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Sentencing Disparities for Violence against Children Resulting in Death: A Study of Sibuhuan District Court Decision Number 103/Pid.Sus/2020/PN Sbh

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ABSTRACT

*Criminal law enforcement in cases of collective violence frequently encounters challenges in determining the proportionality of punishment. This challenge arises primarily when Public Prosecutors submit uniform sentencing demands for all defendants without dissecting their respective gradations of culpability. This research aims to analyze the urgency of applying the principle of individualized punishment to correct uniform demands in participation (*deelneming*) cases. Furthermore, this study evaluates the judicial ratio decidendi in imposing sentencing disparities to achieve substantive justice. This study is a normative-juridical legal research employing a case approach toward Decision Number 103/Pid.Sus/2020/PN Sbh. The results indicate a significant asymmetry in factual roles among the defendants. The initiator of the violence possessed a more dominant causal contribution toward the death of the child victim compared to other participating perpetrators. The Judges performed a judicial correction by handing down a verdict exceeding the demand (*ultra petita*) in favor of the initiator and a conforming verdict in favor of the follower. This sentencing disparity is not assessed as a form of inconsistency; rather, it constitutes a manifestation of proportional justice oriented toward child victim protection (victim-oriented justice). This research concludes that, in participation offenses resulting in fatalities, justice does not lie in equal sentencing, but in the precision of imposing sanctions commensurate with the gravity of the perpetrator's role and fault.*

Keywords: *Child Violence; Court Decision; Individualization of Punishment; Sentencing Disparity; Substantive Justice.*

INTRODUCTION

Collective violence involving multiple perpetrators (*medepleger*) frequently presents distinct challenges in criminal law enforcement, particularly concerning the determination of individual liability. Within the construction of substantive criminal law, Article 55 of the Penal Code regulates participation (*deelneming*), asserting that any individual who participates in a criminal act may be held accountable. However, judicial practice often reveals a misconception in which Public Prosecutors tend to apply a uniform sentencing demand to all perpetrators involved in the same criminal event. Prosecutors frequently fail to meticulously dissect the factual roles and individual culpability of each person. In principle, the essence of justice demands proportionality between the severity of the sentence and the degree of the perpetrator's fault, rather than merely the equivalence of the resulting consequences.

The phenomenon of collective violence, such as mob attacks or brawls resulting in death, further complicates the application of this proportionality principle. [Dewi et al. \(2022\)](#) and [Rafifa et al. \(2024\)](#) highlight that in cases of mass violence, separating individual roles is often difficult due to the simultaneous and chaotic nature of the acts. Consequently, law enforcement often falls into the trap of making generalizations that can undermine a sense of justice, especially when significant differences exist between initiators and followers. This legal issue becomes increasingly crucial when the victim is a child. According to Law Number 23 of 2002, children must receive the highest level of protection, and perpetrators face aggravated criminal penalties

(Susanti & Suparnyo, 2021). Nevertheless, protecting the victim does not nullify the defendant's right to be adjudicated according to their specific portion of fault.

The gap between mechanistic prosecution practices and the need for substantive justice is clearly evident in the handling of violence against children resulting in death at the Sibuhuan District Court. In Decision Number 103/Pid.Sus/2020/PN Sbh, the Public Prosecutor demanded an identical prison sentence of 6 (six) years for two adult defendants, arguing that both were proven to have jointly violated the same article. This approach disregarded trial facts showing a clear disparity in roles: one defendant acted as the initiator who intercepted and struck the victim repeatedly, while the other struck only once. Widyatama and Sujono (2025) assert that fair law enforcement must not be discriminatory, yet it also must not treat substantially different matters as equal. The lack of differentiation in the Prosecutor's demands indicates a lack of understanding of the urgency of the principle of individualized punishment in participation cases.

Previous research has extensively discussed violence against children resulting in death. However, the majority of these studies focus on child protection within the Juvenile Criminal Justice System where the perpetrators are children (Triyani, 2022; Sormin et al., 2023; Zulfikar, 2023; Giovani et al., 2024; Megayati, 2025). These studies primarily review judicial considerations regarding diversion and treatment for child offenders. Meanwhile, literature discussing judicial considerations in mob violence cases involving adult perpetrators, such as the research by Poer and Zakaria (2024), tends to highlight elements of violence in general. Such literature has not yet explored the dynamics of judicial correction toward uniform prosecution demands through sentencing disparity. Therefore, there is a literature gap (*lacuna*) regarding how judges progressively apply the principle of individualization of punishment to correct Public Prosecutors' demands in cases of fatal violence against children committed by adult perpetrators with asymmetrical roles.

The novelty of this research lies in its critical analysis of the judicial activism demonstrated by the Panel of Judges at the Sibuhuan District Court. The Judges dared to hand down a sentence exceeding the demand (*ultra petita*) regarding the length of the sentence (*strafmaat*) for one of the defendants. The court's action in increasing the initiator's sentence to 7 (seven) years—above the Prosecutor's demand—while sentencing the follower according to the demand, constitutes a positive anomaly. This anomaly reflects an effort to uphold substantive justice, aligning with the views of Firmansyah et al. (2025) on the importance of differentiated rewards or punishments based on the perpetrator's role (such as the concepts of Justice Collaborator or, conversely, Main Perpetrator). This research does not merely examine the verdict as a final product but explores the judicial rationality in rejecting the “myth of equality” in criminal participation.

Based on the aforementioned background, this research aims to analyze two primary matters. First, the urgency of applying the individualization of punishment principle in correcting uniform demands by Public Prosecutors in participation crimes involving violence against children. Second, to evaluate the judicial reasoning (*ratio decidendi*) in imposing sentencing disparities and verdicts that exceed demands for the sake of achieving substantive justice. Theoretically, this research is expected to enrich the treasury of criminal law concerning the doctrine of participation and proportional sentencing theory. In practice, the results of this analysis can serve as a reference for judges and legal practitioners in handling similar cases, ensuring that sentencing does not become trapped in numerical formalism but rather truly reflects the perpetrator's degree of fault and the victim's sense of justice.

METHOD

This study employs a normative-juridical legal research method (legal research), focusing on the examination of prevailing positive legal norms and rules. The normative-juridical approach was selected because this research aims to analyze the application of law in actual practice (*in concreto*) through a court decision. Furthermore, this study evaluates the alignment of judicial considerations with the principles of criminal law, particularly the principles of individualized punishment and substantive justice. In line with the perspective of [Qamar and Rezah \(2020\)](#), normative legal research is not limited to an inventory of regulations; it also examines how those rules are interpreted and applied by judges to resolve concrete cases involving complex facts, such as collective violence resulting in death. Consequently, this study does not require direct field research; it bases its analysis instead on authoritative secondary data.

The data sources utilized in this research are secondary data comprising primary, secondary, and tertiary legal materials. Primary legal materials include relevant laws and regulations, namely the Penal Code and Law Number 23 of 2002. Additionally, primary materials include the court decision document, which serves as the main object of study: Decision Number 103/Pid.Sus/2020/PN Sbh. Secondary legal materials include literature, textbooks, and contemporary academic journal articles relevant to the research topic, including prior studies on the juvenile criminal justice system, sentencing disparities, and judicial considerations in violent cases. Data collection was conducted through a documentary study technique or library research. The researcher systematically traced, reviewed, classified, and inventoried relevant legal materials to serve as the foundation for analysis ([Sampara & Husen, 2016](#)).

The data analysis technique employed is qualitative analysis using a deductive reasoning model ([Irwansyah, 2020](#)). The analysis commences by establishing a major premise consisting of positive legal norms and criminal law principles—such as the theory of *deelneming* and the objectives of sentencing. Subsequently, this major

premise is linked to a minor premise consisting of the legal facts revealed in Decision Number 103/Pid.Sus/2020/PN Sbh. In this process, the researcher interprets the law through grammatical, systematic, and teleological methods to comprehend the judge's *ratio decidendi*. This analysis is further enriched by a conceptual comparative approach. The judicial considerations in Decision Number 103/Pid.Sus/2020/PN Sbh are compared with the principles of victim protection found in the literature on the Juvenile Criminal Justice System and the restorative justice theories cited in the supporting references. The objective is to assess the extent to which the decision fulfills substantive justice. Finally, the results are described prescriptively to address the research problems regarding the urgency of individualizing punishment and the appropriateness of the sentencing disparity imposed by the judge.

RESULTS AND DISCUSSION

A. Deconstructing Legal Facts: Role Asymmetry in Fatal Collective Violence

The analysis of Decision Number 103/Pid.Sus/2020/PN Sbh commences by deconstructing the legal facts established during the trial. The case originated from an incident of collective violence on the night of Eid al-Fitr at the Gelanggang Village Bridge. During the incident, a child victim, Siddik Marito Harahap (15 years old), became the target of a mob attack that resulted in death. Trial facts revealed that while several individuals were involved, the two primary defendants brought to trial were Defendant I (Aman Ansori Nasution) and Defendant II (Handika Peratista Mandepa). The Public Prosecutor charged both with alternative indictments, including Article 80 section (3) of Law Number 35 of 2014 juncto Article 55 section (1) point 1 of the Penal Code. The application of this *deelneming* article became a pivotal point. The Public Prosecutor demanded an identical prison sentence for both defendants—6 (six) years each—under the assumption that both shared equivalent liability for the victim's loss of life.

However, a thorough deconstruction of the legal facts reveals a significant asymmetry in roles between the defendants. Defendant I was proven to have committed a series of aggressive, initiative-based actions. He actively intercepted the vehicle carrying the victim and subsequently struck the victim's face 3 (three) times. This act of interception constitutes a crucial *actus reus* as it served as the initial trigger that halted the victim and commenced the physical assault. Conversely, Defendant II, although proven to be at the scene and participating in the violence, only struck the victim 1 (one) time with his hand. The difference in the intensity of the attack—three strikes plus the initiation of interception versus a single strike—factually indicates a gradation of varying involvement. In criminal law theory, this disparity in *actus reus* should ideally implicate a different assessment of the *mens rea* (guilty mind) of each perpetrator.

The tendency of Public Prosecutors to equalize sentencing demands in violence cases involving multiple perpetrators is frequently criticized as a form of legal simplification. This practice disregards the nuances of individual roles. [Zulfikar \(2023\)](#), in his research on mob violence by children, asserts that in criminal acts committed by more than one person, the application of the *deelneming* principle must not be interpreted as blind “joint and several liability.” There must be a clear distinction between the primary perpetrator (*pleger*) who holds a dominant role and the co-perpetrator (*medepleger*) whose role is more passive or limited. In the context of Decision Number 103/Pid.Sus/2020/PN Sbh, equalizing the demand for Defendant I, who acted aggressively, with Defendant II, whose role was minor, constitutes an injustice. It reduces the complexity of facts to mere procedural formality.

The phenomenon of collective violence or mob violence, such as brawls, often creates ambiguity in determining who is most responsible for the resulting fatal consequences. [Dewi et al. \(2022\)](#) and [Rafifa et al. \(2024\)](#) note that in mass disturbances, law enforcement often encounters difficulties in identifying the proximate cause (*causa proxima*) of death due to the numerous blows dealt to the victim’s body. This often prompts Public Prosecutors to take a shortcut by demanding an average sentence for all involved. However, [Susanti and Suparnyo \(2021\)](#) remind us that when the victim is a child, child protection law mandates a handling process that does not focus solely on retribution. The law also demands substantive justice that deconstructs the roots of violence. In this case, the root of the violence clearly originated with Defendant I.

Therefore, the trial facts in Decision Number 103/Pid.Sus/2020/PN Sbh vividly displays a role imbalance that cannot be ignored. Defendant I was not merely a participant but a field intellectual actor who facilitated the mob attack through interception. Meanwhile, Defendant II, while guilty, possessed a lower causal contribution to the accumulation of trauma that caused the victim’s death. The disregard for this role asymmetry in the Public Prosecutor’s demand provided a logical basis for the Panel of Judges to exercise judicial correction. This step represents a progressive action that distinguishes this verdict from the general handling of mob violence cases.

B. Judicial Correction through Individualization of Punishment: A Critique of Sentencing Uniformity

The *ratio decidendi* of the Panel of Judges at the Sibuhuan District Court in Decision Number 103/Pid.Sus/2020/PN Sbh reflects a positive anomaly, demonstrating judicial courage in upholding substantive justice over procedural formalism. In the ruling, the Judges explicitly stated their disagreement with

the sentencing magnitude (*strafmaat*) proposed by the Public Prosecutor. The Prosecutor, bound by a rigid positivist logic, demanded identical prison sentences for Defendants I and II, namely 6 (six) years each. This logic of uniform sentencing was based on the assumption that in participation offenses, every participant bears an equivalent legal consequence for the resulting outcome. However, the Judges dismantled this assumption through judicial correction. Defendant I was sentenced to 7 (seven) years of imprisonment—exceeding the prosecutor’s demand (*ultra petita in strafmaat*)—whereas Defendant II was sentenced to 6 (six) years (conforming to the demand).

The corrective measures taken by the Panel of Judges constitute a concrete manifestation of the principle of *individualized punishment*. This principle mandates that sentencing must not be imposed “mechanistically” based solely on the qualification of the violated offense. Instead, sentencing must be tailored to each perpetrator’s personal characteristics and culpability. [Poer and Zakaria \(2024\)](#), in their analysis of judicial considerations in joint violence cases, emphasize that although the element of “jointly” in Article 55 section (1) point 1 of the Penal Code is fulfilled, it does not automatically merge individual liability into a single, uniform entity. Each perpetrator possesses a distinct *mens rea* and *actus reus* role ([Ramadinah et al., 2026](#)). In this case, such a distinction is clearly visible from the intensity of Defendant I’s attack, which was far more aggressive than that of Defendant II. Consequently, equalizing sentences for perpetrators with varying degrees of fault constitutes a form of disguised injustice.

The critique of the Public Prosecutor’s sentencing uniformity can also be examined from the perspective of punishment objectives oriented toward proportional justice. [Widyatama and Sujono \(2025\)](#) assert that criminal law enforcement must culminate in the value of justice; the severity of the sanction must be commensurate with the degree of the crime committed. In the context of Decision Number 103/Pid.Sus/2020/PN Sbh, the Judges assessed that Defendant I, as the initiator who performed the interception and repeated strikes, possessed a greater “criminal energy” compared to Defendant II. Had the Judges followed the Prosecutor’s line of reasoning, the function of the law as an instrument of justice would have been reduced to a mere instrument of retribution, blind to the gradation of facts. Thus, the sentencing disparity imposed by the Judges in this case is not a form of inconsistency, but rather an effort to balance the scales of justice so that the punishment received truly reflects each individual’s share of fault.

Furthermore, the Judges’ courage to sentence Defendant I beyond the Public Prosecutor’s demand demonstrates the independence of the judicial power, which is not co-opted by the prosecution’s brief (*requisitoir*). In criminal justice practice,

sentencing disparity is often associated with transactional or subjective factors. However, Firmansyah et al. (2025) argue that disparity based on objective reasons—such as differences in roles between the main perpetrator and the accessory, or the presence of a justice collaborator—is the essence of substantive justice. Although Firmansyah et al. (2025) discuss the context of rewards for cooperating perpetrators, the same logic applies conversely (*a contrario*). A perpetrator with a dominant role and higher malicious initiative (such as Defendant I) deserves an aggravated sentence compared to a perpetrator with a more passive role. Decision Number 103/Pid.Sus/2020/PN Sbh reaffirms that sentencing disparity is a legitimate instrument for Judges to correct demands that are imprecise in dissecting the perpetrators' roles.

An analysis of the judicial reasoning also reveals that the application of Article 80 section (3) of Law Number 35 of 2014 cannot be detached from the context of causality. The Judges perceptively observed that Defendant I's contribution to the fatal outcome (the victim's death) was more significant than that of Defendant II. The interception of the vehicle conducted by Defendant I was an absolute condition (*conditio sine qua non*) for the occurrence of the mob attack. Without that initial interception, the victim could probably have escaped and the death would not have occurred. Therefore, imposing a heavier sentence on Defendant I has a strong causal foundation. This proves that the Judges did not merely act as the "mouth of the law" (*la bouche de la loi*), but rather as legal discoverers (*rechtsvinding*) who unearthed the value of justice behind the statutory text.

Consequently, the disparity in the verdict by the Panel of Judges at the Sibuhuan District Court must be interpreted as a sharp critique of prosecution practices that tend to simplify the complexities of participation cases. Public Prosecutors often fall into the trap of pragmatism, demanding uniform sentences to ease the burden of proof. However, this disregards the personal nature of criminal liability. The judicial correction through the individualization of punishment applied in this verdict provides an important lesson: in collective violence crimes resulting in death, justice does not lie in the equality of sentences, but in the precision of placing the criminal burden according to the gravity of each perpetrator's actions.

C. Dimensions of Causality and the Urgency of Child Victim Protection in the *Ratio Decidendi*

The judicial reasoning in Decision Number 103/Pid.Sus/2020/PN Sbh does not merely conclude with the calculation of the perpetrators' fault. It also delves into the profound dimension of causality between the violent acts and the resulting fatal consequence—the loss of a child's life. In their considerations, the Judges

highlighted that the victim's death was caused by "blunt force trauma to the head," leading to a fractured skull base and intracranial hemorrhaging. This medical fact serves as a crucial tipping point in linking the intensity of Defendant I's assault—striking the victim's face three times—with the fatal accumulation of trauma. Although in mob violence cases it is often difficult to determine with certainty "whose strike" constituted the direct cause of death (*causa mortis*), criminal law causality theory teaches otherwise: any act that significantly increases the risk of a prohibited outcome must be held accountable. In this context, the Judges correctly found that Defendant I's aggression made a greater causal contribution than Defendant II's. Therefore, the justification for imposing a heavier penalty (*straverzwaringsgrond*) is firmly grounded.

An analysis of the severity of criminal sanctions in this case must also be placed within the framework of victim-oriented justice. [Sinta and Razy \(2024\)](#), as well as [Yubinas and Lewoleba \(2024\)](#), in their studies on Article 80 of Law Number 35 of 2014, emphasize that legislators have positioned a child's life as a national asset that must be protected with aggravated criminal sanctions. Although those references discuss the context of parents as perpetrators, the essence of protection remains relevant. Violence resulting in a child's death is an extraordinary crime that violates humanity. Consequently, the judicial verdict sentencing Defendant I to 7 (seven) years—exceeding the Prosecutor's demand—must be interpreted as the Judges' effort to restore the scales of justice for a child victim who has lost their right to life. This *ultra petita* verdict sends a powerful judicial message that the loss of a child's life cannot be redeemed by a sentence that merely follows the minimum standards of a prosecution demand.

Furthermore, a comparison with judicial practices in cases involving juvenile offenders provides a compelling perspective on the seriousness of handling fatalities. Studies by [Triyani \(2022\)](#), [Sormin et al. \(2023\)](#), and [Giovani et al. \(2024\)](#) demonstrate that even the juvenile justice system, which prioritizes restoration, still imposes firm sanctions (in the form of actions or imprisonment) for child offenders who cause death. This is done for the sake of rehabilitation and deterrence. If juvenile offenders—who possess relative immunity—are faced with serious consequences for the loss of life, then a stronger argument (*argumentum a fortiori*) applies to adult perpetrators like Defendants I and II. As fully capable legal subjects (*volwassen*), they bear a significantly greater moral and legal responsibility to refrain from harming children. The sentencing disparity applied by the Sibuhuan District Court Judges reflects an awareness of the guarantor position (*garantstellung*) that adults ought to maintain toward children.

The importance of the victim protection dimension in judicial considerations is also reinforced by the findings of [Megayati \(2025\)](#) and [Yanti et al. \(2025\)](#). They

highlight that in cases of fatal abuse, the failure to prove the intent to kill (*opzet*) often leads to acquittals or light sentences. However, in Decision Number 103/Pid.Sus/2020/PN Sbh, the Judges progressively avoided becoming trapped in the difficulties of proving *opzet*. Instead, the Judges focused on negligence (*culpa*) or the intentional act of violence resulting in death (Article 80 section (3) of Law Number 35 of 2014). [Salsabila and Zakaria \(2023\)](#) add that in situations where no justifying reasons such as self-defense exist, criminal liability must be maximized according to the degree of fault. The Judges of the Sibuhuan District Court implicitly applied this logic. Since there were no excusable or justifying reasons for Defendant I to intercept and strike the child victim, the criminal sanction must be commensurate with the resulting consequence.

Finally, the 7-year sentence for Defendant I and the 6-year sentence for Defendant II, though differing by only 1 year, carry profound symbolic meaning. This gap represents the “price” of a malicious initiative that triggered a chain of fatal events. From a sociological perspective, this verdict also responds to public concerns regarding the rise of street violence targeting children. The Judges acted not only as adjudicators of a case but also as guardians of public morality, affirming that violence against children is an intolerable act. Thus, the *ratio decidendi* of the Judges in this case has successfully integrated juridical (causality), philosophical (proportional justice), and sociological (child protection) aspects into a cohesive and equitable verdict.

CONCLUSIONS AND SUGGESTIONS

Based on a profound analysis of Decision Number 103/Pid.Sus/2020/PN Sbh, this research yields two primary conclusions that address the research objectives. First, the application of the individualization of punishment principle is proven to possess fundamental urgency in correcting uniform sentencing demands by Public Prosecutors in cases of criminal participation (*deelneming*) involving violence against children. The prosecutorial practice of equalizing sentences for all perpetrators, regardless of culpability level, constitutes a form of procedural injustice that must be avoided. This research reaffirms that every perpetrator holds a unique portion of liability according to their factual role. Whether as an aggressive initiator or merely a follower, justice cannot be achieved through the standardization of sentencing figures; rather, it is attained through the proportionality of the sanction relative to each individual’s malicious contribution.

Second, the Judges’ *ratio decidendi* in imposing sentencing disparity and an *ultra petita* verdict (exceeding the Prosecutor’s demand) against Defendant I represents a progressive step grounded in considerations of causality and victim-oriented justice. The Judges’ decision to aggravate the sentence for Defendant I (7 years) compared to

Defendant II (6 years) was not based on subjectivity but on the fact that Defendant I's initiative in intercepting the victim and his intensity of attack served as the *conditio sine qua non* for the victim's death. Through this verdict, the Judges successfully restored the scales of substantive justice by prioritizing the child's life, protected through a deterrent sanction. Concurrently, the Judges reasserted the independence of judicial power in correcting imprecise prosecution demands.

Based on these conclusions, this research recommends the following follow-up measures:

1. For the Attorney General's Office of the Republic of Indonesia: It is necessary to issue Sentencing Demand Guidelines that specifically regulate the parameters for differentiating demands in participation cases (*medepleger*), particularly those involving collective violence. Public Prosecutors must be required to elaborate on specific roles (*role-based indictment*) when drafting prosecution briefs (*requisitoir*), ensuring that demands are no longer generalist and uniform but reflect the gradation of fault of each defendant.
2. For the Supreme Court of the Republic of Indonesia: It is suggested to strengthen jurisprudence regarding justifiable sentencing disparity in cases of violence against children. Decision Number 103/Pid.Sus/2020/PN Sbh could serve as a reference for a landmark decision in judicial training to encourage measured *ultra petita* actions for the sake of substantive justice, especially when a Prosecutor's demand is deemed to undermine the sense of justice for the community and the victim.
3. For Academics and Legal Researchers: Further, more comprehensive research is required concerning the effectiveness of imprisonment for perpetrators of violence against children in preventing recidivism. Future studies should also explore the integration of restorative justice concepts during the execution phase of sentences for adult perpetrators, involving compensation (*restitution*) to the victim's family as a complement to the custodial sentences imposed.

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