

## Comparative Legal Analysis of Hoax Dissemination by Minors on Social Media: A Study of National Criminal Law and Islamic Criminal Law

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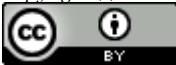
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### Abstract

Social media today functions not only as a communication tool but also as a platform for entertainment, education, and information dissemination. However, problems arise when false information (hoaxes) is spread – particularly when the perpetrators are minors. This study aims to analyse the differences in handling hoax dissemination by minors from the perspectives of criminal law and Islamic criminal law. Employing a normative juridical method with a comparative approach, the research draws on library-based data and case analysis. Four real-life cases of hoax dissemination via TikTok were examined, with identification of underage perpetrators based on user account content and behaviour. The findings reveal that, under national criminal law, the legal process prioritizes diversion as an initial step. If diversion fails, the case proceeds to court, where formal sanctions may be applied. In contrast, Islamic criminal law emphasizes returning the child to their parents, imposing *ta'dibī* (educational discipline) on the child, and *damān* (compensatory liability) on the parents if the hoax involves defamation (*qadhf*). Key differences between the two systems include legal foundations, criminal responsibility, types of hoaxes, sanctions, and age thresholds. Nevertheless, both systems share a core principle: prioritizing rehabilitation and education over punitive measures. This study offers a novel comparative perspective and underscores the need for child-centered legal frameworks in addressing the spread of hoaxes on social media.

## INTRODUCTION

In the modern era, life is heavily dependent on social media, whose usage continues to increase significantly. Social media serves as a means of communication, entertainment, education, and even the dissemination of information or news.<sup>1</sup> Platforms such as TikTok, Telegram, Facebook, YouTube, and WhatsApp have become integral to daily activities, offering both positive and potentially negative impacts on users.<sup>2</sup> Social media greatly facilitates users in performing their daily tasks and professional activities such as business, graphic design, journalism, and influencing.<sup>3</sup> Not only adults, but children also benefit from social media for learning and recreational purposes. When used wisely and responsibly, social media can generate highly positive outcomes. However, misuse of these platforms may result in harmful consequences, including the emergence of victims due to irresponsible actions on social media. One of the most prevalent negative consequences is the spread of hoaxes, which may defame individuals and lead to serious reputational harm.<sup>4</sup>

The dissemination of hoaxes by minors who become perpetrators poses a unique challenge, as these children are often unaware of the complex and far-reaching consequences of their actions.<sup>5</sup> Minors typically do not fully comprehend that their behavior may damage someone's reputation or even cause social unrest. In extreme cases, such actions can amount to violations of the law.<sup>6</sup> Children who are active users of social media often lack the ability to verify the accuracy of the information they consume and share. This can lead to criminal behavior, particularly among children who do not receive adequate supervision or attention from their parents or families.<sup>7</sup> These children may act freely to satisfy their desires, often at the expense of others, especially in the digital public sphere, where social media is widely used to seek and share information.

This study identifies four specific cases of hoax dissemination on social media: The first case involved a false report of the death of the President of the Republic of Indonesia

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<sup>1</sup> Nurul Saniah and Muhammad Farhan, "Etika Komunikasi Islam Dalam Pemanfaatan Media Sosial," *ISME: Journal of Islamic Studies and Multidisciplinary Research* 1, no. 2 (2023): 41–49.

<sup>2</sup> Yenti Arsini et al., "Pengaruh Media Sosial Terhadap Kesehatan Mental Remaja," *MUDABBIR Journal Research and Education Studies* 3, no. 2 (2023): 50–54.

<sup>3</sup> Mohamad Fadhilah Zein, *Panduan Menggunakan Media Sosial Untuk Generasi Emas Milenial* (Mohamad Fadhilah Zein, 2019), hlm.5.

<sup>4</sup> Astrid Kusuma Rahardaya, "Studi Literatur Penggunaan Media Sosial Tiktok Sebagai Sarana Literasi Digital Pada Masa Pandemi Covid-19," *Jurnal Teknologi Dan Sistem Informasi Bisnis* 3, no. 2 (2021): 308–19.

<sup>5</sup> Ferry Irawan Febriansyah and Halda Septiana Purwinarto, "Pertanggungjawaban Pidana Bagi Pelaku Ujaran Kebencian Di Media Sosial," *Jurnal Penelitian Hukum De Jure* 20, no. 2 (2020): 177–88.

<sup>6</sup> SPd La Ode Faiki, *Dasar-Dasar Hukum Pidana: Teori Dan Praktik* (MATA KATA INSPIRASI, 2023), hlm.15.

<sup>7</sup> Maulidya Ulfah, *DIGITAL PARENTING: Bagaimana Orang Tua Melindungi Anak-Anak Dari Bahaya Digital?* (Edu Publisher, 2020).

spread by the TikTok account "16aloksigma." The second case involved a fabricated death announcement of the younger brother of a well-known influencer from Medan, Filix Pratama, spread by the TikTok account "zikraalkhalifi." The third case concerned a hoax about theft allegedly committed by a friend of the account owner, disseminated by the TikTok account "ajakali25." The fourth and final case involved a false video claiming differences between the flags of Indonesia and Palestine in the past and present, spread by the account "ocin.nay."

The spread of hoaxes as a result of social media misuse is strictly prohibited under Indonesian law, specifically Article 28(3) of Law Number 1 of 2024 on Electronic Information and Transactions (ITE Law), which states: "Any person who intentionally disseminates electronic information and/or electronic documents known to contain false information that causes public unrest shall be penalized." The sanctions for such actions are stipulated in Article 45A(3) of the same law, providing for a maximum imprisonment of six (6) years and/or a fine of up to IDR 1,000,000,000 (one billion rupiah).

In addition, the Indonesian Penal Code (KUHP) addresses the spread of false information in Article 263(1), which states that any individual who broadcasts or disseminates news or notifications known to be false and that cause public unrest may be punished with up to six (6) years in prison or a fine of up to category V.

The hoaxes disseminated by these perpetrators have a widespread impact, especially on individuals who rely on social media as a source of income or as a communication tool in their professions. This issue has also been addressed in Islamic criminal law. According to the Indonesian Ulema Council (MUI) Fatwa No. 24 of 2017 on Ethical Guidelines for Social Media Use, it is forbidden to disseminate hoaxes, gossip (*ghibah*), slander (*fitnah*), malicious gossip (*namimah*), personal disgrace (*'ayb*), hate speech, and other inappropriate content to the public.

This fatwa aligns with the Quranic verse in Surah Al-Hujurat (49:6), which states:  
Meaning:

*"O you who believe, if a wicked person comes to you with news, verify it carefully, lest you harm a people in ignorance and become regretful for what you have done."* (Qur'an, Al-Hujurat: 6).

The prohibition of spreading false information is also strongly emphasized by the Prophet Muhammad (peace be upon him), as reported in the hadith::

Translating:

*"It is enough for a man to be considered a liar when he narrates everything he hears."*  
(Narrated by Muslim).

In light of this hadith, it is clear that the act of spreading false news – especially when done intentionally and without verification – is deeply condemned in Islam, as it not only harms individuals but can lead to prolonged conflict and social discord.

Legally, a child cannot be held fully responsible for criminal acts, as they are still in the developmental stage and under the supervision of parents or guardians.<sup>8</sup> According to the Juvenile Justice System Law, a child involved in a criminal case is defined as someone aged 12 but not yet 18 years, who is suspected of committing a crime.

In Islamic criminal law, children are not subjected to criminal punishment in the same manner as adults.<sup>9</sup> When a child becomes involved in legal issues, the responsibility lies with the parents. The child may be subject to *ta'dīb*, a form of disciplinary action intended to educate rather than cause psychological harm. The enforcement of *ta'dīb* falls under the authority of the leader or government.<sup>10</sup>

## LITERATURE REVIEW

Previous studies refer to earlier research conducted by prior scholars that are referenced in this study. These prior works serve as important sources that underpin the current research. The studies that share a similar focus with this research are outlined below:

The first is a journal article by Yusuf Hondrawanti Naibaho titled “*Juridical Analysis of Children as Perpetrators of Criminal Acts in the Dissemination of Hoaxes through Social Media.*”<sup>11</sup> The central finding of this study is that criminal responsibility of minors must take into account the definition of children under Indonesia’s positive law – namely, individuals who have not yet reached a certain age of maturity. It also discusses sanctions applicable to children as stipulated in the Juvenile Criminal Justice System Law. The elements constituting the criminal act of hoax dissemination include actions that lead to consequences and meet both subjective and objective legal criteria. Under Article 28 of the ITE Law, the key components involve intentionality, unlawful conduct, dissemination of false information, and the incitement of hatred or hostility.

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<sup>8</sup> Bambang Sarutomo, “Penyebab Anak Di Bawah Umur Melakukan Tindak Pidana Pencurian Di Kabupaten Demak,” *International Journal of Law Society Services* 1, no. 1 (2021): 56–63.

<sup>9</sup> Siti Ulvah Fauziah, “Sanksi Tindak Pidana Pencabulan Anak Menurut Hukum Pidana Islam Dan Hukum Positif,” *Jurnal Al-Jina’i Al-Islami* 1, no. 1 (2023): 37–48.

<sup>10</sup> A Fatih Syuhud, *Pendidikan Islam: Cara Mendidik Anak Saleh, Smart Dan Pekerja Keras* (A. Fatih Syuhud, 2011).

<sup>11</sup> Yusuf Hondawantri Naibaho, Triono Eddy, and Alpi Sahari, “Analisis Yuridis Anak Sebagai Pelaku Tindak Pidana Dalam Pemberitaan Hoax Melalui Media Sosial,” *Legalitas: Jurnal Hukum* 13, no. 2 (2021): 149–57.

The second is an undergraduate thesis by Izza Fitria Saputri titled *“Comparative Study of Sanctions for Disseminators of Hoaxes on Social Media Based on Law No. 19 of 2016 on Electronic Information and Transactions and Islamic Criminal Law.”*<sup>12</sup> The main findings of this study highlight the rapid development of technology, where social media has become a primary channel for communication and information dissemination. However, the spread of information through social media has also increasingly led to societal harm, including division and conflict. The research focuses on three key aspects: first, sanctions for hoax dissemination according to the ITE Law; second, sanctions under Islamic Criminal Law; and third, a comparison between the two. The study finds that the ITE Law imposes imprisonment and fines, while Islamic Criminal Law applies *hudud* or *ta‘zīr* punishments depending on the nature of the hoax. Although both legal systems aim to deter offenders, they differ significantly in their approaches: the ITE Law emphasizes administrative and penal measures, while Islamic law focuses more on moral and spiritual dimensions of legal enforcement.

The third is a thesis by Dela Juni Prihatin titled *“The Dissemination of Hoaxes through Social Media (A Comparative Study of Indonesian Positive Law and Islamic Law).”*<sup>13</sup> This research analyzes the comparative legal sanctions imposed on hoax disseminators in Indonesian law and Islamic criminal law. According to Indonesian law, hoax dissemination is regulated under Law No. 19 of 2016 on Electronic Information and Transactions, which stipulates a maximum imprisonment of six years and a fine of up to one billion rupiah. In contrast, Islamic criminal law classifies the dissemination of false news as *jarīmah ta‘zīr*, with punishments determined by the authorities based on the context and impact of the offense. Although the term *hoax* has only gained popularity in recent years, the practice of spreading false information has long existed, even during the time of the Prophet Muhammad (peace be upon him). The study emphasizes the importance of media literacy in preventing the spread of hoaxes. Communities with low media literacy are more likely to be influenced by unverified information and inadvertently contribute to its dissemination, which may result in societal conflict and loss of trust.

The distinctions between this research and the aforementioned studies are as follows: Yusuf Hondrawanti Naibaho’s study primarily focuses on positive law that protects

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<sup>12</sup> Izza Fitria Saputri, “Studi Komparatif Sanksi Penyebar Berita Bohong (Hoax) Di Media Sosial Berdasarkan Undang-Undang Nomor 19 Tahun 2016 Tentang Informasi Dan Transaksi Elektronik Dan Hukum Pidana Islam” (INSTITUT AGAMA ISLAM NEGERI JEMBER, 2021), <https://digilib.uinkhas.ac.id/23220/>.

<sup>13</sup> Dela Juni Prihatin, “Penyebarluasan Berita Hoax Melalui Media Sosial (Studi Komparatif Pandangan Hukum Positif Indonesia Dan Hukum Islam)” (IAIN, 2019).

children by explaining the definition of children, elements required for criminal responsibility, and the juvenile sentencing system. Izza Fitria Saputri's study, by contrast, focuses on comparing positive law and Islamic criminal law, without discussing the involvement of minors in hoax dissemination. Similarly, Dela Juni Prihatin's research compares Indonesian and Islamic legal perspectives on hoax dissemination but does not address children as perpetrators. However, Prihatin's study does emphasize the importance of improving public literacy to combat hoax proliferation.

In summary, the key difference between this study and that of Yusuf Hondrawanti Naibaho is that this study addresses both positive and Islamic criminal law perspectives, whereas Naibaho's focuses solely on positive law. Meanwhile, compared to the studies by Izza Fitria Saputri and Dela Juni Prihatin, the primary distinction is that this study specifically addresses minors as perpetrators—an aspect not explored in those prior studies.

This research seeks to answer the following questions: How is the act of hoax dissemination by minors treated under the perspective of criminal law? How is the act of hoax dissemination by minors treated under the perspective of Islamic criminal law? What is the comparative analysis between criminal law and Islamic criminal law regarding hoax dissemination committed by minors on social media? Given the issues surrounding the dissemination of hoaxes by minors as described above, the researcher is compelled to examine the topic through a study entitled: "Comparative Legal Analysis of Hoax Dissemination by Minors on Social Media: A Study of National Criminal Law and Islamic Criminal Law."

## **METHODS**

This study employs a qualitative research method, focusing specifically on a normative juridical approach to analyze cases involving minors who commit criminal acts through the dissemination of hoaxes on social media, both from the perspectives of criminal law and Islamic criminal law. According to Soerjono Soekanto, normative juridical research is a legal study conducted by examining library materials or secondary data as the basis for analysis, which includes reviewing statutory regulations and literature relevant to the research issue.<sup>14</sup> This study adopts a comparative approach, aiming to analyze both Indonesian criminal law and Islamic criminal law in order to generate findings and identify key comparisons.

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<sup>14</sup> Peter Mahmud Marzuki, "Penelitian Hukum," *Jakarta: Kencana Prenada Media* 55 (2005).

Data collection in this study was carried out through documentary research, involving the collection and analysis of legal documents, statutory regulations, fatwas, classical Islamic legal texts (fiqh), and other relevant literature, including books, journals, and academic articles concerning the dissemination of hoaxes by minors. The data analysis technique used is comparative-deductive analysis. The data were systematically examined by comparing provisions in positive law and Islamic criminal law, followed by deductive reasoning to draw conclusions regarding their similarities, differences, and applicability.

To ensure the validity of the findings, this research **applies** triangulation of legal interpretation. This triangulation is achieved by comparing the results of analysis derived from various legal literature sources, expert legal opinions, and related legal documents. This method ensures that the conclusions are objective, accurate, and academically accountable.

## **RESULTS AND DISCUSSION**

### **1. Criminal Acts of Hoax Dissemination by Minors from the Perspective of Criminal Law.**

The phenomenon of hoax dissemination by minors has become a matter of serious concern.<sup>15</sup> Several cases have shown that underage individuals have been perpetrators of hoax dissemination on social media.<sup>16</sup> For example, in the case involving false information about the death of the President of the Republic of Indonesia, the hoax was spread via TikTok by the account "16aloksigma."<sup>17</sup> For this act, the perpetrator may be charged under Article 45A(3) in conjunction with Article 28(3) of Law No. 1 of 2024, the second amendment to Law No. 11 of 2008 on Electronic Information and Transactions (ITE Law).

The second case concerns the dissemination of a hoax video about the death of Filix Pratama, the younger sibling of a social media influencer from Medan. This false news was spread on TikTok by the account "zikraalkhalifi." The perpetrator may also be subject to the provisions of Article 45A(3) jo. Article 28(3) of Law No. 1 of 2024.

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<sup>15</sup> Rr Putri A Priamsari, "Mencari Hukum Yang Berkeadilan Bagi Anak Melalui Diversi," *Perspektif Hukum*, 2018, 175–202.

<sup>16</sup> Zidti Imaroh, Achmad Irwan Hamzani, and Fajar Dian Aryani, *Pertanggungjawaban Pidana Penyebaran Berita Hoax Di Media Sosial* (Penerbit NEM, 2023).

<sup>17</sup> Mhd. Anggi Hermawan, "Hasil Observasi Penulis Pada Platform TikTok Terhadap Akun 16aloksigma Yang Menyebarkan Informasi Palsu Tentang Kematian Presiden Republik Indonesia, Diakses Pada 2 Mei 2025," 2025.

The third case involved a hoax video about a theft, in which the perpetrator edited footage from a news segment and superimposed it with a photo of a friend, making it appear as though the friend was the thief. The video was disseminated by the TikTok account “ajakali25,” and the perpetrator may be prosecuted under Article 45(4) in conjunction with Article 27A of Law No. 1 of 2024.<sup>18</sup>

The fourth case concerns a hoax video about the differences between the historical flags of Indonesia and Palestine. In the video, the Majapahit Empire’s flag was falsely labeled as the historical flag of Indonesia, and the former Palestinian flag was misleadingly equated with the modern Israeli flag. Further investigation revealed that the images in the video originated from a French dictionary published between the early 1920s and late 1930s, which included other flags with incorrect labels. The video was shared by the account “ocin.nay,” and the perpetrator may be subject to prosecution under Article 45A(3) jo. Article 28(3) of Law No. 1 of 2024.

From the perspective of criminal law, all these cases are handled similarly. According to Article 7(1) of Law No. 11 of 2012 on the Juvenile Criminal Justice System, diversion is mandatory at the stages of investigation, prosecution, and court proceedings in juvenile cases. However, if the diversion process fails or no agreement is reached, the case proceeds to trial, and the child in conflict with the law may still receive a formal sentence.<sup>19</sup>

These four cases exemplify how minors can act as perpetrators of hoax dissemination on social media. Many such cases involving underage individuals have been resolved through diversion mechanisms. These examples serve as a reminder to all social media users to comply with legal regulations outlined in the ITE Law and to exercise responsible behavior when using mobile devices and the internet as tools for sharing information – whether directly or indirectly.

The researcher employed the following methods to identify that the owners of the accounts spreading hoaxes were minors:

- a. Examining the user profiles to find clues about their identities.
- b. Analyzing the language style used in their content or videos.
- c. Reviewing the nature of the content or videos uploaded.
- d. Noting the use of slang commonly associated with youth or minors.

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<sup>18</sup> Emilda Kuspraningrum, “Keabsahan Kontrak Elektronik Dalam UU ITE Ditinjau Dari Pasal 1320 KUHPerdata Dan UNCITRAL Model Law On Electronic Commerce,” *Risalah Hukum*, 2011, 64–76.

<sup>19</sup> Ni Made Ita Ariani, Ni Putu Rai Yuliantini, and Dewa Gede Sudika Mangku, “Implementasi Undang-Undang Nomor 11 Tahun 2012 Tentang Sistem Peradilan Pidana Anak Terhadap Curanmor Yang Dilakukan Oleh Anak Di Kabupaten Buleleng (Studi Kasus Perkara Nomor: B/346/2016/Reskrim),” *Jurnal Komunitas Yustisia* 2, no. 2 (2019): 100–112.



For instance, in the account “16aloksigma,” which spread a hoax about the death of the Indonesian president, the researcher analyzed several videos posted by the user. A significant number of the uploaded videos featured the game Free Fire, which is predominantly played by children. According to UNICEF and organizations such as Internet Matters, Free Fire ranks among the top five mobile games played by children aged 10–13. In addition, in one of the hoax-related videos, a comment from the official Gerindra account was met with a joking and defiant response—behavior typical of children who lack the maturity to distinguish between right and wrong. An adult, in a similar situation, would more likely have removed the video.

In the case of “zikraalkhalifi,” who spread the hoax about the death of an influencer’s sibling, the researcher found a video in which the account owner was seen taking a photo with their mother and siblings. The mother was the only adult visible in the photo, and the account’s profile picture clearly showed that the user was a minor.

For the account “ajakali25,” which spread a hoax accusing a friend of theft, one video showed the account owner wearing a junior high school uniform (white shirt with blue trousers, complete with a tie and other school attributes). This uniform is typical of students at Sekolah Menengah Pertama (SMP) or Madrasah Tsanawiyah (MTs). Another video showed the user in a school sports uniform, with the word “MTs” clearly visible on the shorts, further confirming the user’s status as a minor.

Lastly, in the case of “ocin.nay,” who spread a hoax about historical flags of Indonesia and Palestine, one of the videos showed the account owner crafting an object out of cardboard. The appearance and voice of the user in the video clearly indicated that the individual was a child. The audio of the video further confirmed that the speaker was a minor.

## **2. Criminal Acts of Hoax Dissemination by Minors from the Perspective of Islamic Criminal Law.**

In Islamic criminal law, the handling of cases involving minors who disseminate hoaxes via social media differs significantly from that of positive criminal law. In the first case, for instance, Islamic criminal law mandates that the child be returned to the care of their parents,<sup>20</sup> with legal responsibility for the act borne by the parents. Although the child is not held fully accountable under *taklifi* (legal responsibility), they are still subject to *ta’dibi* punishment—a form of disciplinary measure aimed at moral and behavioral

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<sup>20</sup> Bambang Surabangsa and Tajul Arifin, “Peradilan Pidana Anak Di Indonesia Dalam Perspektif Hukum Islam,” *Hukum Islam* 22, no. 1 (2022): 53–70.

correction. This form of punishment is educational in nature and is imposed by the ruling authority to prevent recurrence of the offense.<sup>21</sup>

The second case is treated similarly to the first in Islamic criminal law. The child is returned to their parents, who bear the legal responsibility, while the child is subject to *ta'dībī* measures to instill moral awareness and deter future misconduct.

The third case, however, receives slightly different treatment under Islamic criminal law due to its classification as defamation (*qadhf*) or slander (*buhtān*). While the child is still returned to their parents and held accountable through *ta'dībī* punishment.<sup>22</sup> The parents are additionally obligated to assume *damān* – a compensatory responsibility. This includes financial restitution for damages caused by the child's actions, and efforts to restore the tarnished reputation of the individual falsely accused. In this framework, the parents or guardians are expected to take concrete steps toward reparation and reconciliation.<sup>23</sup>

The fourth case is handled in the same manner as the first and second cases under Islamic criminal law. The child is returned to their parents, the legal responsibility is transferred to the parents, and *ta'dībī* punishment is applied to the child to prevent the recurrence of the act.

### **3. A Comparative Analysis of Criminal Law and Islamic Criminal Law Regarding Hoax Dissemination by Minors.**

This section analyzes the comparison between national criminal law and Islamic criminal law concerning minors as perpetrators of hoax dissemination on social media. The researcher identified both differences and similarities between these two legal systems:

In handling cases involving children who disseminate false information, both national criminal law and Islamic criminal law adopt different approaches, yet they share a common concern for the protection of minors. The most fundamental distinction lies in their legal foundations. Indonesia's criminal justice system relies on positive legal instruments, such as Law No. 11 of 2012 on the Juvenile Criminal Justice System, Law No. 35 of 2014 on Child Protection, and Law No. 1 of 2024 on Electronic Information and

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<sup>21</sup> *Ibid.*

<sup>22</sup> Adam Sani, "Pemidanaan Anak Menurut Hukum Islam Dan Hukum Pidana Indonesia," *Jurnal Public Policy* 1, no. 1 (2015): 7–9.

<sup>23</sup> Rizki Eliana, Musyrifah Salmi, and Fatmah Taufik Hidayat, "Konsep Dasar Adh-Dhaman (Penjaminan)," *Al-Tarbiyah: Jurnal Ilmu Pendidikan Islam* 3, no. 1 (2025): 153–63.

Transactions (ITE Law). In contrast, Islamic criminal law is grounded in the normative and transcendent sources of Islamic teachings, namely the Qur'an and Hadith.<sup>24</sup>

In terms of criminal liability, national criminal law stipulates that children under the age of 12 cannot be held criminally responsible. However, children aged 12 to under 18 can be held accountable under specific legal provisions.<sup>25</sup> In contrast, Islamic criminal law holds that a child cannot be held fully criminally responsible until they reach the age of puberty (*bāligh*).<sup>26</sup> This principle aligns with the saying of the Prophet Muhammad (peace be upon him), as narrated in a hadith: “*The pen is lifted from three [types of people]: the one who is asleep until he wakes, the child until he reaches puberty, and the insane until he regains sanity.*”<sup>27</sup>

Differences also arise in how hoax-related offenses are classified. Under national criminal law, false accusations—especially against respectable individuals—are treated as defamation and regulated within the ITE Law, often under the provisions concerning hate speech or the dissemination of false information. In Islamic criminal law, such an act, especially if it involves falsely accusing a chaste woman of adultery, falls under the category of *qadhaf*, which carries specific legal consequences.<sup>28</sup> However, if the perpetrator is a minor, they are not subjected to adult-level punishments; instead, they receive *ta’dībī* (disciplinary) and *ḍamān* (compensatory) sanctions, intended as moral and social responsibility measures.

Regarding the types of sanctions, national criminal law employs both penal and non-penal measures. These include returning the child to their parents, mandating participation in formal education or rehabilitation programs, community service, and restitution for damages. Imprisonment is considered a last resort. In contrast, Islamic criminal law emphasizes moral development and social responsibility through *ta’dībī* and *ḍamān*. *Ta’dībī* involves moral guidance and supervision by parents or guardians, which

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<sup>24</sup> Seva Maya Sari, *Fiqh Jinayah (Pengantar Memahami Hukum Pidana Islam)* (PT. Sonpedia Publishing Indonesia, 2023).

<sup>25</sup> Rika Apriani Minggulina Damanik, “Hukum Pertanggungjawaban Pidana Anak Dalam Batasan Usia: Analisis Hukum Pidana Islam Dan Undang-Undang Nomor 11 Tahun 2012,” *Al-Qanun: Jurnal Kajian Sosial Dan Hukum Islam* 1, no. 3 (2020): 274–302.

<sup>26</sup> Rosita Nur Alif Darma Santi et al., “Pendapat Ahli Kriminologi Tentang Pelaksanaan Sistem Peradilan Pidana Anak Dalam Prespektif Hukum Pidana Islam,” *Mandub: Jurnal Politik, Sosial, Hukum Dan Humaniora* 1, no. 3 (2023): 220–32.

<sup>27</sup> Santi et al., *Ibid*.

<sup>28</sup> Irfan Abdurahman, “Prinsip Asasi Hukum Qadza’f Dalam Islam Dan Kompilasi Hukum Islam,” *As-Sakinah: Jurnal Hukum Keluarga Islam* (STAI Pelabuhan Ratu, 2023), <https://doi.org/10.51729/sakinah11129>.

may include restrictions on media access, while *ḍamān* refers to the obligation of the parents or guardians to provide restitution for damages caused by the child's actions.<sup>29</sup>

Age categorization is another key distinction. National criminal law clearly defines a child as anyone under the age of 18.<sup>30</sup> Conversely, Islamic criminal law determines maturity based on the attainment of *bāligh*, indicated by signs of puberty.<sup>31</sup> If no physical signs are evident, the age of 18 may be used as a legal benchmark for maturity.

Despite these substantial differences, both legal systems share fundamental similarities. They both recognize that children do not yet fully possess the cognitive and moral capacity to comprehend the consequences of their actions. Therefore, the treatment of juvenile offenders emphasizes education and rehabilitation over retributive punishment. Moreover, both systems use age as a principal criterion for establishing criminal responsibility.

In conclusion, although based on different ideological and legal frameworks, both national criminal law and Islamic criminal law demonstrate a shared commitment to protecting minors as legal subjects who are still undergoing developmental processes.

## CONCLUSION

From the perspective of criminal law, based on the cases analyzed, the handling of hoax dissemination by minors on social media differs significantly from that of Islamic criminal law. National criminal law mandates the implementation of diversion efforts in addressing juvenile offenders, including in cases involving the spread of false information. However, if the diversion process fails or does not result in an agreement, the case proceeds to trial, and the child may be subjected to criminal sanctions in accordance with prevailing legal provisions.

Conversely, in Islamic criminal law, the approach to handling juvenile hoax offenders places greater emphasis on returning the child to their parents, transferring criminal responsibility to the parents, and imposing *ta'dībī* sanctions as a form of moral and educational guidance for the child. Nonetheless, if the hoax involves elements of defamation or *qadhf* (false accusation of immoral acts), a different legal treatment applies through the concept of *ḍamān*, which imposes an obligation on the parents to compensate for damages and restore the reputation harmed by the child's actions.

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<sup>29</sup> Fonna Shalsa Nabilla, "Pencurian Oleh Anak Menurut Kajian Kriminologi Dan Hukum Islam (Analisis Pada Putusan Nomor 5/Pid. Sus-Anak/2022/PN Bna)" (Fakultas Syariah dan Hukum, 2024).

<sup>30</sup> Damanik, "Hukum Pertanggungjawaban Pidana Anak Dalam Batasan Usia: Analisis Hukum Pidana Islam Dan Undang-Undang Nomor 11 Tahun 2012."

<sup>31</sup> Santi et al., "Pendapat Ahli Kriminologi Tentang Pelaksanaan Sistem Peradilan Pidana Anak Dalam Perspektif Hukum Pidana Islam."

The comparison between national criminal law and Islamic criminal law in this study encompasses several key aspects, including legal foundations, criminal responsibility, classification of hoax content, types of sanctions, and age limitations. Despite their differences, both legal systems share a fundamental similarity: they acknowledge the limited cognitive and moral capacity of children to fully comprehend the consequences of their actions. Accordingly, both systems prioritize educational and rehabilitative measures over punitive ones. Moreover, both frameworks consider age as a primary factor in determining criminal liability for minors.

Academically, this study contributes to the development of legal scholarship, particularly in the fields of juvenile criminal law and Islamic criminal law, by offering a comparative perspective on how cases involving hoax dissemination by minors are addressed in the digital era. In addition, this research carries important policy implications, including the need to strengthen digital education for children, enhance media literacy, and formulate legal policies that are more responsive to technological developments and children's behavior on social media—without neglecting the core principle of child protection.

## REFERENCES

- Abdurahman, Irfan. "Prinsip Asasi Hukum Qadzaf Dalam Islam Dan Kompilasi Hukum Islam." *As-Sakinah: Jurnal Hukum Keluarga Islam*. STAI Pelabuhan Ratu, 2023. <https://doi.org/10.51729/sakinah11129>.
- Ariani, Ni Made Ita, Ni Putu Rai Yulianti, and Dewa Gede Sudika Mangku. "Implementasi Undang-Undang Nomor 11 Tahun 2012 Tentang Sistem Peradilan Pidana Anak Terhadap Curanmor Yang Dilakukan Oleh Anak Di Kabupaten Buleleng (Studi Kasus Perkara Nomor: B/346/2016/Reskrim)." *Jurnal Komunitas Yustisia* 2, no. 2 (2019): 100–112.
- Arsini, Yenti, Hannisa Azzahra, Khairan Syahputra Tarigan, and Irfan Azhari. "Pengaruh Media Sosial Terhadap Kesehatan Mental Remaja." *MUDABBIR Journal Research and Education Studies* 3, no. 2 (2023): 50–54.
- Damanik, Rika Apriani Minggulina. "Hukum Pertanggungjawaban Pidana Anak Dalam Batasan Usia: Analisis Hukum Pidana Islam Dan Undang-Undang Nomor 11 Tahun 2012." *Al-Qanun: Jurnal Kajian Sosial Dan Hukum Islam* 1, no. 3 (2020): 274–302.
- Eliana, Rizki, Musyrifah Salmi, and Fatmah Taufik Hidayat. "Konsep Dasar Adh-Dhaman (Penjaminan)." *Al-Tarbiyah: Jurnal Ilmu Pendidikan Islam* 3, no. 1 (2025): 153–63.
- Fauziah, Siti Ulvah. "Sanksi Tindak Pidana Pencabulan Anak Menurut Hukum Pidana

- Islam Dan Hukum Positif." *Jurnal Al-Jina'i Al-Islami* 1, no. 1 (2023): 37–48.
- Febriansyah, Ferry Irawan, and Halda Septiana Purwinarto. "Pertanggungjawaban Pidana Bagi Pelaku Ujaran Kebencian Di Media Sosial." *Jurnal Penelitian Hukum De Jure* 20, no. 2 (2020): 177–88.
- Hermawan, Mhd. Anggi. "Hasil Observasi Penulis Pada Platform TikTok Terhadap Akun 16aloksigma Yang Menyebarkan Informasi Palsu Tentang Kematian Presiden Republik Indonesia, Diakses Pada 2 Mei 202," 2025.
- Imaroh, Zidti, Achmad Irwan Hamzani, and Fajar Dian Aryani. *Pertanggungjawaban Pidana Penyebaran Berita Hoax Di Media Sosial*. Penerbit NEM, 2023.
- Kuspraningrum, Emilda. "Keabsahan Kontrak Elektronik Dalam UU ITE Ditinjau Dari Pasal 1320 KUHPerdata Dan UNCITRAL Model Law On Electronic Commerce." *Risalah Hukum*, 2011, 64–76.
- Mahmud Marzuki, Peter. "Penelitian Hukum." *Jakarta: Kencana Prenada Media* 55 (2005).
- Nabilla, Fonna Shalsa. "Pencurian Oleh Anak Menurut Kajian Kriminologi Dan Hukum Islam (Analisis Pada Putusan Nomor 5/Pid. Sus-Anak/2022/PN Bna)." *Fakultas Syariah dan Hukum*, 2024.
- Naibaho, Yusuf Hondawantri, Triono Eddy, and Alpi Sahari. "Analisis Yuridis Anak Sebagai Pelaku Tindak Pidana Dalam Pemberitaan Hoax Melalui Media Sosial." *Legalitas: Jurnal Hukum* 13, no. 2 (2021): 149–57.
- Ode Faiki, S Pd La. *Dasar-Dasar Hukum Pidana: Teori Dan Praktik*. MATA KATA INSPIRASI, 2023.
- Priamsari, Rr Putri A. "Mencari Hukum Yang Berkeadilan Bagi Anak Melalui Diversi." *Perspektif Hukum*, 2018, 175–202.
- Prihatin, Dela Juni. "Penyebarluasan Berita Hoax Melalui Media Sosial (Studi Komparatif Pandangan Hukum Positif Indonesia Dan Hukum Islam)." *IAIN*, 2019.
- Rahardaya, Astrid Kusuma. "Studi Literatur Penggunaan Media Sosial Tiktok Sebagai Sarana Literasi Digital Pada Masa Pandemi Covid-19." *Jurnal Teknologi Dan Sistem Informasi Bisnis* 3, no. 2 (2021): 308–19.
- Sani, Adam. "Pemidanaan Anak Menurut Hukum Islam Dan Hukum Pidana Indonesia." *Jurnal Public Policy* 1, no. 1 (2015): 7–9.
- Saniah, Nurul, and Muhammad Farhan. "Etika Komunikasi Islam Dalam Pemanfaatan Media Sosial." *ISME: Journal of Islamic Studies and Multidisciplinary Research* 1, no. 2 (2023): 41–49.
- Santi, Rosita Nur Alif Darma, Salwa Salsabilla Putri, Siti Aisyah, and Tutut Dwi Setyorini. "Pendapat Ahli Kriminologi Tentang Pelaksanaan Sistem Peradilan Pidana Anak Dalam Prespektif Hukum Pidana Islam." *Mandub: Jurnal Politik, Sosial, Hukum Dan Humaniora* 1, no. 3 (2023): 220–32.

- Saputri, Izza Fitria. "Studi Komparatif Sanksi Penyebar Berita Bohong (Hoax) Di Media Sosial Berdasarkan Undang-Undang Nomor 19 Tahun 2016 Tentang Informasi Dan Transaksi Elektronik Dan Hukum Pidana Islam." INSTITUT AGAMA ISLAM NEGERI JEMBER, 2021. <https://digilib.uinkhas.ac.id/23220/>.
- Sari, Seva Maya. *Fiqih Jinayah (Pengantar Memahami Hukum Pidana Islam)*. PT. Sonpedia Publishing Indonesia, 2023.
- Sarutomo, Bambang. "Penyebab Anak Di Bawah Umur Melakukan Tindak Pidana Pencurian Di Kabupaten Demak." *International Journal of Law Society Services* 1, no. 1 (2021): 56–63.
- Surabangsa, Bambang, and Tajul Arifin. "Peradilan Pidana Anak Di Indonesia Dalam Perspektif Hukum Islam." *Hukum Islam* 22, no. 1 (2022): 53–70.
- Syuhud, A Fatih. *Pendidikan Islam: Cara Mendidik Anak Saleh, Smart Dan Pekerja Keras*. A. Fatih Syuhud, 2011.
- Ulfah, Maulidya. *DIGITAL PARENTING: Bagaimana Orang Tua Melindungi Anak-Anak Dari Bahaya Digital?* Edu Publisher, 2020.
- Zein, Mohamad Fadhilah. *Panduan Menggunakan Media Sosial Untuk Generasi Emas Milenial*. Mohamad Fadhilah Zein, 2019.