

Chemical Castration as a Punishment for Child Rapists from a Human Rights Perspective: An Analysis of Judgment No. 859/Pid.Sus/2023/PN.Bjm

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Abstract: This study aims to analyze the application of chemical castration as a punishment for child rapists from a human rights perspective, focusing on Court Decision No. 859/Pid.Sus/2023/PN.Bjm as the subject of the study, as well as its compliance with the principle of humanity. **The method used** in this study is a descriptive-analytical normative legal method employing both a statutory approach and a case-based approach, involving a qualitative analysis of primary, secondary, and tertiary legal sources. **The novelty** of this study lies in its specific examination of the judge's reasoning in imposing chemical castration on the perpetrator in Judgment No. 859/Pid.Sus/2023/PN.Bjm, as well as the relationship between regulations and judicial practice, which has not been extensively studied. **The results** of the study indicate that the imposition of chemical castration as an additional penalty for the perpetrator of child rape in the aforementioned judgment is normatively intended to protect the victim, in this case the child, and to prevent the recurrence of similar criminal acts. However, this has become controversial from a human rights perspective because it pertains to the perpetrator's right to bodily integrity, as stipulated in Law No. 39 of 1999 and Articles 28G through 28J of the 1945 Constitution of the Republic of Indonesia. Furthermore, in this ruling, the imposition of chemical castration on the perpetrator was also based on the judge's subjective considerations without regard to the cumulative requirements for restricting rights under Law No. 17 of 2016, Article 81, paragraph (7), resulting in inconsistencies that potentially violate the principle of proportionality between statutory regulations and judicial practice. **The conclusion** of this study is that chemical castration sentences not based on clear legal provisions and human rights standards have the potential to create inconsistencies in the application of the law and violate the principle of proportionality regarding the offender's right to bodily integrity.

Keywords: Chemical castration; Child Rape; Human rights; Principle of proportionality

Abstrak: Penelitian ini bertujuan guna menganalisis penerapan hukuman kebiri kimia terhadap pelaku pemerkosaan anak dalam perspektif hak asasi manusia (HAM) dengan berfokus pada Putusan Pengadilan Nomor 859/Pid.Sus/2023/PN.Bjm sebagai objek penelitian, serta kesesuaiannya dengan prinsip kemanusiaan. **Metode penelitian** yang digunakan dalam adalah metode hukum normatif yang bersifat deskriptif-analitis dengan pendekatan perundang-undangan dan pendekatan kasus dengan menganalisis secara kualitatif bahan hukum primer, sekunder dan tersier. **Kebaruan** penelitian ini terletak pada kajian khusus

*pertimbangan hakim dalam penjatuhan kebiri kimia bagi pelaku dalam Putusan Nomor 859/Pid.Sus/2023/PN.Bjm serta hubungan antara regulasi dengan praktik peradilan yang belum banyak diteliti. **Hasil penelitian** menunjukkan bahwasanya penjatuhan kebiri kimia sebagai pidana tambahan bagi pelaku tindak pidana pemerkosaan anak dalam Putusan tersebut secara normatif bertujuan guna melindungi korban dalam hal ini anak serta mencegah terjadinya pengulangan tindak pidana yang serupa. Akan tetapi hal ini menjadi kontroversial dalam prinsip HAM karena bermengenaian dengan hak integritas tubuh pelaku sebagaimana diatur dalam Undang-Undang Nomor 39 Tahun 1999 dan Undang-Undang Dasar Negara Republik Indonesia Tahun 1945 Pasal 28G sampai 28J. Selain itu dalam putusan tersebut penjatuhan kebiri kimia bagi pelaku juga didasarkan pada pertimbangan hakim secara subjektif tanpa memperhatikan syarat kumulatif pembatasan hak berdasarkan Undang-Undang Nomor 17 Tahun 2016 Pasal 81 ayat (7) sehingga adanya ketidakkonsistenan yang berpotensi melanggar prinsip proporsionalitas antara regulasi yang dibuat dan praktik peradilan. **Kesimpulan** dari penelitian adalah bahwasanya hukuman kebiri kimia yang tidak didasarkan pada ketentuan perundang-undangan dan standar hak asasi manusia (HAM) yang jelas berpotensi menimbulkan ketidakkonsistenan dalam penerapan hukum serta melanggar prinsip proporsionalitas hak atas integritas tubuh pelaku.*

Kata kunci: *Kebiri Kimia; Pemerkosaan Anak; Hak Asasi Manusia (HAM); Prinsip Proporsionalitas*

1. INTRODUCTION

As a country governed by the rule of law, Indonesia has an obligation to uphold the principle of the welfare state, which serves as the nation's objective in providing legal protection and social security for its citizens¹ as provided for in the fourth paragraph of the Constitution of the Republic of Indonesia.² Nevertheless, various social issues continue to arise. One of these is the rise in cases of sexual violence against children. This trend is evident in official data recorded in the Republic of Indonesia's Online Information System for the Protection of Women and Children, known as Simfoni PPA. According to this data, cases of sexual violence against children increased from 2020 through 2025, both in terms of the number of victims and the number of incidents.³ which causes harm and profound psychological trauma to the victims. Therefore, this crime is considered an extraordinary crime.⁴

This situation demonstrates that the legal protection mechanisms implemented by a country, particularly for vulnerable groups such as children, are not yet fully effective. In response to this urgent need, the government issued regulations mandating the use of chemical castration as an additional punishment. The legal basis for this policy is set forth in

¹ Iqbal Falerizki et al., "Dinamisme Pancasila Dalam Penerapan Konsep Welfare State," 2025.

² Pemerintah Republik Indonesia, "Undang-Undang Dasar Negara Republik Indonesia Tahun 1945; Lembaran Negara Republik Indonesia Nomor 75 Tahun 1959" (1959).

³ Kementerian Perberdayaan Perempuan dan Anak RI, "Data Kekerasan Perempuan Dan Anak (SIMFONI PPA)," 2025.

⁴ Dwita Ambarwaty, "Analisis Kritis Penerapan Kebiri Kimia Terhadap Pelaku Kejahatan Seksual Terhadap Anak" 6, no. 11 (2021): 167–86.

several laws and regulations. One of these is Law No. 17 of 2016, which established Government Regulation in Lieu of Law No. 1 of 2016 as the second amendment to Law No. 23 of 2002 on Child Protection. In addition, there is also Government Regulation No. 70 of 2020, which contains provisions regarding the procedures for implementing chemical castration, rehabilitation programs, and various other regulations related to its implementation. This policy is designed not only to serve as a deterrent but also to protect the general public and encourage the rehabilitation of offenders to reduce recidivism rates through a rational and proportionate approach to punishment.

However, this regulation raises legal issues from various perspectives; one of these concerns human rights principles, specifically regarding the application of chemical castration, which is considered controversial because it directly affects the offender's right to bodily integrity and human dignity, both of which are fundamental human rights,⁵ as stipulated in Law No. 39 of 1999 on Human Rights.⁶ This situation ultimately poses a unique challenge for the state: how to continue to provide effective protection for children without neglecting the basic rights of the perpetrators.

Previous studies on chemical castration have examined the issue from various perspectives. Research conducted by Messy Rachel Mariana Hutapea (2020) analyzed the application of chemical castration from a human rights perspective, and the findings indicate that chemical castration is not yet considered effective; based on the analysis, perpetrators of child rape are not suitable candidates for chemical castration but require further treatment for their mental health. Furthermore, Rahul et al. (2024) assert that the application of chemical castration has the potential to conflict with the principle of human dignity as well as the fundamental rights guaranteed under human rights (HR).⁷ Furthermore, research by Zulkarnain and Riadi Asra Rahmad (2024) also concludes that chemical castration raises issues from the perspectives of democracy and human rights because it has the potential to infringe upon the basic rights of the perpetrators. Meanwhile, a study by I Gede Fajar Manggala et al. (2021) assesses that chemical castration is one measure to protect children who are victims of sexual violence, even though its implementation may conflict with human rights.

Based on these studies, it can be observed that while there are many studies on chemical castration, most focus on legal regulatory aspects, the effectiveness of chemical castration in sentencing, and conceptual analysis from a human rights perspective. However, these studies have not specifically analyzed the considerations of judges when imposing chemical castration on perpetrators of child rape. Yet judges' considerations represent the tangible manifestation

⁵ Kadek Dwi Novitasari, Ida Ayu Putu Widiati, and I Nengah Laba, "Tinjauan Yuridis Terhadap Tindak Pidana Perkosaan Dalam Perspektif Hak Asasi Manusia," *Jurnal Analogi Hukum* 2, no. 3 (2020): 388–92, <https://doi.org/10.22225/ah.2.3.2501.388-392>.

⁶ Pemerintah Republik Indonesia, "Undang-Undang Nomor 39 Tahun 1999 Mengenai Hak Asasi Manusia" (1999), <https://peraturan.bpk.go.id/Details/45361/uu-no-39-tahun-1999>.

⁷ Rahul Pieter S. Yapen, Wahab Aznul Hidayat, and Muharuddin Muharuddin, "The Role of Correctional Institutions in the Development of Prisoners to Prevent Recidivism of Crimes in Sorong City," *Journal of Law Justice (JLJ)* 2, no. 3 (October 11, 2024): 162–76, <https://doi.org/10.33506/jlj.v2i3.3354>.

of the application of chemical castration rules in judicial practice, which determines whether the imposition of chemical castration is truly consistent with the objectives of criminal punishment and human rights principles.

On that basis, this study offers a novel perspective by not only examining the legal framework for chemical castration but also conducting an in-depth analysis of its application in Judgment No. 859/Pid.Sus/2023/PN.Bjm⁸ which directly provides concrete examples from judicial practice and illustrates how judges' considerations in imposing such sentences align with human rights principles. It is hoped that the findings of this study will contribute to expanding academics' understanding of the application of chemical castration as a sanction in law enforcement practice. Furthermore, this analysis is also intended to illustrate the balance between efforts to protect children and respect for human rights principles.

2. METHOD

This study employs a normative legal approach with a descriptive-analytical character. The study focuses on examining legal provisions and court decisions related to the application of chemical castration as a sanction for perpetrators of child rape. The approach applied in this study encompasses two main methods. First, the statutory approach, which examines various legal provisions regarding chemical castration and human rights. Second, the case study approach, which centers its analysis on Court Decision No. 859/Pid.Sus/2023/PN.Bjm as the focus of the study.⁹

Through a literature review, this study examines various relevant legal materials. These materials include primary legal sources such as laws and court decisions, supplemented by supporting legal sources such as books, journal articles, and related legal literature. In addition, supplementary legal materials such as the Kamus Besar Bahasa Indonesia (Comprehensive Dictionary of the Indonesian Language) were also used. All of the legal materials that were collected were then analyzed qualitatively by applying legal interpretation techniques and deductive logic in the analysis process.¹⁰

3. DISCUSSION

3.1. Chemical Castration in Indonesia's Criminal Justice System from a Human Rights Perspective

Within the criminal law framework in effect in Indonesia, chemical castration is classified as an additional penalty rather than a primary form of punishment. These provisions are set forth in Law No. 17 of 2016 and Government Regulation No. 70 of 2020. The introduction of these regulations represents a measure taken by the government in response to the rising

⁸ Pengadilan Negeri Banjarmasin, Putusan Pengadilan Negeri Banjarmasin Nomor 859/Pid.Sus/2023/PN.Bjm (2023).

⁹ Yati Nurhayati, Ifrani, and MYasir Said, "METODOLOGI NORMATIF DAN EMPIRIS DALAM PERSPEKTIF ILMU HUKUM Jurnal Penegakan Hukum Indonesia (JPHI)," *Jurnal Penegakan Hukum Indonesia (JPHI)* 2, no. 1 (2021): 1–20.

¹⁰ Sigit Sapto Nugroho, Anik Tri Haryani, and Farkhani, *Metodologi Riset Hukum, Ase Pustaka*, vol. 2, 2020.

trend of sexual violence cases. The application of this sanction is limited to specific circumstances that align with the objectives of criminal punishment based on the absolute theory, which emphasizes that the punishment imposed on a criminal offender is a form of retribution for the act committed; the theory of relative punishment, which focuses solely on prevention and the rehabilitation of the offender rather than retribution for the offender's wrongdoing; and the combined theory, which integrates elements of retribution and prevention so that the punishment imposed on the offender remains proportionate and does not harm society.¹¹

Provisions regarding chemical castration as a punishment have sparked controversy from a human rights perspective. The imposition of this punishment directly interferes with the offender's biological and reproductive functions.¹² In essence, the perpetrator is still a human being who has the right to the integrity and protection of his or her body. This right must be respected, upheld, and protected by the state, law enforcement agencies, the government, and every individual. This principle is affirmed in Article 1, paragraph (1) of Law No. 39 of 1999 on Human Rights.¹³ This is supported by Article 28G, paragraph (2), and Article 28H, paragraph (1), of the 1945 Constitution, which guarantee protection and treatment that uphold human dignity, as well as the right of every person to live in physical and mental well-being without being subjected to treatment equivalent to torture.¹⁴

Therefore, any form of treatment that causes excessive physical or mental pain or suffering to a person for the purpose of obtaining a confession or information through punishment cannot be justified under any circumstances, even in the context of criminal prosecution, because it constitutes torture (a right that cannot be violated) (non-derogable rights).¹⁵ Thus, chemical castration should be understood as a form of restriction of rights, not as a total deprivation of rights by the state.¹⁶ This provision is in accordance with Article 28J, paragraph (2) of the 1945 Constitution of the Republic of Indonesia. This article stipulates that restrictions on an individual's rights may only be imposed in accordance with the law and must serve a legitimate purpose. Such purposes include ensuring the recognition of and respect for the rights of others, while also upholding the principles of justice, morality, religious values,

¹¹ Syarif Saddam Rivanie et al., "Perkembangan Teori-Teori Tujuan Pemidanaan," *Halu Oleo Law Review* 6, no. 2 (2022): 176–88, <https://doi.org/10.33561/holrev.v6i2.4>.

¹² Sujasmin Sujasmin, "Penerapan Sanksi Kebiri Kimia Bagi Pelaku Tindak Pidana Kekerasan Seksual Anak Dalam Perspektif Hak Asasi Manusia," *Jurnal Usm Law Review* 8, no. 1 (2025): 544–58, <https://doi.org/10.26623/julr.v8i1.11774>; Dina Roszana, Emmilia Rusdiana, and Gelar Ali Ahmad, "Eksistensi Hukuman Kebiri Kimia Bagi Pelaku Kekerasan Seksual Terhadap Anak Ditinjau Dari Pembentukan Norma Hukum Pidana," *Novum: Jurnal Hukum* 7, no. 3 (2020): 23–31.

¹³ Pemerintah Republik Indonesia, Undang-Undang Nomor 39 Tahun 1999 mengenai Hak Asasi Manusia Pasal 1 ayat (1).

¹⁴ RI, "Undang-Undang Dasar Negara Republik Indonesia Tahun 1945" (1945) Pasal 28G ayat (2) dan Pasal 28H ayat (1).

¹⁵ Undang-Undang Nomor 39 Tahun 1999 mengenai Hak Asasi Manusia Pasal 1 ayat (4).

¹⁶ Prisilia Kornelia Moonik, Shien Verginia Putri Tama, and Melinda Sarah Megan Katuuk, "Pemenuhan Hak Pelaku Kekerasan Seksual Dalam Sanksi Pidana Kebiri Kimia Berdasarkan Hak Asasi Manusia," *Jurnal Ilmu Hukum: ALETHEA* 8, no. 1 (2024): 18–36, <https://doi.org/10.24246/alethea.vol8.no1.p18-36>.

security, and public order, so that such restrictions are not interpreted as an absolute deprivation of rights.¹⁷

Restrictions on rights can only be justified if they are consistent with the International Covenant on Civil and Political Rights (ICCPR) and the CAT (the convention against torture).¹⁸ and meet three cumulative requirements under the criminal justice system. Therefore, from a human rights perspective, the application of chemical castration as a punishment within Indonesia's criminal justice system presents a dilemma. On the one hand, the state has a constitutional responsibility to protect children from various forms of crime; on the other hand, the state also has an obligation to continue to respect and protect the fundamental human rights of offenders, even if the acts they committed were unlawful.

3.2. The Judge's Considerations Regarding the Sentence of Chemical Castration for Perpetrators of Child Rape (Pedophilia) in Judgment No. 859/Pid.Sus/2023/PN.Bjm

3.2.1 Legal Basis and Analysis of the Judge's Rationale in Imposing a Chemical Castration Sentence

Judgment No. 859/Pid. Sus/2023/PN.Bjm imposes an additional penalty of chemical castration on the defendant, Gusti Nasrudin Sidik bin Gusti Hasan, a teacher at a religious institution, who committed the premeditated rape of a 13-year-old child. The judge sentenced him to 18 years in prison, a fine of Rp. 1,000,000,000.00 (with an additional four months in prison in lieu of the fine), two years of chemical castration, and ordered the defendant to pay the victim compensation in the amount of Rp. 12,410,200.¹⁹ The judge's ruling against the defendant was based on the elements of a criminal offense, namely the elements of "a person" and "an act." In this case, the defendant was deemed to be a party who could legally be held criminally liable. Based on the facts revealed during the trial, it was proven that he committed acts of violence and threats intended to coerce a child into engaging in sexual intercourse.²⁰

Once these elements have been established, the next step for the judge is to evaluate the defendant's conduct from the perspective of intent (*dolus*), which refers to the theory of will (*wilstheorie*) that the defendant committed the act from the outset of their own volition and was aware of the consequences that might arise from their actions. Then there is the theory of forethought (*voorstellings theorie*), which holds that the perpetrator had considered the possible outcomes of his actions before carrying them out. Evidence of this is evident when the perpetrator persuaded the victim using false pretexts, took advantage of his position as a

¹⁷ Pemerintah Republik Indonesia, "Undang-Undang Dasar Negara Republik Indonesia Tahun 1945; Lembaran Negara Republik Indonesia Nomor 75 Tahun 1959" (1959) Pasal 28J ayat (2).

¹⁸ Muhammad Firdaus Ibnu Pamungkas, "Urgensi Pengaturan Dan Penerapan Sanksi Kebiri Kimia Dalam Tindak Pidana Kekerasan Seksual Terhadap Anak," *Jurnal Lex Renaissance* 7, no. 3 (2022): 545–58, <https://doi.org/10.20885/jlr.vol7.iss3.art7>.

¹⁹ Banjarmasin, Putusan Pengadilan Negeri Banjarmasin Nomor 859/Pid.Sus/2023/PN.Bjm.

²⁰ Khalimatuz Zuhriyah Andin Dwi Safitri, "PENGERTIAN TINDAK PIDANA DAN UNSUR-UNSUR TINDAK PIDANA" 14, no. 1 (2025).

teacher, and administered sedatives, all of which clearly demonstrate direct intent (*dolus directus*).²¹ Given the proven elements of intent and fault, it is necessary to examine the basis of the judge's reasoning in rendering the verdict. This analysis focuses primarily on the rationale for imposing the additional penalty of chemical castration. Although judges have the authority to impose chemical castration in child rape cases, this is optional. This means that judges may only impose chemical castration if it is based on legal facts established during the trial and after considering both mitigating and aggravating circumstances.

In addition, the provisions of Article 81, paragraph (7), in conjunction with paragraphs (4) and (5) of Law No. 17 of 2016, also establish certain requirements for the imposition of chemical castration. This punishment may be imposed if the perpetrator is a repeat offender, has caused harm to more than one victim, or has caused severe consequences for the victims, such as serious injury, psychological distress, or even death.²² However, in the decision in question, there is no clear evidence that the defendant has a history of recidivism or that the crime resulted in more than one victim. Therefore, it can be seen that the judge's reasoning was based on a subjective assessment of the severity of the act, which the perpetrator committed in a premeditated manner, the use of power dynamics, and the impact on the victim. This demonstrates an inconsistency between the regulations established through court decisions, which has the potential to create legal uncertainty within Indonesia's criminal justice system.

Based on the analysis of the ruling, the imposition of chemical castration has a clear legal basis and authorizes judges to impose this sanction on perpetrators of child abuse. Nevertheless, the provisions of Law No. 17 of 2016, which enacted Government Regulation in Lieu of Law No. 1 of 2016 as the second amendment to Law No. 23 of 2002 on Child Protection, specifically Article 81(7), govern the application of certain sanctions in cases of sexual crimes against children.²³ This measure can only be applied if the perpetrator has committed repeated offenses, has caused harm to more than one victim, or has inflicted serious harm on the victims. However, the judgment in question does not establish that the perpetrator has a history of recidivism or that there was more than one victim. Therefore, from a legal standpoint, there is an issue with the judge's reasoning, which fails to explicitly link the facts to the applicable legal provisions that serve as the legal basis for imposing chemical castration on the perpetrator.

The author argues that if a regulation stipulates certain conditions as the basis for

²¹ Aryo Fadlian, "Pertanggungjawaban Pidana Dalam Suatu Kerangka Teoritis," *Jurnal Hukum Positum* 5, no. 2 (2020): 10–19; Imron Rosyadi, *2020 Hukum Pidana.Revka Prima Media:Surabaya.*, 2020.

²² Undang-Undang Nomor 17 Tahun 2016 Pasal 81 ayat (7), ayat (4) dan ayat (5).

²³ Pemerintah Republik Indonesia, Undang-undang (UU) Nomor 17 Tahun 2016 mengenai Penetapan Peraturan Pemerintah Pengganti Undang-Undang Nomor 1 Tahun 2016 Mengenai Perubahan Kedua Atas Undang-Undang Nomor 23 Tahun 2002 Mengenai Perlindungan Anak Menjadi Undang-Undang; Pemerintah Republik Indonesia, Peraturan Pemerintah pengganti Undang-Undang Nomor 1 Tahun 2016 mengenai Perubahan Kedua Undang-Undang Nomor 23 Tahun 2002 mengenai Perlindungan Anak; Pemerintah Republik Indonesia, Undang-Undang Republik Indonesia Nomor 23 Tahun 2002 mengenai Perlindungan Anak Pasal 81 ayat (7).

imposing an additional punishment, the judge must also explain these clearly and in detail in the reasoning of the judgment, so as not to cause ambiguity in the application of the law or inconsistency in the interpretation of the regulation in question. Meanwhile, from a human rights perspective, the imposition of chemical castration directly infringes upon the offender's right to bodily integrity and human dignity. Although human rights may be restricted within the Indonesian legal system, pursuant to Article 28J(2) of the 1945 Constitution of the Republic of Indonesia, such restrictions must comply with four cumulative principles of proportionality: the principle of legality, the principle of legitimate purpose, the principle of balance, and the principle of necessity.²⁴ However, in this ruling, the judge's reasoning only fulfills two principles of proportionality: the principle of legality, which refers to the legal basis for imposing chemical castration through a valid court decision; and the principle of legitimacy, which refers to the imposition of chemical castration as serving the primary purpose of criminal punishment, namely to deter offenders, prevent the commission of crimes, and protect the interests of victims and society²⁵ without explicitly addressing the principle of balance and the requirements within the framework of proportionality, the application of chemical castration in this ruling does not yet fully meet the substantive standards of proportionality, thereby potentially creating legal uncertainty.²⁶

From a sociological perspective, the judge's decision can be understood as a response to the rising number of cases of sexual violence against children, which causes children to suffer psychological and physical trauma as well as long-term social consequences, thereby necessitating special and optimal protection for them, as well as the need to protect society at large. Furthermore, from a philosophical perspective, the purpose of imposing chemical castration is to serve as a deterrent, to prevent such crimes, and to protect society; however, this punishment must still be evaluated in light of the principle of proportionality, and it must be ensured that there are no other alternative penalties that could be imposed to achieve the objectives of punishment in this case, in accordance with the principle of subsidiarity.

Thus, the main issue in this study lies not in the legality of the chemical castration regulation, but in the quality of the judges' legal reasoning, which has not fully established the relationship between the normative requirements, the facts presented in court, and whether such a punishment is indeed necessary.

3.2.2 Consistency in the Application of Chemical Castration and the Protection of Victims' Rights

²⁴ Deni Setiawan, Awan Maulidin Juna, and M Surya Fadillah, "Prinsip Proporsionalitas Dalam Penerapan Hukuman Pidana Di Indonesia" 1, no. 3 (2024): 266–78; Dwita Ambarwaty, "Analisis Kritis Penerapan Kebiri Kimia Terhadap Pelaku Kejahatan Seksual Terhadap Anak."

²⁵ Rivanie et al., "Perkembangan Teori-Teori Tujuan Pemidanaan."

²⁶ Dwi Prasetyo and Ratna Herawati, "Tinjauan Sistem Peradilan Pidana Dalam Konteks Penegakan Hukum Dan Perlindungan Hak Asasi Manusia Terhadap Tersangka Di Indonesia," *Jurnal Pembangunan Hukum Indonesia* 4, no. 3 (2022): 402–17, <https://doi.org/10.14710/jphi.v4i3.402-417>.

To examine the consistency of chemical castration sentences, a legal comparison was conducted between Decision No. 859/Pid.Sus/2023/PN.Bjm, which served as the subject of this study, and Decision No. 274/Pid.Sus/2023/PN.Son. Both cases involved the adjudication of child rape cases.²⁷ The comparison covers aspects of restitution as well as types of additional penalties.

Table 1. Comparison of Judges' Considerations in Imposing Additional Punishments in the Form of Chemical Castration

Aspect	Putusan No 859/Pid.Sus/2023/PN.Bjm	Putusan No 274/Pid.Sus/2023/PN.Son
Number of victims	1 (one) child	3 (three) children
Restitution	Rp. 12.410.200	Rp. 59,216,500 (for 3 victims)
Additional penalties	Two (2) years of chemical castration	Not imposed
History of repeat offenses	Not proven	Not proven
Power relations	Teachers and female students	Teachers and female students

Source: Compiled from the Judgment of the Banjarmasin District Court No. 859/Pid.Sus/2023 and the Judgment of the Sorong District Court No. 274/Pid.Sus/2023/PN.Son

Although both rulings involved cases of the same type in the context of power dynamics within Islamic boarding schools, in Ruling No. 859/Pid.Sus/2023/PN.Bjm the defendant was sentenced to an additional penalty of chemical castration for 2 years, whereas in Ruling No. 274/Pid.Sus/2023/PN.Son, this additional penalty was not imposed. This demonstrates a significant difference in the judges' reasoning regarding the imposition of the additional penalty of chemical castration on the perpetrator. This difference also indicates a variation in sentencing philosophy between the two judges. The Banjarmasin District Court adopted an approach focused on protection by emphasizing the prevention of recidivism through the additional penalty of chemical castration. In contrast, the Sorong District Court prioritized the principle of legality by referring to the normative provisions of criminal law.

In addition, both rulings also mandated restitution to the victims. Therefore, the judge at the Sorong District Court determined that the prison sentence and the obligation to pay restitution were sufficient to provide justice to the victims and serve as a deterrent to the perpetrator, making chemical castration as an additional punishment unnecessary. However, the judge at the Banjarmasin District Court imposed a principal sentence, restitution, and an additional punishment in the form of chemical castration as a preventive measure. This difference in approach indicates that there is still no established jurisprudence regarding the consistent application of chemical castration for perpetrators; consequently, the sentences imposed by judges on perpetrators depend on subjective perspectives rather than on normative provisions.

From a human rights perspective, the use of chemical castration in judicial proceedings

²⁷ Direktori Putusan et al., "Putusan Pengadilan Negeri Sorong Nomor 274/Pid.Sus/2023/PN.Son" (2023).

without an objective assessment may violate the principle of proportionality, as clearly stipulated in Article 28J, paragraph (2), of the Constitution of the Republic of Indonesia regarding restrictions on rights, including the right to bodily integrity of the perpetrator.²⁸ Furthermore, Judgment No. 859/Pid.Sus/2023/PN.Bjm demonstrates that not all elements of the proportionality test were cumulatively met, including legality, legitimate purpose, necessity, and balance or proportionality. Only two of the four requirements in the proportionality test were met, while the other two were not, resulting in a ruling that is inconsistent with human rights principles.

4. CONCLUSION

From the description of the study's findings and their discussion, it can be concluded that, from a normative perspective, the government has established chemical castration as a sanction within the Indonesian criminal justice system for perpetrators of child rape. This provision is intended to protect children and to serve as a preventive measure to ensure that similar crimes do not recur. However, from a human rights perspective, this raises serious issues regarding the protection of the perpetrator's right to bodily integrity and its inconsistency with the principle of proportionality. Furthermore, in Judgment No. 859/Pid.Sus/2023/PN.Bjm, the judge imposed an additional sentence of chemical castration based on subjective assessment rather than on statutory provisions or human rights standards. This demonstrates an inconsistency between regulations and court rulings. Consequently, it has the potential to violate the principle of proportionality from a human rights perspective, which is a key requirement in the restriction of human rights, including the offender's right to bodily integrity.

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