

ABSTRAK

Penelitian ini mengkaji penerapan asas ultimum remedium dalam pemidanaan anak korban kekerasan seksual di Indonesia dari prespektif perlindungan dan keadilan. Tujuan penelitian ini adalah untuk mengetahui penerapan asas ultimum remedium terhadap anak yang melakukan tindak pidana kekerasan seksual dan apakah dalam penerapan asas ultimum remedium dalam kejahatan seksual tersebut anak mendapat perlindungan dan keadilan. Rumusan masalah dalam penelitian ini adalah bagaimana penerapan asas ultimum remedium terhadap anak yang melakukan tindak pidana kekerasan seksual, dan Apakah dalam penerapan asas ultimum remedium dalam kejahatan seksual anak mendapatkan perlindungan dan keadilan. Metode penelitian yang digunakan adalah menggunakan metode penelitian normatif, dengan cara pengumpulan bahan hukum yaitu studi kepustakaan. Sumber data terdiri dari bahan hukum primer, bahan hukum sekunder, dan bahan hukum tersier. Menggunakan metode pendekatan perundang-undangan, pendekatan koseptual dan pendekatan kasus Pengadilan Samarinda Nomor: 26/Pid.Sus-Anak/2023/PN.Smr. Hasil penelitian menunjukkan bahwa penerapan asas ultimum remedium dalam pemidanaan anak korban kejahatan seksual di Indonesia masih menghadapi berbagai tantangan dan kendala. Meskipun secara normatif asas ini telah diatur dalam berbagai peraturan perundang-undangan, namun dalam praktiknya belum dapat diimplementasikan secara optimal. Beberapa hambatan yang teridentifikasi antara lain: kurangnya pemahaman dan sensitifitas dari para penegak hukum, terbatasnya sumber daya dan fasilitas pendukung, belum optimalnya koordinasi antar lembaga, serta adanya persepsi bahwa pendekatan non-pemidanaan dapat mengurangi efek jera bagi pelaku.

Kata Kunci: *Asas Ultimum Remedium, Pemidanaan Anak, Kekerasan Seksual*

ABSTRACT

This study examines the application of the ultimum remedium principle in the sentencing of child victims of sexual crimes in Indonesia from the perspective of protection and justice. The purpose of this study is to analyze the to determine the application of the principle of ultimum remedium to children who commit crimes of sexual violence and whether in applying the principle of ultimum remedium in sexual crimes the child receives protection and justice. The formulation of the problem in this research is how to apply the principle of ultimum remedium to children who commit crimes of sexual violence, and whether in applying the principle of ultimum remedium in sexual crimes children receive protection and justice. The formulation of the problem in this research is how to apply the principle of ultimum remedium to children who commit crimes of violence, and whether by applying sex as the ultimum remedium in sexual crimes, children receive protection and justice. The research method used is a normative research method, by collecting legal materials, namely literature study. Data sources consist of primary legal materials, secondary legal materials and tertiary legal materials. Using the statutory approach, conceptual approach and case approach where the primary data is derived from the Samarinda District Court Decision Number: 26/Pid.Sus-Anak/2023/Pn..Smr The results of the research show that the application of the principle of ultimate remedium in the punishment of child victims of sexual crimes in Indonesia still faces various challenges and obstacles. Although normatively this principle has been regulated in various laws and regulations, in practice it has not been implemented optimally. Some of the barriers identified include: lack of understanding and sensitivity of law enforcers, limited resources and supporting facilities, lack of optimal coordination between institutions, and the perception that a non-punitive approach can reduce the deterrent effect for perpetrators.

Keywords: *Ultimum Remedium Principle, Child Sentencing, Sexual Hardness.*