

Fiqh Jinayah's Approach to Children Trapped in the Octopus of Narcotics Trafficking

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Abstract: The aim of this research is to analyze children in the narcotics distribution chain, as well as analyze the practice of *jinayah* fiqh in handling children as narcotics dealers. This research uses normative juridical research methods. This research is descriptive in nature, data collection in this research uses library research. The results of this research are that the ideal treatment according to *jinayah* fiqh is to give children the opportunity to repent. *Ta'zīr* sanctions can be imposed but the punishment must be proportional to the child's age and level of understanding. The state has a responsibility to prioritize religious rehabilitation as a form of protecting children's rights as well as an effort to break the chain of exploitation of children by narcotics networks. The academic contribution of this study lies in its proposed integrative approach model between *fiqh jinayah* and the principles of child protection within Indonesia's positive legal framework. This research provides both theoretical and practical foundations for policymakers, law enforcement officials, and Islamic educational institutions in designing more humane and transformative policies for handling children involved in drug-related offenses. The academic contribution of this study lies in offering an integrative model that bridges *fiqh jinayah* with contemporary child protection principles under Indonesia's legal system, enriching scholarly discourse on Islamic criminal law and juvenile justice. Practically, this research provides a foundational framework for policymakers, law enforcement, and Islamic educational institutions to formulate more humane, restorative, and spiritually grounded responses to juvenile involvement in drug-related offenses.

Keywords: *Islamic Law, Children, Narcotics Dealers*

Abstrak: Tujuan dari penelitian ini adalah untuk menganalisis anak dalam rantai peredaran narkoba, serta menganalisis praktik fiqh jinayah dalam penanganan anak sebagai pengedar narkoba. Penelitian ini menggunakan metode penelitian Yuridis normatif. Penelitian ini bersifat deskriptif, pengumpulan data pada penelitian ini menggunakan studi kepustakaan. Hasil penelitian ini adalah Penanganan yang ideal menurut fiqh jinayah adalah memberikan kesempatan taubat kepada anak. Sanksi *Ta'zīr* dapat dijatuhkan namun hukumannya harus proporsional dengan umur dan tingkat pemahaman anak. Negara memiliki tanggung jawab untuk mengedepankan rehabilitasi religius sebagai bentuk perlindungan hak anak sekaligus upaya memutus mata rantai eksploitasi anak oleh jaringan narkoba. Kontribusi akademik dari penelitian ini terletak pada tawaran model pendekatan integratif antara fiqh jinayah dan prinsip perlindungan anak dalam hukum positif Indonesia. Penelitian ini memberikan landasan teoritis dan praktis bagi pembuat kebijakan, aparat penegak hukum, dan institusi pendidikan Islam dalam merancang kebijakan penanganan anak pelaku narkoba yang lebih manusiawi dan transformatif. Kontribusi akademik dari penelitian ini terletak pada tawaran model pendekatan integratif antara fikih jinayah dan prinsip-prinsip perlindungan anak dalam kerangka hukum positif Indonesia, yang memperkaya wacana ilmiah tentang hukum pidana Islam dan keadilan anak. Secara praktis, penelitian ini memberikan landasan teoritis dan operasional bagi para pembuat kebijakan, aparat penegak hukum, dan lembaga pendidikan Islam dalam merumuskan kebijakan yang lebih manusiawi, restoratif, dan berlandaskan nilai-nilai spiritual dalam menangani keterlibatan anak dalam tindak pidana narkoba.

Kata kunci: *Hukum Islam, Anak, Pengedar Narkoba*

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Introduction

In human life, children are both a gift and a trust from God. As such, their care, upbringing, and education are the responsibility and obligation of their parents. Children represent one of the key assets for realising a nation's aspirations; they are potential high-quality and resilient human resources who will serve as the next generation and contribute to national development. Therefore, it is essential to enhance the guidance and development of children to ensure their optimal growth and contribution to society.¹

In this era of globalisation, marked by rapid technological and informational advancement, significant transformations in social and cultural paradigms have emerged. These shifts have contributed to the rise of new patterns of criminal behaviour. Individuals across all age groups—including children, adolescents, adults, and even the elderly—are increasingly vulnerable to the dangers of drug use. Offences and criminal acts committed by children not only endanger their own mental development but also pose a broader threat to societal norms, including the troubling involvement of children in narcotics trafficking.²

The extensive network of illicit narcotics trafficking is often likened to an "octopus", reaching into all levels of society and drawing children into its grasp. Drug syndicates

frequently exploit minors as couriers in an attempt to evade severe legal consequences, enticing them with the promise of substantial financial rewards. The involvement of children in such criminal acts, particularly as carriers of illegal substances, evokes deep concern and sorrow. Children are the future—both as successors and as the foundation upon which families and nations are built. This exploitation not only diminishes a child's potential but also adversely affects their educational journey, as well as the quality and extent of their personal development.³

Narcotics abuse among the younger generation in Indonesia is on the rise. Deviant behaviour among youth poses a serious threat to the future of the nation, as individuals who become addicted to drugs often experience intense cravings (commonly referred to as *sakau*), accompanied by severe discomfort and even physical pain. According to data from the Ministry of Communication and Information in 2021, drug use is most prevalent among individuals aged 15 to 35, with 82.4% identified as users, 47.1% involved as dealers, and 31.4% serving as couriers.⁴

The involvement of children in narcotics-related cases presents a dilemma in the realm of law enforcement. On the one hand, drug trafficking constitutes a grave offence that must be addressed with firm legal action; on the other hand, the offenders are children, who possess psychological and legal

¹ Rahmawan, A. M., Mulyanto, Y., Yudhatama, F., Fridoki, O., Anuraga, F., & Susilawati, S. (2024). Tinjauan Kritis Eksploitasi Anak Sebagai Kurir dalam Peredaran Narkoba. *EKOMA: Jurnal Ekonomi, Manajemen, Akuntansi*, 3(3), 511–517. <https://doi.org/10.56799/EKOMA.V3I3.3047>

² Zanah, R., Silpiani, Y., & Hasan, Z. (2023). Pengedaran Narkoba Oleh Anak Dibawah Umur di Bandar Lampung. *COMSERVA: Jurnal Penelitian Dan Pengabdian Masyarakat*, 3(1), 136–143.

<https://doi.org/10.59141/COMSERVA.V3I1.749>

³ Lubis, Mhd. T. S. (2020). Sistem Pemidanaan Bagi Anak Pengedar Narkotika Dengan Hukuman Pelatihan. *EduTech: Jurnal Ilmu Pendidikan Dan Ilmu Sosial*, 6(1), 26–35. <https://doi.org/10.30596/EDUTECH.V6I1.4392>

⁴ Humas BNN, Hindari Narkotika Cerdaskan Generasi Muda Bangsa, <https://bnn.go.id/hindari-narkotika-cerdaskan-generasi-muda-bangsa/> diakses pada 10 Maret 2025

characteristics distinct from those of adults. Indonesian positive law attempts to resolve this dilemma through a dual approach: imposing severe penalties on adults who exploit children, while prioritising rehabilitation for children involved as offenders. For instance, Article 133, paragraph (1) of Law Number 35 of 2009 on Narcotics stipulates that any person who persuades or coerces a child to commit a narcotics offence may face up to 20 years of imprisonment, life imprisonment, or even the death penalty.

Islam, as a religion that advocates a peaceful life in both this world and the hereafter, naturally offers its own perspective on the issue of narcotics. The legal status of narcotics in Islam is determined through *ijtihad*, as they are not explicitly mentioned in the Qur'an or Hadith.⁵ During the time of the Prophet Muhammad (peace be upon him), narcotics were not yet known; however, the majority of people at that time consumed *khamr* (intoxicating drinks). As stated by 'Umar ibn al-Khaṭṭāb, anything that disturbs the mind and removes its essential function as a distinguishing element between right and wrong is considered wine, which has been prohibited by Allah and His Messenger until the Day of Judgement. Modern examples of substances that fall under this category include marijuana, opium, morphine, heroin, and cocaine.

Islamic criminal law is a field of study that

examines the prohibitions outlined in the religion, which are subject to the punishments of *ḥadd* and *ta'zir*. These prohibitions are articulated in the Qur'an and Hadith and have been further developed by scholars and jurists. *Ḥadd* punishments refer to those penalties that are explicitly prescribed in the Qur'an and Hadith, while *ta'zir* punishments are discretionary measures imposed by the government or a judge for offences not specifically addressed in the Qur'an and Hadith.⁶

Previous research by Munawaroh has stated that, in Islamic criminal law, narcotics abuse by children falls under the judicial category, and thus the offender can be punished. This serves as both a preventive measure to deter other children from engaging in similar activities and as an educational effort for those who abuse narcotics. The age limit for penalties is that children aged 7 to 14 can be subjected to educational penalties (*ta'dib*), while children aged 15 and over may face *qisās*, *ḥudūd*, and *ta'zir* penalties.⁷ Another study by Pranatoko states that imposing sanctions on perpetrators of drug-related crimes, in accordance with Islamic law, such as the implementation of *ta'zir* sanctions, is a rule established by Allah to safeguard the welfare of society and prevent harm in both this life and the Hereafter.⁸

The aim of this research is to analyze the involvement of children in the narcotics

⁵ Harlis, H. R., & Zulkarnain. (2024). Perlindungan Hukum Terhadap Pelapor Kasus Peredaran Gelap Narkotika Dalam Perspektif Hukum Islam. *Legalite: Jurnal Perundang Undangan Dan Hukum Pidana Islam*, 9(1), 53–71. <https://doi.org/10.32505/LEGALITE.V9i1.8663>

⁶ Purbanto, H., & Hidayat, B. (2023). Systematic Literature Review: Penyalahgunaan Narkotika di Kalangan Remaja dalam Perspektif Psikologi dan Islam. *Al-Hikmah: Jurnal Agama Dan Ilmu Pengetahuan*, 20(1), 1–13.

⁷ Munawaroh, M., Rizal, M., & Zuraidah, Z. (2024). Aplikasi

hukum pidana islam dalam penanggulangan penyalahgunaan narkotika yang dilakukan oleh anak di desa menanga tengah kec. Semendawai barat kab. Oku timur. *Ta'zir: Jurnal Hukum Pidana*, 8(1), 1–16. <https://doi.org/10.19109/TAZIR.V8i1.22705>

⁸ Akbar Prantoko, W. (2024). Studi Komparatif Pelaku Tindak Pidana Narkotika Menurut Undang-Undang Nomor 35 Tahun 2009 Tentang Narkotika Dan Hukum Islam, *Journal of Law and Nation*, 3(2), 332–341. <https://jolin.my.id/index.php/jolin/article/view/119>

distribution chain, as well as to examine the application of *jinayah fiqh* in addressing children involved as narcotics dealers.

Research Methods

The legal method employed in this study is a normative juridical research method, which involves examining all the key issues that have been defined and fall within the scope of the problem, as outlined above. This research is descriptive in nature. Data collection for this study utilizes library research, with data sources that include Islamic law, namely the Qur'an and Hadith (Sunnah of the Prophet). The data sources consist of three types of legal materials: primary legal materials, such as statutory regulations including Law No. 35 of 2014 on Child Protection, Law No. 11 of 2012 on the Juvenile Criminal Justice System, and Law No. 35 of 2009 on Narcotics; secondary legal materials, which include books, scholarly works, and academic journals; and tertiary legal materials, which provide explanations of primary and secondary legal materials, such as legal dictionaries, the Internet, and so on.

Results and Discussion

Children in the Octopus Circle of Narcotics Trafficking

Drug abuse and illicit trafficking in Indonesia cannot be separated from the influence of global developments in drug use, which must be addressed promptly and with

seriousness as part of the effort to combat the networks of illicit drug trafficking syndicates. This drug trafficking crime is described as a syndicate, with an extensive network, as drug trafficking activities are typically well-organized criminal operations.

A drug trafficking network in operation consists of several smaller sub-networks at the lower levels, each with an increasing number of members. These members are typically unaware of each other, except for the higher-level actors within the structure, who have knowledge of the individuals operating beneath them in the network. Meanwhile, the role of the courier is to transport narcotics from the large-scale dealers to smaller distributors at lower levels.

Narcotics crimes in society show various trends that are increasing both quantitatively and qualitatively with widespread victims, especially among children, teenagers and the younger generation in general.⁹ Narcotics crimes are no longer carried out individually,¹⁰ but involve many people together, even forming an organized syndicate with a wide network that works neatly and very secretly.¹¹

The involvement of children in consuming and distributing drugs in Indonesia has given rise to various kinds of polemics. This polemic has emerged quite a bit in the debate on determining sanctions for involvement in narcotics abuse practices.¹² Children's involvement in narcotics abuse in Indonesia

⁹ Bagus, I., Mahaputra, G. B., Agung, A., Dewi, S. L., Luh, D., & Suryani, P. (2022). Upaya Penanggulangan Tindak Pidana Penyalahgunaan Narkotika. *Jurnal Analogi Hukum*, 4(3), 311–315. <https://doi.org/10.22225/AH.4.3.2022.311-315>

¹⁰ Laksana, A. W. (2021). Sociological Analysis of Narcotics Circulation Treatment on Students. *Jurnal Pembaharuan Hukum*, 8(1).

¹¹ Mahulette, A. R. M., & Firmansyah, H. (2023). Implementasi Restorative Justice pada Tindak Pidana

Narkotika yang dilakukan oleh Anak. *UNES Law Review*, 6(1), 565–575. <https://doi.org/10.31933/UNESREV.V6I1.872>

¹² Fernando, H., Jubba, H., Galuh Larasati, Y., Akmal Latif, S., Ilmu Budaya, F., & Gadjah Mada, U. (2022). Polemik dan Diskriminasi: Keterlibatan Anak dalam Penyalahgunaan Narkotika. *Community: Pengawas Dinamika Sosial*, 8(2), 185–202. <https://doi.org/10.35308/JCPDS.V8I2.5491>

does not only occur in legal aspects, but also occurs in social aspects of society.¹³

The widespread use of children as drug dealers is closely linked to a lack of parental attention and community oversight. Children who are difficult to manage by their parents and the surrounding community often place undue trust in the words or requests of strangers, without considering the potential dangers or risks they may face in the future. Additionally, technological advancements exacerbate the situation, as rapid scientific and cultural developments are not always aligned with the developmental needs of children.¹⁴ Which actions carried out by children from early childhood to adulthood are factors that cause child delinquency. The impact of this delinquency is very difficult for many people, especially for themselves and the community around them. This crime committed by a child is not just an act of a child that violates the law, in this case it is also classified as an act or one that violates the norms that exist in society.¹⁵

The issue of narcotics trafficking in Indonesia is becoming increasingly complex, with the evolving *modus operandi* of the perpetrators.¹⁶ One widely used strategy is involving children as drug couriers. Narcotics dealers exploit gaps in the legal system, particularly the Juvenile Criminal Justice System, which limits the maximum sentence

for children to 10 years in prison. Additionally, children who have served half of their sentence and demonstrated good behavior may be eligible for parole, with the possibility of sentence reduction through remission. As a result, the total period of detention can be reduced to approximately 3.5 years. Dealers take advantage of this situation, knowing that children will not face the same severe punishment as adults and are not subject to the same criminal penalties. Therefore, the involvement of children is perceived as a "safer" option for narcotics syndicates.

This mode is also facilitated through the recruitment of children in a subtle and manipulative manner. The children recruited typically come from economically disadvantaged backgrounds, have low levels of education, and possess minimal knowledge about the dangers of drugs. Narcotics dealers exploit this vulnerability by assigning seemingly simple tasks, such as picking up drugs from one location, transporting them, and placing them in a designated spot. Upon completing the task, the child is rewarded, either with money or with narcotics themselves. This strategy not only harms children legally and morally, but also fosters a highly systematic pattern of exploitation within drug trafficking networks.¹⁷

The involvement of children in narcotics

¹³ Baskoro, N. E. (2018). Aspek Hukum Diversi Terhadap Anak Penyalahguna Narkotika dalam Sistem Peradilan Pidana Anak Indonesia. *Pemuliaan Hukum*, 1(1). <https://doi.org/10.30999/JPH.V1i1.932>

¹⁴ Amrich, A. M. (2024). Penerapan Hukum Serta Penanggulangan Tindak Pidana Penyalahgunaan Narkotika Terhadap Anak Dibawah Umur. *Jurnal Hukum, Politik Dan Ilmu Sosial*, 3(4), 258–266. <https://doi.org/10.55606/JHPIS.V3i4.4456>

¹⁵ Ketut, I., Rasmadi, P., Putra, A., Gede, D., Yustiawan, P., & Usfunan, J. Z. (2020). Penguatan Karakter Sebagai Upaya Penanggulangan Kenakalan Remaja (Juvenile Delinquency). *KERTHA WICAKSANA*, 14(1), 29–38.

<https://doi.org/10.22225/KW.14.1.2020.29-38>

¹⁶ Refi Daenunu, A., Badu, L. W., Puluhalawa, J., Jend Sudirman No, J., Timur, D., Kota Tengah, kec, & Gorontalo, K. (2023). Analisis Batas Kewenangan Antara Penyidik Kepolisian Republik Indonesia Dan BNN Dalam Melakukan Koordinasi Penyidikan Kasus Tindak Pidana Narkotika. *Jaksa : Jurnal Kajian Ilmu Hukum Dan Politik*, 1(4), 73–89. <https://doi.org/10.51903/JAKSA.V1i4.1404>

¹⁷ Novitasari, N., & Rochaeti, N. (2021). Proses Penegakan Hukum Terhadap Tindak Pidana Penyalahgunaan Narkotika Yang Dilakukan Oleh Anak. *Jurnal Pembangunan Hukum Indonesia*, 3(1), 96–108. <https://doi.org/10.14710/JPHI.V3i1.96-108>

crimes as couriers not only shows aspects of violating the law, but also has serious impacts on drug users.¹⁸ Circulation of narcotics involving children indirectly strengthens the chain of distribution of this addictive substance, which causes physical and psychological damage that is very difficult to cure in users. Narcotics addiction is a complicated condition and often cannot be explained clearly by either medical or psychological professionals. Only those who experience addiction firsthand understand how deep the damage it causes them.

The position of children who become drug couriers often presents ambiguity.¹⁹ On the one hand, they are perpetrators who are actively involved in narcotics trafficking; but on the other hand, they are also victims of illicit trafficking networks that exploit their weaknesses and ignorance. This raises a fundamental question in the world of criminal law: whether children who play the role of couriers in narcotics crimes are more appropriately categorized as perpetrators, or instead as victims of bigger crimes?

Therefore, the law enforcement process against children involved in narcotics cases must be carried out very carefully and with full consideration. Handling carried out by law enforcement officials such as the police, prosecutors and courts must not be based solely on punishment, but must take into account elements of social responsibility, morals and the interests of children as individuals who still have a long future. This careful attitude is necessary to ensure that the legal process does not injure children's rights and their future.

In passing decisions on children who are in conflict with the law, judges must consider more than just the juridical aspects. Decisions taken must reflect justice that does not only touch on aspects of legal violations, but also pay attention to the child's social conditions, family background and the environment in which the child grows up. This approach reflects comprehensive protection for children involved in criminal acts, while ensuring that the main objectives of juvenile justice, namely rehabilitation and social reintegration, can actually be realized.

The Practice of Jinayah Fiqh in Handling Children as Narcotics Dealers

Islamic Sharia law is inherently straightforward and just, with its universal principles centred on the safeguarding of fundamental human imperatives that must not be forsaken. Human beings cannot exist without law. In this context, the mujtahid imams and ushul fiqh scholars have identified five core matters, known as *al-kulliyat al-khamsah* (the five universal principles), which include the protection of religion, the protection of life, the protection of honour, the protection of intellect, and the protection of property. It is imperative that children are not punished or struck to the extent that they scream in extreme pain. Scholars maintain that such cruel punishment will cause children to become fearful, develop low self-esteem, and suffer from other negative outcomes, such as narrow-mindedness, laziness, and dishonesty. Children may resort to lying as a coping mechanism to avoid further violence.

Islamic law is a system of rules that Allah

¹⁸ Yudha, M. R., Sifa', M., & Yulianis, F. (2024). Penyalahgunaan Narkotika oleh Anak Dengan Menerapkan Restorative Justice. *Socius: Jurnal Penelitian Ilmu-Ilmu Sosial*, 1(8).

<https://doi.org/10.5281/ZENODO.10839295>

¹⁹ Arifin, S. (2021). Pertanggungjawaban Pidana Terhadap Anak Sebagai Kurir Narkotika. *Justitia Jurnal Hukum*, 5(1). <https://doi.org/10.30651/JUSTITIA.V6I1.8225>

Almighty has provided for His followers, enabling them to believe in it, adhere to it, and lead a moral life.²⁰ Islamic criminal law is the translation of the term *fiqh jinaiyah*. *Fiqh jinaiyah* refers to all the legal provisions concerning criminal acts or offenses committed by *mukallaf* (individuals who are capable of being held accountable), based on a detailed understanding of the legal arguments found in the Qur'an and Hadith.²¹

In the Qur'an, there is no specific mention of drugs; however, some scholars draw an analogy between drugs and *khamr* (alcohol), based on the legal reasoning of *qiyas*. This reasoning is founded on the shared characteristic (*illat*) between the two, which is their intoxicating effect.²² The Qur'an explicitly prohibits the consumption of *khamr* in several verses, including Surah al-Mā'idah (5:2 and 5:90) and Surah al-Baqarah (2:219).

Surah al-Mā'idah (5:2) states: "Cooperate in righteousness and piety, but do not cooperate in sin and transgression. And fear Allah; indeed, Allah is severe in punishment".²³

In Surah al-Mā'idah (5:90), it is declared: "O you who believe! Indeed, intoxicants, gambling, idolatry, and divining arrows are abominations from the work of Satan. So avoid them, that you may be successful".²⁴

Surah al-Baqarah (2:219) adds: "They ask you (O Muhammad) concerning wine and gambling. Say, 'In them is great sin and (some) benefit for people. But their sin is greater than their benefit.' They also ask you what they

should spend. Say, 'What is surplus.' Thus Allah makes clear to you the verses, that you may reflect".²⁵

From these verses, it is evident that the consumption of *khamr* is strictly prohibited, as it is categorised as an act inspired by Satan, leading individuals toward moral and social decay. *Khamr* brings about significant harm, both to individual health and to the broader social fabric.

In contemporary terms, narcotics have comparable—if not more destructive—consequences, ranging from physical deterioration and mental disorders to societal breakdown. Therefore, from the Islamic legal and ethical standpoint, narcotics are deemed equivalent to *khamr*, and thus, their use is unequivocally forbidden (*harām*)

Although the Qur'an and Hadith do not explicitly mention drugs or drug traffickers, numerous narrations categorically prohibit involvement in all matters related to *khamr* (alcohol). One such hadith, narrated by Ahmad bin Hanbal from Ibn Abbas, states that Allah has cursed all those involved in the production, distribution, and consumption of alcoholic beverages. Another hadith also clarifies that those who consume *khamr* are among those forbidden from entering Heaven. Therefore, the analogy between drugs and *khamr*, as a modern form of intoxicant, places those who produce, distribute, and consume drugs in the category of those cursed by Allah. However, the term "cursed" requires further interpretation through other established

²⁰ Aulia, R., Rizqi, R., & Usmani, S. A. A. (2023). Pornography in the Perspective of Islamic Criminal Law. *MILRev: Metro Islamic Law Review*, 2(1), 79–89. <https://doi.org/10.32332/MILREV.V2i1.7354>

²¹ Nazua Novianti, S., Rizki Siregar, H., Arifin Siregar, I., & Jinayah, F. (2024). Peran Fikih Jinayah dalam Mengatasi Tindak Pidana Narkoba di Indonesia. *Jurnal Sahabat ISNU SU*, 1(2), 61–63. <https://doi.org/10.70826/JSISNU.V1i2.129>

²² Hermanto, Efendi, S., & Asy'ari. (2023). Criminal Sanctions For Drug Traffickers According To Law Number 35 Of 2009 Regarding Narcotics. *ALFIQH Islamic Law Review Journal*, 2(3), 153–168. <https://doi.org/10.33369/jsh.31.2.75-84>

²³ Qur'an Surah Al-Maidah: 2

²⁴ Qur'an Surah Al-Maidah: 90

²⁵ Qur'an Surah Al-Baqarah: 219

sources of Islamic law to fully understand its implications within the context of Sharia law.

This hadith indicates a prohibition from Allah on individuals or parties involved in the buying and selling of *khamr* (alcohol), carrion, pork, and idols. Given that the legal status of drugs is analogous to that of wine, as indicated by the aforementioned hadith, it follows that the buying, selling, or distribution of drugs is *haram* (forbidden). Referring to the verses in Surah al-Maidah (2), Surah al-Maidah (90), Surah al-Baqarah (219), and the aforementioned hadith, it can be concluded that drug distribution activities are unequivocally *haram*.

According to Ahmad Hanafi, there are various forms of *ta'zir* punishments, ranging from the lightest to the most severe. These punishments are determined based on the circumstances of the offense and the individual characteristics of the perpetrator.²⁶ The punishment may take various forms, including advice or warnings, reprimands, flogging, imprisonment, or even the death penalty. However, drawing on Ibn Qayyim's opinion, there is a general theory regarding the punishment of *ta'zir* offenders. The *ta'zir* penalty is determined with consideration for the welfare and physical condition of the individual being sentenced, requiring the responsible official to apply it wisely and contextually. The *ta'zir* penalty cannot exceed the limits of *hudud* punishments, and its application should generally fall below the minimum threshold for *hudud* penalties. In practice, some scholars of the Hanbali school (such as Ahmad ibn Hanbal) argue that the

most severe punishment for *ta'zir* should not exceed ten lashes.

From the perspective of Islamic law,²⁷ children hold a different legal status from adults in terms of criminal responsibility. The age of *taklif* (the age at which an individual becomes legally accountable for Sharia obligations) is generally linked to puberty and the attainment of reason. Islamic Sharia, through various hadiths, indicates that a person's record of sins begins only after they reach adulthood and possess sound judgment. Consequently, children who have not yet reached adulthood are exempt from *hudūd* or *qīṣāṣ* punishments for the crimes they commit. This is because children are regarded as not fully capable of understanding the consequences of their actions and do not meet the criteria to be considered *mukallaf* (legal subjects burdened with obligations and responsibilities). The table below summarizes key aspects of Islamic law as they relate to children involved in narcotics trafficking and their legal treatment.

Table 1. Islamic Legal Approaches to Children Involved in Narcotics Trafficking

Aspect		Islamic Law Principles	Explanation
Child's Status	Legal	Not Mukallaf (not legally accountable)	Children are exempt from <i>hudūd</i> or <i>qīṣāṣ</i> punishments as they are not fully capable of understanding their actions.
Punishment for Narcotics Trafficking		Ta'zīr (Corrective Measures)	Children are given corrective measures, including warnings, guidance, and light punishment based on the

²⁶ Ekaa, E. N. W. (2024). Diversion for Children Perpetrating Narcotics Crimes Perspective of Jinayah Fiqh and the Juvenile Criminal Justice System Law. *Delictum: Jurnal Hukum Pidana Islam*, 3(1), 87–112. <https://doi.org/10.35905/DELICTUM.V3I1.10949>

²⁷ Idris, A. R., Khusaini, M., & Al-Mansyuri, S. A. (2024). Contemporary Islamic Law in Indonesia: The Fulfillment of Child Custody Rights in Divorce Cases Caused by Early Marriage. *MILRev: Metro Islamic Law Review*, 3(1), 1-21.

Aspect	Islamic Law Principles	Explanation
Objective of Punishment	Education and Rehabilitation	severity of the offense. The primary goal is to guide the child toward moral and spiritual correction rather than to punish severely.
Role of Judges	Discretionary, considering circumstances	Judges consider the child's age, background, and potential for reform when imposing penalties.
Protection and Rehabilitation	Emphasis on Child Protection and Spiritual Guidance	Islam emphasizes protecting children from harmful influences and offering rehabilitation through moral education.
Social Impact	Focus on Corrective Justice	The aim is to reintegrate the child into society through education and spiritual guidance rather than punishment.

The principles outlined in the table reflect a balanced approach to handling minors involved in narcotics trafficking under Islamic law. By emphasizing rehabilitation and the potential for moral correction, Islamic law aligns with the broader goal of nurturing responsible individuals within society. The application of *ta'zīr* ensures that children are not subjected to excessive punishment but instead are given opportunities for reform through education, religious guidance, and social reintegration programs. These principles offer a framework that not only addresses the criminal act but also recognizes the child's potential for positive change, thus fostering a more humanistic approach to justice in the context of juvenile offenses related to narcotics trafficking.

Scholars agree that if a child commits a serious offense, *hudūd* penalties (such as amputation for theft, flogging for consuming alcohol, etc.) are not applied. Instead, Islam allows for the concept of *Ta'zīr*, a form of

punishment that is not explicitly defined in the texts and is left to the discretion of the judge or ruler.

Ta'zīr is more flexible and can take various forms, including warnings, advice, guidance within the family, and even light physical punishment or detention, depending on the nature of the offense. The primary goal of *Ta'zīr* in relation to children is education and prevention, rather than retribution. This approach is particularly relevant in cases involving children as narcotics traffickers, where the judge can consider factors such as the child's age, background (for instance, whether the child is being exploited by a drug network), and potential for rehabilitation. Based on these considerations, the judge can impose a measure that is deemed most beneficial for both the child's future and society's well-being.

The teachings of *fiqh* (Islamic jurisprudence) emphasize that children should not be subjected to punishment in the same way as adults. Instead, they may face corrective measures (*ta'dīb*) that are tailored to their capacity and level of understanding, forming an integral part of the educational methodology in Islam.

Islam upholds principles of child protection, grounded in divine commands that assign families the responsibility of safeguarding their members from moral and spiritual harm. This is reflected in Surah al-Tahrim (66:6), which states: "O you who believe, protect yourselves and your families from a Fire whose fuel is people and stones. Over it are angels, stern and severe; they do not disobey Allah in what He commands them but do what they are instructed." This verse underscores the obligation of guardianship and spiritual responsibility, highlighting the importance of early moral education and the

protection of children from harmful influences, both in this world and the Hereafter.

A child is part of the nation and must be protected for the continuation of a healthy generation. Islam places great emphasis on a child's right to education. Therefore, Islam views children who commit crimes more as subjects for education than as mere objects of legal action. The ideal approach, according to *jinayah fiqh*, is to offer the child an opportunity for repentance and correction (the spirit of *al-tawbikh wa al-islāh*, reprimand and reform). *Ta'zīr* sanctions can be imposed, but the punishment must be proportional to the child's age and level of understanding. For example, a judge may order religious rehabilitation rather than a prison sentence. If imprisonment is deemed necessary (to protect society from the dangers of drug trafficking), it must be accompanied by a religious rehabilitation program.²⁸

The novelty of this research lies in the analysis that combines the dual status of children as both perpetrators and victims of narcotics crime networks, and connects this to Islamic legal concepts such as *Ta'zīr*, the age of *taklīf*, and the principle of *maqāṣid al-sharī'ah*. This approach expands the scope of law enforcement by emphasizing the importance of corrective justice and education for children, while also providing an Islamic normative foundation for the formulation of criminal policies that are not only repressive but also humanistic. The study further highlights gaps in the positive legal system, particularly regarding the use of light punishments against children by drug syndicates, and responds with constructive proposals based on sharia

principles, such as ordering religious rehabilitation to safeguard the child's future.

Conclusion

The involvement of children as narcotics dealers is a phenomenon that touches not only legal aspects but also social dimensions. In Islamic law, children who have not reached the age of *taklīf* cannot be treated the same as adults in terms of criminal responsibility. The handling of children who are perpetrators of narcotics crimes must emphasize a *Ta'zīr* approach that is educational and preventive, rather than repressive, in alignment with the principles of *maqāṣid al-sharī'ah*, which prioritise child protection. The ideal treatment, according to *jinayah fiqh*, is to provide children with the opportunity for repentance. While *Ta'zīr* sanctions may be imposed, the punishment must be proportional to the child's age and level of understanding. The state has a responsibility to prioritise religious rehabilitation as a means of safeguarding children's rights and an effort to break the cycle of exploitation of children by narcotics networks.

Credit Authorship Contribution

Andri Winjaya Laksana led the study's design, research questions, and legal-analytical framework. He drafted the manuscript, including the Abstract, Introduction, and Methodology sections. Moh. Nurul Huda contributed to the theoretical foundation, focusing on Sharia principles relevant to children involved in narcotics trafficking. He refined the Discussion and Conclusion sections, integrating Islamic legal concepts. Hendro Widodo guided the manuscript's structure and

²⁸ Laksana, A. W., Hartiwiningsih, H., Purwadi, H., & Mashdurohatun, A. (2023). The Sufism healing as an alternative rehabilitation for drug addicts and

abusers. *QIJIS (Qudus International Journal of Islamic Studies)*, 11(1), 149.

contributed to legal argumentation and analysis. He supervised the research and coordinated revisions based on feedback. Dzaka Imtiyaz Iqbal assisted in data collection and analysis, ensuring the accuracy of real-world case studies in the context of Islamic law. He contributed to the Results section. Doni Catur Saefudin provided insights into the sociocultural aspects of juvenile delinquency, contributing to the Methodology section and interpreting data through Islamic jurisprudence.

Declaration of Competing Interest

The authors declare that they have no known competing financial interests or personal relationships that could have appeared to influence the work reported in this paper.

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