

Legal Analysis of Chemical Castration on the Crime of Sexual Violence against Children

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Abstract

There are many cases of sexual abuse of children in Indonesia. The softness of the law against the perpetrators has made this case quite fertile. The presence of chemical castration sanctions, rehabilitation, and also the installation of detection devices are considered very light and not worth the act of destroying the child's future. This study uses a qualitative descriptive research method that aims to determine the effect of the castration law on perpetrators of sexual abuse. The result is that the chemical castration law is still not sufficient to have a fearful effect on potential perpetrators and a deterrent effect on perpetrators considering that the term is only two years. There are legal options such as life imprisonment, permanent castration, and the death penalty. However, two of them must intersect with the existence of human rights. However, life imprisonment can be the right choice to be applied to break the chain of sexual crimes against children.

Keywords

Obscenity; children; sanctions; law; castration



I. Introduction

The revelation of the case of sexual abuse of female students by a religious teacher at a boarding school in Bandung has become quite a shocking problem in Indonesia. Up to 21 students have admitted to being molested by the perpetrator and this is a very immoral case. Not even a few of them are pregnant, and some are giving birth. This case is certainly not the first time the child has been eaten by sexual predators. There are still very many cases of abuse against women, especially children, whether exposed or not daring to be disclosed due to negative stigma, feelings of shame, trauma, or fear of threats.

This disease of society is as if it were the same as a case of corruption, namely both have laws that are considered lenient. The existence of prison law or castration is not able to replace the future of children who have been damaged and destroyed so that in their hearts they only have a grudge instead of ambition to achieve their goals. The community also really hopes that there will be strict laws against the perpetrators of this extraordinary crime. This is intended to protect the next generation of the nation from moral and mental damage.

In its implementation, the castration law is considered an act of human rights violation by the National Commission considering that the punishment will take the life of the perpetrator. The technical implementation of castration in the form of giving chemical injections also cannot be carried out by the doctor as the executor because it is considered a violation of the code of ethics of the medical profession. The enforcement of the castration law seems to be considered a dilemma in law enforcement, even though legal firmness is very much needed to minimize victims who continue to be exposed. In this study, researchers will conduct a study of the legal effect of chemical castration on perpetrators of sexual crimes against children.

II. Research Method

In this study, a qualitative descriptive research method was used which according to Sugiyono (2010: 9), the research subject was placed on a key instrument through data collection techniques carried out by combining and inductive data analysis. Data collection was obtained from credible sources including journals, credible media, and books relevant to the topic of study. The purpose of this study was to determine the effect of the use of chemical castration on perpetrators of sexual crimes against children.

III. Results and Discussion

The existence of children in every country is a national asset that must be educated as well as possible to create superior generations to create a solid foundation for the country in the future. Generation renewal that is relevant to the current situation is also considered important so that they will be able to live on the competitive map and face every challenge offered by the currents of global change. The world will always be a challenging place for people because of the continuous innovations created along with the human ambition that will never be satisfied to find something to make their lives easier.

Change is something that cannot be avoided, but it can be tricked and contributed to be a part of it. When humans can adapt to the demands of the times, then they will be able to survive. This is where the young generation must be prepared carefully so that their country is not left behind by other countries. Instead, through the formation of mature character and skills, the stock in maintaining the nation's existence will always regenerate properly. Therefore, the presence of children in this world must of course be properly protected, either through social media that includes global children such as UNICEF (United Nation Children Fund), or regulations of each country.

In the world, the presence of children is very concerned about its protection. In 1989, the member states of the United Nations (UN) at that time signed an agreement which was later referred to as the Convention on the Rights of the Child, which included a total of 42 articles governing children's rights. This regulation can then be passed on by each government through adoption so that it can be used as a reference in the formulation of laws relating to respecting children's rights and providing protection for them. Indonesia then took part in providing its support for the convention which on January 26, 1990, the government agreed and signed the Convention on the Rights of the Child. To show the seriousness of the government is paying attention to children's rights at that time, Presidential Decree No. 36 of 1990 was issued on September 5, 1990, which regulates positive law on child protection in Indonesia.

Children are the creation of God Almighty, must be protected and protected with respect, dignity, and self-respect in a reasonable manner both legally, economically politically, socially, and culturally without distinguishing between tribes, religions, races, and groups. Children must be guaranteed the right of life to grow and develop in accordance with the nature and nature (Rizal et al, 2020).

Then, the child protection policy was strengthened by the Second Amendment to the 1945 Constitution by including Article 28B paragraph (2) which states that every child has the right to survive, grow, and develop and has the right to obtain protection from violence and discrimination. The government does not seem to be playing games to give attention to the nation's children where the issuance of Law Number 23 of 2002 concerning Child Protection through two main pillars, namely the fulfillment of children's rights and special

protection for children. This Law has been amended twice, namely through Law Number 35 of 2014 and Law Number 17 of 2016.

This enthusiasm for fulfilling the interests of children then underlies other laws and regulations such as Law Number 23 of 2014 concerning Regional Government which contains the mandate in each region to make every effort to fulfill and protect children's rights. However, the presence of various regulations above, both at national and international levels, does not prevent predators from taking action to damage the future of the child. Their immoral actions have plunged the children into darkness, instead of showing them as adult men who guide the next generation to get the bright light.

Law enforcement against child predators is still based on Law Number 35 of 2014 concerning Child Protection which in Article 82 paragraph (2) states that anyone who intentionally commits acts of violence or threats of violence, coerces, commits deception, a series of lies, or persuade a child to commit or allow obscene acts to be carried out, the perpetrator will be sentenced to a maximum imprisonment of 15 years and a minimum of 3 years.

However, in 2020, the Government issued Government Regulation (PP) Number 70 of 2020 concerning Procedures for the Implementation of Chemical Castration. It is understandable, this regulatory product is a newly developed sanction in Indonesia where the chemical castration law is intended to provide periodic injections of cravings for perpetrators, then an Electronic Detection Device (APE) is installed, assisted in rehabilitation, and the identity of the perpetrator will be disseminated through announcements in both conventional media and online media.

When referring to the crimes committed, of course, it can be said to be in a severe category. First, harassment or obscenity perpetrated against women, especially children, is part of the character assassination of the nation's next generation. The character assassination in this case destroys their future so that the children will lose their identity, soul, and self-confidence. They will tend to be traumatized and become anti-social. The second is that it can trigger new actors. The resentment that the child harbored when he was molested will imprint in their minds and minds, from here a feeling of revenge will arise in their hearts to do similar acts in the future.

Third, this crime will not end or in this case, legal indecision will give birth to new predators to commit acts of sexual abuse against children. In this child abuse, it is not only carried out by individuals who do not know each other but some cases are committed by people who are related by blood (between father and biological child). Morally, of course, this is considered an immoral act, even committing a major sin against religion. The child who should be educated to become the next generation who will support this nation must be destroyed so that the archipelago is threatened with not having a golden generation in the future.

Crime as a social problem is a dynamic phenomenon that always grows and is associated with symptoms and other social structures that are very complex, it is a socio-political problem. The need to link efforts to tackle crime (which will later be formulated in a criminal policy) is reasonable because in essence the purpose of the Criminal Policy is Community welfare, criminal policy is an integral part of the policy to achieve community welfare (Tumanggor et al, 2019).

Looking back at the law of chemical castration, these sanctions will certainly not be commensurate with the crimes that have been committed, considering that they did it consciously, following their pent-up desires and then taking it out on innocent and helpless children. The child also does not have any power to fight back considering the limitations

of their energy and mentality which will be damaged first, after which the predator will immediately execute without feeling sorry.

Early sexual education is indeed one of the right ways to educate the child so that he can protect himself from free sex or similar behavior. However, this education alone is not enough to form the mentality of the child to dare to reveal when he has become a victim of sexual abuse. In addition, the negative stigma inherent in the child as a victim must also be accompanied by public awareness by providing moral support and encouragement to take the case to the legal process.

But in the process, people tend to still think that sex education for their child is a taboo subject. Then, the attached stigma is blasphemed that they can't protect themselves so that the child becomes afraid or even embarrassed to express it. The government feels the need to educate the public about the importance of sexual education from an early age and the automatic elimination of stigma against children when the child is found to have experienced sexual abuse.

Next, regarding prison sanctions plus the chemical castration law, installation of detection devices and rehabilitation are considered as light sanctions, even much lighter than crimes committed consciously to fulfill their sexual desires. This is where the problem lies, for example, a 25-year-old sex predator is sentenced to 15 years in prison and given chemical castration injections. It can be seen that this chemical castration cannot last long, at most two years. Even if rehabilitation is carried out, this will not guarantee that similar actions will be carried out again. Plus, when they are free the predators will be 40 years old, and they still have decades to commit the obscene act again.

In Article 81, Law Number 17 of 2016 concerning the Stipulation of Government Regulations instead of Law Number 1 of 2016 concerning the Second Amendment to Law Number 23 of 2002 concerning Child Protection into Laws, each paragraph describes the sanctions imposed on several acts of molestation against children. Of the total sanctions, all of them only include a prison sentence of up to 20 years and a fine of up to five billion rupiahs. The punishment for chemical castration is also listed in it along with an electronic detection device.

This legal injustice is not commensurate with the crime, it even tends to injustice and is considered still soft on predators. As can be seen logically, if the punishment seems light, then this will affect the absence of a deterrent effect for the perpetrators, as well as fear for potential predators later. Of course, a very strong law is needed such as a life sentence, permanent castration, or the death penalty.

Life imprisonment will be one of the appropriate sanctions to be applied so that the perpetrator will not have the opportunity to go free and commit this obscene act again. Next is permanent castration where their desire is eliminated permanently. Of course this is also equally good, but it is considered a violation of human rights because it eliminates the freedom of human life itself. Giving the death penalty can certainly be a last resort but is considered controversial because it is not comparable to the victim who is still alive while the perpetrator must be killed.

Indeed, there will be many pros and cons to the proper application of the law for the perpetrators of this sexual crime. However, legal firmness is also a necessity that must be demanded considering the victims continue to fall and the nation's golden generation is gradually being eroded by the presence of these sex criminals. Therefore, the enforcement of sanctions based on Article 81 paragraph (7) concerning chemical castration and the installation of electronic detection devices is still unable to accommodate the psychological and mental changes of the child who has already been damaged.

The chemical castration law is only felt for a temporary effect so that the potential for similar activities will be repeated. The law of permanent castration is considered very appropriate, it just has to deal with the existence of human rights, besides that the perpetrator can still be seen by the victim so that it will re-awaken the trauma in him so that it will not be good for the mental improvement of the child. The most reasonable legal option is life imprisonment where the child no longer needs to see the face of the perpetrator and there are no human rights that must be violated in it.

So, in law enforcement, it should pay attention to the long impact of the results of these actions. So that sanctions are found that are considered truly fair for the perpetrators. The crime against the child can be said to be an extraordinary crime and currently Indonesia is facing a criminal emergency. As regulated in Article 76E of the Child Protection Law, it has been emphasized that everyone is prohibited from committing acts of violence or obscenity against the child. It's just that in the field there are still many such cases with legal executions that are still soft.

Thus, legal sanctions against perpetrators of sexual crimes certainly need to be revised considering that this is not following the Convention on the Rights of the Child which was agreed by UN member states, especially in Article 34 which reads "Every child has the right to be protected from sexual exploitation and abuse, including prostitution and sexual abuse." involvement in pornography.". The presence of parents as direct protectors of children is expected to maximize their role in addition to providing space for them to grow and develop properly, as well as ensure their safety and health from the threat of predators out there.

Protection from the government can also be sought through strict and clear law enforcement against the perpetrators of crime where they will continue to stalk and target any children, whether parents or the government are negligent. Maximum assistance efforts must also be sought by the government through the Child Protection Commission (KPA) since they are abused until they are completely healed through psychological improvement and repairing the mental that has been damaged.

The child can have a second chance to be able to achieve his goals when they are successfully forgotten by bad experiences in his past. However, to achieve that, it takes a fairly long process and a lot of time. However, crimes continue to increase and many more remain unsolved, making it difficult for the government to provide extra assistance to them to restore their condition to its former state.

IV. Conclusion

Children are an asset for every nation and even the world in order to regenerate the successor of the people to run the system on this earth. Various kinds of regulations have been made to accommodate the needs of the child. Both in the form of fulfilling their rights and protecting them. Governments of countries in the world then alienate their attention to these future generations through the Convention on the Rights of the Child where the UN member states signed the agreement to give more attention to children in the world. Each country then carries out its execution which uses the UN Convention as a reference in the formation of laws, including in Indonesia.

More attention to the protection of children's rights is included in the second amendment to the 1945 Constitution which in Article 28B paragraph (2) states that every child has the right to survive, grow and develop and has the right to obtain protection from violence and discrimination. However, the presence of laws in Indonesia, which

specifically provide protection for children, has not really been successfully implemented. This is evidenced by the many cases of abuse against women, especially children.

The crime of molestation against the child is an extraordinary crime considering that this action can damage the future of the child and the nation's young generation. The presence of chemical castration law, installation of detection equipment and rehabilitation are still considered as light sanctions so that they do not cause a deterrent effect on perpetrators and fear of potential perpetrators. Three legal options can be enforced, namely life imprisonment, permanent castration, and the death penalty. However, permanent castration and the death penalty are considered a violation of human rights. The most likely punishment that can be applied so as not to touch the victim and human rights is the enforcement of life imprisonment.

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