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# The Rationality of Chemical Castration for Perpetrators of Child Sexual Violence: A Comparative Analysis of Positive Law and Islamic Law in Indonesia

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**Abstract**

The application of chemical castration to perpetrators of sexual violence against children raises questions regarding legal legitimacy, the effectiveness of preventing recidivism, and the protection of physical integrity and human dignity. This study analyses the legal basis for chemical castration within Indonesian positive law and assesses the legitimacy of its application from the perspective of Islamic law. The research employs a normative legal methodology, utilising statutory, conceptual, and comparative approaches. Primary legal sources include Law Number 17 of 2016 and Government Regulation Number 70 of 2020, while the analysis from the perspective of Islamic law is grounded in the concepts of ta'zir (discretionary punishment), maslahah (public interest), Maqasid al-Shariah (the higher objectives of Islamic law), and the prevention of harm. The analysis is conducted in a descriptive-analytical and evaluative manner. The findings indicate that the existence of a legal basis for chemical castration does not automatically prove its effectiveness in reducing recidivism, nor does it guarantee safety or the reversibility of its medical consequences. From the perspective of Islamic law, chemical castration may be examined as a form of contemporary ta'zir; however, its acceptance is not automatic and must meet principles of necessity, proportionality, public interest, and harm prevention. This study proposes an evaluative framework for the legitimacy of chemical castration based on five aspects: legality, proportionality, medical protection, respect for

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human dignity, and evidence of effectiveness. Consequently, the legitimacy of chemical castration is conditional and requires judicial oversight, independent clinical examinations, and ongoing empirical evaluation.

**Keywords**: Chemical castration; Human rights; Islamic law; Maqasid al-Shariah; Sexual violence.

## Introduction

Protecting children from sexual violence is a legal obligation of the state, grounded in the principles of human rights protection, respect for human dignity, and the best interests of the child. Within the Indonesian legal framework, this obligation is manifested, among other ways, through Law Number 17 of 2016, which ratified Government Regulation instead of Law Number 1 of 2016, amending Law Number 23 of 2002 on Child Protection. This regulation imposes harsher sanctions on perpetrators of sexual crimes against children, including the potential application of chemical castration under conditions specified by law. Government Regulation Number 70 of 2020 further regulates its implementation procedures. Normatively, these provisions reflect the state's effort to strengthen child protection through more stringent legal instruments. However, the existence of this legal basis does not, in itself, resolve questions regarding the proportionality, effectiveness, and moral legitimacy of employing chemical castration as part of a policy to combat sexual crimes against children.[1]

The urgency of this issue is underscored by social realities, which show that violence against children remains a serious problem in Indonesia. Data from the Online Information System for the Protection of Women and Children (Simfoni PPA), managed by the Ministry of Women Empowerment and Child Protection, recorded 19,628 cases of violence against children involving 21,648 victims throughout 2024. Sexual violence was the most frequently recorded category of abuse in these reports.[2] Sexual violence against children manifests in various forms and characteristics, ranging from harassment through verbal or non-physical acts, and conduct involving physical contact or sexual acts short of intercourse, to the coercion of sexual relations or sexual intercourse. Distinguishing between different forms of such acts is essential because the severity of the violation, the impact on the victim, and the legal consequences are not always the same. Sexual violence can have long-term physical and

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[1] S R Amri et al., "Protection against Child Sexual Violence Model: Legal, Health and Educational Perspectives," *Safer Communities* 24, no. 3 (2025): 202–26, https://doi.org/10.1108/SC-09-2024-0059.

[2] Kementerian Pemberdayaan Perempuan dan Perlindungan Anak Republik Indonesia. Laporan Kinerja. Jakarta: Kementerian Pemberdayaan Perempuan dan Perlindungan Anak Republik Indonesia, 2025.

psychological repercussions; it violates bodily integrity, undermines a sense of safety, and threatens the dignity of children, a particularly vulnerable group.[3,4] Consequently, the response to such acts cannot focus only on punishing the perpetrator; it must also ensure the victim's protection and recovery, as well as the fulfilment of their rights.

Differentiating between forms of sexual violence is also relevant from the perspective of Islamic law, as the determination of punishment depends on the specific characteristics and elements of the act committed. In fiqh jinayah (Islamic criminal jurisprudence), the act of zina (illicit sexual intercourse) carries its own specific hadd (fixed) punishment, with a distinction made between muhsan (married/previously married) and ghairu muhsan (unmarried) perpetrators, based on criteria established within fiqh doctrine. However, not all forms of sexual violence can be classified as zina. Harassment through verbal remarks, non-coital sexual acts, or other conduct that does not meet the legal elements of zina may be analysed within the framework of ta'zir (discretionary punishment), depending on the nature of the act and the applicable legal provisions. Furthermore, sexual violence involving coercion cannot simply be equated with consensual sexual relations, particularly when it comes to determining the victim's accountability. Thus, classifying an act is a crucial step before determining the appropriate Islamic legal framework for sentencing.

The concept of ta'zir gives authorities discretion to determine punishments for acts not specifically covered by hadd (fixed) penalties, provided they uphold the principles of justice and the objectives of Sharia. This authority does not imply that those in power may impose limitless punishments; rather, they must consider the purpose of sentencing, the nature of the offence, the level of danger posed, and the public interest (maslahah). In this context, punishment in Islam is not merely about retribution for an act committed; it also serves a preventive function both to deter the offender and to prevent the recurrence of similar crimes. Consequently, any form of punishment, including chemical castration, must be evaluated against these sentencing objectives. The fundamental question is whether chemical castration is truly grounded in the public interest, proportionate to the offender's actions, and justifiable in terms of its benefits versus its potential harms.

Within this framework, chemical castration emerges as a legal instrument that sparks debate regarding the balance between strict penal measures and the protection of human rights. From the perspective of positive law, this policy can be understood as a state effort to deter crime, reduce recidivism, and strengthen

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[3] C R Hollin, *Reducing Interpersonal Violence: A Psychological Perspective* (Taylor and Francis, 2018), https://doi.org/10.4324/9781315208220.

[4] Ngazizah and Ismayawati. "Child Marriage in Indonesia: Sexual Violence or Not?," *De Jure: Jurnal Hukum Dan Syar'iah* 14, no. 2 (2022): 288–303, doi:10.18860/j-fsh.v14i2.17850.

protection for child victims. This orientation aligns with a utilitarian approach, which evaluates policies based on their societal benefits and their capacity to mitigate social harm.[5] However, the rationality of a penal policy cannot be assessed solely by the severity of the sanction or the goal of public protection. Its implementation must also account for a clear legal basis, the proportionality of the sanction, the offender's circumstances, the measure's effectiveness, and respect for human dignity and fundamental human rights.

On the other hand, the protection of human rights is not solely oriented toward the perpetrator; it also encompasses the victim's right to safety, bodily integrity, rehabilitation, and protection from recurring violence. Consequently, any assessment of chemical castration must strike a balance between the protection of victims, the interests of society, and the rights of the perpetrator. This issue is particularly significant because the anticipated benefits of such a measure must be weighed proportionally against its potential medical, ethical and legal consequences.[6,7]

From the perspective of Islamic legal philosophy, the policy of chemical castration can be evaluated through the concepts of maqasid al-shariah (the objectives of Islamic law), maslahah (public interest/welfare), and the prevention of harm. The framework of maqasid al-shariah, specifically the preservation of life (hifz al-nafs) and the preservation of lineage/progeny (hifz al-nasl), provides a basis for assessing the obligation to protect children from sexual violence, while simultaneously considering the implications for the perpetrator's physical body.[8] The preservation of lineage can be understood not merely as the continuity of generations, but also as the safeguarding of a child's safety and dignity against destructive acts. Meanwhile, preserving life requires that any policy consider safety and potential health impacts. Therefore, maslahah (public interest) cannot be measured simply by the severity of the punishment or the extent of the perpetrator's suffering; rather, it must be evaluated based on the tangible benefits for the victim and society, the effectiveness of the measure in preventing further harm, and the potential risks of adverse consequences. This framework incorporates both the victim's and the perpetrator's rights into the

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[5] Henny Yuningsih et al., "Philosophical Foundation of Chemical Castration for Offenders of Sexual Violence Against Children," *Sriwijaya Law Review* 4, no. 1 (2020): 62–78, https://doi.org/10.28946/slrev.Vol4.Iss2.

[6] Z D Kaufman, "Protectors of Predators or Prey: Bystanders and Upstanders amid Sexual Crimes," *Southern California Law Review* 92, no. 6 (2019): 1317–1406.

[7] Andrada Nour, "Chemical Castration of the Sexual Offender versus Human Fundamental Rights and Freedoms," *Scholars International Journal of Law, Crime and Justice* 03, no. 05 (2020): 144–48, https://doi.org/10.36348/sijlcj.2020.v03i05.002.

[8] L Jamaa, "Domestic Violence in Fiqh Perspective," *Ahkam: Jurnal Ilmu Syariah* 13, no. 1 (2013): 65–80, https://doi.org/10.15408/ajis.v13i1.952.

broader consideration of justice, while acknowledging the differences in their respective positions and the harm experienced by each party.

Several previous studies have examined chemical castration from various perspectives. Azhari Akmal Tarigan[9] explores classifying chemical castration as ta'zir (discretionary punishment), considering the promotion of public welfare and the prevention of harm. Kartono and Aji Mulyana[10] emphasise the role of public interest in justifying such measures, while also highlighting the need for limitations grounded in medical ethics and the protection of the offender's rights. From a positive law standpoint, Ahmad Jamaludin et al,[11] discuss the legal basis for chemical castration under Law Number 17 of 2016, as well as the ethical concerns and potential human rights violations associated with its implementation. Meanwhile, Louisa E Heathcote[12] notes limited empirical evidence that chemical castration reduces recidivism. Mohammareza Shahidipak[13] links chemical castration to maqasid al-shariah (the objectives of Islamic law) and human rights principles, stressing the importance of protecting life and lineage, ensuring proportionality, and respecting human dignity. Furthermore, Dina Silvia Puteri et al,[14] view chemical castration as a legal-policy response to the issue of sexual violence against children, while also highlighting the controversies surrounding it and the challenges related to healthcare infrastructure during its execution.

Although existing research has made significant contributions to the study of chemical castration, covering legal, ethical, human rights, and Islamic legal perspectives, there remains room to further integrate Islamic penal theory objectives with an evaluation of chemical castration policies within the framework of Indonesian positive law. While some studies have explored classifying chemical castration as ta'zir or linking it to maqasid al-shariah, others have focused more on its legality, the associated human rights controversies, and the measure's overall effectiveness. This study offers a distinct perspective by moving away from treating positive law and Islamic law as two parallel legal

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[9] Azhari Akmal Tarigan, "Chemical Castration for Pedophiles: Study of Fiqh Problems in Indonesia," *Al-Ahkam* 30, no. 2 (2020): 141–58, https://doi.org/10.21580/ahkam.2020.30.2.5517.

[10] Kartono Kartono and Aji Mulyana, "The Implementation of Chemical Castration Penalties towards Paedophilia Crime Perpetrators," *FIAT JUSTISIA: Jurnal Ilmu Hukum* 13, no. 4 (2019): 321–32, https://doi.org/10.25041/fiatjustisia.v13no4.1683.

[11] Ahmad Jamaludin et al., "Sanctions For Chemical Castration Action In Indonesia," *Russian Law Journal* XI, no. 5 (2023): 40–49.

[12] Louisa E Heathcote, "Chemical Castration in Indonesia: Limiting an Absolute Human Right," *The Indonesian Journal of Southeast Asian Studies* 3, no. 2 (2020): 201–16.

[13] Mohammareza Shahidipak, "Ibn Khaldun as a Paradigm for the Past and Future of Sociology and Humanity," *Sociology International Journal* 4, no. 5 (2020): 153–59, https://doi.org/10.15406/sij.2020.04.00240.

[14] Dina Silvia Puteri et al., "Chemical Castration From Criminal Law And Human Rights," *Cepalo* 4, no. 1 (2020): 67–80, https://doi.org/10.25041/cepalo.v4no1.1910.

systems to be compared; instead, it uses the principles of Islamic legal philosophy to assess whether the policy of chemical castration, as stipulated in Indonesian positive law, is acceptable or tolerable under Islamic law. The novelty of this research lies in developing an evaluative framework that integrates the classification of sexual violence, the objectives of ta'zir (discretionary) punishment, the welfare of victims and society, the protection of the perpetrator's rights, the proportionality of the measure, and considerations of effectiveness and medical impact. Through this framework, the study not only questions the legality of chemical castration but also examines the limits of its justification in light of the goals and principles of Islamic law.

The research proceeds from the premise that the existence of a valid legal basis is a necessary, yet insufficient, condition to conclude that a punitive measure is entirely rational and justifiable. The rationality of a punishment must also be evaluated based on the alignment between the intended objectives, the nature of the measure, the consequences of its implementation, and the protection of the rights of all parties involved. Within the framework of das sein (what is) and das sollen (what ought to be), das sein refers to the empirical reality, namely, the high incidence of violence against children and the ongoing debate surrounding the effectiveness and medical consequences of chemical castration. Conversely, das sollen refers to the normative requirement for the state to protect children, uphold the law equitably, and impose sanctions that are both proportionate and respectful of human dignity. The gap between these two dimensions forms the basis for examining whether chemical castration, beyond its formal legitimacy under positive law, can also be justified according to the principles of justice and public interest (maslahah) from an Islamic law perspective. Based on these points, this study aims to analyse the legal basis and rationale for chemical castration within the framework of positive law in Indonesia. It seeks to identify the relevance of the classification of sexual violence and the objectives of sentencing under Islamic law, while also assessing whether the implementation of chemical castration can be considered permissible based on the principles of ta'zir (discretionary punishment), maslahah (public interest), and maqasid al-shariah (the higher objectives of Islamic law). Theoretically, this research is expected to contribute to studies in the philosophy of Islamic law and criminal law by providing an evaluative framework for sentencing policy that integrates the goals of victim protection, crime prevention, justice, and respect for human rights. Practically, the findings are intended to serve as a reference for policymakers, law enforcement officials, Islamic scholars, and medical professionals in formulating and evaluating child protection policies that are grounded in a clear legal basis, informed by evidence of effectiveness, and mindful of the well-being of all parties involved.

This study employs a normative legal research methodology, using statutory, conceptual, and comparative approaches. The normative legal method

was selected because the research focuses on examining legal norms, principles, doctrines, and philosophical arguments concerning the application of chemical castration to perpetrators of sexual violence against children. The statute approach identifies and analyses the legal basis, objectives, requirements, and mechanisms for implementing chemical castration within the Indonesian legal system. The conceptual approach is used to examine theories of punishment, the objectives of sentencing under Islamic law, and the concepts of ta'zir, maslahah, and maqasid al-shariah, specifically Abu Ishaq al-Shatibi's ideas on attaining public interest (maslahah) and preventing harm (mafsadah). Meanwhile, the comparative approach is used to evaluate the policy of chemical castration in Indonesian positive law against the principles of Islamic legal philosophy. Thus, the comparative approach in this study aims not only to identify similarities and differences between the two legal perspectives but also to assess the limits of legitimacy and the acceptability of the chemical castration policy based on Islamic legal principles.

The legal materials for this study consist of primary, secondary, and tertiary sources. Primary legal materials include relevant Indonesian legislation, namely Law Number 23 of 2002 concerning Child Protection, as amended, including by Law Number 17 of 2016, as well as Government Regulation Number 70 of 2020 concerning the Procedures for the Implementation of Chemical Castration, the Application of Electronic Monitoring Devices, Rehabilitation, and the Disclosure of the Identities of Perpetrators of Sexual Violence against Children. It also includes other relevant provisions on sentencing, human rights, and healthcare services. These materials are used to analyse the normative basis for chemical castration, its legal status, the objectives of its implementation, the requirements for its execution, and the protections afforded to both victims and perpetrators. From the perspective of Islamic law, primary legal sources include the Quran and Hadith, which address the protection of human life, the prohibition against causing harm, and provisions concerning sexual offences. Classical fiqh (Islamic jurisprudence) doctrines, along with the thought of Abu Ishaq al-Shatibi regarding Maqasid al-Sharia (the higher objectives of Islamic law), are employed to analyse concepts such as hudud (fixed penalties), ta'zir (discretionary punishment), maslahah (public interest), hifz al-nafs (preservation of life), and hifz al-nasl (preservation of lineage).

Secondary legal sources consist of texts on criminal law and fiqh al-jinayah (Islamic criminal jurisprudence), literature on the philosophy of Islamic law and theories of punishment, scholarly journal articles, previous research findings, and court rulings relevant to chemical castration and sexual violence against children. These materials serve to clarify the interpretation of legislation, the evolution of Islamic legal thought, academic debates surrounding the legitimacy of chemical castration, and evidence or arguments regarding the effectiveness of

such measures. Contemporary literature on chemical castration, medical ethics, human rights, and health impacts is also used to evaluate its medical necessity and potential consequences. Tertiary legal sources include legal dictionaries, encyclopedias, and other reference materials used to define terms, concepts, and terminology found within the primary and secondary legal sources.

The collection of legal materials was conducted through a literature review, involving the identification, classification, and examination of legislation, legal documents, fiqh texts, books, journal articles, and other relevant scholarly publications. These materials were selected based on their relevance to the research subject: the rationale behind the application of chemical castration for perpetrators of sexual violence against children. All collected materials were subsequently analysed using descriptive-analytical and evaluative-comparative methods. The descriptive-analytical approach examined the substance of legislation, Islamic legal doctrine, the objectives of sentencing, and academic arguments concerning chemical castration. Furthermore, an evaluative-comparative analysis was conducted by applying five criteria consistently to assess the policy of chemical castration against both positive Indonesian law and the philosophical principles of Islamic law.

First, legality: this involves assessing the clarity of the legal basis, including the authority, statutory provisions, requirements, and procedures for the application of chemical castration within positive law, as well as its alignment with the principles of penal authority in Islamic law. Second, proportionality: this entails evaluating the balance between the severity of the offence, the objectives of sentencing, and the gravity of the consequences for the perpetrator, while taking into account the nature of the act and the protection of the victim. Third, medical necessity and considerations: this concerns the clinical basis for chemical castration, including medical indications, health risks, professional oversight, and potential short- and long-term impacts. Fourth, human dignity and human rights: this examines the balance between a victim's right to protection and redress, and a perpetrator's right to bodily integrity, safety, and humane treatment. Fifth, demonstrable effectiveness: this involves evaluating empirical evidence on the capacity of chemical castration to reduce recidivism risk and achieve preventive goals, rather than relying solely on the assumptions or normative intentions of those who established the policy.

These five criteria provide an evaluative framework that bridges the provisions of positive law with the principles of Islamic legal philosophy. In this application, the aspects of legality and proportionality are analysed through the lens of positive law and the concept of ta'zir (discretionary punishment); the aspects of medical necessity and human dignity are examined through the principles of the preservation of life (hifz al-nafs) and the prevention of harm; and the aspect of effectiveness is assessed based on the penal objectives of deterrence and crime prevention, as well as the realisation of public interest

(maslahah). The findings from the analysis of each criterion are then synthesised to determine whether the application of chemical castration is adequately justified, conditionally acceptable, or faces issues that limit its acceptability from the perspective of Islamic law. With this framework, the research is expected to yield a more substantive assessment regarding the rationality, limits of legitimacy, and public benefit of the chemical castration policy within the Indonesian legal system.

## Discussions

### Chemical Castration from the Perspective of Indonesian Positive Law

Chemical castration is one of the most controversial legal policies for addressing sexual crimes against children in Indonesia. Its implementation reflects the state's effort to strengthen child protection through more stringent legal instruments, particularly in response to sexual offences that inflict severe harm upon victims.[15] Growing concern over cases of sexual violence against children, including the potential for recidivism,[16] has prompted the government to develop a sentencing policy that focuses not only on punishment but also on crime prevention and public protection.[17] In this context, chemical castration is viewed as a state intervention tool designed to reduce the risk of repeat sexual offences against children. Nevertheless, its application must be grounded in a clear legal framework and justified by sentencing objectives, proportionality, medical ethics, and human rights.

The formal regulation of chemical castration began with Government Regulation, not Law Number 1 of 2016, which was later enacted as Law Number 17 of 2016, the second amendment to Law Number 23 of 2002 concerning Child Protection.[18] These provisions bolster child protection mechanisms; specifically, Article 81, paragraph (7), stipulates that offenders falling under the scope of these provisions may be subjected to measures including chemical castration and the attachment of an electronic monitoring device. Article 81, paragraph (8), requires that such measures be determined concurrently with the primary

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[15] Julio Aron, Handar Subhandi Bakhtiar, and Beniharmoni Harefa, "The Urgency of Chemical Castration Regulation in the Sexual Violence Criminal Act Law," *International Journal of Social Science and Human Research* 7, no. 06 (2024): 4118–27, https://doi.org/10.47191/ijsshr/v7-i06-70.

[16] P E Zaltina and L I Nurtjahyo, "Right To Be Forgotten as a Legal Protection for The Victims of Electronic Sexual Violence Cases," *Indonesian Journal of Socio-Legal Studies* 3, no. 2 (2024), https://doi.org/10.54828/ijsls.2024v3n2.4.

[17] H Hartiwiningsih, M Rustamaji, and M Abdillah, "Criminal Law Disparities against Perpetrators of Sexual Violence against Children Based on Islamic Law in Indonesia," *Al-Istinbath: Jurnal Hukum Islam* 8, no. 2 (2023): 667–96, https://doi.org/10.29240/jhi.v8i2.7379.

[18] Tina Mayasari et al., "A Legal Reconstruction of Chemical Castery for Perpetrators of Sexual Crimes Against Children Based on Restorative Justice Values," *International Journal of Social Science Research and Review* 8, no. 7 (2025): 144–55, https://doi.org/10.47814/ijssrr.v8i7.2727.

sentence and that their duration be specified. Furthermore, Article 81A governs the execution of chemical castration, stipulating a maximum duration of two years after the offender completes their primary sentence.[19] Further provisions on the procedures for implementing this measure are set out in Government Regulation Number 70 of 2020.[20]

From a legal classification perspective, chemical castration must be understood as a "measure" (maatregel) rather than a standalone principal criminal penalty. This distinction matters because chemical castration has characteristics and implementation mechanisms that differ from imprisonment. A principal criminal penalty is the primary punishment imposed on an offender for a proven criminal offence, whereas chemical castration is an additional measure applied under specific legal requirements. Therefore, while chemical castration may be referred to as an "additional penalty," this must be distinguished from its formal legal classification as a "measure" under the Child Protection Law. This classification also indicates that chemical castration does not replace the principal criminal penalty; rather, it is one of the legal consequences that may be imposed on an offender who meets the criteria stipulated by legislation.

The implementation mechanism for chemical castration also distinguishes between judicial authorisation and medical execution. Judicial authorisation refers to the court's authority to impose chemical castration through a verdict against an offender who meets the statutory requirements. In this context, the judge is responsible for ensuring that the measure has a legal basis, meets all requirements, and is explicitly stated in the verdict, including the duration of its application. Meanwhile, medical execution constitutes the technical phase carried out once the legal requirements and prescribed procedures have been fulfilled. Under Government Regulation Number 70 of 2020, chemical castration involves several stages: clinical assessment, conclusion of the assessment, execution of the measure, and rehabilitation. Thus, the judge's ruling provides judicial legitimacy for the action. Still, it does not mean the judge

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[19] Yusriando, Kartina Pakpahan, and Muhammad Windi Syarif Harahap, "Comparative Policy Of Criminal Law Of Chemical Castration Sanctions For Perpetrators Of Child Sexual Abuse Between Indonesia And The United States," *South East Asia Journal of Contemporary Business, Economics and Law* 24, no. 6 (2021): 159–67.

[20] Tinuk Dwi Cahyani and Nabila Aprilia Rismara, "The Imposition of Chemical Castration Sanctions Against Pedophilia Perpetrators: Legal Philosophy Perspective," in *Proceedings of the International Conference on Law Reform (5th Inclar 2024),* (Advances in Social Science, Education and Humanities Research 870, 2025), 263–70, https://doi.org/10.2991/978-2-38476-362-7_38.

assumes the professional authority of medical personnel to assess health conditions and carry out medical procedures.[21]

Distinguishing between judicial authority and medical implementation is essential for defining the limits of each party's responsibility. Judges ensure that a measure is imposed in accordance with legal provisions, while medical professionals carry out their duties based on standards of care, clinical competence, and clinical judgment. A medical examination should not be viewed merely as a formality for executing a court order; rather, it must serve as a critical component in ensuring the safety and appropriateness of the procedure. Consequently, legal certainty in the application of chemical castration depends not only on the existence of a court order but also on adherence to clinical procedures and the protection of the health of the individual subject to the measure.

The rationale for implementing chemical castration within the framework of positive law in Indonesia is fundamentally linked to the protection of children and the prevention of recidivism. The state views children as a vulnerable group in need of special protection; therefore, criminal policy regarding perpetrators of sexual violence is aimed at creating a deterrent effect, reducing the risk of reoffending, and safeguarding society. Within criminal policy, this orientation reflects an approach that emphasises not only retribution but also prevention and limiting a perpetrator's capacity to commit similar offences. This approach aligns with utilitarianism, which evaluates a policy based on its expected social benefits and its capacity to mitigate harm to society.[22] From a medical perspective, chemical castration is carried out through the administration of specific substances or medications that influence hormonal activity, primarily by lowering testosterone levels and suppressing sexual urges. However, this objective should not be equated with the guaranteed prevention of all forms of sexual violence, as deviant sexual behaviour and acts of sexual violence can be influenced by a complex interplay of psychological, social, and situational factors.[23]

Regarding procedure, chemical castration cannot be applied automatically to every perpetrator of sexual violence against children. Relevant laws and their implementing regulations specify the criteria for the subjects, the stages of

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[21] Sefriyan Reynaldi and Yuli Yuliana Wahyuningsih, "Implications Of The Chemical Castration Sanction Policy For Perpetrators Of Sexual Violence Against Children," *Syiah Kuala Law Journal* 9, no. 3 (2025): 74–83.

[22] Hassen Sedkaoui and Etienne Mullet, "Mapping French People's Views on Chemical Castration of Child and Adolescent Sex Offenders," *Universitas Psychologica* 15, no. 3 (2016): 1–10, https://doi.org/10.11144/Javeriana.upsy15-3.mfpv.

[23] Yusian Eri Fitria et al., "Chemical Castration in the Criminal Law System: A Study of Effectiveness and Toxicological Impact," *Edelweiss Applied Science and Technology* 8, no. 6 (2024): 8907–14, https://doi.org/10.55214/25768484.v8i6.3887.

clinical assessment, and the mechanisms for carrying out the measure. Government Regulation Number 70 of 2020 stipulates that chemical castration is carried out after the convict has served their primary sentence, following a clinical assessment by authorised medical and healthcare professionals. This assessment is necessary to determine whether the procedure is feasible based on the convict's clinical condition. If the assessment indicates that the procedure is not feasible, its execution must follow the mechanisms prescribed by the regulation. This framework shows that implementing chemical castration is not merely a consequence of a court ruling; it also requires professional consideration of the convict's health and safety.[24]

Although intended to protect children, the policy of chemical castration raises human rights concerns. A primary issue involves the potential for the procedure to cause physical and psychological harm to the perpetrator, including hormonal side effects and health consequences that require ongoing monitoring. Criticisms of chemical castration often invoke the principles of protecting human dignity and bodily integrity, as well as the prohibition against cruel, inhuman, or degrading treatment. These principles align with Law Number 39 of 1999 concerning Human Rights and international instruments such as the Convention against Torture. Consequently, the fact that the procedure is limited in duration or performed by medical professionals does not automatically exempt it from human rights concerns. Any evaluation must still account for the nature of the intervention, health risks, consent procedures, the legal basis for authorisation, oversight, and potential long-term impacts.[25]

The issue of human rights must be analysed from a constitutional perspective, considering the relationship between protecting children and limiting perpetrators' rights. The 1945 Constitution of the Republic of Indonesia guarantees the protection of human rights, including the right to life, personal security and dignity, and protection from treatment that degrades human dignity. At the same time, the state has a constitutional obligation to protect children from violence and discrimination. Consequently, protecting victims' rights and perpetrators' rights should not be viewed as absolutely opposed. The policy of chemical castration must be evaluated against the principles of legality, legitimate purpose, necessity, and proportionality. This means any limitation on a perpetrator's rights can be justified only if it has a clear legal basis, serves a legitimate interest, is truly necessary, and does not impose restrictions disproportionate to the child-protection objectives it seeks to achieve. Within this framework, the rights of victims to safety, rehabilitation, and protection

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[24] Reynaldi and Wahyuningsih, "Implications Of The Chemical Castration Sanction Policy For Perpetrators Of Sexual Violence Against Children."

[25] Ijud Tajudin, Fadhila Shaffa Luthfie, and Teguh Cahya Yudiana, "Regulation And Implementation Of Chemical Castration Punishment Towards Child Sexual Abuse Perpetrator In Indonesia," *Opcion* 35 (2019): 2899–2921.

from recurring violence must be given equal consideration in the evaluation of the policy.

Beyond the issue of human rights, the implementation of chemical castration also sparks debate regarding the responsibilities and professional ethics of the medical community. The Indonesian Medical Association (IDI), for instance, has previously expressed objections to the involvement of physicians in carrying out chemical castration. These objections are rooted in the principle of non-maleficence, the obligation of medical professionals to avoid causing harm or injury to patients, as well as the duty to conduct practice in accordance with professional standards and medical ethics. In this context, a distinction exists between medical procedures aimed at treating or restoring health and medical interventions carried out as part of a legal sanction. While the government may define chemical castration as a measure serving a specific purpose within its child-protection policy, such a designation does not, in itself, resolve the ethical concerns of the medical profession. Medical personnel must always exercise independent clinical judgment, uphold professional competence, ensure the safety of the convicted individual, and adhere to applicable ethical standards.[26]

This issue also concerns harmonising criminal law, health law, and the law governing medical practice. Implementing chemical castration lies at the intersection of the state's authority to impose legal measures and medical personnel's obligation to provide services in accordance with professional standards. Therefore, there must be clarity on the limits of responsibility for both law enforcement institutions and medical personnel covering procedures for clinical assessment, implementation of the measure, monitoring of side effects, and management of any health complications that may arise. Without adequate regulation and coordination, implementing chemical castration risks creating legal uncertainty and conflicts over professional responsibility. Consequently, Government Regulation Number 70 of 2020 should be understood not merely as a technical implementation guide, but as an instrument that must be applied in harmony with the principles of health law, professional ethics, and the protection of human rights.[27]

Another aspect that determines the rationality of chemical castration is its effectiveness in preventing the recurrence of criminal offences. Theoretically, reducing testosterone levels can help suppress sexual urges in certain contexts. However, the effectiveness of this measure cannot be generalised to all

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[26] Aulya Dwisudarini and Muridah Isnawati, "Juridical Review of Chemical Castration Action In The Perspective of Criminal Law And Human Rights," *Yurisdiksi: Jurnal Wacana Hukum Dan Sains* 17, no. 3 (2021): 305–21.

[27] Mazlum Çöpür and Sidar Çöpür, "Chemical Castration as an Evolving Concept: Is It a Possible Solution for Sexual Offences?," *The Journal of Forensic Psychiatry & Psychology* 32, no. 2 (2021): 326–51, https://doi.org/10.1080/14789949.2020.1849359.

perpetrators of sexual violence, as sexual offences are not always driven solely by biological impulses. Psychological factors, behavioural patterns, power dynamics, and social conditions can also contribute to these crimes. Research indicates that chemical castration requires ongoing monitoring and care, and it cannot be separated from psychological interventions and rehabilitation. Without sufficient supervision and support programs, a reduction in sexual drive does not necessarily lead to a consistent decrease in the risk of recidivism.[28] Therefore, the effectiveness of chemical castration must be based on relevant empirical evidence, rather than merely on the assumption that hormonal intervention can automatically prevent the occurrence of sexual violence.

Based on the preceding discussion, chemical castration within the framework of positive law in Indonesia has a normative basis, allowing it to be imposed alongside a primary criminal sentence upon offenders who meet the criteria stipulated by law. However, a formal legal basis and established implementation procedures do not, in themselves, prove that the policy is entirely rational. Its rationality must be evaluated across five dimensions: the clarity of the legal foundation and authority; the measure's proportionality; medical necessity and safety; respect for human dignity and human rights; and demonstrable effectiveness. Such an evaluation underscores that while child protection is a legitimate and vital objective, its pursuit must be grounded in policies that are legally, medically, ethically, and constitutionally accountable. Assessing chemical castration should not rely solely on the severity of the sanction, but on the alignment between the goal of child protection and the consequences of the measure's application for all parties involved.

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

The discussion of chemical castration from the perspective of Islamic law is a complex issue requiring careful analysis, as it concerns the intersection of Sharia principles, the protection of human dignity, and the evolution of modern penal policy. In Islamic law, sexual offences, particularly those committed against children, are considered grave acts; they not only violate one's honour ('ird) and lineage (nasl) but also inflict long-term psychological and social harm upon the victim. As a vulnerable group, children are entitled to protection, security, and bodily integrity rights that must be upheld. Consequently, Islam places significant emphasis on the prevention of sexual offences and the

[28] Muhammad Mirza Ibrahim, "Chemical Castration Sanction Against Crimes Of Sexual Violence In Children Reviewing From Criminal Law Aspects," *UMPurwokerto Law Review* 3, no. 2 (2022): 93–103, https://doi.org/10.30595/umplr.v3i2.10233.

establishment of sanctions designed to safeguard both the victim and society at large.[29]

Within the framework of fiqh jinayat (Islamic criminal jurisprudence), determining the appropriate sanction for a sexual offence requires a prior examination of the specific characteristics and elements of the act. Sexual violence against children may manifest as rape (ightishab) or other sexual acts perpetrated through coercion, abuse of power, or the exploitation of a victim's vulnerability. Under certain circumstances, such acts may also be analysed under the concept of hirabah (crimes against public security), provided they involve elements of violence and pose a threat to society's safety. However, such classification cannot be applied automatically; it must account for the specific elements of the crime and the relevant legal provisions. Thus, determining a sanction must be grounded in the act, the degree of culpability, and the consequences inflicted on the victim and society.[30]

A relevant analytical framework for evaluating chemical castration is the theory of Maqasid al-Sharia (the objectives of Sharia), as developed by Abu Ishaq al-Shatibi. This theory posits that the ultimate purpose of Sharia, which serves as the foundation for understanding and establishing law, is to promote the public good (maslahah) and prevent harm (mafsadah) to human beings. In the context of sexual crimes against children, the protection of life (hifz al-nafs), lineage (hifz al-nasl), and honour (hifz al-'ird) serve as vital objectives that must be prioritised. While these three principles provide a framework for evaluating penal policies, including chemical castration, it does not follow that any policy claiming to protect society is automatically justified under Sharia. Such policies must be assessed based on their alignment with the objectives of Sharia (maqasid al-Sharia), their level of utility, and the potential harm they may cause.[31]

Within the Islamic criminal legal system, chemical castration does not fall under the categories of hudud or qisas-diyat, for which specific types of punishments and their corresponding provisions have already been established. Instead, such a policy is better analysed through the concept of ta'zir: the authority granted to a ruler or judge to determine sanctions for offences that lack a specifically prescribed punishment under hudud or qisas-diyat. Classical

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[29] Sanuri, "Chemical Castration For Sexual Violance Convicts In Indonesia: The Hifz Al-Nafs and Huquq Al-Insan Review," *Al-Jinâyah: Jurnal Hukum Pidana Islam* 7, no. 2 (2021): 247–82.

[30] Muhammad Jafar and Karimuddin Abdullah Lawang, "Chemical Castration Punishment In The Perspective Of Government Regulation Number 1 Of 2016 On Child Protection And Islamic Criminal Law," *Pranata Hukum* 19, no. 1 (2024): 55–67, https://doi.org/10.54621/jiam.v3i2.436.

[31] Khoirul Ikhsan Al amanah and Sudirman Suparmin, "The Implementation of Chemical Castration for Pedophilia Offenders in The Review of Law No.17 Of 2016 And Islamic Criminal Law," *Journal Equity of Law and Governance* 5, no. 2 (2022): 74–80.

scholars, such as Ibn Taymiyyah and Ibn Qayyim al-Jawziyyah, allowed authorities to exercise ta'zir, contingent on the nature of the offence, the circumstances of the perpetrator, and the need to protect the public. In the evolution of contemporary Islamic law, this flexibility permits the consideration of new forms of sanctions, provided they do not conflict with the fundamental principles of Sharia.

Nevertheless, the authority to impose ta'zir is not absolute. The discretion to determine sanctions must be distinguished from the authority to intervene in an individual's physical integrity. In other words, not every measure that can serve as a deterrent or prevent the recurrence of a crime can automatically be classified as a justifiable form of ta'zir. Sanctions must always account for the prohibition against unjustifiable harm, uphold human dignity, and ensure proportionality between the gravity of an offence and the measure imposed. Consequently, the flexibility inherent in ta'zir should be understood as discretion constrained by the objectives and principles of Sharia, rather than as a justification for employing any forms of action against an offender's body.[32]

These limitations become increasingly significant when chemical castration is considered in relation to the prohibition of castration within the Islamic legal tradition. There are sahih (authentic) hadith that document the Prophet Muhammad's (PBUH) prohibition against the desire of some of his companions to undergo castration as a means of controlling sexual urges. This prohibition underscores the importance of preserving the integrity of the human body and avoiding physical alterations without a justifiable reason. However, chemical castration differs from physical castration in that it is administered through medication which affects hormone levels and is, in principle, reversible. While this distinction may be a relevant legal consideration, it is insufficient to conclude that chemical castration is definitively permissible. Any assessment must incorporate factors such as physiological impact, potential side effects, the duration of the intervention, and the risk of long-term damage. The perspectives of contemporary scholars, such as Yusuf al-Qaradawi and Abd al-Karim Zaidan, who discuss the possibility of temporary medical interventions to prevent harm, must be understood in light of these specific requirements, rather than as a blanket justification for any procedure that alters human bodily functions.[33]

Within the framework of Maqasid al-Shariah (the objectives of Islamic law), chemical castration can also be evaluated through the principles of maslahah (public interest/benefit) and dar'u al-mafasid (the prevention of harm).

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[32] L Gurusi et al., "Islamic Legal Perspective on Data of Child Victims of Sexual Violence: A Case Study of the Indonesia's Court," *De Jure: Jurnal Hukum Dan Syar'iah* 16, no. 2 (2024): 456–79, https://doi.org/10.18860/j-fsh.v16i2.28358.

[33] A D Hasyim and M T Mulyo, "Harmonization of Cairo's Declaration of Human Rights in the Criminal Act of Sexual Violence Law," *International Journal of Criminal Justice Sciences* 16, no. 2 (2021): 402–14, https://doi.org/10.5281/zenodo.4756084.

Protecting children from sexual violence constitutes a vital maslahah, as such crimes can cause enduring trauma, disrupt psychological development, and strip victims of their sense of security. The state bears a responsibility to prevent new victims from emerging and to ensure that perpetrators do not reoffend. Nevertheless, the efficacy of chemical castration must be rationally substantiated; it cannot simply be assumed that a reduction in sexual drive will automatically eliminate the risk of sexual violence. This is because sexual violence is not always driven solely by biological urges; it may also be linked to psychological factors, behavioural patterns, power dynamics, and social conditions. Therefore, chemical castration should be supported by medical and empirical evidence of its effectiveness and integrated into a more comprehensive protection policy.[34]

The principle of necessity serves as a crucial benchmark for determining the legitimacy of chemical castration. Such a measure should be considered only if there are compelling grounds to believe it is essential to prevent serious harm, and if no other equally effective alternatives exist that are less restrictive of the perpetrator's rights or physical integrity. In this context, chemical castration should not be applied automatically to every perpetrator of sexual violence against children. Assessments must consider the specific characteristics of the offence, the risk of recidivism, the perpetrator's health status, and medical professionals' findings. If the goal of protection can be achieved through less intrusive measures such as psychological rehabilitation, supervision, or a combination of rehabilitative and monitoring programs, then the application of a more severe medical intervention should be reconsidered.

Beyond necessity, the principle of proportionality also determines whether chemical castration is acceptable within the framework of ta'zir (discretionary punishment). Proportionality requires balancing the gravity of the offence, the objective of public protection, the expected benefits, and the measure's impact on the perpetrator. Sanctions must not inflict suffering or harm that is disproportionate to the intended objective. Consequently, chemical castration must be based on an individual assessment, carried out under the supervision of medical professionals, and must account for both short-term and long-term health risks and consequences. The principle of la dharar wa la dhirar (no infliction of harm and no mutual harm) underscores that efforts to prevent harm to victims and society must not disregard the potential for serious harm to the perpetrator's body and health.[35]

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[34] Gurusi et al., "Islamic Legal Perspective on Data of Child Victims of Sexual Violence: A Case Study of the Indonesia's Court."

[35] Sanuri, "Chemical Castration For Sexual Violance Convicts In Indonesia: The Hifz Al-Nafs and Huquq Al-Insan Review."

Consequently, the acceptance of chemical castration from the perspective of Islamic law must be based on a comprehensive assessment, rather than solely on the objective of crime prevention. Such a policy may be considered a form of contemporary ta'zir (discretionary punishment) provided it rests on a valid legal basis, is genuinely necessary to protect fundamental interests, is proportionate to the severity of the crime and the risk of recidivism, is supported by accountable medical considerations, and does not result in harm that outweighs its benefits. Conversely, if such a measure is applied automatically, lacks evidence of effectiveness, or causes disproportionate physical damage, its sharia legitimacy becomes weak.

Within the framework of Maqasid al-Shariah (the objectives of Islamic law), chemical castration cannot be categorically declared as either inherently contrary to or fully consistent with Islamic law. Its status is conditional, contingent upon adherence to the principles of necessity, proportionality, public interest (maslahah), and the prevention of harm. While the protection of children as victims must be the primary objective of the policy, its implementation must still respect the dignity and physical integrity of the perpetrator. This approach frames ta'zir as an adaptive yet constrained form of penal authority, governed by sharia principles; thus, a policy of chemical castration is only acceptable if its protective benefits can be justified and it does not transgress the humanitarian boundaries established by Islamic law.

**Comparative Analysis of Positive Law and Islamic Law**

A comparative analysis of Indonesian positive law and Islamic law regarding chemical castration for perpetrators of child sexual abuse demonstrates how both legal systems, despite their differing philosophical and methodological foundations, prioritize child protection. Indonesian positive law explicitly regulates chemical castration through Law No. 17 of 2016 and Government Regulation No. 70 of 2020 as an additional form of punishment that judges can impose on perpetrators at high risk of repeating their offenses.[36] Chemical castration is viewed as a preventative strategy based on medical and criminological considerations, aimed at reducing the perpetrator's libido and minimizing the risk of recidivism.[37] This regulation also reflects a utilitarian approach that emphasizes community protection and social stability through reversible, temporary medical interventions.

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[36] M Tohari et al., "Mairil and Nyempet as Child Sexual Violence in Pesantren: Contradictions of Traditional Norms, Religion, and Criminal Law Policy in Indonesia," *Indonesian Journal of Criminal Law Studies* 9, no. 1 (2024): 33–62, https://doi.org/10.15294/ijcls.v9i1.50291.

[37] Joo Yong Lee and Kang Su Cho, "Chemical Castration for Sexual Offenders: Physicians' Views," *Journal of Korean Medical Science* 28, no. 2 (2013): 171–72, https://doi.org/10.3346/jkms.2013.28.2.171.

Meanwhile, Islamic law lacks explicit textual references to chemical castration. Nevertheless, the concept of punishment for perpetrators of sexual abuse in Islam is clearly defined through the mechanisms of hudud, qisas, and especially ta'zir. Sexual crimes against children are categorized as serious violations of honor ('irdh), lineage (nasl), and life (nafs), and therefore subject to strict punishment commensurate with the severity of the crime.[38] In this context, the discretionary power grants judges broad authority to determine the form of punishment deemed most appropriate and beneficial, provided it does not conflict with Sharia principles.[39] Therefore, although chemical castration is unknown in classical literature, some contemporary Islamic legal thinkers are open to adopting modern forms of punishment, including medical intervention, as long as they do not cause permanent harm and bring greater benefits to society.[40]

Ethical issues are a key point in comparing the two legal systems. Indonesian positive law regulates chemical castration by taking into account modern medical ethics, such as the principle of non-maleficence, professional medical judgment, and the requirement for the involvement of doctors and psychologists in its implementation. Islam, on the other hand, bases its ethical punishments on principles of Islamic jurisprudence, such as la darar wa la dirar (not harming oneself or others), the necessity of permitting what is forbidden, and the priority of preventing harm over achieving benefit.[41] These principles allow for interpretation, stating that chemical castration is acceptable if it is proven to bring greater benefits to society and does not cause excessive physical harm to the perpetrator.

A further difference is evident in how the two legal systems view human rights. In positive law, chemical castration is claimed not to violate human rights because it is not permanent, selective, and performed using safe medical procedures. Protection of child victims and the community is positioned as a more pressing concern than the individual rights of the perpetrator. In Islamic law, human rights are viewed through the lens of the maqasid al-sharia, which holds that protecting honor, offspring, and life is the highest principle. Sexual crimes against children are considered serious violations that can threaten the moral and social order of society, and therefore, perpetrators can be subject to severe punishment.[42] However, Islam still imposes restrictions that the

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[38] S Juanda, B A Gani, and S Aljamalulail, "The P2TP2A's Effort to Cope with the Intensification of Sexual Abuse of Children in Perspective of the Islamic Family Law (A Case Study at the City of Banda Aceh)," *El-Usrah* 6, no. 1 (2023): 115–30, https://doi.org/10.22373/ujhk.v6i1.11992.

[39] Tarigan, "Chemical Castration for Pedophiles: Study of Fiqh Problems in Indonesia."

[40] Jafar and Lawang, "Chemical Castration Punishment In The Perspective Of Government Regulation Number 1 Of 2016 On Child Protection And Islamic Criminal Law."

[41] Sanuri, "Chemical Castration For Sexual Violance Convicts In Indonesia: The Hifz Al-Nafs and Huquq Al-Insan Review."

[42] Al amanah and Suparmin, "The Implementation of Chemical Castration for Pedophilia Offenders in The Review of Law No.17 Of 2016 And Islamic Criminal Law."

perpetrator's body may not be totally or permanently damaged unless there is clear Sharia evidence and a clear benefit.

The flexibility of sentencing is also a distinguishing aspect. Positive law is rigid because the rules governing chemical castration are detailed in laws and government regulations. Judges only apply punishment within predetermined limits, both in terms of conditions, procedures, and the form of intervention. In contrast, Islamic law offers great flexibility through ta'zir, which grants judges broad authority to determine punishments based on moral, social, and situational factors. This flexibility allows Islamic law to adapt to changing times, including considering modern forms of punishment such as chemical castration if deemed to achieve the goal of public welfare.

**Table 1 Comparison of the Rationality of Chemical Castration in Indonesian Positive Law and Islamic Law**

| Aspect of comparison | Indonesian positive law | Islamic legal perspective |
|---|---|---|
| **Legal basis** | Law No. 17 of 2016, specifically Article 81, paragraphs (7)–(8), and Article 81A of the Child Protection Law, along with Government Regulation No. 70 of 2020, which serves as an implementing regulation, provide the legal framework. Under the law, chemical castration is a measure that may be imposed on offenders who meet the criteria set out in the legislation. | Classical fiqh (Islamic jurisprudence) contains no provisions that explicitly address modern chemical castration. Analyzing this issue may draw on the doctrines of ta'zir (discretionary punishment), maslahah (public interest), and maqasid al-shariah (the objectives of Islamic law), as well as established fiqh maxims, while considering diverse scholarly opinions and the limits of authority in imposing sanctions. |
| **Forms of sanctions or measures** | A medical intervention consisting of the administration of chemical substances to suppress sexual desire for a maximum duration of two years, carried out through a process of clinical assessment, formal conclusion, and implementation, accompanied by rehabilitation. | Chemical castration cannot be directly equated with the sanctions stipulated in classical jurisprudence. Whether it can be accepted as ta'zir is a matter of ijtihad that must be assessed based on legitimacy, benefits, risks, and prohibitions against causing harm. |
| **Purpose of sentencing** | Strengthening child protection, preventing the recurrence of criminal offenses, and creating a deterrent effect, these goals must still be evaluated through evidence of effectiveness and lawful implementation. | Protecting life, descendants, honor, and social order, and preventing harm. These objectives can be analyzed through maqasid al-shariah, but they do not, in themselves, justify every type of sanction. |
| **Philosophical foundation** | It incorporates an orientation toward public protection and crime prevention, which can be analyzed through a utilitarian approach. However, its implementation must also adhere to the principles of legality, proportionality, and human rights protection. | Based on the principles of justice, benefit, harm prevention, and the objectives of the Shari'a. Assessments of chemical castration must address the balance between the protection of victims and the prohibition of acts that cause unjustified harm. |

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|---|---|---|
| **Ethical and medical considerations** | Government Regulation (PP) No. 70 of 2020 governs clinical assessments conducted by professionals with medical and psychiatric expertise, as well as the implementation of interventions and rehabilitation. In practice, it remains necessary to evaluate aspects of medical ethics and potential health impacts. | The principle of la darar wa la dirar (do not cause harm and do not respond to harm with harm) can serve as a basis for assessing the risk of actions. Applying this principle requires a concrete assessment of the benefits, the level of harm, and available alternatives. |
| **Human rights and the dignity of the offender** | The legality of an action under the law does not automatically preclude human rights concerns. An assessment must consider bodily integrity, health impacts, proportionality, fair procedures, and protection against arbitrary action. | Protecting victims and the public is an important objective, but that does not mean the perpetrator's rights and dignity can be entirely disregarded. Any justification for action must be examined through the principles of justice, the promotion of the common good, and the limitation of harm. |
| **Subjects of application** | According to Article 81, paragraph (7), of the Child Protection Law, this measure may be applied to perpetrators who meet the legal criteria, specifically those falling under the categories referred to in paragraphs (4) and (5). Implementation is subject to a court ruling and the procedures set out in the implementing regulations. | In classical fiqh (Islamic jurisprudence), no category of offender directly matches the criteria for chemical castration under Indonesian law. Determining ta'zir (discretionary) sanctions depends on the applicable legal framework, the authority of the legitimate governing body, and the specific circumstances of the case. |
| **Flexibility in determining sanctions** | Statutory provisions constrain implementation by governing subjects, conditions, timeframes, and procedures. A judge cannot order actions outside the authority granted by law. | Within ta'zir (discretionary punishment), ijtihad (independent legal reasoning) can be used to determine sanctions. However, this flexibility is not unlimited, as it remains constrained by sharia principles, justice, the promotion of public interest, and the prevention of harm. |
| **Perspective on the offender's body** | Evaluate actions taken against an offender's body based on their legal basis, legitimate purpose, proportionality, medical safety, and respect for human dignity. The limited duration of an action does not automatically mean its impact is always reversible. | The human body and the prohibition against causing harm serve as significant normative considerations. Chemical castration must be evaluated based on its real-world impact; it cannot be justified by invoking the "public interest" alone without a thorough assessment of its potential benefits and harms. |
| **Rationality and the limits of justification** | Rationality depends on the alignment among the legal basis, child-protection objectives, proportionality, procedures, medical safety, and evidence of effectiveness. | Rationality is assessed based on alignment with the principles of justice and the objectives of Sharia, the provision of justifiable benefits, and the mitigation of harm. Its status as ta'zir (discretionary punishment or policy) does not automatically make it legitimate. |

Source: Compiled by the author based on Law No. 17 of 2016, Government Regulation No. 70 of 2020, and relevant concepts from criminal law and Islamic law.

Based on Table 1, a comparison between Indonesian positive law and Islamic law shows that both legal systems share a concern for protecting victims, preventing crime, and maintaining social order. However, they differ in their sources of legitimacy and assessment mechanisms. Indonesian positive law provides an explicit legal basis for applying chemical castration through Law No. 17 of 2016 and Government Regulation No. 70 of 2020. Conversely, Islamic law lacks classical fiqh (jurisprudential) provisions that specifically address modern chemical castration. Therefore, evaluating this practice from an Islamic perspective requires legal reasoning (ijtihad) through concepts such as ta'zir (discretionary punishment), maslahah (public interest), maqasid al-shariah (the objectives of Islamic law), and relevant qawa'id fiqhiyyah (legal maxims).

From a positive law perspective, an explicit legal basis provides certainty about the criteria for application and the procedures for carrying out chemical castration. Article 81, paragraph (7) of the Child Protection Law stipulates that this measure may be imposed on offenders as defined in paragraphs (4) and (5). In contrast, Article 81, paragraph (8) mandates that the measure be decided alongside the primary criminal sentence and specifies its duration. Furthermore, Article 81A sets a maximum duration of two years and requires periodic supervision and rehabilitation. Government Regulation No. 70 of 2020 outlines the mechanisms for clinical assessment, the formulation of conclusions, and the implementation of the measure. Thus, chemical castration is not applied indiscriminately to every perpetrator of sexual violence against children; rather, it is constrained by specific legal criteria and procedures.

Nevertheless, legal certainty does not automatically prove that chemical castration is effective or entirely proportionate. The rationality of such a policy also depends on how well its intended objectives align with the consequences of its implementation. In this regard, the findings of Ahmad Jamaludin,[43] as referenced in previous studies, are pertinent, showing that the legal basis must be analyzed alongside ethical considerations and human rights issues. Similarly, Puteri et al,[44] situate chemical castration within the context of legal-political responses to child sexual abuse, while also highlighting the challenges associated with its implementation. Both studies support the view that evaluating chemical castration should not stop at whether it is regulated by law; it is also necessary to examine how such a measure can be implemented responsibly.

Effectiveness is another critical dimension. Normatively, chemical castration is intended to reduce the risk of recidivism through medical

[43] Ahmad Jamaludin, "Institutional Approach: Legal Protection Efforts against Sexual Violence in Islamic Boarding School Educational Institutions," *Khazanah Hukum* 7, no. 1 (2025): 1–16, https://doi.org/10.15575/kh.v7i1.34254.

[44] Puteri et al., "Chemical Castration From Criminal Law And Human Rights."

intervention that alters hormonal function. However, this intended objective should not be conflated with empirical outcomes, which may vary across different contexts. Heathcote,[45] as cited in the text, notes limited evidence on the effectiveness of chemical castration in reducing recidivism rates. Furthermore, literature evaluating interventions for sexual offenders indicates that research findings are influenced by the type of intervention, the characteristics of the offenders, and the quality of the research design. Consequently, evidence concerning hormonal interventions must be distinguished from evidence regarding surgical castration or other rehabilitation programs.

These findings suggest that claims regarding a deterrent effect and the prevention of recidivism should be articulated with caution. Chemical castration cannot be positioned as the sole instrument for prevention, not least because sexual offending cannot always be explained solely by biological drives. Within the framework of child protection policy, this measure must be assessed alongside rehabilitation, supervision, appropriate psychological care, and mechanisms to protect and support victims' recovery. Thus, the effectiveness of such a policy should be treated as an empirical question to be tested, rather than an assumption accepted merely based on the objectives for which it was established.

From an Islamic legal perspective, ta'zir allows the competent authority to determine sanctions for acts without fixed punishment provisions, unlike the hudud category. However, this space for ijtihad does not mean that every form of action can be justified. The application of chemical castration must be assessed through the principles of justice, benefit, proportionality, and harm prevention. The concept of maqasid al-shariah, especially the protection of life (hifz al-nafs) and offspring (hifz al-nasl), can be used to assess the interests of protecting victims and society. At the same time, the principle also demands attention to the safety of the human body and the consequences of actions for the perpetrator.

In this context, Tarigan,[46] view which places chemical castration as a possible form of ta'zir if it brings benefits and does not cause harm, needs to be understood as an argument that still requires testing, not as a conclusion that applies universally in Islamic law. This view aligns with the importance of considering benefits. Still, questions remain about who has the authority to determine benefits, how medical risks are assessed, and whether the action is a proportional choice. Thus, ta'zir provides a framework for analyzing possible justifications, not automatic legitimations, for chemical castration.

[45] Heathcote, "Chemical Castration in Indonesia: Limiting an Absolute Human Right."
[46] Tarigan, "Chemical Castration for Pedophiles: Study of Fiqh Problems in Indonesia."

Study on public interest, medical ethics, and protecting perpetrators' rights is also relevant to this analysis.[47] Child protection is an important goal, but achieving it does not eliminate the obligation to assess the consequences of actions on the human body. The principle of la darar wa la dirar can serve as an evaluative principle for examining potential dangers. At the same time, the concept of maslahah requires that claimed benefits be genuinely accounted for. Therefore, the public interest should not be invoked in the abstract to justify any action against criminals.

as quoted in the text, links chemical castration to maqasid al-shariah and human rights principles.[48] This perspective opens up space for dialogue between child protection and respect for human dignity. However, the relationship between chemical castration, life protection, and offspring protection is not automatic. The argument must show how the chosen action supports the objectives of Sharia, whether the risk is disproportionate, and whether alternatives can achieve the protection objectives with less impact on the perpetrator's body. In this way, maqasid al-shariah does not simply justify policies after they are established; it serves as a critical framework for evaluating them.

A comparison of the two legal systems ultimately shows both common ground and fundamental differences. The meeting point lies in attention to child protection, crime prevention, and society's interests. The difference lies in the source of legitimacy and how legal arguments are built. Positive law relies on statutory provisions and formal procedures, while the Islamic legal perspective requires doctrinal interpretation and an assessment of whether actions align with sharia principles. Both still require substantive considerations regarding fairness, proportionality, and the real consequences of policies.

Thus, this comparison is insufficient to conclude that chemical castration is completely rational or irrational in all circumstances. A more balanced conclusion is that this action has a normative basis in Indonesian positive law. In contrast, its justification under Islamic law still requires arguments that consider ta'zir, benefits, and potential harm. The rationality of its implementation needs to be tested through four interrelated criteria, namely legality, proportionality, protection of human rights and dignity, and evidence of effectiveness. This framework allows research to assess chemical castration not only on the severity of sanctions, but also on its ability to achieve child protection goals fairly and responsibly.

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[47] Kartono and Mulyana, "The Implementation of Chemical Castration Penalties towards Paedophilia Crime Perpetrators."

[48] Shahidipak, "Ibn Khaldun as a Paradigm for the Past and Future of Sociology and Humanity."

## The Rationality of Chemical Castration

The rationality of implementing chemical castration for perpetrators of sexual violence against children must be analysed through philosophical, legal, medical, criminological, ethical, and sociological perspectives. Fundamentally, this policy represents a state response to the need to protect children, a vulnerable group, from the threat of sexual violence. However, the objective of such protection must be distinguished from evidence that chemical castration is truly effective in preventing recidivism. Therefore, the rationality of chemical castration cannot be assessed solely based on the intent behind its creation; it must also account for its legal basis, medical mechanisms, the proportionality of the measure, the protection of the rights of all involved parties,[49] and empirical evidence regarding its outcomes.[50]

Philosophically, chemical castration can be examined through the lens of utilitarian penal theory, which posits social utility and crime prevention as key objectives of punishment. Within this framework, a penal policy may be considered if it effectively protects society and reduces the risk of creating new victims. Nevertheless, the anticipated utility cannot be equated with proven benefit. While the policy of chemical castration is designed to suppress the risk of sexual re-offending, this objective requires substantiation through accountable evaluation. Thus, the philosophical rationality of chemical castration lies in its protective intent. At the same time, its legitimacy depends on whether this goal can be achieved through measures that are both necessary and proportionate.

From a medical perspective, chemical castration functions by administering medication that affects the production or activity of sex hormones, primarily testosterone, thereby reducing the sexual drive of the individual undergoing the intervention. This hormonal effect is a biological mechanism that must be distinguished from a comprehensive change in criminal behaviour. A reduction in sexual drive does not automatically eliminate the psychological, social, or behavioural factors that may contribute to the occurrence of sexual violence. Not all perpetrators of sexual violence suffer from disorders of sexual drive or paraphilic conditions, nor are all sexual offences driven solely by biological factors.[51] Therefore, chemical castration cannot be viewed as a universally applicable medical solution for all perpetrators of sexual violence against children.[52]

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[49] Vedije Ratkoceri, "Chemical Castration of Child Molesters-Right or Wrong?!," *European Journal of Social Sciences Education and Research* 11 (2017): 70–76.

[50] Kyo Chul Koo et al., "Treatment Outcomes of Chemical Castration on Korean Sex Offenders," *Journal of Forensic and Legal Medicine* 20, no. 6 (2013): 563–66, https://doi.org/https://doi.org/10.1016/j.jflm.2013.06.003.

[51] Jamaludin et al., "Sanctions For Chemical Castration Action In Indonesia."

[52] Lee and Cho, "Chemical Castration for Sexual Offenders: Physicians' Views."

From a criminological perspective, the primary issue to consider is whether a decrease in sex hormone levels achieved through chemical castration actually correlates with a reduction in the rate of sexual recidivism. Various studies have examined the use of hormonal interventions in managing sexual offenders, including potential benefits when combined with psychological therapy. However, findings regarding changes in sexual drive or biological responses do not, in themselves, prove a decrease in the recurrence of criminal behaviour. Assessing effectiveness requires considering the offender's characteristics, the nature of the offence, psychological state, duration of the intervention, adherence to treatment, and the availability of rehabilitation and supervision programs after a sentence is completed.[53] Thus, chemical castration is better understood as an intervention that may be beneficial under specific circumstances, rather than an instrument whose effectiveness can be generalised to all offenders.[54]

Another aspect to consider is reversibility: the potential for bodily functions to be restored after medication administration ceases. The effects of chemical castration cannot be assumed to be always temporary or fully reversible. The degree of recovery can be influenced by the type of medication, dosage, duration of administration, an individual's health status, and each person's unique biological response. Furthermore, hormonal interventions can lead to physical and psychological health consequences, necessitating medical assessment before implementation, monitoring during the intervention, and follow-up thereafter. Consequently, any claims about safety, reversibility, and the absence of permanent effects must be grounded in relevant medical research, not merely the assumption that medication use is less significant or less serious than surgery.

From a legal perspective, Law Number 17 of 2016 and Government Regulation Number 70 of 2020 govern chemical castration. These regulations provide a legal basis for applying chemical castration to specific categories of offenders, subject to defined requirements and procedures. However, the existence of a legal basis does not, in itself, resolve questions regarding the rationality and legitimacy of such a measure. Its application must still be evaluated on the grounds of legality, necessity, proportionality, human rights protection, and medical considerations. Furthermore, under current Indonesian law, chemical castration is classified as a "measure" rather than a primary criminal penalty.[55] This distinction matters because a court's imposition of such a measure must be separated from the execution of medical interventions, which

[53] Koo et al., "Treatment Outcomes of Chemical Castration on Korean Sex Offenders."

[54] Yuningsih et al., "Philosophical Foundation of Chemical Castration for Offenders of Sexual Violence Against Children."

[55] Heathcote, "Chemical Castration in Indonesia: Limiting an Absolute Human Right."

fall under the responsibility of healthcare professionals in accordance with statutory regulations.[56]

The principle of proportionality requires that any imposed measure be commensurate with the severity of the offence, the protective objectives sought, and the consequences borne by the offender. Chemical castration should not be applied merely because an offence has incited public outrage or created pressure to impose harsher penalties. Assessments must consider the nature of the offence, the risk of recidivism, the individual circumstances of the offender, and the potential for alternative, less intrusive measures that remain effective in achieving protective goals. Consequently, the application of chemical castration must be selective and based on individual assessment, rather than on the generalisation that all perpetrators of sexual violence share the same level of risk and need for intervention.[57]

From the perspectives of public ethics and human rights, the rationality of chemical castration must account for the protection of victims' rights, as well as the fundamental rights of offenders who have been subject to a court judgment. Child victims of sexual violence have a right to safety, protection from recurring violence, physical and psychological recovery, and guarantees against revictimization. Meanwhile, perpetrators, even after being convicted of a criminal offence, retain their rights to human dignity, health, bodily integrity, and humane treatment. It is inappropriate to place these two sets of interests in an automatic hierarchy, as if protecting victims necessarily negates perpetrators' fundamental rights.[58] Rather, the state has an obligation to ensure that victim protection is carried out without disregarding the legal and humanitarian boundaries that govern the treatment of offenders.[59,60]

In this context, an ethical assessment of chemical castration must consider whether the measure serves a legitimate purpose, is truly necessary, is based on sound medical judgment, and does not pose health risks disproportionate to the expected benefits. Medical oversight is essential to ensure the intervention adheres to health standards, including monitoring potential side effects and the perpetrator's psychological state. Such an assessment must also acknowledge that medical interventions within a penal context raise distinct ethical issues, particularly concerning bodily integrity, patient autonomy, and the professional responsibilities of medical practitioners. Consequently, the claim that chemical

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[56] Ratkoceri, "Chemical Castration of Child Molesters-Right or Wrong?!"

[57] Kartono and Mulyana, "The Implementation of Chemical Castration Penalties towards Paedophilia Crime Perpetrators."

[58] Nour, "Chemical Castration of the Sexual Offender versus Human Fundamental Rights and Freedoms."

[59] Zachary Edmonds Oswald, "'Off with His __': Analyzing the Sex Disparity in Chemical Castration Sentences," *Michigan Journal of Gender & Law* 19, no. 2 (2013): 471–503.

[60] Aron, Bakhtiar, and Harefa, "The Urgency of Chemical Castration Regulation in the Sexual Violence Criminal Act Law."

castration is ethically justifiable cannot rest solely on the goal of protecting children or the assumption that the procedure is reversible.

Furthermore, from a sociological perspective, the policy of chemical castration can be understood as a state response to public demands for a serious approach to addressing sexual crimes against children and for the provision of a sense of security. The high level of public concern regarding cases of sexual violence underscores the importance of the state's role in providing protection and ensuring the effective administration of justice.[61] However, public acceptance of a policy cannot serve as the sole measure of legal rationality. A policy that enjoys public support must still meet the requirements of legality, proportionality, and human rights protection. Furthermore, a policy's success cannot be gauged merely by the severity of its sanctions or the public's response; rather, it must be evaluated based on observable outcomes, including the effectiveness of victim protection and changes in the rate of criminal recidivism.[62]

Based on these various perspectives, the rationality of chemical castration must be situated within an operational evaluation framework. First, legal prerequisites: a clear legal basis, imposition through a court ruling, and compliance with all legislative requirements. Second, medical safeguards: professional examination and assessment, information on risks and side effects, health monitoring during the intervention, and follow-up care thereafter. Third, proportionality: balancing the severity of the offence, the risk of recidivism, the protective objectives, and the measure's impact on the offender. Fourth, judicial oversight: control over the grounds for imposition, the duration, the procedures, and adherence to both the court ruling and legal provisions. Fifth, evidentiary standards for effectiveness: using relevant medical and criminological evidence to determine whether the measure genuinely reduces the risk of recidivism, rather than merely inducing biological changes such as a decrease in sex hormone levels.

This evaluation framework also requires balancing the protection of victims' interests with the rights of offenders. While the protection of children must remain the primary focus of policies addressing sexual violence, this objective cannot come at the expense of the principles of legality, bodily integrity, and the health and safety of the offender. Conversely, protecting an offender's rights should not be interpreted as disregarding the victim's need for justice, recovery, and guaranteed safety. Therefore, a rational policy accounts for both sets of interests through transparent, measurable, and accountable legal and medical mechanisms.

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[61] Reynaldi and Wahyuningsih, "Implications Of The Chemical Castration Sanction Policy For Perpetrators Of Sexual Violence Against Children."

[62] Tajudin, Luthfie, and Yudiana, "Regulation And Implementation Of Chemical Castration Punishment Towards Child Sexual Abuse Perpetrator In Indonesia."

Consequently, chemical castration cannot be inherently classified as a rational, effective, or justifiable policy in every circumstance. Its rationality is conditional, contingent on meeting legal prerequisites, medical necessity, proportionality, human rights protections, judicial oversight, and sufficient empirical evidence. If these requirements are not met, the objective of crime prevention alone cannot justify its implementation. Under this approach, chemical castration is framed as a policy that must be subject to ongoing testing and evaluation, rather than as a standalone solution to the sexual abuse of children. Comprehensive protection efforts must continue to integrate law enforcement, offender rehabilitation, victim recovery, supervision, and the prevention of sexual violence.

## Conclusion

This study concludes that the rationality of implementing chemical castration for perpetrators of sexual violence against children cannot be determined solely by the existence of a legal basis or the objective of crime prevention; rather, it must be evaluated through the interplay between legality, medical necessity, proportionality, the protection of human rights, and evidence of its effectiveness. Within the framework of Indonesian positive law, chemical castration has a normative foundation in Law Number 17 of 2016 and Government Regulation Number 70 of 2020, which establish the criteria and procedures for its implementation. Nevertheless, the existence of this legal framework does not, in itself, prove the effectiveness of chemical castration in reducing sexual recidivism, nor does it guarantee that all its medical consequences are reversible. Therefore, the legality of the measure must be distinguished from evidence of its effectiveness and an assessment of its medical consequences. From the perspective of Islamic law, chemical castration is not explicitly addressed within the constructs of classical fiqh (Islamic jurisprudence).

Consequently, its assessment can be analysed through the concepts of ta'zir (discretionary punishment), maslahah (public interest), and the theory of Maqasid al-Shariah (the higher objectives of Islamic law), specifically the protection of life (hifz al-nafs), lineage (hifz al-nasl), and honour (hifz al-'ird). However, the authority to impose ta'zir punishments cannot be interpreted as an unfettered license to intervene in an individual's physical integrity. Its application must still adhere to the principles of necessity, proportionality, the prevention of harm (dar'u al-mafasid), and a careful consideration of medical benefits and risks. Thus, the objective of protecting children and preventing sexual crimes does not automatically render chemical castration consistent with the principles of Islamic law. Its acceptability depends on meeting shariah requirements and justifying the expected benefits. The study's primary findings indicate that Indonesian positive law and Islamic law share a common

orientation toward protecting victims and preventing crime, despite relying on different foundations of legitimacy. The rationality of chemical castration must be assessed through an evaluative framework encompassing five key aspects: clear legal prerequisites, medical protection and oversight, proportionality, respect for human rights and dignity, and evidence-based standards for effectiveness derived from medical and criminological data. This framework treats the protection of child victims and the fundamental rights of the offender as legal interests that must be balanced, rather than establishing an automatic hierarchy of rights. Consequently, this study does not conclude that chemical castration is inherently rational or justifiable; instead, it asserts that its legitimacy is conditional and requires a comprehensive legal, medical, ethical, and empirical evaluation.

Based on these findings, the government and policymakers must ensure that the implementation of chemical castration adheres to legal provisions, is grounded in independent clinical examinations, includes periodic monitoring of the offender's health, and is subject to objective evaluation based on its outcomes. Child protection policies should also be integrated with offender rehabilitation, the prevention of sexual violence, and the recovery of victims. Future research should focus on empirical studies regarding the effectiveness of chemical castration in reducing sexual recidivism, its long-term medical consequences, and the practical experience of its implementation in Indonesia. Furthermore, research within the context of Islamic law should delve deeper into the differing perspectives among classical and contemporary scholars concerning the limits of ta'zir (discretionary punishment), the concept of maslahah (public interest), and the principle of preventing harm (dar' al-mafasid) in the application of medical interventions for criminal offenders.

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