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Menimbang : Sehubungan dengan kegiatan pelaksanaan penelitian Dosen Tetap pada Prodi Ilmu Hukum Fakultas Hukum Universitas Bhayangkara Jakarta Raya, maka dipandang perlu mengeluarkan Surat Tugas.

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Untuk :
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RENEWAL OF CRIMINAL LAW AND THE IMPLEMENTATION OF CHEMICAL CLEARANCE SANCTIONS FOR CHILD SEXUAL CRIMES

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ABSTRACT

Protection of children is an activity to ensure the continuity of their lives to be able to grow and develop as the next generation of the nation, where the protection provided always pays attention to the existence of their rights, both juridical and non-juridical, which aims to ensure that children are always optimally healthy and able to move forward. maturity so that they can support themselves, so that due to protection and children are always guarded to avoid all threats and even actions that can endanger themselves. Because of the importance of protecting children, the perpetrators are always given castration sanctions, namely actions given to perpetrators of sexual crimes against children, in addition to the imposition of sanctions in the form of imprisonment and fines, but for children as perpetrators this chemical castration sanction is excluded. The purpose of this research is to find out how effective the implementation of castration sanctions is as a punishment for perpetrators of sexual crimes. While the method studied from this research is normative juridical, namely reviewing from the literature and also regulations from legislation and relating to the problem under study and can also be done by conducting a literature study where the results are that the implementation of castration sanctions in its application is contrary to human rights, and religion and can disturb the psyche of the perpetrator, and a law that applies nationally and not only a Government Regulation must be made so that its implementation is binding on everyone as an Indonesian citizen wherever they are.

INTRODUCTION

Children as a generation of a nation who will continue the ideals and struggles of a nation certainly have the right to protection and welfare, especially regarding their rights to life and away from all acts of violence, both physical and psychological as well as sexual violence and neglect in the household, and protection given since the child is still in the womb, the child is entitled to protection.

In line with the principle of child protection that there is non-discrimination wherein providing protection for children is the same and without discriminating from one another, whether from ethnicity, religion, race and skin color, all are treated equally, while the next is the best interest for the child. prioritizing the most important and first interests compared to the interests of adults, while respect for children is to always give the best for what children do and always respect what children do, and the right to grow and survive means that children always pay attention to their needs both regarding of primary and secondary needs.

In addition, other needs including the right to recreation, play as well as education and health are the concern of everyone and the protection given to everyone concerns also protection from acts of violence including acts of sexual violence due to the increasing number of perpetrators or ordinary people. The so-called predators do not only come from the outside environment, what is more concerning is the close family who actually becomes a protector for the child but instead becomes the predator, such as a father, brother or teacher, which causes the child to be unable to report due to fear or worry, let alone being threatened by the perpetrator (Widyaristanty). & Windari, 2022) .

Not only that, the perpetrators can also come from people who have influence or power so that children are not empowered to talk and report their problems or cases to other people and perpetrators of sexual crimes who make victims are children. Children as victims also have deviant behavior and are different from adults in general, for this reason, deviant behaviors if viewed from the criminological aspect are called pedophilia and are usually referred to as social deviations where violations of norms can be found (Pradana & Wibowo, 2019) .

While in social problems, the perpetrators can be categorized as individuals, organizational networks or the community itself. Included in the study of social deviance is criminology and social deviance studies behavior and those who are considered to be violators of the rules, while criminology is the study of people who violate official rules called laws where crime is a behavior that is considered unlawful behavior. , and lawbreakers are considered as someone who does not obey the rules that have been set by the authorities (Afifah, 2018) .

Violation of the law is carried out by those who are considered responsible, meaning that someone can be punished because it is clearly proven based on legal force that they have committed a criminal act in accordance with the principle of error and should be given sanctions as an ultimum remedium (Margareta & Jaya, 2020) , while for perpetrators who have abnormalities or behavior deviate and vent their desires to children as victims, there must be evidence in advance based on expert witnesses that there is deviant behavior and can occur due to having a gloomy past and being a victim or even within that there is a disease such as insanity that appears (Lestari & Waluyo, 2021) .

The term is often referred to as pedophilia which often vents its sexual desires on minors so that children themselves become victims so that they lose their rights, and there needs to be a strict sanction given to perpetrators so that they do not repeat their crimes in addition to imprisonment and fines but also such as castration so that the perpetrators do not repeat their actions, and children can be protected. Based on the introduction above, the problem to be studied is the effectiveness of the implementation of chemical castration sanctions as a punishment for perpetrators of child sexual crimes based on a review of child protection.

METHOD RESEARCH

This study uses a normative juridical approach, namely reviewing the literature and regulations from legislation and related to the problem under study and can also be done through a literature study by examining the theories and concepts of legal principles and legislation. related to this research and uses secondary data sources as well as primary and secondary data types.

RESULTS AND DISCUSSION

Criminalization for Child Sexual Crimes

Sentencing is defined as punishment for perpetrators who have clearly committed a crime and have fulfilled the elements of a criminal act where punishment is also the responsibility of the perpetrator due to the actions that cause suffering or harm to others and should be subject to criminal sanctions in accordance with the provisions in Article 10 of the Criminal Code. Moreover, regarding children, apart from the Criminal Code (KUHP), the regulation is also related to the Child Protection Act and the punishments or sanctions given to the perpetrators are layered because the victims are minors (Reese-Weber & Smith, 2011) .

Sexual intercourse in Book II Chapter XIV of the Criminal Code concerning crimes against criminal acts is called decency, and this crime can be interpreted as an act that is criminalized because it is related to the existence of sexuality which can be committed against men or women. Where intercourse can be divided into several types, namely:

1. Sexual intercourse with or carried out by force and is regulated in Article 285 of the Criminal Code.
2. Sexual intercourse without coercion is regulated in the provisions of Articles 286 and 287 of the Criminal Code.
3. Sexual intercourse with a child is regulated in Article 289 of the Criminal Code.

Provisions or Arrangements in Law no. 23 of 2002 concerning Child Protection as amended by Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection also provides protection for children specifically for children's rights from various kinds of violence in terms of This is an act of sexual violence.

Strictly speaking Article 15 of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection states that: "Every child has the right to obtain protection" from:

a. Abuse in political activities
b. Involvement in armed conflict
c. Involvement in social unrest
d. Involvement in events that contain elements of violence
e. Involvement in war and
f. Sexual crimes (Ariyanti, 2019) .

Renewal of Criminal Law Against Sanctions for Perpetrators of Sexual Crimes

Renewal is at least interpreted in a sense in aligning an understanding or concept and even principles with laws and regulations that are adapted to the needs and developments of society both nationally and internationally by accommodating all regulations that should be harmonized with developments in a society so that the law must be dynamic. and must not be static in changing or following it (Herlambang et al., 2019) .

For criminal acts related to decency crimes which consist of sexual intercourse or obscene acts, it is necessary to give or be subject to sanctions in the form of additional penalties. The punishment is with the implementation of castration sanctions for perpetrators of sexual crimes, several criminal acts that are subject to additional sanctions are also related to domestic violence (KDRT), namely where the perpetrator within a certain period of time cannot meet the victim first, as well as castration sanctions both regarding Children or women need to be given sanctions other than imprisonment and fines because castration sanctions can at least make the perpetrators have no intention of committing a crime because there is already weakness or numbness in their body (Marzuki, 2013) .

The purpose of this additional sanction in the form of castration is to emphasize crimes of decency or perpetrators as pedophiles not to desire to launch or attack the honor of children because children still need to be given protection as the nation's next generation and it is very unfortunate if these children are underage. must feel a very bad impact for the child and repressive or punitive measures are carried out if the child has become a victim, namely by providing rehabilitation to the victim as a level of healing and recovery so that the child can recover as usual (Mulyadi, 2008) .

This action is also an embodiment of the values of justice in society where changes in the rule of law do not just sit there but are dynamic in following developments in society and by reviewing prison sanctions and fines are not enough to punish the perpetrators and other additional sanctions are needed, to convict the perpetrator in relation to the act committed, namely a sexual crime.

The Effectiveness of Implementing Chemical Castration Sanctions

Government Regulation (PP) Number 7 of 2020 concerning Procedures for Implementing Chemical Castration, Installation of Electronic Detection Devices, Rehabilitation, and Announcement of the Identity of Perpetrators of Sexual Violence against Children, which in the implementation of an application of sanctions must at least be based on an act committed by the perpetrator, In other words, in addition to imprisonment and fines given to perpetrators, at least there is a need for other sanctions to be imposed, namely additional sanctions or punishments with castration (Wibowo, 2020) .

The effectiveness of the implementation of castration sanctions must at least be reviewed from various aspects, namely in its application there are pros and cons because there are still many who do not agree with its implementation, on the other hand it is necessary to have laws and regulations regarding the castration sanctions given and the procedures and if it is related to medicine who who will carry out castration and the costs must be borne by whom, whether the victim or from the Government itself and when it will be given, whether it is applied the same as the implementation of prison sanctions or after imprisonment (Fatmawati, 2017) . Determination of the existence of laws and regulations that are binding and national in nature must be carried out considering the existence of laws and regulations that can be followed by all Indonesian citizens because of the principle of personality because of the adage that everyone knows the law and the adage attached to Indonesian citizens (Suryandi et al. al., 2020) .

The perpetrators of sexual crimes need to be given a stamp or stigma as well and exposed to the public that the person concerned has committed a crime of sexual violence against children with the stigma attached to it, there will be social sanctions by being shunned by the environment and even the community that the perpetrator has committed an act criminal sexual violence and included in the crime of decency with the victim is a child (Trimaya, 2018) .

The application of this castration sanction also aims so that the perpetrator does not repeat his actions with no desire to commit sexual intercourse or obscene acts for the child, and the castration sanction at least in the regulation must also really provide a deterrent effect for the perpetrator and be given to the perpetrator so that the perpetrator really not repeating his actions and feeling that the castration sanction is suffering for the perpetrator (Bambang Waluyo, 2012) .

The punishment given is in accordance with the purpose of sentencing, namely the existence of a theory of retaliation, purpose and combination, and from these 3 (three) theories the purpose of punishment is not only retaliation but also a combination is also applied by seeing that there are not many victims, but if the victims are also many, then it can be done. given a castration sanction or severe punishment based on a judge's decision based on justice for the victim.

CONCLUSION

The implementation of chemical castration sanctions for perpetrators of crimes of sexual violence against children is an additional sanction in addition to prison sanctions, because the victim is a child, it is related to child protection, the application of the sanctions given is a severe sanction in prison because with a child as a victim, the child will lose their rights. their right to education and have an impact on psychology and can result in depression or stress for children as the next generation of the nation.

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