

JURIDICAL ANALYSIS OF CASTRATION PUNISHMENT FOR PEDOPHILIA PERPETRATORS

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Abstract.

Violence is a major issue that faces almost all societies around the world, with various types of crimes that include both physical and non-physical violence. In this context, violence against children. Or what is commonly referred to as pedophilia, is also included. This violence encompasses verbal, physical, and non-physical abuse involving minors. Perpetrators can be given sanctions in the form of imprisonment, as regulated in the law. However, this seems to have less significant effect toward the enforcement especially since many of them repeat the same actions after being released from penitentiary. Therefore, we analyze whether chemical castration would have a greater impact and provide other solutions in the implementation of punishment so that they feel deterrence. And stop the cycle of pedophilia. This research is conducted in normative way by gathering relevant information and laws related to the phenomena, which serves as a bridge for correlating the topics and linking them to the effects, whether aligned or not, and effect of the implementation of the law on child abuse and the sanctions.

Keywords: Pedophilia, Castration, Deterrent

INTRODUCTION

Talking about violence, violence itself is one of the forms of violent acts and a social problem that always attracts attention and demands serious concern from time to time. When talking about the concept and definition of violent acts, there are still difficulties in providing a clear definition, as there are limitations in generally understanding and agreeing upon. Violence also has different meanings based on various opinions, experts and scholars.¹

Raping is one of the most serious crimes that ones can commit. This leaves so many harms and pains to the victim, including long term consequences. According to The world Health Organization, rape is a physically forced or otherwise coerced penetration, even is slight, of the vulva or anus, using a penis, other body part, or an object.² From this definition, we can see that rape can happen regardless of gender or the type of object that is used. This focuses on the non-consensual nature of the act. This action is widely

recognized as a traumatic crime with psychological, physical, and social consequences that the victims had to face.

Rape can also happen to children. When the victim is a child, we can call it as a pedophilia. According to the Cambridge Dictionary, pedophilia is the condition of being sexually interested in children, or sexual activity with children.³ This crime has a very long effect and consequences on the victims and their family. From medical, psychological, and pedagogical disciplines, childhood is considered a crucial and fundamental development phase for the future development of children as individuals. This makes the trauma that occurs in one's childhood will greatly affect their growth and development as a human being. Therefore, pedophilia is an extremely cruel and serious crime, because the perpetrator can ruin the victims and their families life.

Indonesia has a strict regulations to suppress the pedophilia case. The legal framework for dealing with this crime falls under both criminal law and child protection law. It is stated in the Criminal Code (KUHP) and Law No. 17 of 2016 (the revision of Law No. 23 of 2002 on Child Protection), which imposes strict penalties for sexual abuse of minors. Offenders will be given sanctions, such as up to 15 years of imprisonment, identity announcement, chemical castration, electronic monitoring devices after the offender's release, fines, rehabilitation programs, and even death pena¹lty for extreme cases. Hopefully, this will provide a deterrent effect to the perpetrators and suppress sexual crimes against children.⁴

The objective of this study is to conduct an exploration of the child protection against violence, especially sexual abuse by grown ups, or pedophilia. This research will focus on assessing the punishment policy for pedophilia perpetrators in Indonesia's positive law. Furthermore, this study will also find out about castration punishment for pedophilia offenders according to the current legislation, such as Law No. 17 of 2016 (the revision of Law No. 23 of 2002 on Child Protection) that protects children from being abused and assaulted.

¹ Setiawan, D, 2014. BAB III Tinjauan Umum Tentang Kekerasan, Universitas Medan Area
https://repositori.uma.ac.id/bitstream/123456789/1532/5/078400317_file5.pdf

²Cambridge dictionary, Pedophilia. 02 Desember 2024,
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³World Health Organization, 4 October 2002, World report on violence and health.

⁴Law No. 17 of 2016 Concerning the Amendment of Law No. 23 of 2002 on Child Protection, Republic of Indonesia.

METHODS

The type of research used in studying “Juridical Analysis of Castration for Pedophilia Perpetrators” is the Normative method. Normative research, also known as doctrinal legal research or theoretical legal research, focuses on written studies that utilize secondary sources such as legislation, court decisions, and legal theory. It often takes the form of scholarly scientific work. This type of research examines various aspects including theory, history, philosophy, comparison, structure and composition, scope and content, coherence, overview and explanation chapter by chapter, the formalities, and the binding force of legislation and the legal language used.

Research Specification

The research employs descriptive research, indicating its goal to find out about castration sanction for pedophilia perpetrators. Types and Techniques of Data Collection. In this research, two types of data are used, which are primary and secondary data. Primary data refers to the law, meanwhile, secondary data refers to articles, journals, etc.

Research Approach

This research uses a qualitative approach, a general way of thinking about conducting qualitative research. It describes, either explicitly or implicitly, the purpose of the qualitative research, the role of the researcher(s), the stages of research, and the method of data analysis. Because the information in this research is not numerical but rather linguistic.

Data Analysis Techniques

This research uses a qualitative approach, where the data and associated regulations will be gathered, formulated, and elucidated, followed by classification and examination.

RESULT AND DISCUSSION

Based on the case of "Gilang Bungkus" which went viral in 2021 that drew significant public attention due to the nature of the crime committed by the defendant. Despite the fact that the perpetrator served time and was declared free, it was recently reported according to the account @intinyaeh on social media platform X—that he committed a similar offense after his release, using a different technique. And he is targeting 15 year old girls. Which make him a pedophile.

This situation raises important questions about the effectiveness of imprisonment in deterring perpetrator. Although the law imposes a sentence of incarceration, the reality is that some offenders reoffend after being released. This suggests that jail itself may not be enough to stop criminal behavior. A

more comprehensive approach is needed, one that includes psychological rehabilitation, moral development, and strict post-release supervision, to ensure that offenders do not repeat their crimes.

The justice referred to in this case may not only be about formal punishment but should also consider other factors such as rehabilitation and prevention, allowing the perpetrator to change and not cause harm to society again. A more holistic and thorough approach to offender rehabilitation, as well as more effective monitoring after release, could be key in preventing similar incidents in the future.

Law No. 17 of 2016, which amends Law No. 23 of 2002 on Child Protection in Indonesia, represents a significant legal shift in the country's approach to child sexual abuse. The law aims at better protection of children from sexual violence and exploitation. One of the most controversial and publicly debated points of this law is the introduction of castration as one of the possible punishments for individuals convicted of serious sexual offenses against children. The law enables the courts to impose physical or chemical castration on offenders, if they meet certain criteria such as repeat offenders or having committed heinous acts of abuse. The purpose behind this provision is to ensure that offenders will not create further offenses by eliminating their sexual drive.

This punishment involves the administration of medications that reduce the levels of testosterone in the body, which will also reduce sexual urges and impulses. This is considered less intrusive than physical castration, which is the surgical removal of the testes. The law provides for the administration of chemical castration as part of the sentence of the offender, but this should be granted by the court and upon medical examination whether such is suitable for the particular individual. In some instances, physical castration may likewise be ordered, but this would be considered a more extreme and permanent measure. While the law has been framed as a tool to protect children and deter sexual abuse, its implementation raises significant ethical and human rights concerns.

One of the major objectives of castration as a punishment is to avoid any further commission of the offense. Recidivism rates among sexual offenders have been a big concern, especially in cases involving children, who are most vulnerable to long-term psychological trauma from sexual abuse. The law aims to remove one of the major motives for reoffending by reducing the offender's ability to engage in sexual activity. Supporters argue that the chemical or physical castration will reduce the risk of sexual violence and make communities safer for children. The law is supposed to be a deterrent, telling future offenders that the results for child sexual abuse are devastating and irreversible.

However, the use of castration as a punishment has sparked a wider public and legal debate regarding its human rights implications. Critics argue that the measure violates an individual's right to bodily integrity, which is protected under both national and international human rights laws. The imposition of castration, especially physical castration, might be considered cruel and inhuman treatment, and the question can be raised whether the punishment fits the crime. While the law is meant to protect children, critics argue that this kind of punishment on the grounds that it may have wider implications and set a dangerous precedent for the erosion of human rights in the name of justice. Some say chemical castration is less invasive but still a violation of personal freedoms because it changes one's physical and hormonal condition without consent.

Public in Indonesia has generally supported harsher punishments for child sexual offenders. Public wants to protect children from abuse and ensure that those who commit such crimes against them are dealt with accordingly. The people believe that castration would be a deterrent, at least in a country like Indonesia, where child abuse is considered a serious problem and on the rise. But public support does not mean consensus on the ethical implications of castration. Many see it as a needed tool in the fight against child abuse, while others fear its overuse or unjust application. These concerns have subsequently generated debates on whether other forms of punishment, such as longer prison sentences or rehabilitation programs, might be more effective in addressing whatever root causes there may be for sexual violence without the need to resort to such extreme physical measures.

In response to these concerns, Indonesian lawmakers have tried to balance strong deterrents with respect for human rights. While the law permits castration under certain conditions, it still maintains that this should be done under medical supervision and after a court decision, in order to avoid arbitrary application that might violate the rights of the accused. Simultaneously, the law is a powerful tool for the authorities to take care of children and deter sexual violence. Going forward, this will likely continue to be a source of legal and ethical debate as the need to protect children collides with the need to preserve human rights, with both camps trying to influence future policy.

Castration as a punishment for child sexual abusers is one of the most debated issues in Indonesia's legal system, especially since the inclusion of provisions on chemical castration in the nation's Law No. 17/2016. Many argue that castration acts to deter potential offenders through the stringency of the penalty for child abuse. The law is designed to send a strong message that crimes against children, especially sexual abuse, will not be tolerated and that those who commit such offenses will face strict, irreversible penalties. By removing the offender's ability to engage in sexual activity- either physically or

chemically-it is believed that the chance of re-offending can be significantly reduced. This is a preventative measure, not only punitive, but one that removes a significant incentive for such sexual crimes in the first place. Moreover, it is supposed to make the public feel more confident in the justice system, since serious crimes against children will receive harsh and serious sentences.

However, the implementation of castration as a punishment has raised significant human rights concerns, with many critics arguing that it violates fundamental human rights protections. One of the central issues is the potential violation of an offender's bodily autonomy and the right to be free from cruel, inhuman, or degrading treatment. Some human rights advocates view chemical or physical castration as bodily mutilation and a violation of the offender's dignity and personal integrity. Critics argue further that this procedure might be applied without strong enough safeguards to avoid abuses and misapplication of power. There is also the worry that such an extreme measure may be disproportionately applied, especially in cases where the offender's actions could have been driven by some sort of psychological condition or social factors. While the intent of the law is to protect children, critics argue that its application may set a dangerous precedent, compromising individual rights for punitive measures that do not address the root causes of sexual offending.

Despite these human rights concerns, the law enjoys broad public support, largely due to the increasing number of child sexual abuse cases in Indonesia. Many people see the institution of chemical castration as a necessary intervention in light of growing child sexual exploitation and violence. Because of this, public opinion tends to swing toward harsh penalties for perpetrators of child sexual abuse, with many arguing that harsher punishments, including castration, are needed to protect children and deter would-be offenders. The increasing awareness of child sexual abuse and the severity of its impact on victims has accordingly changed societal perception, as reflected in public demands for more effective legal mechanisms to inhibit such crimes. As long as the debate on human rights continues, the evident public support towards castration shows a broader view of people that the protection of a child outweighs concern about offenders. For many, the protection of vulnerable children is paramount, and the harsh penalties are a necessary tool to deal with the crisis.

In practice, there are considerable challenges in the implementation of chemical or physical castration, which further complicates the overall effectiveness of the law. The first of these challenges relates to the enforcement of such a sensitive and intrusive procedure. There are issues about the proper medical procedures that should be observed to make sure that chemical castration is carried out in a non-harmful manner and according to accepted health guidelines. Because it is a method involving the administration of

hormone-affecting drugs, each offender must be medically assessed as to whether his health condition is appropriate for the procedure and the drugs to be administered are safe and effective. If physical castration is imposed, there are further medical issues regarding the operation, which may lead to complications or irreparable damage.

Moreover, there is an issue of control over how the effectiveness of the castration is regularly monitored and how offenders receive their treatment on a regular basis. The lack of a comprehensive system for tracking these procedures, alongside the need for continuous medical supervision and follow-up, can result in difficulties in maintaining the integrity of the law's implementation. Law enforcement agencies and medical professionals must work together to ensure that the procedures are being carried out in accordance with legal guidelines and that offenders are held accountable throughout the process. Another problem would be monitoring offenders after castration to make sure they do not relapse into former behaviors or commit other crimes. A very strong support and rehabilitation system would be necessary in order to reintegrate offenders back into society after their treatment, which is not always a clearly defined or even implied aspect of how the law is to be carried out.

Another issue could be the inconsistency in implementing the law throughout the country, or even across different states of Indonesia. While one region may be well equipped to handle such measures, the others may not be because of a lack of proper medical facilities, untrained police, or lack of coordination among the authorities. Such gaps may lead to inequality in enforcement, where offenders could avoid the intended punishment or face lenient handling that is not supposed to be observed. Furthermore, the stigma associated with being listed in the sex offender registry and being chemically or physically castrated can also make reintegration into society difficult, and without proper social support systems, offenders may face challenges in adapting to life after their punishment.

CONCLUSION

Though chemical or physical castration is positioned as a strong deterrent against child sexual abuse, its effectiveness is complicated by numerous concerns and practical challenges. This law shows that the government is really committed to protecting children, while its human rights implications and difficulties regarding enforcement and medical procedures make it difficult to balance between justice, deterrence, and individual rights. The law has, nonetheless, remained a legislation that garners huge public support-a testament to a society that is ever-increasingly committed to protecting its most vulnerable members.

SUGGESTION

Here is solution that we were able to took from the implementation of the punishment are :

First, this law seems effective in preventing the perpetrator from redoing the same crime after being released from prison, but the highlight of this chemical castration punishment is still taboo and rarely used in Indonesia, and this makes the existing law less effective in addressing this issue. Therefore, chemical castration should be more widely discussed in public and accepted commonly, so that two main goals can be achieved based on : 1) the implementation of an appropriate punishment for offenders. While imprisonment might suppress their desires temporarily, it is possible that the issue will recur if the root problem of the perpetrator is not solved. 2) Chemical castration would make offenders more "Deterrent" and help reduce the risk and potential for future same cycle repetition of their behaviour.

Second, here are some points that can be applied related to the issue: there should be further supervision of sex offenders after their release. Since pedophilic behavior relates to the fundamental traits, habits, and mindset of the individuals, imprisonment itself is feared to be ineffective for pedophiles. Based on the cases presented earlier, many offenders commit similar acts after being released from prison. And unlike other criminals, they should be intensively monitored for approximately six months after their release. In addition to preventing reoffending and new crimes, such continued monitoring by the relevant authorities will make the surrounding community feel safer and reduce the likelihood of new victims arising.

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