

CRIMINAL IMPLEMENTATION OF CHEMICAL CASTRATION FOR PEDOPHILIA IN THE FRAMEWORK OF CHILD PROTECTION IN INDONESIA

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Abstract

Criminal acts of sexual violence that occur in Indonesia are increasing day by day even though Indonesian law has regulated punishment for perpetrators of sexual violence by adding aggravating punishment in the form of castration against perpetrators, however, the level of sexual violence in Indonesia is still increasing. The increase in criminal sanctions is directly proportional to the increase in the number of criminal acts of sexual violence, especially pedophilia. Sexual violence against children is very contrary to child protection because the effects of sexual violence against children are long-term effects both health-wise and mentally. This is a highlight in Indonesia, especially if you look at the data collected by the Police Bareskrim PPA Unit from regional PPA Units ranging from Polda to Polres. The purpose of this study is to analyze punitive efforts that can provide a deterrent effect and deterrence effect (retribution) for pedophile perpetrators in Indonesia, to analyze the reasons for castration criminal punishment cannot be applied to pedophile perpetrators even though it has been regulated in the Law and to analyze the concept of chemical castration which for some people is considered torture and is considered inhuman. The method used in this study is the normative juridical method. Punishment efforts that can provide a deterrent effect and deterrence effect (retribution) for pedophile perpetrators in Indonesia can be in the form of giving severe or maximum punishment and providing severe punishment (additional) in the form of chemical castration. In addition to formal punishment sanctions or in accordance with formal law in force in Indonesia, there are also non-formal sanctions given by prisoners in prisons for pedophile offenders in the form of corporal punishment which is often carried out in detention when they learn of cases that occur in the form of sexual violence against children. Punitive sanctions that can have a deterrent effect and deterrence effect for pedophiles in Indonesia must have a direct impact on perpetrators so as to achieve legal protection for children who are victims of sexual violence. The reason for the aggravation of the crime of castration cannot yet be applied to pedophilia perpetrators even though it has been regulated in the law because even though the legal rules have been regulated and sanctions can be given to perpetrators who violate them in accordance with the principle of legality, where this principle states that criminal acts must be regulated first in law or a legal rule before someone can be punished. Because there is still conflict between the executors, in this case doctors who firmly refuse to carry out chemical castration because it is against the doctor's code of ethics and oath, apart from that, the criminal sanction of castration for pedophiles is considered inhumane.

Keywords: Sexual Violence, Pedophilia, Chemical Castration.

I. INTRODUCTION

Crimes of sexual violence that occur in Indonesia are increasing day by day even though Indonesian law has regulated punishment for perpetrators of sexual violence by adding aggravating punishment in the form of castration against the perpetrators, however, the level

of sexual violence in Indonesia is still increasing. The increase in criminal sanctions is directly proportional to the increase in the number of crimes of sexual violence, especially pedophilia. Handling of cases of sexual violence must be handled very carefully and requires special handling. This is because children who are victims of sexual violence certainly experience physical and mental disorders. Data collected by the PPA Unit Bareskrim Polri from regional PPA Units from Regional Police to Polres shows that the total number of cases of sexual violence against children in 2020 was 5099 cases, in 2021 there were 7701 cases and in 2022 there were 6812 cases. Seeing the high number of cases of sexual harassment, rape/obscenity and sexual intercourse against children, there is a need for good law enforcement in the hope of reducing the spike in the number of sexual violence against children.

The state is obliged to provide protection for the most important state assets, namely children. Because children will grow and develop into the next generation of the nation. Country Indonesia already has laws that provide special protection for children, this is because Indonesia views children as the next generation who will fight for the ideals of the entire nation. This is explicitly stated in point c of the Preamble to Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection which reads: "that children are the shoots, potential, and successors of the young generation to the ideals of struggle. Nation, has a strategic role and has special characteristics and traits that guarantee the continued existence of the nation and state in the future."

There are two articles in the child protection law, namely Article 81 and Article 82 which describe severe punishment for anyone who commits harassment and rape or is categorized as sexual violence against minors, but it is very ironic to see the conditions of crime and/or sexual violence in underage children are still very common.

Sexual violence against children does not only occur in Indonesia but also occurs in a number of other countries. The increase in the number of cases of sexual violence against children each year cannot be seen with certainty, this is because the data presented by several agencies/ministries/institutions is only based on reported cases. Meanwhile, cases that are not reported become "dark data" whose numbers tend to be greater than the reported data, this is an indicator that there is a gap between the reported data and the facts of sexual violence that actually occurred.

The addition of these cases every year shows the weakness of the state in providing protection to children. Child sexual violence can be categorized as extraordinary crime¹ which continues to recur and requires special handling. Sexual violence not only has a direct impact on individuals, but also on families, communities and countries. The impact of violence on victims includes the following:

1. Impact on Physical or Psychological Health

The impact of sexual violence, apart from disrupting physical health, such as injuries or physical damage that requires immediate medical attention, can also have an impact on a person's mental condition or at least their emotional health. Moreover, the psychological impact is not immediately visible, so it tends to be ignored.

2. Impact on the Fulfillment of Women's Human Rights and Social Relations

The physical and psychological impacts experienced by victims are often exacerbated by the reaction of society towards victims. Victims are placed in difficult conditions to be able to carry out their social roles, which can then have further consequences for their existence in social relations in society.

Socially, the impact that is usually quickly recognized is that victims experience difficulties in building relationships with other people, both with their immediate environment such as family or with the wider environment. Such difficulties, in extreme cases, cause victims to feel more “safe” living in the world they have built for themselves. They tend to be unproductive and lose enthusiasm for work. This indirectly causes society and the state to lose the potential of its citizens in building the nation.

3. Economic Impact

Sexual violence also has an impact on the economy of women victims and their families. The victim/family must pay for emergency treatment, inpatient/outpatient treatment, recovery and medicines. Victims who choose to resolve violence through legal channels will need to incur costs during the investigation process until they reach court.

The emergency situation of sexual violence against children requires the law to formulate severe punishments for perpetrators. One effort is to include the punishment of chemical castration in the state's legal system as a form of manifestation of the state exercising control over its citizens in order to fulfill one of the requirements of the rule of law. However, as time goes by, the legal politics related to the castration penalty become gray when faced at the level of implementation in the Indonesian Criminal Justice System.

This has been proven since the government's efforts to make a breakthrough in providing severe punishment in 2016 in the form of castration sanctions which have begun to be implemented. Only in 2019, this castration sanction was imposed on two convicts in cases of child sexual violence in the jurisdiction of Mojokerto City and Surabaya. As an effort to apply castration punishment against the perpetrators of sexual violence against children under their consideration, the Panel of Judges who called the perpetrator's actions a "sexual predator" sentenced the perpetrators of child sexual violence to chemical castration.². However, since 2019 castration sentences have been handed down and have permanent legal force, the castration provisions have not been enforced.

This makes the prosecutor as the executor have to look for a breakthrough in carrying out execution efforts. The real gap is the fact that the chemical castration crime has been ratified as stated in PERPPU Number 1 of 2016 which was later confirmed as Law Number 17 of 2016 concerning Stipulation of Government Regulations in Lieu of Law Number 1 of 2016 concerning the Second Amendment to Law Number 23 of 2016. 2002 About Child Protection Becoming a Law cannot yet be implemented in the criminal justice system in Indonesia, considering that executions cannot yet be carried out even though the two sentences have permanent legal force.

The aggravated punishment given to perpetrators of sexual violence against children in the form of chemical castration is a punishment that has become controversial in several circles. Because many people do not agree with the chemical castration sanction, they think that the castration penalty is an act that demeans human values. Apart from that, if you look at the aim of law based on the ideals of Pancasila, it is to create protection for society, by protecting people, preventing arbitrary actions, and creating humane social conditions so that everyone has the same opportunity to develop all their human potential as a whole.³

Many people also believe that chemical castration contains elements of torture for the recipient, is considered inhumane and demeans human dignity. This prohibition is clearly stated in the Covenant on Civil and Political Rights and the Convention against Torture and other cruel treatment or punishment, whether acts that cause pain, physical or mental.⁴ The right not to be tortured is also guaranteed in our constitution, namely Article 281 Paragraph (1) of the 1945 Constitution.

Likewise, with the rejection expressed by medicine regarding the punishment of castration, this is because a doctor will be the one who carries out this punishment. The underlying reason for doctors refusing to carry out this action is because it is considered to be very contrary to the Indonesian Medical Code of Ethics and the Doctor's Oath. The act of castration in the medical world is known as castration. Catharization is an action that has existed from the past in the world of medicine. In the past, castration was carried out by cutting off the vital organs. But in the modern era like today, castration is no longer carried out by removing the testicles, but is carried out using chemical castration. Where the process is carried out by giving pills or injecting anti-androgen hormones. Administering the drug,

Seeing this condition becomes an idea when the law has explicitly regulated chemical castration punishment for pedophiles and has been applied in the judge's verdict which is the culmination of the decision but cannot be implemented (executed) because there are different views from several parties, one of which is How can doctors as executors provide legal protection for children who are victims of sexual violence?

In order to limit this research, the author will discuss three problems, namely: What punishment measures can provide a deterrent effect and deterrence effect (retaliation) for pedophilia perpetrators in Indonesia?; Why can't the weighting of castration punishment be applied to pedophiles even though it has been regulated in the law?; and Why is the concept of aggravating chemical castration considered by some people to be torture and considered inhuman?

II. RESEARCH METHODS

The author uses normative or doctrinal research methods in this research without ignoring empirical research methods as support if necessary. As normative research, this research will primarily look for data obtained from library materials, usually called secondary data, which in legal research according to Soerjono Soekanto⁵ includes research on legal principles, research on legal systematics, research on vertical and horizontal synchronization, comparative law and legal history.

The objects of secondary data are primarily primary legal materials, namely binding legal materials such as the Constitution, statutory regulations and jurisprudence. Next is secondary legal materials, which provide explanations of primary legal materials, such as draft laws, research results, work from legal circles and so on. Lastly, tertiary legal materials, namely materials that provide instructions and explanations for primary and secondary legal materials, for example dictionaries, encyclopedias, and others.

III. DISCUSSION

A. Punishment Measures that can Provide a Deterrent and Deterrence Effect (retaliation) for Pedophiles in Indonesia

Punishment efforts for pedophiles that can provide a deterrent effect are by giving the maximum punishment in accordance with the Law, not limited to giving additional punishment in the form of chemical castration. The birth of the law relating to castration sanctions was a result of the lack of significant influence of the law's products, especially criminal sanctions, on the number of cases of sexual violence against children. This encourages the government to create repressive policies in the form of tougher criminal sanctions in the form of the death penalty, life imprisonment, and imprisonment with minimum and maximum regulations along with fines. Meanwhile, preventive measures include chemical castration, installation of electronic detection devices and rehabilitation.⁶

Castration as contained in Government Regulation no. 70 of 2022 is referred to as administering chemical substances through injection or other methods. This is aimed at suppressing testosterone production or activity so that it does not trigger the perpetrator's libido when controlling chemicals.⁷ the castration sanction is also accompanied by a rehabilitation process, including psychiatric, social and medical rehabilitation. Furthermore, castration is imposed on perpetrators who have power relations with victims or perpetrators who have been convicted of committing sexual violence against children. The consequences of sexual violence result in more than one victim, resulting in serious injuries, mental disorders, infectious diseases, disruption or loss of reproductive function, and/or death of the victim. If we examine the reason for the government making the second amendment to Law no. 23 of 2002, several reasons can be found to strengthen the logic of applying criminal sanctions to perpetrators of sexual violence against children, including: ⁸ as a form of retaliation for the violation committed; there is a deterrent goal for the perpetrator; immobilize the perpetrator so that he is unable to commit a crime; public order; and rehabilitation of sexual disorders suffered by perpetrators.

Some of the foundations that reinforce the necessity of castration in law products, there are several critical notes that must be examined regarding castration as a sanction or as an action; First; The existence of castration gives rise to two conceptual problems, whether castration is a crime or an action. Castration can be assumed to be an act carried out based on the rational choice of the perpetrator, so that punishment becomes a logical consequence of the violation. However, if castration is based on hormonal factors, then the perpetrator must take action. This is because the biological factors in the perpetrator do not function normally.⁹

So the perpetrator cannot be held fully accountable. Because the perpetrator is considered a sick person, the consequence of his actions is a hospital. Moreover, hormonal disorders cannot be used as a complete basis for determining castration as a course of action. This is because there are factors that influence a person's choice in determining an action. For example, biological, psychological, social, economic, political, religious factors, including past experiences.¹⁰ Based on a psychological approach, it can be said that sexual violence against children is a mental problem of the perpetrator, including emotional and sexual trauma. So the child is used as an outlet to release the trauma suffered.

Castration punishment can be said to be more inclined to the criminal aspect rather than action. This looks at the difference between the crime and the action as discussed above. This difference seems clearer if punishment is described as a means of social control accompanied by aspects of reproach in it. In contrast to action, where reproach is not attached even though there is suffering that accompanies it. The purpose of deterrence is one of the theories that strengthens the relative theory. Deterrence is aimed at individual perpetrators as well as the general public. However, based on research on the deterrent effect of castration sanctions in countries that have implemented castration sanctions, cases of sexual violence are relatively high compared to countries that do not stipulate castration as a sanction.

There is no concrete evidence that castration has a deterrent effect, especially against individuals who have the potential to commit sexual violence against children. Deterrence is one of the goals that has always been the basis of the legislature in determining criminal threats. However, to what extent this threat has a deterrent effect on the perpetrators is still a question mark. This is related to the factors that contribute to the basis for a criminal not to commit another crime. Regarding the threat to perpetrators of sexual violence against children, there is no research that can unequivocally prove the effectiveness of prison and castration.

Rehabilitation efforts as contained in laws and government regulations are aimed at reducing testosterone hormone levels as a control for the perpetrator's high sexual desire. But the question is the negative impact caused by injecting chemicals into the perpetrator's body.¹¹ The greater the intensity of chemical castration, the greater the risk of bone fragility.¹² Moreover, the impact of chemical castration has not been proven to have the same effect on various perpetrators of sexual crimes against children. Especially after the completion of chemical castration is imposed on the perpetrators, in the maximum rule for two years.

In addition, the standard for sexual desire rehabilitation is still abstract. There is no standard or certainty that the perpetrators will not commit similar crimes in the future. The only objective standard regarding the success of rehabilitation is that the perpetrator has not committed a crime, and the basic punishment in the form of prison still has a role in the rehabilitation of criminals.

If you look at castration from the point of view of the four standards of criminal imposition according to Jeremy Bentham, then:

- a. Criminals may not be imposed without any basis, namely a violation (groundless). Castration may be imposed because there is a violation of the rights of victims, especially children. This is closely related to the principle of legality of a rule of law.
- b. Punishment should not be imposed if it is not effective in reducing crime (inefficacious). Castration has not been able to show its impact on reducing the number of sexual violence against children.

Apart from attempts to retaliate against the perpetrator, castration can also be said to be a form of paralysis of the victim's ability to commit criminal acts (incapacitation). So that the longer the perpetrator is separated from the community, the more order and sense of security are maintained in society. It can be said that the impact of castration is not the main focus in determining castration as a sanction. This is related to the expression of castration as a means of revenge and paralysis.

Apart from providing maximum sentences and chemical castration, there are non-formal sanctions that many convicted pedophiles experience, namely in the form of punishments received from other prisoners in prison. This can be seen from the example of the case experienced by AR at the Depok Police, where as many as eight detainees at the Depok Police were emotional when they learned that a 50-year-old middle-aged man with the initials AR was reckless in molesting his own biological child. It is known that AR had only been detained at the Depok Metro Police Headquarters for only two days before being assaulted by other detainees on Sunday, July 9 2023. Previously, AR had been detained at the Women and Children Services Unit (PPA) since Tuesday, July 4 2023. At the Depok Metro Police Headquarters, AR detained together with eight other detainees. The chronology of AR's death in the Depok Metro Police Headquarters detention cell was when the eight other prisoners who were in the detention cell with AR asked what case brought AR into detention and AR said that he had molested his biological child. Hearing this, the detainees immediately became emotional and abused AR. Cases of sexual abuse of minors were considered to be very inhumane and unreasonable to the point that it annoyed the suspect. It should be known that sexual violence against children is a case that cannot be tolerated by prisoners everywhere, so that there is a lot of violence against perpetrators in detention cells. Against AR the detainees carried out torture using pipes and their bare hands. After being persecuted,

Based on the results of the research and discussion above, the author is of the opinion that efforts to impose the punishment of castration on pedophiles can provide a deterrent and deterrence effect (retaliation) for pedophiles in Indonesia, resulting in the creation of legal protection for children who are victims of sexual violence.

B. The criminal punishment of castration cannot be applied to pedophiles even though it is regulated in the law

Chemical castration can be said to be one of the applications of contemporary sentencing theory. Where chemical castration includes 3 (three) theories from contemporary punishment theory, namely the deterrent effect theory, educational theory and rehabilitation theory. Convicts who are subjected to chemical castration will be deterred or give up on their actions of committing sexual crimes against children, apart from not having sexual desire (libido) the convict will feel ashamed of the surrounding community so that the effects of the chemical castration itself will make the convict miserable or miserable and will not repeat the mistake again, other than that other people will not do the same thing. The act of chemical castration itself is also considered effective in educating the public because the sanctions given are so severe and embarrassing.

Even though the act of chemical castration is considered inhumane and violates human rights because it brings misery to the perpetrator, behind this the act of chemical castration is considered to have the aim of reforming the convict, namely providing reform measures or rehabilitating perpetrators of sexual crimes against children through a process of social and moral treatment so that they can return to being people. Good and useful for society. This is intended as the state's obligation to its citizens, apart from providing punishment, it also requires direction to the perpetrators of crimes, which departs from the argument of the positive punishment theory that criminals are sick people who need treatment and rehabilitation.

Problems emerged after the chemical castration sanction and the passing of Government Regulation Number 70 of 2020 was based on the idea that punishment should not only cause misery so as to create a deterrent effect on convicts and educate the public not to do the same with convicts, but also that punishment must accommodate convicts so that they no longer repeat their crimes by means of corrective action through treatment and training. Even though the convict has been sentenced to a chemical castration sanction by the Judge, in his execution carried out by the Prosecutor it is still necessary to pay attention to the condition of the convict, because the essence or essence of the chemical castration action itself is no longer causing suffering to the convict as the aim of the main punishment. But rather a form of self-improvement for the convict himself so that he is accepted back into society. So that the implementation of chemical castration should not make the convict suffer torture or make the convict suffer even more, especially if the convict dies as a result of the side effects of the chemical castration itself. Therefore, before chemical castration is carried out on the convict, it must be ensured that the convict can be subject to this action by carrying out a clinical assessment before arriving at a conclusion which consists of the stages of clinical and psychiatric interviews, physical examination, and supporting examinations. Especially if the convict dies as a result of the side effects of chemical castration itself. Therefore, before chemical castration is carried out on a convict, it must be ensured that the convict can be subjected to this action by carrying out a clinical assessment before reaching a conclusion which consists of the stages of clinical and psychiatric interviews, physical examination and supporting examinations. Moreover, the convict died due to the side effects of chemical

castration itself. Therefore, before chemical castration is carried out on the convict, it must be ensured that the convict can be subject to this action by carrying out a clinical assessment before arriving at a conclusion which consists of the stages of clinical and psychiatric interviews, physical examination, and supporting examinations.

This chemical castration action must be accompanied by other actions in the form of installing electronic detection devices and rehabilitation as stated in Article 81 paragraph (7) of the Child Protection Law which states "The perpetrator as intended in paragraph (4) and paragraph (5) may be subject to action in the form of chemical castration and installation of electronic detection devices.", then added to Article 81A paragraph (3) which explains "Implementation of chemical castration accompanied by rehabilitation.". These 2 (two) provisions explain that if the judge wants to sentence the perpetrator of a sexual crime against a child with the sanction of chemical castration, then the convict must also be sentenced to the act of installing an electronic detection device and rehabilitation. Because the article is written with the word "and" which is cumulative, this means that if one action sanction is imposed, the other action sanctions must also be imposed within the same time period. Thus, if the convict cannot undergo chemical castration based on the results of the clinical assessment and conclusions, the convict can still be given sanctions for installing electronic detection devices and rehabilitation for the same period as the imposition of sanctions for chemical castration. The judge in his decision can state that he will impose action on the defendant in the form of chemical castration and the installation of an electronic detection device and rehabilitation for a certain period of time to be carried out after the convict has completed serving the main sentence, provided that if the convict cannot be subjected to chemical castration based on the results of the clinical assessment and conclusions, Even though the implementation of chemical castration may not make the convict suffer torture or make the convict suffer even more, if a court decision is not implemented it will certainly raise big questions for society, especially for child victims and their families. Child victims of sexual violence, their families and the community will have a bad view and reduce trust in law enforcement agencies, especially the Court as an institution that makes decisions and the Prosecutor's office as the executor of decisions that have been handed down by the Court, this will cause an imbalance of justice in society. The community, especially children who are victims of sexual violence, will feel that they have lost their sense of justice, legal benefits and legal certainty because convicts cannot carry out chemical castration sanctions that have been imposed by the court. The reason is that in every current court decision there is always a phrase written by the Judge when deciding a case in a court decision, namely in essence stating that the sentence given to the perpetrator of the crime is considered fair and appropriate or proportional to the weight of the mistakes that have been committed by the perpetrators of the crime and is considered to have been considering the principles of justice, benefit and legal certainty in society.

Chemical castration is the application of a double track system where there is a separation between criminal sanctions (measure) and action sanctions (maatregel) which have different functions and objectives, so it is worth considering first which alternative sanctions can be applied in this problem. As we know, action sanctions aim to improve the perpetrator in a better direction, while criminal sanctions aim to have a deterrent effect on the perpetrator. These two

sanctions have vast differences in terms of their objectives and benefits. So the author can conclude that action sanctions cannot be alternative or replaced with criminal sanctions, and vice versa criminal sanctions cannot be replaced with action sanctions, The reason for the aggravation of the crime of castration cannot yet be applied to pedophilia perpetrators even though it has been regulated in law because even though the legal rules have been regulated and sanctions can be given to perpetrators who violate them in accordance with the principle of legality, where this principle states that criminal acts must be regulated in law or a rule of law before someone can be punished. Because there is still conflict between the executors, in this case doctors who firmly refuse to carry out chemical castration because it is against the doctor's code of ethics and oath, apart from that, the criminal sanction of castration for pedophiles is considered inhumane.

C. The concept of chemical castration for some people is considered as torture and considered inhumane

Sexual violence can be interpreted as another form of sexual undesirability that tends to be accompanied by psychological or physical pressure. Some experts distinguish rape from sexual violence because it is considered specific where rape is defined as sexual penetration without permission or by force, which can be accompanied by physical violence. Sexual violence can also be understood as coercion of unnatural sexual contact or anything that is meant to be sexually stimulating. The prevalence of sexual violence against children actually when examined in depth, the perpetrators of sexual violence based on age and subject can be divided into four categories, namely:

- a) The perpetrator is a child and of a different gender from the victim;
- b) The perpetrator is an adult and of a different gender from the victim;
- c) The perpetrator is a child and of the same sex as the victim;
- d) The perpetrator is an adult and of the same sex as the victim;

Considering the widespread and high number of incidents of sexual violence against children in Indonesia, it is necessary to carry out repressive efforts against perpetrators by imposing criminal sanctions as regulated in national laws related to sexual violence, including:

1. Criminal Code (KUHP), Articles 285, 286, 287, 290, 291
2. Law Number 23 of 2004 concerning the Elimination of Domestic Violence (PKDRT), Article 8 letter b, Article 47, Article 48
3. Law Number 21 of 2007 concerning Eradication of the Crime of Human Trafficking, Article 1 paragraph (3.7)
4. Law Number 23 of 2002 which was changed to Law Number 35 of 2014 and again changed to Perpu Number 1 of 2016 concerning Child Protection, Article 1 paragraph (15), Article 17 paragraph (2), Article 59 and Article 66 paragraph (1) ,2), Article 69, Article 78, Article 88

Regulations on criminal sanctions for perpetrators of sexual violence against children can be presented as follows:

1) Article 287 paragraph (1) of the Criminal Code with a woman out of wedlock, even though she knows or should reasonably suspect that she is not yet fifteen years old, or her age is not clear, that she is not yet ready to marry, is punishable by a maximum imprisonment of nine. However, if the act of sexual intercourse causes injury or death, the perpetrator will be sentenced to fifteen years in prison, as stipulated in Article 291 of the Criminal Code. Those who commit obscene acts with people of the same sex, whom they know or should reasonably suspect are not yet adults, are threatened with with a maximum imprisonment of five years. Whereas in Law Number 23 of 2002 which was amended to become Law Number 35 of 2014 concerning Child Protection,

2) Article 81 which reads:

“Any person who deliberately commits violence or threatens violence to force a child to have intercourse with him or with another person, shall be punished with imprisonment for a maximum of 15 (fifteen) years and a minimum of 3 (three) years and a fine of up to Rp. 300. 000,000.00 (three hundred million rupiah) and at least Rp. 60,000,000.00 (sixty million rupiah).

3) Article 82 which reads:

"Any person who deliberately commits violence or threatens violence, forces, commits deceit, a series of lies, or persuades a child to commit or allows an obscene act to be committed, shall be punished with imprisonment for a maximum of 15 (fifteen) years and a minimum of 3 (three)) year and a maximum fine of IDR 300. 000.000,00 (three hundred million rupiah) and a minimum of Rp. 60,000,000.00 (sixty million rupiah). Then specifically refers to Perpu Number 1 of 2016 concerning the Second Amendment to Law Number 23 of 2002 concerning Child Protection. The provisions of Article 81 paragraph (7) mentioned above, which essentially regulates the criminal sanction norms for chemical castration for perpetrators for acts of violence against children,

This criminal sanction of chemical castration is imposed on the basis that the perpetrator has been a recidivist and committed violence or threatened violence when forcing a child to have sexual intercourse with him or another person which resulted in more than one victim, resulting in serious injuries, mental disorders, infectious diseases, disruption or loss of function. reproduction, and/or death of the victim. The imposition of criminal sanctions of chemical castration on adult perpetrators who commit acts of sexual violence against children as regulated and intended in the provisions of Article 81 paragraph (7) mentioned above, caused a strong reaction from human rights activists in Indonesia who said that the punishment of chemical castration and punishment death is a violation of international human rights law as a form of torture,

As a party state, the Indonesian government must comply with the implementation of these two human rights instruments. In line with human rights civilization, chemical castration is applied only as a form of medical treatment which is voluntary and must be approved by the perpetrator of the act of sexual violence, where the perpetrator is willing to carry out this based on the analysis and recommendations of medical experts.

The application of the additional criminal sanction of chemical castration in handling cases of sexual violence against children in Indonesia is an additional criminal sanction of chemical castration which is not given while the perpetrator is still in detention but is given after the perpetrator has served the main sentence. If the perpetrator has been sentenced to the main crime in the form of the death penalty, the perpetrator is not given additional punishment in the form of chemical castration.

Additional criminal sanctions for chemical castration will be given 2 (two) years after serving the main sentence and also enforced for a maximum of 2 (two) years based on the decision of the judge. So when the validity period of chemical castration has reached a maximum of 2 (two) years, the perpetrator's reproductive organs can function as before. Additional punishment in the form of chemical castration is not applied to child offenders (ie someone under 18 years of age). Punishments given to perpetrators of sexual violence against children are given with the aim of:¹³

- a. So that the suspect admits to the evil act or series of evil acts alleged against him.
- b. As punishment for convicts in general who have been proven to have committed a crime.
- c. As a deterrent effect for the convict, so that they will no longer commit crimes in the future.
- d. As a deterrent effect for community members to be afraid of committing similar crimes, etc.

The reason why the concept of chemical castration is considered by some people as torture and considered inhumane is because there are still many people who only understand the effects of chemical castration on the health of pedophiles who are given castration sanctions such as decreased reproductive function and bone loss, so it is considered a form of punishment that excessive and inhumane, but there is no in-depth understanding of the long-term effects suffered by victims both in terms of physical and mental health. Where we must provide a sense of protection and justice for children who are victims of sexual violence.

IV. CONCLUSION

From the results of the research carried out by the author, it can be concluded that punishment measures that can provide a deterrent effect and deterrence effect (retaliation) for pedophiles in Indonesia can be in the form of giving severe or maximum sentences and providing aggravated (additional) punishments in the form of chemical castration. Apart from formal punishment sanctions or in accordance with the formal laws in force in Indonesia, there are

also non-formal sanctions given by prisoners in prisons to prisoners who commit pedophilia in the form of physical punishment which is often carried out in detention when they find out about cases that have occurred in the form of sexual violence against children. . Punitive sanctions that can have a deterrent effect and deterrence effect (retaliation) for pedophilia perpetrators in Indonesia must have a direct impact on the perpetrators so that legal protection can be achieved for children who are victims of sexual violence; The reason for the aggravation of the crime of castration cannot yet be applied to pedophilia perpetrators even though it has been regulated in the law because even though the legal rules have been regulated and sanctions can be given to perpetrators who violate them in accordance with the principle of legality, where this principle states that criminal acts must be regulated in law or a rule of law before someone can be punished. Because there is still conflict between the executors, in this case doctors who firmly refuse to carry out chemical castration because it is contrary to the doctor's code of ethics and oath, apart from that, the criminal sanction of castration for pedophiles is considered inhumane; and The reason why the concept of chemical castration is considered torture by some people and is considered inhumane by some people is because there is no common understanding regarding the effects of acts of sexual violence on victims, there is no clear understanding regarding the criminal punishment of chemical castration given to pedophiles. Apart from that, the criminal sanction of castration for pedophiles is still considered inhumane; and The reason why the concept of chemical castration is considered torture by some people and is considered inhumane by some people is because there is no common understanding regarding the effects of acts of sexual violence on victims, there is no clear understanding regarding the criminal punishment of chemical castration given to pedophiles. Apart from that, the criminal sanction of castration for pedophiles is still considered inhumane; and The reason why the concept of chemical castration is considered torture by some people and is considered inhumane by some people is because there is no common understanding regarding the effects of acts of sexual violence on victims, there is no clear understanding regarding the criminal punishment of chemical castration given to pedophiles.

It is suggested to law enforcement officials to be more assertive in giving harsh punishments and additional punishments in the form of chemical castration to pedophiles in order to provide a deterrent effect and deterrence effect (retaliation) for pedophiles in Indonesia so that it has an impact on the birth of legal protection for children who are victims of violence sexual; it is suggested that doctors as executors of castration crimes can carry out their duties of carrying out sentences for pedophiles who have been sentenced to chemical castration in order to maintain the dignity of the verdict and protect the rights of children as victims; It is suggested to the government together with the Child Protection Agency to carry out socialization related to aggravating chemical castration punishment for pedophiles so that proper understanding is reached regarding chemical castration punishment so that no one else is considers chemical castration to be an inhumane punishment; and it is suggested to parents to be able to take good care of their children, especially in providing sexual education in order to prevent sexual harassment and/or sexual violence against children.

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