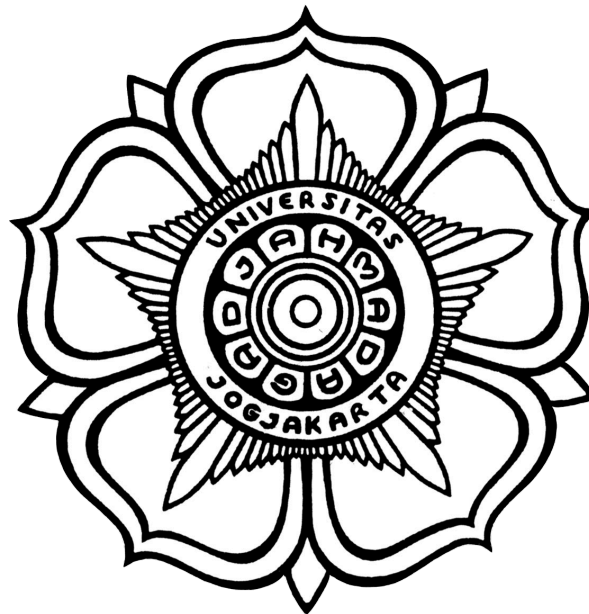


**THE MATTER OF AGE FOR CRIMINALLY RESPONSIBLE IN THE PERSPECTIVE
OF ISLAMIC CRIMINAL LAW: ANALYSIS OF BULLYING IN SUKOHARJO
ISLAMIC BOARDING SCHOOL**



Writer:

Amanda Zafira Mumtaz

(24/536048/HK/24025)

**FACULTY OF LAW
UNIVERSITAS GADJAH MADA
YOGYAKARTA**

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I. INTRODUCTION

Humans are social creatures who need others to fulfill their needs. This is fulfilled through various relationships, one of which is friendship. Good friendships can provide happiness, help, and so on. However, some of them actually experience bullying in their friendships. Bullying is the most common crime case among teenagers and is found at every level of education. Based on bullying case data from Federasi Serikat Guru Indonesia (FSGI), from January to September, 23 cases of bullying were recorded and 50% occurred at the junior high school level.¹ Recently, a bullying case occurred at a Sukoharjo Islamic boarding school involving two people, a junior and senior. It started when a 9th grade student, (MG), smelled cigarettes from the room of an 8th grade student, (AKPW), and approached him to ask for a cigarette. However, AKPW refused because he did not have any cigarettes. MG forced him and allegedly committed violence against AKPW to the point of death.²

The bullying perpetrated by MG is a reprehensible act and is prohibited under Islamic law because it injured AKPW both physically and mentally and even caused AKPW to lose her life. The basic principle of Islam is respect for human life, so acts of violence are not justified. The Quran strictly forbids murder and states that killing another person is the same as killing all mankind (Al-Maidah 5:32).³ It is important to understand bullying from an Islamic criminal law perspective to focus on moral acts and provide effective sanctions to the perpetrators. Therefore, this article aims to determine what sanctions are most appropriate to be given to MG because of the age for criminally responsible issues from Islamic criminal law perspective.

II. THE CONCEPT OF BULLISHING

Bullying is a harassing activity that can threaten and harm an individual or group. According to the American Psychological Association, bullying is a deliberate act of aggression aimed at causing harm or discomfort to another person (Hospitals, 2024).⁴

Bullying occurs in various forms, including verbal, physical, cyber, and social. An article from Siloam Hospital explains several types of bullying, such as physical

¹ Nindiya Rosa, "Data Kasus Bullying di Sekolah, FSGI: 50% di Jenjang SMP," *detikedu*, 3 October 2023, <https://www.detik.com/edu/detikpedia/d-6962155/data-kasus-bullying-di-sekolah-fsgi-50-di-jenjang-smp>.

² S. Ryanthie, "Polres Sukoharjo Ungkap Kasus Meninggalnya Santri Akibat Penganiayaan, Bukan Perundungan," *Tempo.co*, 17 September 2024, <https://metro.tempo.co/read/1917342/polres-sukoharjo-ungkap-kasus-meninggalnya-santri-akibat-penganiayaan-bukan-perundungan>.

³ Kementerian Agama Republik Indonesia. "Surah Al-Ma'idah Ayat 32." *Quran Kemenag*. <https://quran.kemenag.go.id/quran/per-ayat/surah/5?from=32&to=32>.

⁴ American Psychological Association. "Bullying." <https://www.apa.org/topics/bullying>.

bullying, which leaves scars from punches, kicks, trips, and other physical acts.⁵ Verbal bullying, which does not leave scars but affects mental health, stems from insulting, demeaning, and belittling others. Cyberbullying is not much different from verbal bullying, the difference being that it occurs online. Furthermore, social bullying is an act aimed at destroying the victim's social reputation by intimidating or spreading gossip.

Bullying can have a long-lasting impact and affect the lives of victims of bullying, such as affecting mental and physical health and decreasing academic performance for students.

1. Psychological impact. The most common impact of bullying is mental health issues such as depression and anxiety. On average, 10.82% of victims of bullying experience depression and 7.83% experience anxiety (Ferry Diana K, 2020). Bullying, in various forms, affects victims emotionally, which can lead to mental health issues.⁶
2. Physical impact. The impact of physical bullying can be seen directly, such as scars and bruises. In addition, physical bullying can cause victims to experience temporary or permanent disabilities, such as Sinta Auliya, who was the victim of a friend's prank who pulled Sinta's chair when she was about to sit down. Sinta Aulia experienced temporary paralysis due to a fractured tailbone and a broken spine (Wijayanti, 2019).⁷ The impact of bullying can significantly change a person's life. Bullying factors increase the risk of self-harm behavior (Muhammad Yunus Misfala, 2023).⁸ Physical impacts can also arise from non-physical bullying, which gives rise to the victim's desire to harm themselves.
3. Academic impact. Victims of physical bullying are more likely to have poorer academic performance. Students who are bullied are more likely to suffer from symptoms of depression and anxiety, compared to students who are not bullied (Fadia AlBuhairan, 2017).⁹ Similarly, students who are bullied are 3.44 times

⁵ Siloam Hospitals, "Bullying – Pengertian, Penyebab, dan Cara Mengatasinya," 29 August 2024, <https://www.siloamhospitals.com/informasi-siloam/artikel/apa-itu-bullying>.

⁶ I. W. Ferry Diana K et al., "The Susceptibility to Mental Health Problems in the Future as a Serious Effect of Bullying on Adolescent: A Systematic Review," *International Journal of Science and Society* 2, no. 3 (2020): 299–340.

⁷ Willa Wijayanti, "Kisah Mereka Korban Bercanda Tarik Kursi, Pingsan Hingga Alami Lumpuh," *Detikhealth*, 14 December 2019, <https://health.detik.com/berita-detikhealth/d-4822327/kisah-mereka-korban-bercanda-tarik-kursi-pingsan-hingga-alami-lumpuh>.

⁸ Muhammad Yunus Misfala dan U. Z., "Faktor-Faktor Penyebab Bullying Peserta Didik di Era Milenial," *EDUJAVARE PUBLISHING* 1, no. 2 (2023): 39–53.

⁹ Fadia AlBuhairan et al., "The Relationship of Bullying and Physical Violence to Mental Health and Academic Performance: A Cross-Sectional Study among Adolescents in Kingdom of Saudi Arabia," *International Journal of Pediatrics and Adolescent Medicine* 4, no. 2 (2017): 61–65.

more likely to experience mental health problems than students who are not bullied.¹⁰ These mental disorders affect their academic performance, such as feeling intimidated so they cannot pay attention to learning, being threatened that they are not smarter than the bully, and so on.

III. PERPETRATORS OF BULLYING MINORS

A. Bullying Behavior Factors

Bullying is an act influenced by various factors, both internal and external. It's important to understand the motives that drive individuals to become bullies so that bullying can be prevented. Here are some factors that influence bullying behavior:

1. Lack of empathy. According to the Kamus Besar Bahasa Indonesia (KBBI), empathy is a mental state that causes a person to feel or identify with the same feelings or thoughts as another person or group.¹¹ Empathy plays a crucial role in friendships to prevent bullying. Bullies lack empathy or understanding for their victims' feelings, so the perpetrators are unaware of the harmful impact of their actions (Muhammad Yunus Misfala, 2023).¹² This lack of empathy can lead someone to become a bully.
2. Social environment. Family and community environments influence a person's development, influencing how they speak, behave, and think, often mimicking those around them. However, an unhealthy social environment can have a negative impact and lead to bullying. Teenagers may lack attention at home, so they seek attention at school by asserting power over those perceived as weaker (Muhammad Yunus Misfala, 2023).¹³
3. Peer influence. Being friends with a bully can be a motivating factor for them to become bullies themselves. 45% of bullying behaviors are driven by peer pressure (Xiaoou Man, 2022).¹⁴ Peers are influential in building friendships.
4. Experience of being bullied. Someone can become a bully because of their experience of being a victim of bullying, leading to a motive for revenge directed at others.

B. Responsibility of the Perpetrator in Islamic Law

¹⁰ *Ibid.*

¹¹ Kamus Besar Bahasa Indonesia. "Empati." *KBBI Daring*, <https://kbbi.web.id/empati>.

¹² Muhammad Yunus Misfala dan U. Z., "Faktor-Faktor Penyebab Bullying Peserta Didik di Era Milenial," *EDUJAVARE PUBLISHING* 1, no. 2 (2023): 39–53.

¹³ *Ibid.*

¹⁴ Xiaoou Man dan J. L., "Effects of Bullying Forms on Adolescent Mental Health and Protective Factors: A Global Cross-Regional Research Based on 65 Countries," *International Journal of Environmental Research and Public Health* 19, no. 4 (2022): 4–17.

Islamic law stipulates that the age of criminal responsibility is 12-15 years, known as the age of puberty.¹⁵ Children who reach puberty are presumed to fully understand the consequences of their actions. Islamic Criminal Law prescribes a more rehabilitative approach to children who violate the law, focusing on rehabilitation rather than punishment. This system prioritizes guidance and moral education to help children correct their mistakes. Despite the age limit and varying treatment options, justice is still upheld. If a child commits a crime, the law remains enforced, taking into account the child's future. Islamic religious fatwas or consensus (ijma') regarding the conduct of minors under Islamic criminal law can inform policy.

IV. ISLAMIC CRIMINAL LAW ON BULLYING

A. Basis of Islamic Criminal Law

Islamic law is derived from the Quran, Hadith, and Ijtihad. Each source regulates the law on bullying. The following is an explanation.

1. The Quran. The Quran is a book for Muslims containing commands and prohibitions. In the context of bullying, the Quran explains the prohibitions and sanctions for perpetrators of bullying as well as teachings to encourage goodness. "O you who believe, let not a people ridicule another people; perhaps those who are ridiculed are better than they. And do not criticize one another and do not call one another by bad names. The worst name is the wicked after faith; and whoever does not repent, then those are the wrongdoers" (Al-Hujurat 49:11).¹⁶ This verse emphasizes that his followers should not demean others because humans have the same status. The punishment for wrongdoers is explained in Surah Al Furqan verse 19: receiving punishment and being removed from the pleasures of Allah SWT both in this world and the hereafter.¹⁷
2. Al-Hadith. Al-Hadith is a record of the life of the Prophet Muhammad SAW, both in his words and deeds. The Prophet Muhammad SAW is a person who needs to be emulated because of his nobility, so that the hadith is used as a guide in life. Several hadiths from the sayings of the Prophet Muhammad SAW explain about maintaining ethical interactions to avoid bullying, one of which is "A Muslim is one who is safe from his tongue and hands" (Narrated by Abu Hurairah).¹⁸ This

¹⁵Stanford Medicine Children's Health, "Cognitive Development in the Teen Years," *Stanford Children's Health*, <https://www.stanfordchildrens.org/en/topic/default?id=cognitive-development-in-the-teen-years-90-P01594>.

¹⁶ Kementerian Agama Republik Indonesia. "Surah Al-Hujurat Ayat 11." *Quran Kemenag*. <https://quran.kemenag.go.id/quran/per-ayat/surah/49?from=11&to=11>.

¹⁷ Kementerian Agama Republik Indonesia. "Surah Al-Furqan Ayat 19." *Quran Kemenag*. <https://quran.kemenag.go.id/quran/per-ayat/surah/25?from=19&to=19>.

¹⁸ Sunan an-Nasa'i, "Hadith 4995," *Sunnah.com*, <https://sunnah.com/nasai:4995>.

hadith emphasizes the importance of not hurting others either through words or actions. In addition, the hadith from Abu Huraira "The Messenger of Allah SAW said, shyness is from faith and faith is in heaven, while vile words are from rude behavior and rude behavior is in hell." (Narrated by Ahmad No. 10108).¹⁹ Therefore, rude behavior and hostility are prohibited and not exemplified by the Prophet Muhammad SAW because they bring evil and the group of inhabitants of hell.

3. Ijtihad. Ijtihad is the effort of Islamic scholars to provide legal solutions that are not regulated in the Quran and Hadith and do not conflict with Islamic teachings. One such solution is the Kementerian Agama Republik Indonesia (Kemenag). Kemenag has ruled that bullying is forbidden because it includes attitudes and behaviors that hurt others (What Does Islam Say About Bullying?, 2019).²⁰ Those who bully must apologize to their victims and seek forgiveness from Allah SWT.

These sources can assist in deciding life's matters. Thus, the sources of Islamic law provide commands and prohibitions, reinforced by sanctions, for Muslims to obey.

B. Action Against Bullies

The actions of perpetrators of bullying are regulated by Islamic criminal law, namely, they can be subject to hudud, qisas, and ta'zir punishments depending on how the bullying is carried out and the consequences of the bullying. If the perpetrator acts by taking property, they can be subject to hudud punishments. If the perpetrator acts by assault resulting in injury or loss of life, they will be subject to qisas punishments. If the perpetrator acts in a way that causes stress and depression to the victim, they will be subject to ta'zir punishments.

The diyat sanction takes the form of compensation paid by the perpetrator to the victim as a form of accountability for their actions. The amount of the diyat is determined by agreement between the perpetrator and victim or based on the victim's social circumstances.

C. Protection of Victims

The legal process not only focuses on the perpetrator, but also includes legal efforts to protect the rights of victims of bullying. There are two forms of protection for victims of bullying: preventive and remedial (Triasavira, 2021).²¹

¹⁹ Imam Ahmad ibn Hanbal, *Musnad Ahmad*, "Hadith 10108," *Hadits.in*, <https://hadits.in/ahmad/10108>.

²⁰ Kementerian Agama Republik Indonesia, "Apa Kata Islam Tentang Bullying?," 8 February 2019, <https://kemenag.go.id/opini/apa-kata-islam-tentang-bullying-o58xvy>.

²¹ A. Triasavira dkk., "Perlindungan Hukum terhadap Korban dan Pelaku Tindak Pidana Praktik Bullying di Lingkungan Sekolah," *Jurnal Jendela Hukum* (2021): 90–95.

1. Efforts to prevent bullying, protection in the form of socialization of interaction ethics, anti-violence discussions, determination of certain subjects (such as Islamic ethics, morals), counseling guidance, and warning letters.
2. Protection for victims of bullying that is needed is in the form of Restitution/Compensation, Counseling, medical services/medical assistance, legal assistance, and provision of information. Apart from the protection for victims of bullying that is preventive, there is also protection for victims of bullying. Explained in Article 28G paragraph (1) of the 1945 Constitution, "Everyone has the right to protection of themselves, their families, honor, dignity, and property under their control, and has the right to a sense of security and protection from the threat of fear to do or not do something that is a human right."²² This includes getting protection from bullying, because bullying can cause fear, physical and other psychological impacts.

V. CASE STUDY

A. Examples of Cases of Bullying of Minors

Continuing the discussion of the issues explained in the introduction. Based on the press conference of the Sukoharjo Headquarters on Monday, September 17, 2024, a murder of a student occurred at one of the Islamic boarding schools in the Grogol sub-district, Sukoharjo Regency, Central Java. The perpetrator with the initials (MG) aged 15 years and the victim with the initials (AKPW) aged 13 years were students of the Islamic boarding school. The chronology of the incident occurred on Sunday, September 16, 2024 at around 4:00 PM WIB. It began when MG smelled cigarettes from the direction of room 2.3 which was AKPW's room. Then, MG went to AKPW's room and asked for the cigarettes. However, AKPW refused because he didn't have any. MG then asked AKPW's friend for cigarettes and was given 2.²³ After getting the cigarettes, MG became angry with AKPW and beat him in the chest and stomach. AKPW was taken to Solo Hospital and died on the way. In handling this case, the Sukoharjo Police, through the Unit Protection of Women and Children (PPA) The Criminal Investigation Unit works with the Correctional Center (Bapas) because both the victim and the perpetrator are still minors (Ryanthie, 2024).²⁴

²² Undang-Undang Dasar Negara Republik Indonesia Tahun 1945, Pasal 28G ayat (1).

²³ S. Ryanthie, "Polres Sukoharjo Ungkap Kasus Meninggalnya Santri Akibat Penganiayaan, Bukan Perundungan," *Tempo.co*, 17 September 2024, <https://metro.tempo.co/read/1917342/polres-sukoharjo-ungkap-kasus-meninggalnya-santri-akibat-penganiayaan-bukan-perundungan>.

²⁴ *Ibid.*

B. Case Analysis Based on Islamic Criminal Law

Islamic criminal law can be applied in the case of bullying at the Sukoharjo Islamic boarding school, considering that MG is already a puberty student, not a minor, and therefore can be given appropriate sanctions for his actions. MG's actions that led to the death of AKPW are categorized as murder. There are two types of murder in Islamic criminal law: qisas (revenge) and dhun (unintentional killing). However, to date, there is no further information regarding MG's motive other than anger at AKPW for refusing to give him cigarettes. If MG is proven to have intended to kill, then the qisas sanction will be applied, and if MG is proven not to have intended, then the dhun sanction will be applied.

If the victim's family chooses not to pursue qisas, they can request diyat (retribution) as compensation. This option allows for a more peaceful resolution and provides compensation to the family. The diyat that MG can award for murder is 100 to 200 camels or an equivalent amount of money.

VI. CHALLENGES AND SOLUTIONS

A. Challenges in Enforcing Islamic Criminal Law

Bullying can occur as soon as children begin interacting with their peers, making it necessary to enforce laws against perpetrators of bullying among minors. However, this enforcement faces various obstacles.

1. Lack of legal awareness. Victims and their families often don't know their rights or what to do if they experience bullying. Through legal awareness, individuals can learn what is prohibited and permitted, and how to obtain justice.
2. Legal limitations. Law is inherently dynamic, following societal developments and always remaining behind society. This means that law exists because of human actions. Particularly in the context of bullying of minors, regulations regarding this matter remain unclear. Given that the judicial process must consider the future of the perpetrator, who is also a minor, the sanctions imposed are sometimes disproportionate to the offense.
3. The perpetrator's attitude. Minors who bully often lack mental and emotional stability, so they tend to be unaware of the consequences of their actions. This also influences the perpetrator's testimony, which often presents illogical reasons.

B. Solutions and Recommendations

Bullying is crucial to address so that children can develop to their full potential. Therefore, steps are needed to address bullying and enforce the law.

1. Legal counseling. Through legal outreach, information is provided regarding individuals' obligations and rights within society. This is done to prevent bullying.

People who understand their obligations will naturally comply with social order to create peace, and those who understand their rights will learn how to advocate for them, such as reporting and suing.

2. Implementation of anti-bullying policies. Schools and educational institutions must have clear policies regarding bullying, including appropriate sanctions. These policies must be socialized and consistently enforced.
3. Establishing solution-oriented complaint channels. Complaint channels like the SAPA 129 service provided by the Ministry of Women's Empowerment and Child Protection play a crucial role in assisting victims by providing information for reporting to authorities, providing a platform to share stories to ease their stress, and providing solutions for victims to break free from bullying.²⁵

VII. CLOSING

Bullying is the most common crime at the junior high school level, with both perpetrators and victims being underage on average. This bullying occurs in various forms, including physical, verbal, cyber, and social, which have various negative impacts on victims. The bullying case at the Sukoharjo Islamic boarding school is being discussed to determine the most appropriate sanctions for the perpetrators from an Islamic criminal law perspective. The bullying case at the Sukoharjo Islamic boarding school is being handled by the Unit Protection of Women and Children (PPA) Satreskrim works with the Correctional Center (Bapas) because the victim and perpetrator are still minors.²⁶ Meanwhile, from the perspective of Islamic criminal law, the victim and perpetrator are already mature and can be held criminally responsible. Based on the analysis of Islamic criminal law, the perpetrator of bullying at the Sukoharjo Islamic boarding school must be given qisas sanctions if proven to have intended to kill and dhun sanctions if they did not intend to kill. If the victim and perpetrator want to use a peaceful way, then use dhiyat as compensation to the victim. Through the analysis of Islamic criminal law regarding this case, it produces an important message that the law in Indonesia needs to be reviewed regarding the minimum age limit for criminal responsibility, because from the age of 12 a person has the ability to think and reason. This is done to uphold justice and increase legal awareness through socialization to create a society that is aware of its rights and obligations.

²⁵ Kementerian Pemberdayaan Perempuan dan Perlindungan Anak Republik Indonesia, "SAPA 129," *Lapor SAPA 129*, <https://laporsapa129.kemenpppa.go.id>.

²⁶ Komisi Perlindungan Anak Indonesia, "Desakan KPAI Terhadap Kasus Kekerasan di Ponpes Solo," 19 September 2024, <https://www.kpai.go.id/publikasi/desakan-kpai-terhadap-kasus-kekerasan-di-ponpes-solo>.

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