

Abstrak

This study addresses the legal tension between the application of the ultimum remedium principle and the principle of the best interests of the child, set against public demands for retribution through the imposition of maximum sentences on Children in Conflict with the Law (ABH). The study aims to analyze the legal basis, legal factors, and non-legal considerations used by judges in imposing the maximum penalty of 10 years' imprisonment on children. It employs a normative-juridical legal research method, utilizing statutory, case, and contextual approaches through a literature review. Data were analyzed using a descriptive-analytical qualitative method, focusing on Pangkalan Balai District Court Decision No. 20/Pid.Sus-Anak/2020/PN Pkb and Makassar District Court Decision No. 5/Pid.Sus-Anak/2023/PN Mks (in conjunction with Makassar High Court Decision No. 06/Pid.Sus-Anak/2023/Pt Mks). The findings reveal inconsistencies and a tendency toward legal positivism (penal positivism), wherein the imposition of the maximum sentence was influenced by the severity of the crime's consequences and errors in the legal qualification of the offense at the trial court level errors that were subsequently corrected on appeal. In conclusion, the validity of imposing the maximum formal sentence hinges heavily on the precision of the qualification of the underlying offense (predicate crime) specifically those punishable by death or life imprisonment under Article 81 paragraph (6) of the Juvenile Criminal Justice System Law (UU SPPA). These implications necessitate judicial meticulousness and a reformulation of sentencing guidelines to ensure that maximum sentencing does not become a tool for retribution, but rather continues to prioritize the child's rehabilitation.

Keywords: Juvenile Criminal Justice System; Maximum Penalty; Ratio Decidendi; Ultimum Remedium; Best Interests of the Child.

Abstrak

Penelitian ini melatarbelakangi adanya ketegangan yuridis antara penerapan asas *ultimum remedium* serta prinsip *the best interests of the child* dengan desakan retribusi publik dalam penjatuhan pidana maksimum bagi Anak yang Berhadapan dengan Hukum (ABH). Penelitian ini bertujuan menganalisis dasar hukum, faktor yuridis, dan pertimbangan non-yuridis hakim dalam menentukan sanksi pidana maksimum 10 tahun penjara bagi anak. Metode yang digunakan adalah penelitian hukum yuridis normatif dengan pendekatan perundang-undangan, pendekatan kasus, dan pendekatan konseptual melalui teknik studi kepustakaan. Data dianalisis secara kualitatif deskriptif-analitis terhadap Putusan PN Pangkalan Balai Nomor 20/Pid.Sus-Anak/2020/PN Pkb dan Putusan PN Makassar Nomor 5/Pid.Sus-Anak/2023/PN Mks (jo. Putusan PT Makassar Nomor 06/Pid.Sus-Anak/2023/Pt Mks). Hasil penelitian menemukan adanya inkonsistensi dan kecenderungan positivisme hukum (*penal positivism*), di mana penjatuhan pidana maksimum dipengaruhi oleh beratnya akibat kejahatan dan kesalahan kualifikasi pasal pada tingkat pertama sebelum dikoreksi di tingkat banding. Kesimpulannya, keabsahan formal pemidanaan maksimum sangat bergantung pada presisi kualifikasi tindak pidana asal (*predicate crime*) yang diancam pidana mati atau seumur hidup berdasarkan Pasal 81 ayat (6) UU SPPA. Implikasinya menuntut ketelitian hakim serta perlunya reformulasi pedoman pemidanaan agar pidana maksimum tidak menjadi target pembalasan, melainkan tetap memprioritaskan rehabilitasi anak.

Kata Kunci: Sistem Peradilan Pidana Anak; Pidana Maksimum; *Ratio Decidendi*; *Ultimum Remedium*; Kepentingan Terbaik bagi Anak