

Comparative Legal Perspectives on Bullying in Educational Environments: Regulatory Gaps and Reform Imperatives in Indonesia, Malaysia, and Vietnam

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Abstract

Bullying in educational settings is a criminal offense that can hinder the learning process and negatively impact both victims and perpetrators mentally, socially, physically, and academically. The legal gap in this study is linked to the inaccurate enforcement of laws related to bullying in educational settings, emphasizing punishment rather than optimal recovery measures for victims. This study aims to analyze and provide a legal critique of the regulation of bullying in Indonesia, comparing it with that of Malaysia and Vietnam. This normative-comparative legal study prioritizes a comparative legal approach as the primary approach, supplemented by conceptual and statutory approaches. This study finds that criminal law plays a significant role in preventing and addressing bullying by imposing sanctions on perpetrators and providing protection for victims. The comparison of laws regulating bullying in Indonesia, Malaysia, and Vietnam confirms that the lack of community involvement and participation, particularly parents and teachers or educators, in the restorative justice process for children as perpetrators and victims of bullying in educational settings has not received optimal attention. The involvement of parents and teachers is crucial to ensure an effective restorative justice process, guaranteeing the fulfillment of children's rights and their best interests. This study recommends that updating the criminal law governing bullying in educational settings is crucial to ensure the rights of children, both as perpetrators and victims. This update requires a shift in the orientation of criminal law, which is currently only regulated in regulations outside the National Education

1. Introduction

Education can be defined as a process to build a society's civilization. In this context, education is future-oriented, positioning the younger generation as the “main pillar” of a civilization.¹ Education can also involve a mental development process that is not only aimed at developing intellectual skills, but also instills commendable and dignified morals.² This definition aligns with the notion of Nezhad and Delroba, asserting that education is essential because it contributes to the productivity and life development of an individual.³

Education also helps individuals make better decisions and grow as productive members of society, thereby making positive contributions to the economy and significantly reducing crime rates.⁴ Furthermore, Anja Swennen believes that education can improve economic aspects while empowering individuals. With proper education, better job opportunities, personal growth, and an improved quality of life become more accessible.⁵ Maspa Makkawaru believes that education encompasses all areas of life, aiming to foster a good life while upholding human dignity.⁶

Legal protection for children in the education sector is part of human rights. This is relevant to the position of children's rights, which are considered “special rights” within the concept of human rights as articulated by Thomas Hammarberg.⁷

¹ L. A. Grazhdankina, “Legal Education As a Means of Preventing Reckless Criminality,” *Higher School Companion*, no. 4 (2022): 22–28, https://doi.org/10.55346/27825647_2022_4_22.

² Tiara Savana C and Murfiah Dewi Wulandari, “Penanaman Pendidikan Karakter Profetik Dalam Pembelajaran Tatap Muka Terbatas (Ptmt) Melalui E-Learning,” *Cakrawala Pendas* 8, no. 3 (2022): 594.

³ M. Soltani Nezhad and M. Delroba, “Investigating the Relationship between Students’ Executive Functions, Emotion Regulation, and Academic Achievement,” *Discover Psychology* 4, no. 1 (2024), <https://doi.org/10.1007/s44202-024-00238-y>.

⁴ Ulum Sukowiyono Karangrejo et al., *Islamic Boarding School Culture and Character Education in SMP Plus Miftahul Ulum Sukowiyono Karangrejo*, 15, no. 5 (2020): 4553–64.

⁵ Anja Swennen, “Education Is Not the Problem, but Part of the Solution,” *European Journal of Teacher Education* 47, no. 4 (2024): 633–37, <https://doi.org/10.1080/02619768.2024.2402613>.

⁶ Ibid.

⁷ Anette Faye Jacobsen, “Expanding into the Local Level: Selective and Maximalist Models of Human Rights Implementation in Denmark and Sweden,” *The International Journal of Human Rights* 27, no. 1 (2023): 144–64, <https://doi.org/10.1080/13642987.2022.2063277>.

Hammarberg believes that, like human rights, children's rights are to be protected and optimally implemented by the state, particularly to provide the best interests for the growth and development of children.⁸ Ann Skelton reinforces this view by emphasizing the practice in Africa that children's rights, as specific rights within the study of human rights, require the optimization of the juvenile justice system when children come into conflict with the law.⁹ Referring to the views of Thomas Hammarberg and Ann Skelton, it can be concluded that children's rights are fundamental rights of every child worldwide and are integral to human rights in general.¹⁰

Children's rights, which are part of human rights, also demonstrate a global nature, implying that fulfilling children's rights is the obligation of every country.¹¹ As a global right, research on children's rights also has relevance to the practices of fulfilling children's rights in various countries worldwide, including Southeast Asia. Kadir, et al. (2021) have highlighted the development of children's rights in Malaysia, particularly related to children working in the entertainment sector.¹² In another study, Sripta and Ninphet (2024) also highlighted the lack of legal protection for children in cases of cyberbullying, particularly for those who are victims.¹³ Furthermore, Tabassum (2025) stated in his research that although it can be considered relatively optimal because less than 1% of child marriage cases occur in Singapore, Singapore acknowledges the efforts of legal protection for children, especially in cases of child marriage under the

⁸ Andrea Kuhl, "Child Protection and Legal Standards for Children in Criminal Justice with Regards to the EU Strategy on the Rights of the Child," *Európai Tükör* 27, no. 1 (2024): 67–85, <https://doi.org/10.32559/et.2024.1.4>.

⁹ Ann Skelton, "Children's Rights to Access to Justice and Remedy: Recent Developments," *Youth Justice* 24, no. 1 (2024): 8–12, <https://doi.org/10.1177/14732254241238515>.

¹⁰ Dedisyah Putra et al., "From Conception to Childhood: The Evolution and Significance of Children's Human Rights," *Khazanah Hukum* 7, no. 3 (n.d.): 370–91; Mukhlis Mukhlis et al., "Challenges in Implementing Sharia-Based Education: Balancing Regional Autonomy and Children's Rights in Aceh," *Khazanah Hukum* 7, no. 1 (2025): 105–20, <https://doi.org/10.15575/kh.v7i1.41012>; Mohammed Houmine and Khadija Loudghiri, "Exploring Child Rights and the Concept of Childhood in Islam: A Contemporary Descriptive Analysis," *Khazanah Hukum* 5, no. 2 (2023): 130–47.

¹¹ Sheri R. Levy et al., "A Human Rights Based Approach to the Global Children's Rights Crisis: A Call to Action," *Journal of Social Issues* 78, no. 4 (2022): 1085–97, <https://doi.org/10.1111/josi.12563>.

¹² Nor Aida Ab Kadir et al., "Protection of Best Interest: A Study on Children Working in the Entertainment Industry in Malaysia and Their Right to Education," *Pertanika Journal of Social Sciences and Humanities* 29, no. 1 (2021): 43–57, <https://doi.org/10.47836/pjssh.29.s2.04>.

¹³ Kantita Sripta and Theeravut Ninphet, "Cyberbullying among Children and Youth in Thailand and Measures to Combat It," *Rajabhat Chiang Mai Research Journal* 25, no. 1 (2024): 103–20, <https://doi.org/10.57260/rcmrj.2024.266344>.

age of 18,¹⁴ which presents its own challenges when the motivation for child marriage is based on religious views.¹⁵

The three previous studies mentioned above discuss the protection of children's rights but have not specifically highlighted the regulation and legal protection of children's rights related to bullying in the educational environment. Additionally, no comprehensive analysis has been conducted on the restorative justice approach as an essential aspect in fulfilling children's rights in the three previous studies. According to this issue, this research aims to address the legal gaps identified in earlier studies by conducting a legal comparison related to bullying and the restorative justice approach in bullying cases.

The above description indicates that the fulfillment of children's rights is a global phenomenon that occurs worldwide, including in Southeast Asia. Indonesia, as one of the Southeast Asian countries, also has a significant orientation in providing protection related to children's rights, particularly in the educational environment. Children's rights in Indonesia are specifically regulated in Article 28B paragraph (2) of the 1945 Constitution, which emphasizes several vital aspects regarding children's rights, including the right to grow, develop, live, and receive protection from discrimination or violence. In the context of education, the importance of the educational aspect is reflected in the substance of general regulations related to education, which is enshrined in a country's constitution as the highest basic law.¹⁶

¹⁴ Dwi Utami Hudaya Nur et al., "Addressing Child Marriage in West Sulawesi: The Role of Islamic Institutions in Public Legal Awareness," *De Jure: Jurnal Hukum Dan Syar'iah* 17, no. 1 (2025): 149-74, <https://doi.org/10.18860/j-fsh.v17i1.29482>; Akh Syamsul Muniri et al., "Child Marriage in Indonesia: Are Parents' Protection and Responsibilities Involved?," *De Jure: Jurnal Hukum Dan Syar'iah* 15, no. 2 (2023): 301-13, <https://doi.org/10.18860/j-fsh.v15i2.24388>; Anthin Lathifah et al., "Problems with the Islamic Legal System Regarding Child Marriages in Indonesia During the Covid-19 Pandemic Period," *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 22, no. 2 (2022): 155-76, <https://doi.org/10.18326/ijtihad.v22i2.155-176>; M Anwar Nawawi et al., "Harmonization of Islam and Human Rights: Judges' Legal Arguments in Rejecting Child Marriage Dispensation in Sukadana, Indonesia," *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 22, no. 1 (2022): 117-34, <https://doi.org/10.18326/ijtihad.v22i1.117-134>.

¹⁵ Nishat Tabassum, "Exploring Child Marriage through a Public Policy Lens : Comparative Perspectives From," *Journal of Government and Political Sciences* 2, no. 1 (2025): 1-19.

¹⁶ Dicky Eko Prasetyo et al., "Post-Election Reconciliation in 2024 as a Constitutional Convention in Indonesia: A Progressive Legal Culture Perspective," *Jambura Law Review* 7, no. 1 (2025): 176-96, <https://doi.org/10.33756/jlr.v7i1.26999>.

Article 31 of the 1945 Constitution emphasizes the obligation of every citizen to receive an education. Article 31 paragraph (2) of the 1945 Constitution states that every citizen is obliged to follow basic education and the government is obliged to finance it. That is, the government's responsibility is to guarantee access to basic education for all citizens.¹⁷ .

Article 31 paragraph (3) mandates the government to develop and organize a national education system that aims to improve the life of the nation by paying attention to values of faith and noble morals. However, bullying often hampers the implementation of education; it frequently occurs in formal and non-formal educational environments.¹⁸ For example, an Islamic Elementary School teacher in Southeast Aceh violently treated 30 of his students, sometimes involving stabbing them with a sharp object.¹⁹ Similarly, a junior high school teacher in Deli Serdang Regency, North Sumatra, instructed his students to do 100 squat jumps as punishment for failing to memorize the texts. This punishment caused the death of some of his students.²⁰ Another violent act occurred at an Islamic boarding school, where a student was caught smoking. As a consequence, he was doused with chili water by the wife of the head of the Islamic boarding school in West Aceh.²¹ These three case examples indicate that violence was involved in the punishment, resulting in the disruption of the educational process experienced by the victims. Those violent acts can be classified as criminal offenses in the field of education, and such violence hinders the goal of education.

Bullying has been a global phenomenon occurring worldwide. This study, therefore, analyzes the regulation concerning bullying in Indonesia by comparing it with that of Malaysia and Vietnam. This research considers such a comparison between Malaysia and Vietnam because both are Southeast Asian countries that represent two major

¹⁷ Fajar Laksono Suroso, *Potret Relasi Mahkamah Konstitusi-Legislator: Konfrontatif Atau Kooperatif?*, 1st ed. (Genta Publishing, 2018).

¹⁸ M A Hasbullah, "Implementation of Restorative Justice in Handling Cases of Bullying in Schools," *Journal of Positive School Psychology* 6, no. 3 (2022): 9970–78.

¹⁹ TV One, "Oknum Guru Di Aceh Diduga Tusuk Murid, Orang Tua Laporkan Polisi," *Tvonenews.Com* (Aceh), October 2024.

²⁰ Hefty Suud, "Sosok Guru Beri Hukuman Squat Jump 100x Hingga Siswa Meninggal, Kini Dinonaktifkan Dinas Pendidikan," *Tribunnews.Com* (Deli Serdang), 2024.

²¹ TV One, "Istri Pimpinan Ponpes Siram Santri Pakai Air Cabai Jadi Tersangka," preprint, *tvonenews.com*, 2024.

legal systems in the world, adhering to the common law system and the civil law system, respectively. This research offers a novel approach to initiating legal reforms related to bullying regulation in Indonesia. The legal comparison conducted between Indonesia, Malaysia, and Vietnam helps analyze and describe the regulations pertaining to bullying in Southeast Asian countries. These three countries were selected for the comparison because Malaysian law adheres to the common law system, while Vietnam complies with its civil law system. It is essential to understand the different legal systems and analyze the regulations related to bullying in the three respective countries.

2. Problem Statement

Bullying in educational settings is a crime that seriously impacts the psychological, social, physical, and academic development of children as both victims and perpetrators. Although this matter is regulated under several laws and regulations, the legal approach used in Indonesia tends to be repressive and does not optimally accommodate the principles of restorative justice that should be more oriented towards victim recovery and the protection of children's rights. Furthermore, the involvement of essential actors such as parents and educators in the process of resolving bullying remains minimal, even though their role is crucial in ensuring a successful, sustainable, and just case resolution. The legal issues investigated include how the regulation of bullying in Indonesia differs from that of Malaysia and Vietnam, to what extent the existing legal framework guarantees the protection and restoration of children's rights, and what legal reforms are needed to make bullying handling more participatory and restorative justice-oriented.

3. Methods

This study is normative legal research,²² which focuses on the analysis and efforts to reform the law relating to the regulation of bullying in Indonesia,²³ supported by a statute approach that sourced from Law No. 1 of 1946 concerning the Criminal Code

²² Yenny Eta Widyanti, "Human Rights and Indonesian Legal Protection of Traditional Cultural Expressions: A Comparative Study in Kenya and South Africa," *Jurisdictie: Jurnal Hukum Dan Syariah* 14, no. 2 (2024): 315–34, <https://doi.org/10.18860/j.v14i2.24318>.

²³ Cynthia Hadita Eka N.A.M. Sihombing, *Penelitian Hukum*, 1st ed. (Setara Press, 2022).

(KUHP), Teachers and Lecturers Law, Law No. 8 of 1981 concerning the Criminal Procedure Code (KUHP), National Education System Law, Law No. 11 of 2012 concerning the Juvenile Criminal Justice System (SPPA Law) and Professional Ethics, as well as legislation in Malaysia and Vietnam concerning bullying. In general, this research is limited to analyzing the legislation in Indonesia, Malaysia, and Vietnam. A conceptual approach was employed to identify concepts related to bullying and educational crimes that differ from those in the field of education, while a comparative approach involved analyzing regulations regarding bullying in Indonesia, Malaysia, and Vietnam. The legal comparison between these respective countries is based on two main reasons: first, it relates to the classical reason in legal comparison between civil law and common law.²⁴ According to Peter De Cruz's view, legal comparison involves the investigation of different legal systems, particularly civil law and common law.

This is important because it may be a crucial aspect in evaluating legislation as one of the objectives in legal comparison.²⁵ This essence is based on several factors: first Indonesia—a country with a civil law system—will have its bullying regulations, as compared with those of Malaysia and Vietnam, which adhere to a common law and civil law systems, respectively; second, the legal comparison between these three countries relates to the development of bullying regulations which are similar to one another, considering that they are Southeast Asian countries. Similarities are also found in the development of child protection regulations, specifically concerning bullying. The analysis of legal materials in this research is conducted in a doctrinal-prescriptive manner, where existing regulations are analyzed and linked to legal theories and concepts to formulate a legal solution in the form of prescriptions that address the existing legal issues in the materials. This analysis also provides insights into what should be done to realize legal reforms related to regulation concerning bullying in

²⁴ Hananto Widodo Dicky Eko Prasetio, "Ius Constituendum Pengujian Formil Dalam Perubahan Konstitusi," *AL-MANHAJ: Jurnal Hukum Dan Pranata Sosial Islam* 4, no. 1 (2022): 2.

²⁵ Pingkan Okta Via Dianti et al., "Comparison of Indonesian and Norwegian Laws Regarding Criminal Responsibility of Perpetrators with Intellectual/Mental Disabilities," *Jurnal Suara Hukum* 6, no. 1 (2024): 68–90, <https://doi.org/10.26740/jsh.v6n1.p68-90>.

Indonesia.²⁶ The legal comparison regarding bullying in this context focuses on three main aspects: the definition or scope of bullying in the educational environment, the legal approach to bullying in the educational environment (including the presence or absence of restorative justice), and the regulation of bullying in the educational environment, whether it is governed by specific laws within the national education system or by national criminal law regulations.

4. Criminal Liability and Legal Frameworks Addressing Bullying in Educational Contexts

4.1. Bullying and its Relevance to Criminal Law in the Field of Education

Bullying is essentially a crime that is inherently evil and morally wrong, and such an act is considered reprehensible by global society.²⁷ According to the American Psychiatric Association (APA) view, there are three characteristics of bullying behavior: (i) involving destructive and/or harmful actions, (ii) continuous and repeated verbal or non-verbal form, and (iii) one party who feels stronger and then performs certain demeaning, destructive, and/or hurtful actions towards the weaker party.²⁸ The view of bullying as stated by the American Psychiatric Association (APA) aligns with Barbara Coloroso's perspective, which generally asserts that bullying is synonymous with various attempts or actions aimed at intimidating the weaker party continuously.²⁹

Bullying is an act that is prohibited by various societies worldwide. Bullying develops with time, including cyberbullying³⁰ that takes place digitally on different social media

²⁶ Moh. Mujibur Rohman et al., "Methodological Reasoning Finds Law Using Normative Studies (Theory, Approach and Analysis of Legal Materials)," *MAQASIDI: Jurnal Syariah Dan Hukum* 4, no. 2 (2024): 204–21, <https://doi.org/10.47498/maqasidi.v4i2.3379>.

²⁷ Marizen R. Ramirez et al., "Does Implementation Matter? Associations Between Implementation of Maine's Anti-Bullying Law and Bullying Victimization Among High School Youth," *Journal of Adolescent Health* 74, no. 1 (2024): 161–68, <https://doi.org/10.1016/j.jadohealth.2023.08.011>.

²⁸ Renzo Abregú-Crespo et al., "School Bullying in Children and Adolescents with Neurodevelopmental and Psychiatric Conditions: A Systematic Review and Meta-Analysis," *The Lancet Child & Adolescent Health* 8, no. 2 (2024): 122–34, [https://doi.org/10.1016/S2352-4642\(23\)00289-4](https://doi.org/10.1016/S2352-4642(23)00289-4).

²⁹ Rita Pusvitasari and Ahmad Zarkasyi, "Holistic Approaches to Bullying Prevention: The Mediating Role of School Well-Being, Self-Management, and Empathy," *At-Tadzkir: Islamic Education Journal* 3, no. 2 (2024): 104–19, <https://doi.org/10.59373/attadzkir.v3i2.63>.

³⁰ Gargi Sarkar and Sandeep K. Shukla, "Behavioral Analysis of Cybercrime: Paving the Way for Effective Policing Strategies," *Journal of Economic Criminology* 2 (December 2023): 100034, <https://doi.org/10.1016/j.jeconc.2023.100034>.

platforms.³¹ Concerns arise if the names of child victims remain exposed, and become a serious problem for the victims,³² as the digital footprint on social media will be extremely difficult to erase.³³ Further developments show that bullying not only evolves with the times but also spreads across various aspects of society, including in educational environments or institutions. Bullying is a criminal act in the field of education that involves violence that intimidates the victim.³⁴ Criminal acts within the academic scope include educational crimes and crimes related to the field of education. Educational crimes violate the National Education System Law. Pudji Astuti distinguishes between educational crimes and crimes in the field of education.³⁵

The distinction between educational crimes and crimes related to education, as made by Pudji Astuti, is intended to analyze three important aspects. The first aspect is the legal basis for imposing punishment, where educational crimes and crimes related to education have different legal bases. The second aspect is related to the distinction between educational crimes and crimes related to education, also referring to the criminal justice system and law enforcement procedures, where educational crimes are more focused on educational aspects, including administrative processes and learning procedures, while crimes related to education in the criminal justice system and law enforcement procedures are subject to the provisions of the Criminal Code and the Criminal Procedure Code.³⁶ The third aspect is related to determining the characteristics of *lex specialis* for a criminal act, where educational crimes are

³¹ Mohamad Rusdiyanto U. Puluhalawa and Riski Husain, "Body Shaming Through Social Media As a Digital Crime In The Era of Disruption," *Jambura Law Review* 3, no. 1 (2021): 112-23, <https://doi.org/10.33756/jlr.v3i1.7200>.

³² Volodymyr Pavlov et al., "Administrative, Legal and Criminal Aspects of Liability for Illegal Expulsion of Children," *Jurnal IUS Kajian Hukum Dan Keadilan* 12, no. 2 (2024), <https://doi.org/DOI : 10.29303/ius.v12i2.1386>.

³³ La Gurusi., Muh. Sutri Mansyah., et.al. "Islamic Legal Perspective on Data of Child Victims of Sexual Violence: A Case Study of the Indonesia's Court". *De Jure: Jurnal Hukum dan Syar'iah* Volume 16 Issue 2 (2024): 456-479. <https://ejournal.uin-malang.ac.id/index.php/syariah/article/view/28358>

³⁴ Rahmida Erliyani, "Examining Religious and Justice System in Indonesia to Prevent Cyberbullying," *International Journal of Cyber Criminology* 15, no. 2 (2021): 112-23, <https://doi.org/10.5281/zenodo.4766548>.

³⁵ Pudji Astuti, *PENANGGULANGAN TINDAK PIDANA DI BIDANG PENDIDIKAN PADA TINGKAT PENDIDIKAN DASAR DAN MENENGAH*, 2011.

³⁶ Denise Paquette Boots and Bitna Kim, "Shaping the Future of Criminal Justice Education: Insights from ACJS Leadership Survey Analysis," *Journal of Criminal Justice Education* 35, no. 2 (2024): 397-422, <https://doi.org/10.1080/10511253.2024.2306814>.

essentially special crimes, while crimes related to education, as long as they are regulated in the Criminal Code, are *lex generalis*, except for crimes pertaining to education regulated outside the Criminal Code and are characterized as *lex specialis*. This emphasizes that bullying can be classified as a crime in the field of education because it violates the Criminal Code, disrupting the learning process. Bullying has indeed violated people's rights, negatively impacting the teaching and learning process and their development, bearing long-term consequences detrimental to society.³⁷

Bullying in educational environments has significant and diverse negative impacts for victims and perpetrators. Bullying victims often experience stress, anxiety, and depression. The abuse arising from bullying can damage their self-esteem and self-image. Children who are victims of bullying tend to feel worthless and lose their self-esteem, making them hesitant to try new things. Bullying can make victims feel rejected and alienated from their friends, so they tend to isolate themselves. Some forms of bullying that involve physical violence can lead to injury. In addition, prolonged stress can cause health problems such as sleep and digestive disorders. Bullies tend to develop aggressive behavior that can continue into adulthood. They may also lose the ability to feel empathy for others.³⁸ Bullying has a broad and profound impact in the educational environment, affecting mental, physical, and social health, as well as academic achievement for both victims and perpetrators. Therefore, effectively preventing and handling bullying in schools is vital.

Criminal law plays a crucial role in preventing bullying in educational environments, as it imposes sanctions, such as imprisonment or fines, for bullies.³⁹ Sanctions are intended to deter perpetrators and assert that acts of violence are unacceptable.⁴⁰ Criminal law also serves to protect victims of bullying. With explicit legal provisions,

³⁷ Widya Nurreni Astuti Dewi Iriani, "Pancasila Philosophy: The Relevance Of The Crime Of Bullying," *The Indonesian Journal of Legal Thought (IJLETH)* 1, no. 2 (2021): 37–45.

³⁸ Kholifatul Husna Asri et al., "Dampak Bullying, Kekerasan Dan Hate Speech Pada Anak: Studi Kasus Di Smk Swasta Caringin Bogor, Indonesia," *Jurnal Anifa: Studi Gender Dan Anak* 3, no. 2 (2022): 108–19, <https://doi.org/10.32505/anifa.v3i2.4910>.

³⁹ Erliyani, "Examining Religious and Justice System in Indonesia to Prevent Cyberbullying."

⁴⁰ Anna M. Helka et al., "To Tell or Not to Tell about Bullying—New Insights from the Study on the Perceptions of Criminal Sanctioning, Anticipation of School Punishment, Agency, and Trust toward School Staff," *Behavioral Sciences & the Law* 42, no. 6 (2024): 684–700, <https://doi.org/10.1002/bsl.2688>.

victims have the right to report bullying and receive protection from the authorities. This helps create a safer and more supportive environment for children in schools. Education about the legal consequences of bullying can increase awareness among students about the negative impacts of such behavior.⁴¹ Bullying in schools is frequently underestimated by educators, who tend to regard it as a typical phase in students' developmental process.⁴² When students understand that bullying can result in legal sanctions, they will be more careful and choose not to engage in such behavior. This education also helps change the culture of bullying in schools to be more inclusive and empathetic.

Bullies need to be given attention because their actions result in physical and psychological injuries to the victim and destroy the future of the victim and their family.⁴³ This issue may further hinder the country's progress, as it affects the younger generation, the nation's future. Moreover, bullying in educational environments is a serious problem, considering that the function of transferring knowledge and shaping students into dignified human beings in an academic institution may also be affected.⁴⁴

Bullying, which is classified as a criminal act in the field of education, is regulated in Criminal Law, which aims to protect the legal interests of individuals, society, and the state. Criminal law controls criminal acts because it can be enforced. In other words, criminal law plays a significant role, particularly in preventing the perpetrator from repeating the same offense.⁴⁵ However, the punishment aimed at the perpetrator is not

⁴¹ Dora Kostakopoulou and Morteza Mahmoudi, "Academic Bullying and Human Rights: Is It Time to Take Them Seriously?," *Human Rights Review* 25, no. 1 (2024): 25–46, <https://doi.org/10.1007/s12142-024-00713-y>.

⁴² Dwi, Sulistyawati., et.al. "Optimasi Lingkungan Akademis: Edukasi Cegah Perundungan dan Literasi Pemilahan Sampah di Madrasah Ibtidaiyah Swasta Nurul Ibad". *DAS SEIN: Jurnal Pengabdian Hukum & Humaniora* 4 No. 1 (2024): 65-81

⁴³ Calizta Alvirnia Nurimani Andraputri and Neni Ruhaeni, "Penegakan Hukum Terhadap Pelaku Penyalahgunaan Penyebaran Data Pribadi Jurnalis Di Indonesia Berdasarkan Undang-Undang Nomor 27 Tahun 2022 Tentang Perlindungan Data Pribadi," *Bandung Conference Series: Law Studies* 3, no. 1 (2023): 3, <https://doi.org/10.29313/bcsls.v3i1.4960>.

⁴⁴ Abdul Sakban and Zaini Bidaya, "Desain Pola Integrasi Cyber Dalam Mengurangi Kejahatan Cyberbullying," *Civicus : Pendidikan-Penelitian-Pengabdian Pendidikan Pancasila Dan Kewarganegaraan* 9, no. 1 (2021): 38, <https://doi.org/10.31764/civicus.v9i1.5815>.

⁴⁵ Nurini Aprilianda et al., "Excusing Child Offenders: A Victim Justice Perspective," *Legality : Jurnal Ilmiah Hukum* 32, no. 2 (2024): 433–52, <https://doi.org/10.22219/ljih.v32i2.33937>; Shinta Ayu Purnamawati et al., "Child-Friendly Justice and Children's Rights from Criminal Cases; Islamic Law

intended to retaliate against the perpetrator, but rather to encourage the perpetrator to improve their behavior by paying attention to the needs of society. The aim of punishment as rehabilitation is parallel to the aim of improving morals in education and changing the behavior of the perpetrator.

Effective law enforcement requires cooperation between schools, parents, and law enforcement agencies. With an integrated system, bullying cases can be handled more seriously and professionally, ensuring that perpetrators are held accountable and victims are treated fairly. Through a criminal law approach, it is hoped that bullying can be minimized, creating a safer and more conducive educational environment for children's development. Pudji Astuti's view above suggests that the criminal law concerning bullying falls within the scope of criminal law in the educational context.⁴⁶ This makes law enforcement efforts related to bullying subject to various laws and regulations, including the Criminal Code and other regulations outside of it.

4.2. Comparison of Bullying Laws in Indonesia, Malaysia, and Vietnam

In general, bullying is a criminal act because it aims to attack or demean the dignity of others, both verbally and non-verbally. Bullying as a criminal act is generally regulated in legislation, particularly in the penal codes of several countries. In Indonesia, bullying is generally regulated by the Criminal Code and the ratification of the New Criminal Code. The following Table elaborates on the development of regulations regarding *bullying* in Indonesia.

Table 1. Regulation concerning Bullying in the Criminal Code and National Criminal Code in Indonesia

No	Criminal offense	Criminal Code Chapter	National Criminal Code Chapter	Description
1	Violating Morality	Article 433 (1) Any person who verbally attacks the honor or good name of another person by accusing them of something, with the intention of making it public knowledge, shall be	The provisions regarding defamation as regulated in Article 310 paragraph (1) of the Criminal Code do not indicate any legal certainty. Article 310 paragraph (1) of the Criminal Code states a	"violating morality," as in Article 406 letter a, is committing an act of displaying nudity, genitals, and sexual activities that are contrary to the values that exist in society at

Notes," *Legality: Jurnal Ilmiah Hukum* 32, no. 1 (2024): 141-54, <https://doi.org/10.22219/ljih.v32i1.31681>.

⁴⁶ Astuti, *PENANGGULANGAN TINDAK PIDANA DI BIDANG PENDIDIKAN PADA TINGKAT PENDIDIKAN DASAR DAN MENENGAH*.

	<p>punished for defamation, with a maximum prison sentence of nine months or a maximum criminal fine of category II, namely Rp10 million.</p> <p>(2) If the act as referred to in paragraph (1) is committed in writing or pictures that are broadcast, shown, or posted in a public place, the offender shall be punished for written defamation, with a maximum prison sentence of one year and six months or a maximum fine of category III, namely Rp. 50 million.</p> <p>(3) Referring to the acts in paragraph (1) and paragraph (2), the offender shall not be punished if they commit the acts in the public interest or because they are forced to defend themselves.</p>	<p>matter contradictory to the 1945 Constitution of the Republic of Indonesia and does not have binding legal force unless it is interpreted as follows:</p> <p>Anyone who intentionally attacks the honor or good name of a person by accusing them of something verbally, with the clear intention that it be known to the public, is threatened with defamation with a maximum imprisonment of nine months or a maximum fine of Rp. 4,500.</p> <p>1. After the Constitutional Court Decision No. 78/PUU-XXI/2023, Article 310 paragraph (1) of the Criminal Code</p>	<p>the place and time the act was committed</p>
<p>2. Defamation</p>	<p>Article 433</p> <p>(1) Any person who verbally attacks the honor or good name of another person by accusing them of something, with the intention of making it public knowledge, shall be punished for defamation, with a maximum prison sentence of nine months or a maximum criminal fine of category II, namely Rp10 million.</p> <p>(2) If the act as referred to in paragraph (1) is committed in writing or pictures that are broadcast, shown, or posted in a public place, the offender shall be punished for written defamation, with a maximum prison sentence of one year and six months or a maximum fine of category III, namely Rp. 50 million.</p> <p>(3) Referring to the acts in paragraph (1) and</p>	<p>The provisions regarding defamation as regulated in Article 310 paragraph (1) of the Criminal Code do not indicate any legal certainty. Article 310 paragraph (1) of the Criminal Code states a matter contradictory to the 1945 Constitution of the Republic of Indonesia and does not have binding legal force unless it is interpreted as follows:</p> <p>Anyone who intentionally attacks the honor or good name of a person by accusing them of something verbally, with the clear intention that it be known to the public, is threatened with defamation with a maximum imprisonment of nine months or a maximum fine of Rp. 4,500.</p>	<p>The provisions regarding defamation as regulated in Article 310 paragraph (1) of the Criminal Code do not indicate any legal certainty. Article 310 paragraph (1) of the Criminal Code states a matter contradictory to the 1945 Constitution of the Republic of Indonesia and does not have binding legal force as long as it is not interpreted as follows:</p> <p>Anyone who intentionally attacks the honor or good name of a person by accusing him of something verbally, with the clear intention that it be known to the public, is threatened with defamation with a</p>

	paragraph (2), the offender shall not be punished if they commit the acts in the public interest or because they are forced to defend themselves.	1. After the Constitutional Court Decision No. 78/PUU-XXI/2023, Article 310 paragraph (1) of the Criminal Code	maximum imprisonment of nine months or a maximum fine of four thousand five hundred rupiah. 1. After the Constitutional Court Decision No. 78/PUU-XXI/2023, Article 310 paragraph (1) of the Criminal Code
3	Persecution Article 351 (1) Abuse is punishable by a maximum imprisonment of two years and eight months or a maximum fine of Rp. 4,500. (2) If the act results in serious injury, the offender is punishable by a maximum imprisonment of five years.	Article 466 (1) Any person who commits an assault shall be punished with imprisonment for a maximum of two years and six months or a maximum fine of category III. (2) If the act as referred to in paragraph (1) results in serious injury, the offender shall be punished with imprisonment for a maximum of five years. (1) (3) If the act as referred to in paragraph (1) results in the death of a person, the offender shall be punished with maximum imprisonment of seven years. Included in the assault as referred to in paragraph (1) are acts that damage health. Any person attempting to commit a Criminal Act as referred to in paragraph (1) shall not be punished.	Article 466 of the National Criminal Code does not explain the meaning of abuse because the meaning of abuse in this context is not limited to physical abuse alone, and physical suffering does not necessarily constitute abuse. This must be adjusted to social and medical developments.

Source: Author's Analysis

According to the Table above, matters related to bullying involving children as victims are regulated in Article 76C of the Child Protection Law. Article 54 of the Child Protection Law specifically regulates the protection of children from violence that occurs at schools. Meanwhile, if the perpetrator or defendant is still classified as a child, then Law No. 11 of 2012 concerning the Juvenile Criminal Justice System Law (SPPA

Law) applies.⁴⁷ In other words, children as perpetrators of new crimes can only be processed through litigation if they are 12 years old and under 18 years old. Minors have special rights and protection under the law because they are considered not to have full ability and responsibility for their actions.

The above description implies that the regulation regarding bullying, especially that which occurs in educational environments, is not specifically governed by a special law but is generally regulated under both the Former Criminal Code and the New Criminal Code in Indonesia. However, matters regarding bullying in educational environments and its relation to the protection of children's rights are regulated in Article 54 of the Child Protection Law. Matters related to children who are victims of bullying are also addressed in Article 76C of the Child Protection Law. Generally, in Indonesia, bullying has never been specifically defined, but some provisions broadly define bullying as an act involving violence, defamation, and violation of decency.

In general, the regulation regarding bullying in Indonesia can be categorized as a criminal offense in the field of education because its regulation is governed outside the National Education System Law. In Indonesia, the concept of restorative justice has only recently begun to gain attention since the enactment of Law No. 35 of 2014 on Child Protection, particularly within the scope of the juvenile criminal justice system, or what is known in foreign terms as the *Juvenile Justice System*.⁴⁸ An interesting aspect of the regulation regarding bullying, especially in the educational environment in Indonesia where both the perpetrator and the victim are children, is the existence of a restorative justice mechanism as stipulated in the Child Protection Law. To address these issues, strengthening regulations, improving the capacity of officials, optimizing the role of child protection institutions, and fostering cross-sector collaboration are necessary to ensure that restitution rights become an integral part of the protection

⁴⁷ Joko Setiyono Priskila Kurniawati, "Enforcement of Human Rights in Providing Children Protection in the School Educational Environment in the City of Surabaya)," *International Journal of Social Science and Human Research* 5, no. 7 (2022): 2808–16, <https://doi.org/10.47191/ijsshr/v5-i7-06>.

⁴⁸ Fahrurrozi Fahrurrozi . "PENERAPAN SANKSI TERHADAP ANAK SEBAGAI PELAKU TINDAK PIDANA DALAM PERSPEKTIF RESTORATIVE JUSTICE di Wilayah Hukum Polres Mataram". *Jurnal IUS Kajian Hukum dan Keadilan* Vol 3 No. 7 April (2015): 189-206. <https://jurnalius.ac.id/ojs/index.php/jurnalIUS/article/view/207/181>

and recovery of child victims in Indonesia.⁴⁹ The restorative justice mechanism related to bullying cases where both the perpetrator and the victim are children emphasizes efforts to restore both the physical and mental well-being of the victim while ensuring that the perpetrator of the bullying recognizes and does not repeat their actions.⁵⁰ The restorative justice approach in bullying cases where both the perpetrator and the victim are children in the educational environment aims to instill educational values such as the importance of respecting and honoring others, including imposing certain educational measures so that the perpetrator does not reoffend.⁵¹ For the victims, the restorative justice approach in bullying cases where both the perpetrator and the victim are children in the educational environment is also essential to ensure the fulfillment of the victims' rights and the recovery of the victims.

In general, the regulations concerning bullying in Indonesia, where both the perpetrator and the victim are children in the educational environment, are generally optimal. However, regarding the restorative justice approach in bullying cases, there needs to be harmoniously integrated regulations between the Child Protection Law and the National Education System Law. The regulations regarding the restorative justice approach in bullying cases also need to be clarified in the National Education System Law, with an emphasis on the substance and curriculum of education, as well as the understanding and application of the restorative justice approach in bullying cases that occur within the educational environment.

Bullying regulations in Malaysia are regulated in sections 323 to 326 of the Penal Code.⁵² Article 323 regulates the punishment for those who intentionally hurt others. Article 324 regulates Intentional cause of injury with a weapon or dangerous means.

⁴⁹ Amelia Putri Dehi, et.al. "The Effectiveness of Restitution Rights for Child Victims of Domestic Violence in Indonesia under the CRC". *Damhil Law Journal* 5 no. 1 (2025): 18-36. <https://dx.doi.org/10.56591/dlj.v1i1.2929>

⁵⁰ Anne Gregory et al., "Adolescent Exposure to Restorative Practices and Their Perceptions of Support, Structure, and Bullying in the School Climate," *AERA Open* 10, no. 1 (2024): 3-6, <https://doi.org/10.1177/23328584241288525>.

⁵¹ Annmary S. Abdou et al., "Cultivating a Restorative Lens: Integrating Restorative Justice into School Psychology Practice," *School Psychology Review* 1, no. 1 (2025): 1-11, <https://doi.org/10.1080/2372966X.2025.2522060>.

⁵² Siaw Hun Liew et al., "Suicide Attempt among Malaysian School-Going Adolescents: Relationship with Bullying," *BMC Public Health* 23, no. 1 (2023): 1-8, <https://doi.org/10.1186/s12889-023-17019-2>.

Article 325 regulates the punishment for perpetrators who intentionally cause serious injury. Article 326 regulates Intentional cause of serious injury with a weapon or dangerous means. However, if the bullying committed by the perpetrator results in the death of the victim, the perpetrator can be subject to section 302 or 304 of the Penal Code. The details can be described in Article 302 regulating the punishment for murder and Article 304 regulating the punishment for premeditated murder that does not include premeditated murder.

Referring to the bullying regulations in Malaysia above, Malaysia has not specifically regulated bullying committed on electronic platforms. However, in dealing with bullying in the digital world, Malaysia has several regulations to consider, such as the Communications and Multimedia Act of 1998 or the Communications and Multimedia Act (1998.) Article 233 of the Communications and Multimedia Act (1998) regulates the use of inappropriate network services.⁵³ The improper use of network services refers to the use of the internet network to make comments, requests, suggestions, or any form of communication that is obscene, indecent, false, threatening, or offensive, with the intention of disturbing, abusing, or harassing another person. The actions listed above are subject to a maximum fine of RM 50,000 and a maximum imprisonment of one year, and are also subject to a daily fine of RM 1,000 if the perpetrator continues to commit the offense even after serving a prison term.

The regulations regarding bullying in Malaysia are generally not significantly different from those in Indonesia, where it can be categorized as a criminal offense in the field of education because its regulation falls outside specific laws or acts in the field of education, and there is no specific definition of bullying. However, in Malaysia, bullying is associated with acts that are obscene, indecent, false, threatening, or offensive, with the intention of disturbing, abusing, threatening, or harassing others.⁵⁴ Regarding the restorative justice approach in bullying cases where the perpetrator and victim are children in an educational environment, Malaysia has a special mechanism as

⁵³ Y A S Harumain et al., "Exploring Children's Perception of Safety From Bullying and Its Connection To the Built Environment," *International Journal of Social Policy and Society* 19, no. 1 (2023): 126–41.

⁵⁴ Nurulhuda Ahmad Razali et al., "Cyberbullying in Malaysia: An Analysis of the Existing Laws," *International Journal of Law, Government and Communication* 7, no. 30 (2022): 124–35, <https://doi.org/10.35631/ijlgc.730011>.

stipulated in the Child Act 2001, which provides special detention facilities for children, including Moral Hostels, Approved Schools/School Tunas Bakti (STBs), Henry Gurney Schools (SHG), and Integrity Schools (SI) or Juvenile Correctional Centres (JCC).⁵⁵

In general, these four schools are specifically established for children in conflict with the law, offering a range of core subjects, including guidance and counseling, sports, moral and religious education, vocational training, and general academic lessons. In general, the Akhlak Hostel serves as a temporary placement for children before they are transferred to the Approved School/Tunas Bakti School (STBs). The age for admission to both the Akhlak Hostel and the Approved School/Tunas Bakti School (STBs) is 10 to 12 years old. Children aged 14 to 21 are placed in Henry Gurney School with special learning and approaches tailored to the child's level of offense and age.⁵⁶ The Integrity School is for child prisoners aged 14 to 21 and regulated by the Children Act 2000. The existence of these "special schools" for children in conflict with the law is intended to optimize the restorative justice approach in Malaysia so that children who commit legal offenses, such as bullying, can be nurtured to the fullest extent to ensure they do not reoffend.⁵⁷ Besides "special schools" for children in conflict with the law, Malaysia also emphasizes the important role of the Children's Court whose functions are broad, including determining the age of a child for admission to special schools for children in conflict with the law, as well as ensuring that the child can leave the school because they are considered ready to be reintegrated into and live in the society.

The existence of the Children's Court in Malaysia is certainly different from that in Indonesia because in Malaysia, it is more preventive in ensuring that restorative justice is carried out optimally for children, while in Indonesia, the Children's Court is more repressive, meaning it tries children in conflict with the law using a certain approach. With its legal system based on the common law system, Malaysia's Children's Court

⁵⁵ Teoh Xi Yao et al., "Self-Control and Problematic Behaviours among Incarcerated Juveniles: Coping Strategies as a Mediator," *Psychology Hub* 42, no. 1 (2025): 43–54, <https://doi.org/10.13133/2724-2943/18344>.

⁵⁶ Fatriansyah, "Pembinaan Anak Yang Berkonflik Dengan Hukum Dari Perspektif Restorative Justice (Studi Perbandingan Antara Indonesia Dengan Malaysia)," *Legalitas: Jurnal Hukum* 12, no. 2 (2020): 239.

⁵⁷ Ibid.

plays a crucial role in judicial institutions. As with the regulations in Indonesia and Malaysia above, Vietnam also regulates bullying. Vietnam is the first country in Asia and the second in the world to ratify the United Nations (UN) Convention on the Rights of the Child in 1990. The legal and policy system to protect and care for children has been built on the consistent principle of "the best interests of the child" in accordance with the principles and standards of international law, and the socio-economic conditions of Vietnam.⁵⁸

Along with the legal system, the Vietnamese government has adopted several programs and action plans implemented nationwide to protect and solve existing and emerging problems related to children. Therefore, after 33 years of implementing the United Nations (UN) Convention on the Rights of the Child, the right to life of Vietnamese children has been increasingly better guaranteed in practice. The mortality rate of children under the age of 5 dropped to 20.5 percent in 2024. Children from poor households, ethnic minority children living in remote districts, and children under six years old receive 100 percent of the cost of medical examination and treatment, among others.⁵⁹

As with the regulation of bullying in Indonesia and Malaysia, in Vietnam, as stipulated in the Vietnamese Penal Code (Penal Code No. 100/2015/QH13), there is no specific regulation or definition regarding bullying, but this matter is addressed in various articles such as Article 134 concerning physical violence, Article 155 concerning insult, Article 156 related to defamation, and Article 318 related to acts disturbing public order under the Penal Code No. 100/2015/QH13 . This indicates that in Vietnam, the regulation regarding bullying is not addressed in a singular manner, but rather is formulated in various ways within Penal Code No. 100/2015/QH13.⁶⁰ Regarding the restorative justice approach for children in conflict with the law, Vietnam does not yet

⁵⁸ My Hanh Mai et al., "The Context of School-Based Cyberbullying Prevention in Vietnamese Public Schools: A Cross-Sectional Study," *Journal of Education and E-Learning Research* 10, no. 4 (2023): 674–81, <https://doi.org/10.20448/jeelr.v10i4.5046>.

⁵⁹ Ibid.

⁶⁰ Aditya Jain and Luis Torres, "Workplace Bullying in Asia: An Examination of the Policy Context in the Region," in *Asian Perspectives on Workplace Bullying and Harassment* (Springer Singapore, 2021), https://doi.org/10.1007/978-981-16-2362-2_11.

have specific regulations.⁶¹ However, since the enactment of the Law on Justice for Minors on November 30, 2024, which will take effect on January 1, 2026, it fundamentally regulates three important aspects. First, diversion (alternatives to punishment) is explicitly regulated, such as through admonition, apology, compensation, community education, curfews, skills training, community service, and mandatory counseling.⁶² In total, twelve forms of diversion can be applied to juvenile offenders. Second, the legal process for children must be child-friendly, simple, and tailored to the child's psychology and developmental level. The sanctions and actions imposed are adjusted according to the child's age, cognitive development, and personal characteristics. Third, prosecution and punishment of children are only carried out if diversion is deemed ineffective both educationally and preventively. Additionally, Article 12 of the Law on Justice for Minors in Vietnam emphasizes that the primary principle of punishment for children is to educate and not to provide retribution or harsher punishment.

As in Indonesia and Malaysia, in Vietnam, bullying can also be categorized as a criminal offense in the field of education because the regulations related to criminal law are governed outside the national education system law, where in Vietnam it is regulated in the Penal Code No. 100/2015/QH13 and the Law on Justice for Minors, which was passed on November 30, 2024, and will take effect from January 1, 2026. Regarding the restorative justice approach, it will also be implemented in Vietnam only after the Law on Justice for Minors takes effect from January 1, 2026, where one of the important spirits of restorative justice for child bullying perpetrators is as emphasized in Article 12 of the Law on Justice for Minors Vietnam, stating that the main principle of punishment for children is to educate and not to provide retribution or heavier punishment. Child bullies need to be provided with special education and guidance to ensure they do not repeat their actions and are not heavily punished.

⁶¹ Thuong H. Nguyen et al., "The Role of Teacher and Peer Support against Bullying Among Secondary School Students in Vietnam," *The Journal of Genetic Psychology* 183, no. 5 (2022): 391-98, <https://doi.org/10.1080/00221325.2022.2099243>.

⁶² Widowati and Vu Le Giang, "Child Punishment Versus the Principle of Non-Discrimination in the Perspective of Human Rights: A Legal Comparison Between Indonesia and Vietnam," *Jurnal Suara Hukum* 7, no. 1 (2025): 245-73, <https://doi.org/10.26740/jsh.v7n1.p245-273>.

Although Indonesia, Malaysia, and Vietnam have different legal systems and social conditions, they share similarities regarding the regulation of bullying, such as not specifically regulating bullying but addressing it within various criminal offenses like violence, defamation, disturbing public order, and insult. The three countries also similarly regulate bullying as a criminal offense in the field of education, as criminal law regulations are governed outside the national education system law. The difference among the three countries lies only in the restorative justice approach for minor bullies. In Indonesia, the bullies and victims are sought to be resolved through restorative justice, carried out within the framework of the juvenile justice system, with the existence of a Child Court to ensure the fulfillment of children's rights. In Malaysia, the resolution can be said to be more comprehensive since it has special detention places for children, including Akhlak Dormitories, Approved Schools/Tunas Bakti Schools (STBs), Henry Gurney Schools (SHG), and Integrity Schools (SI) or Juvenile Correctional Centres (JCC), along with the important role of the Children's Court. On the other hand, Vietnam is the only country in this context that has not implemented the restorative justice approach for minor bullies, but it will be effectively applied on January 1, 2026, after the enactment of the Law on Justice for Minors.

From the regulations regarding bullying and the restorative justice approach in Indonesia, Malaysia, and Vietnam mentioned above, the role of community participation has not yet received attention from these three countries. Parties involved in the restorative justice process for minor bullies and victims in educational settings may include parents and teachers or educators. Their role is crucial in ensuring that the restorative justice process runs optimally, while emphasizing the guarantee of children's rights and the fulfillment of the best interests of the child. Although Indonesia, Malaysia, and Vietnam have generally regulated bullying, including various legal efforts, in the future, they need to formulate the essence of restorative justice for both child perpetrators and victims of bullying in educational environments by emphasizing the role of parents and teachers or educators.

4.3. Criminal Law Reform in the Field of Education Regarding Regulation of Bullying in Educational Environments

Criminal law reform aims to reorient and reform criminal law in accordance with the central socio-political, socio-philosophical, and socio-cultural values of Indonesian society that underlie social policy, criminal policy, and law enforcement policy.⁶³ Criminal law reform is vital to adapting to technological and information developments, as well as imposing heavier sanctions for perpetrators of certain crimes, such as sexual violence against children.⁶⁴ Bullying and sexual violence are relevant issues in the school environment, with the main focus on prevention starting from oneself and the importance of building a healthy, equal, and inclusive friendship environment.⁶⁵ Criminal law reform in the field of education includes efforts to reorient and reform criminal law to be in accordance with the socio-political, socio-philosophical, and socio-cultural values of Indonesian society.⁶⁶ This reform is crucial for aligning the legal system with the values of Pancasila and the needs of modern society.

Updates to criminal law regarding bullying in educational settings are essential to ensure the fulfillment of children's rights and the roles of schools and parents in the restorative justice process. The previous analysis of bullying regulations in Indonesia, Malaysia, and Vietnam reveals that the regulations regarding bullying in these three countries still pose two significant legal issues. First, these three countries still regulate bullying as criminal law in the field of education; one of its characteristics is that bullying is regulated outside of education laws or the education system, specifically in the criminal codes of each country. The fact that bullying is not yet regulated in the education laws or the education system of each country implies that the integrated and comprehensive mechanism in the educational environment to support the prevention and prosecution of bullying is absent.

⁶³ M. Ali Zidan, *Menuju Pembaruan Hukum Pidana* (Sinar Grafika, 2022).

⁶⁴ Andrew Dyer, "Criminal Law Reform and the Progressives—the Case of Provocation," *Current Issues in Criminal Justice* 35, no. 1 (2023): 180–95, <https://doi.org/10.1080/10345329.2022.2097369>.

⁶⁵ Moh. Fadhil, et.al. "Legal Counseling on Child Abuse for Students in Singkawang City". *DAS SEIN: Pengabdian Hukum & Humaniora* 5 No. 1 (2025): 30-42. <https://dx.doi.org/10.33756/jds.v5i1.27123>

⁶⁶ Andrew Cornford, "The Aims and Functions of Criminal Law," *The Modern Law Review* 87, no. 2 (2023): 398–429, <https://doi.org/10.1111/1468-2230.12846>.

The second problem is the sub-optimal implementation of the restorative justice mechanism, which places children as both victims and perpetrators. As a result, the rights of bullying victims are often not fully met, and children as perpetrators do not receive optimal treatment and educational efforts to prevent them from repeating their actions. For example, regulations in Indonesia do not specifically address restorative justice with a dedicated educational process like in Malaysia, which emphasizes the existence of an integrated special educational institution to ensure optimal restorative justice for children as bullying victims or perpetrators in educational settings.

Based on the two problems mentioned above, and to ensure the fulfillment of children's rights as both perpetrators and victims of bullying in educational settings, it is necessary to change the orientation of criminal law in the field of education. Currently, this is only regulated in various regulations outside the national education system law. Therefore, it is necessary to incorporate this matter into the criminal law aspects of education, where bullying regulations should also be formulated in the national education system law. The formulation of bullying in the national education system law is formulated as a *lex specialis* of the bullying regulations as in the Criminal Code, so that when bullying is already regulated in the national education system law, the regulations regarding bullying can be specified more clearly, particularly concerning the involvement of teachers and parents in the restorative justice process for minor perpetrators or victims of bullying in educational settings.

5. Conclusion

Bullying within educational settings constitutes a criminal offense involving acts of violence that impede the learning process, violating not only the National Education System Law but also other legal provisions such as the Criminal Code. Its impacts are far-reaching for both victims and perpetrators, encompassing mental, social, and physical harm as well as diminished academic performance; victims are prone to stress, depression, and social isolation, whereas perpetrators often develop persistent aggressive tendencies into adulthood. Criminal law plays a crucial role in prevention by imposing sanctions on offenders and safeguarding victims, which must be complemented by counseling and legal education to enhance students' awareness of the consequences of bullying. The handling of perpetrators should not merely provide

a deterrent effect but also foster rehabilitation in line with the aims of corrective justice. A comparative analysis of regulations in Indonesia, Malaysia, and Vietnam reveals insufficient community engagement, particularly from parents and educators in the restorative justice process for child perpetrators and victims, despite their essential role in ensuring the fulfillment of children's rights and best interests. While all three countries address bullying through various legal instruments, a more specific formulation of restorative justice principles for child-related bullying cases is needed, with a stronger emphasis on the active participation of parents and educators. Reforming criminal law governing bullying in educational contexts is imperative to guarantee the protection of children's rights, both for offenders and victims, requiring a reorientation of existing provisions currently dispersed outside the National Education System Law into a *lex specialis* within that law. Such a reform would enable more targeted and effective case handling while aligning with the philosophical foundation of the fourth principle of Pancasila, namely deliberation in decision-making.

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