

CHAPTER I

INTRODUCTION

1.1 Background of the Final Report

Sexual harassment is an act related to unwanted sexual intercourse, an invitation or gesture to commit sexual acts either verbally or physically, resulting in feelings of humiliation, insulting, and intimidation. Sexual harassment also has a devastating effect on the level of confidence, the risk to health, and the safety of the victims. A 2008 reference by Winarsunu stated sexual harassment is any form of the sexual connotation carried out unilaterally and is not desired by the victim and the form can be words of written, symbols, signs, and actions (as cited in Utami, 2016, p. 8). Meanwhile, 1998 reference by Coller stated the notion of sexual harassment here is all forms of unwanted sexual behavior by those receiving such treatment, and sexual harassment that can occur or is experienced by all women (as cited in Utami, 2016, p. 8).

Indonesia was the most dangerous country for women and children in 2019 and ranked the second in the Asia Pacific region and in 2019 cases of sexual harassment in Indonesia tend to increase. That was proven by the *Komisi Nasional Perempuan*, which received 2,988 cases of sexual harassment in 2019, which included 1,136 cases of molestation, 762 cases of rape, 394 cases of sexual harassment and 156 cases of sexual intercourse. Indonesia is not only dangerous country for women, but also for children, as data taken from *Komisi Perlindungan*

Anak Indonesia (KPAI) 2019 recorded that 123 children were victims of sexual harassment in educational institutions, consisting of 71 girls and 52 boys, not a few of them often get physical violence and even lead to death. *Lembaga Perlindungan Saksi dan Korban (LPSK)* recorded that the number of victims of sexual crimes against underage children has increased every year. It can be seen that in 2016 there were 35 victims, in 2017 there were 70 victims, in 2018 there were 149 victims and in 2019 there were 350 victims.

Sexual harassment in *Kitab Undang Undang Hukum Pidana (KUHP)* is called an obscene act. Obscene act can also be interpreted as an act violating the rules of moral norms and a heinous act committed in a state of sexual lust. *Kitab Undang Undang Hukum Pidana (KUHP)* and *Undang Undang Perlindungan Anak Nomor 23 Tahun 2002* made it clear that the crime of sexual harassment against underage children is a crime of courtesy that must be punished with appropriate punishment so that the actors cannot repeat that crime and provide a feeling of safety for every victim of sexual crimes. Soesilo (1980) described the punishment of child sexual abuse that state in *Pasal 287 Ayat (1)* of the *Kitab Undang Undang Hukum Pidana (KUHP)*:

Anyone who has sex with a someone outside of marriage, even though the actors know or duly should be assumed that his or her age is not fifteen years old, or his or her age is unclear, that he or she is not yet married, are threatened with a maximum imprisonment of nine years. (p. 182)

If the act results in injury or death, the actors will be punished for fifteen years in prison, as written in *Pasal 291* of the *KUHP*. Punishment for child sexual abuse is

also stated in *KUHP Pasal 292* that reads, “Adults committing obscene acts with others of the same sex, who they know or deserve to be accused of being immature, are threatened with a maximum imprisonment of five years” (Soesilo, 1980, p. 184).

Undang Undang Republik Indonesia Nomor 23 Tahun 2002 Tentang Perlindungan Anak (2002) regulates punishment for child sex offender stated in *Pasal 81*:

Every person intentionally acts violently or threatens to force a child to have intercourse with him or with another person shall be punished to a maximum imprisonment of fifteen years and a minimum imprisonment of three years and a maximum fine of Rp. 300,000,000 (Three hundred million rupiahs) and a minimum fine of Rp. 60,000,000 (Sixty million rupiahs). (p. 13)

Undang Undang Republik Indonesia Nomor 23 Tahun 2002 (2002) also regulates the punishment for child sex offender stated in *Pasal 82*:

Every person intentionally acts violence or threat of violence, forcing, committing tricks, a series of lies, or persuading children to commit or allow obscene acts, shall be punished to a maximum imprisonment of fifteen years and a minimum imprisonment of three years and a maximum fine of Rp. 300,000,000 (Three hundred million rupiahs) and minimum fine Rp. 60,000,000 (Sixty million rupiahs). (p. 13)

The punishment stipulated in *Pasal 81 and Pasal 82 Undang Undang Nomor 23 Tahun 2002 Tentang Perlindungan Anak* does not provide a deterrent effect for every actor of sexual offender, so *Pasal 81 Undang Undang Nomor 23 Tahun 2002 Tentang Perlindungan Anak* has been amended by *Peraturan Pemerintah Pengganti Undang Undang (PERPPU) Nomor 1 Tahun 2016*. These changes are made to provide additional punishment to the sexual offender. The additional punishment is chemical castration punishment.

Castration is an activity of removing the testicular glands used for spaying so that they can no longer produce sperm (*Kamus Besar Bahasa Indonesia*, n.d., para. 1).

Cheney (2006) described history of castration:

Castration has been known and was imposed in East Mediterranean 8000-9000 years ago. The purpose of implementing that suppress breeding of female cows because the female cows are larger in number than the male cows. There is no accurate record of applied castration for humans. (p. 1)

In Egypt 2.600 BC, many slaves were castrated. They believed that castration could increase the selling price of the slaves and considered to be more diligent and obedient to their employers (as cited in Cheney, 2006, p. 2). According to the Medical Dictionary, castration is the surgical removal of the testicles as a reproductive organ to reduce or eliminate a person's sexual drive (Ramali & Ahmad, 2000, *Kamus Kedokteran*, para. 1). Castration punishment in Indonesia is also known as an effort to inject chemical substances into the libido nerve, functioning to eliminate the desires of sexual crimes actor against underage children.

The government explained the reason for the application of chemical castration punishment due to the increasing number of sexual crime against underage children threatening the safety of Indonesia next generations. Applying this punishment can effectively reduce the number of sexual crimes against underage children in Indonesia undo someone's intention to commit a similar crime. However, there are pros and cons to the application of chemical castration the actors of sexual crimes against underage children.

The chemical castration punishment imposed on the actors of sexual crimes against underage children may not necessarily change the desires and potential of those actors to commit their actions again (*Ikatan Dokter Indonesia [IDI]*, 2019, Tirta.id, para. 3). A 2019 review by Hartono described about chemical castration punishment from doctor's point of view:

Chemical castration punishment does not guarantee a reduced desire and potential sexual behavior of the actors so that law enforcement is expected to find other forms of punishment as additional sanctions. Do not involve doctors as executors in the application of chemical castration punishment for actors of sexual crimes against underage children. The reason he refused to be the executor of chemical castration punishment is that considered to have violated the *Kode Etik Profesi Dokter* which is regulated in the *Majelis Kehormatan dan Etik Kedokteran (MKEK) Nomor 1 Tahun 2016 Tentang Kebiri Kimia*, which based on the *Sumpah Dokter* and the *Kode Etik Kedokteran Indonesia (KODEKI)*. (As cited Alaidrus, 2019, para. 4)

There is a study discussed chemical castration punishment uses a perspective on religious norms written by Madnur 2019, but in this study the writer uses the perspective of criminology and Indonesian criminal law to discuss the “Effectiveness of Chemical Castration Punishment for the Actors of Sexual Crimes against Underage Children in Indonesia.”

1.2 Objectives of the Final Report

This Final Report is intended to provide information to readers about the effectiveness and the inhibition factors of the application of chemical castration punishment for the actors of sexual crimes against underage children.

1.3 Significances of the Final Report

This Final Report has two significances. First, it is expected that this report can provide knowledge and understanding to the readers about additional punishment for actors of sexual crimes against underage children, as stipulated in the *Peraturan Pemerintah Pengganti Undang Undang Nomor 1 Tahun 2016* replacing *Pasal 81 Undang Undang Nomor 23 Tahun 2002 Tentang Perlindungan Anak*. Second, it is expected that this report can be a reference for further writers, especially students of D3 English Program, Merdeka Malang University.