

# **ENHANCING IMPLEMENTATION OF CHEMICAL CASTRATION PUNISHMENT RELATED TO THE INTERESTS OF THE VICTIM AND THE ROLE OF INTERPOL TO REFORMULATING RESTORATIVE JUSTICE IN SEXUAL CRIMES PENALTY**

## **Abstract**

Sexual crimes are a form of crime that is rife today. Sexual crimes can arise due to an imbalance of roles in society, weak law enforcement, shifts in spiritual values, as well as the influence of internet abuse on the younger generation. Sexual crimes have changed their form from conventional crimes to modern-day crimes involving advanced technology and syndicates. Sexual crimes require special treatment as well. This can be seen in the pattern of examination, submission of evidence, determination of suspects, even for special trials. In this online era, the pattern of trials for sexual crimes is necessarily studied; especially regarding the involvement of victims and victims' families to punish perpetrators. This research uses analytical descriptive methods against a number of regulations that apply in the Criminal Law and Criminal Procedure Law related to Sexual Crimes.

This research is also complemented by a literature approach in the form of Indonesian legal literature and legal journals to answer the problems raised in this paper. The conclusion that can be drawn are: many victims of sexual crimes do not realize or understand the appropriate legal actions to be able to involve themselves in sexual crime trials and the Government of Indonesia should implementing the Government Regulation (PP) Number 70 of 2020 concerning Procedures for the Implementation of Chemical Castration to solve the problem of sexual crimes. However, this law requires clear enforcement of penalties to ensure certainty of justice for criminals and victims.

**Keywords : Implementation, Chemical Castration, Restorative Justice, Victim's Interest, Interpol's**

## **A. Background**

Sexual crime is a form of crime that is rife today. Sexual crimes happen due to various factors that exist in society. Sexual crimes arise due to imbalance roles in society, weakness in law enforcement, shifting spiritual values, even because of the influence of internet abuse on the younger generation. The cause of sexual crimes according to criminology can also be caused by violence against children in childhood. This violence causes the factors of violence that affect children to be so complex. Children can learn to learn how to behave violently, aggressively, and even cruelly from their parents. The children then grow up to become adults and commit acts of violence against their offspring. In some cases, there were children who experienced violence who did not but did not become adults who treated violence to their children. Some experts believe that there are other factors that predispose children to commit acts of violence in the future. Therefore, children must realize that wrong behavior is the right behavior, actions that are not allowed and actions that are allowed. Children who understand that bad behavior deserves violence will more often become parents who

treat their children wrongly, compared to children who understand the opposite to treat their children with violence.

Even with the description above, sexual crime is not an offense that only occurs at this time. The Indonesian Criminal Code regulates the types, punishments that can be threatened for sexual crimes. However, considering the forms of sexual crimes that are increasingly developed according to technology, it can occur because of persuasion, coercion, or threats. In fact, many victims of sexual crimes are not aware of or understand the acts committed or requested against them. Moreover, currently sexual harassment is not merely physical contact. Sexual crimes against victims can now also occur online, either in the form of videos or indecent photos.

The Indonesian government through Government Regulation (PP) Number 70 of 2020, concerning Procedures for the Implementation of Chemical Castration, Installation of Electronic Detection Devices, Rehabilitation, and Announcement of the Identity of Perpetrators of Sexual Violence against Children try to offer new things to solve the problem of sexual crimes. Starting from this, to support the application of chemical castration there are still things that are not yet known, because of it, this matter is interesting to study.

## **B. Methods**

This research is using research or approach method's type that used in normative legal research method. This method also known as library law research. The legal research conducted by examining library materials or secondary data.<sup>1</sup>The types of approaches in this thesis are the statute approach and the conceptual approach. The statute approach is carried out by examining all laws and regulations related to the legal issue that is being handled. The statutory approach opens opportunities for researchers to study whether there is consistency and suitability between a law and another law or between a law and another law.<sup>2</sup>

A Conceptual Approach is the approach departs from the views and doctrines developed in the science of law. By studying the views and doctrines in legal science, researchers will find ideas that give birth to legal notions, legal concepts, and legal principles that are relevant to the issues at hand.<sup>3</sup>

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<sup>1</sup> Soerjono Soekanto, *Pengantar Penelitian Hukum*, Jakarta: Rajawali, 2001, hlm.13.

<sup>2</sup> Peter Mahmud Marzuki, *Penelitian Hukum*, Jakarta: Prenada Media, 2005, hlm. 133

<sup>3</sup> *Ibid*, hlm 135

## **C. Discussion**

### **1. Application of the imposition of chemical castration in Indonesia**

Indonesia as a rule of law also imposes chemical castration as a punishment for pedophile offenders, this is proven based on the decision of the Mojokerto District Court to convict M. Aris, the perpetrator of rape of nine children. The courts of first and second instance sentenced Aris to 12 years in prison, a fine of Rp. 100.000.000,00 and punishment for chemical castration. Until the end of August 2019, the District Prosecutor's Office of Mojokerto Regency is looking for a hospital that is willing to castrate Aris, 2 hospitals in Mojokerto Regency are not yet willing because the Indonesian Doctors Association (IDI) is not willing to execute chemical castration sentences for perpetrators of sexual violence for violating their oath and medical ethics.

The imposition of chemical castration in Indonesia is carried out based on Government Regulation Number 70 of 2020 (hereinafter referred to as PP Chemical Castration or PPKK). This PPKK can be viewed as implementing the provisions of Article 81A Paragraph (4) and Article 82A Paragraph (3) of Law (UU) Number 17 of 2016 concerning Stipulation of Government Regulations in Lieu of Law Number 1 Year 2016 concerning Second Amendment to Law Number 23 Year 2002 concerning Child protection. PPKK explained that chemical castration is a chemical act for the sexual predator perpetrator in question, by installing an electronic detection device, and a series of rehabilitation measures imposed on the perpetrator of intercourse based on a court decision that has permanent legal force. In the next section of the PPKK, it is explained that the act of installing electronic detection devices and rehabilitation is also imposed on perpetrators of obscene acts based on court decisions that have permanent legal force.

The trial of the pedophile offender on behalf of Muh Aris, 20, a young man from Mojokerto, East Java, in mid-2019 is a case where the first perpetrator will be sentenced to chemical castration. The sentence was handed down by the Surabaya High Court after the defendant was found guilty of raping nine children. In addition to the chemical castration sentence, the defendant was sentenced to 12 years in prison and a fine of 100 million rupiah, a subsidiary of six months in prison. Even though the judge's verdict has been handed down, until now, the East Java High Court is still waiting for instructions from the Attorney General's Office to execute the sentence. Technical

instructions for the execution of chemical castration do not yet exist, considering that this is the first time this sentence has been handed down.

The technicality for the execution of the chemical castration sentence was a topic of conversation when the Indonesian Doctors Association (IDI) expressed its official stance against being the executor of this sentence. IDI supports the government policy to impose the maximum sentence on perpetrators of sexual crimes against children. However, this IDI attitude creates a dilemma, considering that only doctors have the competence to introduce chemicals into the human body.

IDI refuses to be the executor of the chemical castration sentence because it is considered to have violated the Doctor's Oath and the Indonesian Medical Code of Ethics. Chemical castration is a form of punishment and not a medical service, so it is not related to the duties of doctors and health workers. IDI also assesses that chemical castration does not guarantee the loss of the perpetrator's desire to repeat his actions. Meanwhile, the prosecutor was also unable to carry out the execution because it was beyond his professional capacity.

After Government Regulation (PP) Number 70 of 2020 is passed, it is necessary to have a common perception regarding the implementation of the chemical castration crime. All parties need to build synergy in carrying out the execution. Ideally, in addition to the government issuing implementing regulations, related parties, such as the prosecutor's office and the IDI, need to formulate detailed technical instructions for the execution of the execution. The implementation of punishment using this model is similar to the execution of the death penalty. The Criminal Code regulates the types of death penalty. The prosecutor as the executor also has instructions for the implementation so that the sentence can be executed.

Thus, it can be stated that:

1) the purpose of chemical castration

The purpose of introducing new punishments to existing crimes is to ensure that they are carried out for the sake of justice. In cases of sexual crimes resulting in chemical castration; the purpose of such penalties is to ensure that it is the sex offender who commits a repeat offense. However, several scientific journals that have been put forward have stated different things.<sup>4</sup> There are no significant

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<sup>4</sup> Andini L Tamara, Winarno Budyatmojo, 2019, *KAJIAN KRIMINOLOGI TERHADAP PELAKU PELECEHAN SEKSUAL YANG DILAKUKAN OLEH WANITA TERHADAP PRIA*, *Recidive*, Volume 8 No. 2 Mei - Agustus 2019, <https://jurnal.uns.ac.id>, hlm.139-148, diunduh pada 10 Januari 2021, pukul 13.00,

results. Therefore, the pattern of chemical castration should be for the purpose of restoring justice and educating the perpetrator not to repeat his mistakes and punishments again.<sup>5</sup>

2) Actions that can result in the imposition of chemical castration penalties

To impose a new type of punishment, a new penal standard is needed. In a "special" castration sentence, there are also strict criteria for being able to impose a punishment for castration. Some of the criteria are explicitly stated in the PPKK. In the second article of the PPKK there is the phrase "implemented by a court decision that has permanent legal force". This phrase implies that:

a) There must be a court decision that has permanent legal force

Indonesia is a country with civil law system law. In this kind of law school, the main law is law. The Indonesian Criminal Code states that, in order to judge an act as wrong, it must first be declared a wrong act. In addition, the wrongdoing must be punishable by some form of punishment. These things are to fulfill the principle of justice in criminal law.

b) There are several ministries that have to work together to execute the sentence of chemical castration

To carry out a form of punishment of a medical nature; then the prosecutor as executor will not be able to execute the sentence of castration by him. This is also to fulfill the security / health factor of the perpetrator because there are elements of the perpetrator's human rights which must be upheld by law. Criminal law is intended to bring sorrow. On the other hand, criminal law cannot create punishments that are torturous / degrading to humanity.

In mid-May 2014, the Coordinating Minister for People's Welfare Agung Laksono in his interview stated that the government was making efforts to prevent sexual crimes.<sup>6</sup> One of these efforts is the possibility of implementing castration punishment against perpetrators of sexual crimes. "With the increasing prevalence of sexual crimes against children and adults in the country today, it is possible that the government will impose castration punishment on the perpetrators of these

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<sup>5</sup> Nuzul Qur'aini Mardiyah, 2017, *Penerapan Hukuman Kebiri Kimia Bagi Pelaku Kekerasan Seksual*, *Jurnal Konstitusi*, Volume 14, Nomor 1, Maret 2017, <https://media.neliti.com>, hlm.214-233, diunduh pada 10 Januari 2021, pukul 14.00.

<sup>6</sup> [www.kompas.com](http://www.kompas.com), Ahmad Naufal Dzulfaroh, Hukuman Kebiri Kimia, dari Wacana, Pro Kontra, Terbitnya Perppu, hingga Vonis untuk Aris, 26 Agustus 2019,

sexual crimes," said Agung.<sup>7</sup> He stated that apart from implementing the castration penalty, the government will also increase the criminal sentence against the perpetrator with a minimum sentence of 15 years in prison. This means that the imposition of chemical castration is a form of basic punishment that must be carried out in conjunction with a minimum prison sentence of 15 years.

This form of accumulative punishment becomes a new form of penal system in special crimes. This ensures justice for victims of sexual crimes. Since cases of sexual crimes have grown in number, the form of punishment for crimes of this kind should also develop. General cumulative punishment patterns to apply to specific crimes. Thus, sexual crimes at this time, especially sexual crimes involving pedophilia cases must be considered as crimes / offenses of a special nature.

Furthermore, there are several things recommended by the National Commission for Child Protection regarding the implementation of chemical castration punishment. One of the things is asking for an increase in the punishment of castration with chemical injection. Chairman of the National Commission for Child Protection, said that chemical castration is a priority because it has been supported by Presidential Instruction No. 5/2014 on the National Movement Against Sexual Crimes. Aris assessed that the less than maximum punishment for pedophiles would not cause a deterrent effect.<sup>8</sup>

However, not all parties support the implementation of chemical castration punishment. For example, the opinion of Doctors in ID views chemical castration as a negative thing. IDI General Chairperson Ilham Oetama Marsis stated that the implementation of castration by doctors is considered to have violated the Doctor's Oath and the Indonesian Medical Code of Ethics. "We are not against the perppu regarding the additional punishment of castration. However, the execution of the injection should not (be carried out) by a doctor".<sup>9</sup>

### 3) How to execute a chemical castration sentence

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<sup>9</sup><https://www.kompas.com/tren/read/2019/08/26/101750165/hukuman-kebiri-kimia-dari-wacana-pro-kontra-terbitnya-perppu-hingga-vonis?page=all>., diunduh pada 11 januari 2022, pukul 15.00

<sup>8</sup> ibid

<sup>9</sup> [www.nasional.kompas.com](http://www.nasional.kompas.com), Rakhmat Nur Hakim, 2016, Dianggap Tak Bertujuan untuk Rehabilitasi, Eksekusi Kebiri Wajar Ditolak Dokter, 10 Juni 2016, <https://nasional.kompas.com/read/2016/06/10/22243391/dianggap.tak.bertujuan.untuk.rehabilitasi.eksekusi.kebiri.wajar.ditolak.dokter>., diunduh pada 11 januari 2021, pukul 13.00,

PP 70 of 2020 states that the act of chemical castration is the administration of chemical substances through injection or other methods, which is carried out to perpetrators who have been convicted of violence or threats of violence forcing children to have intercourse with them or with other people, causing more than 1 (one) victim. ) people, causing serious injuries, mental disorders, infectious diseases, impaired or loss of reproductive function, and / or the victim dies, to suppress excessive sexual desire, accompanied by rehabilitation.

## **2. The Role OF INTERPOL in Curating The Sexual Crime**

### **a. Preview on Sexual Crime**

Child sexual abuse is undoubtedly one of the worst and most serious crimes with long-term consequences for the victim and her family and social circle. The childhood of the medical, psychological and pedagogical disciplines is considered an important period for the future development of children as individuals and as citizens. The importance of this period for further development requires that children be given special care to meet their developmental needs. However, children are vulnerable to becoming victims of various violations, either within their own family or from someone outside. Children may be victims of various forms of violence. However, what is considered to be the worst form of abuse, which has the worst impact on the well-being, development of the child which has long-term consequences in the child's life is sexual abuse.

In the Indonesian vocabulary, sexual abuse against children is also called pedophilia, while individuals who sexually abuse children are known as pedophiles. However, the medical and psychological literature reveals distinct differences between these two terms. The Diagnostic and Statistical Manual of Mental Disorders explains that pedophilia is considered a disorder. Many studies have shown that child sex offenders have paraphylic disorders and therefore individuals are categorized as pedophiles (people who need to be cured). Pedophilia is one of many disorders categorized as paraphilia-psychosexual disorder such as transgender, exhibitionism, sexual masochism, and sexual sadism in which unusual or strange images or actions are required for the realization of sexual arousal. As a



certain paraphilic disorder, pedophilia is the desire or preference for sexual intercourse with prepubertal children.<sup>10</sup>

In the American Psychiatric Association, pedophilia can be defined as a persistent and strong sexual interest in prepubescent children. Some pedophiles are looking for victims of the same sex (homosexual pedophiles), others are looking for victims of the opposite sex (heterosexual pedophiles) and some don't care about gender. This type of offender is more concerned with committing sexual violence with a child.<sup>11</sup>

Pedophilia is classified as a specific type of paraphilia, which is defined as "sexual and recurring fantasies, sexual urges, or behaviors that generally involve:

- 1) non-human objects,
- 2) suffering or humiliation of yourself or your partner, or
- 3) children or other non-consensual persons occurring within a period of at least six months.<sup>12</sup>

The Diagnostic and Statistical Manual of Mental Disorders provides the following criteria for pedophilia:

- 1) Disturbance that lasts at least 6 months, with repeated and intense sexual fantasies, sexual urges, or behavior that involves sexual activity with prepubescent children or children (generally 13 years of age or younger);
- 2) Fantasy, sexual drive, or behavior that causes stress or clinically significant harm in social, work, or other important areas of function; and,
- 3) People with disabilities are at least 16 years old, and at least 5 years older than the child or children.<sup>13</sup>

The crime of rape of a child is so repugnant that many states have adopted laws calling for the death penalty for them. Castration may be better known to the public as a form of punishment. One of the first uses of castration in the United

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<sup>10</sup> Winslade, W. T., Stone, H., Smith-Bell, M., & Webb, D. M. (1998). Castrating Pedophiles Convicted of Sex Offenses against Children: New Treatment or Old Punishment., 51 SMU L. Rev. 349 (1998).

<sup>11</sup> Stevens, D. J. (2001). Inside The Mind of Sexual Offenders: Predatory Rapists, Pedophiles, And Criminal Profiles. Lincoln: Authors Choice Press.

<sup>12</sup> Siverts, J. B. (2005). Punishing thoughts too close to reality: a new solution to protect children from pedophiles . Thomas Jefferson Law Review, 27:393.

<sup>15</sup>Winslade, W. T., Stone, H., Smith-Bell, M., & Webb, D. M. (1998). Castrating Pedophiles Convicted of Sex Offenses against Children: New Treatment or Old Punishment., 51 SMU L. Rev. 349 (1998).



States. Circumstances occurred during the 1800's, when slaves were routinely castrated as punishment if suspected of having a relationship with a white woman.<sup>14</sup>

Basically, the punishment of sexual offenders by castration is not a new concept. Indeed, the idea of castration as punishment did not originate in the United States. In fact, it appeared centuries before American colonization. In ancient times, soldiers often castrated prisoners as punishment for what the prisoners dared to do.<sup>15</sup> In biblical times, rapists accepted embezzlement and surgical castration as punishment. Jesuit priest Browe carefully documents the history of castration in religion and law with exaggerated references. According to him, the Babylonian king Hammurabi (circa 1955-1913 BC) enacted the ancient law of retaliation for "eye for eye, tooth for tooth" known as the Lex Talionis which called for castration of those who raped another.<sup>16</sup>

The literature recognizes two types of castration: surgical castration and chemical castration. Physical castration or orchiectomy is a surgical procedure in which a man's testicles are removed. This causes a dramatic decrease in testosterone levels in the body which greatly reduces the male sex drive.<sup>17</sup> Surgical castration is an irreversible procedure. The procedure itself is quite simple, involving small incisions made in the scrotum so that the testicles can be removed; it is not considered a major operation and can be performed on an outpatient basis.

Surgical castration as an invasive procedure that involves the removal of human organs is considered an unusual and cruel procedure that violates human rights. Because of this, many states also adopted surgical castration in their later legislation "Freeze the articles" or replace them with chemical castration. Although the use of surgical castration in today's times is still limited, surgical castration still occurs in Europe and the United States (for example, the case of the Czech Republic or the case of the state of Texas).<sup>18</sup>

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<sup>14</sup> Druhm, K. W. (1997). A Welcome Return to Draconia: California Penal Law§ 645, The Castration of Sex Offenders and the Constitution . 61 ALB. L. REV. 285,286-87

<sup>15</sup> William L. Baker. (1984). Castration of the Male Sex Offender: A Legally Impermissible Alternative,. 30 LoY. L. REv. 377 , 379

<sup>16</sup> Heim, N., & Hursch, C. J. (1979). Castration for Sex Offenders: Treatment or Punishment? A Review and Critique of Recent European Literature ~. Archives of Sexual Behavior, 8 (3)

<sup>17</sup> Tullio, E. M. (2010). Chemical Castration for Child Predators: Practical, Effective, and Constitutional. Chapman Law Review, [Vol. 13:191, 2009] , 191-220.

<sup>18</sup>Druhm, K. W. (1997). A Welcome Return to Draconia: California Penal Law§ 645, The Castration of Sex Offenders and the Constitution . 61 ALB. L. REV. 285,286-87

Researchers in the 1960s, looking for alternatives to prison or surgical castration, studied chemical castration as a means of "curbing the sexual appetite of sex offenders. The term" chemical castration "describes a medical treatment that uses anti-hormonal drugs to block hormone release, yielding significantly. lowers testosterone levels and sex drive in men Chemical castration consists of administering medication regularly, usually in the form of an injection that kills sexual libido. While chemical castration sounds almost barbaric, it is one of the more civilized forms of treatment that has been used on sexual predators. a type of hormone therapy that removes the perpetrator's sexual desire Several interdisciplinary studies have suggested some unpleasant side effects of chemical castration. These effects are mostly reversible, and overall, there is pain and suffering associated with the procedure.<sup>19</sup>

The first reported use of hormone-based drugs to reduce pathological sexual behavior in men occurred in 1944 when the hormonal progesterone compound diethylstilbestrol was prescribed to reduce male testosterone. Medroxyprogesterone acetate (MPA), also known by the brand names Clinovir, Cycin, Depo-Provera, and Hystron, is a hormone used for chemical castration in the United States. MPA first entered the market to treat gynecological problems in women (Pitula, 2009). This drug was first synthesized in 1954 by the Upjohn Company and was first introduced in 1959 as a treatment for gynecological disorders. Depo Provera was first used as an effective means of reducing male sex drive in 1958 Depo-Provera is a non-experimental treatment that is legally used worldwide in the treatment of paraphilia disorders. In the United States, the first study with MPA was carried out in 1966 by Dr. Money is caring for a transgender bisexual man who was involved in an incestuous relationship with his six-year-old son.<sup>20</sup>

Before the chemical castration period, the punishment for castration was surgically removed by removing the testicles. This condition encourages the development of chemical castration punishment patterns. In the journal, chemical castration was first tested in the United States in 1944.<sup>21</sup> At that time,

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<sup>19</sup> Tullio, E. M. (2010). Chemical Castration for Child Predators: Practical, Effective, and Constitutional. *Chapman Law Review*, [Vol. 13:191, 2009] , 191-220.

<sup>20</sup> Fitzgerald, E. A. (1990). Chemical Castration: MPA Treatment of the Sexual Offender. *18 Am. J. Crim. L.* 1 1990-1991, 18:1 (1990).

<sup>21</sup> *Ibid*

diethylstilbestrol was used to reduce the hormone testosterone. In his development, there is also the drug Medroxyprogesterone acetate (MPA) which is sold under the trademark Depo-Provera. Depo-Provera is then used to suppress male libido. According to the journal *Chemical Castration: International Experience and Chinese Path to Control Pedophilia Crimes*, the background for the development of chemical castration is pedophilia crime.<sup>22</sup> As many as 25 percent of women in the United States have been molested as children. Likewise, 2.5 to 25 percent of boys who were abused as a child. The perpetrators tend to repeat their actions. Sexual encouragement towards young children is considered insurmountable considering that this satisfaction cannot be found in prostitution establishments. The first state in the United States to implement the punishment of castration for child rapists who have committed acts of more than once was California.

In many cases, a reduction in sexual behavior and the elimination of deviant sexual behavior and fantasies were observed after 1-2 months of treatment. MPA is able to reduce the occurrence of sexual images and reduce the sexual level of the offender. In essence, the drug makes the brain believe the body has enough testosterone to prevent the testicles from producing any more. The effect of the drug is a decrease in the level of testosterone in the offender's blood until it drops to a pre-pubescent male in one to two weeks; This low level of testosterone can greatly reduce the sex drive of the offender.<sup>23</sup>

A review of studies suggests the following possible physiological side effects: 1) no change in blood pressure; 2) does not change body chemistry; 3) possible weight gain; 4) drastic decrease in sperm count; 4) normal basal insulin levels, but also hyperinsulinemic response to glucose load; 6) possible irregular gallbladder function and diverticulitis while on long-term therapy; 7) rare fatigue or lethargy; 8) testicular atrophy; 9) diabetes mellitus; 12) no breast changes. Other reported effects include hot and cold flashes, phlebitis, headaches, insomnia, nausea, nightmares, dyspnea, hyperglycemia, leg cramps, hair loss, and increased basal body temperature. Most of the side effects reported are very rare. All side

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<sup>22</sup> Garcia, F. D., Delavenne, H. G., Thibaut, F., & Assumpção, A. (2013). Pharmacologic Treatment of Sex Offenders With Paraphilic Disorder. *Curr Psychiatry Rep* 15:356 .

<sup>23</sup>Fitzgerald, E. A. (1990). Chemical Castration: MPA Treatment of the Sexual Offender. *18 Am. J. Crim. L.* 1 1990-1991, 18:1 (1990).

effects can be reversed once treatment has stopped.<sup>24</sup> Today, chemical castration is used in many US states, either as a punishment or as a medical treatment for sex offenders, especially for perpetrators of sexual crimes against children.

Chemical castration is part of the criminal laws in many countries including the US. According to research conducted by the Institute for Criminal Justice Reform in 2016, the exact structure or formulation of laws governing chemical castration differs in important respects by jurisdiction. The following three alternatives are of some of the uses in categorizing this law. First, the administration of chemical castration as a form of treatment may be "voluntary" in the sense that chemical castration will only be considered, and only valid, if a person is convicted of this type of offense and consent to the treatment. Second, laws relating to chemical castration may be "discretionary". Chemical castration may be a punitive option that a court can apply if a person has been convicted of certain offenses, along with other offenses. If the Court determines it as a sentence, then the convicted person is required to undergo treatment. Third and finally, a law may be "mandatory". If a person is convicted of a certain type of offense, the court must sentence chemical castration. Typically, laws that stipulate that penalties involving chemical castration are mandatory when the offender commits the offense again.<sup>25</sup>

Whereas in certain statutory regulations, chemical castration is included as a sanction (USA, Poland, Estonia etc.), whereas in other places (Great Britain, Germany, etc.) it is used as a medical treatment for sexual harassment with their consent.<sup>26</sup> In the US, California was the first state to enact a mandatory chemical castration law. Anyone convicted of a second time of forced rape or under the law will automatically be required to undergo chemical castration as a condition of parole. Treatment will continue until the State deems it necessary and does not necessarily include medical staff in this process.<sup>27</sup>

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<sup>24</sup> Institute for Criminal Justice Reform. (2016). Review of Laws Providing for Chemical Castration in Criminal Justice. South Jakarta: Institute for Criminal Justice Reform.

<sup>25</sup> Institute for Criminal Justice Reform. (2016). Review of Laws Providing for Chemical Castration in Criminal Justice. South Jakarta: Institute for Criminal Justice Reform.

<sup>26</sup> Kambovski, V. (2015). *Komentar na Krivicniot Zakonik na Republika Makedonija (Vol. II)*. Skopje: Matica

<sup>29</sup> Wilson, D. (2007). The legal implications of chemical castration of sex offenders in criminal law. *Australasian Law Teachers Association - ALTA 2007 Refereed Conference Papers*. . Australasian Law Teachers Association - ALTA

<sup>30</sup> Douglas, T., Bonte, P., Focquaert, F., Devolder, K., & Sterckx, S. (2013). Coercion, Incarceration, and Chemical Castration: An Argument From Autonomy. *J Bioeth Inq*. 10(3) , 393–405

In the US, chemical castration is planned under an eight-state law. Legislation in Georgia, Montana, Oregon, and Wisconsin only provides for chemical castration; California, Iowa, Florida, and Louisiana permit chemical and surgical castration; and Texas only allows surgical castration. In the few cases where chemical castration was offered legally and no link was made between refusal to consent and further detention; elsewhere chemical castration is mandated as a condition of release.<sup>28</sup>

## **B. The role of INTERPOL On Sexual Crime Solving**

The main tasks of INTERPOL are to provide global police communication services, maintain and update databases accessible and used by international police authorities, provide support in emergency situations or related to crimes identified as priorities, help member states build and improve the police capabilities of each member state.

From that main task, INTERPOL could disseminate search requests, detain suspects and issue arrest warrants and subsequently the suspect will be extradited. In this regard, in accordance with those listed in the European Extradition Convention of 1957, relevant agencies can use the means of Interpol to submit requests for temporary detention. Division III will send each member state a circular describing the police steps to be taken in search of suspects. INTERPOL will provide assistance based on the working principle of Mutual Legal Assistance (MLA) where INTERPOL can publish notification data about Perpetrators / persons who have committed sexual crimes. This aims to prevent perpetrators who try to escape abroad or prevent perpetrators from committing similar crimes in other countries/places.

This aid will provide some hope in solving some sexual crime. When sexual crime had undergone a change form from a conventional crime into a modern crime; it is needed a new way to solving. The INTERPOL should not only give cues or some identification of perpetrator of sexual crime. The INTERPOL should be given with some authority to persuade a chemical castration to the perpetrators that INTERPOL had “assists” its arrest.so by that, the assistance from INTERPOL not only wasted.

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## **D. Result**

1. There is a loop in imposition of chemical castration in Indonesia

This can be seen from the IDI members' unwillingness to act as executors. On the other hand, there are no rules that regulate the procedural PPKK in detail. This will make it difficult for the prosecutor to execute the court's decision as well. The imposition of punishment in Indonesia is still carried out to retaliate against the actions of pedophile perpetrators, carried out without requiring the existence of the consent of the convicted person. These things still indicate that the ultimate goal of the imposition of chemical castration punishment is to suppress cases of pedophile crimes while ignoring the human side of pedophiles.

2. The application of chemical castration in other countries can now be said to be more advanced. The Chemical castration is carried out in an integrated manner by involving medical personnel, prosecutors and judges also INTERPOL. When the judge gave a verdict because the prosecutor succeeded in firmly proving the crime of pedophilia; then the appointed prosecutor and doctor will perform chemical castration against the perpetrator. On the day of the castration (or a maximum of 1 week before the day of the implementation), it is certain that the perpetrator has been given the consent informant affixed with approval for the procedure. So that a chemical castration decision can be in the form of a mandatory punishment or a choice of the perpetrator (compliance) to reduce the accumulated period of punishment. The state also guarantees compensation for chemical castration, although the pedophile's identity will still be open to the public. Every year, there is an audit and holistic evaluation of the perpetrators who have undergone chemical castration as well as the institution "LAPAS" which implements chemical castration. This pattern of punishment is considered more human at this time. So that the implementation of chemical castration punishment is expected to be better for the execution process.

## **E. Conclusion**

The Conclusion that can be drawn from the discussion above are :

1. The imposition of chemical castration in Indonesia at this time is still very vulnerable in terms of the execution of court decisions. So by that, Indonesian Government should fixed the matter by comparing the imposition of chemical in United State Of America.

2. The Imposition of chemical castration in United State Of America at this time are more vulnerable especially in terms of execution of court decision compared in Indonesia.

## **BIBLIOGRAFY**

- Atet Sumanto, "Tindakan Kebiri Kimia Bagi Pelaku Tindak Pidana Persetubuhan Dengan Menggunakan Kekerasan Terhadap Anak Di Indonesia," *Perspektif*, Vol. 22, 2017,
- Andini L Tamara, Winarno Budyatmojo, 2019, KAJIAN KRIMINOLOGI TERHADAP PELAKU PELECEHAN SEKSUAL YANG DILAKUKAN OLEH WANITA TERHADAP PRIA, *Recidive*, Volume 8 No. 2 Mei - Agustus 2019, <https://jurnal.uns.ac.id>,
- Douglas, T., Bonte, P., Focquaert, F., Devolder, K., & Sterckx, S. (2013). Coercion, Incarceration, and Chemical Castration: An Argument From Autonomy. *J Bioeth Inq.* 10(3) , 393–405
- Druhm, K. W. (1997). A Welcome Return to Draconia: California Penal Law § 645, The Castration of Sex Offenders and the Constitution . 61 *ALB. L. REV.* 285,286-87
- Fitzgerald, E. A. (1990). Chemical Castration: MPA Treatment of the Sexual Offender. 18 *Am. J. Crim. L.* 1 1990-1991, 18:1 (1990).
- Garcia, F. D., Delavenne, H. G., Thibaut, F., & Assumpção, A. (2013). Pharmacologic Treatment of Sex Offenders With Paraphilic Disorder. *Curr Psychiatry Rep* 15:356 .
- Heim, N., & Hirsch, C. J. (1979). Castration for Sex Offenders: Treatment or Punishment? A Review and Critique of Recent European Literature ~. *Archives of Sexual Behavior*, 8 (3)
- <https://www.kompas.com/tren/read/2019/08/26/101750165/hukuman-kebiri-kimia-dari-wacana-pro-kontra-terbitnya-perppu-hingga-vonis?page=all>.,
- <https://nasional.kompas.com/read/2016/06/10/22243391/dianggap.tak.bertujuan.untuk.rehabilitasi.eksekusi.kebiri.wajar.ditolak.dokter>.,
- Institute for Criminal Justice Reform. (2016). Review of Laws Providing for Chemical Castration in Criminal Justice. South Jakarta: Institute for Criminal Justice Reform.



- Kambovski, V. (2015). Komentar na Krivicniot Zakonik na Republika Makedonija (Vol. II). Skopje: Matica
- Nuzul Qur'aini Mardiya, 2017, Penerapan Hukuman Kebiri Kimia Bagi Pelaku Kekerasan Seksual, Jurnal Konstitusi, Volume 14, Nomor 1, Maret 2017, <https://media.neliti.com>
- Peter Mahmud Marzuki, Penelitian Hukum, Jakarta: Prenada Media, 2005,
- Siverts, J. B. (2005). Punishing thoughts too close to reality: a new solution to protect children from pedophiles . Thomas Jefferson Law Review, 27:393.
- Stevens, D. J. (2001). Inside The Mind of Sexual Offenders: Predatory Rapists, Pedophiles, And Criminal Profiles. Lincoln: Authors Choice Press.
- Soerjono Soekanto, Pengantar Penelitian Hukum, Jakarta: Rajawali, 2001,
- Tullio, E. M. (2010). Chemical Castration for Child Predators: Practical, Effective, and Constitutional. Chapman Law Review, [Vol. 13:191, 2009] , 191-220.
- William L. Baker. (1984). Castration of the Male Sex Offender: A Legally Impermissible Alternative,. 30 LoY. L. REv. 377 , 379
- Wilson, D. (2007). The legal implications of chemical castration of sex offenders in criminal law. Australasian Law Teachers Association - ALTA 2007 Refereed Conference Papers. Australasian Law Teachers Association – ALTA
- Winslade, W. T., Stone, H., Smith-Bell, M., & Webb, D. M. (1998). Castrating Pedophiles Convicted of Sex Offenses against Children: New Treatment or Old Punishment,. 51 SMU L. Rev. 349 (1998).
- [www.nasional.kompas.com](http://www.nasional.kompas.com), Rakhmat Nur Hakim, 2016, Dianggap Tak Bertujuan untuk Rehabilitasi, Eksekusi Kebiri Wajar Ditolak Dokter, 10 Juni 2016,