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ISLAMIC CRIMINAL LAW ON CHILD PROTECTION: ADDRESSING PARENTAL MALTREATMENT IN TANAH KARO

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Abstract
This research aims to examine the application of Islamic criminal law in cases of child maltreatment by parents and assess the effectiveness of law enforcement by the Tanah Karo Police, specifically in relation to Law No. 35 of 2014 on Child Protection. The study seeks to highlight the alignment between Islamic law principles, which emphasize the protection of children, and Indonesia's legal framework for child welfare. A qualitative approach was employed using a case study design. Data were collected through in-depth interviews, observations, and document analysis, providing comprehensive insights into the legal and social aspects of child maltreatment cases handled by the Tanah Karo Police. Findings indicate that Islamic criminal law views child maltreatment as a severe offense, prescribing punishments such as diyat (financial compensation) or hudud (fixed penalties) depending on the severity of the abuse. The Tanah Karo Police, in adherence to Article 76C of Law No. 35 of 2014 on Child Protection, has established collaborative efforts with the Office for Women's Empowerment and Child Protection as well as the Karo District Social Services to address and mitigate child maltreatment cases. This study provides a unique perspective on the integration of Islamic criminal law principles with national child protection laws, underscoring the role of law enforcement in bridging cultural, religious, and legal frameworks to protect children. The findings suggest that integrating Islamic law principles into the enforcement of child protection laws may strengthen the legal and moral mandate for child welfare, encouraging a more cohesive approach across different sectors of Indonesian society. This integration has the potential to improve collaboration between law enforcement and social services in cases of child maltreatment, enhancing support for victims and accountability for offenders.

Keywords: Child maltreatment; Islamic criminal law; Child protection; Law enforcement.

INTRODUCTION

Many Indonesian children are still deprived of basic rights, including adequate education and social welfare.[1] This issue is evident in the lives of orphans, impoverished children, and abandoned minors, who are often left without proper care and education. Without intervention, these vulnerable children lack the resources needed for their development. As of December 15, 2020, the Integrated Social Welfare Data Dashboard (DTKS) reported 67,368 abandoned children across Indonesia, highlighting the scale of this issue.[2] Children hold an essential role in shaping Indonesia's future, with religious teachings, like in Al-Kahfi verse 46, emphasizing the value of children as blessings and responsibilities for parents and society alike.[3] Furthermore, Indonesian law, particularly Article 105 of the Compilation of Islamic Law (KHI), states that a child under 12 years belongs under the mother's care, underscoring the social responsibility toward their wellbeing. Addressing the welfare of these children is crucial for building a just and prosperous Indonesian society.

Child maltreatment by parents is a critical social issue with severe implications. Acts of child abuse inflict physical, emotional, and psychological harm on children, with far-reaching consequences that extend beyond individual families to society at large. The parental role ideally includes protection and care, making such abuse a violation of both moral and social expectations.[4] According to a report by the Indonesian Child Protection Commission, cases of child abuse involve various forms of violence, including physical and psychological harm, and are increasingly documented nationwide.[5] This trend highlights a societal need for interventions that prioritize child safety and address

[1] Imran et al., "Aspect of Justice of Marriage Disepnsation and Best Interests for Children," *Jurnal Hukum Dan Peradilan* 13, no. 1 (2024): 63–88, https://doi.org/10.25216/jhp.13.1.2024.63-88.
[2] Puput Mutiara, "Penanganan Anak Terlantar Butuh Komitmen", Kemenko PMK.go.id, 17 Desember, 2020, https://www.kemenkopmk.go.id/penanganan- anak-terlantar-butuh-komitmen
[3] Kementerian Agama RI, *Al-Qur'an Dan Terjemahannya* (Jakarta: Lajnah Pentashihan Mushaf Al-Qur'an Badan Litbang dan Diklat Kementerian Agama RI, 2019), https://lajnah.kemenag.go.id/unduhan/category/3-terjemah-al-qur-an-tahun-2019.
[4] Indri Sulistiyani, Dini Rahmawati, and G Rohastono Ajie, "Peran Guru Bimbingan Konseling Dalam Meminialisir Perilaku Bullying," *DWIJALOKA Jurnal Pendidikan Dasar Dan Menengah* 2, no. 4 (2021): 419–26.
[5] Tri Sella Margareta and Melinda Puspita Sari Jaya, "Kekerasan Pada Anak Usia Dini (Study Kasus Pada Anak Umur 6-7 Tahun Di Kertapati)," *Wahana Didaktika: Jurnal Ilmu Kependidikan* 18, no. 2 (2020): 171–80.

underlying causes of parental abuse. Therefore, addressing child abuse is crucial for promoting a safe and just society.[6]

The study of child maltreatment, particularly in the legal context, reveals gaps in both preventive measures and enforcement. Literature on child abuse indicates two key areas of concern: the adequacy of criminal sanctions for abusive parents and the effectiveness of legal protection for children under Indonesian law.[7] Research shows that families and close relatives are often the most common perpetrators, with offenses ranging from mild to severe violence.[8] Several studies highlight that Indonesian law, including Law No. 35 of 2014 on Child Protection, mandates sanctions for acts of violence against children. Article 76C of this law strictly prohibits violence against minors, while Article 80 outlines punishments for offenders. However, child abuse cases often go unreported, and minor acts of violence are frequently normalized within communities, presenting a challenge for legal interventions. These studies underscore the need for more rigorous application of child protection laws to reduce abuse and hold offenders accountable.

This study aims to assess the application of Islamic criminal law to cases of child maltreatment and the effectiveness of law enforcement by Tanah Karo Police. The primary objectives are to analyze child abuse cases under Islamic criminal law and evaluate how Indonesian law, specifically Law No. 35 of 2014, is enforced to protect children in Tanah Karo. Additionally, the study explores whether current policies and practices align with the principles of Islamic law that emphasize child welfare. Islamic criminal law considers child abuse a serious offense with potential punishments such as diyat (financial compensation) or hudud (fixed punishments), depending on the crime's severity. In Tanah Karo, the local police collaborate with child welfare organizations to tackle child abuse cases, responding to increasing reports and implementing legal action against offenders. This study examines these responses, looking at enforcement practices

[6] Alifia Desya Nabilla, Noor Azizah, and Ramadani Ramadani, "Pertanggungjawaban Pidana Terhadap Anak Ditinjau Dari Hukum Pidana Islam Dan Undang-Undang Nomor 11 Tahun 2012 Tentang Sistem Peradilan Pidana Anak," *AHKAM* 2, no. 3 (2023): 573–82.
[7] I Ketut Detri Eka Adi Pranata, I Nyoman Putu Budiartha, and I Made Minggu Widyantara, "Tindak Pidana Penganiayaan Anak Oleh Orang Tua Ditinjau Dari Aspek Perlindungan Anak," *Jurnal Preferensi Hukum* 3, no. 2 (2022): 260–65.
[8] Sidiq Aulia, "Penanganan Kasus Kekerasan Dalam Rumah Tangga (KDRT) Oleh Berencana Pemberdayaan Masyarakat Dan Pemberdayaan Perempuan (BKBPMPP) Kabupaten Sleman," *University of Bengkulu Law Journal* 4, no. 2 (2019): 153–63.

and their impact on child safety within the community. By analyzing these aspects, the research sheds light on how legal frameworks and religious principles converge to address child maltreatment.

Islamic law and Indonesian criminal law collectively provide a strong foundation for protecting children from abuse.[9] Islamic teachings regard children as invaluable assets entrusted by Allah, emphasizing the duty of guardians to ensure their well-being.[10] This approach aligns with the intent of Indonesian law, which seeks to prevent and penalize child abuse.[11] According to Islamic jurisprudence (fiqh jinayah), abuse that causes physical harm warrants qisas (retaliation) or diyat unless pardoned, in which case ta'zir (discretionary punishment) applies. Indonesian criminal law, under Articles 351 of the Penal Code and Article 80 of Law No. 35 of 2014, similarly prescribes severe penalties for abusive actions, especially those resulting in grave injuries or death. This alignment demonstrates that both religious and secular legal systems endorse stringent actions against child maltreatment, reinforcing societal norms against such behavior. Thus, integrating Islamic principles with Indonesian legal enforcement strengthens child protection efforts.

A recent case in Tanah Karo illustrates the urgency of addressing child maltreatment in Indonesia. In this case, a 4-year-old child suffered physical abuse from his father, who recorded the violent act and circulated it on social media. This incident attracted police attention due to cyber patrols and family reports, leading to the perpetrator's arrest. The Tanah Karo Police apprehended the father, who confessed to hitting the child out of frustration after a long day at work. Police Chief AKBP Wahyudi Rahman confirmed that the initial response included providing medical attention to the victim and collecting witness testimonies. This case demonstrates both the presence of violent tendencies among caregivers and the response of local law enforcement to tackle such abuses. The

[9] Hisny Fajrussalam, Lena Putri Tejakusuma, and Liana Lestari, "KEKERASAN PADA ANAK DALAM SUDUT PANDANG HUKUM ISLAM," *Jurnal Ilmiah Wahana Pendidikan* 9, no. 16 (2023): 449–56.
[10] Muh Arif and Ismail Busa, "Konsep Relasi Anak Dan Orang Tua," *Early Childhood Islamic Education Journal* 1, no. 01 (2020): 26–42.
[11] Lu'luil Maknun, "Kekerasan Terhadap Anak Yang Dilakukan Oleh Orang Tua (Child Abuse)," *Muallimuna* 3, no. 1 (2017): 66–77.

swift response underscores the importance of prompt intervention and the role of law enforcement in curbing child abuse.

Islam mandates child protection as a moral and legal obligation for all guardians. Children are viewed as blessings and trusts from Allah, whose welfare and education are paramount responsibilities for their parents and society.[12] Unfortunately, ignorance of these responsibilities leads to child abuse, depriving children of their rights. Islamic criminal law condemns acts that harm a child, including neglect, physical violence, and emotional abuse, categorizing them under offenses deserving punishment such as qisas or diyat. Surah Al-Hajj (22:60) highlights the principle of proportionate justice, emphasizing Allah's support for those seeking justice after suffering wrongdoing.[13] This perspective reinforces that protecting a child's well-being is not just a societal duty but a religious commandment with spiritual implications. Therefore, integrating Islamic values into child protection frameworks promotes both social justice and spiritual adherence, aiming to prevent abuse at its root.

METHOD

This study utilizes an empirical juridical research design to deeply investigate cases of child abuse by parents. Empirical juridical research is primarily conducted through fieldwork, providing insights into phenomena or events that affect specific communities. By focusing on real-world cases, this study not only explains the occurrence of child abuse incidents but also contextualizes them within broader social patterns. Therefore, it is viewed as a case study that aims for a comprehensive analysis of why and how such abuse cases arise. This approach enables the researcher to explore the application of child protection laws within the societal context of the case. The primary data collection method used in this study is field-based interviews, a tool well-suited for obtaining nuanced information. Interviews were conducted with key stakeholders, including law enforcement officials from the Karo District Police, who possess crucial insights into both

[12] Nirwani Ibrahim and Moh Yasin Soumena, "Criminal Acts of Violence by Children against Parents According to Islamic Criminal Law," *DELICTUM: Jurnal Hukum Pidana Islam* 1, no. 2 (2023): 98–114.
[13] Kementerian Agama RI, *Al-Qur'an Dan Terjemahannya* (Jakarta: Lajnah Pentashihan Mushaf Al-Qur'an Badan Litbang dan Diklat Kementerian Agama RI, 2019), https://lajnah.kemenag.go.id/unduhan/category/3-terjemah-al-qur-an-tahun-2019.

legal procedures and the community's response to child abuse cases. These interviews enabled the researcher to gather firsthand data that reveals the enforcement of child protection laws in actual abuse cases. By interacting with relevant authorities, the study captures a well-rounded perspective on the legal and social challenges surrounding child abuse incidents. This data collection method strengthens the study's validity by grounding findings in real-life testimonies and professional experiences. The collected data is analyzed qualitatively to draw meaningful insights about the societal and legal implications of child abuse cases. Qualitative analysis allows for a detailed interpretation of the interview responses, focusing on themes like the effectiveness of law enforcement and the gaps in legal application. By organizing data into thematic categories, the analysis illuminates' patterns of child abuse and evaluates the enforcement of child protection laws within specific contexts. This approach ensures that conclusions are directly connected to the empirical data collected, providing an in-depth understanding of how laws function in real-world scenarios. Thus, the analysis translates field observations into insights about broader legal and societal dynamics.

RESULT AND DISCUSSION

1. Cases and Law Enforcement Against Child Abuse in Karo Regency

The study reveals that child abuse remains prevalent in society, with significant negative effects on children's mental health.[14] Despite the legal protections in place, there is still a common perception among some parents that physical punishment is an acceptable form of discipline.[15] This misconception ignores the crucial role of parents in ensuring a child's well-being and development. The case analyzed in Kabupaten Karo exemplifies this issue, where a four-year-old child suffered physical abuse from his father, leaving both physical and psychological scars. Such incidents highlight the

[14] Kayus Kayowuan Lewoleba and Muhammad Helmi Fahrozi, "Studi Faktor-Faktor Terjadinya Tindak Kekerasan Seksual Pada Anak-Anak," *Jurnal Esensi Hukum* 2, no. 1 (2020): 27–48.
[15] Margareta and Jaya, "Kekerasan Pada Anak Usia Dini (Study Kasus Pada Anak Umur 6-7 Tahun Di Kertapati)."

pressing need for societal awareness about the impact of child abuse and the importance of nurturing, supportive parenting.

Underscore the vital role of law enforcement agencies, such as the Karo District Police, in responding promptly to reports of child abuse.[16] The case has brought attention to the need for comprehensive support systems for abused children, involving medical, psychological, and social services. Moreover, the study highlights the importance of a proactive approach by police and community welfare organizations to reduce instances of child abuse. By enhancing inter-agency cooperation, such as that between the Karo Police and the Department of Women and Child Protection, authorities can offer a model for integrated child protection measures that might inspire similar efforts in other regions.

One limitation of this study is its narrow geographical focus on the Kabupaten Karo area, which may limit the generalizability of the findings to other regions with different socio-cultural contexts. The study is also based on qualitative data gathered through interviews with local authorities, which may introduce bias if the respondents' views do not fully capture the community's broader perspective on child abuse. Additionally, the research does not include the voices of affected children or families directly, which could provide further insights into the social factors contributing to child abuse and the effectiveness of current prevention measures.

A more comparative perspective on child abuse across different social and legal environments. Studies could also investigate the impact of educational programs aimed at preventing child abuse, specifically those targeted at parents and caregivers. Further, quantitative analyses could provide data on long-term effects of abuse on children's mental health, academic performance, and social behavior, which would offer a broader understanding of the societal costs of child abuse. Research in these areas could contribute valuable insights to inform policies and preventive programs.

The study reveals the essential role of specific legal frameworks, such as Indonesia's Child Protection Law (Law No. 35/2014), in addressing child abuse cases. Article 76C of the law prohibits violence against children, and Article 80 establishes sanctions for

[16] Rustam Rustam and Akmaluddin Syahputra, "Peran Keluarga Dalam Perlindungan Anak Di Daerah Rawan Bencana Di Indonesia," 2021.

offenders. The enforcement of these legal provisions by the Karo District Police emphasizes the need for clear and strict guidelines to protect children's rights. Effective implementation of these laws demonstrates their potential to act as deterrents, but it also points to a need for continuous oversight to ensure consistent application in all regions.

The study highlights the specialized support provided to victims by the Women and Child Protection Unit (UPPA) in the Karo District Police. Measures such as social worker assistance, psychological counseling, and placement in safe houses for at-risk children reflect a comprehensive approach to handling abuse cases. These services help victims recover and reintegrate into their communities. The collaboration between the UPPA, social services, and NGOs illustrates a model of victim-centered care that addresses both immediate and long-term needs, providing valuable insights into holistic approaches to victim support.

A unique aspect of the Karo District Police's approach is its collaboration with external agencies, which enhances the effectiveness of child abuse case management. The study shows that other police units in Sumatera Utara, such as those in Dairi and Deli Serdang, frequently seek guidance from Karo District Police, suggesting that their model could benefit other areas. Such collaboration reinforces the notion that a multi-agency approach can improve response rates, information sharing, and overall care for victims, providing a blueprint for wider replication across the nation.

The study finds a promising decrease in reported child abuse cases within the jurisdiction of the Karo District Police from 26 cases in 2023 to just 10 in the first half of 2024. This trend suggests that the focused attention on child protection and the specialized care for victims have had a tangible impact. While cases are still reported annually, this reduction points to the potential success of sustained and specialized interventions. Continued commitment to these efforts may yield further reductions, showing that a persistent, focused approach can help mitigate child abuse rates over time.

2. Positive Law Enforcement Against Child Abuse According to Laws and Regulations

The findings illustrate that acts of abuse, particularly against children, constitute severe violations that can lead to significant harm, including potential loss of life. This

underscores the urgency of holding perpetrators accountable to safeguard victims' lives and mental well-being. The legal system, driven by principles of justice and humanity, plays a crucial role in enforcing penalties that prevent such harm. Thus, ensuring accountability is not only a matter of legal duty but also a moral imperative to protect vulnerable populations, especially children.

The existing legal framework aims to ensure that abuse is unequivocally punishable under law, emphasizing that violence against children is intolerable. The inclusion of child protection under Law No. 35 of 2014, Article 76C, clearly prohibits abuse in all forms, with specific provisions for punishments outlined in Article 80. This reinforces that a structured legal response is essential to both penalize offenders and deter future instances, indicating that legal clarity can have a protective effect on vulnerable populations.

Penalties stipulated in the legislation, such as those in Article 80 and the Indonesian Criminal Code (KUHP) Article 351, provide a range of sanctions depending on the severity of harm inflicted on the child. These can vary from prison sentences of up to seven years for the most serious cases. The severity of these punishments reflects the gravity of abuse and aims to prevent further harm, asserting that legal consequences must be proportionate to the damage caused to deter potential offenders.

Punishment serves not only as a form of retribution but also as a corrective measure for those who commit deviant acts. Its purpose is to limit the freedom of those convicted, signaling to offenders the repercussions of their actions.[17] Beyond retribution, the aim of such penalties is to rehabilitate offenders and discourage them from repeating their actions, highlighting a restorative approach that seeks to reestablish social order and security for potential victims.

In cases where abuse has led to severe outcomes, including fatalities, the demand for justice intensifies, requiring that penalties fully reflect the severity of the crime. The legal system must work to deliver a balanced form of justice that acknowledges the suffering of victims and their families. This approach must apply even when the abuser is a parent, stressing that familial bonds do not exempt perpetrators from facing due consequences.

[17] Asmak Ul Hosnah et al., "PENGANIAYAAN ANAK OLEH ORANG TUA DITINJAU DALAM PERSPEKTIF HAK ASASI MANUSIA," *YUSTISI* 10, no. 3 (2023): 53–64.

Law No. 35 of 2014 is instrumental in criminalizing child abuse, and its provisions are critical for fostering a protective environment for children. By prohibiting acts of violence against minors, the law establishes a robust foundation for child welfare. These provisions emphasize that children have an inherent right to safety and that violations of this right will be met with appropriate penalties, strengthening the commitment to protecting children from harm.[18]

Providing justice is not only about punishing the abuser but also ensuring support for the victims and their families. When child abuse results in significant trauma, the legal system must provide avenues for recovery and rehabilitation. This support is vital in addressing the psychological impact of abuse, demonstrating that justice extends beyond punitive measures to encompass care for victims' well-being, allowing them to recover from the traumatic effects of abuse.

Raising community awareness about the severity of child abuse and the consequences of such actions is essential in preventing future cases. Educating parents, families, and society on the implications of violence fosters a culture that discourages abusive practices. By reinforcing the understanding that violence is unacceptable, community education contributes to reducing incidents of child abuse, thus promoting a safer environment for children.

Further research should explore more effective interventions and preventive measures against child abuse, focusing on rehabilitating offenders and reducing recidivism. Studies could investigate the long-term impact of various sentencing models on offender behavior and the effectiveness of family-centered preventive programs. This research could inform policies to refine interventions that ensure child safety within communities.

Ultimately, a comprehensive approach involving strict enforcement of laws, community education, and effective victim support is crucial to addressing child abuse. Sustained efforts from legal authorities, combined with societal initiatives, can create a more resilient framework for protecting children. Commitment to this approach

[18] Hosnah et al.

demonstrates a collective responsibility to safeguard vulnerable children, reinforcing that society stands firmly against abuse and prioritizes child welfare.

3. Enforcement of Islamic Criminal Law Against Child Abuse

Islamic criminal law remains poorly understood by both Muslims and non-Muslims. People often see Islamic criminal punishments as harsh or brutal without understanding the principles behind them.[19] The common perceptions of punishments like hand amputation, stoning, and lashing contribute to these misunderstandings.[20] These views fail to consider the Islamic legal system's nuanced approach, which is more complex and justice-oriented than commonly assumed. Islamic criminal law is a branch of Islamic jurisprudence that plays a role within the broader discipline of fiqh. Fiqh addresses various aspects of life, grounded in the teachings of the Qur'an and Hadith.[21] The Islamic faith divides its core teachings into three main areas: faith (iman), practice (Islam), and moral excellence (ihsan). This framework allows for a structured approach to different aspects of life, where criminal law (fiqh jinayah) is just one component among others like politics, inheritance, and marriage.[22]

Islamic criminal law has a specific purpose, promoting welfare and moral values. It operates as divine law intended for humanity's benefit, both in worldly and spiritual matters.[23] It emphasizes fulfilling duties to Allah, which, in turn, benefits the individual and society. By aiming for the common good, Islamic criminal law establishes a moral code intended to enhance societal welfare.[24] The applicability of Islamic criminal law is outlined in the Qur'an, underscoring its divine origin. Qur'anic verses affirm its purpose and instruct believers to follow its rules. For instance, in Surah Al-Maidah (5:48), Allah instructs people to judge by what He has revealed and warns against following personal

[19] Mahendra Kusuma and Rosida Diani, "Qishash Diyat Dalam Hukum Pidana Islam Lebih Mencerminkan Keadilan Dari Sisi Korban," *Jurnal Dinamika* 2, no. 2 (2022): 45–54.
[20] FITRI FITRI WAHYUNI, "Hukum Pidana Islam" (PT NUSANTARA PERSADA UTAMA, 2018).
[21] Nurul Irfan, *Fiqh Jinayah* (Jakarta: Amzah, 2015).
[22] Solihah Titin Sumanti, "Dasar-Dasar Materi Pendidikan Agama Islam Untuk Perguruan Tinggi," 2015.
[23] Wardah Ramadina, Syafruddin Syam, and Ramadani Ramadani, "Analisis Hukum Pada Menerima Upah Mengajar Al-Qur'an Menurut Fiqh Hanafi Dan Fiqh Asy-Syafi'i Studi Kasus Kecamatan Medan Deras Kabupaten Batu Bara," *AHKAM* 2, no. 4 (2023): 682–99.
[24] Lysa Angrayni, "Hukum Pidana Dalam Perspektif Islam Dan Perbandingannya Dengan Hukum Pidana Di Indonesia," *Hukum Islam* 15, no. 1 (2015): 46–60.

desires that diverge from divine truth.[25] This verse establishes Islamic law's authority and justifies its application as part of following God's will.

The Prophet Muhammad applied Islamic criminal laws universally, including for non-Muslims. This inclusivity demonstrated the laws' relevance and fairness across different communities. One example is the Prophet's judgment involving a Jewish man and a woman from the Juhainah tribe, both subject to the same penalties as Muslims. This precedent underscores the impartiality and universality of Islamic criminal law when implemented fairly. The application of Islamic criminal law continued with the early Caliphs, demonstrating its practical implementation. These leaders upheld the Prophet's practices, reinforcing the consistency of Islamic law. For example, Caliph Abu Bakr continued the practice of punishing alcohol consumption with 40 lashes, following the Prophet's example. The continuation by the early Caliphs highlights the enduring principles of Islamic law in early Muslim governance.

Intentional harm toward children by parents is addressed within Islamic criminal law as a punishable offense. Islam places importance on protecting vulnerable members of society, especially children. Deliberate harm is classified under intentional assault, as it involves willful actions against the law. Islamic law provides frameworks to protect children, establishing standards for justice within family structures. Islamic criminal law outlines the elements required to classify an act as intentional assault. These criteria ensure that only actions that meet strict conditions are punished accordingly. Two main elements must be present: the act must be intentional, and it must violate legal norms. This specificity prevents misinterpretation, ensuring fairness and precision in the application of justice.

Qur'anic guidance outlines the principle of proportional retribution in cases of injury or harm. Retribution in Islamic law aims to be fair and equivalent to the harm caused. Surah Al-Maidah (5:45) states, "an eye for an eye, a tooth for a tooth," establishing the basis for qisas, or just retribution. This principle underscores the Islamic justice system's emphasis on balanced and fair responses to wrongdoing. The Qur'an also promotes forgiveness as an alternative to retribution. Forgiveness is seen as a virtuous and

[25] Agama Kementerian, *Al-Quran Dan Terjemahnya* (Jakarta Timur: Lajnah Pentashihan Mushaf Al-Qur"an, 2019).

spiritually beneficial choice. Surah Al-Maidah (5:45)[26] mentions that forgiving one's right to retribution is considered an act of atonement. By providing the option to forgive, Islamic law integrates mercy alongside justice.

Islamic teachings advocate for proportionality and restraint in retribution. It emphasizes fairness and limits on retaliation to avoid excess. Surah An-Nahl (16:126)[27] advises that if one retaliates, it should be equivalent to the harm suffered but suggests patience as a better course. This guidance highlights the Islamic preference for restraint and the ethical considerations in justice. The primary punishment for intentional assault in Islamic criminal law is qisas, or equivalent retaliation. This ensures justice by giving a right to the victim or their family to seek retribution. Surah Al-Maidah (5:45)[28] explicitly supports qisas, allowing for fair punishment proportional to the offense. Qisas establishes a sense of justice by enabling victims to have a say in punishment, ensuring that offenders face consequences for their actions.

Alternatives to qisas include diyat (compensation) and ta'zir (discretionary punishment).[29] These options provide flexibility and accommodate different circumstances. Diyat serves as compensation when qisas cannot be applied, and ta'zir addresses cases where diyat is not feasible or the family forgives the offender. By offering alternatives, Islamic law demonstrates adaptability, ensuring justice is served in various ways. The conditions under which qisas may be replaced emphasize justice and forgiveness. In cases where qisas cannot be carried out, these alternatives allow the legal process to conclude fairly. Factors such as the inability to apply qisas or the victim's family forgiving the offender are considered. These conditions reflect the values of compassion and flexibility in Islamic criminal law.

The inclusion of ta'zir as a form of punishment reflects the discretion Islamic law grants to judges. Ta'zir allows the legal system to address cases that fall outside of qisas and diyat, promoting fairness and justice. When neither qisas nor diyat applies, ta'zir

[26] Kementerian.
[27] Kementerian.
[28] Kementerian.
[29] Muammar Bakry et al., "Strengthening the Cyber Terrorism Law Enforcement in Indonesia: Assimilation from Islamic Jurisdiction," *International Journal of Criminology and Sociology* 10 (2021): 1267–76, https://doi.org/10.6000/1929-4409.2021.10.146.

provides a means of ensuring accountability. This discretionary punishment demonstrates Islamic law's comprehensive approach, balancing justice, mercy, and social welfare.

CONCLUSION

The findings of this research emphasize the significant impact of child abuse by parents on children's mental and physical health, hindering their growth and development. Islamic criminal law imposes strict penalties, such as qisas, or alternative punishments like diyat and ta'zir, as outlined in Qur'anic verses Al-Maidah 5:45 and An-Nahl 16:126. These penalties aim to deliver justice for victims and deter future offenses, creating a safer environment for children. In Indonesian positive law, offenders are subject to imprisonment and fines under the Child Protection Law No. 35 of 2014. Despite a reduction in child abuse cases in Tanah Karo, from 26 in 2023 to 10 cases in early 2024, violence against children remains prevalent. A key strength of this research is its comprehensive approach to comparing Islamic criminal law with Indonesia's positive law regarding child abuse, particularly in detailing how each legal system addresses offenses and seeks justice for victims. The study combines religious and secular perspectives, allowing for a nuanced understanding of both legal frameworks and their effects on children's safety. This dual focus not only highlights the cultural context but also demonstrates the broader relevance of religious principles in promoting child welfare within a contemporary legal setting. However, this study also faces limitations, particularly in its scope and reliance on regional data from Tanah Karo. While the data illustrates trends in child abuse cases within this specific area, the findings may not fully represent nationwide patterns or variations across Indonesia. Additionally, further exploration of case studies and legal outcomes beyond Tanah Karo could strengthen the conclusions and enhance understanding of the broader applicability of both Islamic and Indonesian legal perspectives on child abuse prevention.

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