



Implementation of the Announcement of the Identity of Sexual Violence Against Children

Beniharmoni Harefa^(✉), Feren Nabilla, and Supardi

Faculty of Law, Universitas Pembangunan Nasional Veteran Jakarta, Jawa Barat, Indonesia
beniharefa@upnvj.ac.id

Abstract. According to data from the Online Information System for the Protection of Women and Minors for the 2020 timeframe, there were 5,640 reported cases of sexual abuse of children. The government has set out Government Regulation Number 70 of 2020 for the implementation of increased criminal sanctions for those who commit sexual assault against children in response to the prevalence of such crimes. The introduction of extra sanctions, such as disclosing the perpetrator's identity, has created controversy in the community as a result of this finding. The scope of the investigation into the necessity of an extra punishment that takes the form of disclosing the identity of the perpetrator and its implementation in Indonesian criminal justice. The goal of this study is to determine if passing Government Regulation Number 70 of 2020 is urgent. The normative juridical research methodology is used in this article to study and address legal concerns. The study's findings indicate that sexual assault on children can be categorized as a serious, cruel crime or as *graviora delicta*, making offenders susceptible to additional punishments such as disclosing their identity as provided for in Government Regulation No. 70 of 2020.

Keywords: Announcement of Perpetrators' Identity · Children · *Graviora Delicta* · Serious Crimes

1 Introduction

The Online Information System for the Protection of Women and Children's official document records indicate that from January 1 to December 11, 2020, there were about 5,640 cases of sexual violence against children. Serious assaults against children that involve sexual violence will have a detrimental effect and impede their ability to develop normally.

Graviora delicta, a serious, violent crime, is the legal term for sexual assault on children. Such behaviors are against the law, morals, and/or religion. Evaluation of violence using popular opinion. Children are more traumatized by sexual violence, which occurs frequently. The trauma that requires extensive healing increases when a youngster is exposed to more violence.

One of the actions the government has taken is to specify that Government Regulation No. 70 of 2020 is related to the regulation of additional criminal procedures for perpetrators of sexual violence against children, which includes one of the additional penalties for disclosing the perpetrator's identity. This regulation serves as an implementation of Law Number 17 of 2016, which is referenced in or required by Article 81A paragraph (4) and Article 82A paragraph (3).

The requirement of Government Regulation Number 70 of 2020 has caused controversy within the neighborhood. One of these concerns the introduction of an additional criminal declaration of the perpetrator's identification. Some people who support the government believe that the additional punishment is justified for the offenders and is intended to increase public vigilance in order to reduce the likelihood that similar incidents will occur.

Identity disclosure for 1 (one) calendar month via bulletin boards set up by the Ministries of Communication and Information and Women's Empowerment and Child Protection, the prosecutor's website, electronic media, newspapers, social media, and/or other information media.

To keep the peace in the state, the state has the authority to enact laws and administer punishments. Therefore, behavior that violates can result in punishment. This has a deterrent impact to stop the offender from carrying out the same crime again. Those who disagree, however, are of the belief that the culprit will be classified as a criminal figure and would be punished accordingly can cause the perpetrator to become stigmatized, which will have an effect on the perpetrator's family. With this added penalty, the offender will receive a label or stamp for their crimes. Anyone exposed to the label or stamp will be impacted by this labeling given to someone has a tendency to veer off course. In the Jayapura High Court ruling number 77/Pid.Sus/2017/PT.JAP, additional punishment for, disclosing the names of those who commit crimes of sexual abuse against children are applied.

The author sets a restriction on the scope of the research in this paper, which will describe the controversy surrounding the provisions of Government Regulation No. 70 of 2020 regarding additional criminal acts of sexual violence against children, particularly with regard to the identification of those responsible for such acts and describe related regulations. Government Regulation Number 70 of 2020's provisions for the implementation or imposition of additional punishment for the disclosure of the perpetrator's identify are implemented in the Indonesian criminal justice system.

2 Research Methods

In this essay, the type of normative juridical study is used as the writing technique to investigate and address legal issues. The normative juridical technique involves a number of tasks that involve watching legal advances in the literature and are completed by studying or comprehending secondary data sources or bibliographical sources.

The author takes a statutory approach, often known as a statute and case approach, to this essay. This statute-based strategy is a study of the legal system. By using this methodology, it gives academics the chance to comprehend the consistency and conformance across legislation.

By looking at recent news stories on legal topics that have been the subject of written discussion, the case technique is applied.

3 Literature Review

Criminal Liability and Sentencing Against Pedophile Perpetrators under Indonesian Criminal Law, written by Anak Agung Ayu. He clarified that in order to receive punishment for sexual assault on children, the offender must be able to demonstrate their guilt.

In contrast to other studies, this study will address the potential for accountability for those who commit acts of sexual violence against minors as well as the added punishment of disclosing those individuals' identities.

The Existence of Chemical Castration for Perpetrators of Sexual Violence Against Children Judging from the Establishment of Criminal Law Norms by Dina Roszana, et al. They clarified that the Protection Act imposes extra consequences, including chemical castration, on those who commit crimes involving sexual assault against children. However, regulations governing the execution of these sanctions have not yet been published. In contrast to earlier research, this study will explain the existence of a legal amendment to the Child Protection Act in which there are guidelines for enforcing punishment in Government Regulation No. 70 of 2020 regarding the regulation of procedures for enforcing additional criminal acts of sexual violence against children, including one of them, namely: additional punishment for the disclosure of the perpetrator's identity (3).

Andrio Announcement of Identity as Additional Punishment Against Pedophile Perpetrators in the Indonesian Courts by Chris Waldi Pasaribu. The optimum concept for formal punishment in disclosing the names of those who commit sexual assault against children was discussed. In contrast to other research, this study will address the significance of further punishment in the form of disclosing the names of those who engage in sexual violence against children by examining the effects that have on the victims who are youngsters.

Boeng Triatmojo Hadi Susanto, "Child Protection Against Sexual Violence Based on Law Number 17 of 2016," Hadi Susanto. He described the Child Protection Act as a law that safeguards the rights of victims, including children and women, against sexual assault in the form of illicit sexual activity and obscene behaviors. In contrast to prior research, this study will discuss the Child Protection Act's implementation guidelines as outlined in Government Regulation Number 70 of 2020 with regard to the regulation of additional criminal sanctions for those who commit sexual assault against children, including one of the additional crimes of identity announcements. perpetrator.

Law Number 17 of 2016 Concerning the Stipulation of Perppu 1 of 2016 as a Form of Child Protection from the Perspective of Constitutional Law, by Laurensius Arliman S. He clarified that the additional punishment in the Child Protection Law does not demonstrate that the castration punishment in particular has a demonstrable effect on lowering levels of sexual violence. Instead of penalizing the abusers, what needs to change is the mentality, psychology, and beliefs of the perpetrators. In contrast to earlier studies, this nine study will talk about extra sanctions in the form of disclosing the names of those who engage in sexual abuse against children.

4 Polemic on Regulation of Announcement of Identity of Perpetrators of Sexual Violence Against Children as Additional Punishment in Indonesia

One of the main risks to children's growth and development is sexual violence, whether it takes the form of sexual activity or obscenity. This is due to the fact that these behaviors lead to severe injuries, mental illnesses, infectious infections, interruption or loss of reproductive function, and even the death of victims. The rights of all people, including children, are upheld by the state. The preservation and fulfillment of children's rights are governed by the Republic of Indonesia's 1945 Constitution as well as a variety of national and international laws and regulations. According to Article 1 Number 12 of the Child Protection Law, parents, families, society, the state government, and local governments are all obligated to guarantee, safeguard, and uphold children's rights since they constitute a component of human rights. By ratifying the International Convention on the Rights of the Child, namely through Presidential Decree Number 36 of 1990 concerning Ratification of the Convention on the Rights of the Child, this protection is strengthened.

Children who are sexually abused include those who touch or kiss their genitalia, engage in sexual activity with them or rape them, display pornographic material or objects, or expose their genitalia. Criminals who commit child sexual assault might get close to kids from different racial and socioeconomic backgrounds.

Even one's own children or siblings might become the targets of sexual assault, as perpetrators of such crimes against children frequently alter their objectives. According to the identity of the perpetrator, sexual violence can be classified into two (two) categories: extrafamilial abuse (committed by someone other than a member of the victim's family) and familial abuse (committed by someone who is related by blood or who is a member of a nuclear family, including a stepfather).

The prevalence of sexual assaults against children compels the government to act decisively in order to dissuade or give up on those who engage in sexual acts of violence against children and commit obscene activities by enforcing harsher punishments. Government Regulation (PP) Number 70 of 2020, which outlines the procedures for chemical castration, the installation of electronic detection devices, rehabilitation, and the identification of those responsible for sexual violence against children, has been released by the government. The publication of this PP is intended to serve as an implementation guide for the provisions of Articles 81A Paragraph 4 and 82A Paragraph 3 of Law (UU) Number 17 of 2016 Concerning Stipulation of Government Regulations in Lieu of Law Number 1 of 2016 Concerning Second Amendment to Law Number 23 2002 Concerning Child Protection.

The introduction of additional sanctions for disclosing the names of individuals who commit acts of sexual abuse against children has created controversy in the community as a result of this PP's provision. Some people who support the government believe that the additional punishment is acceptable for the offenders and is intended to increase public awareness in order to lessen the likelihood that similar incidents will occur.

Those who disagree contend, however, that doing so will result in the perpetrator being stigmatized or cast in a negative light, both of which will have an effect on the offender's family.

The additional punishment of disclosing the identify of the offender has caused a debate among members of the public who pay attention from the perspective of human rights or the rights of the offender and who believe that the additional punishment is a breach of the offender's human rights. If you take a look at this, you can see that it is initially related to human rights in general.

According to Article 1 Number 1 of Law (UU) of the Republic of Indonesia Number 39 of 1999 concerning Human Rights, Human Rights are a set of rights that are inherent in people as God Almighty's creations. These rights are recognized by the state, law, and government, and everyone has a responsibility to uphold the honor and dignity of every individual.

Then Article 52 indicates that human rights are connected to children's rights, and for its benefit, children's rights are recognized and safeguarded by law even while they are still in the womb. According to Article 1 Number 6, any action taken by an individual or group of individuals (a "non-state actor") that restricts or denies a person's human rights, whether intentionally or negligently, is a violation of their human rights. or a group of other individuals who are protected by the law but fail to receive, or fear that they will not receive, a just and appropriate legal resolution in accordance with the prevailing legal procedure.

Therefore, those who commit human rights abuses will follow the law's regulations when carrying out the process. Because children have rights that are a part of human rights, it is obvious that sexual violence against children constitutes a violation of such rights. Other research that look at the evidence for the labeling hypothesis have produced contradictory and ambiguous results about the stigma of perpetrators who will receive a label or a criminal label. Most groups that stray from the norm won't do it again. Instead, they try to figure out how to prevent similar aberrations from happening in the future. This implies that, depending on how the public perceives it, the criminal has a label or stamp on him or her. The culprits will then be more likely to fix their behaviors so that they do not happen again rather than committing the same errors.

Children who experience sexual assault do not recognize their victim status. One kind of violence against children that demonstrates the fragility of the position of the kid is the crime of sexual violence against children. In this instance, the phrase refers to Law Number 13 of 2006 concerning the Protection of Witnesses and Victims, which was enacted particularly to provide for the legal protection of children. Different rights afforded by the State to victims have been governed under the Law on the Protection of Witnesses and Victims.

A regulation must be viewed as a kind of right limitation by the state in order for it to fulfill its obligation to control its citizens' participation in state and social life in the context of the protection of human rights. Thus, the position of Government Regulation Number 70 of 2020, which governs the additional punishment for sexual assault of children, which in the context of protecting children's rights is a form of limiting a person's rights by the state to ensure national security, can be proven that the limitation of rights is legal. These limitations are meant to uphold just demands in accordance with

morality, security, and public order considerations in a democratic society. They also ensure that others' rights and freedoms are recognized and respected.

Additionally, Decision Number 065/PUU-II/2004 addressing the evaluation of the application of retroactive legislative requirements in Law Number 26 of 2000 governing the Court of Human Rights is another court ruling that we can consider as a guide when discussing limitations on human rights in Indonesia. The right not to be punished under a statute that applies retroactively is not absolute, according to the Court's interpretation of Article 28I paragraph (1), which must be read in conjunction with Article 28J paragraph (2). There is an official interpretation of the Constitutional Court's decisions regarding the restriction of human rights in Indonesia, and this interpretation makes it clear that no one human right in Indonesia is absolute or unrestricted.

5 Implementation of Additional Punishment Announcement of Identity of Perpetrators of Sexual Violence Against Children in Indonesia

5.1 Identity of Perpetrators of Sexual Violence Against Children in Indonesia to be Announced

The government published Government Regulation (PP) Number 70 of 2020 concerning Procedures for Implementing Chemical Castration, Installation of Electronic Detection Devices, Rehabilitation, and Announcement of the Identity of Perpetrators of Sexual Violence Against Children in order to carry out this additional punishment. According to Articles 76D and 76E of Law (UU) of the Republic of Indonesia Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, additional punishment in the form of disclosing the identify of the perpetrator may be imposed for offences. Everyone is forbidden under Article 76D from using violence or using threats of violence towards children in order to engage in sexual activity with himself or with others. Then, according to article 76E, no one is permitted or allowed to coerce, deceive, tell a series of lies, or convince youngsters to commit or allow the commission of obscene acts by using violence or threats of violence. As a result, it can be claimed that those who harm minors sexually may also face further punishment, such as having their identity made public, if they also commit filthy or lewd activities.

Criminal law establishes the idea of culpability to the culprit when a crime is committed with a component of error. Criminal culpability in law recognizes two different kinds of mistakes, namely normative and psychological ones.

Therefore, it is possible to define criminal culpability as the ability of a person, both physically and intellectually, to suffer the effects of his or her conduct in line with the law. Essentially, it can be claimed that young toddlers lack the ability to see precisely what is happening or to recognize what is right from wrong.

According to criminal law, the danger of criminal sanctions for moral transgressions or crimes against decency is in addition to the main penalty, which may include imprisonment and/or fines; each of these extra sanctions serves as a weighted sanction. The Child Protection Law, on the other hand, deals with ballast sanctions, which include additional punishments including chemical castration, the installation of electronic detecting devices, rehabilitation, and disclosure of the offender's identify.

In Chapter III of PP Number 70 of 2020, the process for implementing the disclosure of the identities of perpetrators of sexual violence against children is as follows: before the perpetrators of sexual violence against children have completed serving the primary crime, within a maximum of 14 (fourteen) working days, the Ministry that handles government affairs in the legal field (such as the Ministry of Justice) shall notify the public of the identity of the perpetrators of sexual violence against children. The Prosecutor's Office is required to reveal the identity of the perpetrator of sexual violence against children within 7 (seven) working days after receiving a notification letter from the Ministry of Law and Human Rights and after the perpetrator has completed serving the primary offence.

Therefore, it can be said that before the offender has finished serving his or her sentence, the ministry of law essentially sends the prosecutor a letter of notification regarding the disclosure of the offender's identity, and that the prosecutor will start disclosing the offender's identity after the offender has completed serving his or her primary sentence. For one (one) calendar month, the names of those who have sexually abused children will be made public on noticeboards, the prosecutor's official website, in print, on television, online, or through social media, as well as in public places like malls, train stations, and airport terminals. The Announcement of the Identity of the Perpetrator of Sexual Violence Against Children includes the perpetrator's name, most recent photo, national identity number or passport number, place of birth, date of birth, gender, and last known residence address.

The following paragraph is from Article 21. (4) According to PP Number 70 of 2020, further punishment, such as disclosing the perpetrator's identify, cannot be imposed on a minor who committed the crime. According to the Law (UU) of the Republic of Indonesia Number 11 of 2012 governing the Juvenile Criminal Justice System, which is governed by Article 3 letter I every kid involved in the criminal justice system has rights, one of which is the right to privacy. Children are expected to give Restorative Justice a high priority in the criminal justice system. When the perpetrator, victim, victim's family, and other associated parties work together to find solutions for a fair settlement that prioritizes healing over retribution, this is called restorative justice. When children and adults or members of the state apparatus commit crimes together, the children are brought before the juvenile court, while the adults or members of the state apparatus are brought before the appropriate court.

This penalty should be used because it has a deterrent impact on those who commit sexual assault against children and helps them learn from their mistakes. Sexual assault instances against children have happened in Indonesia. In relation to this rule, it is believed that a person's human rights are not an issue as long as they are not first violated by someone else. According to Law Number 14 of 2008 about Public Information Disclosure, this sentence's execution may be carried out based on a court order, therefore it may be put into practice in accordance with the rules that apply.

6 Conclusions and Recommendations

Since sexual assault has such a terrible impact on minors, it is regarded as a serious, violent crime, or *graviora delicta*. The government issued Government Regulation (PP)

No. 70 of 2020 regarding additional additions for perpetrators of violence against children, particularly in the form of disclosing the perpetrator's identity, which will make perpetrators of violence against children. This was done in response to the prevalence of cases of violence against children. Procedures for implementing films of sexual assault abusers against children are covered in Chapter III of PP Number 70 of 2020.

On notice boards, the prosecutor's official website, print, electronic, and social media outlets, as well as in public areas like development centers, stations, and terminals, the perpetrators' full identities will be made public. The fact that these are child offenders of violence against children applies to them. The significance of publicizing Government Regulation Number 70 of 2020, which stipulates increased punishments for those who commit sexual violence against children, as well as the significance of the community's active engagement in reducing such crime.

Open Access This chapter is licensed under the terms of the Creative Commons Attribution-NonCommercial 4.0 International License (<http://creativecommons.org/licenses/by-nc/4.0/>), which permits any noncommercial use, sharing, adaptation, distribution and reproduction in any medium or format, as long as you give appropriate credit to the original author(s) and the source, provide a link to the Creative Commons license and indicate if changes were made.

The images or other third party material in this chapter are included in the chapter's Creative Commons license, unless indicated otherwise in a credit line to the material. If material is not included in the chapter's Creative Commons license and your intended use is not permitted by statutory regulation or exceeds the permitted use, you will need to obtain permission directly from the copyright holder.

