims of bullying can only remain silent, surrender, and cannot respond. Victims of bullying still receive very little protection.

Based on the description above, the problem formulation is:

1. How Disparity in Sanctions for Criminal Bullying Against Victim Protection?
2. How does victimology relate to Victims' Rights? Criminal Act of Bullying?

## LITERATUR REVIEW

### 1. Definition of Bullying

Bullying comes from English, where the word bully is interpreted in Indonesian as meaning to bully or disturb. According to Olweus, bullying is repeated negative behavior that is intended to cause displeasure or pain by another person, either one or several people, directly towards someone who is unable to resist it.<sup>1</sup>

According to the American Psychiatric Association (APA), bullying is aggressive behavior which is characterized by 3 conditions, namely (a) negative behavior that aims to damage or harm (b) behavior that is repeated over a certain period of time (c) there is an imbalance of power or authority between the parties which are involved.<sup>2</sup>

According to Coloroso, bullying is an act of intimidation carried out repeatedly by a stronger party against a weaker party, carried out deliberately and with the aim of hurting the victim physically or emotionally.<sup>3</sup>

Rigby stated that bullying is aggressive behavior that is carried out repeatedly and continuously, there is an unequal power between the perpetrator and the victim and the aim is to hurt and cause feelings of stress for the person.  
the victim.<sup>4</sup>

The definition of aggression itself is an attack, invasion or hostile action directed at a person or object. Meanwhile, aggressiveness itself is a habitual tendency to display extreme hostility, social dominance, and social power.

Based on Kalliotis' research, he stated that this bullying often occurs in the school environment due to isolation carried out by peers due to differences in students' social and economic levels.

From the several theories above, it can be concluded that bullying is negative behavior carried out by a stronger party against a weaker party by using or not using tools with the aim of making them feel stressed both physically and emotionally.

<sup>1</sup>Olweus, *Bullying at School*, Blackwell, Australia, 2004, p. 9.

<sup>2</sup>American Psychiatric Association, *Diagnostic and Statistical Manual of Mental Disorders*, Fourth Edition, Text Revision, Arlington VA, 2000., p. 36

<sup>3</sup>Barbara Coloroso, *Stop Bullying (Breaking the Chain of Child Violence from Preschool to High School)*, PT. Pledge of Mandiriabadi, Jakarta, 2017, p. 39

<sup>4</sup>PR Astuti, *Reducing Bullying (3 effective ways to overcome violence against children)*, PT. Grasindo, Jakarta, 2018, p. 11

## 2. Characteristics of Bullying Perpetrators and Victims

According to Olweus, the characteristics of bullying victims (victims) are that victims are individuals who are passive, anxious, weak, lack self-confidence, are less popular and have low self-esteem. Typical victims of bullying are also socially anxious children or teenagers

withdrawn, isolated from his peer group and physically weaker than most of his peers. Meanwhile, bullies are usually strong, dominant and assertive and usually the perpetrators also show aggressive behavior towards parents, teachers and other adults.

Meanwhile, according to Olweus, bullies are usually strong, aggressive, impulsive, show a need or desire to dominate and show violence. According to Murphy, certain characteristics that are typical of victims of bullying are their different appearance or having different habits in everyday behavior. Some victims were "chosen" because of their different sizes. They are considered physically smaller than most children, taller than most children, or experiencing overweight.<sup>5</sup>

According to Surelina's journal, victims and perpetrators have distinctive characteristics. The characteristics of victims of bullying are those whose daily appearance and behavior are different, their physical body size is smaller, taller, or heavier than most children or teenagers their age. Coming from an ethnic, religious or cultural background that is different from most children or teenagers in their environment, having special abilities or talents, limited abilities, for example attention deficit hyperactivity disorder (ADHD), background disorders, retardation mental, and others.

Generally, children or teenagers who are victims of bullying are anxious, easily nervous, always feel insecure, shy, quiet, have low self-esteem, have physical or mental disabilities, behavioral problems or neurological development disorders.

Meanwhile, the characteristics of children or teenagers who bully are hyperactive, aggressive, destructive, enjoy domination over other children or teenagers, tend to be angry, easily offended, and have a low tolerance for frustration. They also tend to have difficulty processing social information so they often incorrectly interpret the behavior of other children or teenagers as hostile behavior even when the hostile attitude is directed at other children or teenagers.

From the explanation above, it can be concluded that the characteristics of perpetrators and victims of bullying are as follows:

### a. Perpetrator

Psychologically, the perpetrator is more aggressive, hyperactive, destructive, has a domineering nature, is easily irritated, and has a low sense of tolerance. Physically stronger and has communication skills. Socially it has a large amount of time.

### b. Victim

Psychologically, the victim has different abilities, experiences learning obstacles such as slow learner, Down syndrome, mental retardation, etc., has an anxious nature, is easily nervous, always feels insecure, is shy, quiet, has low self-esteem. Physically there are

<sup>5</sup>Nurul Hidayati, "Bullying in Children: Analysis and Alternative Solutions", INSAN, Faculty of Psychology, Muhammadiyah University Gresik, Vol.No. 01, (April 2012), p. 43

differences in terms of height, weight, skin color, speaking style, appearance, etc. Socially, there are differences in ethnicity, social strata, religion, etc.

### 3. Bullying Factors

The emergence of this behavior can be caused by several factors so that the perpetrator intervenes to carry out bullying behavior on the victim. Actually, children are not taught to behave in bullying ways. This behavior is also not taught directly to children. There are various factors that influence a child to develop into a bully.

These factors include biology and temperament, the influence of family, friends, and the environment. Research shows that a combination of individual, social, environmental risk, and protective factors interact to determine bullying behavior.<sup>6</sup>

School environmental factors provide opportunities for bullies, so that in the right situation and conditions, the perpetrator carries out his bullying actions. According to Djuwita, this situation is supported by the division of roles in bullying behavior. These roles are: Bully, Assistant Bully, Reinforcer, Victim, Defender and Outsider. Bullies, namely students who are categorized as leaders, who take the initiative and are actively involved in bullying behavior. The assistant is also actively involved in bullying behavior, but he tends to depend or follow the bully's orders.

Reinforcers are those who are there when bullying occurs, witness it, laugh at the victim, provoke the bully, invite other students to watch and so on. Outsiders are people who know that it is happening, but don't do anything, as if they don't care.

Apart from that, this also happens because bullies do not receive negative consequences from the teacher/school, so from a learning theory perspective, bullies receive rewards or reinforcement from their behavior. The bully will perceive that his behavior is justified and even gives him a proud social identity.

Outsider parties, such as teachers, students, people who work at schools, parents, even though they know about it but don't report it, don't prevent it and just let this tradition go on because they feel that this is normal, actually also play a role. maintaining the proliferation of bullying in schools.

As time goes by, when the victim feels that his social status has risen (because he has been promoted) and has been "liberated through informal initiation activities" by the bully group, the victim turns into a bully, assistant or reinforcer to take out his revenge.

So the factors of bullying behavior consist of individual factors such as temperament and biology. Factors from outside the individual are the influence of family, friends and the environment.

### 4. Forms of Bullying

There are three forms of bullying according to Coloroso, namely:<sup>7</sup>

#### a. Verbal bullying (verbal bullying)

Words can be used as a tool to break the spirit of the child who receives them.

Verbal abuse is the most common form of bullying used by both boys and girls. This can

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<sup>6</sup>Herson Verlinden & Thomas, "Bullying Behavior: Multidimensional Assessment and Social Intervention" in Journal of Psychology, Undip Vol. 11, no. 2, October 2012.

<sup>7</sup>Barbara Coloroso, op, cit, p. 38

happen to adults and peers without being detected. Verbal bullying can take the form of shouting and audible commotion.

This is quick and painless for the bully and can be very painful for the target. If verbal bullying is condoned, it will become normal and the target will become dehumanized. When someone becomes dehumanized, it will be easier for that person to be attacked without getting protection from people around who hear it.

Verbal bullying can take the form of name-calling (nicknames), taunting, belittling, cruel criticism, personal defamation, racist slurs, sexually suggestive or sexually abusive remarks. rough).

#### b. Physical bullying (physical bullying)

The most visible and easiest form of bullying to identify is physical bullying. This form includes slapping, hitting, choking, poking, punching, kicking, biting, scratching, twisting, spitting on, or damaging the victim's clothing or belongings.

#### c. Relational bullying (bullying in a relationship)

This form is the most difficult to detect. Relational bullying is a systematic reduction of a person's sense of self through neglect, isolation, exclusion, avoidance. Avoidance, as a behavior of omission, carried out along with rumors is the most powerful way of bullying.

Relational bullying most often occurs in the middle years, with a teenage onset accompanied by physical, mental, emotional, and sexual changes. At this time, teenagers often describe who they are and try to fit in with their peers.

## 5. Disparity

Disparity is: Big Indonesian Dictionary, disparity is difference or distance.<sup>8</sup> According to Black's Law Dictionary, disparity is inequality or a difference in quantity or quality between two or more things,<sup>9</sup> Free translation, disparity is inequality or difference in quantity or quality between two or more things. Apart from that: (Disparity of Sentencing) namely the application of crimes that are not the same for the same criminal act (Sane Offence) or for criminal acts whose dangerous nature can be compared (Offences of Comparable Seriousness) without a clear justification.<sup>10</sup>

Then the impact of the disparity in the judge's decisions is that there are several possibilities. Of course, for society, criminal disparity in a sense that does not provide any basis:

- 1) Can create distrust in society.
- 2) There is a feeling of dissatisfaction because they are not treated the same as other perpetrators.
- 3) Then it gives rise to a sense of injustice
- 4) Causing hatred towards the system, especially in the judiciary.

<sup>8</sup>Hasan Alwi et. al., Big Indonesian Dictionary, Department of Education Balas Pustaka, Jakarta, 2002, p. 270.

<sup>9</sup>Bryan Garner, Black's Law Dictionary, St. Paul Minn., 1999, p. 482

<sup>10</sup>Yusti Probawati Rahayu, Behind the Judge's Decision (Study of Legal Psychology in Criminal Cases). Citra Media, Sidoarjo, 2015, pp.38-39

5) Can produce distrust of law enforcement officials in the Criminal Justice System. Criminal disparity will have fatal consequences, if it is related to "Correction Administration". A convict who, after comparing the crimes, then feels that he is a victim of "The Judicial Caprice", will be a convict who does not respect the law, even though respect for the law is one of the targets in the purpose of punishment.<sup>11</sup>

Regarding the explanation above, the public will of course compare the judge's decisions in general and find that disparities have occurred in law enforcement in Indonesia. Disparity in judges' decisions will have fatal consequences if it is related to public trust. Because, if this is not addressed and minimized, it can have a wide impact, namely distrust of judicial institutions, then public dissatisfaction due to the injustice of judges in handing down criminal decisions. Especially for convicts, who feel they are treated unfairly compared to other convicts.

Apart from that, Harkristuti Harkrisnowo stated that criminal disparities can occur in several categories, namely:

- 1) Disparity between the same criminal acts.
- 2) Disparity between criminal acts that have the same level of seriousness.
- 3) Disparity in sentences handed down by a panel of judges.
- 4) Disparity between sentences imposed by different panels of judges for the same crime.

Based on Harkristuti Harkrisnowo's opinion, it is possible to find a place where disparities have grown and become historical in law enforcement in Indonesia. Disparity does not only occur regarding the same criminal act, but also in the level of seriousness of the criminal act, and also in the judge's decision, both in one panel of judges and in different panel of judges in the same case. The reality regarding the scope for growing disparities creates inconsistencies in the judicial environment.

The view regarding criminal justice disparities is a justification with the stipulation that criminal disparities must be based on clear and justifiable reasons. This view is in line with the principle of the judge's freedom in making decisions on cases submitted to him. This view is also a form of reflection in which judges, in their efforts to maintain legal authority, must be able to be accountable for the decisions they produce by providing correct and reasonable reasons for the cases they examine. If this is implemented, logically the disparities in criminal justice will be accepted by the parties concerned and society at large. It is true that judges have the power to determine penalties, but if this continues, it will create a sense of distrust in the community and a situation where there will be a feeling that if you commit a criminal act, you will only be punished like other people are given light sanctions even though they have committed a serious violation of the law.

## 6. Protection of Crime Victims

Protection is a right obtained by both the perpetrator and the victim which has been regulated in the law when facing the incident of a criminal act. In this case, especially for children who are victims. In accordance with Article 1 point 8 of Law Number 31 of 2014 concerning Amendments to Law Number 13 of 2006 concerning Protection of Witnesses and Victims, that protection is

<sup>11</sup>Muladi and Barda Nawawi Arief, Criminal Theories and Policies, Alumni, Bandung, 2018, p. 54

all efforts to fulfill rights and provide assistance to provide a sense of security to Witnesses and/or Victims which must be carried out by LPSK or other institutions in accordance with the provisions of this Law.

Legal Protection is all efforts to fulfill rights and provide assistance to provide a sense of security to witnesses and/or victims, legal protection for crime victims as part of community protection, can be realized in various forms, such as through the provision of restitution, compensation, medical services and legal aid.

Protection for Witnesses and/or Victims is provided from the start and end of the investigation stage in accordance with the provisions as regulated in Law Number 31 of 2014 Article 8 paragraph 1. Legal protection for the community is very important because the community, both groups and individuals, can become victims or even as a criminal. Legal protection for crime victims as part of protection for the community, can be realized in various forms, such as through the provision of restitution and compensation, medical services and legal assistance.<sup>12</sup>

If the principles and objectives of protection are implemented well, not only victims and witnesses will receive protection, but more broadly. Of course the community, nation and state are protected and the state is considered to have carried out its obligation to protect its citizens well. This is one of the state's goals as stated in the Preamble to the 1945 Constitution.<sup>13</sup>

From a state perspective, the state protecting its citizens, including children, can be found in the preamble to the 1945 Constitution, which is reflected in paragraph IV, in the elaboration of CHAPTER XA concerning Human Rights, especially for the protection of children, Article 28B paragraph (2 ) The 1945 Constitution states that every child has the right to survival, growth and development, and the right to protection from violence and discrimination.<sup>14</sup>

## RESEARCH METHODS

The research method is descriptive analytical, namely describing the problems and facts that occur based on positive legal norms, namely the laws related to this research.

The approach method is normative juridical, namely using positive legal norms relating to the Disparity in Sanctions for Criminal Acts of Bullying on Victim Protection.

Data analysis was carried out qualitatively, meaning without using numbers and statistical formulas.

## RESULT AND DISCUSSION

The basis for the judge's consideration is Law no. 48 of 2009 concerning judicial power in Article 1 states that judicial power is the power of an independent state, therefore judges are given the freedom to responsibly make decisions. The decision then becomes the

<sup>12</sup>Rena Yulia, Legal Protection for Crime Victims, Graha Ilmu Publishers, Yogyakarta, 2016, p. 178

<sup>13</sup>Bambang Waluyo, Victimology: Protection of Victims and Witnesses, Sinar Graphic Publishers, Jakarta, 2016, p. 39

<sup>14</sup>Irwan Safaruddin Harahap, "Legal Protection for Sexual Crime Victims in a Progressive Legal Perspective", Law Journal, 10.18196 /jmh.2015.066.37-47, 2016, p.41

first appearance of the court, because the decision contains the legal considerations made by the judge which then become a representation of the authority of the court.

The better the quality of the decision, in other words the better and more comprehensive the legal considerations, the more authoritative the court is.<sup>15</sup>As is true, judges in Indonesia are bound by the applicable legal system, but judges in Indonesia are not bound by jurisprudence as precedent as is the case in England and America. This means that judges have the freedom to review the decisions they have made, whether they are still worth maintaining in light of changes in values in society related to the growth of society's sense of justice. Meanwhile, judges are obliged to judge, follow and understand legal values that grow and develop according to their sense of justice.<sup>16</sup>With that, judges in Indonesia not only apply the law as a mouthpiece in the law but also make discoveries and formations in the law.

Regarding the judge's considerations, what will be done after proof. The judge gave his decision regarding the following matters:

- a. The decision regarding the incident, whether the defendant has committed the act accused of him.
- b. Decisions regarding the law, whether the action committed by the defendant constitutes a criminal act and whether the defendant is guilty and can be punished.
- c. The decision regarding the crime, if the defendant can indeed be punished.

In the basic theory of a judge's consideration, namely a good and perfect judge's decision, the decision should be tested using 4 basic question criteria (The Four Way Test) in the form of:

- a. Is my verdict correct?
- b. Am I honest in making decisions? c. Is it fair to the parties to the decision?
- d. Is my decision useful?

In relation to what was asked above, according to the author, in this case the judge's considerations are the basis or basis for the judge to decide a case in court. Judges must also consider including certain articles from the regulations in question or sources of unwritten law which are used as a basis for exploring the legal rules that live and develop in society and what constitutes the development of law in society.<sup>17</sup>

Bullying will have a very detrimental impact, not only for the victim but also for the perpetrator. According to Coloroso, bullies will be trapped in the role of the perpetrator of bullying, they will not be able to develop healthy relationships, will be less skilled at looking at things from another perspective, will not have empathy, and will think that they are strong and liked, which can affect their social relationship patterns in the future. come.<sup>18</sup>

Meanwhile, the negative impact for the victim is that feelings of depression and anger will arise. They are angry with themselves, the bully, adults and the people around them because they can't or won't help them. This then began to affect the academic performance of the victims. They may retreat further into isolation because they are unable to control their lives in constructive ways.

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<sup>15</sup>M. Natsir Asnawi, *Hermeneutics of Judges' Decisions*, Jogja, UII Press, 2014, p. 4

<sup>16</sup>Syarif Marpiase, *Legal Logic of Considering Judges' Decisions*, Prenadamedia group, Jakarta, 2015, p. 101

<sup>17</sup>Lilik Mulyadi, *Judicial Power*, Bina Ilmu, Surabaya, 2017, p.136

<sup>18</sup>Barbara Coloroso, *op. cit.*, p. 57

Victims of bullying tend to feel afraid, anxious, and have lower self-esteem than children who are not victims of bullying. Duncan also stated that when compared with children who are not victims of bullying, victims of bullying will have low self-esteem, low self-confidence, poor self-assessment, high levels of depression, anxiety, incompetence, hyper sensitivity, feeling insecure, panic and nervous in school, disturbed concentration, rejection by colleagues or friends, avoiding social interaction, being more introverted, having few friends, isolated, and feeling lonely.

Skrzypiec (2008) conducted a survey involving nearly 1,400 seventh, eighth and ninth grade students in Australian primary schools and examined the effects of bullying on student learning and social well-being.

and their emotional and mental health status. The analysis found that a third of students who experienced serious bullying also reported having serious difficulties concentrating and paying attention in class because of bullying and the fear associated with it.<sup>19</sup>

Disparity is the difference in deciding one case versus another, this is often a question in a society about how this disparity can occur, which is when there is one case that is the same, but the way of giving sanctions is different, this is also what Ultimately, it causes a law in Indonesia to be questioned whether the sanctions or punishments are appropriate or not and whether justice exists or not. This disparity will also start from how a decision has been made by a judge, which basically the judge gives a sentence based on several aspects, and where the judge also has the authority to decide a case.

The disparity in the judge's considerations that occurred regarding the two decisions regarding the criminal act of bullying was due to the fact that the judge had the authority to impose a sentence based on the chronological background and aim and cause of the criminal act. As well as other reasons, such as the law which in essence only provides provisions for minimum and maximum limits of sanctions, which means that the nature of the sanctions is uncertain, apart from that, the methods used for criminal acts are different, even though the case is the same, the impacts caused are also different and not the same. , as well as the consideration of the panel of judges in several situations during the course of the trial, also considering and paying attention to the condition of the defendant.

Considering that bullying is an act of violence against children, according to the Child Protection Law, bullying is a criminal act. Perpetrators of bullying may be subject to criminal sanctions in the form of imprisonment for a maximum of 3 (three) years and 6 (six) months and/or a fine of a maximum of IDR 72 million.

Article 54 of Law 35/2014 also regulates that every child has the right to receive protection from acts of violence at school, as follows:

- (1) Children in and within the educational unit are obliged to receive protection from acts of physical, psychological violence, sexual crimes, and other crimes committed by educators, educational staff, fellow students, and/or other parties.
- (2) Protection as intended in paragraph (1) is carried out by educators, education staff, government officials, and/or the community.

On the other hand, the Child Protection Law also has a civil aspect, namely giving children victims of violence (bullying) the right to demand material/immaterial

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<sup>19</sup>MS Afroz Jan, "Bullying in Elementary Schools: Its Causes and Effects on Students" in Journal of Education and Practice, ISSN 2222-1735, Vol.6, No.19, 2015, p. 46

compensation against the perpetrators of violence. This is regulated in Article 71D paragraph (1) Jo Article 59 paragraph (2) letter i Law 35/2014 as follows:

Article 71D paragraph (1) Law 35/2014:

Every child who becomes a victim as intended in Article 59 paragraph (2) letters b, d, f, h, i and j has the right to apply to the court for the right to restitution which is the responsibility of the perpetrator of the crime.

Article 59 paragraph (2) letter i Law 35/2014:

Special Protection for Children as intended in paragraph (1) is given to:

i. Children who are victims of physical and/or psychological violence;...

Bullying or bullying is

a phenomenon often experienced by underage children which often occurs in elementary school environments. Regarding legal protection for children, Indonesia has regulated it in the Child Protection Law, which generally contains the protection of children against bullying and education regarding the prohibition of committing crimes.

The Child Protection Law provides special protection guarantees for children who are in conflict with the law, whether children as victims or children as perpetrators, especially in cases of bullying. Handling of children who are in conflict with the law in bullying cases is carried out based on the SPPA Law and diversion efforts can be a solution to resolve cases of children who are in conflict with the law.

Victimology recognizes the rights of victims. This point of view is very important because bullying is seen as something that happens in childhood and is not seen as a problem. Despite the fact that bullying has very real effects, the rights of victims have not been widely recognized from this perspective. Because witness and victim protection institutions only exist at the center and do not yet exist in the regions, Law Number 31 of 2014 concerning Witness and Victim Protection cannot be implemented effectively to handle victims and accompany them during the legal process. so that only relevant organizations and the police can protect witnesses and victims.

## **CONCLUSION**

1. The disparity in the judge's considerations that occurred regarding the two decisions regarding the criminal act of bullying was due to the fact that the judge had the authority to impose a sentence based on the chronological background and aim and cause of the criminal act. As well as other reasons, such as the law which in essence only provides provisions for minimum and maximum limits of sanctions, which means that the nature of the sanctions is uncertain, apart from that, the methods used for criminal acts are different, even though the case is the same, the impacts caused are also different and not the same. , as well as the consideration of the panel of judges in several situations during the course of the trial, also considering and paying attention to the condition of the defendant. As in the Child Protection Law, it provides special protection guarantees for children who are in conflict with the law, whether children as victims or children as perpetrators, especially in cases of bullying.
2. Victimology recognizes the rights of victims. This point of view is very important because bullying is seen as something that happens in childhood and is not seen as a problem. Despite the fact that bullying has very real effects, the rights of victims have

not been widely recognized from this perspective. Because witness and victim protection institutions only exist at the center and do not yet exist in the regions, Law Number 31 of 2014 concerning Witness and Victim Protection cannot be implemented effectively to handle victims and accompany them during the legal process. so that only relevant organizations and the police can protect witnesses and victims.

### Suggestion

1. Reconsider the punishment or sanctions that will be given, to minimize the negative impacts that will occur in society's view regarding the issue of disparities.
2. Law enforcement and protection for children who are victims of bullying must be implemented more wisely and carefully for the benefit of children in the future. Families, teachers and the entire community have an important role in carrying out more intensive supervision of the implementation of laws and various government policies related to child protection.

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