

Judicial Discretion and Statutory Sentencing Limits in Juvenile Premeditated Murder Cases

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Abstract

Legal protection for children in conflict with the law is normatively regulated within the Indonesian legal system, particularly through Law Number 11 of 2012 on the Juvenile Criminal Justice System. Nevertheless, existing scholarship largely addresses juvenile protection in general terms and has not sufficiently examined the doctrinal tension between judicial discretion and statutory sentencing limits in cases involving serious crimes committed by juveniles. This study analyzes the scope of legal protection afforded to juvenile offenders involved in premeditated murder and critically examines judicial reasoning in imposing prison sentences that exceed the maximum limits prescribed by law. Employing a normative juridical research method with statute, case, and conceptual approaches, this study finds that although formal

and material safeguards for juvenile offenders are clearly established in legislation, their application in judicial practice remains inconsistent. Courts frequently invoke substantive justice considerations and the combined theory of sentencing objectives to justify sentences exceeding statutory limits, primarily on grounds of social protection and deterrence. This article argues that such practices reflect a doctrinal inconsistency within Indonesia's juvenile justice system, as they contravene the principle of legality and undermine the child-protection orientation mandated by Article 81 paragraph (6) of Law Number 11 of 2012. This study contributes to juvenile justice discourse by proposing the necessity of clearer sentencing guidelines and strengthened judicial oversight to prevent excessive judicial discretion and to ensure the consistent implementation of child protection principles.

Keywords

Juvenile Justice; Legal Protection; Premeditated Murder; Sentencing Limits.

I. Introduction

A child's development is influenced by the dynamics of the society around them.¹ A child is entitled to the right to live, to grow and develop, and to receive protection from discrimination and violence, as stated in Article 28B paragraph (2) of the 1945 Constitution of the Republic of Indonesia. This provision emphasizes that children are

¹ Baharuddin Badaru, "Penerapan Sanksi Pidana Menurut Sistem Peradilan Pidana Anak." *Civic-Culture: Jurnal Ilmu Pendidikan PKN Dan Sosial Budaya* 6, no. 2 (2023): 625–37, <https://doi.org/https://doi.org/10.31597/ccj.v6i2.888>.

entitled to care and guidance from the earliest stages of their development.² According to Article 1, paragraph (2) of Law No. 35 of 2014, which amends Law No. 23 of 2002 on Child Protection, child protection is defined as a series of efforts aimed at ensuring and safeguarding children

The application of the juvenile criminal justice system in Indonesia is based on the Juvenile Criminal Justice System Law (UU SPPA). This law primarily aims to provide children with legal certainty, protect their rights, and ensure that judicial proceedings are carried out without discrimination.³ Pursuant to Law No. 11 of 2012 on the Juvenile Criminal Justice System, a child is defined, under Article 1 paragraph (3), as an individual who has reached the age of 12 (twelve) but has not yet attained the age of 18 (eighteen), and who is in conflict with the law for allegedly committing a criminal offense. Homicide is among the most serious forms of juvenile delinquency frequently reported in various media outlets. It is regarded as a grave threat to social order and to the very existence of humanity.⁴

Murder constitutes a criminal offence characterised by the unlawful deprivation of another person's life. Book II, Chapter XIX of Law No. 1 of 1946 on the Criminal Code (KUHP, Staatsblad 1915 No. 732) specifically addresses the offense of murder through 13 provisions, ranging from Article 338 to Article 350. Within this framework, murder is further classified into several categories, one of which is premeditated murder: *Whoever intentionally and with prior planning takes the life of another person shall be punished for premeditated murder with the death penalty, life imprisonment, or a fixed-term imprisonment of up to twenty*

² NKF Duitasari and DRS Hariyanto, "Perlindungan Hukum Bagi Anak Yang Berkonflik Dengan Hukum Pada Kasus Pembunuhan Dalam Perspektif Restorative Justice Di Indonesia," *Jurnal Kertha Desa* 10, no. 2 (2022): 164–76.

³ Wulan Putri Aprilia Tri Aulya Febianingrum, Wangsa Nurafajar, "Perlindungan Hukum Bagi Anak Pelaku Tindak Pidana Menurut Undang-Undang Nomor 11 Tahun 2012 Tentang Sistem Peradilan Pidana Anak." *Al-Jina i Al-Islami* 2, no. 1 (2024): 103–117, <https://doi.org/https://doi.org/10.15575/jaa.v1i2.445>.

⁴ Dewi Bunga and Ni Putu Diana Sari, "Tindak Pidana Pembunuhan Dalam Delik Kejahatan Terhadap Nyawa (Kajian Terhadap Unsur Kesengajaan Dengan Alasan Pembelaan Diri)". Satya Dharma: Jurnal Ilmu Hukum," *Satya Dharma: Jurnal Ilmu Hukum Vol.7.No. 1.Tahun 2024* 7, no. 1 (2024): 311–31.

years.’ Nonetheless, the stipulation under Article 340 KUHP is fundamentally designed for adult offenders. This legislative orientation poses significant interpretive and practical challenges when the same provision is applied to juvenile perpetrators, as it may conflict with the principles of juvenile justice and child protection.

The principle of *Lex Specialis Derogat Legi Generali* stipulates that specific provisions take precedence over general ones.⁵ The Juvenile Criminal Justice System Law was enacted as a validation of the ratification of the 1989 Convention on the Rights of the Child, which emphasizes the legal protection of children, including the obligation to safeguard children in conflict with the law. When a child under the age of 18 is suspected of committing a criminal offense, the trial of the child must follow the rules set out in the Juvenile Criminal Justice System Law.⁶ Legally, Law No. 11 of 2012 on the Juvenile Criminal Justice System recognizes restorative justice as the central framework in dealing with juvenile delinquency cases.⁷ Article 6 of the law emphasizes that juvenile proceedings must prioritize recovery and rehabilitation rather than retribution.⁸ Sanctions applied to children proven guilty in the juvenile justice process are classified into two categories: measures and criminal punishments.⁹ According to Law No. 11 of 2012 on the

⁵ Risky Themar et al., “Penerapan Sanksi Pidana Terhadap Pelaku Tindak Pidana Pembunuhan Yang Dilakukan Oleh Anak Pembunuhan Jurnal Kreativitas Mahasiswa Hukum” 1, no. 2 (2021): 89–99.

⁶ Laurena K. Soputan, Wenly R. J. Lolong, and Yoan B. Runtuuwu, “Pertanggungjawaban Pidana Anak Sebagai Pelaku Pembunuhan,” *Jurnal Sosial Humaniora Dan Pendidikan* 4, no. 3 (2025): 252–61, <https://doi.org/10.55606/inovasi.v4i3.4275>.

⁷ A. Syaufi and A. Faishal. S. Putri, “Perlindungan Hukum Terhadap Anak Yang Berkonflik Dengan Hukum Melalui Diversi JIMPS: Jurnal Ilmiah Mahasiswa Pendidikan Sejarah” 8, no. 4 (2023): 3931–49, <https://doi.org/https://doi.org/10.24815/jimps.v8i4.26664>.

⁸ Awang Munggardijaya et al., “Implementasi Diversi Terhadap Tindak Pidana Yang Dilakukan Oleh Anak Berdasarkan Undang-Undang Nomor 11 Tahun 2012 Tentang Sistem Peradilan Pidana Anak,” *Innovative: Journal Of Social Science Research* 5, no. 3 (2025): 2214–32.

⁹ Mulyati Pawennei and Andi Risma Fitrah Andriyani, “Efektivitas Penerapan Hukum Acara Peradilan Anak Sebagai Pelaku Tindak Pidana Pencurian Dengan Kekerasan,” *Journal of Lex Generalis (JLG)* 4, no. 1 (2023): 1–18, <https://doi.org/https://doi.org/10.24912/jssh.v1i1.24544213>.

Juvenile Criminal Justice System, the detention of children in conflict with the law must be regarded as a measure of last resort in the resolution of cases.¹⁰ Although the legal framework clearly stipulates the maximum limits of sentencing for juvenile offenders, judicial practice reveals decisions in which judges impose terms of imprisonment exceeding the statutory thresholds. This situation raises a fundamental legal issue concerning the legitimacy and scope of judicial discretion within the juvenile criminal justice system and its compatibility with the principle of legality and the principle of child protection.¹¹

This is what prompted the author's interest in the case of premeditated murder that occurred in Penajam Paser Utara (PPU), East Kalimantan Province, Indonesia. The crime was committed by a 17-year-old juvenile, whose actions resulted in the deaths of five individuals from one family. In Decision No. 3/Pid.Sus-Anak/2024/PN Pn, the court sentenced the child to 20 years of imprisonment, which has drawn the author's attention. This ruling stands in contradiction to Article 81 of Law No. 11 of 2012 on the Juvenile Criminal Justice System, which limits the maximum sentence for children to 10 years of imprisonment. This presents an actual problem concerning child legal protection. Based on these issues, this article aims to analyze the legal protection afforded to children who commit the crime of premeditated murder and to critically examine the judicial considerations underlying the imposition of imprisonment sentences that exceed the maximum sentencing limits stipulated under the Juvenile Criminal Justice System Law.

Several prior works have underscored child protection within the framework of juvenile justice. First, a journal article by Diva Amanda Putri, et al. discusses the crime of murder with particular attention to procedural protection for children in conflict with the law, employing a

¹⁰ P. D. Fatiha Anwar Sidiq and Trias Saputra, "Penerapan Sanksi Pidana Terhadap Anak Yang Berkonflik Dengan Hukum Berdasarkan Undang-Undang Sistem Peradilan Pidana Anak," *Jurnal Risalah Kenotariatan* 5, no. 2 (2024): 248–261, <https://doi.org/https://doi.org/10.29303/risalahkenotariatan.v5i2.231>.

¹¹ Anza Ronaza Bangun et al., "Rechterlijk Pardon (Pemaafan Hakim) Dalam Kitab Undang-Undang Hukum Pidana Di Sistem Pemidanaan Indonesia," *Al-Furqan : Jurnal Agama, Sosial Dan Budaya* 2, no. 5 (2023): 369–380.

normative juridical approach.¹² Next, a journal article by Nada Maulidah Fitria, et al. analyzes legal protection for children identified as perpetrators of premeditated murder in media coverage, as well as the criminal liability of the press for publishing the identities of children engaged in legal conflicts.¹³ The third study, titled *Legal Protection for Children in Conflict with the Law in Murder Cases from the Perspective of Restorative Justice in Indonesia* by Ni Kadek Feriska Duitasari and Diah Ratna Sari Hariyanto, focuses on the application of restorative justice in murder cases committed by children.¹⁴ Fourth, a journal article by Uut Rahayuningsih et al. titled *Restorative Justice Approaches in Legal Protection of Children as Perpetrators of Criminal Acts: Balancing Justice and Rehabilitation* analyzes the effectiveness of restorative justice in cases involving children, as well as the challenges encountered in its implementation.¹⁵ Fifth, a study titled *Legal Protection for Children in Conflict with the Law* by Isma Nurillah et al. examines legal protection for children more broadly within the juvenile justice system, including the implementation of diversion for children in conflict with the law.¹⁶

Previous studies have predominantly concentrated on child protection from a normative perspective or on the application of restorative justice within the juvenile criminal justice system. Nevertheless, there remains a limited body of research that specifically examines the doctrinal tension between judicial discretion and statutory sentencing limits in serious juvenile criminal cases, particularly those

¹² Diva Amanda Putri et al., “Perlindungan Hukum Terhadap Anak Sebagai Pelaku Tindak Pidana Pembunuhan Menurut Undang-Undang Nomor 11 Tahun 2012,” *Jurnal Hukum Dan Kewarganegaraan* 11, no. 6 (2025), <https://doi.org/https://doi.org/10.3783/causa.v11i6.12187>.

¹³ Nada Maulidah Fitria, Rio Armand Agustian, and Sintong Arion Hutape, “Perlindungan Hukum Terhadap Identitas Anak Sebagai Pelaku Tindak Pidana Pembunuhan Berencana Pada Pers (Studi Putusan PN Mentok Nomor 2/Pid.Sus-Anak/2023/Pn Mtk),” *Bullet: Jurnal Multidisiplin Ilmu* 3, no. 5 (2024): 775–82.

¹⁴ NKF Duitasari and DRS Hariyanto, Op Cit.

¹⁵ Uut Rahayuningsih, Anna Nur Hikmah, and Siti Nurcahyati, “Pendekatan Restorative Justice Dalam Perlindungan Hukum Anak Sebagai Pelaku Tindak Pidana : Menyeimbangkan Keadilan Dan Pembinaan,” *Amandemen: Jurnal Ilmu Pertahanan, Politik Dan Hukum Indonesia* 2, no. 2 (2025): 79–89.

¹⁶ Isma Nurillah et al., “Perlindungan Hukum Terhadap Anak Yang Berkonflik Dengan Hukum,” *Lex Librum : Jurnal Ilmu Hukum* 10, no. 1 (2023): 15–22.

involving premeditated murder. This article argues that sentencing children beyond the statutory limits not only creates doctrinal inconsistency but also has the potential to obscure the child-protection orientation that forms the foundation of the juvenile criminal justice system. Academically, this research is significant in enriching the discourse on juvenile criminal law concerning the limits of judicial discretion and the consistent application of the principle of legality in the context of child protection. Practically, this study is relevant for assessing the implications of sentencing beyond statutory limits on legal certainty, the protection of children's rights, and the direction of sentencing policy within Indonesia's juvenile criminal justice system.

II. Method

This research applies a normative legal approach, which focuses on examining legal norms and statutory provisions as found in official legal sources such as statutes, regulations, court decisions, and legal literature.¹⁷ The research examines primary legal materials, including statutory regulations and judicial decisions, namely Law No. 1 of 1946 on the Criminal Code (KUHP), Law No. 48 of 2009 on Judicial Power, Law No. 35 of 2014 amending Law No. 23 of 2002 on Child Protection, Law No. 10 of 2012 on the Ratification of the Convention on the Rights of the Child, Law No. 11 of 2012 on the Juvenile Criminal Justice System, and Decision No. 3/Pid.Sus-Anak/2024/PN Pnj. Secondary legal materials consist of legal doctrines derived from books, peer-reviewed journal articles, research reports, and other scholarly writings relevant to juvenile criminal justice and child protection.

This research adopts a statutory approach, a case approach, and a conceptual approach to systematically analyze the relationship between statutory sentencing limits and judicial discretion in juvenile criminal

¹⁷ Iman Jalaludin Rifa'i et al., *Metodologi Penelitian Hukum Pada Tesis, Penambahan Natrium Benzoat Dan Kalium Sorbat (Antiinversi) Dan Kecepatan Pengadukan Sebagai Upaya Penghambatan Reaksi Inversi Pada Nira Tebu*, (Banten: Sada Kurnia Pustaka, 2023).

cases. Legal materials were collected through library research, classified according to their relevance, and analyzed using deductive and prescriptive legal reasoning to assess the consistency between judicial practice and normative legal provisions. To enrich doctrinal analysis, this study also incorporates expert insights obtained from an interview with a juvenile court judge, which are treated as interpretive support rather than empirical data. These insights serve to contextualize judicial reasoning in sentencing practices without altering the normative character of the research.

III. Legal Protection for Children Involved in Premeditated Murder

According to Setiono, legal protection represents measures to prevent authorities from committing arbitrary actions against society, in contradiction to the law, thereby fostering stability and security for the preservation of human dignity. At its core, child protection seeks to guarantee that every child's rights are upheld and not infringed. Such protection functions as a complement to other rights, with the primary objective of guaranteeing that children receive everything they need to exist, grow, and progress. Pursuant to Law No. 35 of 2014 concerning Child Protection and Law No. 11 of 2012 regarding the Juvenile Criminal Justice System, children both as offenders and as victims require special protection.¹⁸ This principle is consistent with the **Convention on the Rights of the Child (CRC)**, which affirms that the rights to survival, protection, development, and participation are fundamental rights that cannot be overridden by the seriousness of the criminal offense committed by a child. Therefore, the analysis of legal protection in this case should not rely solely on national law but must also be understood within the framework of Indonesia's international

¹⁸ Said Sampara and Ahyuni Yunus Tabriah, "Efektivitas Penegakan Hukum Terhadap Anak Sebagai Pelaku Tindak Pidana Yang Berulang," *Journal of Lex Generalis (JLG)* 2, no. 1 (2021): 16–31, <https://doi.org/https://doi.org/10.52103/jlg.v2i1.286>.

obligations.¹⁹ In this study, the crime of premeditated murder was carried out by a minor below 18 years of age. Pursuant to Law No. 11 of 2012 on the Juvenile Justice System, a child in conflict with the law, hereinafter called a child, refers to an individual who is at least 12 (twelve) years old but under 18 (eighteen) years old, and is alleged to have committed a criminal offense. The doctrine of *Lex Specialis Derogat Legi Generali* establishes that particular provisions supersede general ones.²⁰ Special provisions, such as the legal framework for the protection of children, particularly those facing legal conflicts, is provided under Law No. 35 of 2014 on Child Protection, and Law No. 11 of 2012 on the Juvenile Criminal Justice System, that functions as a special law in formal criminal law concerning children. In handling criminal cases involving children, these two laws serve as the foundation. In this discussion, both aspects will be divided into two sub-sections.

A. Forms of Substantive Criminal Law Protection

Article 64 of the Child Protection Law regulates in detail the forms of special protection for children in conflict with the law, including the prohibition on using imprisonment as the primary instrument of law enforcement. The provision that the detention and imprisonment of children may only be imposed as a measure of last resort and for the shortest possible period must be understood as an evaluative norm rather than merely a procedural one. This approach is consistent with the **Beijing Rules**, which emphasize that responses to juvenile offending must always be proportionate, taking into account the child's age, level of maturity, and rehabilitative objectives.

This corresponds to the principles articulated in international child rights conventions and reflected in Indonesia's juvenile justice system, which emphasize non-discrimination, the child's best interests,

¹⁹ T. Saputra, "Penerapan Pidana Penjara Sebagai Upaya Terakhir Bagi Anak," *Jurnal Hukum Visio Justisia* 2 (2022), <https://doi.org/10.19166/vj.v2i1.4888>.

²⁰ Risky Themar *et al.*, *Op Cit.*

survival and development, and respect for children's perspectives.²¹ The imposition of a 20-year prison sentence on a child is clearly inconsistent with Article 64 (g) of Law No. 35 of 2014 on Child Protection, placing children in detention or prison is permitted solely as an ultimate measure and for the shortest duration feasible.

Juveniles involved in criminal offenses or legal conflicts are not automatically exempt from criminal liability for their actions until the court determines their legal status.²² In the examined case of premeditated murder, the imposition of a 20 (twenty)-year term of imprisonment on a child not only contravenes Article 81 paragraph (6) of the Juvenile Criminal Justice System Law, which limits the maximum sentence for children to 10 (ten) years, but also violates the principles of proportionality and rehabilitation as affirmed in the Beijing Rules and the CRC. General Comment No. 24 explicitly states that long-term imprisonment of children has the potential to harm their psychological development and to obstruct the objective of social reintegration, and therefore should be avoided as far as possible.

By applying the theory of legal protection as an analytical framework, it can be concluded that the State's obligation to provide protection in this case has not been fully fulfilled. Although the State has established a comprehensive normative framework, the failure to apply the statutory maximum sentencing limit indicates a violation of legal protection in its substantive sense. Sentencing that exceeds statutory limits reflects a shift in orientation from protection and rehabilitation toward retribution, which is inconsistent with the foundational principles of the juvenile criminal justice system. As noted by Siswosubroto, juvenile justice is designed not only to punish but also to rehabilitate children and prevent them from engaging in future

²¹ Dina Pungkas, Amir Junaidi, and Femmy Silaswaty Faried, "Analisis Yuridis Implementasi Prinsip-Prinsip Hak Anak Dalam Sistem Peradilan Anak Yang Ada Di Indonesia," *Jurnal Bevinding* 1, no. 11 (2024): hlm. 66-73.

²² Lies Sulistiani and Agus Takariawan Fitri J.E. Putri, "Perlindungan Hukum Terhadap Anak Berkonflik Dengan Hukum Dalam Sistem Peradilan Pidana Anak: Studi Pada Lembaga Penyelenggaraan Kesejahteraan Sosial Yayasan Pendidikan Islam I'anutush-Shibyan," *Jurnal Poros Hukum Padjadjaran* 3 (2021): 114-29, <https://doi.org/10.23920/jphp.v3i1.718>.

criminal acts. To safeguard the rights of children, any legal matters involving them must be resolved appropriately.²³

B. Forms of Procedural Criminal Law Protection

The term *Criminal Justice Process* refers to the judicial system, which forms part of procedural law and encompasses the stages from arrest, detention, prosecution, and trial proceedings to the execution of sentences in prison. The Indonesian juvenile justice system is required to consider child protection by safeguarding children's rights, which are clearly stipulated in several legal provisions.²⁴ In this case, although the provisions governing the time limits for the arrest and detention of children were complied with at the investigation and detention stages, formal legal protection ultimately loses its significance when the final judgment violates the statutory maximum sentencing limits. This demonstrates that the procedural safeguards afforded at the early stages of the judicial process were not followed by substantive protection at the sentencing stage.

During the **trial stage**, the purpose of the trial is not to punish the child, but rather to educate and rehabilitate them following the criminal process.²⁵ Therefore, the judge has a duty to safeguard the child throughout the proceedings, from the moment the case is submitted to the court until the judgment is rendered. The juvenile justice process involves several agencies, including the public prosecutor's office, the police, the juvenile court, and probation officers (formerly known as the Child Development and Correctional

²³ Fariaman Laia, "Analisis Hukum Terhadap Tindak Pidana Penganiayaan Yang Dilakukan Oleh Anak," *Jurnal MathEdu (Mathematic Education Journal)* 6 (2023).

²⁴ Neiska Aranafta Nurain and ' Subekti, "Kesesuaian Syarat Diversi Dengan Konsep Keadilan Restoratif Dalam Sistem Peradilan Pidana Anak," *Recidive: Jurnal Hukum Pidana Dan Penanggulangan Kejahatan* 10, no. 2 (2021): 81, <https://doi.org/10.20961/recidive.v10i2.58867>.

²⁵ Adil Kasim, *et al.*, *Peradilan Pidana Anak Yang Berkonflik Dengan Hukum Di Indonesia (Telaah Kritis Terhadap Undang-Undang Sistem Peradilan Pidana Anak)* (Bandung: Mujahid Press, 2022).

Center/BISPA), the Special Development Institution for Children, and legal counsel.

At the trial stage, judges have a central role as guardians of the **best interests of the child**. This principle is affirmed in the **CRC** and reinforced by **General Comment No. 24**, which emphasizes that in rendering a judgment, judges are obliged to ensure that the sanctions imposed are not only legally valid but also aligned with the objectives of the child's rehabilitation and reintegration. The imposition of a 20-year prison sentence in this case demonstrates that considerations of the child's best interests were overridden by other factors, such as moral pressure and public perceptions of justice, which, from a doctrinal perspective, cannot justify violations of statutory provisions. All stages of the trial, from arrest to the issuance and execution of the judgment, must adhere to the stipulations set forth in the Child Criminal Justice System Law. The author observes that the application of Article 81 paragraph (2), which requires that the duration of imprisonment for a child be capped at half of the adult maximum penalty, and paragraph (6), which stipulates that the prison sentence for a child must not exceed ten years if the offense is punishable by death or life imprisonment, is not fully implemented.

At the **execution stage**, as explained by Prof. Sudikno Mertokusumo states that a verdict is essentially a judge's declaration in court, made in their role as an authority tasked with resolving disputes between opposing parties.²⁶ In other words, the decision made by a judge during the trial represents their final step in adjudicating a criminal case and cannot be overturned.

Criminal sanctions or penalties constitute an indispensable element of the sentencing process, which marks the ultimate stage of holding an offender accountable once their criminal liability has been clearly established.²⁷ From the perspective of legal protection theory, as proposed by Philipus M. Hadjon, the state should intervene to prevent violations of rights (preventive protection) and provide protection or

²⁶ *Ibid.*, hlm. 116

²⁷ Kariana and I Made Gede, "Penjatuhan Pidana Nihil Dalam Tindak Pidana Korupsi Dan Pencucian Uang," *Lex LATA*, no. 1 (2024): 141–59, <https://doi.org/10.28946/lexl.v6i2.3193>.

restitution when those rights have been violated (repressive protection). However, in this case, the state appears not to have ensured comprehensive protection fully. Although laws and procedures are in place, the outcome has not entirely safeguarded the child as an offender, whose rights must still be protected when in conflict with the law. Therefore, one can conclude that the child's legal protection in this case has not been completely enforced.

To further assess the extent to which legal protection for children in conflict with the law should be implemented, it is necessary to examine comparative practices in jurisdictions that are internationally recognized for strong child protection frameworks. The author selects Finland as a comparative reference for Indonesia because Finland is ranked among the top five countries recognized for having a strong and consistent child protection system,²⁸ particularly in the field of juvenile criminal justice. The juvenile criminal justice system in Finland demonstrates several notable strengths, particularly through its protection- and rehabilitation-oriented approach. One of its key features is the application of the *doli incapax* principle, which recognizes that children under the age of 15 lack the full capacity to comprehend the legal consequences of their actions. This principle reflects the state's acknowledgment of children's psychological and cognitive development. In addition, Finland's legal framework through the **Child Welfare Act (*Lastensuojelulaki*)** and the **Criminal Code** provides special treatment for children and adolescents, including proportionate and more lenient sentencing regimes for offenders under the age of 18. Such an approach is not solely aimed at ensuring fairness in sentencing but also prioritizes social reintegration and the psychological recovery of the child. Accordingly, the Finnish legal system consistently upholds the principles of restorative justice, emphasizing the restoration of social relationships and the prevention of recidivism. Indonesia can draw important lessons from Finland's child welfare-oriented approach, particularly with regard to the

²⁸ Simon. Wedy, "Which Country Are the Best Protecting Children's Rights?," child in the city, 2020.

emphasis on rehabilitation and social reintegration of juvenile offenders.²⁹

IV. Judicial Considerations in Imposing a Prison Sentence Beyond the Maximum Limit on a Child Perpetrator of Premeditated Murder

The judge's considerations in a ruling are a crucial element for assessing the extent to which the decision aligns with legal theories, norms in positive law, and the principles of justice pursuant to the judge's convictions and intuition.³⁰ Article 1 paragraph (1) of Law No. 48 of 2009 concerning Judicial Power judicial power is characterized as an independent authority of the state tasked with administering justice for the realization of law and justice, in accordance with Pancasila and the 1945 Constitution of the Republic of Indonesia. Based on this mandate, judges execute their responsibilities by referring to the theory of judicial considerations, also known as the *considerans* theory.

According to Rusli Muhammad's theory of judicial considerations, there are two types of judge's considerations: juridical considerations and non-juridical considerations. Juridical considerations are those made by a judge based on the juridical evidence brought forward during proceedings and set forth in the ruling. Examples of juridical considerations include the prosecutor's indictment, the prosecutor's demands, witness testimonies, the defendant's statements, and evidentiary material.³¹ Non-juridical

²⁹ Elshirah Triani Cory et al., "A Comparison of Juvenile Justice Between Indonesia and Finland," *Jurnal Hukum Dan Kewarganegaraan* 11, no. 7 (2025): 3031–0369, <https://doi.org/doi.org/10.3783/causa.v2i9.2461>.

³⁰ Hafiz Tri Ramadhan, "Pertimbangan Hukum Hakim Dalam Menjatuhkan Tindakan Terhadap Anak Pelaku Tindak Pidana Pembunuhan Berencana" (Universitas Sriwijaya, 2025).

³¹ Fauziah Yumna and Bambang Santoso, "Telaah Pertimbangan Hakim Memutus Pidana Penjara Dalam Perkara Persetubuhan (Studi Putusan Nomor 3/Pid.Sus-

considerations, on the other hand, include factors that form the background regarding the defendant's actions, factors that may aggravate the defendant's criminal liability, and the defendant's personal status.³² The rulings handed down by judges should be sincerely guided by the child's best interests. The ruling must also take into account the significant negative effects by children in conflict with the law, such as the psychological and emotional harm caused by imprisonment. Essentially, prison is not an appropriate or suitable environment for a child's growth and development.³³ In this discussion, both aspects will be divided into two sub-sections.

A. Juridical Considerations

As affirmed in the court's decision in Case Number 3/Pid.Sus-Anak/2024/PN Pnj, the Public Prosecutor requested that the Child be declared guilty of offenses committed concurrently (*concursum realis*), namely premeditated murder and theft under aggravating circumstances. These acts were charged cumulatively under Article 340 jo. Article 65 paragraph (1) of the Criminal Code (KUHP), and Article 363 paragraph (1) point 3 jo. Article 65 paragraph (1) KUHP. For these offenses, the Prosecutor requested that the Child be sentenced to ten (10) years of imprisonment, with time already served deducted, and be placed in the Social Welfare Institution (Lembaga Penyelenggaraan Kesejahteraan Sosial/LPKS) for a period of one (1) year to undergo rehabilitation and care.

The judgment in Case Number 3/Pid.Sus-Anak/2024/PN Pnj imposed a twenty (20) year prison sentence on a 17 years old child for

Anak/2023/Pn Wng),” *Verstek* 12, no. 2 (2024): 167–76, <https://doi.org/10.20961/jv.v12i2.82447>.

³² El Firsta, Nopsiamti Ar, and Dessy Rakhmawati, “Dasar Pertimbangan Hakim Dalam Menjatuhkan Pidana Terhadap Pelaku Tindak Pidana Korupsi Yang Dilakukan Bersama-Sama Dikarenakan Dampaknya Yang Luar Biasa , Tidak Hanya Merusak Keuangan Publik Dan Dan Illegal Untuk Mendapatkan Keuntungan Demi Kepentingan P,” *PAMPAS: Journal Of Criminal Law* 4, no. 2 (2023): 189–90, <https://doi.org/https://doi.org/10.22437/pampas.v4i2.27002>.

³³ Suparman Marzuki, *Memotret Pertimbangan Putusan Hakim Dari Berbagai Perspektif* (Sekretariat Jenderal Komisi Yudisial Republik Indonesia, 2024).

acts of premeditated murder and theft with aggravating factors. In the juridical considerations, grounded in the facts established in court, witness and child testimonies, as well as evidence and exhibits submitted in court, the judges assessed that the elements of Article 340 jo. Article 65(1) of the Criminal Code and Article 363(1)(3) jo. Article 65(1) KUHP had been met. The child was proven to have taken the lives of five individuals, including committing sexual assault against a deceased victim, and unlawfully taking the victim's property at night in a closed house without the owner's consent.

Law No. 1 of 2023 on the Criminal Code (the New KUHP) regulates the criminalization of children with an emphasis on the principle of restorative justice.³⁴ Nevertheless, among the purposes of criminal law in sentencing is the provision of a deterrent effect, directed toward the offender personally (specific deterrence) and society in general (general deterrence).³⁵ However, as emphasized by Pellegrino Rossi in *Traité de Droit Pénal*, although retribution forms the basis of punishment, penalties must not exceed the bounds of justness. Punishments should be proportional and uphold the principles of legal protection. While the judgment recounts extensive juridical reasoning, including the child's actions, planning, and social impact, these considerations must be critically evaluated against statutory limits. Article 81(6) of Law No. 11 of 2012 (SPPA) stipulates that the maximum imprisonment for a child, even for offenses punishable by life imprisonment or death, is 10 years. The Panel of Judges' reasoning based solely on the gravity of the offense and deterrence cannot lawfully override this statutory ceiling.

Expert testimony indicates that the child's psychological immaturity and social background should have been considered mitigating factors in sentencing. This underscores that the imposition of a 20-year prison sentence is inconsistent with the principles of legal

³⁴ Julius M. Butarbutar, "Penjatuhan Pidana Maksimal Terhadap Anak Berhadapan Hukum Ditinjau Dari Tujuan Hukum Pemidanaan Indonesia," *JIHHP: Jurnal Ilmu Hukum, Humaniora Dan Politik* 5, no. 1 (2024): 484–94, <https://doi.org/https://doi.org/10.38035/jihhp>.

³⁵ Rahul Kristian Sitompul and Hudy Yusuf, "Efek Jera Narapidana Prisoner Deterrent Effect," *JICN: Jurnal Intelek Dan Cendekiawan Nusantara*, 2024, 1921–32.

protection enshrined in the Juvenile Criminal Justice System Act and the Child Protection Act. This expert opinion serves as an important consideration to ensure that the sentencing of the child continues to reflect justice, as well as the protection of their rights and personal development.³⁶ Paulus Hadisuprpto stated that imposing punishment on children who commit criminal acts may negatively affect their future psychological development. This harm is primarily caused by the effects of criminal sentencing, particularly imprisonment, which creates a negative stigma or label as a criminal on the child.³⁷ Excessive and lengthy sentences can potentially close off opportunities for a child to receive optimal rehabilitation, hinder their reintegration into society, and increase the risk of recidivism.³⁸

B. Non-judicial Considerations

In addition to juridical considerations, the panel of judges also takes into account non-judicial aspects, namely aggravating and mitigating factors. These considerations are important for a comprehensive assessment of the child offender's background, ensuring that the verdict is not solely based on written law but also takes into account the individual circumstances of the child. One non-judicial aspect considered is the sociological factor, which relates to the child's environment and social relationships. When handling cases involving children, judges are required to understand the social background in which the child grows and develops, including family dynamics, peer interactions, and environmental influences that may affect the child's behavior.

³⁶ Fransiskan Novita Eleanora, "Pidana Penjara Dan Hak-Hak Anak," *Yure Humono* 4 (2020): 59.

³⁷ Susrida M and Susi Delmiati, "Pertimbangan Hakim Dalam Penetapan Diversi Terhadap Anak Pelaku Tindak Pidana Pencabulan," *Ekasakti Legal Science Journal* 1, no. 4 (2024): 386–94, <https://doi.org/10.60034/t2f2mp76>.

³⁸ Dewi Wahyu Lestari and Hervina Puspitosari, "Residivis Anak Pelaku Tindak Pidana Dalam Perspektif Kriminologi Hukum (Studi Kasus UPT Perlindungan Sosial Dan Rehabilitasi Sosial Marsudi Putra Surabaya)," *Hukum Dan Masyarakat Madani* 14, no. 2 (2024): 388–402, <https://doi.org/10.26623/humani.v14i2.9296>.

The sociological aspect in this case relates to the child offender's environmental conditions and social relationships, which constitute an important consideration in the juvenile justice process. Under Article 69 paragraph (2) of Law No. 11 of 2012, a child over 14 years of age in this case, 17 years old can be subjected to criminal sanctions. Furthermore, the results of the *Visum et Repertum Psikiatrum*, the child was free from serious mental disorders and exhibited normal cognitive functioning. Thus, the child was considered capable of understanding the legal process they were facing as well as the consequences of their actions. During the trial, the child had even reached 18 years of age, leading the panel of judges to conclude that the child acted consciously and responsibly. Based on these considerations, the panel of judges decided to impose a prison sentence on the child.

As stipulated in Article 60 paragraph (3) of Law No. 11 of 2012 concerning the Child Criminal Justice System, judges are obliged to take the Socio-Legal Research report into account prior to delivering a verdict. In this case, the Probation Officer revealed that the child's background was marked by economic pressure, growing up without sufficient identity and affection, experiencing bullying, and receiving limited emotional attention from the family. The child was described as a reserved individual who internalizes problems, which contributed to their psychological and social condition. Trial testimony also indicated a harsh family environment, including conflicts with the biological mother, who often spoke harshly, treated the child severely, and engaged in physical incidents that caused emotional distress. On the day of the incident, the child's phone was damaged, and attempts to earn money by selling bananas and motorcycle spare parts failed. When a child's needs or desires are unmet due to economic limitations, it can create pressures that may lead to criminal actions, including murder.³⁹ Feelings of frustration led the child to spend time with friends and consume alcohol, which subsequently became a trigger for the criminal act. The author observes that the child's actions cannot be separated from the social conditions that shaped them. Therefore, sociological

³⁹ Fajar Nur Syamsani *et al.*, "Analisis Terhadap Tindak Pidana Pembunuhan Yang Dilakukan Oleh Anak Di Bawah Umur," *Jurnal Kertha Desa* 11, no. 6 (2023): 2637–50.

aspects should serve as a primary consideration in sentencing, so that the criminal process also functions as rehabilitation, but do not authorize, departure from statutory maxima. The Public Prosecutor had proposed one year of placement in the Social Welfare Institution (LPKS) for guidance, but this was rejected by the judge on the grounds that, as provided under Article 69 paragraph (1) of the SPPA Law, sanctions and measures are alternative rather than cumulative, and the child had reached adulthood at the time of sentencing. Consequently, the panel of judges imposed only a prison sentence.

According to the Judge for Children at the Makassar District Court, there are several indicators that a judge must consider when handling criminal cases involving children. These indicators include (a) The nature of the offense committed by the child, whether it is minor, moderate or severe, (b) The age of the child at the time of the offense, which is closely related to their level of cognitive maturity and criminal responsibility, (c) The child's history of recidivism, meaning if the child has previously engaged in the same or other criminal conduct, (d) The results based on the social inquiry report prepared by the Correctional Center (BAPAS), that provides comprehensive information regarding the child's background, psychological condition, and environment as a basis for judicial decision-making.

In poin d, the Child's Legal Counsel, in their defense submission, requested that the Panel of Judges consider that the Child had never been convicted and had no history of recidivism. However, in the reasoning of the verdict, the Panel of Judges did not include this non-recidivist factor as a mitigating circumstance. In practice, a clean legal record is an important indicator in assessing a child's potential for rehabilitation and reintegration. The omission of this factor indicates that the Panel of Judges did not give sufficient weight to personal aspects that could strengthen a rehabilitative approach, as highlighted by the Children's Judge at the Makassar District Court.

In the case of the child described above, the Panel of Judges considered a number of specific factors as grounds for determining the Child's sentence who committed premeditated murder. First, although the perpetrator is still categorized as a child in terms of age, their behavior, thought patterns, and legal awareness demonstrate a level of maturity equivalent to that of an adult. The Child was also aware of the

limitations of juvenile sentencing, as evidenced by the careful planning carried out just before turning 18. Therefore, according to the Panel of Judges, while the Child is still legally a minor, their psychological and behavioral maturity including an understanding of the legal consequences of their actions constitutes an important consideration in issuing the sentence.

Second, the gravity of the consequences of the Child's actions.

The Panel of Judges considered that although the term *gravity of crime* is generally used in the context of extraordinary international crimes, the principle remains relevant to this case. This is due to the extraordinary nature of the acts committed by the Child, which went far beyond the ordinary behavior expected of children of the same age, and therefore warrant assessment using a similar approach. Taken as a whole, the Child's actions meet the criteria of highly serious and severe crimes, notwithstanding the fact that the perpetrator was under 18 years of age. Indeed, the very fact that a child was able to commit crimes with the mindset, intent, and execution akin to an adult demonstrates that the acts went beyond the bounds of reasonableness and can no longer be classified as mere juvenile delinquency.

Third, The Panel of Judges recognized that this decision would serve as both a benchmark and a guideline for society in assessing that a Child although legally still categorized as a minor by age must nevertheless be regarded as having committed a serious crime if proven to have engaged in acts of extraordinary gravity, which are generally not typical of children of the same age. Under the Juvenile Criminal Justice System Law (UU SPPA), there is a provision setting the maximum sentence for children at one-half of the maximum penalty applicable to adults. Furthermore, if the offense is punishable by the death penalty or life imprisonment, the maximum sentence that may be imposed on a Child is 10 (ten) years of imprisonment. The Panel further held that such an approach is essential not only to secure substantive justice in this case but also to serve as a preventive measure (deterrent effect), sending a message to society at large especially to the younger generation that although an offender may still be underage, if they are proven to have committed a grave offense with characteristics and intensity akin to those of adult crimes, such conduct must nonetheless be held fully accountable. Accordingly, the Panel found it necessary to deliver a

ruling that considers not only the textual legal provisions but also the social and psychological impact of the case on the community, while preserving the authority and effectiveness of the juvenile criminal justice system in Indonesia. Punishments that are purely retributive, such as lengthy imprisonment, risk creating social stigma, alienation from the community, and challenges to the child's rehabilitation.⁴⁰

Fourth, the Panel considered that juvenile sentencing should not be purely retributive but must also promote prevention and protection. If the Child were only sentenced to the maximum 10 years, it could provoke public unrest and endanger the perpetrator due to potential vengeance from society and the victims' families. Therefore, to prevent vigilantism and maintain social order, the Panel deemed it appropriate to impose a 20-year prison sentence and adopt a legal breakthrough. Nevertheless, as emphasized by Pellegrino Rossi in *Traité de Droit Pénal*, although retribution forms the basis of punishment, the sentence must not exceed the bounds of justifiable fairness. Punishment must remain proportional and uphold the principles of legal protection.

C. Judicial Ultra Vires, the Principle of Legality, and the Binding Nature of Statutory Sentencing Limits

The imposition of a twenty-year prison sentence on a juvenile offender in Decision Number 3/Pid.Sus-Anak/2024/PN Pnj raises a fundamental issue concerning the limits of judicial authority within Indonesia's juvenile criminal justice system. While judges are constitutionally mandated to uphold justice and exercise independent judgment, such independence is not unlimited. It operates within the framework of positive law and is constrained by mandatory statutory norms, particularly those designed to protect vulnerable groups such as children.

⁴⁰ Rida Ista Sitepu, "Peninjauan Kembali Batas Usia Minimum Pertanggungjawaban Pidana Anak Yang Terlibat Perdagangan Narkotika," *Jurnal Rechten : Riset Hukum Dan Hak Asasi Manusia* 2, no. 3 (2022): 39–58, <https://doi.org/10.52005/rechten.v2i3.90>.

Article 81 paragraph (6) of Law No. 11 of 2012 on the Juvenile Criminal Justice System (SPPA) explicitly stipulates that when a child commits an offense punishable by death or life imprisonment, the maximum sentence that may be imposed is ten years' imprisonment. This provision constitutes a mandatory sentencing ceiling, not a discretionary guideline. As a *lex specialis* governing juvenile offenders, the SPPA Law prevails over the general provisions of the Criminal Code, in accordance with the principle of *lex specialis derogat legi generali*. Consequently, any judicial decision that exceeds this statutory maximum constitutes an ultra vires act, as it goes beyond the authority conferred by the legislature.

From the perspective of the principle of legality (*nulla poena sine lege*), sentencing limits form an integral part of criminal liability. The legality principle does not merely require that punishment be based on law, but also that it be imposed strictly within the boundaries prescribed by law. Judicial discretion may operate within the range provided by statute, but it cannot lawfully negate or override an explicit legislative command. Allowing judges to impose sentences beyond statutory maxima would undermine legal certainty and erode the separation of powers by enabling the judiciary to effectively amend legislative policy through adjudication.

In the present case, the Panel of Judges justified the imposition of a sentence exceeding the statutory limit by invoking considerations of substantive justice, public order, deterrence, and the extraordinary gravity of the offense. However, such moral, sociological, or policy-based considerations cannot legally displace mandatory provisions of juvenile criminal law. The pursuit of substantive justice must remain anchored in positive law, particularly in the context of juvenile justice, where statutory limits reflect deliberate legislative choices aimed at prioritizing rehabilitation, proportionality, and the best interests of the child.

Moreover, reliance on deterrence and societal expectations as grounds for exceeding statutory limits is incompatible with both national and international juvenile justice standards. International instruments, including the Convention on the Rights of the Child and the Beijing Rules, emphasize that deprivation of liberty for children must be used as a measure of last resort and for the shortest appropriate

period of time. A judicial approach that extends punishment beyond legislatively defined limits risks transforming juvenile sentencing into a mechanism of symbolic retribution, rather than protection and rehabilitation. Accordingly, the twenty-year sentence imposed in this case cannot be justified as a legitimate exercise of judicial discretion. Instead, it represents a judicial *ultra vires* action that contravenes the principle of legality, disregards the binding nature of *lex specialis* juvenile legislation, and weakens the normative foundations of child protection within the Indonesian criminal justice system. Upholding statutory sentencing ceilings is not a matter of leniency toward juvenile offenders, but a necessary safeguard to ensure that the administration of justice remains governed by law rather than by moral outrage or public pressure.

V. Conclusion

This study concludes that the imposition of sentences exceeding the statutory maximum under the Juvenile Criminal Justice System Law (Law Number 11 of 2012) constitutes a violation of the principle of legality and undermines the child protection mandates embedded in both national and international legal frameworks. Although considerations of substantive justice, deterrence, and public safety may inform judicial reasoning, such considerations cannot serve as a legitimate basis for disregarding legislatively prescribed sentencing limits.

Accordingly, this study proposes several normative measures to strengthen the coherence and consistency of juvenile sentencing practices. These include: (1) the development of specialized sentencing guidelines for juvenile judges to ensure conformity with statutory limits and child protection principles; (2) the enhancement of judicial training programs focusing on juvenile justice and sentencing theory; and (3) legislative revision aimed at reducing interpretative ambiguities concerning the scope of judicial discretion in juvenile cases. The implementation of these measures is expected to reinforce the juvenile justice system's adherence to the principles of child protection, legality, and substantive justice.

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Publishing Ethical and Originality Statement

The author(s) affirm that the present study is an entirely original undertaking. It has not appeared in print, online, or in any other medium, nor is it currently submitted to any journal for review. Every source noted in the reference list conforms to accepted protocols of academic citation.