

Implementation Of Criminal Sanctions For Perpetrators Of Sexual Violence Against Children After The Enactment Of Government Regulation Number 70 Of 2020

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Abstract

This study aims to find out how the criminal act of sexual violence against children is regulated and the application of criminal sanctions for the perpetrators after the enactment of Government Regulation Number 70 of 2020. The research method used is normative legal research with a legislative approach. The results of the study show that the regulation regarding sexual violence against children is regulated in Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, which classifies acts of sexual violence into two forms, namely sexual intercourse and obscene acts against children. Article 76D regulates the prohibition of violence or threats of violence to force children to have sexual intercourse, while Article 76E regulates the prohibition of violence, deception, lies, or persuasion to commit obscene acts against children. Sexual violence is not only limited to acts of intercourse, but includes all forms of sexual contact between adults and children. The application of criminal sanctions after the enactment of Government Regulation Number 70 of 2020 is carried out in layers, namely first, the implementation of the main punishment in the form of imprisonment and/or fines according to a court decision with permanent legal force, and second, the implementation of additional punishments in the form of chemical castration, the installation of electronic detection devices, rehabilitation, and the announcement of the identity of the perpetrator of sexual violence against children.

Keywords: Sexual Violence, Children, Criminal Sanctions, Chemical Castration, Child Protection.

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Introduction

The government's concern for the fulfillment of children's rights is increasingly showing significant developments, along with increasing awareness of the importance of protecting the nation's next generation. The government not only focuses on meeting the basic needs of children, but also pays special attention to legal protection, especially for children who are victims of sexual violence and children who are in conflict with the law. These protection efforts are realized through the establishment of various laws and regulations that provide clear and firm legal guarantees for children. In addition, the government also implements various prevention programs and policies, such as socialization about the dangers of sexual violence, empowering the community to be more concerned about children's environment, and increasing the capacity of law enforcement officials and child protection institutions in handling cases involving children. These measures demonstrate the government's commitment to creating a safe, comfortable, and optimal environment that supports children's growth and development, while ensuring that every child gets his or her right to live, grow, and develop properly without the threat of violence or discrimination.[1]

Children's rights have been expressly regulated in various laws and regulations in Indonesia as a real effort by the state in providing legal protection to children from all forms of crimes that can threaten their safety and future. This arrangement reflects the government's commitment to ensure that every child can grow and develop safely, both physically, mentally, and socially. In fact, there are still many cases of crimes that befall children, especially sexual violence, which cause profound psychological impacts such as trauma, fear, and emotional disorders that can hinder the development and ability of children to carry out daily activities and obligations. Various reports in the mass media about these cases are clear evidence that the problem of violence against children requires serious attention from all parties, especially law enforcement officials. Therefore, firm, fast, and fair law enforcement is needed so that perpetrators receive appropriate punishment, as well as provide a deterrent effect while protecting children from similar threats of violence in the future.[2]

Cases of sexual violence against children are still a serious problem that continues to occur in various regions, posing a real threat to the safety of lives and the future of children. These heinous acts not only damage the victim's personal life, but also hinder the child's growth and development process both physically, psychologically, and socially. In addition, the rampant sexual violence against children also causes fear in the community, disrupting the sense of security, comfort, and social order. As a form of state responsibility in providing stricter legal protection, the government has issued Government Regulation Number 70 of 2020 concerning Procedures for the Implementation of Chemical Castration Acts, Installation of Electronic Detection Devices, Rehabilitation, and Announcement of the Identity of Perpetrators of Sexual Violence against Children. This regulation is the legal basis for law enforcement officials in implementing the provisions contained in Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, as last amended through Law Number 17 of 2016.[3]

Through these arrangements, perpetrators of sexual violence against children can be subject to severe sanctions in the form of chemical castration, installation of electronic detection devices, rehabilitation, and self-identity announcements. The implementation of these sanctions aims to provide a deterrent effect, prevent the recurrence of sexual violence against children, and affirm the state's commitment to protecting children as the next generation of the nation. [4]

Lately, sexual violence has become more prevalent and not only in big cities but in all regions and remote areas in Indonesia, sexual violence is rampant. In this regard, the government has shown its efforts to reduce sexual violence against children, namely by issuing Government Regulation of the Republic of Indonesia Number 70 of 2020 concerning

Procedures for the Implementation of Chemical Castration Acts, Installation of Electronic Detection Devices, Rehabilitation, and Announcement of the Identity of Perpetrators of Sexual Violence Against Children (PP Kecasti Kimia). However, in its development, even though various kinds of regulations have been issued, both in the form of laws and regulations and government regulations, it does not deter or fear the perpetrators not to commit these crimes, even until now there are still rampant acts of sexual violence.[5]

The Government of Indonesia has issued Government Regulation No. 70 of 2020 concerning Procedures for the Implementation of Chemical Castal Measures, Installation of Electronic Detection Devices, Rehabilitation, and Announcement of the Identity of Perpetrators of Sexual Violence against Children as a derivative of Law No. 17 of 2016 concerning Child Protection. This regulation gives the state the authority to be able to impose a Chemical Castal Act for Perpetrators of Sexual Intercourse with Children, which is an act of chemical castration as the administration of chemical substances through injection or using other methods.[6]

The act of chemical castration is applied specifically to adult perpetrators who have been sentenced for committing violence or threats of violence by forcing children to have intercourse with him or with others. This provision is applied to perpetrators whose actions cause severe impacts, such as the presence of more than one victim, causing serious physical injury, psychiatric disorders, disease transmission, disruption or loss of reproductive function, and even resulting in the victim's death. The main purpose of chemical castration is to suppress excessive sexual urges or desires in the perpetrator, which is accompanied by rehabilitation measures in order to achieve psychological balance. This action was carried out after the perpetrator finished serving his main sentence in accordance with the court decision. It is hoped that the implementation of regulations on chemical castration can provide legal clarity regarding its implementation mechanism and become a firm step for the government in reducing the number of sexual violence against children in Indonesia.[7]

However, in practice, the implementation of Government Regulations that regulate the punishment of chemical castration has not been fully implemented optimally by law enforcement officials. This is due to the lack of provisions that clearly and firmly regulate the criteria or limits for perpetrators who can be sentenced to castration. In the regulation, there are no articles that explain in detail the length of the principal penalty that the perpetrator must serve before he can be subjected to chemical castration, either in the form of minimum or maximum sanctions. As a result, there is confusion in the application of this punishment in the field because there is no solid basis to determine who is entitled to be sanctioned for chemical castration. Therefore, ideally, the government regulation needs to contain more specific provisions regarding the category of perpetrators, the duration of punishment, and certain conditions that can be the basis for imposing castration sanctions, so that its implementation can run effectively, fairly, and not cause multiple interpretations among law enforcers.[8]

Literature Review

2.1 Criminal Penalties for Perpetrators of Sexual Violence Against Children After the Enactment of Government Regulation Number 70 of 2020

The application of criminal sanctions against perpetrators of sexual violence against children in Indonesia has been strengthened following the enactment of Government Regulation Number 70 of 2020, which serves as an implementing regulation for additional measures under the Child Protection Law. Prior to the issuance of this regulation, literature noted that the punishment for perpetrators of sexual violence against children was considered ineffective because it primarily focused on imprisonment without incorporating instruments for preventing recidivism or for post-release supervision. Government Regulation 70/2020 subsequently introduced measures such as chemical castration, the installation of electronic monitoring devices, and rehabilitation, which aim to suppress the offender's sexual urges and minimize the risk of reoffending.

However, several studies criticize the application of chemical castration because it is considered to have the potential to violate human rights principles and to raise ethical issues in medical practice, such as the right to bodily integrity and the administration of drugs that must be strictly supervised by medical personnel. In addition, its implementation is viewed as facing technical and institutional challenges, including the readiness of law enforcement officers and medical facilities to carry out such measures. Overall, the literature indicates that Government Regulation 70/2020 provides a stricter and more preventive basis for penalizing offenders in order to protect children as a vulnerable group; however, its implementation requires monitoring, evaluation, and alignment with human rights principles so that the goals of child protection can be optimally achieved.

Research Methodology

The type of research in this study is normative research, namely research on legal principles related to the implementation of castration punishment for criminal acts of sexual violence committed against children. The approach method used in this study is the statute *approach*, the conceptual *approach*, which is to utilize the views and thoughts of experts related to legal concepts and the *historical approach* is carried out by examining the background of what are the obstacles in the implementation of castration punishment for criminal offenders sexual violence committed against children. The technique used in the collection of legal materials is by document study, which is to conduct an assessment of literature data (secondary data) that is relevant to the research object which includes pimer, secondary and tertiary legal materials both against laws and regulations, reference books and legal dictionaries. Furthermore, it is analyzed in a qualitative descriptive manner.[10]

Results

4.1 Regulation Of Sexual Violence Against Children

Children are part of the young generation who have a strategic role as the successor of the nation and human resources for national development. Therefore, every child has the right to be protected from all forms of violence, including sexual violence. The state through its legal system is obliged to provide guarantees for the protection of children from acts that can threaten their life safety, interfere with their physical, mental, and social development.[11]

The crime of sexual violence against children is a very serious problem. Sexual violence against children will not only have a physical impact but also a mental impact. Physical impacts don't take too long to heal, but mental impacts can take years to recover as they used to. In fact, there are also those who experience psychiatric problems or are depressed to the point of deciding to commit suicide because they are not strong enough to endure the suffering and shame due to the sexual harassment they experience.[12]

The regulation of sexual violence against children in Indonesia is a tangible form of the state's commitment to providing legal protection for children as the nation's next generation. Sexual violence against children is an *extraordinary crime* because it not only physically injures the victim, but also has a profound impact on the psychological, social, and moral condition of children. Therefore, the state through its legal apparatus seeks to provide maximum protection for children from various forms of sexual violence, both through substantive legal arrangements and law enforcement policies.[13]

The main legal basis that regulates the crime of sexual violence against children is contained in Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection. In this law, it is affirmed that every child has the right to be protected from violence, discrimination, and mistreatment. More specifically, the provisions regarding sexual violence are regulated in Article 76D and Article 76E. Article 76D states that everyone is prohibited from committing violence or threats of violence to force a child to have

intercourse with him or with another person. Meanwhile, Article 76E prohibits everyone from committing violence, deception, lies, or persuasion to children to commit or allow obscene acts to be committed. This provision provides a clear limit that any form of sexual contact between an adult and a child, whether by coercion or deception, falls under the category of sexual violence.[14]

Furthermore, to strengthen efforts to protect children, the government issued Law Number 17 of 2016 concerning the Stipulation of Government Regulations in Lieu of Law Number 1 of 2016 into law. This regulation provides a legal basis for the imposition of additional criminal sanctions in the form of chemical castration, installation of electronic detection devices, rehabilitation, and the announcement of the identity of the perpetrator. These additional sanctions are intended to provide a deterrent effect to the perpetrators and prevent the recurrence of sexual violence against children in the future.[15]

The main purpose of regulating sexual violence against children is to provide maximum protection for victims and create a deterrent effect for perpetrators so that similar crimes do not recur. In addition, this arrangement is also intended to guarantee the rights of children to grow and develop reasonably without fear and trauma. In practice, the law is not only oriented towards providing criminal sanctions, but also emphasizes the importance of rehabilitation and rehabilitation aspects for victims.[16]

As a form of legal reform, the issuance of Government Regulation Number 70 of 2020 concerning Procedures for the Implementation of Chemical Castration Acts, Installation of Electronic Detection Devices, Rehabilitation, and Announcement of the Identity of Perpetrators of Sexual Violence Against Children is a concrete step in strengthening law enforcement in the field of child protection. This regulation provides technical guidance for law enforcement officials in carrying out chemical castration actions and ensures that the implementation process is carried out professionally, proportionately, and respects human rights.[17]

Sexual *violence* or sexual violence is a term that is *paying* which includes various types of Although normatively the legal apparatus is complete, various challenges are still found at the implementation level, such as lack of consistency in law enforcement, limited human resources and rehabilitation facilities, and lack of coordination between related agencies. Therefore, the regulation of sexual violence against children requires synergy between the government, law enforcement officials, child protection institutions, medical personnel, and the community to realize a comprehensive and fair child protection system. Thus, it is hoped that all forms of sexual violence against children can be minimized and children can grow up in a safe, comfortable, and protected environment from the threat of sexual crimes.[18]

4.2 Implementation Of Criminal Sanctions For Perpetrators Of Sexual Violence Against Children After The Enactment Of Government Regulation Number 70 Of 2020

The application of criminal sanctions for perpetrators of sexual violence against children is a tangible manifestation of the state's responsibility in providing legal protection to children as a vulnerable group. Since the enactment of Government Regulation Number 70 of 2020 concerning Procedures for the Implementation of Chemical Castal Measures, Installation of Electronic Detection Devices, Rehabilitation, and Announcement of the Identity of Perpetrators of Sexual Violence against Children, the criminal law system in Indonesia has obtained a firmer legal basis in implementing the provisions as stipulated in Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, which was then strengthened by Law Number 17 of 2016. This regulation is present as a response to the increasing number of sexual violence against children that has a serious impact, both physically, psychologically, and socially, so that legal instruments are needed that are able to provide a deterrent effect to the perpetrators and prevent the recurrence of similar criminal acts.[19]

In the context of Indonesian criminal law, the application of chemical castration is not only a form of retribution, but also has preventive and rehabilitative dimensions. This means

that in addition to punishing the perpetrator, this action is also intended to suppress excessive sexual urges that have the potential to lead to similar crimes in the future. The act of chemical castration can only be imposed on adult perpetrators who have been legally and convincingly proven to commit acts of violence or threats of violence that force children to commit or allow obscene acts or intercourse, which result in more than one victim, cause serious injury, mental disorders, infectious diseases, loss of reproductive function, or even death of the victim.[20]

However, the implementation of this regulation still encounters various obstacles in the field. One of the main problems is the lack of clarity in determining the criteria for perpetrators who can be sanctioned for chemical castration. In Government Regulation Number 70 of 2020, it is not regulated in detail regarding the minimum or maximum prison sentence that must be served by the perpetrator before the act of chemical castration can be carried out. This causes law enforcement officials to have difficulty interpreting and applying the sanctions consistently.[21]

In addition, the readiness of medical personnel and implementing institutions is also a challenge in itself. The act of chemical castration requires the involvement of medical personnel who have special competence and pay attention to the human rights aspects of the perpetrators. On the other hand, not all medical personnel are willing to carry out these actions because they are considered contrary to the oath of the profession and medical ethics. This condition causes the implementation of chemical castration in Indonesia to not run optimally.[22]

From a legal perspective, this regulation also raises ethical and constitutional debates, especially related to the right to the body and the principle of non-discrimination as stipulated in the 1945 Constitution of the Republic of Indonesia and international human rights instruments. However, the government reasoned that this policy is necessary to provide maximum protection for children as a vulnerable group who are often victims of sexual crimes. [23]

In addition to normative problems, technical and ethical aspects are also serious concerns in the application of chemical castration. From the technical side, the implementation of this action requires competent medical personnel who are willing to carry it out, while from the ethical side there is a debate about whether the act of chemical castration can be categorized as a form of torture that is contrary to human rights principles. However, the government argues that chemical castration is not a form of torture, but a legal action that is a temporary biological control, accompanied by rehabilitation to maintain a balance between the rights of the perpetrator and the interests of the victim. In this case, the main goal is not solely to punish, but to prevent recidivism and provide maximum protection for children from the threat of sexual violence.[24]

Juridically, the application of criminal sanctions after the issuance of Government Regulation No. 70 of 2020 confirms the existence of a new paradigm in law enforcement against perpetrators of child sexual violence, namely that criminalization is not only oriented towards retribution, but also on social recovery and the prevention of crime recurrence. Law enforcement officials now have clearer guidelines for enforcing additional criminal sanctions, although in practice they still require institutional strengthening, socialization to medical personnel, and adequate budget and facility support. Therefore, consistent implementation and strict supervision from the government are needed so that the main goal of the enactment of Government Regulation No. 70 of 2020, namely protecting children from sexual violence and providing a deterrent effect for perpetrators, can be optimally achieved.[25]

However, the implementation of this policy in the field still faces various challenges. One of the main obstacles is the absence of explicit provisions in Government Regulation No. 70 of 2020 regarding the criteria for the duration of prison sentences that are the basis for the implementation of chemical castration measures. The regulation does not explain in detail whether castration can be imposed on perpetrators with minimal punishment or only on perpetrators who are sentenced to the maximum sentence. As a result, law enforcement officials

often have difficulty determining when chemical castration measures are appropriate. This ambiguity also has an impact on the judicial process, where the judge must interpret the scope of the application of the additional sanctions based on considerations of fairness and proportionality. Therefore, some legal experts consider that the implementing regulation needs to be refined by affirming the categories of perpetrators who can be subject to chemical castration sanctions, including the length of imprisonment that must be served before the action is carried out. [26]

Conclusion

1. The regulation of sexual violence against children in Indonesia is a tangible form of the state's commitment to providing legal protection for children as the nation's next generation. The state has established a number of comprehensive regulations, including Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, and Law Number 17 of 2016 which strengthens provisions regarding the provision of additional sanctions for perpetrators of sexual violence against children. This regulation affirms a strict prohibition against any form of violence, threats, trickery, or persuasion that leads to sexual intercourse or obscene acts against children.
2. Government Regulation Number 70 of 2020 concerning Procedures for the Implementation of Chemical Castration Measures, Installation of Electronic Detection Devices, Rehabilitation, and Announcement of the Identity of Perpetrators of Sexual Violence against Children, the government provides a clearer and more technical legal basis in the implementation of these additional sanctions. This regulation is expected to strengthen prevention efforts, provide a deterrent effect for perpetrators, and create a sense of security for children from the threat of sexual violence. However, at the implementation level, various obstacles are still found such as the non-optimal implementation of chemical castration sanctions due to technical and medical limitations, lack of coordination between law enforcement agencies, and the lack of rehabilitation facilities for victims and perpetrators. This shows that the protection of children from sexual violence requires not only a strong legal tool, but also consistent, integrated, and justice-oriented implementation and victim recovery.

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