

# THE PROBLEM OF MAXIMUM IMPRISONMENT TERMS FOR JUVENILES UNDER THE JUVENILE CRIMINAL JUSTICE SYSTEM ACT: A CASE ANALYSIS OF CONCURRENCE OF OFFENSES

Bodro Aji Negoro<sup>1\*</sup>, Setiawan Noerdajasakti<sup>2</sup>, Abdul Madjid<sup>3</sup>

Universitas Brawijaya

Universitas Brawijaya

Universitas Brawijaya

E-mail: [bodroajin@gmail.com](mailto:bodroajin@gmail.com)<sup>1\*</sup>, [setiawan.sakti@ub.ac.id](mailto:setiawan.sakti@ub.ac.id)<sup>2</sup>, [majid@ub.ac.id](mailto:majid@ub.ac.id)<sup>3</sup>

Received : 01 September 2025

Published : 18 October 2025

Revised : 15 September 2025

DOI : <https://doi.org/10.54443/ijerlas.v5i6.4183>

Accepted : 10 October 2025

Link Publish : <https://radjapublika.com/index.php/IJERLAS>

## Abstract

The maximum imprisonment term of ten years for juveniles under Law Number 11 of 2012 on the Juvenile Criminal Justice System (UU SPPA) presents a serious dilemma when applied to cases with aggravating circumstances, such as recidivism or concurrence of offenses. Judicial practice has shown deviations from this provision, one of which is reflected in the Penajam District Court Decision Number X/Pid.Sus-Anak/2024/PN Pnj, which sentenced a juvenile offender to twenty years of imprisonment for premeditated murder and aggravated theft, where trial findings also revealed postmortem sexual assault on the victim's body. This decision sparked normative debates on whether the judge had exceeded the statutory maximum penalty for juveniles as stipulated by law, or instead fulfilled the demand for substantive justice. The complexity of this issue becomes more pronounced in the context of globalization, where today's juveniles experience accelerated cognitive and emotional maturity due to extensive exposure to technology and global interaction—conditions that differ significantly from those in 1989, when the Convention on the Rights of the Child set the maximum age limit for juveniles at eighteen years. Employing a normative-juridical method through statutory and case study approaches, this research analyzes the normative conflict between the UU SPPA and judicial practice, and identifies a legal vacuum that requires legislative reconstruction, particularly in formulating clearer sentencing guidelines for juveniles in cases involving aggravating circumstances.

**Keywords:** *Juvenile Justice System, Aggravating Circumstances, Legislative Reconstruction*

## INTRODUCTION

A child is a legal subject who, according to Article 1 paragraph 2 of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (UU SPPA), is defined as a "child in conflict with the law, a child who is a victim of a crime, or a child who is a witness to a crime."<sup>1</sup> Efforts to prevent and address juvenile delinquency (juvenile criminal policy) are currently pursued through the implementation of the juvenile justice system. This system is not solely aimed at imposing punishment on child offenders but rather emphasizes that such sanctions function as a means to support the child's well-being. Therefore, legal certainty is essential to ensure that child protection is maintained while preventing potential abuse that could have negative consequences.<sup>2</sup> In practice, specific regulations have been established for the special protection of children in conflict with the law. Initially, these regulations were outlined in Law Number 3 of 1997 concerning the Juvenile Court, which was later improved by Law Number 11 of 2012 concerning the Juvenile Criminal Justice System. Additionally, Law Number 23 of 2002 concerning Child Protection is relevant. Furthermore, the Government of the Republic of Indonesia ratified the Convention on the Rights of the Child (CRC) by issuing Presidential Decree Number 36 of 1990 on August 25, 1990.<sup>3</sup> The Indonesian government also signed the Beijing Rules agreement. However, reality indicates that the provisions within these laws

<sup>1</sup> Kayus Kayowan Lewoleba and Mulyadi, "Implementasi Sistem Peradilan Pidana Anak," *Jurnal Hukum Islam dan Pranata Sosial Islam*, vol. 11, no. 02 (2023), p. 147.

<sup>2</sup> Arief Gosita, *Masalah Korban Kejahatan* (Jakarta: Akademi Pressindo, 1993), p. 222.

<sup>3</sup> Nafi' Mubarok, *Sistem Peradilan Pidana Anak* (Mojokerto: Insight Mediatama, 2022), p. 28

cannot be the most appropriate answer for resolving all cases involving children in conflict with the law.<sup>4</sup> All these provisions contain the fundamental principles of child protection, including guarantees of non-discriminatory treatment, fulfillment of the right to life and development, upholding the best interests of the child, respect for the child's opinion, and providing protection related to deprivation of liberty and the use of punishment as a last resort.<sup>5</sup> The definition of a child in Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (UU SPPA) is rooted in the Convention on the Rights of the Child, ratified by the Indonesian government through Presidential Decree Number 36 of 1990. Although Article 1 of the Convention broadly defines a child as an individual under 18 regardless of marital status, the UU SPPA adapts this definition. Regarding children in conflict with the law, Article 1, number 3 of the UU SPPA limits the definition to a child who is 12 (twelve) years old but has not yet reached 18 (eighteen) years of age and is suspected of committing a crime.<sup>6</sup>

Achieving justice for children in Indonesia has not yet reached a consensus. The main problem lies in the differing views and interpretations of what form justice itself should take. Currently, realizing justice is a very difficult challenge.<sup>7</sup> The public generally is unaware that the law applied to children and adults differs, often equating the prison sentences that can be imposed on children with those for adults. Adults can be sentenced to 15 years or a maximum of 20 years. This differs from a child, who, based on Article 81 paragraph (6) of the UU SPPA, is limited to a maximum sentence of 10 years for crimes punishable by death or life imprisonment. The maximum limit for a child's sentence is the result of the legislators' own formulation, intended to provide legal certainty and protect children's rights so they are not treated the same as adults in the criminal system, while prioritizing the child's best interests.

The social interactions of children in the era when the Convention on the Rights of the Child was ratified in 1989 are certainly different from the current era, which is profoundly influenced by globalization. Globalization refers to a trend involving the integration of local or domestic social life into international community networks across various sectors. The impact of this global era is comprehensive across all fields, including education, economics, social life, technology, and science, and even alters moral values among teenagers.<sup>8</sup> Technological advancements play a crucial role in influencing the moral values of teenagers today. Video games, social media, and websites provide ease and speed of information and knowledge, allowing children under 18 to easily know and understand things that are not yet appropriate for their age. This knowledge fuels a high sense of curiosity for issues such as pornographic images/videos/sites, promiscuity, alcohol, violence, bullying, and more. While promiscuity existed around 1989, it was certainly not as widespread as it is today.

This is evident in the criminal act committed by a child in Penajam, East Kalimantan. In 2024, the Penajam District Court, East Kalimantan, sentenced a child aged 17 years, 11 months, and 1 week to 20 years in prison. The child was proven to have committed a series of heinous crimes, including the premeditated murder of five family members consisting of a husband and wife (W, 35, and SW, 34) and their three children (RJS, 15; VDS, 11; and ZAA, 3). In addition to the murders, the perpetrator also raped the bodies of the mother (SW) and the eldest daughter (RJS) and stole the victims' property. This crime was committed at night in Penajam. The public prosecutor charged the child with a combination of subsidiary, alternative, and cumulative indictments, reflecting the gravity of the crime committed.<sup>9</sup> This case highlights a serious problem in the application of the maximum limit for child sentences as regulated in Article 81 paragraph (6) of the UU SPPA. On one hand, the provision is intended to protect the child's rights so they are not equated with adults in the penal system. However, on the other hand, cases of serious crimes committed by children, even with concurrence or repetition, raise questions about the extent to which the maximum limit of 10 (ten) years can achieve a sense of justice, both for the victim and for society. Therefore, this research will discuss the problematic issues with the maximum limit of a child's sentence in the UU SPPA, focusing on the study

<sup>4</sup> Azwad Rachmat Hambali, "Penerapan Diversi Terhadap Anak Yang Berhadapan Dengan Hukum Dalam Sistem Peradilan Pidana," *Jurnal Ilmiah Kebijakan Hukum*, vol. 13, no. 1 (2019), p. 19.

<sup>5</sup> Kristina Agustiani Sianturi, "Perwujudan Keadilan Restoratif Dalam Sistem Peradilan Pidana Anak Melalui Diversi," *De Lega Lata*, vol. 1, no. 1 (2016), p. 184.

<sup>6</sup> R. Wiyono. *Sistem Peradilan Pidana Anak* (Jakarta: Sinar Grafika, 2016), p. 14.

<sup>7</sup> Rajarif Syah Akbar Simatupang, "Pelaksanaan Sistem Peradilan Pidana Anak Di Indonesia perspektif Nilai Keadilan," *Jurnal Yuridis*, vol. 11, no. 1 (Juni 2024), p. 55.

<sup>8</sup> Dedi Hermawan, "Dampak Globalisasi Terhadap Moralitas Remaja (Studi SMK Swasta Putra Bunda Tanjung Pura) Tahun Pelajaran 2018/2019," *Jurnal Serunai Pancasila dan Kewarganegaraan*, vol. 8, no. 1 (Februari 2019), p. 88.

<sup>9</sup> Riani Rahayu, "Vonis 20 Tahun Bui Pembunuh Sekeluarga di Kaltim, Dua Kali Lipat dari Tuntutan," *news.detik.com* (15 Apr 2025), <https://news.detik.com/berita/d-7247210/vonis-20-tahun-bui-pembunuh-sekeluarga-di-kaltim-dua-kali-lipat-dari-tuntutan>, accessed 15 Apr 2025.

of aggravating punishment, to find a balance between the protection of a child's rights and the fulfillment of substantive justice in society.

## LITERATURE REVIEW

### The Theory Of The Purposes Of Law

According to Gustav Radbruch, the law serves three primary purposes: justice, legal certainty, and expediency (utility). When a legal system is able to accommodate these three aspects in a balanced manner, it can be said that the law has achieved its objectives. These elements are inseparable, as they complement one another and form a unified foundation for realizing an ideal legal order. The law may be regarded as just if it embodies legal certainty while simultaneously providing benefits to society. Likewise, the law is considered certain when it also fulfills the elements of justice and expediency. Conversely, the law is deemed useful when its application not only delivers justice but also guarantees legal certainty. Thus, the reciprocal relationship among these three objectives constitutes the essential foundation for assessing the effectiveness of law in practice.<sup>10</sup>

### The Concept of Maximum Limit of a Child's Sentence in the UU SPPA

The sanctions that can be imposed on a child can be seen in Article 81 paragraph (2) of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (UU SPPA), which stipulates that the maximum prison sentence for a child is one-half of the highest prison sentence for an adult. Furthermore, for serious crimes, Article 81 paragraph (6) of the UU SPPA regulates that a child who commits a crime with the threat of capital punishment or life imprisonment shall be sentenced to a maximum of 10 years in prison. The considerations of Law Number 11 of 2012 concerning the SPPA explain that Indonesia, as a country that has ratified the Convention on the Rights of the Child, has an obligation to provide special protection for children in conflict with the law. One of the provisions in the Convention on the Rights of the Child followed in the UU SPPA is the age limit for a child in conflict with the law, which is 18 years. However, the Convention does not regulate the specific sanctions given to children but only regulates which sanctions cannot be imposed on children. This is regulated in Article 37 of the 1989 Convention on the Rights of the Child, which states "...a child shall not be subjected to capital punishment or life imprisonment," as has been accommodated in Article 3, letter g of the UU SPPA. Referring to the UU SPPA itself, in principle, the imposition of a prison sentence is not prohibited, as stated in Article 79 paragraph (1), which states, "Deprivation of liberty shall be imposed if the child commits a serious crime or a crime accompanied by violence," and in Article 81 paragraph (1), which states, "A child shall be sentenced to a prison sentence in an LPKA if the child's situation and actions will endanger the public." Thus, if a child commits a serious crime or a crime accompanied by violence and the child's actions are deemed to endanger the public, the child can be sentenced to imprisonment.

### Aggravating Punishment

Aggravating punishment, which in the practice of criminal justice is also referred to as a reason for aggravation of an act committed by a suspect/defendant. There are several basic reasons for aggravating a sentence, where the threat of a prison sentence is increased, for example, due to the position as a civil servant, *samenloop* (concurrence), and *recidive* (repetition). The principle of aggravating punishment is basically universal and can be applied to all forms of criminal acts, both those regulated in the Criminal Code (KUHP) and in provisions outside of that codification. As for specific aggravating circumstances, they are only intended for certain criminal acts that are explicitly regulated by statutory regulations, so their application cannot be extended beyond the scope of the specified criminal act.<sup>11</sup> In the National Criminal Code (KUHP Nasional), aggravating punishment is regulated in Chapter III, Part One, Paragraph 4, Article 58, which states that factors that aggravate punishment include the position as an official, the use of the national flag, national anthem, or national emblem of Indonesia at the time of committing the crime, and the repetition of the crime. Within the framework of positive law, there are several basic reasons for aggravating a prison sentence, in addition to those mentioned in the National Criminal Code, including *samenloop* (concurrence).<sup>12</sup> In this discussion, the focus is on the provisions in the National Criminal Code, where the reasons for aggravation that could potentially be applied to a child's crime are the repetition of a crime and the combination of criminal acts. In the case of repetition, if referring to Article 59 of the National Criminal Code, the sentence can be increased by a maximum of one-third of the maximum sentence.

<sup>10</sup> Fatma Afifah, Sri Warjiyati, *Tujuan, Fungsi Dan Kedudukan Hukum, Jurnal Ilmu Hukum Wijaya Putra Vol. 2 No. 2, 2024*, hlm 144

<sup>11</sup> Tofik Yanuar Chandra and Yasmon Putra, *Hukum Pidana* (Jakarta: Sangir Multi Usaha, 2022), p. 114.

<sup>12</sup> Irawansyah, "Penegakan Hukum Terhadap Pelaku Tindak Pidana Residivis Dalam Pelaksanaan Peradilan," *Nusantara Hasanah Journal*, vol. 2, no. 3 (Agustus 2022), p. 17.

In the regulation regarding the imposition of punishment for a combination of several criminal acts, Articles 127 and 128 of the National Criminal Code are the main references, as follows:

- Article 127 regulates that if a perpetrator commits several criminal acts simultaneously that are each independent and have the same type of primary punishment, only one type of punishment is imposed. However, the maximum punishment given for the combination of criminal acts is the sum of all the threatened punishments, but it may not exceed the heaviest punishment plus one-third of the heaviest punishment.
- Article 128 regulates the situation when a combination of several criminal acts are independent and the types of primary punishments are not the same. In this case, the perpetrator must be sentenced to all types of punishments for each criminal act committed, but the maximum overall punishment does not exceed the heaviest punishment plus one-third of the heaviest punishment. If one of the types of punishment imposed is a fine, the calculation of the fine is based on the maximum duration of the prison sentence that can replace the fine. Furthermore, if the criminal act committed is one that is threatened with a minimum punishment, then the calculation of the minimum punishment for the combined criminal acts is the sum of the specific minimum punishments for each criminal act, but it may not exceed the heaviest specific minimum punishment plus one-third.

## METHOD

This research is a doctrinal study using a conceptual approach and a case approach.

## RESULTS AND DISCUSSION

Deviant behavior committed by children is often referred to as juvenile delinquency. This form of behavior is considered to be in conflict with the social norms prevailing in society, so the violations that arise often lead to criminal acts. Currently, criminal acts committed by children are becoming more diverse and widespread, both in terms of quantity and quality. This phenomenon is a cause for concern, as juvenile delinquency is no longer just ordinary deviant behavior but has developed into criminal acts that are in conflict with the legal norms prevailing in Indonesia.<sup>13</sup> The current development of the times shows that advancements in science and technology always have an impact on social change. Progress in the fields of communication, transportation, and information systems has caused shifts in social life to happen faster, thus giving birth to a modern way of life. In such conditions, teenagers tend to have more sensitive feelings, so it is not uncommon for them to be drawn into behavior that deviates from moral values, religious norms, social rules, or community life. As a result, teenagers often exhibit inappropriate behavior, which is then known as juvenile delinquency.<sup>14</sup>

The UU SPPA, by referencing the 1989 Convention on the Rights of the Child, essentially implements the same principles, including axioms focused on the best interests of the child, deprivation of liberty, and punishment as a last resort. The UU SPPA fundamentally emphasizes a restorative justice approach in the enforcement of child law in Indonesia, as stated in the UU SPPA, adopting the minimum standards set in the *UN Basic Principles on The Use of Restorative Justice Programmes in Criminal Matters*. Restorative justice, in the context of the Juvenile Criminal Justice System Law (UU SPPA), is defined in Article 1 number 6 as a criminal case resolution approach that involves all affected parties, namely the perpetrator, victim, their respective families, and other related parties. Its main goal is to reach a fair solution through deliberation. The focus is not on revenge or punishment, but on restoration of the conditions to return them to their original state, as much as possible.<sup>15</sup> Furthermore, when the resolution of a child's criminal case with a restorative justice approach cannot be carried out, the process of examining the child's case at trial is naturally continued. The restorative justice approach in child cases is carried out in the diversion agenda or process. The Diversion process is the redirection of a child's case resolution from the criminal justice process to a process outside of the criminal justice system, which is in accordance with what is stated in Law No. 11 of 2012 concerning the Juvenile Criminal Justice System, Article 1 number 7.<sup>16</sup>

<sup>13</sup> Paulus in Putri dzahra fatiha anwar Sidiq, Trias Saputra, "Penerapan Sanksi Pidana Terhadap Anak Yang Berkonflik Dengan Hukum Berdasarkan Undang-Undang Sistem Peradilan Pidana Anak", Jurnal Risalah Kenotariatan Volume 5, No. 2, Juli-Desember 2024, p 249

<sup>14</sup> Ahmad Imam Kairi, "Masyarakat Modern dan Kenakalan Remaja: Suatu Telaah Sosial," Jurnal Pendidikan Ilmu Pengetahuan Sosial dan Ilmu-Ilmu Sosial, vol. 2, no. 1 (Juni 2020), p. 150.

<sup>15</sup> Novianti, dkk., Sistem Peradilan Pidana Anak: Peradilan untuk Keadilan Restoratif (Jakarta: Pusat Pengkajian, Pengolahan Data dan Informasi (P3DI) Sekretariat Jenderal DPR RI, 2015), p 119.

<sup>16</sup> I Made Wahyu Chandra Satriana, Ni Made Liana Dewi, Sistem Peradilan Pidana Perspektif Restorative Justice, (Denpasar: Udayana University Press, 2021), p 32.

The Juvenile Criminal Justice System Law (UU SPPA) introduces a more humane approach in handling cases of children in conflict with the law, namely through the application of the principle of *ultimum remedium*. This principle emphasizes that imprisonment should be placed as the last option in imposing sanctions on a child. Thus, before imposing the most severe punishment, law enforcement officials are encouraged to prioritize other alternatives that focus more on restoration, such as the diversion mechanism mentioned above, as well as social work sanctions or psychological rehabilitation. This concept is in line with the fundamental goals of the juvenile criminal justice system.<sup>17</sup> However, the UU SPPA itself provides limitations on how diversion can be applied, as regulated in Article 7 paragraph (2) of the UU SPPA, which essentially states that the implementation of diversion for a child is applied in cases where the crime committed is threatened with a prison sentence of less than 7 (seven) years and is not a repetition of a criminal act. Meanwhile, the explanation of Article 9 paragraph (1) of the UU SPPA explains that diversion is not intended to be implemented for perpetrators of serious crimes, such as murder, rape, drug trafficking, and terrorism, which are threatened with a sentence of more than 7 (seven) years, so not all acts or crimes can undergo the diversion process.

Supreme Court Regulation Number 1 of 2024 in Article 6 explains that in a child's criminal case where diversion is unsuccessful at the trial stage, the Judge applies the guidelines of restorative justice. However, in paragraph (2) of that article, letter a mentions that the judge is not authorized to apply the guidelines for judging based on restorative justice if the victim or the defendant refuses to make peace. Thus, after all efforts to resolve the child's criminal case have been made but do not meet the requirements for the implementation of a restorative approach in diversion or in court and/or an agreement is not reached, the case is naturally continued in the juvenile criminal justice process. It is possible that a child who commits a crime can be subject to aggravating circumstances, either due to the repetition of a criminal act or concurrence. As in the example case at the Penajam District Court above, where the child not only committed the premeditated murder of a family but also the rape of the mother and the first child of that family and aggravated theft. To provide justice to the public and also to the victims, the Panel of Judges sentenced the child to 20 (twenty) years in prison. This has become a highlight because the Panel of Judges went beyond the provisions of the maximum limit for a child's sentence as regulated in Article 81 paragraph (6) of the UU SPPA, which states that if a child commits a crime threatened with capital punishment or life imprisonment, the maximum sentence that can be imposed on the child is a prison sentence of 10 (ten) years.

When an act is classified as falling within the reasons for aggravating a sentence, whether committed in the form of repetition or concurrence, then according to the KUHP, it is possible for the sentence to be aggravated by up to one-third of the primary sentence. However, this condition creates a problem in the context of the UU SPPA because the provision does not provide adequate room for the judge to impose a sentence that takes into account the dimension of aggravation. Aggravation in the SPPA is mentioned only once, as stated in Article 17 paragraph (1), which states that Investigators, Public Prosecutors, and Judges must provide special protection for a child who is examined for a crime they committed in an emergency situation. And in paragraph (2), it is explained that the special protection as referred to in paragraph (1) is carried out through the imposition of sanctions without aggravation. The explanation for Article 17 paragraph (1) of the UU SPPA states that emergency situations include circumstances such as displacement, riots, natural disasters, or armed conflicts. Thus, based on this, it can be concluded that the prohibition of aggravation is only for certain situations mentioned in the UU SPPA.

As a result, the UU SPPA tends to be less capable of presenting substantive justice, both for the victim and for society. Substantive justice is essentially a concept of justice that strives to be realized comprehensively and completely in community life. This concept does not limit the law to just a collection of formal and procedural rules but places the law in a more holistic way, by including the values of justice that live and develop in the midst of society. In this context, the normative gap in aggravating punishment for a child who is a perpetrator of a serious crime creates tension between the protection of the child's rights and the community's need to obtain a commensurate justice. An analysis of the problematic issues with the maximum limit of a child's sentence in the UU SPPA shows a dilemma between legal certainty, protection of child rights, and the sense of justice of the community. On one hand, the existence of Article 81 paragraph (6) of the UU SPPA is a concrete manifestation of protection for a child in conflict with the law, where the child is still seen as an individual who is not yet psychologically and socially mature, so it is not appropriate to impose capital punishment or life imprisonment. Therefore, the provision of a maximum sentence of ten years for a child who commits a serious crime is a form of recognition of the principle of *the best interest of the child*.

<sup>17</sup> Julius Markus Butarbutar, "Penjatuhan Pidana Maksimal terhadap Anak Berhadapan Hukum Ditinjau dari Tujuan Hukum Pemidanaan Indonesia," *Jurnal Ilmu Hukum, Humaniora dan Politik*, vol. 5, no. 1 (November 2024), p. 490.

However, on the other hand, the application of this provision often creates serious problems when dealing with the reality of cases that have an extraordinary impact, both on the victim and on social order. The case that occurred at the Penajam District Court above is a real example, where the child's actions not only resulted in loss of life but also left deep trauma due to the layered criminal acts (murder, rape, and aggravated theft). Such a condition creates tension between the normative rules in the UU SPPA and the demands for justice from the community. When the judge sentenced the child to 20 (twenty) years in prison, this decision was actually born from the practical need to balance the protection of the child with the sense of justice of the victim and the community, which has long been a debate—if faced with certainty and justice, which should be prioritized? Looking at the existing dynamics, this has become the basis for the legislators to provide guidance in the National Criminal Code in Article 53 paragraph (2), which states, "if in the process of law enforcement and justice there arises a conflict between legal certainty and justice, then the judge must prioritize the principle of justice."

The main problem is not only limited to the maximum limit of a child's sentence but also to the absence of regulations on aggravating circumstances in the UU SPPA. This gap creates two major problems:

1. The aspect of legal certainty, because the judge is in a dilemma between having to comply with the maximum limit of a child's sentence or adjusting to the needs of substantive justice.
2. The aspect of justice, both for the victim and the public who demand a commensurate punishment, and for the child perpetrator who still has the right to special legal protection according to the principles of child protection.

This analysis ultimately affirms that the problematic issues with the maximum limit of a child's sentence in the UU SPPA cannot be viewed merely as a technical issue of legislation but as a fundamental problem concerning the relationship between law, justice, and the protection of human rights. The absence of clear regulations on the mechanism for aggravating a child's sentence has serious implications for judicial practice. Judges are in a difficult position; on one hand, they must adhere to the principle of legality by making a decision in accordance with the maximum limit set by the law. On the other hand, judges are also required to respond to the demands for substantive justice that are developing in society, especially when a child's crime has an extraordinarily severe impact. This tension shows that the positive law in the UU SPPA has not yet been fully able to answer the complex and dynamic needs of justice.

From a sociological point of view, a judge's decision that goes beyond the provisions of the maximum limit of a child's sentence actually reflects a practical need to dampen potential social conflict. A community that feels it has not obtained justice from a court decision will tend to take matters into their own hands, which is feared to have the potential to punish the child a second time with various potentials such as labeling, discrimination, attempts at retaliation, social exclusion, and even violence against the child after they are released from their prison sentence. Such a condition is not only detrimental to the child perpetrator but is also in conflict with the spirit of rehabilitation and social reintegration that is the soul of the juvenile criminal justice system. In other words, law enforcement that places too much emphasis on child protection without considering justice for the victim and society has the potential to cause public distrust of the law and judicial institutions.

From a normative point of view, the legal vacuum regarding aggravating a child's sentence also has the potential to create legal uncertainty. Article 81 paragraph (6) of the UU SPPA explicitly limits the maximum sentence for a child to only ten years but does not provide further explanation for what happens if the child's act is committed with aggravating circumstances, repetition, or concurrence as known in the KUHP. This gap creates inconsistency because, on one hand, general criminal law provides room for aggravation of up to one-third of the primary sentence, while in juvenile criminal law, it is not regulated at all. As a result, judges do not have clear guidelines when facing child cases of a high level of seriousness. This condition is certainly contrary to the principle of legal certainty that is one of the pillars of a legal state.

From a philosophical perspective, the debate about the maximum limit of a child's sentence is closely related to the concept of justice itself. In legal philosophy, justice can be understood in various dimensions: retributive justice, which focuses on when and why a punishment is decided, based on its past or future impact; distributive justice, which focuses on the fair distribution of resources; and restorative justice, which is the resolution of a criminal case by involving the perpetrator, victim, the perpetrator's/victim's family, and other related parties to collectively seek a fair resolution by emphasizing returning to the original state, and not revenge. The UU SPPA clearly prioritizes restorative justice, which is justice that focuses on restoring the relationship between the perpetrator, the victim, and society. However, when a child's crime causes extraordinary suffering, the demands for retributive justice from the community cannot be ignored. This is where the fundamental problem lies: how to balance the protection of a child's rights with the fulfillment of a sense of justice for the victim and society. Without

a proper balance, the juvenile criminal justice system will always face criticism, either for being too protective of the perpetrator or for ignoring the rights of children.

## CONCLUSION

The sentencing limit for juveniles under the Juvenile Criminal Justice System Act (UU SPPA) creates a dilemma between legal certainty, child protection, and the demand for substantive justice. While the ten-year maximum reflects the principle of the best interest of the child, it becomes inadequate when faced with serious crimes involving concurrence or repetition. The absence of clear regulation on aggravating circumstances causes legal uncertainty and leaves judges torn between statutory limits and community expectations of justice. Thus, reform is needed to balance restorative ideals with retributive demands, ensuring both the protection of children's rights and justice for victims and society.

## REFERENCES

Afifah, F., & Warjiyati, S. (2024). Tujuan, fungsi dan kedudukan hukum. *Jurnal Ilmu Hukum Wijaya Putra*, 2(2), 144.

Agustiani Sianturi, K. (2016). Perwujudan keadilan restoratif dalam sistem peradilan pidana anak melalui diversi. *De Lega Lata*, 1(1), 184.

Butarbutar, J. M. (2024). Penjatuhan pidana maksimal terhadap anak berhadapan hukum ditinjau dari tujuan hukum pemidanaan Indonesia. *Jurnal Ilmu Hukum, Humaniora dan Politik*, 5(1), 490.

Chandra, T. Y., & Putra, Y. (2022). *Hukum pidana*. Jakarta: Sangir Multi Usaha.

Chandra Satriana, I. M. W., & Dewi, N. M. L. (2021). *Sistem peradilan pidana perspektif restorative justice*. Denpasar: Udayana University Press.

Gosita, A. (1993). *Masalah korban kejahanan*. Jakarta: Akademi Pressindo.

Hambali, A. R. (2019). Penerapan diversi terhadap anak yang berhadapan dengan hukum dalam sistem peradilan pidana. *Jurnal Ilmiah Kebijakan Hukum*, 13(1), 19.

Hermawan, D. (2019). Dampak globalisasi terhadap moralitas remaja (Studi SMK Swasta Putra Bunda Tanjung Pura) tahun pelajaran 2018/2019. *Jurnal Serunai Pancasila dan Kewarganegaraan*, 8(1), 88.

Irawansyah. (2022). Penegakan hukum terhadap pelaku tindak pidana residivis dalam pelaksanaan peradilan. *Nusantara Hasanah Journal*, 2(3), 17.

Kairi, A. I. (2020). Masyarakat modern dan kenakalan remaja: Suatu telaah sosial. *Jurnal Pendidikan Ilmu Pengetahuan Sosial dan Ilmu-Ilmu Sosial*, 2(1), 150.

Kayowuan Lewoleba, K., & Mulyadi. (2023). Implementasi sistem peradilan pidana anak. *Jurnal Hukum Islam dan Pranata Sosial Islam*, 11(2), 147.

Mubarok, N. (2022). *Sistem peradilan pidana anak*. Mojokerto: Insight Mediatama.

Novianti, et al. (2015). *Sistem peradilan pidana anak: Peradilan untuk keadilan restoratif*. Jakarta: Pusat Pengkajian, Pengolahan Data dan Informasi (P3DI) Sekretariat Jenderal DPR RI.

Rahayu, R. (2025, April 15). Vonis 20 tahun bui pembunuh sekeluarga di Kaltim, dua kali lipat dari tuntutan. *Detik News*. <https://news.detik.com/berita/d-7247210/vonis-20-tahun-bui-pembunuh-sekeluarga-di-kaltim-dua-kali-lipat-dari-tuntutan>

Simatupang, R. S. A. (2024). Pelaksanaan sistem peradilan pidana anak di Indonesia perspektif nilai keadilan. *Jurnal Yuridis*, 11(1), 55.

Sidiq, P. D. F. A., Saputra, T., & Paulus. (2024). Penerapan sanksi pidana terhadap anak yang berkonflik dengan hukum berdasarkan Undang-Undang Sistem Peradilan Pidana Anak. *Jurnal Risalah Kenotariatan*, 5(2), 249.

Wiyono, R. (2016). *Sistem peradilan pidana anak*. Jakarta: Sinar Grafika.