

Judicial Considerations in the Ultra Petita Verdict Number: 3/Pid.Sus-Anak/2024/PN Pnj on the Crime of Premeditated Murder Committed by a Juvenile

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Abstract

This study examines the judicial reasoning behind Decision No. 3/Pid.Sus-Anak/2024/PN Pnj of the Penajam District Court, which is considered to contain elements of ultra petita, particularly in the context of a premeditated murder case committed by a juvenile. As the first legal precedent in Indonesia to sentence a child offender in a manner equivalent to adult sentencing, the central issue explored is the extent to which the judge's considerations align with the principles of criminal procedural law and child protection. The study is grounded in the need to maintain a balance between safeguarding the rights of child offenders and ensuring justice for victims within Indonesia's criminal justice system. The findings reveal that the judge rendered an ultra petita decision by imposing a sentence not requested by the public prosecutor. This was justified by the court on the basis of the principles of utility and substantive justice, despite raising controversy in legal practice. This research contributes to the academic discourse on the limits of judicial authority in issuing ultra petita rulings and their implications for the development of juvenile criminal law in Indonesia. It is expected to serve as a reference for strengthening child justice policies that prioritize fairness and the protection of human rights.



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1. Introduction

As the personification of the judiciary and a noble profession (*officium nobile*), a judge is required to possess high intellectual ability, moral character, and integrity so that the decision rendered reflects a sense of justice, ensures legal certainty, and provides benefits to society. A judge's decision on a case must contain legal reasoning, meaning it is based on considerations that can be accepted by all parties and does not deviate from existing legal principles, while taking into account various philosophical, juridical, sociological, or teleological aspects (Isnantiana, 2017). A decision that does not present clear and sufficient reasoning may be deemed onvoldoende gemotiveerd (insufficiently reasoned). It can serve as grounds for filing a cassation appeal, as it indicates that the *judex facti* has failed to meet the material requirements (Sulistiyawan & Atmaja, 2021).

The matter is regulated in Law Number 48 of 2009 on Judicial Power, Article 50 paragraph (1), which stipulates that a court decision must not only contain the reasons and legal grounds for the ruling but also cite the relevant statutory provisions or the unwritten sources of law used as the basis for adjudication. Judges play a pivotal role in upholding the rule of law in Indonesia. The term

judge encompasses justices of the Supreme Court as well as judges of the courts under its jurisdiction, including the general courts, religious courts, military courts, administrative courts, and judges of special courts within those systems.

In deciding a case, judges are required to carefully consider various aspects before rendering a verdict. Under Article 182 paragraph (4) of Law Number 8 of 1981 on the Criminal Procedure Code (KUHP), the judges' final deliberation must be based on the indictment and all matters proven during the trial.

An illustrative example is a child-crime case of family murder committed by a minor on February 5, 2024, in Babulu District. In this case, the judge imposed a 20-year prison sentence, which was 10 years higher than the prosecutor's demand. According to Al Fatih (2024), the defendant was reported to have killed five neighbors, his father, mother, and three children. After the murders, the defendant sexually assaulted two victims and stole a mobile phone and IDR363,000 (three hundred sixty-three thousand rupiah). At the time of the incident, the defendant was not yet 18 years old and was therefore legally classified as a child in conflict with the law.

The verdict, delivered on Wednesday, March 13, 2024 (Case No. 3/Pid.Sus-Anak/2024/PN Pnj), was considered to contravene Law Number 11 of 2012 on the Juvenile Criminal Justice System (UU SPPA) (Sulistiyawan & Atmaja, 2021). Article 81, paragraph (2) provides that the maximum prison sentence for a child is half of the maximum penalty applicable to an adult. Furthermore, Article 81 paragraph (6) states that if the offense committed by a child carries the death penalty or life imprisonment for an adult, the maximum prison sentence that may be imposed is 10 years.

The 20-year prison sentence rendered by the court classifies the judge's decision as an *ultra petita* ruling (Luis, 2021). *Ultra petita* decisions have been frequently found in criminal cases involving adult defendants; however, this is the first known instance of an *ultra petita* decision involving a juvenile defendant, as seen in the ruling of the Penajam District Court, Case No. 3/Pid.Sus-Anak/2024/PN Pnj.

This research focuses on the judicial considerations in the decision of Child in Conflict with the Law Case No. 3/Pid.Sus-Anak/2024/PN Pnj, in which the judge is deemed to have ruled on matters beyond those explicitly requested by the public prosecutor, thereby raising allegations of the application of the *ultra petita* principle. The study aims to examine the concept of *ultra petita* decisions in Indonesian juvenile criminal law and to analyze the Penajam District Court's decision in Case No. 3/Pid.Sus-Anak/2024/PN Pnj in light of the principles of justice, utility, and legal certainty.

2. Research Methods

This research is a normative legal study using a conceptual approach, with data analyzed through syllogistic reasoning and interpretation. The data are entirely secondary and consist of primary, secondary, and tertiary legal materials collected to examine judicial considerations in criminal sentencing of minors.

The primary legal materials include the Indonesian Penal Code (KUHP), Law No. 49 of 2009 on Judicial Power, Law No. 11 of 2012 on the Juvenile Criminal Justice System, and the Penajam District Court Decision No. 3/Pid.Sus-Anak/2024/PN Pnj dated March 13, 2024. The secondary materials comprise relevant research findings and the opinions of legal scholars, while tertiary sources provide supporting definitions and references.

This study employs library research, and the collected data are examined using a qualitative descriptive method. The analysis produces explanations written in clear and coherent narratives so that the reasoning behind the judges' decision in Case No. 3/Pid.Sus-Anak/2024/PN Pnj can be interpreted and understood.

Based on this analysis, conclusions are drawn deductively, moving from specific facts to general principles. From these conclusions, practical recommendations are formulated to ensure that the findings contribute to justice, utility, and legal certainty in juvenile criminal law.

3. Results and Discussion

3.1. The Concept of Ultra Petita Decisions in Indonesia's Juvenile Criminal Law

A decision that exceeds the prosecutor's demand is called an ultra petita ruling. Ultra petita derives from Latin, *ultra* meaning "very," "extremely," or "excessive," and *petita* meaning "request." In general, ultra petita refers to a judgment rendered on matters not requested or granting more than what was sought (Harruma, 2022). In the context of criminal law, the application of ultra petita in court decisions remains a subject of debate. Some argue that ultra petita decisions are prohibited because they conflict with the principles of legality and due process of law (Chanifah et al., 2023).

Yahya Harahap contends that a judge who grants a claim beyond the *posita* or *petitum* of the indictment is deemed to have exceeded their authority (*ultra vires*), that is, to have acted beyond their jurisdiction. If a decision contains ultra petita, it must be declared defective even if the judge acted in good faith or in the public interest. However, Bagir Manan maintains that an ultra petita ruling may be permissible, provided that the subsidiary petition includes a request for *ex aequo et bono*, for example, a phrase such as "if the judge holds a different opinion, please render a decision that is as fair as possible," or another statement with similar meaning.

In rendering a judgment, a judge does not rely solely on juridical aspects but must also consider the living legal values within society, as stipulated in Article 28 paragraph (1) of Law No. 40 of 2009, which states that judges are obliged to explore, follow, and understand the legal values that live within society.

Judicial considerations in deciding a case fall into two broad categories: juridical and non-juridical. Juridical considerations include the indictment, the public prosecutor's requisitor, witness testimony, the defendant's statements, physical evidence, and the relevant articles of criminal law. Non-juridical considerations involve factors related to the defendant, such as personal background, psychological condition, or economic circumstances.

Normatively, there is no provision in the Indonesian Criminal Procedure Code (KUHAP) that obliges a judge to impose a sentence exactly as demanded by the public prosecutor. Judges have the discretion to determine a sentence based on legal reasoning and their conscience (Hukumonline, 2016). However, despite this independence, judges remain bound by certain limitations (Hukumonline, 2017). A sentence may not exceed the maximum penalty set by the charged article, for example, Article 156 of the Penal Code carries a maximum sentence of five years, and the judge may impose an equal or lesser sentence but not more. Judges are also prohibited from imposing a type of punishment (*strafsoort*) that lacks a legal basis in the Penal Code or other criminal statutes. In addition, every decision must provide sufficient reasoning supported by evidence. The Supreme Court has ruled that a judgment lacking adequate reasoning (*onvoldoende gemotiveerd*) can be annulled, as illustrated in cases where a higher court increased a defendant's sentence beyond that imposed by the trial court without clearly explaining the grounds for the increase.

In carrying out their duties and functions, judges are required to uphold the fundamental principles that guide judicial consideration in deciding a case. The principle of justice demands that judicial reasoning produce the fairest possible decision for both parties. Judges must ensure that their rulings also provide long-term benefits for others and bear responsibility for reducing conflict between the plaintiff and the defendant through decisions that are proportional and balanced (Dery & Ahmad, 2025). Judges must remain free from interference and impartial in rendering decisions, as explicitly stated in Article 24, particularly in the explanation of Article 24 paragraph (1) and the explanation of Article 1 paragraph (1) of Law No. 48 of 2009, which provides that judicial power is an independent state authority that administers justice to uphold law and justice based on Pancasila and the 1945 Constitution of the Republic of Indonesia for the realization of the rule of law. The term impartial should not be interpreted literally, because in delivering a ruling the judge must side with what is right; impartiality here means the absence of bias in consideration and assessment (Siregar, 2016).

The principle of legal certainty is articulated in Article 50 paragraph (1) of the Law on Judicial Power, which states that a court decision must not only contain the reasons and legal grounds for

the ruling but also cite the specific statutory provisions or unwritten legal sources used as the basis for adjudication. Article 53 paragraph (2) further clarifies that the decision or determination referred to in paragraph (1) must set out the judge's legal reasoning based on precise and correct legal grounds. These legal reasons are drawn from statutory provisions, customary law, jurisprudence, and legal doctrine.

These provisions require judges to provide clear and sufficient reasoning, because a decision that fails to meet these requirements and/or lacks adequate consideration (*onvoldoende gemotiveerd*) may be null and void by operation of law. *Onvoldoende gemotiveerd* is a Dutch term frequently used by the Supreme Court in its decisions to indicate that the judgments of the lower courts lack sufficient reasoning. In English, it is commonly referred to as insufficient judgment. Some interpret it as incomplete reasoning, while others describe it as a decision with inadequate consideration.

Supreme Court Decision No. 638 K/Sip/1969 affirmed that a judgment that is incomplete or insufficiently reasoned constitutes grounds for cassation, and such a decision must be annulled. Supreme Court Decision No. 67 K/Sip/1972 likewise established the legal principle that a *judex facti* decision must be overturned if the trial court fails to provide adequate reasons or considerations when the arguments are not inconsistent with its conclusions (Hukumonline, 2011).

A judge's decision must be morally, legally, and socially accountable. This is reflected in the judge's obligation to provide clear legal reasoning.

The principle of utility requires that a court decision bring benefits both to the parties involved and to society at large. Society has an interest in this matter because it seeks the restoration of social order and balance. When a dispute arises, the equilibrium within society is disrupted, and the court's decision should help to restore that balance (Mo'o, Puluhalawa, & Puluhalawa, 2024).

The principle of utility offers society the expectation that the implementation and enforcement of law will bring real benefits. Law exists for human beings; therefore, its application must benefit the community. Law enforcement should not create unrest within society merely because the law is carried out or enforced (Mertokusumo & Pitlo, 1993).

The theory of utilitarianism developed by Jeremy Bentham holds that the law must produce the greatest possible benefit for the most significant number of people. According to Bentham, the essence of happiness lies in pleasure and a life free from suffering. Human actions are therefore aimed at achieving the greatest happiness and minimizing pain. The quality of its consequences measures the goodness or badness of an action. An action is considered good if it results in beneficial outcomes and bad if it brings harm (Utrecht, 1966).

In Indonesian positive law, regulations related to *ultra petita* rulings are found in Article 24 paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which states that judicial power is an independent authority. This principle requires that the judiciary be free from interference by any party and in any form, ensuring impartiality in the exercise of judicial duties. Consequently, judges possess independence and freedom in rendering decisions. However, this freedom is limited by statutory regulations (Chanifah, Sudarti, & Arfa, 2023).

In principle, judges cannot impose a sentence on a defendant for an act not charged by the public prosecutor in the indictment. Nevertheless, there have been instances where judges have issued decisions exceeding the prosecutor's demands. One example of *ultra petita* is the death sentence handed down to Ferdy Sambo. In this case, the South Jakarta District Court Decision No. 796/Pid.B/2022/PN.Jkt.Sel sentenced Sambo to death for the murder of Brigadier J, even though the public prosecutor had only demanded life imprisonment (DetikNews, 2023).

In addition, there was the case of Advocate Susi Tur Andayani in the bribery matter related to the management of regional election disputes in Lebak and South Lampung at the Constitutional Court (MK) (Harruma, 2022). In its decision, the court found Susi guilty of bribing the Chief Justice of the Constitutional Court, Akil Mochtar, by providing a bribe of Rp 1 billion for handling the Lebak election dispute and Rp 500 million for the South Lampung election dispute. Based on these considerations, on June 23, 2014, the panel of judges at the Corruption Court (Pengadilan Tindak Pidana Korupsi or Tipikor) sentenced Susi to five years in prison and a fine of Rp 150 million, with

a subsidiary sentence of three months' imprisonment. The Supreme Court later increased Susi's sentence to seven years in prison in the cassation decision she filed.

In the context of juvenile criminal law, the application of *ultra petita* must consider the best interests of the child and align with the principles of child protection. Sentencing of children must take into account several key principles: protection, justice, non-discrimination, the best interests of the child, respect for the child, the child's right to life and development, guidance and mentoring, proportionality, deprivation of liberty and punishment as a last resort, and the avoidance of retribution. The goal of the juvenile criminal justice system emphasizes the protection and welfare of children (Faisal & Rahayu, 2021).

The Juvenile Criminal Justice System Law (UU SPPA) requires protection for both victims and perpetrators of criminal acts. Protection for children in conflict with the law (*Anak yang Berhadapan dengan Hukum, ABH*) can be achieved either through judicial proceedings or through diversion, a process in which cases are resolved outside the criminal justice system. Diversion involves the perpetrator, the victim, their families, and other relevant parties working together to reach a fair resolution that focuses on restoring the situation to its original state rather than retribution, in accordance with the restorative justice approach (Utami, 2018).

Furthermore, Supreme Court Regulation (PERMA) No. 4 of 2014 introduces the mechanism of diversion. Diversion applies to children who are at least 12 years old but not yet 18, or who are at least 12 years old even if previously married but not yet 18, who are suspected of committing a criminal act (Article 2). Based on Article 7 of the Juvenile Criminal Justice System Law (UU SPPA), diversion efforts must be carried out at every stage, investigation, prosecution, and examination of a child's case in district court. However, Article 9 paragraph (1) specifies the factors that investigators, prosecutors, and judges must consider when implementing diversion: the category of the offense, the results of a social inquiry from the Community Guidance Agency (Bapas), and the support of the child's family and community environment.

The main principle of diversion and restorative justice is to keep the child offender away from the formal criminal justice system and provide an opportunity to undergo alternative sanctions without imprisonment. Nevertheless, there are specific categories of offenses that are not prioritized for diversion. According to the explanation of Article 9 paragraph (1)(a), diversion is not intended for serious crimes such as murder, rape, drug trafficking, and terrorism, which carry a sentence of more than seven years. Juvenile criminal proceedings will continue if the diversion process does not produce an agreement or if the diversion agreement is not carried out. In such cases, the juvenile criminal process proceeds under formal procedures as set out in the Indonesian Criminal Procedure Code (KUHAP).

The imposition of criminal sanctions on a child who commits a crime is regulated in Law No. 11 of 2012 on the Juvenile Criminal Justice System (UU SPPA), which serves as a *lex posterior* to the Indonesian Penal Code (KUHP). Sanctions are divided into two categories based on the child's age: those for offenders under 14 years old, and those for offenders 15 years and older.

For children under 14 years old, only non-penal measures (*sanksi tindakan*) may be imposed. Referring to Article 82 of the UU SPPA, such measures include returning the child to their parents or guardians, placing the child under the care of a designated person, treatment in a psychiatric hospital, placement in a Social Welfare Organizing Agency (LPKS), compulsory attendance in formal education or training organized by the government or private institutions, revocation of a driver's license, and restitution or repair of damages resulting from the crime.

For children 15 years and older, sanctions may be imposed in accordance with Article 71 of the UU SPPA. Principal penalties (*pidana pokok*) consist of: a warning; conditional penalties, which may include (1) guidance outside an institution, (2) community service, or (3) supervision; job training; institutional guidance; and imprisonment. Additional penalties (*pidana tambahan*) may include confiscation of profits obtained from the crime or fulfillment of customary obligations (*kewajiban adat*).

3.2. Analysis of the Penajam District Court Decision No. 3/Pid.Sus-Anak/2024/PN Pnj

The legal basis for the judges' ultra petita ruling in the Penajam District Court Decision No. 3/Pid.Sus-Anak/2024/PN Pnj can be summarized as follows.

The case background concerns an incident on Tuesday, February 6, 2024, around 00:30 WITA at a house in Penajam Paser Utara Regency, where a minor was accused of committing a series of premeditated killings. The child approached the victims' home carrying a machete and a mosquito flashlight, turned off the electrical meter to plunge the house into darkness, and entered the unlocked residence. When the victim Waluyo arrived, the child ambushed him with a machete, killing him and other family members inside the house, including Waluyo's wife, Sri Winarsih, and their children. After the killings, the child sexually assaulted two of the victims, stole two mobile phones and Rp353,000 in cash, returned home to clean up, and told an older sibling that a robbery had occurred. The acts were allegedly motivated by long-standing resentment and family disputes, including previous conflicts over poisoned livestock and thefts of the child's family belongings.

The prosecution charged the child with a combined indictment of primary and subsidiary charges under the Indonesian Penal Code, specifically premeditated murder and aggravated theft. The public prosecutor requested a ten-year prison sentence, with one year of placement in a Social Welfare Organizing Agency (LPKS) for rehabilitation and social guidance, citing evidence of multiple planned killings and theft.

In its decision, the court found the child legally and convincingly guilty of premeditated murder and aggravated theft. The judges imposed a sentence of 20 years' imprisonment, deducting time served in detention. The panel applied the primary charge under Article 340 of the Penal Code in conjunction with Article 65 paragraph (1), Article 363 paragraph (1) concerning aggravated theft, Law No. 11 of 2012 on the Juvenile Criminal Justice System (UU SPPA), and other relevant statutory provisions. Article 340 stipulates that anyone who intentionally and with prior planning takes another person's life shall be punished by death, life imprisonment, or a fixed-term imprisonment of up to twenty years.

Proof and judicial reasoning played a critical role. In accordance with Articles 183 and 184 of the Criminal Procedure Code (KUHAP), the court required at least two valid pieces of evidence and the judge's conviction of the defendant's guilt. The evidence presented included witness testimony, expert statements, documents, and the defendant's own statements. Physical evidence admitted in court ranged from bloodstained clothing and bedding to two Samsung mobile phones and cash, most of which was returned to the victims' family. At the same time, items used in the crime were confiscated for destruction.

The judges cited several aggravating factors: the crime was ruthless and caused public unrest; the child sexually assaulted a victim after the murders, showing a lack of remorse; the victims' family refused to forgive; and the child acted with full awareness of the legal consequences. Mitigating factors included the child's confession and cooperative attitude during the proceedings.

This decision illustrates the court's exercise of ultra petita authority, as the sentence exceeded the prosecutor's request. It also reflects the balance between juvenile justice principles under the UU SPPA and the severity of the crimes committed.

In Decision No. X/Pid.Sus-Anak/2024/PN Pnj, the judges did not appear to prioritize a restorative justice approach as mandated by the Juvenile Criminal Justice System Law (UU SPPA). This was because the crime committed by the child was deemed extremely brutal and there was no indication of reconciliation from the victims' family.

In this case, the court imposed a 20-year prison sentence, which is 10 years higher than the prosecutor's demand. Yet, according to Article 81 paragraph (2) of the UU SPPA, the maximum prison sentence that may be imposed on a child is half of the maximum sentence for an adult. For premeditated murder, this would mean a maximum of 10 years if applied under the UU SPPA.

Beyond the evidentiary basis, the judges also cited non-judicial considerations. The harm caused included the profound suffering from the loss of an entire family generation, father, mother, and children, making it impossible for the victims' family to forgive and leading them instead to demand an equivalent punishment. In their aggravating considerations, the judges noted the victims' family's plea for justice, questioning whether a 10-year sentence for five deaths was

proportionate, and requesting at least the maximum penalty, even the death penalty. The premeditated and sadistic nature of the murders was viewed by the court as conduct inconsistent with that of a child and more akin to an adult. At the time of the crime, the defendant was just one week shy of 18 years old, and at the time of sentencing had just turned 18.

The decision reflects an effort to restore balance between the perpetrator, the victims, and society. According to Jeremy Bentham, punishment must be proportionate to the severity of the crime so that offenders experience the negative consequences of their actions (Nabila et al., 2024). Bentham divides the harm caused by a crime into two types of losses. The first is primary loss, which relates to the direct pain and suffering experienced by identifiable victims. The second is secondary loss, which, though stemming from the primary harm, extends to society at large, affecting many unknown and unidentifiable individuals (Nabila et al., 2024).

From Bentham's perspective, the primary loss suffered by the victims consisted of the anguish caused by the deaths of an entire family generation, leaving the victims' relatives unwilling to forgive. Court examinations also found no evidence of severe mental disorders such as psychosis or impaired reality testing, confirming that the child understood the purpose of the proceedings and the legal consequences of their actions. The child was also fully aware that if convicted, the maximum penalty under juvenile law would be half the adult sentence.

The secondary loss manifested as widespread social unrest. Media reports described public tension following the verdict, including a long march by relatives of the victims from the Penajam District Court to the local parliament (DPRD PPU). Participants carried a banner reading "Do Not Wrong Us with the Child Protection Law". The victims' legal counsel argued that the sentence remained disproportionate and called for reforms to juvenile justice regulations (Rahayu, 2024).

These circumstances highlight the extreme brutality of the acts, which resulted in the deaths of five family members and created public anxiety. In addition to premeditated murder, the child also committed other crimes, including theft and rape (although the latter was not included in the formal charges).

The dilemma in this ruling lies in the fact that at the time the crime was committed, the defendant was still under 18 years old, specifically three weeks shy of turning 18. However, by the time the verdict was handed down, the defendant was 18 years and one week old. The judges set aside the perpetrator's age at the time of the offense. They chose not to apply the Juvenile Criminal Justice System Law (UU SPPA) in sentencing, instead applying the Indonesian Penal Code (KUHP). They reasoned that the perpetrator had committed a serious crime involving premeditated murder, theft, and rape (even though the rape charge was not included in the indictment); that the crime did not reflect the behavior of a child; and that the defendant was deemed capable of accepting responsibility like an adult.

In this case, the judges selected the primary charge under Article 340 of the KUHP in conjunction with Article 65 paragraph (1) and Article 363 paragraph (1) in conjunction with Article 65 paragraph (1). Article 340 stipulates that "Anyone who, with prior planning, intentionally takes the life of another person shall be punished for premeditated murder (moord) with the death penalty, life imprisonment, or a fixed-term imprisonment of up to twenty years." Article 363, paragraph (1) provides a maximum sentence of seven years' imprisonment for aggravated theft.

In imposing the sentence, the judges prioritized justice for the victims and the public interest. This is reflected in their reasoning, which stated that "...in upholding law and justice, if there is a conflict between legal certainty and justice, the judge must prioritize justice." This aligns with the provisions of the new National Penal Code (KUHP) Article 53, which declares that: (1) in adjudicating a criminal case, judges must uphold law and justice; and (2) if there is a conflict between legal certainty and justice, judges must prioritize justice.

Law No. 1 of 2023 on the KUHP, Chapter III, Part One, outlines the purposes and guidelines of sentencing in Article 51. The objectives of sentencing are to:

- prevent criminal acts by enforcing legal norms for the protection and guidance of society;
- rehabilitate the offender through guidance and education so they may become a valuable member of society;

- resolve conflicts caused by crime, restore balance, and bring security and peace to the community; and
- foster a sense of remorse and free the offender from guilt.

Legal scholar Koeswadji (1995) similarly asserts that the primary purposes of punishment are: to maintain public order (*de handhaving van de maatschappelijke orde*); to repair the harm suffered by society as a result of the crime (*het herstel van het door de misdaad ontstane maatschappelijke nadeel*); to reform the offender (*verbetering van de dader*); to neutralize the offender (*onschadelijk maken van de misdadiger*); and to prevent crime (*ter voorkoming van de misdaad*).

According to Muladi and Barda Nawawi Arief (1992), punishment is not merely retaliation or retribution for a crime but serves beneficial purposes. Punishment is imposed not simply *quia peccatum est* (“because a crime was committed”) but *ne peccetur* (“so that others will not commit crimes”). Imposing a sufficiently severe penalty for a brutal and heinous crime serves as a deterrent to prevent similar acts in the future.

Although Articles 182 paragraphs (3) and (4) of the Criminal Procedure Code (KUHP) require the panel of judges to determine their verdict based on the indictment, a judge may still impose a higher sentence when supported by specific considerations without violating procedural law. What is prohibited is imposing a sentence that exceeds the maximum penalty set by statute or imposing a type of punishment not provided for in the Penal Code if KUHP is used as the legal basis (Yasin, 2016).

In judicial decisions where judges engage in legal discovery (*penemuan hukum*) while applying the Penal Code (KUHP) and setting aside the Juvenile Criminal Justice System Law (UU SPPA), the process becomes an embodiment of criminal law aimed at achieving justice for the offender, the victims, and society. According to Sudikno Mertokusumo, legal discovery is the concretization, crystallization, or individualization of legal norms (*das sollen*), which are general in nature, by relating them to specific factual events (*das sein*). Concrete events must be connected to legal norms so that they fall within the scope of those norms; conversely, legal norms must be adapted to the specific events so that they can be applied (Badriyah, 2011).

In legal discovery, two schools of thought are recognized: progressive and conservative. The progressive school views law and the judiciary as instruments for social change, whereas the conservative school sees law and the judiciary primarily as mechanisms for preventing moral decline and preserving established values (Mertokusumo & Pitlo, 1993).

When legislation is unclear, incomplete, static, or unable to keep pace with societal developments, it creates legal gaps that judges must fill by discovering the law through explanation, interpretation, or supplementation of statutory provisions. Legal discovery by judges is not limited to applying statutory law to concrete events but also involves creating and shaping the law itself (Rifai, 2010). Article 178 paragraph (1) of the *Herzien Inlandsch Reglement (HIR)* also provides that judges must render decisions based on applicable law without remaining passive. The article states: “Judges are obligated to adjudicate according to the law, even if not requested by the interested parties.” This provision affirms that judges have an active role in exploring, discovering, and applying the law to the case before them, even when the parties do not explicitly request or cite a particular legal basis. Judges are not merely passive recipients of the parties’ arguments but must independently investigate relevant facts and legal principles and take initiative in the process of evidence assessment and legal application. This reinforces the principle of *ius curia novit*, which holds that judges are presumed to know the law and must apply it, independent of the parties’ submissions.

Judges, therefore, possess the discretion to consider legal facts and contextually deliver justice. In essence, when adjudicating a case, a judge’s role is not merely to grant the parties’ demands but to ensure that justice is achieved in light of the law and the unique circumstances of the case.

4. Conclusion

Ultra Petita, a Latin term meaning “beyond what is requested,” remains a subject of debate in criminal law. Some argue that *ultra petita* rulings are prohibited, while others maintain that such

rulings are permissible if the subsidiary claim includes a request for a fair decision. Judges are required to prioritize the fundamental principles of justice, impartiality, legal certainty, and utility when rendering their decisions.

Law No. 11 of 2012 outlines the principles and sanctions applicable to children who commit criminal acts. Sanctions for children under 14 years of age consist of non-penal measures. In contrast, children over 15 years may receive penalties such as a warning, conditional punishment, job training, institutional guidance, or imprisonment. The law emphasizes the protection and best interests of the child, while also requiring protection for both victims and perpetrators. The principles of diversion and restorative justice are presented as alternatives to the formal criminal justice system, allowing for alternative sanctions without imprisonment. However, specific categories of serious crimes, including murder, rape, drug trafficking, and terrorism, are not prioritized for diversion.

In the Penajam District Court Decision No. 3/Pid.Sus-Anak/2024/PN Pnj, the child defendant was charged with premeditated murder and aggravated theft. The court imposed a 20-year prison sentence, ten years higher than the prosecutor's request, as an effort to restore balance between the offender, the victims, and society. The judges' considerations prioritized justice for the victims and the public interest, aligning with the Indonesian Penal Code and the goals and guidelines of sentencing.

Judicial legal discovery (penemuan hukum) represents a form of legal reasoning aimed at realizing justice for offenders, victims, and society. Judges possess the discretion to evaluate legal facts and apply the law contextually, while being obligated to adjudicate based on the law without remaining passive. Although judges have the freedom to determine sentences according to their legal reasoning and conscience, they must adhere to specific limitations: they may not exceed the maximum penalty stipulated in the relevant statute, impose a type of punishment not provided for in the Penal Code, or issue a decision without sufficient legal reasoning based on admissible evidence.

Thus, judicial legal discovery serves as a mechanism for achieving justice by allowing judges to contextualize the law and deliver decisions that uphold fairness, protect societal interests, and remain within the boundaries of statutory law.

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