

**SANCTIONS FOR CRIMINAL ACTS WITHOUT THE RIGHT TO CARRY SHARP
WEAPONS BY MINORS IN DECISION NUMBER 60/PID. SUS-
ANAK/2023/PN MDN PERSPECTIVE OF ISLAMIC CRIMINAL LAW**

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ABSTRACT

This research is motivated by the increasing involvement of children in violent crimes with the use of sharp weapons, which poses serious problems for child protection and public safety. The focus of the study is directed to Decision Number 60/Pid.Sus-Anak/2023/PN Mdn which sentenced two children of criminal offenders without the right to carry sharp weapons to 1 year and 6 months in prison, to be analyzed from the perspective of Islamic criminal law. The method used is normative juridical research with a legislative approach, a case approach, and a conceptual approach, using primary legal materials (judgments and laws and regulations) as well as secondary legal materials, which are analyzed qualitatively descriptive-analytically. The results of the study show, first, that the judge has correctly proven the fulfillment of the elements of Article 2 paragraph (1) of the Emergency Law 12/1951 jo the SPPA Law, but the imposition of the prison sentence shows a repressive orientation that is not in line with the principle of the best interests of the child. Second, in Islamic criminal law, the act of carrying a sharp weapon for a brawl fulfills the elements *of jarimah ta'zir* in the aspects of acts, tools, and intentions, but the status of the child demands a form of accountability that is more *oriented towards ta'dib* and benefit. Third, prison sentences imposed in a sex manner can be qualified as *ta'zir*, but in terms of the level and design of punishment, it is not ideal if measured with the purpose *of zawajir – zawajir* and the principle of benefit. This study emphasizes the need to reorient juvenile punishment towards a *more proportional, educational, and restorative model of ta'zir* sanctions.

Keywords: Child Crime, Sharp Weapons, *Ta'zir*, Islamic Criminal Law

INTRODUCTION

The phenomenon of juvenile delinquency in Indonesia shows an alarming trend, especially in the pattern of deviant behavior that transforms from minor offenses to violent crimes. In recent years, various news reports and research reports have noted an increase in the involvement of children and adolescents in brawls, street crime, and acts of revenge between groups which are often accompanied by the use of sharp weapons as a means of intimidation and assault (Public Relations of the National Police, 2025). This condition not only threatens public order and security, but also illustrates serious problems in moral development, social control, and the function of family institutions, education, and the surrounding environment in internalizing legal values and national awareness to the younger generation. On the other hand, the state through criminal law instruments is faced with the challenge of responding to the escalation of violence involving children, without ignoring the position of children as subjects who are psychologically and sociologically still in the process of growth and development. Therefore, the regulation and enforcement of the law against children of criminal offenders, especially those related to the use of sharp weapons, is a strategic issue that requires an in-depth study both from normative aspects, criminal policies, and the values of justice that live in society.

One form of delinquency that has developed into a serious criminal offense is the act of not having the right to carry, possess, or store a sharp weapon by a minor, which has the potential to cause casualties and security disturbances in public spaces. This act in

Indonesia's positive law is expressly regulated in Article 2 paragraph (1) of Emergency Law Number 12 of 1951, which prohibits everyone from carrying a beating, stabbing, or stabbing weapon without rights, with a relatively heavy threat of imprisonment (BPK RI, n.d.). This provision was initially drafted assuming that the perpetrator is an adult, but in judicial practice, the same norm is often applied to Children Facing the Law (ABH) whose position is specifically regulated in Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (SPPA Law) (BPK RI, 2012). The SPPA Law emphasizes the principles of child protection, the best interests of children, and the application of prison sentences as the ultimate remedium, as well as prioritizing diversion and justice *restorative* (Wiratny, 2018), thus raising juridical-empirical questions about how Article 2 paragraph (1) of the Emergency Law 12/1951 is applied to children and the extent to which the application of criminal sanctions is in line with the special framework of the juvenile criminal justice system. In this context, the act of carrying sharp weapons without rights by children is not only seen as a violation of the rule of law, but also as a testing ground for the consistency of law enforcement officials in balancing aspects of deterrence, protection, and coaching of juvenile offenders.

One of the concrete manifestations of this problematic can be seen in the Medan District Court Decision Number 60/Pid.Sus-Anak/2023/PN Mdn, which prosecuted two children aged around 15 years old as perpetrators of a crime without the right to carry sharp weapons. This case began in the early hours of July 2, 2023, when Para Anak and his friends gathered and then responded to the throwing by unknown parties by coming to the location to resist, while carrying sharp weapons in the form of samurai and knives that were previously hidden in the grass area, and collecting stones in preparation for a brawl. Police officers who came to the location then secured Para Anak and found a knife with a stainless handle in the hand of Anak I, a samurai in the hand of Anak II, and a celurit around the scene of the case which was then used as evidence in the trial. Based on the evidence in court, the panel of judges stated that the elements of Article 2 paragraph (1) of the Emergency Law 12/1951 jo the SPPA Law were met, so that Child I and Child II were found guilty and sentenced to imprisonment for 1 (one) year and 6 (six) months each, with an order to remain detained, while all sharp weapons were confiscated to be destroyed and the Children were charged with the costs of the case (Supreme Court, 2023). This decision is important to study because it shows the judge's choice to impose significant prison sentences on minors in the context of brawls and possession of sharp weapons in public spaces.

The application of imprisonment to children who commit crimes without the right to carry sharp weapons raises normative problems that are not simple, because they are dealing with a child protection paradigm that ideally prioritizes a coaching and justice approach *restorative* (Agung S et al., 2025). On the one hand, the state has an interest in presenting a deterrent effect and maintaining public order considering the high potential danger of the use of sharp weapons in brawls and street crimes, on the other hand, children as perpetrators have the status of subjects who are still in the phase of personality development so that they are psychologically more vulnerable to the negative effects of conventional imprisonment-based criminalization (Romadhoni et al., 2025; Zulfaidah et al., 2026). The dilemma between punishment and coaching appears when the judge must choose the type and duration of the sentence, whether to maximize the prison instrument

or prioritize sanctions that are more educational, rehabilitative, and oriented towards the social reintegration of the child. In the context of the juvenile criminal justice system, the implementation of the principle of ultimum remedium and the best interests of the child requires careful consideration of the proportionality of the sanctions, without ignoring the rights of the victim and the community's sense of justice (Istikomah & Melati, 2024). The problem becomes even more complex when the verdict handed down shows a relatively long prison sentence, raising the question of whether the balance between the functions of protection, coaching, and deterrence is really achieved in the practice of criminalizing children who carry sharp weapons without rights

Various studies have been conducted related to children of criminal offenders carrying sharp weapons without rights, but there is still room for study, especially in the perspective of Islamic criminal law which is associated with the analysis of concrete decisions. Research by Nur Sugiyatmi and colleagues (2024) entitled "*Criminal Liability of Children as Perpetrators of Criminal Acts Without the Right to Carry a Stabbing or Stabbing Weapon*" examines how the criminal responsibility of children as perpetrators of criminal acts without the right to carry a stabbing or stabbing weapon based on judicial practice in Indonesia and how to regulate children as perpetrators of criminal acts without the right to carry a stabbing or stabbing weapon based on the laws in Indonesia, but has not explicitly linked it to the concept of sanctions in Islamic criminal law (Sugiyatmi et al., 2024). Another study by Simanjuntak and Ramadhan (2025) in a journal entitled "*Application of Criminal Sanctions Against Perpetrators of Criminal Acts Without the Right to Carry Sharp Weapons: (Analysis of Decision No.1220/Pid.Sus/2023/PN.Mdn)*" this study combines the normative analysis of the Emergency Law 12/1951, but the focus on the decision is different and has not examined in depth the aspects of imposing sanctions on the factual structure of the case and the judge's considerations in Decision 60/Pid.Sus-Anak/2023/PN Mdn (Simanjuntak & Ramadhan, 2025). In addition, a research within the University of Lampung entitled "*Analysis of the Judge's Decision on the Child of the Perpetrator of the Crime of Carrying and Storing Sharp Weapons Without Rights (Study of Decision Number 65/Pid.Sus-Anak/2022/PN Tjk)*" further highlights the rationality of judges' considerations from the perspective of positive law and criminal policy without extending the analysis to the dimension of Islamic criminal law values (Nugraha, 2023). From the three studies, it can be seen that studies on children who carry sharp weapons without rights are generally focused on positive juridical aspects or limited to one specific decision, so there has been no study that specifically analyzes Decision Number 60/Pid.Sus-Anak/2023/PN Mdn by combining a detailed reading of the judge's consideration and the type of sanctions imposed with the perspective of Islamic criminal law on the elements of acts and patterns of punishment against children.

Departing from the background, normative problems, and emptiness of the study, this study aims to comprehensively describe the construction of judges' legal considerations in Decision Number 60/Pid.Sus-Anak/2023/PN Mdn against minors who do not have the right to carry sharp weapons, including how judges interpret and apply the elements of Article 2 paragraph (1) of Emergency Law 12/1951 within the framework of the SPPA Law. This study also intends to analyze the elements of criminal acts without the right to carry sharp weapons committed by minors according to Islamic criminal law, both in terms of *the category of jarimah*, the position of the child as a perpetrator, and the principles of responsibility relevant to the context of armed delinquency. Thus, this research is expected

to make a theoretical and practical contribution to the development of the discourse on the criminalization of children carrying sharp weapons, as well as offering an argumentative basis for policymakers and law enforcement officials to harmonize positive legal provisions with Islamic criminal law values in handling similar cases in the future.

METHODS

This research is a normative juridical research that aims to analyze the sanctions of criminal acts without the right to carry sharp weapons by minors in Decision Number 60/Pid.Sus-Anak/2023/PN Mdn reviewed from the perspective of positive law and Islamic criminal law (Askin & Masidin, 2023). The approach used includes a statute approach by examining the provisions of Emergency Law Number 12 of 1951, Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, and other related regulations; a case approach through a detailed analysis of legal considerations and the provisions of Decision Number 60/Pid.Sus-Anak/2023/PN Mdn as the main object; and a conceptual approach using *Jarima Ta'zir*, the purpose of the crime (*zawajir* and *zawajir*), *Taklif*, *Ahliyah*, and benefits in Islamic criminal law. Primary legal materials consist of court decisions, laws and regulations, and *Nash-Nash* relevant sharia; secondary legal materials in the form of books, journal articles, research results, and expert opinions; as well as tertiary legal materials such as legal dictionaries and encyclopedias. The collection of legal materials is carried out through literature studies and documentation searches of various relevant written sources. All of these legal materials are analyzed qualitatively by a descriptive-analytical method, namely describing the applicable norms and doctrines, then relating them critically to the legal facts in the decisions being studied, with special emphasis on the use of the perspective of Islamic criminal law as the main analytical tool for judges' considerations and the sanctions imposed.

RESULT AND DISCUSSION

Analysis of Judges' Legal Considerations in Decision Number 60/Pid.Sus-Anak/2023/PN Mdn

Decision Number 60/Pid.Sus-Anak/2023/PN Mdn basically places two children aged around fifteen years old as perpetrators of criminal acts without the right to carry sharp weapons in the context of a potential brawl in the early hours of the morning in the Medan area, by highlighting a series of facts that they consciously came to the location after the incident of throwing by the other party while carrying a knife with a stainless handle and a samurai blade that had previously been hidden in the grass, as well as picking up stones as a means of resistance. This series of facts was seen by the judge as a construction of acts that no longer merely showed the presence of children around sharp weapons, but described the existence of real mastery and readiness to use these weapons in situations of hostility between groups, thus strengthening the assessment that the actions of the children contained a potential serious danger to public order and life safety. At this level, the judge's consideration shows that the main focus is on the social dimension of the danger of the act committed, not only on the formal aspect of the possession of sharp weapons, thus bringing this case into the category of serious violations of the norms of public safety protection in criminal law.

Juridically, the judge based his assessment on Article 2 paragraph (1) of Emergency

Law Number 12 of 1951 which regulates the prohibition of carrying beaters, stabbers, and piercing weapons without rights, then connects them to the special regime for children regulated in Law Number 11 of 2012 concerning the Juvenile Criminal Justice System. Considerations show that the judge first ensures the fulfillment of the elements of the offense in the Emergency Law, especially regarding the prohibition of carrying sharp weapons without rights, before acknowledging that because the perpetrator is a child, the penal mechanism is subject to special limitations, including the maximum reduction of criminal threats. Based on Article 2 paragraph (1) of Emergency Law Number 12 of 1951, the maximum criminal threat for the violator is imprisonment for a maximum of 10 years. Thus, the sentence of 1 year and 6 months imposed by the judge in the child case is quantitatively still far below the maximum threat of the article, but it is still heavier than the Public Prosecutor's demand which is only 7 months, so that it can be said that the judge imposed a heavier sanction than what the prosecutor requested (Supreme Court, 2023).

In the evidentiary aspect, the panel of judges considered that the element of "who's who" was fulfilled by Child I and Child II because despite their status as minors, they were legally recognized as the subject of a criminal act with special arrangements regarding procedures and sanctions. The testimony of witnesses, the confessions of the Children, as well as evidence in the form of a stainless handle knife found in the hand of Child I, a samurai in the hand of Child II, and a celurit found near the scene of the case, provided a strong basis for the judge to conclude that there was real possession and awareness of carrying a sharp weapon. The element of "without the right to carry a sharp weapon" was declared proven because there was no indication that the weapon was carried for a justified purpose, such as work tools or other lawful purposes, and instead was explicitly used as a means of preparation for confrontation with other groups after the throwing incident. The motive of the resistance, the location, the time of the incident in the early hours of the morning, and the manner in which the weapon was stored and then carried, were all read in an integrated manner by the judge as evidence of aggressive intent that affirmed the unlawful nature of the children's actions, so that all elements of the crime were declared legally and convincingly proven (Supreme Court, 2023).

In the consideration section related to aggravating and mitigating circumstances, the judge outlined several factors that were used as the basis for calibrating the severity of the crime. On the one hand, Para Anak's actions were considered very disturbing to the community because they were carried out at a vulnerable time and place, using sharp weapons that had the potential to cause fatalities if a physical conflict really occurred, and could be a bad example for other adolescents if not responded to firmly. These factors were placed as aggravating circumstances and seemed to have great weight in the determination of the crime, considering that the judge linked them to the need to maintain public order and prevent the escalation of violence in public spaces. On the other hand, the judge also noted that Para Anak behaved politely at the trial, admitted and regretted his actions, and had never been sentenced before, so it was considered that he still had the opportunity to be corrected through the coaching process. However, the recognition of this mitigating circumstance does not lead to the selection of a lighter or alternative type of sanction, but only serves as a general justification within the framework of amar, so that it appears that in determining the length of the sentence, the aggravating factor remains more dominant than the mitigating factor (Supreme Court, 2023).

When viewed from the approach used, the judge's consideration construction shows a stronger tendency towards a repressive paradigm than a child protection paradigm that *restorative*. The fulfillment of special procedures for children's cases, such as assistance with legal counsel and community research, does show compliance with the formal form of the SPPA Law, but the substance of the verdict still focuses on punishment with imprisonment in a prison with a short duration (Kholik, 2026). This indicates that other options are in line with the spirit of justice *restorative*, such as diversion, coaching, rehabilitation, or criminal actions that are more educational and conditional, are not explored in depth in the judge's considerations, or at least do not appear prominent in the verdict. Compared to the ideal tendency in the juvenile criminal justice system to prioritize social reintegration and labeling prevention, this ruling shows a greater priority towards general prevention and deterrence messages for the community, especially related to the phenomenon of brawls and the circulation of sharp weapons among adolescents.

From an academic point of view, the judge's consideration in this decision can be said to have met the standard of legal certainty because the formulation of the elements of delicacy and the relationship between facts and norms is arranged logically and consistently. There is no meaningful ambiguity in terms of who is the perpetrator, what acts are committed, and how the acts are qualified within the framework of Article 2 paragraph (1) of Emergency Law 12/1951. However, if measured from the dimensions of justice and utility, especially for children as perpetrators, there is significant room for criticism. The imposition of a prison sentence of one year and six months that goes beyond the demands of the Public Prosecutor and is taken without a long elaboration on other alternative sanctions that are more in line with the best interests of the child raises the question of whether the proportion between the interests of community protection and the rights of children has been determined in a balanced manner. In the context of the policy of juvenile punishment, which ideally prioritizes coaching and reintegration, the length of the prison sentence as in this decision has the potential to give rise to further impacts in the form of stigma and environmental disconnection *social-educational*, and the risk of internalizing criminal subcultures in correctional institutions (Maharanti, 2025).

Another criticism that can be raised is that the judge's consideration does not reveal an adequate exploration of the philosophy and basic principles of the SPPA Law, such as *ultimum remedium*, justice *restorative*, and the best interests of the child, as a normative foundation that should guide the choice of the type and duration of the crime (Ariani, 2014). The principles emerge more as general references than as concrete parameters used to test whether a fixed-term prison sentence is really a last resort after other options have been considered and rejected on justifiable grounds (Putra et al., 2025). On the other hand, if it is related to the need for legal benefits for the community, heavy consideration on the deterrent effect and control of the brawl phenomenon is understandable, but the integrity of the criminal law function is not only judged by how strict the sanctions are, but also by the extent to which the sanctions encourage the improvement of perpetrators and reduce the risk of recidivism. In the context of children, ignoring the dimensions of coaching and rehabilitation has the potential to reduce long-term benefits, both for children and the community.

Considering all of these aspects, the final assessment of the quality of the judge's consideration in Decision Number 60/Pid.Sus-Anak/2023/PN Mdn can be formulated

argumentatively as follows, on the formal and dogmatic sides, this decision shows consistency and strength in applying the norm of prohibiting carrying sharp weapons without rights, as well as accuracy in assessing the evidence of delinquency based on the available evidence. However, in terms of criminal and child protection policies, this decision does not fully reflect the ideal of the juvenile criminal justice system that puts the best interests of children as the mainstream, so the choice of imposing relatively heavy prison sentences seems to be driven more by considerations of general prevention and law enforcement than by the design of individual coaching for child offenders. Therefore, although it can be seen as providing legal certainty and a firm message to the phenomenon of armed brawls, this decision also opens up space for discussion and criticism to encourage a shift in the orientation of juvenile punishment in similar cases towards a more balanced model of certainty, justice, and benefits, both for the community and for the future of the child perpetrator.

Analysis of the Elements of the Crime Without the Right to Carry a Sharp Weapon by Children in the Perspective of Islamic Criminal Law

In Islamic criminal law, criminal acts (*Finger*) is understood as an act that is prohibited by sharia' and threatened with certain sanctions, the elements of which generally consist of harmony *Syar'i* (formal element), *madi* pillar (material element), and *adabi* pillar (moral element) (Kholik et al., 2026). The formal element is related to the prohibition and threat of punishment in *Nash* or in the provisions of the ruler (*ta'zir*) to a certain act, the material element is related to the external act (*fi'l*) that manifests itself in real terms and causes danger or loss, while the moral element is related to the intentionality, knowledge, and responsible ability of the perpetrator (*QASD and Ahliyah al-Mukallaf*). In context *Jarima Ta'zir*, many forms of modern acts, including the possession and carrying of sharp weapons without a legitimate reason, are not explicitly mentioned in the Qur'an and Sunnah, but are qualified as acts that disturb public order and security, so the detailed arrangements of the type and degree of sanctions are left to *ulil amri* (Lestari, 2024). Thus, when assessing the actions of children who do not have the right to carry sharp weapons, the analysis in Islamic criminal law still uses a general framework *Finger*: there is a legal prohibition (through legitimate state regulations *Syar'i*), there are dangerous external acts, and there are mental states of the perpetrator that show certain intentionality or negligence, all of which must be met with the perpetrator's psychiatric status and age as the basis for accountability.

The element of the act (*actus reus*) in the context of carrying a sharp weapon without rights according to Islamic criminal law is related to the actual act of controlling and carrying a tool that can cause danger, in a situation that is rationally understood as potentially causing damage (*ifsad*) in the community (Asadelafif et al., 2025). In Decision Number 60/Pid.Sus-Anak/2023/PN Mdn, the actions of the children who took sharp weapons (stainless and samurai-handled knives) from hiding places in the grass, took them to the location of the fight, and held them when secured by the authorities, materially showed the existence of *fi'l* outward in the form of "carrying and possessing a sharp weapon" which is done consciously. In the perspective of sharia, the act of carrying a sharp weapon in public space without a legitimate need and in the context of hostility is included in the category of acts that violate the principles *hifz al-nafs* and *hifz al-'ird* (protection of life and honor), because it inherently opens up the possibility of assault and bloodshed.

Therefore, in terms of material elements, the actions of the Children have fulfilled the character of the deeds that can be qualified as *Jarima Ta'zir*, namely violations of the rules set by the authorities to protect the public interest (*Public Interest*).

From the point of view of the element of tools or objects, sharp weapons in Islamic criminal law are not always problematic as objects themselves, but as means that in certain situations are strongly associated with the potential for violence (hirabah, persecution, or murder). Swords, knives, and swords have been known since classical times as tools that are naturally capable of causing wounds, disabilities, and even death, so that carrying and appearing them in social spaces for no justified reason is seen as a form of spreading fear and threat (*Irhab*) in the community. In Decision Number 60/Pid.Sus-Anak/2023/PN Mdn, the existence of knives, samurai, and celurites is not only considered as passive evidence, but as objects that are expressly prepared as instruments of resistance and brawl, as evidenced by the way of storage, the time of carrying, and the place of their use. In fiqh jinayah, the existence of tools that are 'urf known as a weapon affects the level of danger and its weight *Finger*, because its use or simply carrying it in the context of hostility can be considered as a form of intentionality to increase the risk of occurrence *mafsadah* (Nurjannah, 2024). Thus, the element of the tool in this case fulfills the character of a dangerous means (*Be Careful What You Wish For*) which in a way *Syar'i* can be used as a basis for determining sanctions *ta'zir*.

The element of intention (*mens rea/qasd*) in the act of a child carrying a sharp weapon is a key aspect to assess the extent to which his actions deserve criminal responsibility according to Islamic law (Oktaviano et al., 2025). Inner intention *Finger* It does not only mean the determination to commit an outward act, but also the purpose behind the act, whether to defend themselves proportionately, just in case, or precisely to attack and create damage. In the case tried through Decision Number 60/Pid.Sus-Anak/2023/PN Mdn, the indication of intention can be drawn from the fact that the children gathered at night, then after feeling attacked (stoned), they moved to the opponent's location carrying a prepared sharp weapon, as well as picking up stones as ammunition for a brawl. This pattern of action is difficult to interpret simply as a form of spontaneous self-defense, because the elements of preparation, choice of tools, and movement to the opponent's location indicate *qasd* towards confrontation, even though the initial motive is "retaliatory attack". From the perspective of Islamic criminal law, the intention to engage in a fight that has the potential to injure others by using a sharp weapon is not in line with the principle of denying harm and avoiding danger (*dar' al-mafasid*), so that in terms of *qasd*, the actions of the Children tend to lead to a form of reprehensible intent and can be the basis for sanctioning *ta'zir*, without turning a blind eye to the possibility of provocation factors and unstable emotional states of adolescents.

Criminal liability of children in Islamic law is closely related to the concept of *Taklif* and *Ahliyah*, which explains when a person is deemed capable of carrying the burden of law (*mukallaf*) and the extent to which sanctions can be imposed on him (Jamilah, 2025). In general, a new individual is viewed as *mukallaf* if they have reached puberty and have common sense, while children who have not yet reached puberty are not subject to punishment *Limit* and *Qisas*, but can be subject to educational measures (*Ta'dib*) or sanctions *ta'zir* in a certain proportion according to the consideration of the benefits (Munib, 2020). In fiqh, a child is declared puberty when one of the signs, namely even 15

years old according to the hijri calendar, has experienced *São Paulo*/wet dreams, or menstruation for a woman, which indicates that she has become *mukallaf* and bear the full burden of sharia law. Thus, 15-year-old children such as Child 1 and Child 2 in Decision Number 60/Pid.Sus-Anak/2023/PN Mdn are basically in the puberty phase and are religiously considered capable of assuming responsibility for their actions, although in Indonesia's positive law they are still qualified as "children" so that their legal status is subject to the special regime of juvenile justice and is not necessarily equated with adults (Ahmad et al., 2025; Supreme Court, 2023). In the context of children of offenders, Islamic criminal law tends to direct sanctions at forms that are educational and corrective, such as harsh reprimands, disciplinary punishments, or certain restrictions, rather than simply imprisonment that has the potential to damage the child's future. Thus, although almost adult children such as the children in this verdict can cognitively understand the dangers of carrying sharp weapons, the ideal form of accountability from the perspective of sharia is more emphasized on *Ta'dib* and *ta'zir* which are proportionate taking into account their psychological and social conditions.

If all of these elements are linked to the facts in Decision Number 60/Pid.Sus-Anak/2023/PN Mdn, it appears that from the point of view of Islamic criminal law, the actions of the Children can be qualified as *Jarima Ta'zir* whose material elements and intentions are essentially fulfilled (Misran, 2021). The formal element in the sense that there is a prohibition on carrying sharp weapons without rights is fulfilled through the provisions of laws and regulations that are valid and do not contradict the sharia, so that it can be seen as a *ulil amri* policy to protect the public interest. The material element in the form of the act of carrying and controlling a sharp weapon in the context of preparing a brawl is clearly proven through evidence and testimony admitted by the judge, while the element of tools as a dangerous means is also evident in the form of knives, samurai, and celurites which are known as weapons that can cause serious injury or death. The element of intention is reflected in the planned action of coming to the opponent's location with a weapon, so that the *qasd* to carry out a confrontation can be strongly concluded, although the reactive factor to the initial throwing also affects the motivation. The element of child responsibility, in the Islamic perspective, requires a distinction between simply acknowledging the existence of a reprehensible act and a form of appropriate sanction, so that even though the element *Jarima Ta'zir* can be considered fulfilled, the application of sanctions must take into account the position of the children as perpetrators who have not yet *mukallaf* full and still in the coaching phase.

Based on the overall analysis, it can be emphasized that from the perspective of Islamic criminal law, the elements of criminal acts without the right to carry sharp weapons by the Children in Decision Number 60/Pid.Sus-Anak/2023/PN Mdn are basically fulfilled at the level of acts, tools, and intentions, so that their actions deserve to be qualified as *Jarima Ta'zir* that can be subject to sanctions. However, their status as children on the verge of adulthood demands different treatment in the aspect of accountability, where the main focus should not be on retribution, but on *Ta'dib*, prevention of recurrence, and their future protection. From the point of view of the researcher, the application of the elements *Finger* in this case, it is appropriate to judge that the actions of the children in a *Syar'i* reprehensible and endangering the benefits, but the type and intensity of positive sanctions (long imprisonment in detention centers) need to be criticized because they are not in line with

the educational and rehabilitation orientation idealized by Islamic criminal law for child offenders. In other words, Islamic criminal law recognizes accountability for the act of carrying a sharp weapon without rights by children, but demands a more subtle, proportional, and morality-oriented criminal model, not just the strengthening of elements *Finger* through harsh prison sanctions.

Analysis of Sanctions for the Crime of Carrying a Sharp Weapon by Children in Decision Number 60/Pid.Sus-Anak/2023/PN Mdn Perspective of Islamic Criminal Law

In Islamic criminal law, sanctions against perpetrators *Finger* is classified into three broad categories, namely hudud, *Qisas-Düsseldorf*, and *ta'zir*, each with the character of the legal source, the degree of certainty, and the space *ijtihad* different. *Jarimah* Territory Dan *Qisas-Düsseldorf* has provisions for the type of acts and sanctions that are relatively fixed because they are expressly stipulated by the *Nash*, while *Jarima Ta'zir* is a category of violations whose form and sanctions are left to the policy of Ulil Amri in order to protect the benefit of the people (Kholik et al., 2025). The act of carrying a sharp weapon without rights that has the potential to be used for acts of violence in public spaces, as in Decision Number 60/Pid.Sus-Anak/2023/PN Mdn, is not explicitly included in the category of hudud or *Qisas-Düsseldorf*, but is more accurately qualified as *Jarima Ta'zir* because it is related to disturbances to security, order, and life safety whose regulation is greatly influenced by the social context. With such a construction, the analysis of sanctions against the child perpetrators of the act must be placed within the framework of the *ta'zir*, so that measures such as benefit, prevention, and protection of perpetrators and the community are the main parameters in determining the type and level of punishment.

As a basis for imposing punishment for acts that are not specifically regulated in hudud or *Qisas*, concept *ta'zir* Provide great flexibility to judges or authorities in determining the form and level of sanctions as long as they do not conflict with the principles of sharia (Darsi & Husairi, 2018). Punishment *ta'zir* It can be in the form of reprimands, harsh advice, light physical punishment, fines, exile, restriction of rights, to imprisonment, and the choice between these various forms depends on the level of danger of the act, the condition of the perpetrator, and the need for social welfare. In the modern context, many scholars and thinkers of Islamic law include the sanction of imprisonment as a form of punishment *ta'zir* legitimate, because it has the function of temporarily isolating the perpetrator from the community while efforts are being pursued, although they insist that prisons must be run with humanitarian principles and must not cause greater damage (Sufrizal et al., 2023). Related to children as perpetrators *Finger*, space *ta'zir* becomes increasingly important because children are not subject to hudud and *Qisas*, so that all forms of handling are returned to the models *ta'zir* education-oriented (*Ta'dib*) and the protection of the child's future (Habibillah et al., 2025). Thus, in analyzing the sanctions against children who carry sharp weapons without rights, the main question is not whether sanctions can be imposed, but how to choose the type and rate *ta'zir* which is most suitable for the benefit and function of education.

The purpose of punishment in Islamic criminal law is classically formulated in two main dimensions, namely *zawajir* (prevention) and *zawajir* (providing a deterrent or corrective effect for the perpetrator), both of which are directed to realize the benefits and

prevent wider damage (Novianti, 2023). *Zawajir* serves to prevent others from committing similar acts through normative and social messages that violations of sharia will lead to sanctions, while *zawajir* serves to return the perpetrator to the right path by educating, reminding, and correcting his behavior so as not to repeat the offense. In the case of children, these two goals must be adapted to their psychological character and developmental needs, so that the *zawajir* In the sense that coaching, rehabilitation, and moral strengthening should be more dominant than the general preventive aspects that highlight the serious threat. Much of the literature asserts that the punishment of children should be educational, not destructive in the future (*al-'uqubah li al-tahdzib la li al-intiqam*), so that the chosen sanction model needs to be careful so as not to cause side effects in the form of stigmatization, trauma, and strengthening criminal identity. Thus, when assessing the prison sentence against the perpetrator's child *Jarima Ta'zir* such as carrying a sharp weapon, the purpose of *zawajir* and *zawajir* It must be retested: whether the form of punishment really balances the need for community protection with the development and future benefit of children.

In the normative framework of the Qur'an, the prohibition of doing acts that cause damage and threats of violence on earth is one of the moral and legal bases relevant to the phenomenon of carrying sharp weapons for brawls. One of the verses that is often used as a basis is the words of Allah in QS Al-Baqarah verse 60:

وَإِذِ اسْتَسْقَىٰ مُوسَىٰ لِقَوْمِهِ فَقُلْنَا اضْرِبْ بِعَصَاكَ الْحَجَرَ فَانْفَجَرَتْ مِنْهُ اثْنَتَا عَشْرَةَ عَيْنًا قَدْ عَلِمَ كُلُّ أُنَاسٍ مَّشْرِبَهُمْ كُلُّوا وَاشْرَبُوا مِنْ رِّزْقِ اللَّهِ وَلَا تَعْتُوا فِي الْأَرْضِ مُفْسِدِينَ ۚ (البقرة/2: 60)

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(Remember) when Moses asked for water for his people. Then We said, "Strike the stone with your staff!" So from it (the stone) came twelve springs of water. Each tribe knows where it (each one of them) drinks. Eat and drink the sustenance (given) of Allah and do not do evil in the earth by doing harm. (Al-Baqarah/2:60)

This verse, according to mufasir such as Ibn Kathir, contains a general prohibition against any form of action that causes harm (*Facade*) after Allah has arranged the earth well, including acts that threaten the lives, property, and security of the community (Basid & Faizin, 2021). One of the hadith postulates that is often used as a normative basis for the prohibition of carrying and displaying weapons in a threatening manner in public spaces is the words of the Prophet: "Whoever brandishes a weapon at his brother, the angels will curse him until he abandons the deed, even if it is his brother." (HR. Muslim no. 2616) (Hadits.id, n.d.).

Carrying sharp weapons in public spaces for the purpose of confrontation, as described in the facts of Decision Number 60/Pid.Sus-Anak/2023/PN Mdn, can be seen as a form of potential façade because it opens up opportunities for persecution, brawls, and even murder. In this perspective, the application of sanctions against the child perpetrator of these acts is not only interpreted as a response to positive violations of the law, but also as an effort to realize the commands of the Qur'an to prevent damage and maintain the benefits of common life, while still paying attention to the boundaries of justice and

compassion for perpetrators who are still at a vulnerable age.

When viewed from the content of Decision Number 60/Pid.Sus-Anak/2023/PN Mdn, the sanction imposed by the judge on Children I and Child II is imprisonment for one year and six months, with an order to remain in custody and evidence of sharp weapons confiscated to be destroyed, and burdened with case costs. The judge considered that a prison sentence of this duration is necessary to reflect the seriousness of the act, provide a deterrent effect, and protect the community from potential similar crimes in the future, especially in the context of rampant armed youth brawls. However, when associated with the principle of child protection in the SPPA Law, the choice of imposing a long prison sentence on a child who is still around fifteen years old raises questions about proportionality, especially since the SPPA Law places imprisonment as a last resort and encourages the use of diversion mechanisms and social coaching. From the perspective of modern criminal science, the imprisonment of children is often criticized for having the potential to cause long-term negative impacts, such as social stigma, psychological disorders, and possible exposure to the criminal environment within the correctional institution. Thus, the sanctions in this ruling show a strong emphasis on the general prevention dimension, but relatively weak in the aspects of rehabilitation and the best interests of the child.

When compared to the concept of sanctions in Islamic criminal law, in particular *ta'zir*, imprisonment as a form of sanction is basically justified as long as it is established to maintain the benefits and prevent greater damage. History and jurisprudence show that prison has been known as one of the instruments *ta'zir*, although scholars remind that its use is not excessive and does not cause *madharat* that exceeds its benefits, especially for children (Aningsih et al., 2026). In the context of the perpetrator's child *Finger*, some of the literature emphasizes that the *ta'zir* The most important are those that are educational, such as coaching in a conducive environment, parental supervision, moral education, or social rehabilitation programs, while prison should only be chosen if it is really necessary and accompanied by a guarantee of protection of children's rights. If associated with Decision Number 60/Pid.Sus-Anak/2023/PN Mdn, the prison sentence of one year and six months for children can be considered too heavy from a perspective *ta'zir* ideal, because it lacks maximum efforts to choose a more educational form of sanction that is proportionate to their status as perpetrators who have not yet *mukallaf* full. In other words, even though the type of prison sentence is legal as *ta'zir*, the extent and manner of its application to children in this case should be criticized from the perspective of benefit.

Based on all of these analyses, the final assessment can be formulated that the criminal sanction of imprisonment of one year and six months in Decision Number 60/Pid.Sus-Anak/2023/PN Mdn can in principle be categorized as a form of *ta'zir* top *Finger* carrying a sharp weapon without rights, which normatively aims to prevent harm and protect society. However, when measured by the specific parameters of Islamic criminal law on the criminalization of children, especially the principles of benefit, education, and protection of juvenile offenders, the sanctions do not reflect the ideal balance between *zawajir* and *zawajir*. From the point of view of researchers, these verdicts tend to place children as if they are almost equal to adult offenders in terms of length of imprisonment, while alternatives *ta'zir* which are more coaching and rehabilitative in nature have not seemed to be explored in depth. Conceptually, the recommendation that can be put forward

is the need to shift the paradigm of juvenile punishment in similar cases towards a model *ta'zir* more varied, such as counseling in special institutions for children, counseling and religious education programs, supervised social work obligations, or other forms of punishment that in real support for character improvement without plunging the child into a high-risk prison environment. Thus, harmonization between positive law and the principles of Islamic criminal law can be better realized, where the protection of society from armed crime is maintained, but the future of the child of the perpetrator is not overly sacrificed by an overly repressive model of sanctions.

CONCLUSION

This study concludes that, first, juridically positive, the judge in Decision Number 60/Pid.Sus-Anak/2023/PN Mdn has correctly interpreted and applied Article 2 paragraph (1) of Emergency Law 12/1951 jo the SPPA Law in proving the fault of the child, but the choice to impose a prison sentence of 1 year and 6 months shows a repressive orientation that is not in line with the principle of the best interests for the child and the principle of *ultimum remedium* in the juvenile criminal justice system. Second, from the perspective of Islamic criminal law, the actions of the children carrying sharp weapons for the preparation of brawls meet the elements of *jarimah ta'zir* in the aspects of acts, tools, and intentions, but their status as children demands a form of accountability that is *ta'dib* with an emphasis on education and benefits, not retribution. Third, the prison sentence imposed in the verdict can still be categorized as a *ta'zir sanction*, but in terms of the level and design of punishment against children, it is not ideal if measured with the purpose of *zawajir – zawajir* and the principle of benefit, because it does not emphasize the pattern of punishment that is educational, rehabilitative, and *restorative*. Thus, the main findings of this journal confirm that it is necessary to reorient the punishment of child perpetrators who carry sharp weapons towards a *more proportional, tiered, and centered model of ta'zir sanctions that are more proportionate, tiered, and centered on the protection and improvement of the future of children without reducing the function of community protection*.

BIBLIOGRAPHY

- Agung S, O., Prawesthi, W., & Astutik, S. (2025). Application of the Law to Children Who Commit Criminal Acts Without Permission to Carry Sharp Weapons. *Lex Journal : Law and Justice Studies*, 9(1), 19–40. <https://doi.org/10.25139/lex.v9i1.9836>
- Ahmad, A., Muchsin, A., Hidayat, M. N., Usman, & Hasba, H. (2025). The Polemic of Puberty as a Criterion for Leaders in Islamic Fiqh. *Maqasid: Journal of Islamic Law Studies*, 14(3), 94–111. <https://doi.org/10.30651/mqsd.v14i3.27850>
- Aningsih, A. P., Amelia, A. H., Soleha, P. A. A., Syah, R., & Saiin, A. (2026). The Relevance of Ta'zir as an Alternative to Punishment in the Modern Criminal Law System. *Journal of Tahqiq Scientific Journal of Islamic Legal Thought*, 20(1), 64–81. <https://doi.org/10.61393/tahqiq.v20i1.446>
- Ariani, N. V. (2014). IMPLEMENTATION OF LAW NUMBER 11 OF 2012 CONCERNING THE JUVENILE CRIMINAL JUSTICE SYSTEM IN AN EFFORT TO PROTECT THE INTERESTS OF CHILDREN. *Journal of Legal Media*, 21(1), 16–16. <https://doi.org/10.18196/jmh.v21i1.1160>
- Asadelafif, R. M., Astuti, A. M. E. S., & Sularto, R. B. (2025). CRIMINAL LIABILITY OF

- PERPETRATORS OF PREMEDITATED MURDER (Study of Judge's Decision Number 394/2024/PN.Smg). *Diponegoro Law Journal*, 14(3). <https://doi.org/10.14710/dlj.2025.52774>
- Askin, M., & Masidin. (2023). *Normative Legal Research: An Analysis of Judges' Decisions*. Prenada Media.
- Basid, A., & Faizin, N. (2021). REINTERPRETATION OF AHKAM VERSES ON ZAKAT (Analysis of Qs. Al-Baqarah 110, Qs. Al-Taubah 60 & Qs. Al-An'am 141). *Al Yasini : Journal of Islam, Social, Law and Education*, 6(1), 10–22. <https://doi.org/10.55102/alyasini.v6i1.4281>
- BPK RI. (n.d.). *Constitution No. 12 of 1951*. Regulation Database | JDIH BPK. Retrieved April 10, 2026, from <http://peraturan.bpk.go.id/Details/51959/uudrt-no-12-tahun-1951>
- BPK RI. (2012). *Law No. 11 of 2012 concerning the Juvenile Criminal Justice System*. Regulation Database | JDIH BPK. <http://peraturan.bpk.go.id/details/39061/uu-no-11-tahun-2012>
- Darsi, & Husairi, H. (2018). Ta'zir in the Perspective of Jinayat Fiqh. *Al-Qisthu: Journal of Legal Studies*, 16(2). <https://doi.org/10.32694/qst.v16i2.787>
- Habibillah, M. R., Ramlah, Maryani, & Toha, A. M. (2025). The Application of Restorative Justice to Child Crime in the Perspective of Criminal Law and Islamic Law. *Indonesian Journal of Social Science and Education (IJOSSE)*, 1(3), 927–936. <https://doi.org/10.62567/ijosse.v1i3.1394>
- Hadits.id. (n.d.). *Muslim Hadith No. 2616 | Chapter on the Prohibition of Signaling with Weapons to Muslims*. Hadits.Id. Retrieved May 4, 2026, from <http://www.hadits.id/hadits/muslim/2616>
- Public Relations of the National Police. (2025). *Police Secure Dozens of Perpetrators of Minor Victims Brawls in the Jurisdiction of the Subang Police Cibogo Police*. <https://humas.polri.go.id/news/detail/2131738-polisi-amankan-belasan-pelaku-tawuran-korban-anak-di-bawah-umur-di-wilayah-hukum-polsek-cibogo-polres-subang>
- Istikomah, N. L., & Melati, S. R. (2024). The Application of the Ultimatum Remedium Principle to Children as Criminal Offenders at the Appellate Level. *Journal of Legal and Policy Innovation*, 5(4). <https://ejournals.com/ojs/index.php/jihk/article/view/401>
- Jamilah, A. (2025). When Children Injures: Islamic Law Perspective on the Criminal Responsibility of Children in Violence Case. *BUSTANUL FUQAHA: Journal of Islamic Law*, 6(1), 104–119. <https://doi.org/10.36701/bustanul.v6i1.2054>
- Kholik, M. A. (2026). The Role of Judges' Conscience in Crime: A Normative Study of Indonesian Criminal Law and Islamic Law. *Postmodernism: Indonesian Journal of Multidisciplinary Islamic Studies*, 3(1), 67–81. <https://lptnunganjuk.com/ojs/index.php/postmodernism/article/view/606>
- Kholik, M. A., Azazy, Y., & Najmudin, D. (2025). Analysis of Sanctions for Premeditated Murder in Decision Number: 305/PID. B/2024/PN RBI Perspective on Islamic Criminal Law. *Kartika: Journal of Islamic Studies*, 5(1), 66–79. <https://doi.org/10.59240/kjsk.v5i1.142>
- Kholik, M. A., Zulfaidah, R., Maharani, A. D., Ismail, I., & Afifah, N. (2026). Reconstruction of Legal Norms on the Criminal Offense of Bank Account Trading for Online Gambling:

- An Islamic Criminal Law Perspective. *Jurisprudence: Journal of Sharia Science, Islamic Legislation and Economics*, 18(1), 330–347. <https://doi.org/10.32505/jurisprudensi.v18i1.13947>
- Lestari, W. (2024). Ta'zir Crimes in Islamic Criminal Law: Definition Legal Basis Types and Punishments. *Al-Qanun: Journal of Social Studies and Islamic Law*, 5(1), 22–32. <https://doi.org/10.58836/al-qanun.v5i1.21486>
- Maharanti, R. A. (2025). *Optimization of Criminal Sanctions Against Children as Perpetrators of Murder in the Perspective of Modern Criminal Objectives* [Masters, Sultan Agung Islamic University]. <https://repository.unissula.ac.id/44717/>
- Supreme Court. (2023). *Medan District Court Decision Number 60/Pid.Sus-Anak/2023/PN Mdn*.
- Misran, M. (2021). Criteria of Offenses as Part of Ta'zir Penalty. *Legitimacy: Journal of Criminal Law and Legal Politics*, 10(1), 25–40. <https://doi.org/10.22373/legitimasi.v10i1.10515>
- Munib, A. (2020). Children's Age Limit and Their Criminal Responsibility According to Positive Criminal Law and Islamic Criminal Law. *VOICE JUSTISIA : Journal of Law and Justice*, 4(1), 1–24. <https://journal.uim.ac.id/index.php/justisia/article/view/981>
- Novianti, L. (2023). The Death Penalty for Terrorism Crimes in Indonesia Linked to the Purpose of Punishment in the Perspective of Positive Law and Islamic Criminal Law. *JOURNAL OF IMPERATIVE SYNTAX : Journal of Social Sciences and Education*, 4(1), 50–70. <https://doi.org/10.36418/syntax-imperatif.v4i1.221>
- Nugraha, M. F. (2023, October 19). *ANALYSIS OF THE JUDGE'S DECISION AGAINST THE CHILD OF THE PERPETRATOR OF THE CRIME OF CARRYING AND STORING SHARP WEAPONS WITHOUT RIGHTS (study of Decision Number 65/Pid.sus-Anak/2022/PN Tjk)* [Thesis]. FACULTY OF LAW. <https://digilib.unila.ac.id/76785/>
- Nurjannah, S. (2024). *Analysis of Jinayah Fiqh on the Crime of Not Carrying a Detonator* [Undergraduate, IAIN ParePare]. <https://repository.iainpare.ac.id/id/eprint/8334/>
- Oktaviano, M. S., Ibtisan, A. M. N., Kurniawan, R. R., Wibowo, S. B. M., Syihabuddin, N. H., & Baidhowi, B. (2025). Conceptual Analysis of Intent as a Basis for Criminal Responsibility: A Study of the Rules of Al-Umûru Bimâqâshidihâ and Mens Rea. *MULTIDISCIPLINARY JOURNAL OF ACADEMIC SCIENCES*, 2(6), 842–851. <https://doi.org/10.61722/jmia.v2i6.7331>
- Putra, H. A. F., Pradipta, F. S., & Widjajati, E. (2025). Resolution of Child Criminal Cases in Conflict with the Law through a Restorative Justice Approach: (A Legal Reconstruction). *Al-Zayn : Journal of Social and Legal Sciences*, 3(6), 10519–10531. <https://doi.org/10.61104/alz.v3i6.2814>
- Romadhoni, K., Rosidin, U., Kholik, M. A., & Alifi, A. (2025). The Urgency of Legal Reform through the Ius Constitutum and Ius Constituendum Approaches to Criminal Acts in Business Activities in Indonesia. *AL-MUTSLA*, 7(2), 678–711. <https://doi.org/10.46870/jstain.v7i2.1953>
- Simanjuntak, H. A., & Ramadhan, M. C. (2025). The Application of Criminal Sanctions Against Perpetrators of Criminal Acts Without the Right to Carry Sharp Weapons: (Analysis of Decision No.1220/Pid.Sus/2023/PN.Mdn). *Locus Journal of Academic Literature Review*, 4(6), 368–381. <https://doi.org/10.56128/ljoalr.v4i6.561>

- Sufrizal, S., Abdillah, M. A., & Anzaikhan, M. (2023). Analysis of Ta'zir Punishment and Istimbath Legal Method Imam Malik's Perspective. *Dusturiyah: Journal of Islamic Law, Legislation and Social Institutions*, 13(2), 126–146. <https://doi.org/10.22373/dusturiyah.v13i2.19367>
- Sugiyatmi, N., Gultom, P., & Sudarto. (2024). Criminal Liability of Children as Perpetrators of Criminal Acts Without the Right to Carry a Stabbing or Stabbing Weapon. *IBLAM LAW REVIEW*, 4(2), 202–207. <https://doi.org/10.52249/ilr.v4i2.516>
- Wiratny, N. K. (2018). The Principle of the Best Interests of Children in the Juvenile Criminal Justice System. *Raad Kertha Scientific Journal*, 1(1), 61–78. <https://doi.org/10.47532/gcnpx972>
- Zulfaidah, R., Kholik, M. A., & Maulana, A. (2026). Harmonization of Administrative Sanctions and Criminal Sanctions Against Public Officials Involved in Conflict of Interest in the Procurement of Goods and Services. *Indonesian Journal of Islamic Jurisprudence, Economic and Legal Theory*, 4(1), 838–849. <https://doi.org/10.62976/ijijel.v4i1.1716>