

Castration Punishment for Perpetrators of Sexual Perversion Against Children in Islamic Law and Human Rights Studies

Hukuman Kebiri Bagi Pelaku Penyimpangan Seksual Terhadap Anak Dalam Tinjauan Hukum Islam dan Hak Asasi Manusia

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Abstract

The focus of this research is to identify the review of Islamic and Human Rights law on castration punishment for perpetrators of sexual deviations against children. This normative legal research uses a normative juridical approach. The results show that, first, in the view of Islamic law, the application of castration punishment against child rapists is declared haram because it is contrary to the principle of respect for the integrity of the human body. Meanwhile, then, in the perspective of human rights, the application of chemical castration punishment raises debates because there are views that clash with the principle of human rights protection, because it can eliminate biological abilities in intercourse. This research emphasizes the importance of reviewing in the perspective of integration of Islamic law and Human Rights on the aspects of effectiveness and humanity related to the application of castration punishment.

Keywords: *Castration Punishment, Islamic Law, Human Rights.*

Abstrak

Fokus penelitian ini untuk mengidentifikasi tinjauan hukum Islam dan Asasi Manusia pada hukuman kebiri bagi pelaku penyimpangan seksual terhadap anak. Penelitian hukum normatif ini dengan menggunakan pendekatan yuridis normatif. Hasil penelitian menunjukkan bahwa, pertama, dalam pandangan syariat Islam, penerapan hukuman kebiri terhadap pelaku pemerkosaan anak dinyatakan haram karena bertentangan dengan prinsip penghormatan terhadap integritas tubuh manusia. Sementara itu, Kemudian, dalam perspektif Hak Asasi Manusia, penerapan hukuman kebiri kimia menimbulkan perdebatan karena adanya pandangan yang membenturkan dengan prinsip perlindungan Hak Asasi Manusia, karena dapat menghilangkan kemampuan biologis dalam berhubungan intim.. Penelitian ini menegaskan pentingnya peninjauan kembali dalam perspektif integrasi hukum Islam dan Hak Asasi Manusia terhadap aspek efektivitas dan kemanusiaan terkait penerapan hukuman kebiri

Kata Kunci: *Hukuman Kebiri, Hukum Islam, Hak Asasi Manusia*

A. INTRODUCTION

Sexual deviant behavior is also known as abnormal or unnatural sexual behavior, and has a tendency to lead to sexual crimes. In the context of this paper, deviant sexual behavior refers to the crime of rape against children¹. Children who are approaching puberty are included in a group that has a high risk of becoming victims of sexual deviance, especially in the form of rape². The issue of rape³ is currently a hot topic of discussion in various parts of the world.

Fitri Wahyuni⁴ mentioned in her writing entitled *Castration Punishment for Child Rape Offenders and its Relationship with Human Rights*, in North Sumatra, for example, compiled by the Indonesian Heritage Foundation in 2012 there were 9 cases of rape against children. In Jember, in 2012 there were 58 cases. In Surakarta, there were 18 cases of rape against children⁵. In the most recent case, the son of a Bekasi legislator raped a 15-year-old girl and the perpetrator intended to marry her⁶. In India, there have been four rape cases that have been in the public spotlight. In these cases, two victims were reported dead, one victim was found dead from hanging herself, and one was burned alive by the perpetrator. Ironically, the perpetrators in these rapes were only sentenced to 100 push-ups and a fine of IDR 50,000 (around Rp10.4 million), a punishment that is considered very disproportionate to the abomination of the actions they committed⁷.

Cases of sexual violence in Indonesia continue to show an increase every year. The criminal provisions contained in the Criminal Code and the Child Protection Law are considered not effective enough to create a deterrent effect for perpetrators. In response to these conditions, the government passed Law No. 17/2016 which contains provisions for aggravated punishment, including the application of chemical castration sanctions for perpetrators of sexual violence. However, the chemical castration policy has drawn mixed responses in the community. Some question its effectiveness and are concerned about potential violations of human rights. The rejection refers to the principles contained in the 1945 Constitution, as well as provisions in international conventions such as the ICCPR and CAT that have been ratified by Indonesia, as well as Law Number 39 of 1999 concerning Human Rights. In the midst of the dynamics of pros and cons, it is important for the government to prepare the implementing apparatus, supporting facilities, and

¹ Annisa Hafid dkk, *Penyimpangan Seksual Menelusuri Kontroversi dalam Identitas LGBT*, dalam jurnal Populer: Jurnal Penelitian Mahasiswa Volume. 4, Nomor. 1 Tahun 2025 e-ISSN: 2963-5306-p-ISSN: 2962-116X, hlm. 67-82.

² Anin Wijayanti, *Pengaruh Bimbingan Kelompok Client Centered Tentang Pendidikan Seks Islami Terhadap Perilaku (Meliputi Pengetahuan, Sikap Dan Tindakan) Pencegahan Penyimpangan Seksual Pada Remaja Awal Perempuan*. alamat link: 110-Article Text-179-1-10-20191127.pdf. diakses pada tanggal 2 Juni 2021.

³ Ekandri Sulistyaningsih dan Faturrochman, *Dampak Sosial Psikologis Perkosaan*, (Buletin Psikologi, Tahun X No. 1, Tahun 2002) hlm. 12.

⁴ Fitri Wahyuni adalah seorang Dosen pada Fakultas Hukum Universitas Islam Indragiri Tembilahan.

⁵ Fitri Wahyuni, *Perkosaan Anak dan Kaitannya Dengan Hak Asasi Manusia (The Castration Punishment For Child Rapist And Its Relation To Human Right)*, Fakultas Hukum Universitas Islam Indragiri 2017, hlm. 280.

⁶ Lihat: <https://megapolitan.kompas.com/read/2021/05/25/12455471/anak-anggota-dprd-bekasi-tersangka-kasus-pemeriksaan-remaja-berniat?page=all>. Diakses pada 8 Juni 2021 Pukul 14.00 WIB.

⁷ Lihat koran Riau Pos pada tanggal 9 Mei 2018 dengan tema *Pemeriksa di India Semakin Brutal*.

comprehensive technical regulations so that the implementation of this policy runs optimally. A mature and comprehensive approach is needed to reduce the number of sexual violence, especially rape, and prevent the possibility of recidivism by perpetrators.⁸

The Minister of Health of the Republic of Indonesia in an official article on the website www.depkes.go.id states that castration punishment can be interpreted in two forms of action, namely cutting the reproductive organs or through the administration of chemical substances, known as chemical castration. Castration is basically a method to suppress sexual urges, and is usually applied to perpetrators of sexual violence. This procedure works by reducing the levels of androgen hormones, especially testosterone, in the body of the perpetrator.⁹

The 7th President of the Republic of Indonesia, Joko Widodo, has approved the implementation of castration punishment for perpetrators of sexual violence against children by signing Government Regulation (PP) Number 70 of 2020 concerning Procedures for Implementing Chemical Castration, Installation of Electronic Detection Devices, Rehabilitation, and Announcing the Identity of Perpetrators of Sexual Violence against Children.¹⁰ Although the practice of castration has been known since the past, its application in the context of modern law, especially against perpetrators of rape, still requires careful study and consideration. This is due to the emergence of pros and cons in society, both in terms of effectiveness and impact on human rights. Opponents argue that castration injection punishment through the administration of antiandrogen drugs is not appropriate for rape offenders. They argue that this step does not necessarily break the chain of sexual crimes, and has the potential to cause ethical, medical, and juridical problems. Thus, the application of chemical castration needs to be accompanied by a comprehensive study, from the legal, medical, ethical, social, and human rights aspects, to ensure that the policy truly presents a deterrent effect, protects victims, and fulfills a sense of justice in the community.¹¹

The focus of this research is to identify the review of Islamic law and psychology on castration punishment for perpetrators of sexual deviations against children. Many writings that explain about castration punishment for perpetrators of sexual deviance or sexual violence include *First*, the writing of Nuzul Qur'ani Mardiyah themed *Application of Chemical Castration Punishment for Perpetrators of Sexual Violence* in this paper Nuzul only explains castration punishment for perpetrators of sexual violence from the perspective of criminal law, and does not mention how Islamic Law views it. *Second*, the writing of Muhammad Andi Dirgantara Syafruddin Kallo, Alvi Syahrin, Chairul Barah themed

⁸ Nuzul Qur'ani Mardiyah, *Penerapan Hukuman Kebiri Kimia bagi Pelaku kekerasan Seksual*, jurnal: Pusat P4TIK Mahkamah Konstitusi, (2017), hlm. 1.

⁹ Lihat *Tribun Jogja*, *Apa itu Kebiri secara Kimiawi*, <https://jogja.tribunnews.com/2016/05/27/ini-penjelasan-detail-kebiri-kimiawi-secara-ilmiah-dipublikasikan-Minggu-27-Mei-2016>. Diakses pada 10 Juni 2025

¹⁰ Peraturan Pemerintah Republik Indonesia Nomor 70 Tahun 2020 Tentang Tata Cara Pelaksanaan Tindakan Kebiri Kimia, Pemasangan Alat Pendeteksi Elektronik, Rehabilitasi, Dan Pengumuman Identitas Pelaku Kekerasan Seksual Terhadap Anak.

¹¹ Lihat: Muhammad Firdaus Ibnu Pamungkas, *Urgensi Pengaturan Dan Penerapan Sanksi Kebiri Kimia Dalam Tindak Pidana Kekerasan Seksual Terhadap Anak*, dalam jurnal LEX Renaissance NO. 3 VOL. 7 JULI (2022), hal. 556.

Juridical Analysis of Punishment Policy with Castration Punishment Against Pedophilia Perpetrators, in this paper the authors explain about castration punishment against Pedophilia perpetrators from the perspective of Criminal Law, and do not mention the perspective of Islamic law and human rights studies.

B. RESEARCH METHOD

The main object studied in this research, namely the review of Islamic law and Human Rights related to castration punishment for perpetrators of sexual deviations against children. This research can be typologised as qualitative research in the form of literature review. Meanwhile, legal research in this study is classified as normative-philosophical legal research. The research data uses various scientific literature relevant to the focus of the discussion. Then the perspective of Islamic law and human rights is used as a paradigmatic basis in answering the subject matter. The research data was obtained through documentation. Furthermore, data analysis goes through the stages of reduction, presentation, and verification.

C. RESULTS AND DISCUSSION

Sexual Deviations Against Children

According to Soerjono Soekanto, deviant behavior is a form of social disease or community disease. This term refers to any form of behavior that is considered contrary to general norms, customs, positive laws, or that cannot be adjusted to the usual patterns of behavior in society. Deviant behavior is referred to as a disease of society because the social phenomenon that appears in the midst of social life develops into a problem that disrupts social order. In this context, social disease can also be understood as a condition in which the social structure is disturbed in carrying out its normal functions.¹² Meanwhile, sexual deviant behavior¹³ in this context refers to forms of sexual behavior that are unacceptable to society because they are contrary to the values, norms of religion, law, and decency. Deviant sexual behavior or orientation is an activity carried out to obtain sexual satisfaction in ways that are unnatural and not in accordance with religious teachings and prevailing moral values. This action is considered to damage the value of decency, and has the potential to disrupt the survival and social order of society. Meanwhile, what is meant by children are offspring born from a legal marriage according to Islamic teachings and the prevailing laws and regulations in Indonesia. Based on Law Number 23 of 2002 concerning Child Protection, as quoted by Nasir Djamil in his book entitled *Children are Not to be Punished*, children are a mandate and a gift from God Almighty, in which he inheres the dignity and dignity of a whole human being.

Sexual deviant behavior is a sexual act or behavior that is unacceptable to society because it contradicts values, religious norms, laws, and decency.¹⁴ Deviant sexual

¹² Soejono Soekanto, *Sosiologi Suatu Pengantar*. (Jakarta: PT. Raja Grafindo Persada). hlm. 237.

¹³ Hibatul Wafi, *Penyimpangan Orientasi Seksual ditinjau Sosiologis*, diakses pada tanggal 4 Juni 2021. link Hibatul Wafi-Penyimpangan Orientasi Seksual Tinjauan Sosiologis.pdf hlm. 2-6.

¹⁴ Achmad Anwar Abidin, *Perilaku Penyimpangan Seksual Dan Upaya Pencegahannya di Kabupaten Jombang*, dalam jurnal Prosiding Seminar Nasional & Temu Ilmiah Jaringan Peneliti IAI Darussalam Blokagung Banyuwangi ISBN : 978-602-50015-0-5, hlm. 547.

behavior or orientation is an activity carried out by a person to obtain sexual satisfaction through unnatural means and not in accordance with religious norms, laws, and social morality. This kind of action is considered to violate the values of decency and religious teachings, and has the potential to damage the order of human life as a whole. What is meant by children are offspring born from a legal marriage relationship between a man and a woman, both according to Islamic teachings and the provisions of the applicable law in Indonesia. Based on Law Number 23 of 2002 concerning Child Protection, as quoted by Nasir Djamil in his book entitled *Children Not to be Punished*, children are a mandate and a gift from God Almighty. In a child, the dignity of a whole human being must be respected and protected.¹⁵ Based on Article 1 Paragraph (1) of Law Number 23 of 2002 concerning Child Protection, what is meant by a child is someone who is not yet 18 (eighteen) years old, including children who are still in the womb.¹⁶

The sexual perversion of children referred to in this paper is deviant sexual behavior, committed by a person against a child who is not yet 18 (eighteen) years old, in a way that is not reasonable and contrary to religious, legal and cultural norms. Then, why does someone commit sexual deviance? According to Noelen Hoeksema in her book *Abnormal Psychology*, sexual deviance can occur as a form of venting aggressive or hostile urges, which tend to be more common in men than women. In addition, drug and alcohol abuse are also factors that contribute to the emergence of such behavior. The environment, family, and culture in which one is raised also influence an individual's sexual behavior. Children whose parents often give corporal punishment or who have experienced aggressive sexual contact, tend to have a higher risk of being sexually aggressive towards others as adults. Of course, there are many other factors that can influence the emergence of sexual deviant behavior, if explored in more depth from a psychological and sociological point of view.¹⁷

Islamic Law Review of Castration Sanctions

Castration (also known as testicular pulpectomy or bilateral orchiectomy) is an irreversible medical procedure that involves the removal of the testicles, the organ that produces the male hormone testosterone. It is a relatively simple procedure, where a small incision is made in the scrotum to remove the testicles. After the testicles are removed, a prosthesis is usually inserted into the scrotum to maintain its shape. The surgery is based on the assumption that removal of the sex glands will reduce the levels of sex hormones in the body, ultimately resulting in a decrease or loss of sexual drive.¹⁸ Surgical castration causes permanent side effects, including excessive sweating with a flushed face, loss of

¹⁵ M. Nasir Djamil, *Anak Bukan Untuk Dihukum*, (Sinar Grafika Jakarta: 2013), hlm. 8.

¹⁶ Undang-undang Republik Indonesia NO 23 Tahun 2002 Tentang Perlindungan Anak, hlm. 2.

¹⁷ Lihat: mengenal faktor penyebab kelainan seksual pada link: https://www.studeersnel.nl/nl/document/erasmus-universiteit-rotterdam/psychologie/nolen-abnormal-psychology-by-susan-nolen-hoeksema-2020paraphilias/25391976?utm_source=chatgpt.com diakses pada 10 Juni 2025. Pukul 20.00 WIB.

¹⁸ Linda E. Weiberger, Sreenivasan Shoba, Thomas Garrick, Handley Osrn, "The Impact Of Surgical castration Risk Among Sexually Violent Predatory Offenders", *The Journal Of The American Academy Of Psychiatry And The Law*, volume 33, Number I, (2005), hlm, 18.

hair on the body and face, weight gain, skin softening, loss of body protein, increased pituitary gland function, increased creatinine levels in the urine, and decreased calcium levels in the bones over a period of time. Meanwhile, psychological side effects may include depression, suicidal tendencies, emotional instability, and apathy towards life.¹⁹

Castration punishment can be divided into two forms, namely surgical castration (testicular cutting) and chemical castration. Chemical castration is a medical action by inserting antiandrogen chemicals into the body of sex offenders, either through pills or injections, with the aim of suppressing or weakening the production of the hormone testosterone in the body.²⁰ Meanwhile, in a journal entitled California's Chemical Castration Law: A Model for Massachusetts cited by Melina Dwi Ratnasari, it is stated that chemical castration is a form of medical treatment that uses antihormonal drugs to inhibit the release of hormones, which ultimately reduces testosterone levels in the male body.²¹

Punishment is part of the law that regulates the types of punishment and the procedures for its implementation. The term criminal is often equated with punishment. Punishment itself can be interpreted as suffering or pain that is intentionally imposed on someone as a result of an act that violates the law.²² That is, someone who commits an act that violates the provisions set by a rule. In Islam, law is defined as 'uqubah (عقوبة), which covers both harmful and criminal acts. Another name for 'uqubah is al-jazā' or ḥudūd. According to Abdul Qadir 'Audah, punishment is a form of retribution established to safeguard the interests of society due to violations of the provisions of Sharia. The purpose of punishment is to correct the individual, protect society, and create social order. The essence of the imposition of punishment is to maintain and realize the benefit of mankind and protect them from various forms of damage (mafsadah)²³. This is in accordance with the principle that Islam came to spread benefit and prevent harm, namely جَلْبُ الْمَصَالِحِ وَدَفْعُ الْمَفَاسِدِ.²⁴

Rape in Arabic is called al-wath'u bi al-ikrah (الوطء بالإكراه), which means sexual intercourse by force. If a man rapes a woman, all fuqaha agree that the woman is not subject to the punishment of zina (ḥadd az-zinā), either 100 lashes or stoning²⁵. The crime of rape is an act that contradicts the principles of the teachings of Islam as rahmatan li al-'ālamīn, a religion that brings mercy and compassion to all mankind, both Muslims and

¹⁹ Rizalina Mega Afifah & Pudji Astuti, "Pengaturan Hukuman Kebiri Bagi Pemerkosa Anak", hlm. 3

²⁰ Kementerian Kesehatan Republik Indonesia, "Menkes : Pertimbangan Efek Samping Hukuman Kebiri" dalam, www.depkes.go.id, di akses pada 10 Juni 2025.

²¹ Melina Dwiratnasari, *Pandangan Ulama Nahdlatul Ulama Dan Muhammadiyah Jawa Timur Terhadap Penerapan Sanksi Pidana Kebiri Pada Pelaku Pedofilia Berdasarkan Undang – Undang nomor 17 Tahun 2016 Menurut Hukum Islam*, hlm. 28.

²² Rusli, *Tinjauan Yuridis Persamaan dan Perbedaan Sanksi Pidana Antara Hukum Pidana Islam dengan Hukum Pidana Indonesia*, edisi 6, volume 2 dalam Jurnal Ilmu Hukum Legal Opinion, (2014), hlm. 3.

²³ Djazuli, H.A. *Fiqh Jinayah*, cet. Ke- 2, (Jakarta: PT. Raja Grafindo Persada, 1997), hlm. 25

²⁴ Lihat Ramadhan Khalid Hasan *Mu'jam Ushul Fiqh I*, (Mesir: 1997), hlm. 268. Lihat Makhrus Munajat, *Dekonstruksi Hukum Pidana Islam*, (Yogyakarta: Logung, 2004), hlm. 39.

²⁵ Kementerian wakaf dan Agama Kuwait, *Al Mausū'ah Al Fiqhiyyah Al Kuwaitiyyah*, cet. Ke- 1, juz 24 (Kuwait: 1996), hlm 31.

non-Muslims. Islam upholds the honor, safety, and comfort of every individual, so any form of sexual violence, including rape, is a clear violation of these basic values.

Human Rights Review of Castration Punishment

Indonesia is a country that upholds the principle of human rights protection for all its people. Therefore, the application of chemical castration punishment is considered not in line with the principles of Human Rights, because it is considered to degrade the dignity of the human being who is the subject of the punishment. Chemical castration is seen as an inhumane form of punishment, as it has a direct impact on a person's physical and psychological integrity. From a theological perspective, the concept of human rights is rooted in the belief that humans are creatures of God who have the same degree and dignity. There is no human being who is higher than another human being; the only Supreme Being is God Almighty. Based on these considerations, the imposition of chemical castration punishment can be categorized as a form of violation of individual human rights. Therefore, chemical castration is rejected by various human rights organizations and institutions, with the following premises: First, chemical castration is not fully in accordance with the criminal law system in Indonesia, which upholds the principles of justice, humanity, and proportionality in sentencing. Second, chemical castration can be qualified as a violation of human rights, as stipulated in various international instruments that have been ratified by the Government of Indonesia, such as: International Covenant on Civil and Political Rights, Convention Against Torture and Cruel, Inhuman, or Degrading Treatment or Punishment, and Convention on the Rights of the Child. Third, all forms of violence against children, including sexual violence, must indeed be dealt with firmly. However, the handling of the perpetrators of these crimes must still be in the corridor of human rights protection and must not be carried out in ways that violate humanitarian principles, such as torture or degrading punishment.²⁶

Article 5 of the Universal Declaration of Human Rights) of 1948 states that: "No one shall be subjected to torture or to cruel, inhuman or degrading treatment." In line with this, Article 28 I paragraph (1) of the 1945 Constitution of the Republic of Indonesia states: "The right to life, the right not to be tortured, the right to freedom of thought and conscience, the right to religion, the right not to be enslaved, the right to be recognized as a person before the law, and the right not to be prosecuted on the basis of retroactive laws are human rights that cannot be reduced under any circumstances."²⁷

These provisions show that the right not to be tortured and not to be treated cruelly or degradingly are human rights that are non-derogable (cannot be reduced under any circumstances). Therefore, in order for these rights to be upheld, it is important for the state and society to respect and guarantee the rights of each individual, which in turn will encourage the creation of justice and common welfare. In this context, the application of chemical castration through the administration of antiandrogen substances to perpetrators of child rape can be considered as a form of violation of human rights,

²⁶ Messy Rachel Mariana Hutapea, "Penerapan Hukuman Tindakan Kebiri Kimia dalam Perspektif Hak Asasi Manusia," *Jurnal Hukum Magnum Opus*, Vol. 3, No.1(2020): 30.

²⁷ Undang-Undang Dasar Negara Republik Indonesia Tahun 1945, hal. 21

because: First, it is a form of physical torture that directly affects the body of the perpetrator. Second, it degrades human dignity, which should be respected even in the process of law enforcement. Third, the administration of these substances causes serious side effects, including: Accelerated aging, Decreased bone density (osteoporosis), Decreased muscle mass, Increased accumulation of fat in the body, Higher risk of heart disease and other metabolic disorders. By considering the aspects of international law, national constitution, and medical impacts, it can be concluded that the application of chemical castration punishment for perpetrators of rape against children is not an appropriate form of punishment and is actually contrary to the basic principles of human rights.²⁸

D. CONCLUSION

Based on the search and study that has been done, it can be concluded several important points related to castration punishment for perpetrators of sexual deviations against children, as follows. According to the view of Islamic law, imposing castration punishment either physically or chemically to the perpetrator of rape against children is declared haram. This is based on the principle of the prohibition of damaging or injuring the human body and the existence of texts that prohibit the practice of castration, as confirmed by the majority of scholars (*jumbur fuqaha*). Then, in the perspective of human rights, the application of chemical castration punishment raises quite a sharp debate. One of the reasons for its rejection is because it contradicts the principle of human rights protection, which guarantees the dignity of every individual. Chemical castration is considered to degrade the value of a person's humanity because it can eliminate the biological ability to have sex, which is part of human existence.

This research emphasizes the importance of comprehensive recovery efforts that are expected to be a more humane and effective solution compared to the controversial castration punishment approach that does not necessarily provide a significant deterrent effect. This research contributes to the importance of reviewing in the perspective of the integration of Islamic law and human rights on the aspects of effectiveness and humanity related to the application of castration punishment. However, this research has not examined the views of Islamic institutions that have the authority to issue fatwas related to the importance of Islamic law review and human rights in the implementation of castration law. Therefore, further study is important.

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²⁸ Messy Rachel Mariana Hutapea, Penerapan Hukuman Tindakan Kebiri Kimia Dalam Perspektif Hak Asasi Manusia, hal. 31.

- Annisa Hafid dkk, *Penyimpangan Seksual Menelusuri Kontroversi dalam Identitas LGBT*, dalam jurnal Populer: Jurnal Penelitian Mahasiswa Volume. 4, Nomor. 1 Tahun 2025 e-ISSN: 2963-5306-p-ISSN: 2962-116X.
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