

Application of The Law to Children Who Do Not Have The Right to Possess or Carry Sharp Weapons

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ABSTRACT

The aim of this research is to determine the application of the law for children who commit the crime of carrying sharp weapons without a valid permit. This research uses a normative juridical legal method. In this case, the application of the law to children is not appropriate when viewed from the violation of the law committed by the child, the child does not understand the consequences of an act that the child has committed, in this case the child is still detained even though the child can get diversion because this is not a repetition of the crime, and does not cause fatalities, if we look at Law Number 11 of 2012 concerning the Child Criminal Justice System, where diversion can be attempted in cases of children, however in this case the Public Prosecutor did not attempt diversion by considering the age of the child and several other reasons, as well as the judge's decision which if we look at the Law of the Republic of Indonesia Number 11 of 2012 concerning the Child Criminal Justice System, is contained in Article 7 paragraph (1) and paragraph (2), and Regulation of the Supreme Court of the Republic of Indonesia Number 4 of 2014 concerning Guidelines for Implementing Diversion in the Child Criminal Justice System, is contained in Article 3.

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1. INTRODUCTION

A child is defined as an immature person, a minor. The status of minority, commonly referred to as being a minor, is also understood as a child under guardianship supervision based on Indonesian positive law. It cannot be denied that numerous news reports across electronic media, newspapers, and social media discuss violent criminal acts committed by minors (Syachdin dan Joko Jumadi, 2018).

Delinquency committed by adolescents, juvenile delinquency, or juvenile delinquency constitutes criminal behavior (wickedness) or the misconduct of young people, which is a socially pathological symptom among youth resulting from a form of social neglect, causing adolescents to engage in non-compliant or deviant behavior. Juvenile delinquency encompasses the actions of adolescents that run counter to written law, anti-social behaviors of youth that cause public unrest, and immoral acts. It can be concluded that juvenile delinquency is a criminal act or deviation committed by adolescents that violates

laws, regulations, and norms within society as a result of social neglect, and can cause harm to themselves and others (Nurhayati Mardin, Vivi Nur Qalbi, Harun Nyak Itam Abu, 2025).

This juvenile delinquency indicates an increase, thereby resulting in social problems. The environment exerts a significant influence on the formation of the adolescent psyche. For adolescents who inadvertently choose the wrong social environment or companions for their interactions, what follows will have a negative impact on their personal development (Nur, Bakhtiar, Santosa, & Mardin, 2022). However, if they enter a healthy social environment, such as joining a youth organization officially recognized by the government, it will certainly have a positive impact on their personality development.

The crime of the misuse of sharp weapons is an offense included within criminal acts that violate statutory laws. Furthermore, the misuse of sharp weapons frequently occurs, either resulting in the death of a person or causing severe injury to a person. This is because it is not uncommon for an altercation to erupt as a result of resentment toward someone, so that, consciously or unconsciously, a sharp weapon may be deployed (Hinzky Alestin Simanjuntak dan M. Citra Ramadhan, 2025). Criminal acts by adolescents recently, which are highly concerning, are the result of the influence of the social environment. The emerging symptoms of crime are the result of the adolescent's personal development process as they attempt to search for self-identity. Adolescence is a period filled with turbulence. Adolescence is also vulnerable to various quite complex and intricate problems. Because it is during this phase that a person grows and undergoes the process of seeking self-identity to form their personality character.

As for several delinquencies or criminal acts committed, an example is student brawls, wherein a brawl constitutes a fight or violent act perpetrated by a specific group. In this modern era, brawling is often perceived by certain circles or groups as something cool. Moreover, brawls do not only occur among adults, but instead frequently happen among students. This is certainly a fairly serious problem, considering that the primary duty of a student is to acquire knowledge and study. Brawls between students certainly create anxiety for the environment and the surrounding community.

In the said case, the child perpetrator, who unlawfully carried and possessed a sharp weapon of the short machete or short cleaver type with the intent to launch an attack, was detained/arrested by the authorities (police officers conducting precision patrols of the Central Sulawesi Regional Police). Consequently, the child must undergo the judicial process in accordance with Law No. 11 of 2012 concerning the Juvenile Criminal Justice System, because the perpetrator (the child) has been legally and convincingly proven guilty.

2. METHODS

The normative juridical legal research method is a study that purely utilizes written legal materials; this method employs various secondary data such as statutory legislation, court decisions, legal theories, and may take the form of expert opinions (Muhaimin, 2020).

3. FINDINGS AND DISCUSSION

It is a reality that within the interactions of group and individual socialization, a moral decline frequently occurs due to various behaviors that do not align with values, ethics, and norms, culminating in the degradation of human status and dignity. This is because the quality of humanity always relates to the application of values, norms, and morals. Changes in the attitudes, behaviors, and ways of thinking of each individual vary. The emerging differences ultimately create challenges within society itself. The problems that occur are quite complex. Frequently, these emerging issues culminate in disputes, fights, and even homicides. In a society continuously confronted with challenges, conflicts, and conflicts of interest among individuals, this is where the role of law becomes paramount. Through the existence of law, the balance, order, and welfare of society can be maintained, so that any prohibited act can be categorized as a crime or an offense that is subject to punishment (Nur Sugiyatmi, Potler Gultom, 2024).

A child is an individual who does not yet fully comprehend the legal consequences of acts prohibited by law. Fundamentally, this is because they are still in the stage of seeking self-identity and possess a desire to try various things deemed new. The naturally inquisitive nature of children leads them to engage in various things they have never done before (Hilda Hilda, Asriyani Asriyani, Fidyah Faramita Utami, 2025). Therefore, when a child is involved in a crime or law violation, they possess special rights that must be fulfilled by the legal system, and they cannot be treated the same as adults who violate the law. In the general criminal justice system, the judicial process is specified in the Indonesian Criminal Procedure Code as regulated by Law of the Republic of Indonesia Number 8 of 1981, whereas the juvenile justice process is specified in Law of the Republic of Indonesia Number 11 of 2012 concerning the Juvenile Justice System.

One of the crimes that poses a security problem disturbing the community is crime involving sharp weapons. The types of these crimes vary, such as cases of murder, severe assault, theft, kidnapping, and so forth. All these categories of criminal offenses are regulated in the Indonesian Criminal Code (Hanafi Hanafi, 2022). Crimes occurring within society constitute violations of the applicable law, namely criminal law. Violations and crimes regulated by the criminal code can be viewed as objective criminal law, which comprises criminal acts classified according to the provisions of the law itself, as well as subjective criminal law, which refers to the provisions in the law concerning the authority of the sovereign in enforcing the law (Hayqal Archiball Alam, Diah Gustiani M, 2025).

Under the applicable law in Indonesia for handling cases of the use of sharp weapons by minors, the government has enacted Emergency Law Number 12 of 1951. This law focuses on provisional measures to regulate the power and procedures in civil courts with the aim of preventing the use of sharp weapons in this country. The situation becomes increasingly alarming when crimes involving sharp weapons are committed by children. In the process of law enforcement in Indonesia, a child involved in a criminal offense, often referred to simply as a "child," remains subject to legal proceedings. This is due to the fact that such crimes have resulted in both material losses and the loss of life. Criminal acts committed by children become problematic because the perpetrators of these crimes are legally incompetent; therefore, it can be stated that law enforcement against children frequently disregards the child's age limit (Aditya Riza Pramananda, Sri Astutik, 2025).

An appropriate approach and law enforcement are required for children involved in criminal offenses. If a child violates the law, they must be held accountable for their actions; however, despite being held accountable, the child must also receive protection. Child protection heavily relies on five pillars, namely parents, family, the community, the government, and the state. These five pillars are interconnected with one another in efforts to provide protection to children. In other words, when a crime occurs involving a child as the perpetrator, the responsibility is not entirely borne by the child alone (Mirojul Umam Ma'arif dan Diding Rahmat, 2025).

The behavior of children who wield or use sharp weapons with the intent to commit criminal acts is naturally influenced by a number of factors. In criminological studies, these factors can originate from within the child as the perpetrator, or they can also be the impact of external factors such as the family environment, community environment, or their peers. The things most frequently done or violated by children in general are, firstly, directly using sharp weapons that can harm others, an action that typically occurs during disturbances or fights between students (brawls). Secondly, carrying sharp weapons, which occurs when there are sweeps targeting students. Thirdly, there is the intent to possess or store the said sharp weapon. In addition to these types of crimes, there are also other criminal acts committed by children using sharp weapons, such as theft or robbery.

It frequently occurs that criminal offenses committed by children involve the possession or carrying of sharp weapons at an inappropriate time and place, serving as a sign that another criminal offense will be committed by the child carrying the sharp weapon (Jaya & Seregig, 2024). In such situations or conditions, the function of the sharp weapon may be for self-defense, but possessing a sharp weapon can also induce the intent to perpetrate an attack or strike others. Consequently, the possession or carrying of sharp weapons is classified as a criminal act, because carrying a sharp weapon

will generate a malicious intent to injure other people. The misuse of sharp weapons, particularly by children, is not a matter to be taken lightly, because the perpetration of such criminal acts can exert a detrimental impact on the child themselves and the community environment as it can threaten safety. In this regard, clear regulations exist stating that the unauthorized use of sharp weapons is prohibited under the Emergency Law. It is stated in Article 2 paragraph (1) of the Emergency Law of the Republic of Indonesia Number 12 of 1951 that: "Whosoever without right imports into Indonesia, manufactures, receives, attempts to acquire, hands over or attempts to hand over, possesses, carries, has in their stock or has in their ownership, stores, transports, conceals, uses or exports from Indonesia any striking weapon, stabbing weapon, or piercing weapon (slag-, steek-, of stootwapen), shall be punished with a maximum imprisonment of ten years."

Abnormal behavior in children is influenced by internal and external factors, such as immature mental development and their social environment. The handling of children cannot be equated with that of adults due to the child's low level of maturity. Thus, it is vital to consider the child's future. Law Number 11 of 2012 concerning juvenile justice alters the paradigm in handling children in conflict with the law by emphasizing restorative justice. The restorative justice approach is accepted as a more humane method for addressing juvenile delinquency in Indonesia, in line with Law Number 11 of 2012. Given the child's right to receive special treatment, it is highly critical to evaluate how effective this approach is in providing a balanced solution between guidance for the perpetrator and legal interests, as well as rehabilitation and social reintegration for the child (Budi Sudarmono dan Bonanda Japantani Siregar, 2025).

The legal accountability system for children who use sharp weapons without authorization needs to observe various principles of child protection that differ across jurisdictions. This depends on the legal system and child protection policies applicable in the respective region. There are significant differences regarding the minimum age of criminal responsibility, the implementation of the juvenile justice system, the types of sanctions, and rehabilitation approaches. In a number of jurisdictions, the justice system for children focuses more on rehabilitation, providing alternatives such as supervision, counseling, or specific education rather than imprisonment. The types of sanctions imposed also vary, ranging from rehabilitation programs to community supervision, as well as the protection of children's rights during legal proceedings, including competent legal representation and fair judicial procedures (Rendy Tuejeh, M. Syahrul Borman, 2025).

Law Number 11 of 2012 concerning the Juvenile Criminal Justice System regulates all aspects of criminal justice relating to children and ensures the best interests of the child in conflict with the law. The provisions within Law Number 11 of 2012 explicitly incorporate the concepts of restorative justice and diversion, which are expected to realize a justice system capable of guaranteeing the protection of the best interests of children in conflict with the law. In Article 1 number 7, it is explained that diversion is the diversion of the settlement of a juvenile case from the judicial process to a process outside of the criminal justice system. The purpose of diversion is to prevent the stigmatization of children in conflict with the law due to the judicial process. The application of diversion is granted to law enforcement officials, such as the police, prosecutors, and judges, as a mechanism to handle violation cases involving children without employing formal judicial channels, aiming to reduce the negative effects generated by the judicial process.

In handling criminal cases committed by children, the application of diversion is paramount because it aims to avoid and keep children away from the judicial process, prevent the stigmatization of children in conflict with the law, and provide opportunities for children to return to their social environment in a normal manner. To achieve this objective, the role and participation of all parties are highly crucial. In Law No. 11 of 2012 concerning the Juvenile Criminal Justice System, specifically Article 7 paragraph (1), which states that "at the stage of investigation, prosecution, and examination of juvenile cases in the district court, Diversion must be attempted," it is clearly written that diversion can be pursued at the investigation stage (police), which is the first stage conducted by investigators handling the juvenile case, and if successful, the case is resolved and does not proceed to the

prosecution office; if diversion at the investigation stage fails, then at the prosecution stage, diversion must be attempted by the prosecutor handling the juvenile case, whereby if successful, the case does not proceed to court. However, if diversion at the prosecution stage has not been successful, then at the court stage, diversion must be attempted by the juvenile judge; if successful, the case is concluded without a criminal judgment (Yohana Agnes Pintauli Br Gultom dan Rina Melati Sitompul, 2024).

In the juvenile justice system, the judge must review various factors influencing the child's behavior, such as family circumstances or psychological issues. Restorative justice can be an option, with the primary focus on reducing the likelihood of the recurrence of criminal acts, helping victims find a more satisfactory resolution, and altering society's perspective on criminal liability. In situations involving a child using sharp weapons, the judge may consider imposing a more lenient sentence, such as job training or social rehabilitation, as opposed to imprisonment. The principle of diversification or the diversion of juvenile conflict resolution from formal judicial channels is expected to mitigate the adverse impacts of the judicial process on children. The primary targets of the juvenile justice system are rehabilitation and protection, while respecting the rights of the child and ensuring they can reintegrate into society more effectively (Andre Arvento, I Ketut Seregig, 2020).

In Court Decision Number 14/Pid.Sus-Anak/2024/PN Pal., we can observe the criminal requisition submitted by the public prosecutor, which in substance states: Declaring the child, Anak, legally and convincingly proven guilty of committing the criminal offense of unlawfully possessing, carrying, having in their ownership, and storing a stabbing weapon or piercing weapon without a valid permit as regulated and penalized under Article 2 paragraph (1) of Emergency Law No. 12 of 1951 in conjunction with Law of the Republic of Indonesia No. 11 of 2012 concerning the Juvenile Criminal Justice System, as set forth in the single indictment of the juvenile public prosecutor; Imposing a sentence, therefore, upon the child, Anak, with a "prison" sentence of 2 (two) months, less the period the child spent in detention; Stipulating that the period of detention and arrest already served by the child, Anak, shall be deducted in its entirety from the sentence imposed; Ordering that the child, Anak, remain detained in the Palu Juvenile Correctional Institution (LPKA); Ordering the correctional advisor to conduct assistance, guidance, and supervision for the child during the period the child serves the prison sentence and to report the child's progress to the prosecutor; Determining the Evidence in the form of 1 (one) sharp weapon of the short machete or short cleaver type with a wooden handle to be confiscated and destroyed; Ordering the child, Anak, to pay court costs in the amount of Rp. 2,000 (two thousand rupiahs).

The results of the author's analysis indicate that the application of law in Court Decision Number 14/Pid.Sus-Anak/2024/PN Pal is not yet appropriate because diversion was not implemented/attempted by law enforcement officials, even though the requirements for the implementation of diversion had clearly been fulfilled as stipulated in Article 7 of the Law on the Juvenile Criminal Justice System; by failing to implement diversion, the decision contradicts the principle of "the best interest of the child" and also runs counter to the principle of restorative justice within the juvenile justice system. This is because Article 7 of Law of the Republic of Indonesia Number 11 of 2012 concerning the Juvenile Criminal Justice System stipulates that at the stage of investigation, prosecution, and examination of juvenile cases in the district court, diversion must be attempted; Diversion as referred to in paragraph (1) shall be implemented in the event that the criminal offense committed is punishable by imprisonment of under 7 (seven) years and does not constitute a repetition of a criminal offense (Dimas Pratama Putra, Lukmanul Hakim, 2023). Furthermore, Article 81 paragraph (2) of Law of the Republic of Indonesia Number 11 of 2012 concerning the Juvenile Criminal Justice System regulates that the imprisonment sentence that can be imposed on a Child shall be a maximum of 1/2 (one-half) of the maximum imprisonment threat for adults.

Meanwhile, Article 2 paragraph (1) of Emergency Law No. 12 of 1951 regulates that: "Whosoever without right imports into Indonesia, manufactures, receives, attempts to acquire, hands over or attempts to hand over, possesses, carries, has in their stock or has in their ownership, stores, transports,

conceals, uses or exports from Indonesia any striking weapon, stabbing weapon, or piercing weapon (slag-, steek-, of stootwapen), shall be punished with a maximum imprisonment of ten years.”

Therefore, looking at the regulation in Article 2 Paragraph (1) of Emergency Law Number 12 of 1951, the Child should only face a maximum imprisonment of 5 years, meaning that diversion must be attempted. Consequently, the diversion effort as regulated in Article 7 of Law of the Republic of Indonesia Number 11 of 2012 concerning the Juvenile Criminal Justice System has fulfilled the requirements. However, this was not pursued by the Public Prosecutor. Furthermore, in their requisition, the Public Prosecutor only demanded a criminal penalty against the Child with an imprisonment sentence at the Class II Palu Juvenile Correctional Institution (LPKA) for 2 (two) Months, less the time the child spent in detention, and ordered that the Child remain detained within the LPKA.

4. CONCLUSION

The application of law in Court Decision Number 14/Pid.Sus-Anak/2024/PN Pal. demonstrates an inconsistency between judicial practice and the applicable legal provisions within the juvenile criminal justice system; observing the chronology of this case, the child who committed the criminal offense can still be considered as not understanding the consequences of their actions; in this case, the child remained detained even though the child could have received diversion since it did not cause any casualties and did not constitute a repetition of a criminal offense, yet in this case, the Public Prosecutor did not attempt diversion; the Prosecutor should have pursued the diversion provided under Law Number 11 of 2012 concerning the Juvenile Criminal Justice System by taking into account the age of the said Child.

The recommendation of this research is there needs to be supervision over law enforcement officials to ensure that the implementation of diversion is carried out consistently; in this regard, the Public Prosecutor should pay closer attention to the obligation to attempt diversion as regulated under Law of the Republic of Indonesia Number 11 of 2012 concerning the Juvenile Criminal Justice System. It is expected that the panel of judges in this case can pursue diversion as regulated under Law of the Republic of Indonesia Number 11 of 2012 concerning the Juvenile Criminal Justice System and Supreme Court Regulation of the Republic of Indonesia Number 4 of 2014 concerning Guidelines for the Implementation of Diversion in the Juvenile Criminal Justice System.

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