

Sanctions for Children Committing Criminal Behavior in Theft Cases from an Islamic Jinayah Perspective

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Abstract

This study aims to analyze sanctions imposed on juvenile offenders in theft cases from the perspective of Islamic criminal law (jinayah), with a case study in Medan City. The increasing involvement of children in theft offenses reflects complex social problems, including economic hardship, negative peer influence, and weak parental supervision. This research employs a qualitative method with a descriptive-analytical approach. Data were collected through library research and fieldwork, including interviews with officers of the Women and Children Protection Unit (PPA) of the Medan Police, officials of the Probation Office (Bapas), the Special Child Development Institution (LPKA), and several juvenile offenders. The findings indicate that, normatively Islamic criminal law does not impose punishment on children due to the absence of full legal responsibility (taklīf); instead, juvenile offenders are subject to ta'zīr sanctions, which emphasize education, moral guidance, and rehabilitation. Empirical findings further reveal that imprisonment is relatively ineffective in preventing recidivism, while restorative and family-based approaches are more constructive and sustainable. Therefore, the resolution of juvenile theft cases within the framework of jinayah prioritizes public welfare (maṣlaḥah), rehabilitation, and the protection of the child's future. An educative-restorative ta'zīr model is proposed as a more humane alternative, consistent with the objectives of Islamic law (maqāṣid al-sharī'ah) and modern juvenile justice systems.

Keywords; Child; Theft; Jinayah Islam; Ta'zir; Restorative Justice.

Abstrak

Penelitian ini bertujuan untuk menganalisis sanksi terhadap anak pelaku tindak pidana pencurian dalam perspektif jinayah Islam dengan studi kasus di Kota Medan. Fenomena meningkatnya keterlibatan anak dalam kasus pencurian menunjukkan adanya persoalan sosial yang kompleks, seperti faktor ekonomi, pergaulan negatif, serta lemahnya pengawasan keluarga. Penelitian ini menggunakan metode kualitatif dengan pendekatan deskriptif-analitis. Data diperoleh melalui studi kepustakaan dan penelitian lapangan berupa wawancara dengan aparat Unit PPA Polrestabes Medan, petugas Balai Pemasyarakatan (Bapas), Lembaga Pembinaan Khusus Anak (LPKA), serta beberapa anak pelaku pencurian. Hasil penelitian menunjukkan bahwa secara normatif, jinayah Islam tidak menerapkan sanksi hudud kepada anak karena belum terpenuhinya unsur taklif (pertanggungjawaban pidana). Anak yang melakukan pencurian lebih tepat dikenai sanksi ta'zir yang bersifat edukatif dan pembinaan. Temuan empiris juga menunjukkan bahwa pendekatan represif melalui pidana penjara kurang efektif dalam mencegah pengulangan tindak

pidana, sedangkan pendekatan restoratif dan pembinaan berbasis keluarga lebih relevan dan konstruktif. Dengan demikian, penyelesaian kasus pencurian anak dalam perspektif jinayah Islam menekankan aspek kemaslahatan, rehabilitasi, dan perlindungan masa depan anak. Model ta'zir edukatif-restoratif menjadi alternatif solusi yang lebih humanis dan sejalan dengan prinsip maqāṣid al-syarī'ah serta sistem peradilan anak modern

Kata Kunci: Anak; Pencurian; Jinayah Islam; Ta'zir; Keadilan Restoratif.

INTRODUCTION

Crime involving children is an issue that urgently requires attention in the modern legal system. When children come into conflict with the law, they should not merely be labeled as "offenders"; it is crucial to recognize that they are still developing psychologically, socially, and morally. Consequently, a legal approach must prioritize their protection and future.¹ Research often shows that children involved in criminal activity are often influenced by factors such as family struggles, adverse social environments, or challenging living conditions, underscoring why they cannot be treated as adults. This situation creates a difficult gap between the formal rules of classical jinayah and the real-world struggles these children face, like poverty and a lack of family support.

Indonesian positive law governs juvenile delinquency through Law Number 11 of 2012, which establishes the Juvenile Criminal Justice System. Central to this legislation is the commitment to restorative justice and diversion, prioritizing rehabilitation over punitive retribution. By insulating children from the damaging effects of social stigmatization, the system fosters an environment conducive to their healthy maturation and reintegration into the community.²

Theft is a crime that frequently involves children, often stemming from economic struggles, peer pressure, or a lack of supervision at home. When it comes to handling these cases, the focus is increasingly shifting toward restorative justice, which balances the needs of the victim with the importance of safeguarding the child's future.³

From an Islamic legal perspective, theft is categorized as a hudud crime, which carries specific punishments. However, legal application is always balanced with the principles of fairness, public interest, and the child's responsibility. Since children haven't reached puberty, they aren't subject to hudud; instead, they receive ta'zir sanctions, which are focused on education and personal growth. This shows that Islamic law isn't just about

¹ Maya Sri Novita, "Penerapan Diversi Dalam Penyelesaian Perkara Terhadap Anak Berhadapan Dengan Hukum Sebagai Upaya Perwujudan Restorative Justice."

² Rico Yonanda Situmeang, "Menganalisis Peran Advokat Dalam Implementasi Keadilan Restoratif Pada Kasus Kekerasan Dalam Rumah Tangga Untuk Pemulihan Korban".

³ Adi Herlambang, "Analisa Penerapan Restorative Justice Pada Perkara Pencurian Oleh Anak Yang Berhadapan Dengan Hukum".

punishment—it's about rehabilitation, which aligns well with modern restorative justice practices.⁴

The study of sanctions for child theft is crucial, particularly when viewed from the perspective of Islamic criminal law and its relevance to the positive legal system. This is because both legal systems share a common orientation: safeguarding the public interest, preventing crime, and providing opportunities for children to improve themselves. In an urban social context like Medan, with its dynamic social dynamics and relatively high crime rate, cases of child theft are a phenomenon that requires comprehensive examination.⁵

Based on this description, research on sanctions for juvenile perpetrators of theft from an Islamic criminal perspective, using a case study in Medan, is relevant. This research is expected to contribute academically to the development of Islamic criminal law, while also offering a more humanistic, educational, and equitable perspective on handling juveniles in conflict with the law.

Based on the background above, it is interesting to examine the problem formulation in this research, including; *First*, what are the forms of sanctions for children who commit criminal acts of theft in the positive legal system in Indonesia? *Second*, what is the concept of sanctions against children who commit theft from an Islamic jinayah perspective? *Third*, what is the relevance and implementation of the concept of Islamic jinayah sanctions in cases of theft committed by children in the city of Medan?

This study holds significant scholarly and practical value by synthesizing national positive law with Islamic criminal jurisprudence to address the complex issue of juvenile theft. By harmonizing these legal frameworks which prioritize justice, public welfare, and moral development this research moves beyond punitive orthodoxy to advocate for rehabilitative and educational interventions. Academically, it enriches the discourse on Islamic criminal law regarding child protection, filling a critical gap in the literature. Practically, the findings offer law enforcement, educational institutions, and community stakeholders a roadmap for adopting more compassionate, forward-looking strategies for minors in conflict with the law. Ultimately, this work serves both as a theoretical contribution to legal studies and a pragmatic guide for fostering a more equitable and developmentally conscious juvenile justice system.

RESEARCH METHODS

This research is an empirical legal study (socio-legal research) with a qualitative approach. Empirical legal research is used to examine law not only as a norm (law in books) but also as a living social behavior applied in society (law in action).⁶ This approach is relevant to analyzing how sanctions against child theft perpetrators are

⁴ Fazar Sodik, "The Application of The Restorative Justice Concept in Child Criminal Acts Perspectives of Islamic Law and Progressive Law".

⁵ Krissi Wahyuni Saragih, " Juvenile Delinquency in the Perspective of Criminology in Indonesia: A Systematic Literature Review," in *Jurnal Analytica Islamica*, vol. 14 No. 1, 2025, <http://dx.doi.org/10.30829/jai.v14i1.24677>

⁶ Soerjono Soekanto, *Pengantar Penelitian Hukum*. hlm. 89

applied in practice in Medan City, while also being examined from an Islamic criminal perspective.

The approaches used in this research include: *First*, a normative juridical approach, namely examining the provisions of sanctions for the crime of theft and the position of children as legal subjects in Islamic law, particularly through the concepts of jarimah, hudud, and ta'zir. This approach is carried out by examining books on Islamic jurisprudence and classical and contemporary Islamic legal literature.⁷ *Second*, an empirical legal approach examines the application of sanctions to child theft perpetrators in law enforcement practices in Medan City. This approach aims to determine the alignment between applicable legal norms and social realities and law enforcement practices in the field.⁸

The research was conducted in Medan City, with the consideration that as a big city, Medan has complex social dynamics and a relatively high crime rate, including cases of theft involving children as perpetrators of the crime.

And the data sources in this study consist of: *First*, Primary data, namely data obtained directly from the field through interviews with law enforcement officers (police, prosecutors, or judges), Correctional Center (BAPAS) officers or Special Child Development Institutions (LPKA), as well as authorized and relevant parties in handling children in conflict with the law. *Second*, Secondary data, namely data obtained from library materials in the form of: Literature study (library research), and supplemented by interviews.

The data obtained were analyzed using qualitative-descriptive analysis, which involves systematically, logically, and objectively describing the data. The analysis was conducted by linking field findings to Islamic criminal concepts, particularly regarding ta'zir sanctions for children, to obtain comprehensive and contextual conclusions.⁹

This research situates juvenile delinquency within its social, psychological, and normative contexts. Modern criminology frames juvenile criminal behavior as a form of social deviation stemming from environmental factors including poverty, familial conflict, and deviant peer influence as well as inadequate social control. Consequently, juvenile criminality extends beyond mere legal violations; it represents a social phenomenon necessitating preventive and rehabilitative strategies.¹⁰

From a sociological legal perspective, law functions as a mechanism for social control and order maintenance, extending beyond punitive measures to include individual development and protection, particularly for minors. Accordingly, legal frameworks governing children in conflict with the law must prioritize protection, education, and the

⁷ Abdul Qadir Audah, *At-Tasyri' Al-Jina'i Al-Islami*. hlm 32

⁸ Zainuddin Ali, *Metode Penelitian Hukum* (Jakarta: Sinar Grafika, 2021), hlm 45

⁹ Ahmad Wardi Muslich, *Islamic Criminal Law*, (Jakarta: Sinar Grafika, 2020), hlm. 56

¹⁰ Saragih, et al., "Juvenile Delinquency in the Perspective of Criminology in Indonesia: A Systematic Literature Review," *Journal Analytica Islamica*, 2025.

child's best interests. This aligns with modern legal theory, which recognizes children as legal subjects entitled to protection from the adverse effects of repressive penal systems.¹¹

In Indonesia's positive law, juvenile criminal responsibility is governed by a justice system (SPPA) oriented toward restorative justice. This framework prioritizes diversion, rehabilitation, and social reintegration. Grounded in the principle that children lack adult psychological maturity, the system emphasizes educational sanctions to avoid stigmatization. Furthermore, restorative justice seeks to restore relationships among the perpetrator, victim, and community while fostering moral accountability without compromising the child's rights.¹²

From an Islamic legal perspective, criminal responsibility is contingent upon taklif the capacity to bear legal burden based on intellectual and age maturity. Minors who have not reached puberty lack full taklif and are therefore exempt from hudud penalties, even for offenses such as theft. Instead, they are subject to ta'zir sanctions, which are inherently educational and developmental. This mechanism affords judicial authorities discretion in tailoring sanctions to the individual, focusing on behavioral correction and recidivism prevention, thereby illustrating the dual preventive and rehabilitative orientation of Islamic criminal law.¹³

Recent scholarship indicates a strong alignment between Islamic sanctions for minors and modern restorative justice principles; both emphasize development, protection, and restoration over pure retribution. Islamic law centers on welfare-based sanctions, especially for minors lacking full legal capacity, offering flexible, humane, and context-sensitive approaches to rehabilitation.¹⁴

This study's theoretical framework integrates criminological perspectives on the etiology of juvenile crime, restorative justice theory within the positive legal system, and Islamic concepts of juvenile criminal responsibility. Synthesizing these perspectives facilitates an analysis of sanctions for juvenile theft and evaluates the relevance of ta'zir in handling cases in Medan City. This framework offers a comprehensive understanding of the interplay between legal norms, social realities, and Islamic principles of justice.

DISCUSSION

Based on the legal basis for the protection of minors, it is clear that all legal procedures related to crimes committed by minors must be conducted with due regard for the physical and psychological condition of the perpetrator. From arrest and case investigation to decision-making, all aspects that may affect the child's condition must be taken into account. This is in accordance with Law Number 3 of 1997 concerning Courts.

¹¹ Kartika Maulida, "Kriminalitas Dan Hukum Perspektif Sosiologi Terkait Kontrol Sosial Dan Hukum".

¹² Syafiq Aljani Siagian Syafiq, "Analysis of Islamic Criminal Law on Continued Criminal Acts by Children".

¹³ Ahmad Wardi Muslich, *Islamic Criminal Law*, Jakarta: Sinar Grafika, 2020.

¹⁴ Heni Hendrawati, "Children's Criminal Responsibilities: Comparative Study in Islamic and Criminal Law".

The primary statutory framework governing juvenile theft is established under Article 362 of the Criminal Code, which defines theft as the unlawful appropriation of property belonging to another with the intent to possess it, punishable by a maximum prison sentence of five years or a fine of sixty rupiah.

Addressing juvenile delinquency requires a nuanced approach that accounts for the child's developmental characteristics and agency. While children are capable of intentional action, their behavior is significantly mediated by environmental factors; consequently, a holistic strategy involving parental guidance and community support is essential to foster positive behavioral development rather than relying solely on punitive measures.

Furthermore, to safeguard the child's psychological well-being, procedural law necessitates differential treatment and sentencing structures. In accordance with the principles set forth in Law Number 8 of 1981 concerning Criminal Procedure Law, detention periods are calibrated to prioritize the child's best interests. Moreover, the legal framework mandates a reduction in maximum sentencing relative to adult statutes and explicitly precludes the application of capital punishment or life imprisonment for minors.

The legal protection of minors is not merely a formality but a fundamental imperative; consequently, all judicial procedures involving crimes committed by children must rigorously account for the perpetrator's distinct physical and psychological developmental stages. From the initial arrest through investigation to final adjudication, every procedural step must weigh these critical human factors to ensure justice aligns with the child's welfare, as mandated by Law Number 3 of 1997 concerning Courts.

While Article 362 of the Criminal Code defines the offense of theft punishable by up to five years' imprisonment or a maximum fine of 60 rupiah the mechanical application of this statute is insufficient when the accused is a minor. True justice requires an interpretive approach that moves beyond the literal text to address the individual circumstances of the child.

Addressing juvenile delinquency effectively necessitates a deeper understanding of the child's unique disposition and environment. While children possess agency, their behavior is inextricably linked to their surroundings. Therefore, stakeholders including parents and the broader community must embrace a proactive, collaborative responsibility for guiding and nurturing the development of these at-risk youth, rather than relying solely on punitive measures.

Finally, for the sake of healthy mental growth and future reintegration, the law must distinguish between adult and juvenile treatment. The provisions derived from Law Number 8 of 1981 concerning Criminal Procedure Law are essential in this regard, acknowledging that detention must serve the child's best interests. By limiting the sentencing for children to half of the maximum adult penalty and explicitly prohibiting capital punishment or life imprisonment, the legal system upholds the necessary principle that juvenile justice must be corrective and protective, never merely retaliatory.

The Concept of Sanctions for Theft in Islamic Law

In Islamic criminal law, theft falls under the category **of hudud crimes**, namely crimes for which the form and sanctions are clearly defined in the text. Allah SWT says:

“As for the man who steals and the woman who steals, cut off their hands as a recompense for what they have done...” (QS. Al-Mā'idah: 38)

However, the implementation of hudud sanctions within Islamic jurisprudence is governed by stringent preconditions. These include: first, the perpetrator's attainment of puberty and cognitive maturity; second, the stolen property meeting the nisab threshold; third, the object being secured within an appropriate repository (hirz); fourth, the absence of exigent or coercive circumstances; and fifth, the requirement of deliberate intent.

In Islamic criminal law, theft is classified under hudud crimes offenses for which the sanctions are explicitly prescribed by primary Islamic texts. The normative foundation is found in QS. al-Mā'idah: 38, which mandates the punishment of hand amputation upon the fulfillment of specific criteria. Nevertheless, jurists across the various schools of law concur that this penalty is not absolute; rather, it is contingent upon meeting rigorous evidentiary and situational requirements, thereby precluding its indiscriminate application.¹⁵

According to the majority of ulama, the constituent elements of theft include: the surreptitious appropriation of valuable property; the satisfaction of the nisab threshold; the item being secured within an appropriate storage location; and the act being committed with deliberate intent, devoid of any shubhat (doubt).¹⁶ The failure to satisfy any of these conditions invalidates the imposition of the hadd penalty, necessitating recourse to ta'zir (discretionary) sanctions instead.

Within the Hanafi school, as elucidated by Wahbah al-Zuhaili, the nisab for theft is established at ten dirhams or its equivalent. This school places considerable emphasis on the removal of doubt; consequently, if ambiguity arises regarding ownership or the security of the storage location, the hadd penalty is nullified.¹⁷ reflecting a cautious approach to the administration of such punishments.

The Maliki school designates the nisab threshold at one-quarter of a gold dinar or three silver dirhams. Maliki jurists further underscore the requisite of hirz, mandating that the stolen goods must be housed in a location traditionally recognized as secure; if the item is misappropriated from an exposed area not intended for storage, the hadd penalty is inapplicable.¹⁸

The Shafi'i school concurs on the nisab threshold of a quarter-dinar or its equivalent. From the Shafi'i perspective, the penalty of amputation is reserved strictly for instances where the perpetrator satisfies all objective and subjective criteria. Notably, in conditions of exigent necessity or starvation, the hadd penalty may be suspended a principle

¹⁵ Wahbah al-Zuhaili, *Al-Fiqh Al-Islāmī Wa Adillatuhu.*, hlm 675

¹⁶ Abdul Qadir Audah, *At-Tasyri' Al-Jinā'ī Al-Islāmī Muqāranan Bil Qānūn Al-Wadh'i.*, hlm. 654

¹⁷ Wahbah al-Zuhaili, *Al-Fiqh Al-Islāmī Wa Adillatuhu.*

¹⁸ Ibn Rushd, *Bidāyah Al-Mujtahid Wa Nihāyah Al-Muqtashid* (Beirut: Dar Ibn Hazm, 2021.), hlm

historically validated by the precedent of Caliph Umar ibn Khattab during periods of famine.

The Hanbali school similarly establishes a minimum threshold of one-quarter of a dinar and emphasizes that the perpetrator must be mukallaf (legally competent). Consequently, minors who have not attained puberty are exempt from hadd punishments, being subject instead to guidance or educational measures via ta'zir.¹⁹ This demonstrates that Islamic criminal law maintains a clear distinction between the criminal liability of adults and children.

These concepts are particularly pertinent when addressing juvenile theft. From an Islamic criminal perspective, prepubescent children lack full legal capacity (taklif). Consensus exists among scholars that hudud sanctions are inappropriate for children, who instead require an educational and rehabilitative framework. This approach aligns with the hadith of the Prophet Muhammad: "The pen is lifted from three groups: the person sleeping until they wake, the child until they reach puberty, and the insane person until they regain their senses."

Crime Rate of Theft Involving Children in Medan City

Medan is a bustling hub in North Sumatra, but it also deals with some complicated social issues, including high crime rates. Because it's a center for business and city living, the region has a lot of potential for social friction, especially regarding common crimes like theft. Crime stats from North Sumatra show that theft covering simple, aggravated, and violent types remains the most common offense, with Medan leading the province in the number of cases.²⁰

This isn't just an adult problem; kids are getting caught up in crime, too. Criminology experts often link this involvement to money troubles, lack of guidance at home, and the influence of the social environments kids live in. Sadly, children growing up in unsafe surroundings are much more likely to fall into deviant behavior, such as theft.²¹

A number of studies suggest that the kids involved in these crimes typically come from lower-income families, don't get enough parental support, or have social circles that aren't great for their moral development. This tells us that child crime shouldn't just be viewed as a legal issue, but rather as a broader social problem that calls for a more comprehensive approach.²²

The author's observations of data from the Medan Correctional Center (Bapas) and the North Sumatra Special Juvenile Development Institution (LPKA) also revealed a

¹⁹Muhammad al-Zuhaili, *al-Mu'tamad fi al-Fiqh al-Syāfi'i*, Volume 5 (Damascus: Dar al-Qalam, 2019), p. 412–414

²⁰North Sumatra Central Statistics Agency, *Crime Statistics of North Sumatra Province 2023*, Medan: BPS Sumut, 2023, p. 27.

²¹Kartini Kartono, *Social Pathology 2: Juvenile Delinquency*, Jakarta: RajaGrafindo Persada, 2020, p. 15.

²²Saragih et al., "Juvenile Delinquency in the Perspective of Criminology in Indonesia," *Journal Analytica Islamica*, 2025, p. 118.

similar pattern. Of the 150 cases of children recorded in the institution's database during 2023–2024, the primary cause of children's involvement in theft was related to economic factors. (37%), negative social interactions (29%), and dropping out of school (18%), while the rest are related to the influence of dysfunctional families.²³

These findings are in line with previous research on juvenile delinquency, which shows that children living in urban areas with economic limitations, low parental control, and exposure to unhealthy environments tend to have a higher risk of being involved in criminal acts.

Furthermore, in semi-structured interviews conducted by the author with 15 juvenile theft perpetrators undergoing diversion or counseling at the LPKA, the majority of respondents stated that the theft was committed "due to urgent family needs" and "peer pressure." Only a few respondents understood the legal consequences of their actions, indicating low legal awareness among children.

Resolving Child Theft Cases from Jinayah Islam's Perspective

Within the framework of Islamic criminal law, the adjudication of theft committed by minors necessitates an approach distinct from that applied to adults. The fundamental criterion for criminal accountability, *taklīf*, is predicated upon the attainment of both puberty and mental competence. Consequently, minors who have not reached puberty are exempt from hudud sanctions including amputation for jarimah sariqah as the essential elements of full criminal liability remain unmet. This exemption is grounded in the Prophetic tradition regarding the suspension of legal accountability for children until they achieve maturity.²⁴

Although the hadd punishment for theft is stipulated in the Quran (QS. al-Mā'idah: 38), jurists concur that its application is strictly contingent upon the offender being mukallaf. Wahbah al-Zuhaili emphasizes that while children are ineligible for hudud, they may be subjected to educational corrective measures, or ta'dīb. Furthermore, Abdul Qadir Audah posits that the primary objective of sanctions in Islamic criminal law transcends mere retribution, prioritizing the preservation of public interest and the rehabilitation of the offender.²⁵

In the context of juvenile theft in Medan City, the author's field research indicates that repressive approaches are not entirely effective in preventing recidivism. Based on interviews with Medan Correctional Center (Bapas) officers on November 12, 2025, most juvenile theft perpetrators come from families with low economic status and minimal parental supervision. Officers stated that "short-term prison sentences do not have a significant deterrent effect; instead, they strengthen children's relationships with other criminals."²⁶

²³Barda Nawawi Arief, *Problems of Law Enforcement and Criminal Law Policy*, Jakarta: Kencana, 2021, p. 64.

²⁴Abu Dawud, *Sunan Abi Dawud*, Kitab al-Hudud, No. 4398 (Riyadh: Dar al-Salam, 2018), p. 365.

²⁵Abdul Qadir Audah, *At-Tasyri' al-Jinā'ī al-Islāmī Muqāranan bil Qānūn al-Wadh'i*, Volume 2 (Beirut: Dar al-Kutub al-Ilmiyyah, 2020), p. 462

²⁶Author's Interview with Medan Bapas Officer, December 12, 2026

A qualitative-descriptive analysis of 15 children interviewed at the North Sumatra Child Protection Institution (LPKA) found that the majority did not fully understand the legal consequences of their actions. Most admitted to committing theft due to economic necessity or peer pressure. This finding suggests a dominant social factor over purely criminal motives.²⁷ This condition aligns with the *maqāṣid al-syarī'ah* theory, which places the protection of life, mind, and property as the goals of Islamic law.²⁸

Within the framework of Islamic criminal law, child theft cases can be resolved through the *ta'zir mechanism*, a sanction whose form and extent are left to the judge for the benefit of the community. Ta'zir sanctions can take the form of moral guidance, religious education, community service, or parental supervision. This concept is highly relevant to the diversion approach in Indonesia's juvenile justice system, which prioritizes solutions outside of formal courts and emphasizes restorative justice.²⁹

Furthermore, the author's interview with a Medan District Court judge (Children's Division) on November 18, 2025, revealed that diversion is frequently used in cases of minor theft involving children. The judge stated that the restorative approach is "more in line with the values of substantive justice and in line with the principles of Islamic law, which prioritize the rehabilitation of the perpetrator."³⁰

From an Islamic criminal perspective, this practice aligns with the principle of *dar'u al-hudūd bi al-syubuhāt* (avoiding the application of hudud punishments when there is doubt). Classical scholars emphasized the importance of caution in imposing hudud punishments, especially when the perpetrator is in an emergency or in urgent need.³¹ Therefore, for child theft perpetrators, a family- and community-based development approach is preferred over corporal punishment.

Synthesizing empirical findings and normative analysis, this study proposes a framework for resolving juvenile theft anchored in three pillars: (1) the recognition of limited criminal capacity (*taklīf*), (2) the application of educational ta'zir sanctions, and (3) a commitment to social rehabilitation. This approach aligns with contemporary restorative justice paradigms that prioritize the protection of children's rights and welfare. Integrating these Islamic criminal principles into Medan's juvenile justice system offers a pathway toward a more humane and equitable framework.

Below, the author displays a recapitulation of theft cases involving children in Medan City in 2025.

²⁷Results of the Author's Interview with the Child of a Theft Perpetrator at the North Sumatra LPKA, 2025

²⁸Jasser Auda, *Maqasid al-Shariah as Philosophy of Islamic Law* (London: The International Institute of Islamic Thought, revised edition 2021), pp. 23–27

²⁹M. Nasir Djamil, *Children Are Not to Be Punished* (Jakarta: Sinar Grafika, 2021), pp. 112–115

³⁰Author's Interview with Medan District Court Judge (Children's Division), December 18, 2026.

³¹Muhammad al-Zuhaili, *al-Mu'tamad fi al-Fiqh al-Syāfi'i*, Volume 5 (Damascus: Dar al-Qalam, 2019), p. 418

Table 1.
Recapitulation of Child Theft Cases in Medan City in 2025

No	Types of Theft	Number of Cases	Child Age (Average)	Completion Status	Dominant Factor
1	Ordinary Theft (Article 362 of the Criminal Code)	38 cases	14–16 years	22 diversions, 16 court processes	family economy
2	Aggravated Theft	21 cases	15–17 years	9 diversions, 12 courts	peer influence
3	Motor Vehicle Theft	9 cases	16–17 years	3 diversions, 6 courts	socializing & lifestyle
4	Theft with Violence (Minor)	4 cases	16–17 years	4 courts	peer pressure
TOTAL		72 Cases		34 diversion, 38 courts	

Source: obtained from primary data

Based on the table above, throughout 2025, approximately 72 cases of theft involving children were recorded in Medan City, based on the author's documentation and research interviews. The most common type of theft was ordinary theft (Article 362 of the Criminal Code), with 38 cases, or approximately 52% of the total.

Most perpetrators were between the ages of 14 and 17, indicating that mid- to late-teenagers are the most vulnerable group to theft. In terms of case resolution, 34 cases (47%) were successfully resolved through diversion mechanisms, while 38 cases (53%) proceeded to juvenile court proceedings.

The author's field findings indicate that economic factors are the primary cause of ordinary theft, while social factors and peer pressure are more dominant in aggravated theft and motor vehicle theft. Interviews with Medan Bapas officers revealed that:

"Most children steal out of necessity or because they're following their friends. Rarely do they truly understand the legal implications of their actions."

If analyzed from an Islamic criminal perspective, the majority of these cases do not meet the requirements for applying hudud because:

1. The perpetrators have not yet reached puberty (some are still under 17 years old)
2. The value of goods often does not reach the nisab.
3. There is an element of urgent need (economic doubt).

Thus, the solution is more appropriate through a *ta'zir* and guidance approach, as emphasized by the jurists that children are not subject to hudud but rather educational measures. Departing from the empirical findings of the author's research in Medan City which showed that economic factors, negative social interactions, and weak family control were the dominant causes, the solution offered is not sufficient to stop at shifting sanctions from hudud to *ta'zir* alone, but must be developed into an integrated guidance model based on family, education, and community.

In this context, the author offers alternative solutions in the form of: (1) the obligation to participate in a structured religious education and moral development

program; (2) social work in the community as a form of moral responsibility; (3) restorative mediation between the child, the victim, and the family to restore social relations; and (4) psychosocial support involving parents and local religious figures.

This model is more in line with the principles of *maqāṣid al-syarī'ah* which emphasizes the protection of life, reason and property, and aims to improve the perpetrator, not just punish him. Thus, this *educational-restorative ta'zir- based solution* can be a concrete alternative to imprisonment, because it not only maintains legal order, but also guarantees the future of children as the next generation who still have great opportunities for improvement and development.

CONCLUSION

Based on the results of research on *Sanctions for Children Who Perpetrate Criminal Cases of Theft from an Islamic Criminal Perspective (Case Study of Medan City)*, it can be concluded that the level of child involvement in theft cases in Medan City shows a fairly significant number, with the dominant factors being family economic pressure, peer influence, and weak parental supervision and guidance. Empirical data obtained through interviews with the PPA Unit of Medan Police, Bapas, and LPKA North Sumatra show that most of the children who commit theft are in their mid-teens and commit crimes not because of purely criminal motives, but because of situational and social drives.

From an Islamic criminal perspective, children who have not reached puberty are not subject to full criminal responsibility (*taḳlīf*), and therefore cannot be subject to hudud sanctions like adults. Islamic jurists firmly place children in a category more appropriate for educational and preventive *ta'zir measures*. This demonstrates that Islamic criminal law is characterized by prudence, humanism, and a focus on the welfare of others.

This research analysis also shows that a repressive approach through imprisonment is not necessarily effective in fostering legal awareness and behavioral change in children. Conversely, approaches based on guidance, moral education, restorative mediation, and family and community involvement are more in line with the principles of *maqāṣid al-syarī'ah* (Islamic law) and the values of substantive justice. Thus, Islamic jinayah offers not only a normative framework but also practical solutions relevant to the modern juvenile justice system.

Research concerning the imposition of sanctions for juvenile theft within an Islamic criminal framework indicates a notable incidence of such cases in Medan City. Primary causative factors identified include familial economic strain, peer influence, and insufficient parental oversight. Empirical findings derived from interviews with the Medan Police PPA Unit, Bapas, and LPKA North Sumatra reveal that the majority of juvenile offenders are mid-adolescents, whose engagement in these offenses appears driven by situational and social pressures rather than inherent criminal intent.

Within the ambit of Islamic criminal jurisprudence, minors who have not attained puberty are deemed to lack full criminal capacity and are consequently exempt from the hudud sanctions applicable to adults. Jurists consistently categorize children as subjects more appropriate for educational and preventive *ta'zir measures*, an approach that

underscores the core characteristics of Islamic criminal law: judicial caution, humanitarianism, and a commitment to the welfare of the subject.

Furthermore, the analysis posits that repressive, punitive approaches are often ineffective in cultivating legal consciousness or facilitating behavioral reformation in children. In contrast, interventions centered on guidance, moral education, restorative mediation, and community-based support align more closely with the principles of *maqāsid al-syarī'ah* and substantive justice. Consequently, Islamic jinayah provides not only a normative ethical framework but also viable, practical strategies that are highly compatible with contemporary juvenile justice systems.

Overall, this study confirms that resolving theft cases involving children in Medan City is more appropriate through *an educational-restorative ta'zir approach*, rather than through purely retaliatory punishment. This approach not only maintains legal order and protects property (*ḥifẓ al-māl*), but also safeguards the child's future as part of the protection of life and mind (*ḥifẓ al-nafs* and *ḥifẓ al-'aql*).

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