

Chemical Castration as a Sanction for Perpetrators of Violent Sexual Offenses Against Children in Indonesia

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Abstract. Children should be one of the main parts that need to be given special attention to the protection of their rights and therefore the Government of Indonesia issued Government Regulation in Lieu of Law Number 1 of 2016 concerning the Second Amendment to Law Number 23 of 2002 concerning Child Protection which adds provisions regarding actions in the form of chemical castration against perpetrators of sexual intercourse with violence against children in Indonesia. This study uses a normative legal research method, namely research whose object of study is laws and regulations and library materials. The result of this study is that the act of chemical castration against the perpetrator of sexual intercourse with violence against children can be carried out based on Article 81 paragraph (7) of Government Regulation in Lieu of Law Number 1 of 2016 concerning the Second Amendment to Law Number 23 of 2002 concerning Child Protection and the procedure for implementing chemical castration is carried out by carrying out 3 (three) stages consisting of the clinical assessment stage, conclusions, and stages of implementation.

1. INTRODUCTION

Children are a trust and a blessing from God Almighty, and therefore must be provided with continuous protection. Their inherent dignity and worth must be upheld, granting them the right to legal safeguards. The protection of children is one of the fundamental goals of the Indonesian nation, as stated in the Preamble to the 1945 Constitution of the Republic of Indonesia, particularly in the fourth paragraph, which emphasizes the state's obligation to protect all Indonesian people and the entire homeland. As a nation that has experienced colonialism, Indonesia's founding fathers recognized the importance of human rights in the conduct of state affairs. This is evidenced by the inclusion of fundamental human rights principles in the 1945 Constitution, which preceded the Universal Declaration of Human Rights.

The legal foundation for the protection of human rights in Indonesia is further reinforced by the enactment of Law Number 39 of 1999 concerning Human Rights, which includes specific provisions on children's rights and outlines the responsibilities of parents, families, communities, and the government in protecting them. Nevertheless, in 2002, the Indonesian government deemed it necessary to establish a dedicated legal framework for child protection, leading to the issuance of Law Number 23 of 2002 concerning Child Protection. This law emphasized that child protection in all aspects is an integral part of national development, particularly in advancing the nation and state.

Children, who should symbolize the future and hope of a nation, require protection due to their physical and psychological immaturity. Unfortunately, they often become victims of crimes perpetrated by adults—individuals who should be their protectors. Given the crucial role of children as the next generation, they must be given special attention, especially concerning their rights. The state's role is essential in safeguarding children's dignity and ensuring a future free from various forms of abuse, including sexual violence.

Sexual violence against children is categorized as *graviora delicta* or a grave offense, as children are particularly vulnerable to exploitation and abuse. This type of violence poses a severe threat, as its incidence continues to rise significantly each year, endangering children's lives, disrupting their development, and disturbing public order, peace, and security. In 2024, data from the Women's Empowerment and Child Protection Information System (Simfoni PPA) recorded 14,193 reported cases of violence against children, with sexual violence being the most prevalent, amounting to 8,674 cases. Children are highly susceptible to sexual violence due to their perceived helplessness and dependence on adults. Generally, child sexual abuse is defined as mistreatment by older individuals who exploit children to satisfy sexual urges through coercion, threats, or manipulation.

In line with developments in child protection legislation, the Government of Indonesia has amended Law Number 23 of 2002 several times, notably through Law Number 35 of 2014 and Government Regulation in Lieu of Law (Perppu) Number 1 of 2016, which was subsequently ratified as Law Number 17 of 2016. The latter law was introduced in response to the increasing occurrence of sexual violence against children and aimed to deter offenders and prevent future incidents. It introduced harsher punishments, including capital punishment, life imprisonment, public disclosure of the offender's identity, and additional measures such as chemical castration, electronic monitoring, and rehabilitation. Among these, chemical castration was considered a solution to the public demand for stricter penalties and a response to the perceived inadequacy of existing child protection laws.

On January 30, 2024, the Panel of Judges at the Banjarmasin District Court, in Decision Number 859/Pid.Sus/2023/PN Bjm, imposed an additional punishment of chemical castration for two years on the defendant, Gusti Nasrudin Sidik. He was found guilty of committing sexual violence against a 13-year-old child—his student at a religious foundation where he served as a Qur'an teacher. This landmark ruling sparked the author's interest in examining the legal provisions and procedures governing the imposition of chemical castration as a sanction for perpetrators of violent sexual intercourse against children in Indonesia. Therefore, this study is titled "Chemical Castration as a Sanction for Perpetrators of Violent Sexual Offenses Against Children in Indonesia."

2. PROBLEM FORMULATION

Based on the background described above, the formulation of the problems in this study is as follows:

1. How is the regulation regarding the imposition of chemical castration measures against perpetrators of sexual intercourse crimes involving violence against children in Indonesia?
2. What is the procedure for implementing chemical castration measures against perpetrators of sexual intercourse crimes involving violence against children in Indonesia?

3. RESEARCH METHOD

The research method employed in this study is normative legal research. Normative legal research is a method that examines the applicable laws and regulations in relation to a specific legal issue. This type of research analyzes the law from an internal perspective, with legal norms as its main object of study. It is often referred to as doctrinal research, where the primary sources include statutory provisions and legal literature. Normative legal research also serves as focused research aimed at examining the application of rules or norms within the framework of positive law. According to I Made Pasek Diantha, normative legal research plays a role in providing juridical arguments when there is a legal vacuum, ambiguity, or conflict of norms. Furthermore, it contributes to maintaining the critical dimension of legal science as a normative discipline.

4. DISCUSSION

Regulation of Chemical Castration for Perpetrators of Sexual Intercourse Using Violence Against Children in Indonesia One of the functions of law is to resolve conflicts, whether they occur between individuals, between individuals and society, or between individuals and the state. The aim of criminal punishment is to prevent criminal acts, uphold the law, protect society, rehabilitate offenders so that they may become law-abiding individuals, and resolve the conflict caused by criminal acts. A criminal offender constitutes the subjective element of an act that can be sanctioned according to the degree of fault or legal violation committed.

Criminal provisions regarding sexual intercourse with children in Indonesia were initially regulated in the Indonesian Penal Code (KUHP), as adopted under Article II of the Transitional Provisions of the 1945 Constitution of the Republic of Indonesia. Article 287 paragraph (1) of the KUHP states: "Any person who has intercourse with a woman outside of marriage, knowing or reasonably suspecting that she is under fifteen years of age, or if her age is unclear but she is deemed unfit for marriage, shall be punished with imprisonment for a maximum of nine years." In cases where the act causes injury or death, additional sanctions are outlined in Article 291 of the KUHP.

The rise in sexual abuse cases involving children highlights the vulnerability of children as victims of deviant sexual behavior. In 2002, the Indonesian government passed Law Number 23 of 2002 on Child Protection, which specifically addresses sexual violence against children. Article 81 paragraph (1) of the Law stipulates: "Any person who intentionally uses violence or threats of violence to force a child to engage in sexual intercourse with him/her or another person shall be punished with imprisonment of between 3 (three) and 15 (fifteen) years and a fine of between IDR 60,000,000 (sixty million rupiah) and IDR 300,000,000 (three hundred million rupiah)."

A significant change introduced by this Law is the redefinition of the term "child." While the KUHP set the age limit at under fifteen, Article 1 point 1 of Law No. 23/2002 defines a child as "a person under the age of 18 (eighteen), including a child still in the womb." Moreover, Article 91 of the same Law states that any existing legislation concerning child protection remains valid as long as it does not contradict this Law, effectively rendering the provisions of the KUHP regarding sexual intercourse with minors obsolete.

In 2014, as a response to the increasing sexual violence against children, the government enacted Law Number 35 of 2014 as an amendment to Law Number 23 of 2002. This amendment reaffirmed and modified the provisions on sexual violence against children, notably through the introduction of Article 76D, which states: "Any person is prohibited from using violence or threats of violence to force a child to engage in sexual intercourse with him/her or another person." Article 81 paragraph (1) of the amended Law further stipulates that violators shall be punished with imprisonment for a minimum of 5 (five) years and a maximum of 15 (fifteen) years, and a fine of up to IDR 5,000,000,000 (five billion rupiah).

Not stopping there, the government also issued Government Regulation in Lieu of Law Number 1 of 2016 as a second amendment to Law Number 23 of 2002. This regulation was later ratified by Law Number 17 of 2016. One notable change introduced in this regulation is the inclusion of more severe punishments in Article 81, including life imprisonment and the death penalty. Article 81 paragraph (5) states: "In cases where the crime referred to in Article 76D results in more than one victim, causes serious injury, mental disorders, infectious diseases, reproductive function impairment or death, the perpetrator shall be punished with the death penalty, life imprisonment, or imprisonment of between 10 (ten) and 20 (twenty) years." The death penalty is reserved for heinous crimes and represents the state acting on behalf of victims against morally depraved offenders.

A particularly controversial addition is found in Article 81 paragraph (7), which introduces chemical castration and electronic monitoring as possible sanctions for offenders: "Perpetrators as referred to in paragraphs (4) and (5) may be subjected to chemical castration and the installation of electronic monitoring devices." The classification of chemical castration as a punitive measure implies a rehabilitative rather than retributive effect, distinguishing it from traditional criminal sanctions. Legal norms imposing chemical castration are deemed necessary, as social sanctions alone are often insufficient or ineffective. Sanctions serve to enforce legal norms through coercion, which is a fundamental element of the law itself.

Crime prevention policy is essentially an integral part of efforts to protect society (social defense) and promote societal welfare (social welfare). Article 81 paragraph (7) further limits the application of chemical castration to perpetrators previously convicted under Article 76D and whose crimes resulted in more than one victim, severe injuries, psychological disorders, infectious diseases, reproductive dysfunction, or death.

It is important to note the exceptions to chemical castration as provided in Article 81 paragraph (9), which states: "Additional penalties and measures shall not apply to child offenders."

4.1. Procedure for Implementing Chemical Castration for Perpetrators of Forcible Sexual Intercourse with Children in Indonesia

Indonesian criminal law recognizes two types of sanctions: punitive sanctions (*straf*) and treatment or action-based sanctions (*maatregel*). Punitive sanctions are oriented toward retribution against the perpetrator of a crime, while action-based sanctions are aimed at protecting society. Chemical castration falls under the latter category, as it seeks to suppress the libido and sexual desire of sex offenders by rendering their hormones inactive.

Technically, chemical castration is carried out by administering chemical compounds into the offender's body to suppress testosterone and other sexual hormones, effectively disabling their function. In Indonesia, the regulation concerning chemical castration for perpetrators of sexual intercourse with children using violence was first introduced in Article 81 paragraph (7) of Government Regulation in Lieu of Law Number 1 of 2016 concerning the Second Amendment to Law Number 23 of 2002 on Child Protection. The provision states: "Perpetrators as referred to in paragraphs (4) and (5) may be subjected to chemical castration and the installation of electronic monitoring devices."

Further elaboration is provided in Article 81 paragraph (8), which stipulates that the imposition of chemical castration must be determined simultaneously with the principal sentence and include the period of implementation. The specific duration of the chemical castration sanction is regulated in Article 81A of the same regulation. Article 81A paragraph (1) provides: "The action as referred to in Article 81 paragraph (7) shall be imposed for a maximum period of 2 (two) years and shall be implemented after the convict has served the principal sentence."

In light of this, judges in cases involving sexual intercourse with children using violence may impose chemical castration on perpetrators who meet the criteria established in Article 81 paragraph (7), for a duration of up to two years. Implementation of the sanction is to take place only after the offender has completed their principal sentence.

Article 81A paragraph (2) assigns the responsibility for regular supervision of chemical castration implementation to ministries in charge of legal, social, and health affairs. Additionally, Article 81A paragraph (3) stipulates that the implementation of chemical castration must be accompanied by rehabilitation measures for the offender.

The term "legal regulation" in its descriptive sense refers to a hypothetical judgment that attaches legal consequences to specific conditions. In this context, the implementation of chemical castration requires further regulation, as provided in Article 81A paragraph (4), which states: "Further provisions regarding the procedures for implementing the action and rehabilitation shall be regulated by Government Regulation."

In response to this provision, the Government of the Republic of Indonesia enacted Government Regulation Number 70 of 2020 on the Procedures for Implementing Chemical Castration, the Installation of Electronic Monitoring Devices, Rehabilitation, and the Disclosure of the Identity of Perpetrators of Sexual Violence Against Children.

Article 1 point 2 of Government Regulation Number 70 of 2020 defines chemical castration as the administration of chemical substances by injection or other methods, applied to perpetrators previously convicted of using violence or threats of violence to force a child into sexual intercourse—particularly when such acts result in multiple victims, serious injury, mental disorders, infectious diseases, reproductive dysfunction or death. The goal is to suppress excessive sexual desire, and the action must be accompanied by rehabilitation.

The procedure for implementing chemical castration is detailed in the Second Section of Government Regulation Number 70 of 2020. It consists of three stages: clinical assessment, conclusion, and execution.

The clinical assessment phase involves psychiatric interviews, physical examinations, and supporting tests. The conclusion phase contains the clinical findings that determine whether the offender is eligible for chemical castration. After the conclusion is received by the public prosecutor, the prosecutor has a maximum of seven working days to instruct a government-designated or regional hospital to carry out the procedure.

The implementation must be witnessed by representatives from the Prosecutor's Office, the Ministry of Law and Human Rights, the Ministry of Social Affairs, and the Ministry of Health. A formal report of the procedure is produced, and the prosecutor, as the executing authority, must notify the victim or the victim's family that the chemical castration has been carried out.

5. CONCLUSION

Chemical castration for perpetrators of forcible sexual intercourse with children may be imposed under Article 81 paragraph (7) of Government Regulation in Lieu of Law Number 1 of 2016, but only under strict conditions. It applies to offenders who have previously been convicted of crimes as referred to in Article 76D, and whose offenses resulted in multiple victims, serious injuries, psychological disorders, infectious diseases, reproductive dysfunction, or death.

The procedure for implementing chemical castration is governed by Government Regulation Number 70 of 2020, which prescribes a three-stage process: clinical assessment, issuance of a conclusion, and execution.

6. RECOMMENDATION

It is necessary to establish detailed guidelines for the imposition of chemical castration, especially for cases where the offender's actions lead to more than one victim, severe injuries, psychological disorders, infectious diseases, reproductive damage, or death. Such guidelines should include the requirement for expert testimony to demonstrate the severe consequences of the offender's conduct. This would support more consistent and effective application of chemical castration in judicial decisions.

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