



**The Phenomenon of Punishment at *Pesantren* in South Sulawesi:  
An Islamic Law and Islamic Education Approaches**

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**Abstract:** *Pesantren* (Islamic boarding school) is an educational institution in Indonesia that instills Islamic values in its students. In *pesantren*, the punishment given to students aims not to hurt, but to contain educational values. This study aims to analyze the application of punishment in *pesantren*. This research is qualitative with Islamic law and Islamic education approaches. The informants comprised several teachers and students of Pondok Pesantren DDI Mangkoso, South Sulawesi, Indonesia. Data were collected through observation, interview, and documentation, then analyzed using the descriptive analysis technique. The results showed that the forms of punishment applied to Islamic boarding schools were reprimands, assignments, and psychological and physical punishments. Punishment in Islamic boarding schools includes *ta'zīr* in Islamic law. Even though there are written rules, in some cases, the implementation of *ta'zīr* is very simple (depending on the subjectivity of the *kiai* or teacher), so it lacks legal certainty and only aims to give a deterrent effect to perpetrators. According to Islamic education, the punishments applied by Islamic boarding schools have met the objectives of implementing educational sanctions, namely a deterrent effect for the perpetrators and a deterrent for others. Therefore, legal certainty is not the main goal in determining and implementing punishment in Islamic boarding schools, but to improve the students' scientific and moral quality. This research has implications for teacher innovation and various methods in Islamic boarding school education so that students participate in the educational process willingly and happily, not because they are forced or afraid of punishment.

**Keywords:** Punishment, *pesantren*, Islamic law, Islamic education

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**Abstrak:** *Pesantren meropidan lembaga pendidikan di Indonesia yang menanamkan nilai-nilai keislaman pada santrinya. Di pesantren hukuman yang diberikan pada santri bertujuan bukan untuk menyakiti, tetapi mengandung nilai-nilai pendidikan. Penelitian ini bertujuan untuk menganalisis penerapan hukuman di pesantren. Jenis penelitian ini adalah kualitatif dengan pendekatan hukum Islam dan pendidikan Islam. Informan terdiri atas beberapa guru dan santri Pondok Pesantren DDI Mangkoso, Sulawesi Selatan, Indonesia. Data dikumpulkan melalui observasi, wawancara, dan dokumentasi, kemudian dianalisis menggunakan teknik analisis deskriptif. Hasil penelitian menunjukkan bahwa bentuk hukuman yang diterapkan pesantren adalah teguran, pemberian tugas, hukuman psikis, dan hukuman fisik. Hukuman di pesantren termasuk ta'zīr dalam hukum Islam. Meskipun ada aturan tertulis, tetapi dalam beberapa kasus pelaksanaan ta'zīr sangat sederhana (tergantung subjektivitas kiai/guru) sehingga tidak memiliki kepastian hukum dan hanya bertujuan memberi efek jera kepada pelaku. Menurut pendidikan Islam, hukuman yang diterapkan pesantren telah memenuhi tujuan penerapan sanksi pendidikan, yaitu efek jera bagi pelakunya dan pencegah bagi yang lainnya. Oleh karena itu, kepastian hukum bukan menjadi tujuan utama dalam penetapan dan penerapan hukuman di pesantren, tetapi untuk meningkatkan kualitas keilmuan dan akhlak santri. Penelitian ini berimplikasi pada perlunya inovasi guru dan metode bervariasi dalam pendidikan pesantren, sehingga santri mengikuti proses pendidikan dengan rela dan senang, bukan karena terpaksa dan takut dihukum.*

**Kata Kunci:** *Hukuman, pesantren, hukum Islam, pendidikan Islam*

## Introduction

Islamic law follows the teachings of Allah as outlined in the Qur'an and hadith.<sup>1</sup> If an *'uqubat* (case) does not explicitly mention the punishment in the Qur'an and hadith, the government (judge/*imam*) is authorized to establish the law based on Sharia principles.<sup>2</sup> The decision of the judge or the authority over the case is called *ta'zīr*. Because *ta'zīr* punishment depends on the in-charge

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<sup>1</sup> Arip Purkon, "Rethinking of Contemporary Islamic Law Methodology: Critical Study of Muhammad Shahrūr's Thinking on Islamic Law Sources," *HTS Theologiese Studies/Theological Studies* 78, No. 4 (2022), p. 1-7. Syafaul Mudawam, "The Uṣūl al-Fiqh Approach on the Understanding of Islamic Law in Contemporary Era: Source and Contextualization," *Asy-Syir ah: Jurnal Ilmu Syari'ah dan Hukum* 55, No. 2 (2021), p. 315. John Burton, *Sources of Islamic Law: Islamic Theories of Abrogation* (United Kingdom: Edinburgh University Press, 2019).

<sup>2</sup> Desia Rakhma Banjarani, "Insult in National Criminal Law and Islamic Criminal Law: Sanctions Perspective and Legal Developments Review," *Ius Poenale* 4, No. 1 (2023), p. 1-12. Ahmad Syarbaini, "Teori Ta'zir dalam Hukum Pidana Islam," *Ius Civile: Refleksi Penegakan Hukum dan Keadilan* 2, no. 2 (2019), p. 1-10.

authority, it results in various forms following judge *ijtihad* (effort) or the authorized institution.<sup>3</sup>

According to al-Mawardi, *ta'zīr* is an educational punishment.<sup>4</sup> This perspective is consistent with the educational function of punishment, which aims to deter individuals from committing similar mistakes.<sup>5</sup> Even Prophet Muhammad allows punishing kids at least ten years old who miss prayers. This indicates the importance of punishment in getting kids to do God's commands and moral development.<sup>6</sup>

Unfortunately, the implementation of punishment in educational institutions is often seen partially, not completely and comprehensively. Therefore, some teachers should be jailed for giving physical punishment to students who break the rules (indiscipline and immorality).<sup>7</sup> This lowers teachers' dignity and provides opportunities for repetition of the same offense/misbehavior.<sup>8</sup> In fact, this type of punishment is ineffective in deterring students from breaking the rules or immoral acts, as it can normalize such behaviors.<sup>9</sup> National Commission of Human Rights and Child Protection Law limit teachers' excessive attitude toward punishment. However, these regulations sometimes serve as protection for students who break the rules in order to avoid disciplinary action.<sup>10</sup> This is a warning for the future of the nation's generation as well as a challenge for educational institutions in character building.

As traditional Indonesian Islamic education institutions, Islamic boarding schools play an important role in moral development. *Pondok Pesantren DDI Mangkoso* is among the institutions that apply punishment methods in students' educational process. Students receive punishment as a consequence of committing a mistake, displaying resistance, or violating established rules or

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<sup>3</sup> Sufriadi Ishak, "Teori-teori Penghukuman dalam Hukum Islam: Perbandingan dengan Hukum Pidana Umum," *Ameena Journal* 1, no. 1 (2023), p. 89–100.

<sup>4</sup> Ahmad Hanafi, *Asas-asas Hukum Pidana Islam* (Jakarta: Bulan Bintang, 2005).

<sup>5</sup> Anthony A Peguero et al., "School Punishment and Education: Racial/Ethnic Disparities with Grade Retention and the Role of Urbanicity," *Urban Education* 56, no. 2 (2021), p. 228–260.

<sup>6</sup> Wahyudi Setiawan, "Reward and Punishment dalam Perspektif Pendidikan Islam," *Al-Murabbi: Jurnal Studi Kependidikan dan Keislaman* 4, no. 2 (2018), p. 184–201.

<sup>7</sup> Muhammad Sidik, "Perlindungan Hukum bagi Guru yang Melakukan Kekerasan terhadap Siswa," *Jurnal As-Said* 1, no. 1 (2021), p. 66–74.

<sup>8</sup> Bryan R Warnick and Campbell F Scribner, "Discipline, Punishment, and the Moral Community of Schools," *Theory and Research in Education* 18, no. 1 (2020), p. 98–116.

<sup>9</sup> Elizabeth T Gershoff, Shawna J Lee, and Joan E Durrant, "Promising Intervention Strategies to Reduce Parents' Use of Physical Punishment," *Child Abuse & Neglect* 71 (2017), p. 9–23.

<sup>10</sup> Muhammad Alqadri Burga, "Implementing Punishment in Building Characters of Students at Pondok Pesantren DDI Mangkoso," *Edukasi: Jurnal Penelitian Pendidikan Agama dan Keagamaan* 17, no. 2 (2019).

norms.<sup>11</sup> Moreover, a form of disciplinary action in this boarding school is physical punishment (punches). Interestingly, physical punishment does not raise hatred from students to their teachers. Indeed, some parents of the students requested their children be given the severest punishment possible for the wrongdoing they had committed. “*Tasesangeng meka’ nyawana, Pak Ustaz*” (just leave me his/her life, Sir.), said one of the parents of the students.<sup>12</sup>

The uniqueness of the implementation of punishment in Islamic boarding schools has attracted the attention of several researchers, including Marlina examined punishment in the world of education and criminal acts of violence following Indonesian law;<sup>13</sup> Sudiby and Kiyamudin investigated legal protection for teachers in carrying out their professional duties concerning punishment in disciplining students;<sup>14</sup> Maarif and Kartiko analyzed the effectiveness of punishment patterns in Islamic boarding schools in educating students;<sup>15</sup> Burga<sup>16</sup> and Habibi<sup>17</sup> studied the application of punishment in developing the student’s character; Delia et al. explored the effect of *ta’zir* (punishment) on the students’ morals;<sup>18</sup> and Djalaluddin et al. evaluated *maslahat* values (educational function) in the implementation of *ta’zīr* punishment.<sup>19</sup> Researchers have not found a comprehensive study (integration of Islamic studies) regarding the application of punishment in response to increasingly complex student deviant behavior with the improvement of students’ strengthened normative protection.

Based on those problems, this study aims to analyze the implementation of punishment in Islamic boarding schools. This research uses qualitative methods

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<sup>11</sup> Elizabeth Bergner Hurlock, *Developmental Psychology* (New York: Tata McGraw-Hill Education, 2001).

<sup>12</sup> Interview with Andi Saharuddin, Head of Campus II of Pondok Pesantren DDI Mangkoso, Barru, September 10, 2022.

<sup>13</sup> Marlina Marlina, “Punishment dalam Dunia Pendidikan dan Tindak Pidana Kekerasan,” *Jurnal Mercatoria* 7, no. 1 (2014).

<sup>14</sup> Ateng Sudiby and Eki Kiyamudin, “Perlindungan Hukum terhadap Guru dalam Melaksanakan Tugas Keprofesionalannya Dikaitkan dengan *Punishment* dalam Mendisiplinkan Siswa,” *Journal Presumption of Law* 1, no. 2 (2019).

<sup>15</sup> Muhammad Anas Maarif and Ari Kartiko, “Fenomenologi Hukuman di Pesantren: Analisis Tata Tertib Santri Pondok Pesantren Daruttaqwa Gresik,” *Nadwa: Jurnal Pendidikan Islam* 12, no. 1 (2018).

<sup>16</sup> Burga, “Implementing Punishment in Building Characters of Students at Pondok Pesantren DDI Mangkoso.”

<sup>17</sup> Ibnu Habibi and Triyo Supriatno, “Charity Punishment in Islamic Boarding School to Improving Santri Discipline,” *Nazhruna: Jurnal Pendidikan Islam* 3, no. 3 (2020).

<sup>18</sup> Difa Ilwa Dilia, Rony Rony, and Anis Trianawati, “Pengaruh Ta’zir Terhadap Akhlak Santri Putri Pondok Pesantren,” *At-Tadzkir: Islamic Education Journal* 1, no. 1 (2022).

<sup>19</sup> Muhammad Mawardi Djalaluddin et. al., “The Implementation of Ta’zīr Punishment as an Educational Reinforcement in Islamic Law,” *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 1 (2023).

with Islamic law and Islamic education approaches.<sup>20</sup> The primary data source consists of several informants from teachers and students at the Pondok Pesantren DDI Mangkoso, South Sulawesi, Indonesia. Secondary data sources come from relevant books and journals as a theoretical basis. Data was collected using observation, interview, and documentation techniques. Observations were carried out to reveal the phenomenon of implementing punishment in Islamic boarding schools. Interviews were conducted to determine the informants' views and experiences regarding implementing punishment in Islamic boarding schools. Documentation was carried out in books and journals related to Islamic law and Islamic education theories as material for analyzing field-finding data. The collected data was analyzed using descriptive analysis techniques with Islamic law and Islamic education approaches. This means that data about the phenomenon of punishment in Islamic boarding schools are analyzed using Islamic law and Islamic education perspectives.

**Application of Punishment in Pesantren**

Based on regulations in the Students' Book<sup>21</sup> of Pondok Pesantren DDI Mangkoso, there are three categories of violations: minor, moderate, and major. Repeatedly minor violations can become moderate violations. Likewise, moderate violations committed repeatedly can become major violations. Table 1 shows various categories of violations frequently done by students as follows.

**Table 1: Categorization of Violations and Types of Punishment**

Categorization of Violations	Form of Violations	Types of Punishment
Minor	<ul style="list-style-type: none"> <li>- Covering own mistakes and friends (dishonest)</li> <li>- Not wearing the uniform</li> <li>- Late coming to school and mosque</li> <li>- Not going to school and mosque</li> <li>- Skip school and recitation at the mosque</li> </ul>	<ul style="list-style-type: none"> <li>- Reprimands</li> <li>- Memorization task</li> <li>- Psychic</li> <li>- Physical</li> </ul>

<sup>20</sup> Sugiyono, *Metode Penelitian Pendidikan: Pendekatan Kuantitatif, Kualitatif, R&D*, Bandung: Alfabeta, 2011. Munir Fuady, *Metode Riset Hukum: Pendekatan Teori dan Konsep*, Jakarta: RajaGrafindo Persada, 2018.

<sup>21</sup> The Students' Book is a book owned by every student at the Pondok Pesantren DDI Mangkoso that contains personal data, proof of permission to leave campus, and Islamic boarding school regulations.

	<ul style="list-style-type: none"> <li>- Not doing school or dormitory duties</li> <li>- Not participating in the five daily congregational prayers</li> <li>- Not doing <i>duha</i> and <i>tahajud</i> prayers</li> </ul>	
Moderate	<ul style="list-style-type: none"> <li>- Having electronic tools</li> <li>- Fighting</li> <li>- Smoking</li> <li>- Stealing</li> </ul>	<ul style="list-style-type: none"> <li>- Detaining that electronic tools</li> <li>- Psychic</li> <li>- Physical</li> </ul>
Major	<ul style="list-style-type: none"> <li>- Leaving school without permission</li> <li>- Beating</li> </ul>	<ul style="list-style-type: none"> <li>- Psychic</li> <li>- Physical</li> <li>- Call parents</li> </ul>

Source: Interviews and Observations at Pondok Pesantren DDI Mangkoso

Table 1 illustrates that the punishments given to students are gradual. The disciplinary action includes advice, reprimands with angry facial expressions and voices, writing and memorizing assignments, and physical punishment such as pinching or hitting. If the punishments are ineffective, the parents will be called to come to school, or even students may be expelled. The punishment applied must follow the type of violation.

Punishments for students who commit minor violations include reprimands and memorization of verses of Qur'an or Hadith.<sup>22</sup> Physical punishment includes push-ups, standing in front of the class or standing until the recitation ends, pinching, and a little hit.<sup>23</sup>

Violations like leaving school without permission and smoking were given psychic punishments such as shaving his head/bald and a little hit in front of other students. Stealing was punished by returning the stolen goods and lashing (beating) his hands using tree branches or bamboo strips. Meanwhile, having electronics at school, the goods will be confiscated and only returned to the student's parents or guardians. If the student is caught still having electronics, then the goods are no longer returned and officially become the property of Pondok Pesantren DDI Mangkoso.<sup>24</sup>

Major punishment is calling student's parents to come to school. This action is a form of teacher communication and parental involvement in educating

<sup>22</sup> Interview with Dwi Annisa Maharani, Student of Pondok Pesantren DDI Mangkoso, Barru, September 25, 2022.

<sup>23</sup> Interview with Muhammad Ihsan, Student of Pondok Pesantren DDI Mangkoso, Barru, September 25, 2022.

<sup>24</sup> Interview with Aydi Syam, Teacher of Pondok Pesantren DDI Mangkoso, Barru, September 20, 2022

students because leaving school without permission risks parents suing that school if something undesirable happens (e.g., an accident) to their children. Similarly, beatings or abuse by senior students towards their juniors can become a crime and give a negative image to Islamic boarding schools. If the violation continues to be repeated, the student is witnessed by his/her parents making a statement not to repeat it. However, if the violation is still being committed, the student is willing to be expelled from Pondok Pesantren DDI Mangkoso.<sup>25</sup>

Teachers can be classified into four attitudes when applying those various kinds of punishment: strict, disciplined, wise, and gentle. A strict attitude encompasses various elements such as voice, facial expression, and type of punishment (level of suffering). A disciplined attitude in responding to student violations makes the situation more controlled and orderly. In contrast, when punishment is not strict, it can reduce the sense of justice in students because they feel they are treated differently from their friends.<sup>26</sup> The wise attitude regarding allowing students to defend themselves before being punished so that students can accept the punishment without resentment.<sup>27</sup> Several teachers are more gentle by giving warnings naturally as advice for any violation. Based on the researchers' observations, students commit violations if they are not controlled or guarded by strict teachers.

### Islamic Law Views on Punishment in Pesantren DDI Mangkoso

Islamic criminal justice system employs the term *'uqubat* to refer to the punishments authorized by judges for those *jarimah* (violators of Islamic law). Three forms of *'uqubat* in Islamic criminal law are *hudūd*, *qiṣās*, dan *ta'zīr*.<sup>28</sup>

First, *hudūd* is a sanction determined by Allah of its limit, model, or severity for every act of disobedience. There are seven types of *hudūd*, namely: (1) Theft is punished for cutting hands (QS al-Māidah/5: 38), (2) Drinking liquor (*syurb al-khamr*) is punished with forty or eighty lashes,<sup>29</sup> (3) Robbery is punished by crucifixion, murdered in other ways, hands and feet are cut off, or banished/exiled (QS al-Māidah/5: 33), (4) Rebellion, a legitimate caliph's rebellion will get dismissal first. If they still resist, the act of fighting and killing rebels is permissible (QS al-Ḥujurāt/49: 9), (5) Leaving Islam (*riddah*) is punished

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<sup>25</sup>Interview with Andi Saharuddin, Head of Campus II of Pondok Pesantren DDI Mangkoso, Barru, September 10, 2022.

<sup>26</sup>Winston C Thompson and John Tillson, "Pedagogies of Punishment: An Introduction," *Theory and Research in Education* (London: SAGE Publications, 2020).

<sup>27</sup>Afiful Ikhwan et al., "Revitalization of Islamic Education Teachers in the Development of Student Personality," in *1st Borobudur International Symposium on Humanities, Economics and Social Sciences (BIS-HESS 2019)* (Atlantis Press, 2020), p. 162–165.

<sup>28</sup>Syarbaini, "Teori Ta'zir dalam Hukum Pidana Islam."

<sup>29</sup>Sri Yunarti, *Fiqh Jinayah* (Padang: IAIN Batusangkar Press, 2022).

by death according to Islamic scholars,<sup>30</sup> (6) Forbidden sexual relations (*zina*) are punished one hundred lashes if unmarried (*gairu muhsan*) (QS al-Nūr/24: 2) and stoned to death (*rajam*) if married (*muhsan*),<sup>31, 32</sup> and (7) accusations of adultery without proof (*qazaf*) punished for eighty lashes and proof of the perpetrator will not be accepted forever (QS al-Nūr/24: 4).<sup>33</sup>

Second, *qiṣāṣ* in Islamic law means retaliation, giving appropriate punishment to criminals. The perpetrators of murder or persecution are punished (*qiṣāṣ*) following what he/she did to the victim. However, if the victim's family forgives him/her, then the criminal is sentenced to *diyāt*, namely a fine that must be paid by the criminal as a substitute for *qiṣāṣ*.<sup>34</sup>

There are two kinds of *Diyāt*, namely *mugallaḥah* (heavy) and *mukhaffafah* (light). *Diyāt mugallaḥah* is a fine of paying 100 camels, consisting of 30 *hiqqah* (3 to 4-year-old female camels), 30 *jaḥā'ah* (4 to 5-year-old female camels), and 40 *khalafah* (pregnant female camels). This *Diyāt mugallaḥah* is obligatory for: (1) Murderers who kill intentionally, but are forgiven by the victim's family, (2) murder as intentional, (3) accidental killings committed in the forbidden land (Mecca City), (4) Unintentional killings carried out in the forbidden months, namely *Zulqaidah*, *Zulhijjah*, *Muharram*, and *Rajab*, (5) accidental killing of *mahram*, except for the killing of parents to their children. *Diyāt mukhaffafah* is fine for paying 100 camels, consisting of 20 *hiqqah*, 20 *jaḥā'ah*, 20 *binta labun* (more than two years old camels), and 20 *binta makhad* (more than one year old female camels). *Diyāt mukhaffafah* is obligatory for: (1) People who kill accidentally other than in the forbidden land, in the forbidden month, and not to a *mahram*, (2) People who deliberately cut or injure someone's limbs but are forgiven by the victim or the victim's family, and (3) Like intentional killing, the intention of someone beating another person with tools that are not believed to cause death, such as a whip, wood, hands, and others, but the beating causes the death of the victim.<sup>35</sup>

Third, *ta'zīr* is a punishment that is not explicitly mentioned in the Qur'an and hadith so that the government (judge/*imam*/authorized institution) is granted

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<sup>30</sup> Hossein Esmaeili, et.al., *The Rule of Law, Freedom of Expression and Islamic Law* (London: Bloomsbury Publishing, 2017).

<sup>31</sup> Mohammad Hashim Kamali, "Principles and Philosophy of Punishment in Islamic Law with Special Reference to Malaysia," *ICR Journal* 10, no. 1 (2019), p. 9–20.

<sup>32</sup> Simon Butt, "Religious Conservatism, Islamic Criminal Law and the Judiciary in Indonesia: A Tale of Three Courts," *The Journal of Legal Pluralism and Unofficial Law* 50, no. 3 (2018), p. 402–434.

<sup>33</sup> Mohammad Hashim Kamali, *Crime and Punishment in Islamic Law: A Fresh Interpretation* (England: Oxford University Press, 2019).

<sup>34</sup> Nurul Irfan and Masyrofah, *Fiqh Jinayah* (Jakarta: Amzah, 2022).

<sup>35</sup> Yunarti, *Fiqh Jinayah*.

to carry out *ijtihad* to determine punishment following Sharia principles.<sup>36</sup> In essence, *ta'zīr* is an educational process.<sup>37</sup> Even though it is included in the scope of Islamic crime, it is not interpreted as a process of retaliation or torture. More precisely, *ta'zīr* is understood as a process of awareness.<sup>38</sup> In carrying out the process, the scholars have formulated at least two forms of punishment that can be applied: (1) Words, such as preventing, criticizing, and advising; (2) acts, such as hitting, whipping, imprisoning, binding, etc. The forms of *ta'zīr* punishment vary because the determination is following the authorities.<sup>39</sup>

Based on the concept of the *'uqubat* trilogy in Islamic law, the form of violations by students at Pondok Pesantren DDI Mangkoso allows three punishments, namely *hād* for theft, *qiṣās* for persecution, and *ta'zīr* for other violations. However, in practice, these violations are included in the *ta'zīr* category based on the following arguments.

First, Islamic boarding schools are Islamic educational institutions, so the determination of punishment is not oriented towards Sharia sanctions but *Tarbiah* sanctions. Second, the sanction of cutting off the hands of thieves in Islamic criminal law, following the majority of Islamic scholars, is the maximum sanction so that not all thefts are imposed and sanctioned with cutting off hands. However, alternative sanctions are still given as *ta'zīr*, namely educational punishments not determined by Sharia. Judges/authorities (*kiai*) have absolute authority through their *ijtihad* to give *ta'zīr* punishment.<sup>40</sup> Third, Indonesia—as the country where Islamic boarding schools are located—is not an Islamic country that applies Islamic law as state law. Therefore, beatings or abuse in Islamic boarding schools cannot be punished by *qiṣās* but may be punished by *ta'zīr*, which has the same purpose as *qiṣās*, namely for retribution (retaliation), deterrence (prevention), and reformation (improvement).<sup>41</sup> Moreover, psychologically, Islamic criminal punishment, including the law of *qiṣās* aims at *al-tahzīb* (education).<sup>42</sup>

It is called retribution (appropriate retaliation) because the assigned teacher gives senior students who abuse or beat their juniors whipping

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<sup>36</sup> Syarbaini, “Teori Ta’zir dalam Hukum Pidana Islam.”

<sup>37</sup> Djalaluddin et. al., “The Implementation of Ta’zir Punishment as an Educational Reinforcement in Islamic Law.”

<sup>38</sup> Darsi Darsi and Halil Husairi, “Ta’zir dalam Perspektif Fiqh Jinayat,” *Al-Qisthu: Jurnal Kajian Ilmu-ilmu Hukum* 16, no. 2 (2018), p. 60–64.

<sup>39</sup> Ishak, “Teori-teori Penghukuman dalam Hukum Islam.”

<sup>40</sup> Mardani Mardani, “Sanksi Potong Tangan Bagi Pelaku Tindak Pidana Pencurian dalam Perspektif Hukum Islam,” *Jurnal Hukum: Ius Quia Iustum* 15, no. 2 (2009), p. 239–259.

<sup>41</sup> Topo Santoso, *Menggagas Hukum Pidana Islam: Penerapan Syariat Islam dalam Konteks Modernitas* (Bandung: Asy Syaamil Press, 2010).

<sup>42</sup> Satria Effendi, *Ushul Fiqh* (Jakarta: Prenada Media, 2015).

punishment. The punishment is adjusted to the degree of violation or abuse committed. Moreover, no persecution makes other students disabled.<sup>43</sup>

It is referred to as deterrence (strong prevention) because the whipping punishment to the students who are perpetrators of torture is carried out at the Islamic boarding school's court session<sup>44</sup>, which all students witness. This is an example for other students not to commit the same violation.

It is said to be a reformation (improvement) because senior students who are the perpetrators of the beating must look after the victim as long as they become Pondok Pesantren DDI Mangkoso students instead of continuing to torture their junior. This can make the relationship between the two parties (perpetrators and victims) harmonious and friendly. On this side, the victim's right to guarantee his/her life and be respected as a human being is fulfilled. Reformation can also improve the social order of Islamic boarding school community so that the atmosphere is getting better and more peaceful.<sup>45</sup>

Punishment in Islamic boarding schools is related to punishment in Islam. It is not motivated by revenge or following the anger and emotion of teachers (the person in charge). Still, the punishment has a noble purpose as learning or education (*li al- al-tahzīb*) which is valuable for students' moral development.

Although Pondok Pesantren DDI Mangkoso has written rules in the "Student Book", in some cases, the implementation of *ta'zīr* is very simple (depending on the subjectivity of *kiai*/teacher), so there is no legal certainty and only tries to give a deterrent effect to the perpetrators. This is possible because the core of the rules in "Student Book" shows the importance of obeying the rules not to fight, not to carry sharp objects, not to leave school without permission, not to steal, not to beat, etc. Likewise, the purpose of the *qisās* verses is not merely to give a loud and firm threat to follow those provisions. Still, it is intended as a strict prohibition to commit murder and torture or to be involved in killing and persecution, which makes them punished.<sup>46</sup>

### Islamic Education Views on Punishment in Pesantren DDI Mangkoso

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<sup>43</sup> Interview with H Muzakkir, Teacher of Pondok Pesantren DDI Mangkoso, Barru, September 21, 2022.

<sup>44</sup> The Islamic boarding school's court session is a trial held by the Pondok Pesantren DDI Mangkoso to judge and punish students who commit certain violations, such as beatings, theft, and fighting.

<sup>45</sup> Tahmid Nur, "Kontekstualisasi Keadilan dalam Hukum Qisas," *Jurnal Hukum* 4, no. 1 (2018), p. 2–18.

<sup>46</sup> Muhammad Syahrur, *Al-Kitab Wa Al-Qur'an: Qira'ah Mu'asirah*. Translated by Sahiron Syamsuddin, "Prinsip dan Dasar Hermeneutika Hukum Islam Kontemporer" (Yogyakarta: eLSAQ Press, 2007), p. 224.

This study has identified that the types of violations committed by students were generally minor and moderate. However, repeated violations increase their status from minor to moderate or from moderate to major. The repetition of violation is due to the ineffectiveness of efforts to prevent it. Prevention is still an effort to raise awareness with punishment. Tenuous controls or the efforts of teachers to make students happy, aware, and willing to make the rules are still very minimal. Student attitudes are difficult to develop if students do not have moral domains, such as knowing, feeling, and applying ethical values.<sup>47</sup>

The lack of activities to motivate students not to commit violations causes the negative influence of naughty friends to be more dominant than the positive influence. Activities that encourage all students to remind or influence each other in goodness need to be optimized and reactivated, such as holding a competition between dormitories or classes regarding neatness and discipline. Students who commit violations affect the competition assessment. Thus, there is motivation for students not to violate because of the desire to win. Therefore, the motivation relating to reward is more important than punishment.<sup>48</sup>

Disciplinary action for students is carried out in stages. Starting from warnings in the form of advice, harsh reprimands with angry faces and voices, a little pinches or punches properly. The disciplinary action increase from verbal warnings to psychological and physical sanctions indicates that warning is ineffective for moral development. The psychological conditions of teenage students are unstable, so verbal advice does not affect them.<sup>49</sup> Therefore, it is necessary to apply physical punishment as a last alternative after various persuasive efforts made for students.<sup>50</sup>

The application of physical punishment, such as hit by the teacher, becomes a discourse because, in certain situations, it is needed to do for some students for the violations they have committed. In contrast, the implementation of punishment can be a significant challenge for educators. They are required to develop students' morals, but their efforts are limited by Republic of Indonesia Law Number 23 of 2002 concerning Child Protection.

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<sup>47</sup>Muhammad Yaumi, *Pendidikan Karakter: Landasan, Pilar, dan Implementasi* (Jakarta: Prenadamedia Group, 2014). Suadi Zainal, et.al., "Adopting Pesantren-Based Junior High School Programs: The Pesantren Change Its Educational System Without Conflict," *Jurnal Ilmiah Islam Futura* 22, No. 2 (2022).

<sup>48</sup> W James Popham and Eva L Baker, *Establishing Instructional Goals* (New Jersey: Prentice Hall, 1970).

<sup>49</sup> Sattu Alang, *Kesehatan Mental* (Makassar: Alauddin University Press, 2011). Hasan Baharun and Syafiqah Adhimah, "Adversity Quotient: Complementary Intelligence in Establishing Mental Endurance Santri in Pesantren," *Jurnal Ilmiah Islam Futura* 19, No. 1 (2019).

<sup>50</sup> Russell J Skiba et al., "The Color of Discipline: Sources of Racial and Gender Disproportionality in School Punishment," *The Urban Review* 34, no. 4 (2002), p. 317–342.

Republic of Indonesia Law Number 23 of 2002 concerning Child Protection, it is stated in Chapter III Article 13 that every child, while in the care of parents, guardians, or any other responsible party, has the right to receive protection from several treatments, including cruelty, violence, and abuse. Cruelty is unjust, heinous, cruel actions or having no compassion for children. Violence and abuse are acts that injure a child not only physically, mentally, and socially. Therefore, if parents, guardians, or student caretakers (teachers) carry out any form of those treatments, the perpetrators are subject to increased punishment.<sup>51</sup>

Implementing physical punishment in Pondok Pesantren DDI Mangkoso could potentially violate Republic of Indonesia Law Number 23 of 2002 concerning Child Protection. However, this must be considered because the punishment is not applied cruelly. This is evidenced by students who do not hold hatred or fight back after receiving punishment. The application of punishment fulfills the element of justice, does not punish when angry, and the punishment is truly sincere for educating students.

Therefore, the application of punishment by a teacher must follow three conditions, namely: (1) Fair, not to discriminate between students and violations committed to punishing them, so that there is careful consideration before determining punishment.<sup>52</sup> (2) Stable, not to punish when feeling angry, because it can result in excessive punishment or oriented towards anger, not on character building purpose. (3) Sincere, the punishment following love and affection for students, so that it is pure for moral development, not to seem disciplined or authorized.<sup>53</sup>

Punishment is one of the teaching strategies taught by Prophet Muhammad in Islamic education. According to a hadith narrated by Abu Daud, the Prophet instructed parents (teachers) to administer physical discipline to their children (students) who had reached the age of ten and failed to perform their prayers consistently.<sup>54</sup>

The hadith describes that physical punishment is permissible for students who have reached the age of ten. This consideration arises from the notion that the student's physique is strong enough to accept physical punishment. Physical punishment aims to give pain to non-vital limbs. This statement means that physical punishment does not incapacitate or hinder normal activities.<sup>55</sup>

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<sup>51</sup> Republik Indonesia, *Law of the Republic of Indonesia Number 23 of 2002 about Child Protection* (Jakarta: Kementerian Pemberdayaan Perempuan RI, 2002).

<sup>52</sup> Charles E Schaefer, *How to Influence Children: A Handbook of Practical Parenting Skills* (New York: Van Nostrand Reinhold Company, 1978).

<sup>53</sup> Burga, "Implementing Punishment in Building Characters of Students at Pondok Pesantren DDI Mangkoso."

<sup>54</sup> Sulaiman Abu Dawud, *Sunan Abī Dāwud* (Damascus: Dar al-Fikr, 2000).

<sup>55</sup> Abdullah Nasih Ulwan, *Child Education in Islam* (USA: Book On Demand Ltd., 2013).

Several teachers are strict in implementing punishment based on the hadith. This attitude actually affects students' positive character building. Even so, strict must also be followed by a disciplined and wise attitude because it will fulfill a sense of justice for students. Wisdom makes students know the reasons for punishment, so they willingly accept it and realize their mistakes. Meanwhile, a gentle attitude, although it does not really affect students' moral development, must also complement being strict, disciplined, and wise. This gentle attitude calms the psychological condition of students who feel afraid after being punished.<sup>56</sup> After being physically punished, such as hit, students need to be calmed down and given understanding so that they have no grudges, do not feel hated, and go back to participating in learning and various activities at Pondok Pesantren DDI Mangkoso.

Based on the views of Child Protection Act, Islamic law, and Islamic education regarding the application of punishment, teachers must collaborate with parents to educate students. Teachers inform parents regarding students' achievements and violations, including efforts to overcome them through punishment. Cooperation between teachers and parents influences students' character building. Parents, as first and foremost educational places, must have a stake in the program's success and various rules in their students' Islamic boarding schools.<sup>57</sup>

The emergence of claims for acts of teacher violence towards students was due to the lack of good communication between teachers and parents in education. This caused teachers' actions that students reported to their parents to be considered acts of violence and abuse. That is why the importance of good communication is established so that there is cooperation in educating. Thus, various educating actions through the application of punishment by the teacher can be understood by students' parents.<sup>58</sup>

Thus, it can be affirmed that the provision of law by teachers to students in pesantren aims to educate and not to hurt. The progress of the current era must be realized by educational institutions such as pesantren and teachers so that the punishment given does not hurt either physically or psychologically, but to provide a deterrent effect, so that awareness for students and sincerity from teachers are needed in the educational process.

## Conclusion

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<sup>56</sup> Alang, *Kesehatan Mental*.

<sup>57</sup> Abdul Majid and Dian Andayani, *Pendidikan Karakter Perspektif Islam* (Bandung: Remaja Rosdakarya, 2011).

<sup>58</sup> Laili Syarifah, Nur Latifah, and Dakusta Puspitasari, "Keteladanan Pengasuh dan Peran Orang Tua dalam Pembentukan Karakter Santri Tarbiyatul Athfal Tegalarjo Magelang," *Dwija Cendekia: Jurnal Riset Pedagogik* 5, no. 1 (2021), p. 97–107.

Punishments applied by Islamic boarding schools include *ta'zīr* as Islamic law. There are written rules in the "Student Book", but in some cases, *ta'zīr* punishment is so simple (depending on the teacher's decision) that it lacks certain laws and only aims to give a deterrent effect and deterrence to students. The position of Islamic boarding schools as Islamic educational institutions causes punishments are as not Sharia sanctions but *tarbiah* (education). According to Islamic education, the punishments applied by Islamic boarding schools have met the objectives of implementing educational sanctions, namely, a deterrent effect for the students. Therefore, legal certainty is not the main goal in determining and implementing punishment in Islamic boarding schools, but to improve the scientific and moral quality of the students. This research has implications for punishment—especially in educational institutions—as a process that must be carried out systematically and applied due to background, methodology, and goals. Background means the knowledge/awareness of the students regarding the violations committed. The methodology is about fulfilling the conditions of punishment, both the terms of violation, justice, and teacher's emotion, so that it is carried out in a good way. The goal means something to be achieved through punishment is purely for educating students. It is recommended that teachers need to establish effective communication and cooperation with students' parents in educating, especially before and after a punishment. In addition, teachers need a lot of innovation and various methods in Islamic boarding school education so that students follow the educational process willingly and happily, not because they are forced and afraid of punishment.

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## Interviews

- Interview with Andi Saharuddin, Head of Campus II of Pondok Pesantren DDI Mangkoso, Barru, September 10, 2022.
- Interview with Aydi Syam, Teacher of Pondok Pesantren DDI Mangkoso, Barru, September 20, 2022.
- Interview with Dwi Annisa Maharani, Student of Pondok Pesantren DDI Mangkoso, Barru, September 25, 2022.
- Interview with Muhammad Ihsan, Student of Pondok Pesantren DDI Mangkoso,

Barru, September 25, 2022.

Interview with H. Muzakkir, Teacher of Pondok Pesantren DDI Mangkoso,

Barru, September 21, 2022.