

## Legal Review Of The Implementation Of Castration Law On Sexual Crime Perpetrators In Indonesia

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### **Abstract.**

*The purpose of this study is to analyze the Implementation of Castration Law Against Sexual Crime Perpetrators in Indonesia. The type of research used in this writing is Normative Research, namely legal research conducted by examining library materials or secondary data. Discussion Results: The Implementation of Castration Law Against Sexual Crime Perpetrators in Indonesia has not been effectively implemented. This can be seen from the many cases of sexual crimes decided by judges, not containing additional criminal penalties in the form of castration for perpetrators of sexual crimes. In addition, the implementation of castration punishment for perpetrators of sexual crimes is still a pro and con for the community. Where the punishment is not in accordance with the criminal system regulated in the Criminal Code. Another reason that the implementation of castration punishment is unnecessary is because it clearly violates Law Number 39 of 2009 concerning Human Rights. Where perpetrators of crimes still have the opportunity to live and continue their descendants. Castration punishment is considered very cruel and cruel, and inhumane, even violating medical ethics.*

**Keywords:** Legal Studies; Castration Law; Perpetrators and Sexual Crimes.

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### **I. INTRODUCTION**

The crimes that occur in several regions in Indonesia are very diverse, ranging from cases of crimes involving the loss of life/murder, theft, theft with violence, receiving stolen goods, drug abuse, sexual violence and other criminal cases. Of the several cases that often occur in several regions, one of them is related to sexual crimes. The National Commission on Violence Against Women recorded that the number of cases of sexual violence in May 2022-December 2023 reached 4,179 cases. The most frequently received reports were Electronic-Based Sexual Violence (KSBE), followed by sexual harassment and rape. KSBE cases reached 2,776 cases, 623 cases of sexual harassment and the rest were rape cases.<sup>1</sup> This is very concerning for all parties, that the freedom in the form of justice, prosperity and welfare for humans which is truly touted in the opening of the 1945 Constitution is actually only a theory. Of course, related to the many cases that occur throughout Indonesia, cases of sexual violence are still included in criminal acts that often occur in society. The weak law enforcement in Indonesia is the main factor that hinders in overcoming the many problems of sexual violence that occur today. And added to other factors. A new breakthrough that should be able to provide an alternative in overcoming the problem of sexual crimes has been regulated in the Republic of Indonesia Law Number 17 of 2016 concerning the Stipulation of Government Regulation in Lieu of Law Number 1 of 2016 concerning the Second Amendment to Law Number 23 of 2002 concerning Child Protection into Law.

This law was deliberately created with the aim of increasing criminal sanctions for perpetrators of sexual violence against children. Therefore, sexual crimes that occur to children are increasing in number every day. And this can certainly threaten the existence of the next generation of the nation, namely children. Law of the Republic of Indonesia Number 17 of 2016 concerning the Stipulation of Government Regulation in Lieu of Law Number 1 of 2016 concerning the Second Amendment to Law Number 23 of 2002 concerning Child Protection states that the state guarantees children's rights to survival, growth and development, as well as protection from violence and discrimination as stated in the 1945 Constitution of the

Republic of Indonesia, that with the increasing number of sexual violence against children from year to year, it even threatens the strategic role of children as the next generation of the nation and state, so the government needs to increase criminal sanctions and take action against perpetrators of sexual violence against children.

The steps taken by the state optimally and comprehensively are not only to impose increased criminal sanctions for perpetrators of sexual crimes, but also to implement preventive measures by providing chemical castration, installation of electronic detection devices, and even rehabilitation for perpetrators of crimes against children. There are still pros and cons to this regulation in society. The application of castration punishment is still widely rejected by several parties because it is considered inhumane and violates human rights and is even very contrary to medical ethics. So that the implementation of this law has not been carried out optimally to punish perpetrators of sexual crimes. The implementation of the Government Regulation in Lieu of Law Number 1 of 2016 concerning the Second Amendment to Law Number 23 of 2002 concerning Child Protection as an aim to provide a deterrent effect on perpetrators, and prevent sexual violence against children as a phenomenon that often occurs in society. From the description above, the author formulates the problem of How is the Implementation of Castration Law Against Perpetrators of Sexual Crimes in Indonesia?

## II. METHODS

The type of research used in this writing is normative research, namely legal research conducted by examining library materials or secondary data.<sup>2</sup> According to Peter Mahmud Marzuki, normative legal research is a process to find legal rules, legal principles, and legal doctrines to answer the legal issues faced.<sup>3</sup> Based on the definition above, the type of research conducted in this study is normative legal research, because the researcher uses library materials as the main data to analyze cases and focuses on a legal regulation related to the Implementation of Castration Law on Sexual Crime Perpetrators in Indonesia.

## III. RESULT AND DISCUSSION

### **Implementation of Castration Law Against Sexual Crime Perpetrators in Indonesia**

According to Indrayana<sup>4</sup> Sexual violence is defined as an attack of a sexual nature, whether or not there is sexual intercourse, regardless of the relationship between the victim and the perpetrator. The attack by the perpetrator has caused trauma and anger for the victim. However, many victims are unable to defend themselves due to various circumstances and are overwhelmed by feelings of pressure. The occurrence of sexual violence is caused by two variables, namely internal factors and external factors. Internal factors are factors that originate within a person, especially those observed in individuals are things that are related to sexual crimes. (1) Psychological factors or abnormal conditions of a person can encourage someone to commit a crime. For example, abnormal sexual desire can cause them to sexually abuse children without their knowledge. (2) Biological factors, actually human life has various things that must be met. There are three types of biological needs, namely food needs and sexual needs and protection needs. Sexual demands are similar to other desires that must be met. (3) Moral factors, morality plays an important role in determining the prevalence of crime. Morality is often considered as a check on abnormal behavior. (4) Revenge factors, perpetrators of sexual violence against children are motivated to want themselves and are influenced by what they experienced when they were victims of violence in the past to be motivated to feel what they feel.

<sup>5</sup> Several cases that have been decided by the court in terms of Criminalization for perpetrators of sexual crimes in fact do not provide a deterrent effect for perpetrators of sexual crimes. Of course, we can see this with the increasing cases related to sexual crimes. The implementation of chemical castration punishment in Indonesia for some parties has been felt to be right. Even the benefits will be felt greater. The

implementation of chemical castration punishment is still a polemic for some parties, this is marked by the many pros and cons of the implementation of this punishment for perpetrators of sexual crimes. The level of sexual crimes in Indonesia has reached a very worrying stage, especially in some cases the victims are children. To protect children from various crimes, especially sexual crimes, the government should make various efforts as a goal in protecting the next generation of the nation to be well maintained. Chemical castration is not a new thing in criminal law. The chemical castration law does not only apply in Indonesia, but there are several countries in the world that have implemented chemical castration as a retaliatory measure against perpetrators of sexual crimes, these countries include: Denmark, Sweden, Finland, Norway, Poland, the United States, South Korea, and Russia.

Chemical castration is the introduction of anti-androgen chemicals in the form of injections by inserting oral medication or through the mouth. The administration of this drug/chemical will later trigger a chain reaction, the reaction will occur in the brain and others. Chemical castration is not permanent so it must be done continuously or periodically. So if it is done during the rehabilitation period, it generally lasts for 3-5 years. The legal basis for the application of chemical castration sanctions in Indonesia has been regulated in Article 81 Paragraph (6) and Paragraph (7) of Law Number 17 of 2016 concerning the Stipulation of Government Regulation in Lieu of Law Number 1 of 2016 concerning the Second Amendment to Law Number 23 of 2002 concerning Child Protection into Law. Article 81 Paragraph (6) states: "In addition to being subject to the criminal penalties as referred to in paragraph (1), paragraph (3), paragraph (4), and paragraph (5), the perpetrator may be subject to additional penalties in the form of announcing the perpetrator's identity. The perpetrator as referred to in paragraph (4) and paragraph (5) may be subject to chemical castration and installation of electronic detection devices." Article 81 Paragraph (7) states: "The perpetrator as referred to in paragraph (4) and paragraph (5) may be subject to chemical castration and installation of electronic detection devices." Furthermore, paragraph (9) states that the punishment in question is a criminal penalty for perpetrators of sexual crimes, meaning that the perpetrator still serves the main penalty, plus additional penalties, but this is an exception for perpetrators of sexual crimes committed by children. So the application of chemical castration punishment to perpetrators of sexual crimes actually has a strong legal basis to be implemented effectively. Chemical castration punishment can be said as retaliation and a form of accountability of perpetrators of sexual crimes to their victims.

Chemical castration punishment can be a lesson for other perpetrators of crimes not to be too easy in committing sexual crimes against others. When compared to the Criminal Code, the existence of chemical castration punishment is not included in the category of types of punishment, both principal and additional punishments contained in the Law. Article 10 of the Criminal Code states that principal punishments consist of the death penalty, imprisonment, detention, fines, and prosecution. Furthermore, additional punishments consist of the revocation of certain rights, confiscation of certain goods and the announcement of the judge's decision. Clearly this is contrary to the criminal penalties regulated in the Criminal Code. So that chemical castration punishment is considered not in accordance with the criminal system in Indonesia. In addition to not being in accordance with the criminal system regulated in the Criminal Code, the rejection of the application of the castration punishment is carried out on the grounds that the punishment clearly violates Human Rights (HAM) as regulated in Law Number 39 of 2009 concerning Human Rights. In Article 33 paragraph (1) of Law No. 39 of 2009 concerning Human Rights, states: "everyone has the right to be free from cruel, inhumane, or degrading punishment and human dignity." Some of the impacts of the application of castration punishment for perpetrators of sexual crimes include: causing shame for the perpetrator and his family; as a result of the application of castration punishment, the perpetrator cannot continue his descendants. So the author concludes that the application of chemical castration punishment to perpetrators of sexual crimes has not been effective. This can be seen from the many cases of sexual crimes decided by judges, not containing additional criminal penalties in the form of castration for perpetrators of sexual crimes.

#### IV. CONCLUSION

The Implementation of the Castration Law Against Sexual Crime Perpetrators in Indonesia has not been effectively implemented. This can be seen from the many cases of sexual crimes decided by judges, which do not include additional criminal penalties in the form of castration for perpetrators of sexual crimes. In addition, the implementation of the castration penalty for perpetrators of sexual crimes is still a pro and con for the community. Where the punishment is not in accordance with the criminal system regulated in the Criminal Code. Another reason that the implementation of the castration penalty is not necessary is because it clearly violates Law Number 39 of 2009 concerning Human Rights. Where perpetrators of crimes still have the opportunity to live and continue their descendants. The castration penalty is considered very cruel and cruel, and inhumane, even violating medical ethics.

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