

THE PARADOX OF CHILD SENTENCING IN MURDER CASES: CRITIQUING THE 'BEST INTERESTS OF THE CHILD' PRINCIPLE IN INDONESIAN COURTS.

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Received : 01 February 2026

Accepted : 20 March 2026

Revised : 15 February 2026

Published : 31 March 2026

Abstract

Criminal offenses are no longer committed only by adults, but also by children, along with the development of technology and social dynamics. Indonesia, through Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, provides protection for children in conflict with the law. However, in practice there are still court decisions considered not to have fully applied the principle of the best interests of the child, such as the decision of the Penajam District Court imposing a 20-year sentence and the Lamongan District Court imposing an 11-year sentence. This research is a normative juridical study using a statutory and conceptual approach through library research. The results show that: (1) judges' considerations are based on both juridical and non-juridical aspects; (2) the application of the best interests of the child principle has not been consistent and has not been fully oriented toward social reintegration; (3) sentencing that is not in accordance with the provisions of the Juvenile Criminal Justice System Law has the potential to damage the child's future and hinder the fulfillment of the child's rights, in line with Arif Gosita's concept of child protection. By examining these two decisions, it becomes important to emphasize that it is recommended to optimize restorative justice, improve the quality of guidance and rehabilitation in Juvenile Development Institutions and Correctional Centers, and strengthen inter-agency collaboration, including the active involvement of child psychologists in court proceedings.

Keywords: *best interests of the child, criminalization, verdict, child protection*

INTRODUCTION

Nowadays, criminal offenses are not only committed by adults; they are also often committed by underage children due to the increasingly easy access to information. This can be seen from the fact that, based on data from the Central Statistics Agency (Badan Pusat Statistik) in 2022, the population aged 0 to 19 years in Indonesia reached approximately 88,360,395 people, or about 38% of the total population (BPS, 2022). With today's ease of access, this large child population has the potential to become involved in criminal acts. Indonesia itself has established a legal framework for handling juvenile crimes through Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (UU SPPA), which emphasizes the principle of the best interests of the child.

In international legal principles, the best interests of the child constitute an essential matter, as reflected in the Indonesian government's initiative to adopt the best interests of the child as a fundamental principle in the formulation of UU SPPA. This can be seen in the preamble of the regulation, letter (c), which states that Indonesia, as a State Party to the Convention on the Rights of the Child that regulates the principle of legal protection for children, has an obligation to provide special protection for children in conflict with the law. Through this international legal instrument, it can be said that Indonesia has taken steps as a form of protection for children who come into contact with the law. This is also reflected in the differences in treatment between adults and children in conflict with the law. Such differences can be seen in the way sentencing is applied, as well as in the procedures for investigating, prosecuting, and adjudicating children in conflict with the law.

In addition, the rigid stipulation regarding the types of criminal sanctions that may be imposed on children in conflict with the law under UU SPPA, which serves as the formal law or procedural law governing juvenile criminal cases, emphasizes the State's obligation to provide protection rights to children in conflict with the law, even though the child has committed a criminal offense. The Juvenile Criminal Justice System, commonly referred to as SPPA, as regulated under Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, represents a measure taken by the government to provide protection for children in conflict with the law. Based on the

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considerations set forth in the legislation, it can be stated that the purpose of this law is to safeguard the dignity and worth of children, particularly through the provision of special protection within the justice system, as explicitly stated in the law's preamble. In addition to these idealistic objectives, the law also serves a formal purpose as part of the responsibility of the Republic of Indonesia as a member of the international community that upholds human rights, especially children's rights. Furthermore, Indonesia is one of the countries that has endorsed the Convention on the Rights of the Child; therefore, Indonesia has ratified the outcomes of the Convention into its national legislation.

In this regulation, in order to resolve cases involving children in conflict with the law, a new settlement mechanism is introduced, namely diversion. Diversion is a form of settlement by transferring cases involving children in conflict with the law from the judicial process to an alternative process outside the court system, by involving relevant elements of the community and applying a rehabilitative and guidance-oriented approach (Asriyani et al., 2023). This definition is consistent with the concept of diversion contained in UU SPPA as a measure aimed at ensuring the best interests of the child. According to Jack E. Bynum in his book *Delinquency: A Sociological Approach*, diversion is a form of redirection by placing the offender outside the criminal justice system. Meanwhile, in *Black's Law Dictionary*, diversion is defined as "a turning aside or altering the natural course or route of a thing. The term is chiefly applied to an unauthorized change or alteration of the watercourse to the prejudice of a lower riparian, or the unauthorized use of funds (Joko Sriwidodo, 2020). UU SPPA, as a measure to protect children in conflict with the law, also establishes a sentencing system that differs from that applied to adult offenders. This difference lies in the placement of imprisonment as the last resort that may be imposed on children in conflict with the law. This reflects the application of imprisonment as an *ultimum remedium*. Such an approach positions imprisonment as the final option when there is no other alternative in imposing a sentence on the child, and it is primarily intended to serve a rehabilitative and educational purpose.

The principle of the best interests of the child is a fundamental principle underlying UU SPPA, emphasizing that a child's interests must be protected. This is reflected in the considerations of the UU SPPA, which state that children are a trust and a gift from Almighty God and possess dignity and worth as whole human beings. The best interests of the child should be understood as the best interests for the survival and continuity of humankind. Children constitute human resources with the potential to ensure the sustainability of a nation, play a strategic role, and possess unique characteristics. Therefore, behavioral guidance is necessary, as well as protection as a guarantee to support the balanced development of the child's psychological and physical condition (Mufatikhatul et. al., 2023). However, in certain cases, children who still require guidance from the people around them may nonetheless commit serious criminal acts. For instance, the crime of murder can also be committed by children, which may occur due to environmental influences or other contributing factors. Therefore, judges must possess special skills in handling cases involving children as perpetrators of criminal offenses.

In practice, the ideal implementation of UU SPPA sometimes encounters obstacles, resulting in its provisions not being fully applied as intended. This situation is not entirely the fault of law enforcement officials, but is also influenced by the fact that the criminal acts committed by children in conflict with the law often involve serious or grave offenses. In the first case that occurred at the Penajam District Court with Number: X/Pid.Sus-Anak/2024/PN. The incident began on Monday, February 5, 2024 at around 5:00 PM WITA, when the perpetrator's child left the house to repair a cell phone and then met two child witnesses. The perpetrator's child invited them to consume alcoholic drinks that they had bought together and drank until almost 11:00 PM WITA. On the way home, the perpetrator's child had invited one of the witnesses to enter the victim's house with the intention of raping her, but the invitation was rejected. After parting with the witness, the perpetrator's child returned home and had the intention to rape Child Victim I and kill anyone who got in his way. The perpetrator's child then took a machete and a flashlight, then on Tuesday, February 6, 2024 at around 00:05 WITA went to the victim's house. After ensuring the condition of the house, the perpetrator's child turned off the electricity and hid.

At around 00.30 WITA, when the victim Waluyo entered the house, the perpetrator's son attacked the victim to death, then attacked the victim Sri Winarsih and three other victim children, which resulted in several victims dying and one victim experiencing a dying condition before finally being killed. After committing the murder, the perpetrator's son had sexual intercourse with the victim Sri Winarsih and Victim I's child, then took money and several cell phones belonging to the victims, damaged them, and threw them away. The perpetrator's son then returned home to clean himself and the evidence, then made up a false story about the robbery to his brother and the Neighborhood Unit (RT) head, until finally the incident was reported to the police. Based on the examination, the Panel of Judges in this case sentenced the perpetrator's son to 20 (twenty) years in prison.

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In the second case, it occurred in the Lamongan District Court with the number 1/Pid.Sus-Anak/2025/PN Lmg. The chronology of events in this case is that initially the perpetrator's child intended to have sexual intercourse with the victim's child because the perpetrator's child had long liked the victim's child. That to realize this intention, the perpetrator's child contacted the victim's child and heard the child's seduction, finally the victim's child agreed. Then the child took the victim's child for a ride and took him to an empty building that used to be a coffee shop located in front of the housing complex. After arriving at the room, the child invited the victim's child to sit on the table and then the child invited the victim's child to have sexual intercourse. Hearing the answer of rejection from the victim's child, the child became emotional and with clenched fists hit the victim's head repeatedly in the eyes until the victim fell backwards on the table. Then the child pushed the victim's body with both hands until the victim's body fell to the floor. Then the child took a pair of black Levi's pants hanging on the wall of the shop and then covered the victim's mouth and nose until he was helpless. Then the child took the victim's purple headscarf and tied the victim's neck with the purple headscarf with a dead knot with the jeans still covering the victim's mouth and nose until the victim was weak and could not breathe. Then with clenched fists the child hit the victim's stomach repeatedly then woke the victim's body which was already limp by sitting facing the wall then holding the back of the victim's head then hitting the victim's head hard against the wall. Knowing that the victim's child was lying on the floor and had died, the perpetrator's child had sex with the victim's child. The Lamongan District Court judge who examined and decided the case sentenced the child in conflict with the law, Ahmad Irfan Bin Sutaji, to 11 (eleven) years in prison at the Blitar Special Children's Development Institution and 12 (twelve) months in Job Training at the Job Training Center (BLK) of the Lamongan Regency Social Services.

In both decisions, the courts-imposed sentences exceeding the limits prescribed under UU SPPA. This can be seen by comparing the rulings, as presented in the following table:

X/Pid.Sus-Anak/2024/PN Pnj	1/Pid.Sus-Anak/2025/PN Lmg
Declares that the Child mentioned above has been lawfully and convincingly proven guilty of committing the criminal offense of “ <i>concurrency of acts of premeditated murder and theft under aggravating circumstances,</i> ” as charged in the cumulative indictment of the Public Prosecutor;	Declares that the Child in Conflict with the Law has been lawfully and convincingly proven guilty of committing the criminal offense of “ <i>committing violence against a child resulting in death and theft,</i> ” as charged in the indictment of the Public Prosecutor;
Imposes a sentence on the Child, therefore, of imprisonment for 20 (twenty) years;	Imposes a sentence on the Child, therefore, of imprisonment for 11 (eleven) years at the Special Juvenile Development Institution (LPKA) Blitar, and job training at the Vocational Training Center (BLK) of the Social Service Office of Lamongan Regency for 12 (twelve) months;
Determines that the period of arrest and detention already served by the Child shall be fully deducted from the sentence imposed;	Determines that the period of arrest and detention already served by the Child shall be fully deducted from the sentence imposed;
Orders that the Child remain in detention;	Orders that the Child remain in detention;
Determines the evidence in the form of: <ol style="list-style-type: none"> 1. 1 (one) black wallet; 2. 1 (one) white bra that has turned red; 3. 1 (one) white undershirt that has turned red; 4. 1 (one) white underwear; 5. 1 (one) green pair of shorts; 6. 1 (one) green shirt; 7. 1 (one) cream-colored underwear; 8. 1 (one) black pair of long pants; 9. 1 (one) blue underwear; 10. 1 (one) black pair of shorts; 11. 1 (one) red short-sleeved T-shirt; 12. 1 (one) brown pair of shorts; 13. 1 (one) maroon bra; 14. 1 (one) black patterned house dress; 	Declares the evidence in the form of: <ol style="list-style-type: none"> 1. 1 (one) Suzuki Shogun motorcycle, silver in color; 2. 1 (one) Samsung A10 mobile phone, light blue in color; to be returned to Achmad Irfan Bin Sutaji Bin Sutaji; 3. 1 (one) long-sleeved checkered shirt with a combination of black, blue, and white colors; 4. 1 (one) pair of black long jeans; 5. 1 (one) pair of black-and-red slip-on sandals with the NIKE logo; 6. 1 (one) purple headscarf; to be confiscated for destruction;

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<p>15. 1 (one) green bedsheet with a floral pattern; 16. 1 (one) blue bedsheet with a Doraemon cartoon pattern; 17. 1 (one) white undershirt that has turned red; 18. 1 (one) green pair of shorts; 19. 1 (one) Samsung A03 mobile phone, black; 20. 1 (one) Samsung Y12 mobile phone, red; 21. Cash in the amount of Rp353,000.00 (three hundred fifty-three thousand rupiah); All of which shall be returned to the rightful parties, namely the victims' families, through Witness Mujiono Bin Warsito; 22. 1 (one) machete made of iron with a serrated pattern on the upper part, approximately 53 (fifty-three) centimeters long, without a handle; 23. 1 (one) mosquito-racket flashlight, white; 24. 1 (one) black-green jacket with a camouflage pattern; 25. 1 (one) black pair of shorts; All of which shall be confiscated for destruction;</p>	<p>7. 1 (one) Redmi 13C mobile phone, black in color, belonging to Ms. Vipi Puji Rahayu; to be returned to Witness Trimo;</p>
<p>Orders the Child to pay court costs in the amount of Rp5,000.00 (five thousand rupiah);</p>	<p>Orders the Child to pay court costs in the amount of Rp5,000.00 (five thousand rupiah);</p>

RESEARCH METHOD

The research conducted is a type of normative legal research. Normative legal research is legal research that places law as a system of norms, and the system of norms referred to includes principles, legal norms, rules derived from legislation, court decisions, agreements, and legal doctrines (I Ketut Arjuna, 2019). In legal research, a legal researcher may carry out activities to uncover “legal truth” in a planned, methodological, systematic, and consistent manner, or incidentally, for example by relying on circumstances or a trial-and-error method in conducting such activities (Bambang Sunggono, 1996).

RESULTS AND DISCUSSION

Juridical Considerations in Case No. X/Pid.Sus-Anak/2024/PN Pnj

In the case before the Penajam District Court, the juvenile offender was charged under an indictment combining subsidiary, alternative, and cumulative forms, namely Article 340 of the Indonesian Criminal Code (KUHP) in conjunction with Article 65 paragraph (1) KUHP, subsidiarily Article 339 KUHP, further subsidiarily Article 338 KUHP in conjunction with Article 65 paragraph (1) KUHP, or Article 80 paragraph (3) in conjunction with Article 76C of Law of the Republic of Indonesia Number 17 of 2016 concerning the Stipulation of Government Regulation in Lieu of Law Number 1 of 2016 regarding the Second Amendment to Law Number 23 of 2002 on Child Protection into Law Number 35 of 2014 on Amendments to Law Number 23 of 2002 on Child Protection, in conjunction with Article 65 paragraph (1) KUHP, and Article 363 paragraph (1) point 3 KUHP in conjunction with Article 65 paragraph (1) KUHP. In its considerations, the panel of judges examined the essential elements that had to be proven, bearing in mind the principle that evidentiary assessment in criminal cases is based on **material truth**. The panel concluded that the juvenile offender had lawfully and convincingly fulfilled the essential elements contained in **Article 340 KUHP**, namely *intentionally and with prior planning taking the life of another person*.

The panel further stated that **intent (dolus)** constitutes a form of fault, namely the existence of a relationship between the juvenile’s inner attitude and the act committed. The judges elaborated that intent is characterized by *willen en weten* (knowing and willing).

According to the theory of intent (*kesengajaan*), intent is divided into three types: **intent as purpose** (*opzet als oogmerk*), **intent with awareness of certainty/necessity** (*opzet met bewustheid van zekerheid of noodzakelijkheid*), and **intent with awareness of possibility** (*opzet met bewustheid van mogelijkheid*) (Andi Hamzah, 2017). Intent as purpose is the simplest form of intent, in which the perpetrator realizes the act being committed and also realizes the consequences resulting from such act. Essentially, this form of intent is the easiest to prove. Based on the facts revealed during the trial, the child deliberately prepared the tools used to carry out the

act, which was triggered by personal resentment. Therefore, it can be concluded that the child was fully aware of his actions, and the panel of judges was of the opinion that the sub-element of “*intentionally*” had been fulfilled. Furthermore, the panel of judges considered the sub-element of “*with prior planning*” (*voorbedachte raad*) by reasoning that the term “*with prior planning*” is not explicitly defined in the legislation, thus it is reasonable that various doctrinal opinions have emerged to explain its actual meaning. The judges stated that prior planning can only be said to exist if, in committing a criminal act, the perpetrator has formed the decision after calm consideration, including considering the possible circumstances and consequences of the act. Between the time the perpetrator forms the plan and the time of its execution, there must be a certain time interval. If the perpetrator immediately carries out what he intends to do, it would be difficult to conclude that there was prior planning.

The judges further stated that the meaning of *voorbedachte raad* in Article 340 of the Criminal Code has three characteristics: **first**, the perpetrator forms the intent in a calm state; **second**, there is a sufficient period of time between the decision and its execution; and **third**, the execution is carried out in a calm state. This means that the perpetrator has carefully and systematically thought through the plan to carry out his intention. Furthermore, the panel of judges considered the sub-element of “*taking the life of another person*” by reasoning that taking another person’s life is equivalent to causing the loss of another person’s life so that the person subsequently dies.

In this regard, the author argues that declaring the loss of another person’s life is not within the competence of a judge. Normatively, a judge only examines, adjudicates, and decides cases assigned to them based on the designation of the Head of the District Court. The examination conducted by the panel of judges is limited to matters that are normatively stipulated in the legislation. Meanwhile, determining the loss of a person’s life due to fatal physical damage or the failure of vital organs requires reference to expert opinion. In practice, court proceedings often rely on expert testimony in the field of forensic science, particularly from medical doctors, to determine the cause and origin of injuries found on the victim’s body. This is necessary in order to ensure that the death of the person was indeed the result of physical actions inflicted upon the victim.

In the facts of this case, the *visum et repertum* was prepared by a doctor who is an expert in the relevant field. Referring to Article 186 of the Criminal Procedure Code (KUHAP), expert testimony is defined as what an expert states in court. However, this does not exclude the possibility of an expert providing testimony in the form of a written statement, which may then be regarded as documentary evidence under Article 187 letter (c) KUHAP, namely a written statement from an expert containing an opinion based on their expertise regarding a matter or condition that has been officially requested. In this case, according to the author, it was appropriate for the panel of judges to rely on the expert opinion contained in the *visum et repertum*.

Non-Juridical Considerations in Case No. X/Pid.Sus-Anak/2024/PN Pnj

One of the non-juridical considerations taken into account was the age of the juvenile offender. This is as described by the panel of judges in the decision, based on the fact that according to the Birth Certificate Extract Number 0XXXX/2008 in the name of the Child, the Child was born on 27 February 2006, issued by the Mayor of Balikpapan on 7 November 2008, and the Population Data Verification and Validation Letter Number 470/333/Disdukcapil-PIAK dated 10 February 2024, issued by the Department of Population and Civil Registration of Penajam Paser Utara Regency (documents attached in the Police Investigation Report). Therefore, at the time of committing the criminal offense, the Child was still under 18 (eighteen) years old. Referring to Article 1 point 3 of UU SPPA, a child in conflict with the law is defined as a child who is 12 (twelve) years old but not yet 18 (eighteen) years old, who is suspected of committing a criminal offense (Arist Merdeka Sirait, 2024).

Referring to these facts, it can be stated that the juvenile offender qualifies as a “child” under UU SPPA. In its considerations, the panel of judges stated that at the time the act was committed, the Child was 17 years, 11 months, and 1 week old, meaning that the act was committed three weeks before the Child turned 18 (eighteen) years old. The incident occurred on 6 February 2024, and the Child would reach the age of 18 on 27 February 2024 (while at the time of the first hearing, the Child had already turned 18 years old). In addition, based on the Child’s own statement, the Child acknowledged that before committing the act, he was aware that criminal offenses punishable by death or life imprisonment, when committed by a child who has not yet reached the age of 18, cannot result in the imposition of the death penalty or life imprisonment upon the Child. Based on these considerations, it can be concluded that at the time the Child committed the criminal act, he was still 17 years old. Therefore, the examination of this juvenile case under UU SPPA was appropriate. Referring to the principle of the best interests of the child as contained in Article 3 of the 1989 Convention on the Rights of the Child, all actions and decisions concerning a child must be carried out based on the child’s best interests.

Juridical Considerations in Case Number 1/Pid.Sus-Anak/2025/PN Lmg

In the decision of the Lamongan District Court, the child was charged under a combined indictment, namely Article 80 paragraph (3) of Law Number 35 of 2014 concerning the Amendment to Law of the Republic of Indonesia Number 23 of 2002 on Child Protection, or Article 340 of the Criminal Code (KUHP) subsidiarily Article 338 KUHP, and Article 365 paragraph (3) KUHP or Article 362 KUHP. Based on the facts revealed during the trial, the judge considered the elements contained in Article 80 paragraph (3) of Law Number 35 of 2014 concerning the Amendment to Law Number 23 of 2002 on Child Protection. In this case, the matter was examined by a single judge, as stipulated in Article 44 paragraph (1) of UU SPPA, which provides that juvenile cases at the first instance level are examined and decided by a single judge. This is in accordance with the applicable laws and regulations.

Furthermore, in the considerations, the judge was of the opinion that the juvenile offender had fulfilled the elements of the offense as charged under Article 80 paragraph (3) of Law Number 35 of 2014, the elements of which are: *any person who places, allows, commits, orders to commit, or participates in committing violence against a child resulting in death.*

Based on the *visum et repertum*, the judge concluded that the cause of death was the result of the actions committed by the juvenile offender. This is consistent with the theory of intent with awareness of certainty, where initially the juvenile offender did not intend to kill the child victim. However, due to the rejection by the child victim, the juvenile offender became emotional and committed brutal violence against the child victim, resulting in the victim's death.

Non-Juridical Considerations in Case Number 1/Pid.Sus-Anak/2025/PN Lmg

In the context of juvenile criminal law, what must be emphasized is the principle of the best interests of the child, which also includes both the child offender and the child victim. As stated in Article 40, every child accused of violating the law must be treated in a manner that respects his or her rights. Therefore, the imposition of a sentence exceeding the prescribed limit may raise concerns that it could undermine what is mandated by the Convention on the Rights of the Child. It should be noted that, fundamentally, a child is often a victim of his or her environment, as the author has previously explained through Travis Hirschi's Social Bond Theory, which highlights the significant role of the environment in shaping a child's development. According to Travis Hirschi, there are four main elements of social control: attachment, commitment, involvement, and belief.

First, attachment refers to positive relationships between individuals and those around them, such as family, friends, and the community. According to Watson (in Tricia, 2023), second, commitment includes the individual's investment in achieving goals and upholding positive values. Third, involvement refers to the extent to which an individual participates in positive activities such as sports, arts, or social activities. Fourth, belief refers to the adoption of positive social values and norms (Suyud Puguh Sunoto, 2023). Under this theory, family and surrounding environmental factors strongly influence the child's outlook and behavior.

Looking back at the facts as contained in documentary evidence, namely the Birth Certificate Extract Number 3524-LT12022015-0052 dated 12 February 2015, issued by the Department of Population and Civil Registration of Lamongan Regency, the child was born to parents Sutaji and Umi Lailiyah. The child was 16 years old, having been born on 10 June 2008. Consequently, the child will serve his sentence at LPKA Blitar until reaching the age of 18 (eighteen) years, and if the sentence has not been completed upon reaching 18 years of age, the child will be transferred to a juvenile correctional facility. If the child reaches the age of 21 (twenty-one) years but has not completed the sentence, the child will be transferred to an adult correctional facility, while ensuring continuity in the child's rehabilitation program. In the event that no juvenile correctional facility exists, the Head of the LPKA may transfer the child, as referred to in Article 86 paragraphs (1) and (2), to an adult correctional facility based on a recommendation from a Community Counselor.

According to the author, special consideration is required in relation to sentencing imposed on children, particularly because this case can be categorized as a highly brutal crime committed by a child. Therefore, it requires specific and careful judicial reasoning to justify the sentence imposed on the child offender. In sentencing, Karl O. Christiansen's relative theory of punishment emphasizes the element of utility. Based on this theory, punishment is no longer merely concerned with the crime that is sanctioned, but rather with whether the punishment provides benefits for the child offender as well as for society in general. This is in line with the paradigm introduced in Law Number 1 of 2023 concerning the Criminal Code (KUHP), which indicates that the retributive paradigm has been abandoned and replaced by a corrective, restorative, and rehabilitative approach (Eddy Hiariej & Topo Santoso, 2025).

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This paradigm shift is not without reason, because if judges tend to impose imprisonment on children—who essentially still require guidance—it may have negative consequences for the child's future as well as for society at large. It is widely known that within prisons there are individuals who have committed various types of crimes, which may become a serious risk for the future of the nation. Although juvenile and adult prisons are separated, it does not eliminate the possibility that imprisonment may become a means for children to learn new forms of criminal behavior. As a result, once they complete their sentence, the label of being a “graduate of crime” may attach to the child.

When comparing these judicial decisions with Arif Gosita's theory of child protection, which states that child protection is an effort to safeguard children so that they can carry out their rights and obligations, the imposition of an 11 (eleven) year sentence on the juvenile offender is, in the author's view, inappropriate. Sentencing that does not conform to the provisions of UU SPPA may lead to violations of children's rights and may also prevent the child from fulfilling his obligations. Furthermore, excessive sentencing may potentially give rise to new criminals. By examining both decisions, which essentially involve juvenile offenders, it can be concluded that there are still court rulings that have not fully prioritized the best interests of the child as mandated under UU SPPA.

CONCLUSION

Based on the analysis of the two court decisions examined in this research, it can be concluded that the basis of judges' considerations in determining the type of punishment imposed on juvenile offenders in murder cases is grounded in a combination of juridical and non-juridical considerations. Juridical considerations include the application of provisions under the Criminal Code (KUHP) and UU SPPA, including the obligation to reduce the criminal penalty for children in accordance with Article 81 of UU SPPA. Meanwhile, non-juridical considerations encompass psychological conditions, level of maturity, motives, social environment, and the child's potential for rehabilitation. The differences in the types of punishment imposed in each decision demonstrate the application of the principle of individualization of punishment, whereby judges adjust sanctions according to the character and personal circumstances of each child. Thus, variations in sentencing do not necessarily reflect inconsistency, but rather represent the judges' efforts to balance the function of protecting society with the need to rehabilitate juvenile offenders within the framework of the juvenile criminal justice system.

The application of the principle of the best interests of the child in court decisions concerning juvenile offenders in murder cases has, in essence, been pursued, but its implementation has not been fully and consistently realized. Judges have indeed considered factors such as age, psychological condition, and the possibility of rehabilitation, and have imposed lighter sentences than the maximum limits stipulated under UU SPPA. However, the application of this principle tends to be formalistic and has not entirely reflected substantive protection for the child's development, such as the need for psychosocial recovery, social reintegration, and a long-term rehabilitation plan. Differences in judges' interpretation of this principle indicate the absence of uniform sentencing standards in juvenile cases. Therefore, although the principle of the best interests of the child has been accommodated in court decisions, its implementation still requires strengthening through more measurable sentencing guidelines so that it can truly serve as both a philosophical and operational foundation in every juvenile case ruling.

In judicial decisions, disparities in sentencing will inevitably continue to exist, considering that judges possess independence in adjudicating cases. Moreover, Indonesia's legal system is not a common law system that prioritizes previous judicial decisions as binding precedents. In these decisions, judges appear to adopt a more subjective perspective toward children who commit the crime of premeditated murder. Such subjectivity is certainly influenced by the facts revealed during trial, which may cause judicial decisions to be affected by the personal views of the judge. However, this issue must be reconsidered, as judges are regarded as representatives of God on earth who are specifically granted authority by the state to deliver justice to society through their rulings. Therefore, such subjectivity must be minimized as much as possible so that the objectives of law can truly be achieved.

The contemporary perspective on criminal law has also undergone significant changes, in which the retributive approach is no longer considered relevant to modern developments. In Law Number 1 of 2023 concerning the Criminal Code, hereinafter referred to as the 2023 KUHP, it can be observed that the paradigm of punishment has shifted. This serves as the philosophical foundation of the 2023 KUHP, which adopts a modern paradigm emphasizing restorative, corrective, and rehabilitative justice (Eddy Hiariej & Topo Santoso, 2025). Furthermore, environmental factors play a crucial role in shaping a child's development. Children may be likened to sponges that absorb all information they encounter. Modern developments have broadened the scope of a child's environment, not only limited to the surroundings of the home but also extending to the wider environment through technological advancement. Diverse digital content can become a gateway for children to imitate inappropriate behavior or

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normalize negative actions, whether pornographic or violent. Therefore, it is necessary to monitor both the child's environment and the content consumed by children. In this conclusion, the author argues that sentencing which is inconsistent with the legal provisions for children in the decisions of the Penajam District Court and the Lamongan District Court constitutes a form of criminalization against children. Referring to social control theory, the four factors that shape a child's way of thinking become highly important, because children who are not yet mentally mature are essentially victims of their environment. Therefore, through this research, the author argues that judges should examine the child's circumstances comprehensively, including the underlying causes that led the child to commit such violent acts. Imposing sentences beyond the prescribed threshold may be viewed as judicial neglect of the best interests of the child. Children must be given the best protection possible, as they can be considered vital assets for the sustainability of a nation.

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