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The Effectiveness of Chemical Castration for Perpetrators of Sexual Violence Against Children in the Effectiveness of Criminal Law

Askari Razak¹ & Nur Alfisyahrin Muhlis²

*Correspondent Author, Email: askari.razak@umi.ac.id

¹Faculty of Law, Indonesian Muslim University, Makasar, Indonesia

²Master of Law Student, Indonesian Muslim University, Makasar, Indonesia

ABSTRACT

This study aims to analyze the regulation of chemical castration for perpetrators of sexual violence against children from a criminal law perspective, and influencing factors. This study uses empirical research methods. The results of this study indicate that based on Perpu No. 1 of 2016 concerning the second amendment to Law No. 23 of 2002 concerning child protection. Perpu No. 1 was later passed into Law No. 17 of 2016 concerning the establishment of Perpu No. 1 of 2016. And PP No. 70 of 2020 concerning Procedures for the implementation of Chemical Castration Punishment. Installation of Electronic Detection Devices, Rehabilitation, and Announcement of the Identity of Perpetrators of Sexual Violence against Children. As well as the factors that influence the administration of chemical castration for perpetrators of sexual violence against children in the perspective of criminal law, including legal factors themselves, law enforcement factors, facilities and facilities factors, community factors, and cultural factors.

Keywords: Chemical castration; Sexual Violence; Child

ABSTRAK

Tujuan penelitian menganalisis pengaturan penjatuan hukuman kebiri kimiawi bagi pelaku kejahatan kekerasan seksual terhadap anak dalam perspektif hukum pidana, dan faktor-faktor yang mempengaruhi. Penelitian ini menggunakan metode penelitian Empiris. Hasil penelitian ini menunjukkan bahwa berdasarkan Perpu No 1 Tahun 2016 tentang perubahan kedua atas Undang-undang No 23 Tahun 2002 tentang perlindungan anak. Perpu No 1 ini kemudian disahkan menjadi Undang-undang Nomor 17 tahun 2016 tentang penetapan Perpu No 1 Tahun 2016. Dan PP no 70 Tahun 2020 Tentang Tata cara pelaksanaan Hukuman kebiri Kimiawi, Pemasangan Alat Pendeteksi Elektronik, Rehabilitasi, dan Pengumuman Identitas Pelaku Kekerasan Seksual terhadap anak. Serta Faktor-faktor yang mempengaruhi pemberian hukuman kebiri kimiawi bagi pelaku kejahatan kekerasan seksual terhadap anak dalam perspektif hukum pidana antara lain: Faktor hukumnya sendiri, faktor penegak hukum, faktor sarana dan fasilitas, faktor masyarakat, faktor kebudayaan.

Kata Kunci: Kebiri Kimia; Kekerasan Seksual; Anak

INTRODUCTION

One form of crime is sexual violence. If you study history this type of crime has been around for a long time, or it can be said as a classic form of crime that will always follow the development of human culture itself, it will always exist and develop at any time, even though it may not be too much different from before. Sexual violence itself is an act that involves the values of honour and self-esteem of women ([Bariah, Din & Mujibussalem, 2017](#)).

The dimensions of the act are not always regulated in the legality of the law, but often occur. Criminalization, for example, the current act of sexual violence does not include several acts that should also be classified as crimes of sexual violence ([Christianto, 2011](#)). In addition, if viewed from the sentencing point of view, it is important to pay attention to how the judge's perception in giving punishment to the perpetrators of sexual violence does not only occur in big cities which are relatively more advanced in culture and awareness or legal knowledge but also occur in rural areas which are relatively still in control. the values of tradition and customs. The perpetrators of these crimes felt that women and children could be the targets for channelling their sexual desires ([Sastrawati, 2012](#)).

The chairman of the National Commission for Child Protection (Komnas PA), Arist Merdeka Sirait, said that it was appropriate for Indonesia to be declared an emergency state for sexual crimes against children. Separately, the Secretary of the Indonesian Child Protection Commission (KPAI) Prevention of sexual crimes has been regulated in the Criminal Code as a general provision, as well as Law no. 35 of 2014 concerning Amendments to Law no. 23 of 2002 concerning Child Protection (Child Protection Law) as a special provision. The penal policies (criminal law) regulated in the Criminal Code include Article 285, Article 287, and Article 289. Whereas (Child Protection Law) is regulated by Articles 80 and Article 81. The existing penal policies (criminal law) are seen as unable to cope with the increasing perpetrators of sexual **violence or sexual crimes against children** ([Kardono, Jaya, & Rochaeti, 2020](#)).

The existence of Law no. 35 of 2014 concerning Amendments to Law no. 23 of 2002 concerning Child Protection (Child Protection Law) is very congruent with an act of protection for minors, but on the other hand, the development of perpetrators without looking at aspects of their condition as humans, psychological or sexual disorders that they suffer so that the perpetrators compelled to do so should also be taken into consideration ([Friendly, 2017](#)). It is normal for the victim to ask the perpetrator to be punished as harshly as possible, but on the

other hand, the function of law in providing a balance to the perpetrator must also be applied so that the goal of being a rule of law can work well.

The public is also increasingly appreciating the government's attitude, which is considered responsive to events that occur in society. One alternative to anticipate increasing sexual violence against children, the Government issued Perpu No. 1 of 2016 concerning the second amendment to Law No. 23 of 2002 concerning child protection. Perpu No. 1 was later passed into Law No. 17 of 2016 concerning the establishment of Perpu No. 1 of 2016. The Perpu regulates the weighting of punishments for perpetrators of sexual crimes, especially against children. The essence of the Perpu regulates the existence of criminal acts and actions (Sholichah, 2017).

The action referred to in the Perpu is in the form of carrying out chemical castration accompanied by rehabilitation. By making a Perpu regarding additional punishment for perpetrators of sexual violence crimes. However, the substance of Perpu No. 1 of 2016 sparked controversy, especially about the threat of chemical castration as regulated in Article 81 paragraph (7). Some groups think that this punishment should be imposed on perpetrators of sexual crimes against children because the suffering and impact felt by the victim are enormous (Azizah, 2017).

The enactment of Perpu Number 1 of 2016 concerning the Second Amendment to Law (UU) Number 2 of 2002 concerning child protection, is a legal remedy that must be consistently used as a legal consideration for judges in deciding a case so that the Perpu does not become an empty norm. Meanwhile, human rights (HAM) activists objected to the criminal threat contained in Perpu No. 1 of 2016, specifically regarding the imposition of threats of chemical castration which are considered contrary to human rights (Kartika, Farid, & Putri, 2020).

Indeed cruel punishment violates human rights (HAM). The word "cruel" has a destructive connotation. Even to the stars, humans are prohibited from being cruel, it is said that they are humans. And, if a cruel punishment is imposed on a human being, then that human being has been struck by a double calamity, the first calamity because of the punishment and the second calamity because of the cruelty. Because the effects of this cruel punishment were so severe and negative. So the imposition of cruel punishments on criminals is classified as a violation of human rights. It's not only human rights activists who oppose the Perpu, but also the Indonesian Doctors Association (IDI).

Responding to the widespread news about Perpu No. 1 of 2016, where the existence of the medical profession is associated with the implementation of additional sanctions for perpetrators of sexual violence against children contained in Perpu No. 1 of 2016, the Executive Board of the Indonesian Doctors Association (IDI) stated that with additional sanctions in the form of chemical castration directing doctors as executors of sanctions, it was based on the Ethical Council of Ethics and Honorary Council (MKEK) fatwa No. 1 of 2016 concerning Chemical Castration which was also based on The Doctor's Oath and the Indonesian Code of Medical Ethics (KODEKI).

Even though it aims to benefit the wider community and control excessive sexual hormone urges for perpetrators of sexual crimes, in essence, it harms the normal functioning of the patient's body and still cannot be said to be free from violations of medical ethics. Despite receiving many objections from various parties, the government still passed Perpu No. 1 of 2016 on chemical castration and culminating in 2020 the president issued Government Regulation Number 70 of 2020 concerning procedures for carrying out chemical castration, installing electronic detection devices, rehabilitation, and announcing the identity of the perpetrators. sexual violence against children (PP Chemical Castration).

Sexual violence itself is classified as an extraordinary crime. *extraordinary crime*). The Ministry of Women's Empowerment and Child Protection (KemenPPPA) reported that 797 children were victims of sexual violence throughout January 2022. This number is equivalent to 9.13 per cent of the total child victims of sexual violence in 2021 which reached 8,730. The data comes from reports obtained from the Online Information System for the Protection of Women and Children (PPA Symphony).

Deputy for Special Protection for Children of the Ministry of PPPA, Nahar said, the trend in the number of cases of sexual violence against children is increasing because people now dare to report it. Based on data from the Ministry of PPPA, the number of child victims of sexual violence from 2019 to 2021 has increased. In 2019, the number of child victims of sexual violence reached 6,454, then increased to 6,980 in 2020. Furthermore, from 2020 to 2021 there was an increase of 25.07 per cent to 8,730.

Problems regarding sexual violence are never-ending, ranging from verbal, physical, and sexual violence to violence in cyberspace. All types of violence can have a real and direct impact on victims physically and psychologically. Looking at several laws and regulations

made by the government, many cases have been sentenced by judges in the form of chemical castration. The following are some examples of cases of sexual violence against children, First Case The first castration sentence in Indonesia was Muh Aris (20), a resident of Mengelo Hamlet, Sooko Village, Mojokerto Regency. The man who worked as a welder was proven to have raped 9 underage girls in the Mojokerto Regency/City area. The verdict was handed down by the Mojokerto District Court on May 2, 2019. At that time, Aris was sentenced to 12 years in prison and a fine of Rp. 100 million, subsidiary 6, not confinement.

The judge then gave Aris an additional sentence, namely chemical castration. Aris also filed an appeal. However, the Surabaya High Court (PT) decision on July 18 2019 upheld the Mojokerto District Court's verdict. Aris was still given the additional sentence of chemical castration. Aris has been raped since 2015 with the mode of looking for female victims when the perpetrator returns from work. rape is committed in a deserted place. One of his actions on Thursday, October 25 2018, was recorded on CCTV. The action which was carried out in the Kulon Soldiers area, Mojokerto City, was the last action for Aris, who was then arrested by the police on October 26, 2018.

The second case is Dian Ansori, a man who used to serve at the Integrated Service Center for the Empowerment of Women and Children (P2TP2A) in East Lampung, who was sentenced to chemical castration. He raped a 13-year-old boy who was a victim of rape entrusted to the institution he led. Not only rape. He also sold victims to some masher. This case started when the victim underwent a mentoring program from the UPT in April-June 2020. The victim was initially submitted to P2TP2A for recovery both psychologically and mentally.

Since the end of 2019, victims must undergo protection in safe houses referred to by Dian Ansori. However, instead of receiving proper protection, the victim was raped by Dian Ansori. Dian's chemical castration sentence was read out during a hearing which was held on Tuesday (9/2/2021). In addition to chemical castration, Dian was also sentenced to 20 years in prison and paid restitution to victims of Rp. 7.7 million. The above are examples of cases of sexual violence against minors.

Reflecting on the two cases above, the community, especially the victims, felt increasingly protected by the additional punishment in the form of chemical castration. This indicates that the government is not playing games in protecting the community. Although it must also be admitted that many countries in the world still apply such a system of punishment. The practice in various countries regarding punishment at a higher court level varies. or

psychological torture). In various ancient cultures and civilizations, there were indeed various ways of torturing criminal suspects and cruel punishments for convicts. That was the reason why there were pros and cons to the imposition of these additional sentences.

RESEARCH METHODS

The data needed in this research is oriented towards the actions of all groups who play an important role in the prosecution and overcoming of criminal acts of sexual abuse committed by children. Starting from the basis of the research and scientific considerations above, a type of empirical research was established which is research with a legal approach in society and aims to accurately describe the characteristics of an individual, condition or symptoms of a particular group or to determine the spread of a symptom or to determine whether there is whether or not the relationship between a symptom with other symptoms in society. This research sometimes starts with a hypothesis, sometimes it doesn't, can form new theories or strengthen existing theories, and can use qualitative and quantitative data. This research was conducted at the Enrekang District Court and the Enrekang District Attorney's Office, based on the consideration that there were many cases of sexual violence crimes that even caused trauma to the victim. The research time was 2 months.

FINDING & DISCUSSION

Arrangements for Imposing Chemical Castration Punishment for Perpetrators of Sexual Violence Against Children According to the Perspective of Criminal Law

Efforts to protect children must be started as early as possible so that in the future they can optimally participate in the development of the nation and state. In Article 2 paragraphs (3) and (4) of the Law of the Republic of Indonesia Number 4 of 1979 concerning Child Welfare, it is determined that:

- (3) Children have the right to care and protection, both during pregnancy and after birth.
- (4) The child has the right to protection against the environment that can harm or hinder his growth and development reasonably.

Article 1 point 2 of Law Number 23 of 2002 concerning Child Protection, child protection is all activities to guarantee and protect children and their rights so that they can live, grow, develop, and participate optimally by human dignity, and receive protection from violence and discrimination.

According to the author, Law 35 of 2014 concerning child protection stipulates aggravating penalties for perpetrators of sexual crimes against children, namely the death

penalty, life imprisonment, and a maximum of 20 years in prison as well as additional punishment in the form of announcing the perpetrator's identity.

In Article 76D itself, it reads "Every person is prohibited from committing violence or threats of violence to force a child to have intercourse with him or with another person. lie, or induce the Child to commit or allow obscene acts to be committed.

Some of the examples of the articles above regulate the form of protection for children. Criminal law in Indonesia itself has regulated sanctions against perpetrators of rape of minors, contained in Article 287 paragraph (1) of the Criminal Code and Article 82 of the Child Protection Act. Formally, criminal law in Indonesia stipulates a maximum sentence of 9 years in prison. Because prison sanctions have not been able to provide a deterrent effect on perpetrators of sexual crimes against children, a new type of crime was launched in the form of chemical castration and the installation of electronic detection devices as stipulated in Article 81 paragraph (6) of Perpu Number 1 of 2016 which has been promulgated as Law Number 17 of 2016.

Several provisions in Law Number 23 Year 2002 concerning Child Protection (State Gazette of the Republic of Indonesia Year 2002 Number 109, Supplement to the State Gazette of the Republic of Indonesia Number 4235) as amended by Law Number 35 Year 2014 concerning Amendments to Law Number 23 Year 2002 concerning Child Protection (State Gazette of the Republic of Indonesia Year 2014 Number 297, Supplement to the State Gazette of the Republic of Indonesia Number 5606) is amended as follows: The provisions of Article 81 are amended so that it reads as follows:

- (1) Anyone who violates the provisions referred to in Article 76D shall be punished with imprisonment for a minimum of 5 (five) years and a maximum of 15 (fifteen) years and a maximum fine of Rp. 000,000,000.00 (five billion rupiahs).
- (2) The criminal provisions referred to in paragraph (1) also apply to anyone who intentionally commits deception, a series of lies, or induces a child to have intercourse with him or with another person.
- (3) If the crime as referred to in paragraph (1) is committed by parents, guardians, people who have family relations, caregivers, educators, educational staff, apparatus in charge of child protection, or is committed by more than one person jointly the same, the penalty is added 1/3 (one third) of the criminal threat referred to in paragraph (1). (2) (3) (4).

- (4) In addition to the perpetrators referred to in paragraph (3), an additional 1/3 (one-third) of the criminal penalty is also imposed on perpetrators who have been sentenced for committing a crime as referred to in Article 76D.
- (5) If the crime referred to in Article 76D causes more than 1 (one) victim, results in serious injury, mental disorder, infectious disease, disruption or loss of reproductive function, and/or the victim dies, the perpetrator shall be sentenced to death, life imprisonment, or imprisonment for a minimum of 10 (ten) years and a maximum of 20 (twenty) years.
- (6) In addition to being subject to the punishment referred to in paragraph (1), paragraph (3), paragraph (4), and paragraph (5), the perpetrator may be subject to additional punishment in the form of announcing the identity of the perpetrator.
- (7) The perpetrators referred to in paragraph (4) and paragraph (5) may be subject to action in the form of chemical castration and installation of electronic detection devices.
- (8) The action referred to in paragraph (7) is decided together with the main punishment by including the period for acting. Additional crimes and actions are excluded for child offenders.

According to the author, the imposition of chemical castration is considered appropriate considering that the government has legalized a special regulation regarding this matter with the consideration that a large number of cases of sexual violence against children has prompted the government to adopt a policy of protecting children from sexual violence in the form of intercourse and obscenity by providing even stricter punishments. for the perpetrator.

Between Article 81 and Article 82 is inserted 1 (one) article namely Article 81A which reads as follows:

Article 81A

- (1) The actions referred to in Article 81 paragraph (7) are imposed for a maximum period of 2 (two) years and are carried out after the convict has served his principal sentence.
- (2) The implementation of the actions referred to in paragraph (1) is under periodic supervision by the ministry in charge of government affairs in the legal, social and health fields.
- (3) The implementation of chemical castration is accompanied by rehabilitation.
- (4) Further provisions regarding procedures for the implementation of actions and rehabilitation are regulated by Government Regulations.

From the description above, this Perpu makes it more difficult for perpetrators of sexual crimes where in the regulation there is the provision of legal witnesses to chemical castration for violators of the provisions in Article 81 paragraph 7 against the perpetrators as referred to in paragraphs 4 and 5 can be subject to chemical castration and installation electronic detector. The debate is not only about human rights not to torture in imposing sanctions, but also on punishments. Therefore it is only natural that chemical castration injections are not proven to be able to reduce cases of sexual crimes.

The rules regarding chemical castration have been regulated by government *Regulation Number 70 of 2020* concerning Procedures for Carrying out Chemical Castration, Installation of Electronic Detection Devices, Rehabilitation, and Announcement of the Identity of Perpetrators of Sexual Violence against Children. Starting from :

Definition

- 1) Article 1 describes the definition of action chemical castration as the administration of chemical substances through injection or other methods, which are carried out to perpetrators who have been convicted for committing violence or threats of violence forcing a child to have intercourse with him or with another person, resulting in more than 1 (one) person being victimized, resulting in serious injuries, mental disorders, infectious diseases, impaired or lost reproductive function, and/or deceased victims, to suppress excessive sexual desire, accompanied by rehabilitation.

Procedure

- 2) As regulated in article 2, the Implementation of chemical castration against perpetrators of intercourse is based on court decisions that have permanent legal force. The implementation of this court decision was carried out on the order of the prosecutor in coordination with the ministry of health, the ministry of law and the ministry of social affairs.
- 3) Article 4 stipulates that child offenders cannot be subject to chemical castration.
- 4) Article 5 stipulates that chemical castration is imposed for a maximum period of two years.

Stages of Enforcement

- 5) Article 6 states that chemical castration is carried out through stages; clinical assessment, conclusions, and implementation.

- 6) The stages of clinical assessment, listed in article 7, are carried out by officers who have competence in the medical and psychiatric fields. The clinical assessment includes; clinical and psychiatric interviews, physical examination; and supporting examinations.
- 7) The second stage of the conclusion contains the results of a clinical assessment to ensure that the sex offender is eligible or not subject to chemical castration. This is regulated in article 8.
- 8) Then, article 9 regulates the implementation of chemical castration. The implementation of chemical castration was carried out after it was concluded that the perpetrator deserved this punishment.

Postponable

- 9) Article 10 also stipulates that if the conclusion states that it is not appropriate to carry out chemical castration, then it is postponed for a maximum of six years. Then a clinical reassessment and re-conclusion are carried out to ensure it is appropriate or not feasible to return. If it is still declared unfit, then the prosecutor will notify the court in writing that will decide the case at the first level by attaching the results of a repeat clinical assessment and a re-conclusion.
- 10) Article 11 stipulates that if the perpetrator escapes from chemical castration, the implementation is postponed. Prosecutors coordinate with police dealing with fleeing offenders. If the perpetrator is caught or surrenders, the prosecutor will coordinate with the ministry of legal affairs, the ministry of social affairs and the ministry of health to carry out chemical castration.
- 11) Article 12 stipulates that the perpetrator of the intercourse dies, so the prosecutor shall notify the court in writing which decides the case at the first level.

Implementation of procedures for administering chemical castration, namely PP No. 70 of 2020, namely Article 9 Implementation as referred to in Article 6 letter c is carried out in the following manner:

- (a) The implementation of chemical castration is carried out after the conclusion referred to in Article 8 states that the perpetrators of intercourse are eligible to be subject to chemical castration;
- (b) Within a period of no later than 7 (seven) working days after receiving the conclusion referred to in letter a, the prosecutor orders the doctor to perform chemical castration on the perpetrators of intercourse;

- (c) The implementation of chemical castration as referred to in point b is carried out immediately after the convict has finished serving the principal sentence;
- (d) The implementation of chemical castration is carried out at a government-owned hospital or a designated regional hospital;
- (e) The implementation of the Chemical Castration Action was attended by prosecutors, representatives from the ministries in charge of government affairs in the field of law, ministries in charge of government affairs in the social sector, and ministries in charge of government affairs in the health sector
- (f) The implementation of Chemical Castration is stated in the official report; and
- (g) The prosecutor informs the victim or the victim's family that chemical castration has been carried out.

The author's analysis is that the process of dropping chemical castration into PP No. 70 of 2020 is by medical procedures and statutory regulations. So in the fall, the perpetrators were checked for health. Chemical castration according to the PP is the administration of chemicals through injection or other methods to perpetrators who have been convicted of violence or sexual threats to children. Chemical castration accompanied by rehabilitation is intended to suppress excessive sexual desire, this punishment cannot be imposed on perpetrators who are still children.

The following is an example of a picture of the chemical castration procedure and the side effects it causes:

KEBIRI KIMIAWI

Efek samping:

- Meningkatkan kecemasan, stres, depresi, dan frustrasi
- Mudah lelah
- Bulu badan berkurang
- Memperbesar kelenjar payudara pada pria
- Mengurangi massa otot
- Meningkatkan berat badan, yang berakibat menaikkan risiko penyakit jantung dan pembuluh darah
- Mengurangi kerapatan tulang, yang berakibat meningkatkan risiko osteoporosis
- Hipertensi
- Migrain
- Meningkatkan kadar gula darah
- Memperkecil ukuran testis
- Tak mampu ereksi
- Mengurangi jumlah sel sperma

- Obat antiandrogen menekan produksi hormon testosteron.
- Obat antiandrogen yang biasa digunakan pada penderita kanker prostat disuntikkan. Penyuntikan dilakukan secara berulang pada periode tertentu (umumnya 1-3 bulan).
- Tidak adanya produksi hormon testosteron di testis mematikan dorongan seksual. Proses ini tidak akan membuat orang yang dikebiri menjadi steril, seperti yang terjadi pada kebiri tradisional. Namun, dorongan seksualnya akan normal lagi jika penyuntikan obat antiandrogen dihentikan.

Daftar Negara yang Menerapkan Hukuman Kebiri

Negara	Bentuk dan Tahun Pemberlakuan
Amerika Serikat (Negara Bagian California, Florida, Georgia, Iowa, Louisiana, Montana, Oregon, Texas, dan Wisconsin)	Suntik (1997)
Jerman ^a	Bedah (1969)
Denmark ^a	Bedah (1929), suntik (1973)
Norwegia	Bedah (1977)
Ceko	Bedah (1966)
Polandia	Suntik (2009)
Finlandia ^a	Bedah (1970)
Swedia ^a	Bedah (1944)
Argentina (Provinsi Mendoza)	Suntik (2010)
Moldova	Suntik (2012)
Rusia	Suntik (2011)
Korea Selatan	Suntik (2011)

^aHukum masih berlaku, tapi hukuman kebiri sudah ditinggalkan.

Sumber: Koreanherald.com, Hindustantimes.com, CNN.com, DW.de

INFOGRAFIK: LEBUUR

Source: Koreanherald.com, Hindustantimes.com, CNN.com. DW .de

The way these chemical drugs work is by lowering levels of androgen levels (testosterone hormone) in the blood. There are various kinds of antiandrogens, some of which are medroxyprogesterone *acetate*, *cypoterone acetate*, and *LHRH agonist*, in addition to lowering testosterone levels, these drugs can effectively reduce sex drive and reduce a man's ability to be sexually stimulated. Unlike orchiectomy or castration surgery which is done by removing part of the testicles, the effects of chemical castration can subside when the injection of the drug is stopped. Therefore, administration of antiandrogen drugs cannot be given only once, but must be given several times and routinely. If the anti-androgen drug is stopped or stopped being given, it is undeniable that the sexual arousal of men, in this case, the perpetrators of sexual violence against children, can reappear.

In an interview with Bagus Priyo Prasajo, SH. As a judge at the Enrekang District Court, he explained that giving castration injections would indeed stop the perpetrator's sexual organs, but it was related to thoughts and mental illness. It could be that his sexual organs are not functioning, but his evil thoughts are still there and he can commit other sexual crimes with other organs. So that the solution that the government must pay attention to is religious education, providing education about sexuality and psychological assistance. Which is very important. Especially for victims of paedophiles so that they don't become predators when they grow up.

According to the author, from the statement above, chemical castration must pay attention to the psychology of the perpetrator so that in the future, after returning to normal, the perpetrator does not hold grudges or repeat crimes because his sexual desire has been confiscated for several years. So more support is needed.

The mechanism for implementing chemical castration itself has also been regulated in Government Regulation (PP) 70 of 2020 concerning Procedures for the Implementation of Chemical Castration, Installation of Electronic Detection Devices, Rehabilitation, and Announcement of the Identity of Perpetrators of Sexual Violence against Children.

article 1

- (1) Child is someone who is not yet 18 (eighteen) years old, including children who are still in the womb.
- (2) The act of chemical castration is the administration of chemical substances through injection or other methods, which are carried out on perpetrators who have been convicted of committing violence or threats of violence forcing a child to have intercourse with him

or with another person, causing more than 1 (one) victim, resulting in serious injury, mental disorders, infectious diseases, impaired or lost reproductive function, and/or death victims, to suppress excessive sexual desire, accompanied by rehabilitation.

- (3) Perpetrators of sexual violence against children are perpetrators of criminal acts of sexual intercourse with children with violence or threats of sexual violence forcing children to have intercourse with them or with other people and perpetrators of criminal acts of obscene acts against children with violence or threats of sexual violence, coercion, deception, committing a series of a lie, or induce the Child to commit or allow obscene acts to be committed.
- (4) The perpetrator of the crime of intercourse with a child with violence or threats of sexual violence forcing a child to have intercourse with him or with another person, hereinafter referred to as the perpetrator of intercourse, is a convict or person who has completed serving the principal sentence for the crime of intercourse with a child with violence or threats of force forcing a child. have intercourse with him or with another person.
- (5) Perpetrators of Obscene Acts against Children with Violence or Threats of Sexual Violence, Forcing, Committing Deception, Committing a Series of Lies, or Persuading Children to Perform or Allow Obscene Acts to be Performed, hereinafter referred to as Perpetrators of Obscene Acts, are convicts or people who have completed serving a sentence subject to criminal acts of obscene acts against children by violence or threats of violence, coercion, deception, committing a series of lies, or persuading children to commit or allow obscene acts to be carried out. In the explanation above, it is concluded that in general the classification of sexual violence is divided into obscenity, intercourse, and pornography. The classification of sexual violence is limited to rape, obscenity, and sexual intercourse.

Section 2

- (1) Actions of chemical castration, actions installing electronic detection devices, and rehabilitation are imposed on perpetrators of intercourse based on court decisions that have permanent legal force.
- (2) The act of installing an electronic detection and rehabilitation device is imposed on the Perpetrators of Obscene Acts based on a court decision that has permanent legal force.
- (3) The implementation of the court's decision as referred to in paragraphs (1) and (2) is carried out on the order of the prosecutor after coordinating with the ministry administering

government affairs in the health sector, the ministry administering government affairs in the legal sector, and the ministry administering government affairs in the social sector.

Article 3

Chemical castration, installation of electronic detection devices, and rehabilitation are carried out by officers who are competent in their fields on the order of the prosecutor.

Article 4

Child offenders cannot be subject to chemical castration and installation of electronic detection devices.

Article 5

Chemical castration is imposed for a maximum period of 2 (two) years.

Article 6

Chemical castration is carried out in the following stages:

- a. clinical assessment;
- b. conclusion; and
- c. implementation.

This PP came out more than a year after the first sentence of chemical castration was handed down by the Mojokerto District Court in August 2019. With case number 69/Pid.sus/2019/PN.Mjk May 2 2019. A punishment of 12 years in prison and a fine of IDR 100 million, a subsidy of 6 months confinement was imposed on Aris. The Mojokerto Court decided by what was written in Peru Number 1 of 2016 which has been promulgated to become Law Number 17 of 2016. The panel of judges who handled the case revealed that the decision of the Mojokerto District Court was considered the best decision. This is to provide a sense of justice in society.

Convicted of chemical castration Muhammad Aris himself was proven guilty of raping or sexually assaulting nine children across the Mojokerto area. At the post-mortem examination, Aris' actions resulted in the tearing and bleeding of each victim. Aris is still undergoing corporal punishment. Aris has not yet served his castration sentence because he has not completed the main sentence.

According to the authors of the several articles above regarding the additional punishment of chemical castration, namely, if castration is not prepared properly, then this punishment can be said to violate human rights. But in fact, if the Government prepares this punishment very carefully then the effect of this punishment can be dampened.

An interview with one of the perpetrators of sexual assault on November 17 at 11.08.WITA, whose name was disguised, let's call him DM, revealed that even though he committed sexual violence, he felt the punishment of chemical castration was very frightening and the prison sentence had a deterrent effect. He also said that castration was usually given to non-human animals. It can be concluded from the statements of the perpetrators of sexual violence above that, although the degree of guilt is not the same as the perpetrators of crimes of sexual violence who have been sentenced to chemical castration. But he felt the punishment was very heavy and scary.

Based on the research results through interview techniques on Wednesday 14 September 2022 at 10.00 WITA with Andi Dharman, SH and Heru SH. As a Junior Prosecutor at the Enrekang District Attorney's Office, he agreed that the implementation of chemical castration was regulated in Law No. 23 of 2002 concerning Child Protection. Even though they have never handled or carried out a chemical castration case, they can take samples from places where it has been carried out.

According to the author, from the results of the interviews in the process of imposing chemical castration, it should have been carried out because it was clear and there was already a legal umbrella. So it's up to the law enforcement officers to decide whether the punishment will be given to the perpetrators who have more than one victim or another. At another time, on September 20, 2022, at 14.29 WITA, she interviewed with Mrs Syarkiyah, SH., MH. (KASI DATUN) as the prosecutor for the juvenile case explained regarding the implementation of procedures for administering chemical castration, namely PP No. 70 of the Year 2020.

As well as the implementation of chemical castration actions carried out by the Public Prosecutor as the executor of the Decision and Determination of Judges. As for the implementation, of course, there must be coordination with related ministries such as the legal, health and social fields as stipulated in PP 70 of 2020.

Chemical castration punishment for perpetrators of sexual crimes against children has been regulated in the Child Protection Law which has been amended several times, in this case, contained in PERPU No. 1 of 2016 concerning the Second Amendment to Law Number 23 of 2002 concerning Child Protection. The mechanism for implementing chemical castration itself has also been regulated in Government Regulation (PP) 70 of 2020 concerning Procedures for the Implementation of Chemical Castration, Installation of Electronic Detection Devices,

Rehabilitation, and Announcement of the Identity of Perpetrators of Sexual Violence against Children.

Interview in another place at the Enrekang District Court on September 20, 2022 at 15.00 WITA with Mr. Afif Dewa Brata Panjaitan, SH., MH. And Mr. Zulfil Rahman, SH. As a public relations officer and judge at the Enrekang District Court, he explained that the implementation of castration of kiwi could not necessarily be imposed on all sexual crimes against children, but only for certain articles. Then, even though it is regulated that chemical castration can be applied to several provisions, the imposition of sentences is also still under the authority of the Panel of Judges because chemical castration is an optional action.

The legal basis for castration for paedophiles can be seen in Perppu No. 1 of 2016 concerning the second amendment to Law No. 23 of 2002 concerning Child Protection which is now Law Number 17 of 2016, to be precise in Article 81 paragraph (7), According to Article 81 paragraph (7) Perppu No.1 of 2016 states: the perpetrators as referred to in paragraphs (4) and (5) may be subject to action in the form of chemical castration and installation of electronic detection devices.

The action is decided together with the main punishment by including the period for acting. Chemical castration is imposed for a maximum period of 2 years and is carried out after the convict has served the main sentence, the implementation of chemical castration is under regular supervision by the ministry that organizes government affairs in the fields of law, social and health, accompanied by rehabilitation.

On November 22, 2022, at 14.20 WITA, another defendant was sentenced to chemical castration, namely PG, for which he was sentenced to 8 years in prison for rape. When asked about the chemical castration punishment he said he refused because it is a very cruel punishment for humans.

Another perpetrator who was also interviewed, namely BA, who was sentenced to 2 years and 6 months in prison, said that the prison sentence had given him a deterrent effect and deeply regretted his actions. He said he did not agree with the issue of castration punishment because it demeans human dignity.

According to the author, as stated in article 81 paragraph (7) Perppu No.1 of 2016, it contains provisions for paedophiles who can be subjected to chemical castration, there are two types, namely those contained in article 81 paragraph (4) and (5). Because the rules are clear, there is nothing wrong with giving chemical castration to the perpetrators. Regulations for the

protection of victims of sexual violence have been regulated by many rules which regulate how to protect victims of sexual violence including sexual crimes and efforts to ensnare perpetrators of sexual crimes with a criminal sanction.

Policies have not touched much and sided with victims as well as psychological and physical recovery, the state has started to care and pay attention and concentrate on how to deal with sexual crimes, especially against children. It also needs to be understood that the importance of recovery for victims and their families, we are still focused on the perpetrators. So that the rights of victims and their families are forgotten, even though they are the ones who bear the brunt of the incident of sexual violence they experience.

CONCLUSION

The arrangement for the imposition of chemical castration for perpetrators of sexual crimes against children from the perspective of criminal law is that it is appropriate to issue Perpu No. 1 of 2016 concerning Aggravation of Punishments for Sexual Offenders, especially children, which was officially made into Law No. 17 of 2016 and Government Regulation No. 70 of 2020 concerning Procedures for Carrying Out Chemical Castration, Installation of Electronic Detection Devices, Rehabilitation and Announcement of the Identity of Perpetrators of Sexual Violence Against Child. Aggravating penalties for perpetrators of sexual crimes will provide a deterrent effect on perpetrators and will effectively be able to comprehensively prevent sexual crimes against children. This is felt because prisons are considered to no longer have a deterrent effect on perpetrators of sexual violence against children, which is why cases of sexual violence in Indonesia continue to occur. And also as a form of treatment for the perpetrator or improving the behaviour of the perpetrator himself.

SUGGESTION

The arrangement for imposing chemical castration punishment for perpetrators in cases of sexual crimes against children is perfect for criminal law, so through this thesis, the authors suggest that in imposing chemical castration punishment, the perpetrator's psychological factors must be considered. Even though this chemical castration only lasts for two years after the convict has carried out the main sentence, the government is expected to restore the convict's health afterwards. And not only focusing on increasing punishment but also in the context of preventing sexual violence against children, the government must be able to work

with non-governmental organizations or KPAI to provide self-defence education to children in the event of sexual violence.

REFERENCES/BIBLIOGRAPHY :

- Azizah, M. (2017). Sanksi Kebiri Kimia Bagi Pemerkosa Anak Perspektif Mashlahah Mursalah. *Al-Jinâyah: Jurnal Hukum Pidana Islam*, 3(2), 485-510.
- Bariah, C., Din, M., & Mujibussalim, M. (2017). Perluasan Pertanggungjawaban Terhadap Tindak Pidana Yang Dilakukan Oleh Anak. *Syiah Kuala Law Journal*, 1(3), 84-106.
- Christianto, H. (2011). Penafsiran hukum progresif dalam perkara pidana. *Mimbar Hukum-Fakultas Hukum Universitas Gadjah Mada*, 23(3), 479-500.
- Friandy, B. (2017). Sanksi Kebiri Kimia Bagi Pelaku Kejahatan Seksual terhadap Anak (Analisis Undang-Undang Nomor 35 Tahun 2014 Studi Komparatif Hukum Pidana di Indonesia dan Hukum Pidana Islam). *Justicia Islamica*, 14(2), 152-173.
- Kardono, R. B. A., Jaya, N. S. P., & Rochaeti, N. (2020). Hukuman Kebiri terhadap Kejahatan Seksual Anak. *Kanun Jurnal Ilmu Hukum*, 22(3), 567-582.
- Kartika, A. P., Farid, M. L. R., & Putri, I. R. N. (2020). Reformulasi Eksekusi Kebiri Kimia Guna Menjamin Kepastian Hukum Bagi Tenaga Medis/Dokter dan Perlindungan Hukum Bagi Pelaku Pedophilia. *Jurnal Hukum Ius Quia Iustum*, 27(2), 345-366.
- Sastrawati, N. (2012). Hukum Sebagai Sistem Integrasi: Pertimbangan Nilai “Keperawanan” dalam Kasus Perkosaan. *Al Daulah: Jurnal Hukum Pidana dan Ketatanegaraan*, 1(1), 76-104.
- Siahaan, N. (2016). Penegakan Hukum Terhadap Pelaku Kejahatan Seksual Terhadap Anak Dibawah Umur di Indonesia (Tinjauan Yuridis Terhadap Sistem Pidana di Indonesia). *Jurnal Ilmiah Advokasi*, 4(1), 34-41.
- Sholichah, N. (2017). Apresiasi Masyarakat Miskin Terhadap Layanan Sosial Dasar Pemerintah. *Apresiasi Masyarakat Miskin Terhadap Layanan Sosial Dasar Pemerintah*, 1(1), 1-21.

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