

# CHEMICAL CASTRATION PUNISHMENT IN THE PERSPECTIVE OF GOVERNMENT REGULATION NUMBER 1 OF 2016 ON CHILD PROTECTION AND ISLAMIC CRIMINAL LAW

Muhammad Jafar<sup>1</sup> Karimuddin Abdullah Lawang<sup>2</sup>

## *Abstract*

*Sexual violence against children in Indonesia has increased significantly. The punishment for perpetrators of sexual violence against children listed in the child protection law No. 23 of 2002 is considered not yet effective so the government issued Perpu No. 1 of 2016 which applies criminal charges to the perpetrators in the form of chemical castration punishment. The researcher wants to discuss “the provisions of castration punishment in Perpu and chemical castration punishment from the perspective of Islamic law” to explain the provisions of chemical castration and Islamic legal views on chemical castration punishment. The method used in this research is descriptive-analytical qualitative. The technics of data collections used is library research. The results showed that the castration provision in the Perpu was a chemical castration penalty which was an additional sentence imposed for recidivists, more than one victim, accompanied by rehabilitation, a period of no more than 2 years after the principal crime and was excluded for child offenders. Chemical castration punishment in the view of Islamic law is haram.*

**Keywords:** *Punishment; Chemical Castration; Child Protection*

## I. INTRODUCTION

Sexual violence against children is a form of child abuse where adults or older adolescents use children for sexual stimulation. Forms of child sexual abuse include criminalizing children, coercing or pressuring a child to engage in sexual activities<sup>3</sup>, engaging in lesbian relationships with a child<sup>4</sup>, physical contact with genitals, or using a child to produce child pornography. In response to the prevalence of sexual violence against children, on May 25, 2016, President Joko Widodo signed Government Regulation in Lieu of Law (Perpu) Number 1 of 2016 concerning the Second Amendment to Law Number 23 of 2002 concerning Child Protection.<sup>5</sup>

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<sup>1</sup> Shariah Higher Education (STIS) Ummul Ayman Pidie Jaya, [tgkjafarumay@gmail.com](mailto:tgkjafarumay@gmail.com)

<sup>2</sup> Al-Aziziyah Islamic University Indonesia (UNISAI), [karimuddin@unisai.ac.id](mailto:karimuddin@unisai.ac.id)

<sup>3</sup> Sarmadi, A. S., Huzaimah, A., Jalaluddin, J., Lahmudinur, L., Nugraha, A. B., & Lawang, K. A. (2023). Criminal Liability of Children from the Perspective of Islamic Law and Positive Law in Indonesia. *AT-TURAS: Jurnal Studi Keislaman*, 10(1), h. 116-127.

<sup>4</sup> Karimuddin. (2016). Perilaku Lesbian, Gay, Bisexual dan Transgender (LGBT) Dalam Pandangan Al-Qur'an dan Hadis. *Jurnal Al-Mizan*, 3(2), h. 101-114. <https://doi.org/10.54621/jiam.v3i2.436>

<sup>5</sup> Jokowi Teken Perppu Hukuman Kebiri”, *Serambi Indonesia*, 26 Mei 2016, h. 14.

The second amendment to Law Number 23 of 2002 concerning Child Protection emphasizes the need for the imposition of criminal sanctions and additional penalties for perpetrators of crimes or sexual violence against children as a preventive measure and to have a deterrent effect. The aggravated sanctions include a minimum prison sentence of 10 years, a maximum of 15 years, and a fine of up to IDR 5,000,000,000. Additional penalties include the public disclosure of the perpetrator's identity, electronic monitoring, and chemical castration.

In regulating human behavior, Allah, as the legislator, revealed Islamic law as rules that must be upheld by His servants. Islamic law is interpreted by Islamic legal scholars (fuqaha') into the form of fiqh, systematically compiled in fiqh books, and referred to as fiqh law. In its compilation, the fuqaha' classify it into four aspects, one of which is related to criminal law, commonly known as jarimah or jinayah.

Islamic legal scholars define jarimah as a sharia prohibition (engaging in activities prohibited by sharia) that is threatened with hudud or ta'zir punishment. Generally, scholars divide jarimah based on the severity of the punishment and whether it is specified by the Qur'an and Hadith. On this basis, they categorize it into three types: hudud, qisas, and ta'zir jarimah.<sup>6</sup>

The concept of jarimah is closely related to the issue of "prohibition" because every act encompassed in the concept of jinayah is an act prohibited by sharia. This prohibition arises because the act threatens the foundations of community life. With these prohibitions, the existence and sustainability of social life can be maintained and preserved.

Islamic legal scholars establish ta'zir punishment for every sinful act that does not have had and kafarah provisions, whether involving Allah's rights or human rights, such as committing sexual offenses against ajnabiyyah (permissible women to marry) using other than the genitals.<sup>7</sup> Ta'zir punishment can take the form of fines, imprisonment, flogging, and others. The ruler or judge has the right and authority to determine the type of criminal sanction for ta'zir jarimah, the amount of which does not exceed the had punishment.<sup>8</sup> Thus, ta'zir jarimah has no predetermined limits but will always evolve according to needs.

This research employs a literature review method,<sup>9</sup> which is a type of research where the data sources are obtained from literature, books, or relevant texts related to the researched issues. The research is also descriptive-analytical<sup>10</sup>, presenting various

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<sup>6</sup> Abu Bakar Syata, *I'anat al-Talibin*, Jilid IV, (Beirut: Darul Fikri, t.t), h. 142

<sup>7</sup> Saputra, D., & Lawang, K. A. (2022). Komparasi Hukum Islam dan Hukum Perdata Terhadap Ganti Kelamin dan Konsekuensi Yuridisnya. *Jurnal AL-MAQASID: Jurnal Ilmu Kesyariahan dan Keperdataan*, 8(2), h. 175-185.

<sup>8</sup> Jalaluddin al-Mahalli, *Syarh al-Minhaj al-Talibin*, Jilid IV, (Bairut: Darul Fikri, t.t), h. 205.

<sup>9</sup> Ratnaningtyas, E. M., Saputra, E., Suliwati, D., Nugroho, B. T. A., Aminy, M. H., Saputra, N., & Jahja, A. S. (2022). Metodologi Penelitian Kualitatif.

<sup>10</sup> Soejono dan Abdurrahman, *Metode Penelitian, Suatu Pemikiran dan Penerapan*, (Jakarta: Rineka Cipta, 2005), h. 21-22.

information about chemical castration punishment for perpetrators of sexual violence against children in Government Regulation No. 1 of 2016 and according to Islamic law. The information obtained is then analyzed to gain a proper understanding. The approach used is juridical-normative, which is based on primary legal materials by examining theories, concepts, legal principles, and regulations related to this research.

The steps or stages taken in the research process can be divided into three phases as follows: The first stage is determining the data sources. The data used in this research are classical works of scholars and the Child Protection Law as primary sources. Secondary data includes various books and references relevant to this research. In the second stage, the author examines the Child Protection Law and Government Regulation No. 1 of 2016. In the third stage, the author explores the imposition of castration punishment from the perspective of Islamic law by referring to the opinions of scholars.

## **II. DISCUSSION**

### **Definition and History of Castration**

The government issued Government Regulation in Lieu of Law (Perpu) No. 1 of 2016 concerning the second amendment to Law No. 23 of 2002 concerning Child Protection. This Perpu was directly approved by President Joko Widodo at the state palace on Wednesday, May 25, 2016. It was issued and announced as one of the government's efforts to protect children from increasingly worrying sexual crimes, which are considered serious offenses with heavier additional penalties for perpetrators.

One of the additional penalties for perpetrators of sexual crimes against children listed in this Perpu is chemical castration. Castration, whether surgical or chemical, is a procedure aimed at eliminating the function of testes in males or ovaries in females. Castration can be performed on animals and humans. In the medical field, castration is done in two ways: surgical and chemical. Surgical castration involves removing the testes as the production site of testosterone hormone, reducing the sexual drive of the perpetrator.

On the other hand, chemical castration involves injecting anti-androgen chemicals into the perpetrator's body, believed to lower the testosterone hormone level, resulting in a decrease in sexual desire over a certain period. Testosterone is the main hormone responsible for sexual desire and function. Some studies suggest that the testosterone levels in sexual offenders are higher than in normal men who are not sexual offenders. There is also research indicating a correlation between high testosterone levels and the aggressiveness of sexual violence.

Unlike physical castration, chemical castration is not permanent. If the administration of anti-androgen is stopped, the effects will cease, and the perpetrator will regain their sexual function, both sexual desire and erectile ability. The administration of anti-androgen drugs will not feminize a man, but chemical castration has negative effects, such as premature aging. Anti-androgen fluids are known to reduce bone density, increasing the risk of osteoporosis. Moreover, these fluids decrease

muscle mass, enhancing the body's fat accumulation and subsequently increasing the risk of heart and vascular diseases.<sup>11</sup>

The function of chemical castration is to reduce the sexual libido of the perpetrator and is used as a treatment for certain medical conditions. The desired goals are deterrence and rehabilitation. Although chemical castration is not done by amputating the testes, the end result is the same as physical castration—eliminating sexual libido and erectile ability.

Castration has been practiced since ancient times. According to the book "A Brief History of Castration" Second Edition by Victor T. Cheney, published in 2006, castration is the oldest, effective, quick, and inexpensive treatment to prevent crime, disease, violence, and unwanted births. The practice of castration in China can be traced back to two millennia before Christ, to the Hsia Dynasty (2205 BC-1766 BC). Initially, castration was performed on prisoners from other regions. Over time, castration was done to achieve social status in the kingdom. Those who were castrated became eunuchs (men who lost their fertility because their testicles were removed) as palace servants. Even the renowned sailor, Admiral Cheng Ho, highly respected in Indonesia, was a eunuch. Cheng Ho lived during the Ming Dynasty in the 15th century.<sup>12</sup>

In ancient Egypt, King Merneptah created a monument at Karnak around 1225 BC, listing 13,000 penises cut off in battles with the Libyan tribe and the Mediterranean people. The cutting of the genitals of defeated enemies was considered a perfection of victory.

Several countries in Europe and Asia have implemented chemical castration, including: The United States: Since 1996, California has implemented chemical castration for perpetrators of sexual crimes against children. Other states, such as Florida, Georgia, Iowa, Louisiana, Montana, Oregon, Texas, and Wisconsin, also adopted chemical castration. Poland: The Polish government passed a law on chemical castration for perpetrators of sexual crimes against children in 2009, which took effect in 2010. Chemical castration is forcibly performed on convicts found guilty by the court. Moldova: As a former Soviet republic, Moldova has applied chemical castration since 2012, despite condemnation from human rights organizations. Due to a significant number of sexual violence cases against children, Moldova continues the practice. Estonia: The Estonian government has implemented chemical castration since 2012, specifically for perpetrators of pedophilia. Argentina: Chemical castration has been applied in the Mendoza province since 2010. Perpetrators voluntarily undergo chemical castration to receive a reduced prison sentence, as agreed by 11 convicted rapists in Mendoza. South Korea: In July 2011, South Korea granted judges the authority to

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<sup>11</sup> Bestari Kumala Dewi, *Ini Efek Hukuman Kebiri Pada Tubuh*, berita diunduh dari <http://health.kompas.com/25/05/2016/ini-efek-hukuman-kebiri-pada-tubuh>, diakses pada tanggal 17 Agustus 2022.

<sup>12</sup> Danu Damarjati, *Menilik Sejarah Kebiri dari Masa ke Masa*, berita diunduh dari <http://detiknews.com,25/10/2015,menilik-sejarah-kebiri-dari-masa-ke-masa>, diakses pada tanggal 18 Agustus 2022.

impose chemical castration for child sexual offenders. The Ministry of Justice in South Korea coordinates the chemical castration orders. In 2013, a 31-year-old man was convicted of sexual crimes and sentenced to 15 years in prison along with chemical castration, marking the first chemical castration sentence in South Korea.<sup>13</sup>

### **Pros and Cons of Implementing Chemical Castration Punishment**

From the perspective of victimology, children are one of the vulnerable groups that must be protected by the state. The protection provided should ensure that children are free from discriminatory practices, exploitation, and violence, including sexual violence. This is mandated by the provisions of the 1945 Constitution of the Republic of Indonesia.

Indonesia regulates child protection with Law No. 23 of 2002 concerning child protection. In 2014, the first amendment to this law was made, resulting in Law No. 35 of 2014, which increased criminal penalties for perpetrators of sexual crimes against children. As the landscape continues to change, and sexual violence against children significantly threatens and endangers the lives of children, disturbing their comfort, tranquility, and societal order, the government issued a replacement regulation (Perpu) No. 1 of 2016 concerning the second amendment to Law No. 23 of 2002 concerning child protection.

This regulation imposes harsher criminal sanctions on perpetrators of sexual crimes against children, including additional punishment in the form of chemical castration, the disclosure of the perpetrator's identity, and the installation of electronic monitoring devices to track the perpetrator's movements after release from prison. The penalties are also increased to include death penalty, life imprisonment, a maximum of 20 years, and a minimum of 10 years in prison.

Chemical castration involves injecting anti-androgen chemicals into the perpetrator's body through injections or pills. Anti-androgens weaken testosterone hormones, reducing or eliminating the sexual desire of the recipient.

The implementation of this regulation has not received unanimous support, with many experts in law, medical professionals, and human rights activists expressing their own reasons for rejecting it.

#### **Supporting Arguments:**

**Deterrent Effect:** The imposition of chemical castration makes individuals think twice before committing sexual violence against children. The Indonesian Child Protection Commission (KPAI) noted a decrease in the number of child sexual violence victims in 2015 when the discourse on chemical castration was initiated. In the first semester (January-June) of 2015, there were 105 cases, but in the second semester (July-December), it decreased to 88 cases.

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<sup>13</sup> Hening Hadi Condrowati, *Hukuman Kebiri dan Penegakan Hukum di Indonesia*, Jurnal Bina Adhyaksa, Vol 7. N0. 1 Nopember 2016, h. 64.

**Respecting Family and Reproductive Rights:** Chemical castration does not violate the human right to family and reproduction. According to the 1945 Constitution of Indonesia, the right to family and reproduction can be limited by the government to ensure recognition and respect for the rights and freedoms of others and to meet the fair demands of moral considerations, religious values, security, and public order in a democratic society.

**Judicial Discretion:** The imposition of chemical castration is a choice for judges, not an obligation. Judges have the discretion to decide whether to impose chemical castration on a perpetrator.

**Limited Application:** Chemical castration is only applicable to sexual offenders who cause harm to more than one person, resulting in severe injuries, mental disorders, infectious diseases, reproductive dysfunction, and/or death of the victim. It is not a blanket punishment for every sexual offender.

**International Precedence:** Chemical castration has been implemented in various countries, including the United States, Poland, Moldova, Estonia, Argentina, South Korea, and others, indicating that it is not a new punishment in criminal law.

**Opposing Arguments:**

**Human Rights Violation:** Chemical castration violates the human right to be free from torture. Even though the right to family and reproduction may not be violated in Indonesia, the right not to be tortured is non-derogable. The International Covenant on Civil and Political Rights (ICCPR), ratified by Indonesia, explicitly states that no one shall be subjected to torture or to cruel, inhuman, or degrading treatment or punishment.

**Contrary to National Criminal Objectives:** Chemical castration does not align with the national criminal objectives of deterrence and rehabilitation. Studies show that chemical castration does not guarantee deterrence, and countries implementing such punishments still have high rates of sexual assault.

**Global Efforts Against Chemical Castration:** The Council of Europe's Committee for the Prevention of Torture (CPT) has opposed chemical castration, recommending countries like Denmark and Germany to eliminate this form of punishment. There is a global movement against the use of chemical castration.

**Side Effects:** Chemical castration has negative side effects, including premature aging, reduced bone density leading to osteoporosis, decreased muscle mass, increased fat accumulation, and elevated risks of heart and vascular diseases.

**Temporary Nature of the Effect:** The effects of chemical castration are temporary. Once the administration of anti-androgen substances is stopped, libido and erections can return, and there is no guarantee that the offender will not repeat the offense after serving the sentence.

**High Cost:** Implementing chemical castration is not cost-effective. The procedure requires multiple administrations over the designated period, making it expensive and potentially ineffective.

**Lack of Doctor Support:** The Indonesian Medical Association (IDI) strongly opposes the involvement of doctors in the execution of chemical castration. Doctors participating in such procedures could face professional consequences, including being expelled from

the medical profession. In conclusion, the debate over chemical castration as a punishment for sexual crimes against children involves complex ethical, legal, medical, and human rights considerations. The arguments presented by both sides reflect the diverse perspectives and concerns surrounding this controversial issue.

### **Chemical Castration Penalty According to Government Regulation No. 1 of 2016**

Issued by the Replacement Government Regulation (Perpu) No. 1 of 2016, this regulation was prompted by a significant increase in sexual violence against children, posing a potential threat to the lives and development of children, as well as disrupting public order. The criminal sanctions imposed on perpetrators of sexual violence against children were found to be insufficient in deterring and preventing such crimes.<sup>14</sup> This Perpu intensifies penalties for perpetrators of sexual crimes against children, including the death penalty, life imprisonment, a maximum of 20 years' imprisonment, and a minimum of 10 years' imprisonment. The Perpu also stipulates three additional sanctions: chemical castration, the public disclosure of the identity of sexual crime perpetrators, and the installation of electronic monitoring devices. This Perpu amends two articles from the previous Law, namely articles 81 and 82, and adds one article, namely article 81a.

Article 81 of Perpu No. 1 of 2016 is amended to read as follows: (1) Anyone who violates the provisions as referred to in Article 76D shall be punished by imprisonment for a minimum of 5 (five) years and a maximum of 15 (fifteen) years and a fine of up to IDR 5,000,000,000.00 (five billion rupiahs). (2) The criminal provisions as referred to in paragraph (1) also apply to anyone who intentionally engages in deception, a series of lies, or persuades a child to engage in sexual intercourse with them or with another person. (3) In the event the criminal act as referred to in paragraph (1) is committed by parents, guardians, family members, child caregivers, educators, educational personnel, child protection authorities, or by more than one person collectively, the penalty is increased by 1/3 (one-third) of the prescribed penalty as referred to in paragraph (1). (4) In addition to the perpetrator as referred to in paragraph (3), an additional 1/3 (one-third) of the prescribed penalty is also imposed on a perpetrator who has been previously convicted for committing the criminal act as referred to in Article 76D. (5) In the event the criminal act as referred to in Article 76D causes harm to more than 1 (one) person, resulting in severe injuries, mental disorders, contagious diseases, disruption or loss of reproductive function, and/or death of the victim, the perpetrator is sentenced to death, life imprisonment, or a minimum of 10 (ten) years and a maximum of 20 (twenty) years of imprisonment. (6) In addition to the penalty as referred to in paragraph (1), paragraphs (3), (4), and (5), the perpetrator may also be subject to additional penalties in the form of the public disclosure of the perpetrator's identity. (7) Perpetrators as referred to in paragraphs (4) and (5) may be subjected to

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<sup>14</sup> Lawang, K. A., Kadir, M. A., Nur, S., & Sasralina, R. (2022). Sanksi Tindak Pidana Kekerasan Seksual: Studi Komparatif Fiqh, Qanun Aceh dan KUHP. *AT-TURAS: Jurnal Studi Keislaman*, 9(1), h. 102-121.

chemical castration and the installation of a chip. (8) The actions as referred to in paragraph (7) are decided together with the main penalty, including specifying the implementation period of the action. (9) Additional penalties and actions are exempted for child perpetrators.

Article 81A states: (1) The action as referred to in Article 81 paragraph (7) is imposed for a maximum period of 2 (two) years and is carried out after the convict has served the main penalty. (2) The implementation of the action as referred to in paragraph (1) is periodically supervised by the ministry responsible for legal, social, and health affairs. (3) The implementation of chemical castration is accompanied by rehabilitation. (4) Further provisions regarding the procedures for implementing the action and rehabilitation are regulated by Government Regulation.

Article 82 reads: (1) Anyone who violates the provisions as referred to in Article 76E shall be punished by imprisonment for a minimum of 5 (five) years and a maximum of 15 (fifteen) years and a fine of up to IDR 5,000,000,000.00 (five billion rupiahs). (2) In the event the criminal act as referred to in paragraph (1) is committed by parents, guardians, family members, child caregivers, educators, educational personnel, child protection authorities, or by more than one person collectively, the penalty is increased by 1/3 (one-third) of the prescribed penalty as referred to in paragraph (1). (3) In addition to the perpetrator as referred to in paragraph (2), an additional 1/3 (one-third) of the prescribed penalty is also imposed on a perpetrator who has been previously convicted for committing the criminal act as referred to in Article 76E. (4) In the event the criminal act as referred to in Article 76E causes harm to more than 1 (one) person, resulting in severe injuries, mental disorders, contagious diseases, disruption or loss of reproductive function, and/or death of the victim, the penalty is increased by 1/3 (one-third) of the prescribed penalty as referred to in paragraph (1). (5) In addition to the penalty as referred to in paragraph (1) to (4), the perpetrator may be subject to additional penalties in the form of the public disclosure of the perpetrator's identity. (6) Perpetrators as referred to in paragraphs (2) to (4) may be subjected to rehabilitation and the installation of electronic monitoring devices. (7) The action as referred to in paragraph (6) is decided together with the main penalty, including specifying the implementation period of the action. (8) Additional penalties are exempted for child perpetrators.

Article 82A reads: (1) The action as referred to in Article 82 paragraph (6) is carried out during and/or after the convict has served the main penalty. (2) The implementation of the action as referred to in paragraph (1) is periodically supervised by the ministry responsible for legal, social, and health affairs. (3) Further provisions regarding the procedures for implementing the action are regulated by Government Regulation.

After the Perpu was signed by President Joko Widodo, there were both supporters and opponents within society regarding the implementation of additional chemical castration penalties for sexual crime perpetrators. Supporters believe that this serves as a preventive measure and a deterrent effect on perpetrators to prevent them from



repeating their actions. On the other hand, those who oppose the implementation of chemical castration argue that it violates basic human rights.

The implementation of chemical castration is considered an act of violence contrary to the Constitution of the Republic of Indonesia, namely Article 28G paragraph 2, which states, "Every person has the right to be free from torture or inhumane treatment and has the right to seek political asylum from another country." Furthermore, Article 33 paragraph 1 of Law No. 39 of 1999 concerning Human Rights states, "Every person has the right to be free from torture, punishment, or treatment that is cruel, inhumane, degrading, and against his dignity and humanity."

Indonesia has also ratified international conventions against torture and other cruel, inhuman, or degrading treatment or punishment, as established by the United Nations General Assembly in its Resolution No. 39/46 on December 10, 1984, effective since June 26, 1987. Article 7 in this Covenant clearly.

Based on the provisions of the above article, the perspective of the National Human Rights Commission (Komnas HAM) regarding the implementation of chemical castration for sexual violence perpetrators is as follows: Imposing punishment through castration can be classified as a cruel and inhumane punishment that is not in line with Indonesia's constitution and commitments in the field of human rights. Imposing additional punishment through castration can also be classified as a violation of rights, namely the violation of the right to consent to medical procedures and the right to protection of an individual's physical and mental integrity.<sup>15</sup>

Komnas HAM views that addressing sexual crimes against children should not only focus on punishment but also rehabilitation and preventive measures. Furthermore, the Indonesian Medical Association (IDI) rejects involvement as executors of castration punishment because it contradicts medical ethics. The Chairman of IDI, Prof. Dr. Ilham Oetama Marsis, stated that the Indonesian Medical Association supports the government's policy to impose the most severe punishment on perpetrators of sexual violence against children. However, the additional sanction of chemical castration, which involves doctors as executors, is based on the fatwa of the Medical Honor and Ethics Council (MKEK) Number 1 of 2016 regarding Chemical Castration and is also based on the doctor's oath to ensure that its implementation does not involve doctors as executors.

A part of the doctor's oath that serves as the basis for refusing to become executors in administering anti-androgen injections is as follows: "I will respect every human life from the moment of conception, even under threat; I will not use my medical knowledge for something contrary to humanitarian law." IDI advocates the involvement of doctors in the rehabilitation of both victims and perpetrators. According to Ilham, the rehabilitation of victims is a top priority to prevent the adverse effects of the physical

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<sup>15</sup> Komnas HAM, <https://www.komnasham.go.id/15-2-2016-Keterangan-Pers-Pandangan-Komnas-HAM-Mengenai-Hukuman-Kebiri-Bagi-Pelaku-Kejahatan-Seksual>. Di akses pada tanggal 15 September 2022.

and psychological trauma they have experienced. The rehabilitation of perpetrators is necessary to prevent similar incidents that could result in more victims.

### **Chemical Castration from the Perspective of Islamic Criminal Law**

The issue of castration is not a new concept in Islamic criminal law.<sup>16</sup> During the early years of Islam, the companions were already familiar with the term castration. In fact, some companions sought permission from the Prophet to undergo castration when fighting against unbelievers. This incident is mentioned in a hadith recorded in Sahih al-Bukhari, Hadith No. 4887, which states that the companions fought alongside the Prophet Muhammad, but did not include their wives. They asked, "O Messenger of Allah, should we perform castration?" However, the Prophet prohibited them from doing so.

In this hadith, the Prophet prohibited the companions from castrating themselves because they were unable to control their sexual desires. This situation arose because their wives did not accompany them during the battle. To overcome the issue of sexual desire and maintain focus in battle, the companions considered castration. Before proceeding, they sought approval from the Prophet. However, when seeking permission, the Prophet rejected their request.

Ibnu Hajar al-'Asqalani, in his book *Fath al-Bari 'ala al-Syarh al-Sahih al-Bukhari*, commented on this hadith, stating that performing castration is considered haram by the consensus of scholars. This is because it poses dangers, inflicts self-torture, is highly prone to causing death, eliminates masculine traits, alters Allah's creation, and shows ingratitude for the blessing of masculinity, resembling women.<sup>17</sup>

This hadith does not address the context of punishment for a crime in Islam. Therefore, the hadith cannot be understood as a punitive hadith. Nevertheless, in the implied meaning (*mafhum*) of the hadith, the prohibition of administering castration is seen as it may undermine one of the objectives of Sharia, which is preserving lineage (*hifz al-nasl*).

The castration referred to in the hadith involves physical castration by removing the testicles, the site of testosterone production, resulting in a reduction of the perpetrator's sexual drive. In modern times, with rapid technological and medical advancements, castration is not limited to amputation or surgical removal of the testicles as in the past. Chemical castration can be performed without removing the testicles, using chemical injections to reduce sexual libido.

The prohibition of castration is based on the numerous harms (*mafsadah*) associated with it, leading to physical changes resembling those of women due to castration practices. Moreover, the harms of chemical castration are greater than physical castration due to the influence of anti-androgen chemicals, which can cause

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<sup>16</sup> Karimuddin Abdullah, *Uqubah dalam Fiqh Jinayat: Sebuah Upaya Menasionalnkan Hukum Pidana Islam*, *Journal al-Fikrah*, 2020, Volume 22, Issue 1, h. 165-187

<sup>17</sup> Ahmad bin 'Ali al-'Asqalani, *Fath al-Barri 'ala al-Sahih al-Bukhari*, (Mekah: Sultan bin Abdul 'Azizi 'Ala Su'ud, Juz 9,t.t.), h. 21.

premature aging, osteoporosis, heart disease, and clogged blood vessels. In Islam, it is forbidden for an individual to harm themselves or others, as stated in a hadith narrated by Ibn Majah, "Do not cause harm to yourself or to others."

Islamic law also prohibits men from resembling women or vice versa, as mentioned in a hadith recorded in Sahih al-Bukhari, Hadith No. 5546, where the Prophet curses men who resemble women and women who resemble men. This condemnation strongly discourages actions of *tasyabbuh* (imitation) in clothing, adornment, speech, and behavior, as it involves altering Allah's creation.<sup>18</sup>

If resembling women is prohibited, then the means (*wasilah*) that lead to this prohibition are also forbidden, following the legal maxim that states, "Whatever leads to a prohibited action is also prohibited."<sup>19</sup> In classical fiqh literature, there is no specific term for chemical castration, but the term used for reducing sexual libido is "*kasru al-syahwah*" (restraining sexual desire). Sayyid al-Bakri bin Syata al-Dimyati in *I'anat al-Talibin* stated that if someone unable to marry uses medicine to permanently eliminate sexual desire, it is considered haram. However, if the medicine is used to reduce sexual desire, it is considered *makruh*.<sup>20</sup>

The designation of *makruh* applies if the treatment does not involve what is forbidden in religion. However, if the treatment involves what is forbidden, it is considered haram. This is based on a hadith recorded by Abu Dawud, "Indeed, Allah has sent down both the disease and its cure, and He has made a cure for every disease. So seek treatment, but do not seek treatment with what is forbidden." From the mentioned explanations, it can be concluded that chemical castration shares similarities with physical castration in terms of its goals and harms (*mudarat*). Therefore, chemical castration is prohibited in Islam as it contradicts the concept of *maqasid al-shariah* (objectives of Islamic law), as stated in the legal maxim, "Preventing harm is given precedence over obtaining benefit."<sup>21</sup> 'Izz al-din bin 'Abd al-Salam elaborated on this legal maxim, stating that if harm is greater than benefit, then eliminating harm takes precedence even if the benefit is not realized.<sup>22</sup>

### III. CONCLUSION

The provisions of castration penalties according to Government Regulation No. 1 of 2016 on the Second Amendment to Law No. 23 of 2002 concerning Child Protection are found in Articles 81 and 81A. The imposition of chemical castration is an additional punishment after serving the main sentence for a maximum period of 2 years.

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<sup>18</sup> Muhammad bin Abi al-Jamarah, *Hasyiyah 'Ala al-Mukhtasar Abi al-Jamarah*, (Surabaya: Haramain Jaya, 2005), h. 186.

<sup>19</sup> 'Abd al-'Aziz Muhammad 'Izam, *Al-Maqasid al-Syari'ah fi al-Qawa'id al-Fiqhiyyah*, (al-Qahirah: Daarul Bayan, 2001), h. 292.

<sup>20</sup> Abu Bakar as-Sayid, *Hasyiyah I'anat...*, h. 256.

<sup>21</sup> Jalal al-Din al-Suyuthi, *al-Asybah Wa al-Nazair*, (Al-Qahirah: Darul Tauqifiyah, 2009), h. 121.

<sup>22</sup> 'Izz al-Din bin 'Abd al-Salam, *Qawa'id al-Ahkam fi Islah al-Anam*, Jilid II (Dimsyik: Daarul Qalam, 2010), h. 136.

Perpetrators eligible for chemical castration are recidivist offenders with multiple victims, resulting in severe injuries, mental disorders, contagious diseases, disrupted or lost reproductive functions, or death. The implementation of chemical castration is accompanied by rehabilitation and government supervision. The imposition of chemical castration as a penalty for perpetrators of sexual violence against children is viewed from the perspective of Sharia objectives as not permissible due to many harmful consequences, such as osteoporosis, the risk of bone fractures, and the reduction of muscle mass, increasing the risk of heart disease and clogged blood vessels. Avoiding harm is prioritized over achieving benefits. The imposition of chemical castration as a penalty for perpetrators of sexual violence against children can be categorized as ta'zir punishment based on emergency considerations.

## REFERENCES

### JOURNALS

Hening Hadi Condrowati, Hukuman Kebiri dan Penegakan Hukum di Indonesia, *Jurnal Bina Adhyaksa*, Vol 7. N0. 1 Nopember 2016.

Karimuddin Abdullah, Uqubah dalam Fiqh Jinayat: Sebuah Upaya Menasionalkan Hukum Pidana Islam, *Journal al-Fikrah*, 2020, Volume 22, Issue 1.

Karimuddin. (2016). Perilaku Lesbian, Gay, Bisexual dan Transgender (LGBT) Dalam Pandangan Al-Qur'an dan Hadis. *Jurnal Al-Mizan*, 3(2), 101-114. <https://doi.org/10.54621/jiam.v3i2.436>

Lawang, K. A., Kadir, M. A., Nur, S., & Sasralina, R. (2022). Sanksi Tindak Pidana Kekerasan Seksual: Studi Komparatif Fiqh, Qanun Aceh dan KUHP. *AT-TURAS: Jurnal Studi Keislaman*, 9(1).

Saputra, D., & Lawang, K. A. (2022). Komparasi Hukum Islam dan Hukum Perdata Terhadap Ganti Kelamin dan Konsekuensi Yuridisnya. *Jurnal AL-MAQASID: Jurnal Ilmu Kesyahriaan dan Keperdataan*, 8(2).

Sarmadi, A. S., Huzaimah, A., Jalaluddin, J., Lahmudinur, L., Nugraha, A. B., & Lawang, K. A. (2023). Criminal Liability of Children from the Perspective of Islamic Law and Positive Law in Indonesia. *AT-TURAS: Jurnal Studi Keislaman*, 10(1).

### Books

Abd al-'Aziz Muhammad 'Izam, *Al-Maqasid al-Syari'ah fi al-Qawa'id al-Fiqhiyyah*, (al-Qahirah: Daarul Bayan, 2001)

Abu Bakar Syata, *I'anat al-Talibin*, Jilid IV, (Beirut: Darul Fikri, t.t)

Ahmad bin 'Ali al-'Asqalani, *Fath al-Barri 'ala al-Sahih al-Bukhari*, (Mekah: Sultan bin Abdul 'Azizi 'Ala Su'ud, Juz 9,t.t.)

Izz al-Din bin 'Abd al-Salam, *Qawa'id al-Ahkam fi Islah al-Anam*, Jilid II (Dimsyik: Daarul Qalam, 2010)

Jalal al-Din al-Suyuthi, *al-Asybah Wa al-Nazair*, (Al-Qahirah: Darul tauqifiyah, 2009)

Jalaluddin al-Mahalli, *Syarh al-Minhaj al-Talibin*, Jilid IV, (Bairut: Darul Fikri, t.t)

Muhammad bin Abi al-Jamarah, *Hasyiyah 'Ala al-Mukhtasar Abi al-Jamarah*, (Surabaya: Haramain Jaya, 2005)

Ratnaningtyas, E. M., Saputra, E., Suliwati, D., Nugroho, B. T. A., Aminy, M. H., Saputra, N., & Jahja, A. S. (2022). *Metodologi Penelitian Kualitatif*.

Soejono dan Abdurrahman, *Metode Penelitian, Suatu Pemikiran dan Penerapan*, (Jakarta: Rineka Cipta, 2005)

### **Other Sources**

Bestari Kumala Dewi, *Ini Efek Hukuman Kebiri Pada Tubuh*, berita diunduh dari <http://health.kompas.com/25/05/2016/ini-efek-hukuman-kebiri-pada-tubuh>, diakses pada tanggal 17 Agustus 2022.

Danu Damarjati, *Menilik Sejarah Kebiri dari Masa ke Masa*, berita diunduh dari <http://detiknews.com/25/10/2015/menilik-sejarah-kebiri-dari-masa-ke-masa>, diakses pada tanggal 18 Agustus 2022.

Jokowi, *Teken Perpu Hukuman Kebiri*", *Serambi Indonesia*, 26 Mei 2016.

Komnas HAM, <https://www.komnasham.go.id/15-2-2016-Keterangan-Pers-Pandangan-Komnas-HAM-Mengenai-Hukuman-Kebiri-Bagi-Pelaku-Kejahatan-Seksual>. Di akses pada tanggal 15 September 2022.