

# Review of the Professional Ethics of Doctors as Chemical Castration Sanctions in Indonesia

Muhammad Bagus Adi Wicaksono<sup>1</sup>, Itok Dwi Kurniawan<sup>2</sup>

<sup>1</sup>Dosen Program D-4 Demografi & Pencatatan Sipil, Universitas Sebelas Maret, Indonesia,

<sup>2</sup>Dosen Fakultas Hukum, Universitas Sebelas Maret, Surakarta, Indonesia

## Abstract

This study aims to determine the view of the medical ethics code regarding the doctor's profession as the chemical castrator of child sexual offenders who has been decided by the court as mandated by Article 82 A paragraph (2) of Law Number 17 of 2016 concerning Child Protection in conjunction with Article 9 of Government Regulation Number 70 of 2020 concerning Procedures for Implementing Chemical Castration, Installing Electronic Detection Devices, Rehabilitation and Announcement of the Identity of Perpetrators of Sexual Violence Against Children. This research is a normative legal research. Based on the results, it is known that theoretically related to the authority of the medical profession as a party ordered by law to carry out the castration process for perpetrators of sexual abuse against children who have been decided by the court is contrary to the principles contained in the medical code of ethics and oaths. doctor, in this case the presence of such a thing makes the doctor feel that he is not doing his profession in accordance with the Code of Medical Ethics which has been agreed upon and highly upholds moral values, one of which is "informed consent" or consent from family or patient. all actions that result in a decrease in the patient's physical endurance, although not necessarily reduce his psychological endurance. Second, that chemical castration is not a type of medical service but a punishment, so it is not the domain of medical or health personnel to do it.

**Keywords:** *Chemical Castration, Code of Medical Ethics*

## Introduction

Every year, crimes in the form of sexual violence in Indonesia have increased. The victims are not only adults, but now it has also spread to adolescents, children and even toddlers. The phenomenon of sexual violence against children is increasingly happening

and has become global in almost all countries. <sup>1</sup>

Unlike other forms of abuse, "cases of sexual violence against children have a much more significant impact on children, both directly and in the long term, not only physically." Furthermore, this action will have a negative impact on emotional, social and emotional well-being. psychological victims of violence ". As it is known that in response to this, the Government issued a Government Regulation in Lieu of Law (Perpu) Number 1 of 2016 concerning the Second Amendment to Law Number 23 of 2002 concerning Child Protection to anticipate increased sexual abuse

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### Corresponding Author:

**Muhammad Bagus Adi Wicaksono**

Lecturer of D-4 Demography & Civil Registration Program, Universitas Sebelas Maret, Indonesia.

Street. Ir. Sutami No. 26, Surakarta, Indonesia

Email ID: wicaksonomhammad0505@gmail.com

of children, known as Law Number 17 of the Year. 2016 (hereinafter referred to as Law 17/2016) regulates the weight of sanctions for perpetrators of sexual crimes against children, including the death penalty, life imprisonment and a maximum imprisonment of 20 years, as well as alternative crimes in the form of announcing the identity of the perpetrator.

According to the author's notes, so far the imposition of castration sanctions has never been applied in Indonesia after the enactment of Law 17/2016, there are only two cases where judges used the punishment of castration before this research was conducted. First, in case No. 69 / Pid.sus / 2019 / PN.Mjk, In this case, the defendant Muhammad Aris was legally and convincingly proven to have committed crimes of sexual violence against 9 (nine) children in the jurisdiction of the Mojokerto Regional Police, as determined by the Mojokerto District Court and later strengthened by the Surabaya District Court. High Court Decision number 695 / PID.SUS / 2019 / PT.Sby. According to the facts of the case, "the perpetrator raped 9 (nine) children with an average age of 6-7 years and was found guilty. Based on a court ruling, convicted of sexual abuse and violence against children is sentenced to 12 years in prison, a fine of Rp. 100 million, and 6 months in prison".<sup>2</sup>

Second, the decision of the Surabaya District Court which stated that "the convict Rahmat Slamet Santoso was sentenced to chemical castration". where since 2015, Rahmat was found guilty of molesting 15 children while working as a Scout Guide in six public and private elementary and junior high schools. The judge sentenced the defendant to 12 years in prison with a fine of Rp. 100 million, three months in prison and three years of chemical castration.<sup>3</sup>

However, it should be noted that there is no technical protocol yet to enforce the criminal sentence of castration against the two convicts at the time of the verdict. The new government passed a regulation

regulating the technical implementation of castration sanctions on December 7, 2020, through "Government Regulation Number 70 of 2020 concerning Procedures for the Implementation of Chemical Castration, Installation of Electronic Detection Devices, Rehabilitation and Announcement of the Identity of Perpetrators of Sexual Violence Against Children (hereinafter referred to as PP 70 / 2020).

On the other hand, at first glance, it seems that the medical profession has a completely different relationship with the enforcement of the castration sanction, because each has very different meanings. However, "there is a connection, that castration is a form of punishment in the health sector while doctors are health workers who act as executors who are given the obligation to punish". It is not "clearly stated in Law 17/2016 that castration is carried out by doctors," but "as a profession that is responsible for the health sector, it is clear that doctors are one of them." The following is contained in Article 82 A paragraph (2) of Law 17/2016: "The implementation of the actions referred to in paragraph (1) shall be under regular supervision by the ministry which is responsible for government affairs in the legal, social and health sectors..

Likewise, this lack of clarity is also contained in Article 9 of PP 70/2020 regarding the implementation of the castration process which states that the procedure for implementing the castration process is carried out as follows:

1. "the implementation of the chemical castration act is carried out after the conclusion as meant in Article 8 states that the perpetrator of intercourse is eligible to be subject to the act of chemical castration;
2. Within a period of not later than 7 (seven) working days from the receipt of the conclusion as referred to in letter a, the prosecutor will order the doctor to carry out the implementation of chemical

castration to the perpetrators of intercourse;

3. The implementation of the Chemical Castration as referred to in letter b shall be carried out immediately after the convict has completed serving the main sentence;

4. the implementation of the chemical castration act is carried out at a government-owned hospital or a designated regional hospital;

5. the implementation of the Chemical Castration Act was attended by prosecutors, representatives from ministries that administer government affairs in the field of law, ministries that carry out government affairs in the social sector, and ministries that carry out government affairs in the health sector;

6. the implementation of the chemical castration action is stated in the minutes; and

7. the prosecutor notifies the victim or the victim's family that the chemical castration act has been carried out.

Based on the mandate of Article 9 PP 70/2020, the medical profession has a great possibility to carry out the castration process, because it is recognized that doctors are responsible for the health sector, so it is clear that doctors are one of them. Furthermore, the argument that "the castration that the medical profession will perform is that castration has two distinct forms of procedure, namely surgical and chemical processes are very convincing." The results of castration surgery, also known as testicular surgery, are permanent, in chemical castration. however, drugs will be given regularly to reduce the amount of testosterone in the body, thereby reducing sex drive".<sup>4</sup>

This type of procedure requires experienced personnel, so doctors with experience are the most qualified to perform the procedure. This shows that the purpose of the article above is related to the doctor's duties as the party who will execute. Therefore, the

question that deserves to be raised is "what is the view of medical ethics regarding the medical profession as the executor of chemical castration, as it is well understood that doctors are driven by the lofty ideals of their profession, and this code of ethics becomes a guideline for every doctor to behave. and act. relevant to his profession".

### Research Methods

This research is a normative legal research, namely the process of finding a rule of law, legal principles, and legal doctrines in order to answer the legal issues at hand. (Marzuki, 2016) With regard to the normative legal research method, the technique of collecting legal materials used is document study or literature study. The approach used in this study is a statutory approach and a case approach. (Marzuki, 2016) by studying and examining the views of the medical code of ethics regarding responsibility as the party implementing (executor) of chemical castration sanctions on child sexual offenders.<sup>5</sup>

### Discussion

The view of the code of medical ethics regarding the authority of doctors as executors of chemical castration sanctions.

Today, various types of professional professions in Indonesia usually have a standard professional code of ethics. If it is related to the problem of chemical castration, as the theme that the author raises in this article, namely, there is a conflict between some of the ethics listed in the Code of Medical Ethics and the fact that doctors are a profession appointed by the court to be the executor of chemical castration. Doctors as a profession that has competence in the health sector with the implementation of chemical castration punishment in Indonesia then face a dilemma related to the existing medical ethics review of this phenomenon. The Indonesian Doctors Association (hereinafter abbreviated as IDI) has issued a fatwa

refusing doctors as executors of castration who are considered to injure the professional oath, given the questionable effectiveness of castration and the risk of other complications that convicts with castration must face.<sup>6</sup>

IDI Chairman Daeng M. Faqih said that IDI allowed Indonesia to impose a punishment in the form of chemical castration. However, IDI asks not to appoint medical personnel or health workers as executors. The reason IDI refuses to be the executor of chemical castration punishment is first, that chemical castration is not a type of medical service but a punishment, so it is not the domain of medical or health personnel to do it. Therefore, IDI has invited the government to appoint executors other than medical personnel. The second reason IDI refuses to be the executor is that the act of execution can lead to a conflict of norms, namely medical ethics, orders from the World Health Organization (WHO), and the Health Act which prohibits carrying out these actions, in this case, chemical castration.

Castration or castration is a surgical procedure and / or the use of chemicals with the aim of eliminating the function of the reproductive organs in the form of testes in males and ovaries in females. Based on its understanding, the castration procedure is then classified into physical castration and chemical castration. In physical castration, the operator performs total removal of the reproductive organs, namely the testes and ovaries. In chemical castration, such an action is not carried out, but is replaced by giving chemical compounds that can weaken or eliminate the function of sex hormones. Pathophysiologically, chemical castration is carried out by injecting the hormone anti-testosterone into the body of the convicted person.

Today, castration is carried out with the aim of serving as a criminal sanction against perpetrators of sexual crimes such as rapists and pedophiles in various

countries. Each country applies different methods of castration. The Czech Republic and Germany are examples of several countries that apply physical castration punishment, namely the removal of the testicles of pedophile offenders as an effort to control the perpetrators' abnormal sexual urges. Russia and South Korea have imposed chemical castration penalties for perpetrators of sexual crimes who are at risk of repeating their crimes after consultation with a psychiatrist.<sup>7</sup>

Based on the principles of medical ethics contained in the Hippocratic Oath, causing death or disability to a person is against the principle of nonmaleficence or "do no harm". Then, the criminal is also not in a situation that allows him to give informed consent or consent, which is part of the principle of autonomy in the Hippocratic Oath. The fifth item on the hippocratic oath which reads "I will not use my doctor's knowledge for something that is against humanity even if threatened" adds to the basis of reinforcing reasons for doctors not to use their expertise whose impact is contrary to humanity. . Not only violating the hippocratic oath, the execution of chemical castration punishment which if carried out by a doctor will also violate the 2012 Code of Medical Ethics Article 5 which states that "Every action or advice that may weaken psychological or psychological endurance, must obtain the consent of the patient or his family and only be given. for the benefit and benefit of the patient."<sup>7</sup>

These two things, the fifth item of the hippocratic oath and Article 5 of the 2012 Medical Code of Ethics is a clear description of the principles found in the medical profession, namely, the principle of "do no harm" and the principle of "informed consent." The two pillars of medical principles will be misled if the doctor executes the chemical castration sentence. Chemical castration considering its side effects in the form of decreased levels of the hormone testosterone

which will affect the function of other organs, such as muscle atrophy, bone loss, reduced blood cells, and impaired cognitive function, of course it will be very dangerous for people affected so the principle of “do no harm” has been ruled out.<sup>8</sup>

In the case of carrying out chemical castration executions of child sexual offenders, doctors do not need to seek approval from the person who will be executed because chemical castration is a clear punishment if it has been decided by the court against that person. The presence of such things makes doctors feel that they are not doing their profession in accordance with the Code of Medical Ethics that has been agreed upon and highly upholds moral values, one of which is “informed consent” or consent from family and patients for all actions that result in decline. physical endurance of the patient, although not necessarily reduce his psychological endurance. So what if the execution of chemical castration still has to be carried out by doctors, considering that doctors are a profession that is considered very competent to carry out chemical castration executions. So based on the description above, in the opinion of the author regarding the executive authority of perpetrators of child sexual abuse by doctors as contained in Article 82 A paragraph (2) of Law 17/2016 Juncto Article 9 PP 70/2020 can be said to be contradictory or inconsistent with these principles. principles contained in the medical code of ethics and the doctor’s oath.<sup>9</sup>

### Conclusion

Based on the results of this study, it is known that theoretically related to the authority of the medical profession as a party ordered by law to carry out the castration process for perpetrators of sexual abuse against children who have been decided by the court is contrary to the principles contained in the medical code of ethics and oaths. doctor, in this case the presence of such a thing makes the doctor feel that he is not doing his profession in accordance

with the Code of Medical Ethics which has been agreed upon and highly upholds moral values, one of which is “informed consent” or consent from family or patient. all actions that result in a decrease in the patient’s physical endurance, although not necessarily reduce his psychological endurance. Second, that chemical castration is not a type of medical service but a punishment, so it is not the domain of medical or health personnel to do it.

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### References

1. Ivo Noviana, Kekerasan Seksual Terhadap Anak: Dampak Dan Penanganannya, *Jurnal Sosio Informa* 2015 1 (1).
2. Peter Mahmud Marzuki, *Penelitian Hukum*, Jakarta: Kencana Prenada Media Group. 2016
3. Fitri Wahtuni, Hukuman Kebiri Terhadap Pelaku Tindak Pidana Perkosaan Anak dan Kaitannya Denga Hak Asasi Manusia (*The Castration Punishment For Child Rapist And Its Relation To Human Right*), *Jurnal Hukum dan Peradilan*, 2017. 6 (2),
4. Jein Djauhari, 2017. *Analisis Kebijakan Hukum Pidana Penjatuhan Sanksi Kebiri Pada Pelaku Kejahatan Seksual Terhadap Anak*. Tesis Program Magister Ilmu Hukum Program Pascasarjana Fakultas Hukum Universitas Islam Indonesia.
5. Jean D. Wilson Claus Roehrborn, Long-Term Consequences of Castration in Men: Lesons from the Skoptzy and the Eunuchs of the Chinese and Ottoman Courts, *Journal of Clinical Endocrinology & Metabolism*, 2019 84 (1),
6. Nuzul Qur’aini Mardiyah, “Penerapan Hukum

- Kebiri Kimia Bagi Pelaku Kekerasan Seksual  
Implementation of Chemical Castration  
Punishment For Sexual Offender,” *Jurnal  
Konstitusi*. 2017 14 (1),
7. Supriyadi Widodo Eddyono, Ahmad Sofian,  
Anugerah Rizki Akbari, Menguji Euforia Kebiri:  
Catatan Kritis atas Rencana Kebijakan Kebiri  
(Chemical Castration) Bagi Pelaku Kejahatan  
Seksual Anak di Indonesia, Institute for Criminal  
Justice Reform, Jakarta, 2016
  8. Saputra, Rian. Sulistiyono, Adi. Latifah, Emmy.  
Pendaftaran Internasional Sebagai Upaya  
Perlindungan Indikasi Geografis Indonesia  
Dalam Perdagangan Global (Studi Peraturan  
Pemerintah Nomor 22 Tahun 2018), *Jurnal IuS  
Kajian Hukum dan Keadilan Agustus*. 2019. 7  
(2)
  9. Saputra, Rian. Development of Creative Industries  
as Regional Leaders in National Tourism Efforts  
Based on Geographical Indications, *Jurnal  
Bestuur December*, 2020. 8 (2).