

**INCREASING CRIMINAL PENALTIES FOR PERPETRATORS WHO
FORCE SEXUAL RELATIONS WITH CHILDREN (Study of Decision No.
253/Pid.Sus/2025/PN.Kis)**

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ABSTRACT

This study discusses the aggravation of criminal penalties against perpetrators who force children to engage in sexual intercourse, with a focus on Decision Number 253/Pid.Sus/2025/PN.Kis. Cases of sexual violence against children in Indonesia continue to increase and have serious impacts on children's futures, both physically and psychologically. These crimes become even more concerning when committed by individuals closest to the victim, such as a stepfather, who should provide protection and a sense of security to the child. This research aims to analyze the legal regulations regarding the aggravation of punishment for perpetrators of forced sexual intercourse against children, the forms of coercion committed by the perpetrator, and the judge's considerations in rendering the decision in Case Number 253/Pid.Sus/2025/PN.Kis.

The research method used is normative legal research with statutory and case approaches. The data sources consist of primary, secondary, and tertiary legal materials analyzed qualitatively. The results of the study show that the aggravation of criminal sanctions against perpetrators of sexual violence against children is regulated under Law Number 17 of 2016 concerning Child Protection, including the possibility of imposing additional measures in the form of chemical castration. In the case examined, the judge sentenced the defendant to 12 years of imprisonment and a fine but did not impose additional measures such as chemical castration, despite the repeated acts and threats committed against the victim. Therefore, stricter and more proportional sanctions are necessary to create a deterrent effect and ensure the protection of children as victims of sexual violence.

Keywords: Aggravation of Criminal Penalties, Sexual Violence, Children, Chemical Castration.

A. Introduction

Sexual violence against children is categorized as an extraordinary crime because it not only violates legal norms but also destroys the dignity, mental health, and future of children as victims. Children who experience sexual violence often suffer prolonged trauma, fear, depression, loss of self-confidence, and difficulties in social interaction. In many cases, the trauma experienced by victims continues into adulthood and affects their psychological and emotional development (Nursariani Simatupang, 2022, pp. 468–469). Therefore, the protection of children from sexual violence must become a priority for the state, society, and family.

The family is the first and primary environment responsible for protecting children. Parents and family members are expected to provide affection, guidance, and security for children in their growth and development. However, the increasing number of sexual violence cases committed within the family environment, particularly by stepfathers or biological fathers, indicates a serious moral and social crisis (Hadi Machmud, 2023, pp. 177–178). Such crimes represent a betrayal of trust and parental responsibility, causing children to lose their sense of safety within their own homes.

The Indonesian legal system has attempted to provide stricter protection for children through various regulations concerning child protection and sexual violence crimes. Law Number 17 of 2016 concerning Child Protection introduced heavier criminal sanctions, including additional punishments such as the publication of the perpetrator's identity, electronic monitoring devices, and chemical castration (Law Number 17 of 2016 concerning Child Protection). These regulations were enacted as a response to the increasing number of sexual violence cases against children and the perception that ordinary criminal sanctions were insufficient to create a deterrent effect for perpetrators.

The implementation of additional sanctions in the form of chemical castration continues to generate debate in society. Supporters argue that chemical castration is necessary to prevent perpetrators from repeating their crimes and to provide stronger legal protection for children (Gita Cristin Debora Sihotang et al., 2022, p. 178). On the other hand, opponents believe that chemical castration may conflict with human rights principles and medical ethics.

Nevertheless, the government maintains that the policy is intended as a preventive and rehabilitative measure aimed at protecting children as vulnerable victims of sexual crimes.

In Decision Number 253/Pid.Sus/2025/PN.Kis, the defendant repeatedly forced the child victim to engage in sexual intercourse through violence and threats. Despite the severity of the crime and the repeated acts committed over a long period of time, the court only imposed imprisonment and a fine without applying additional sanctions in the form of chemical castration (Decision Number 253/Pid.Sus/2025/PN.Kis). This situation raises legal questions regarding the effectiveness and consistency of the implementation of aggravated punishment policies against perpetrators of sexual violence against children in Indonesia.

B. Research Methods

A study cannot be called research if it does not have a research method.¹ Research methods are one of the factors of a problem that will be discussed. The study was conducted using secondary data which was analyzed qualitatively using the Desk Research Method. The literature materials used in writing this research are several references originating from research results, studies, and reviews of several writings which are then summarized into a scientific paper.²

C. Discussion

1. Regulations Concerning Increasing Criminal Sentences for Stepfathers as Perpetrators of Forced Sexual Relations Against Children

Talking about sexual violence in Indonesia today, it is increasingly causing concern.³ Over the past few years, child rape cases in Indonesia have been dominated by family members. Minors, who should receive primary protection from anything that could harm them, should receive protection from their closest family members, who should be a safe space for them.⁴

¹ Hanifah, I., Hariyanto, H., Ginting, L., Koto, I., & Syafriana, R. (2026). Legal Protection of Indonesia's Fisheries from Foreign Investment: A Social-State Approach. *Jurnal IUS Kajian Hukum dan Keadilan*, 14(1).

² Simatupang, R. S. A., Hanifah, I., & Mansar, A. (2025). The Concept of Restitution as Legal Accountability in the Crime of Human Trafficking. *Pena Justisia: Media Komunikasi dan Kajian Hukum*, 24(1), 3554-3462.

³ Ismail, et.al, 2025, *Sexual Violence Emergency*, Jakarta: Tempo Publishing, page viii.

⁴ Hana Aulia Putri, (2021), "Legal Protection of the Rights of Child Victims of Rape in the Family Environment", *Lex Renaissance*, Vol.6, No.1, page 15.

These sexual crimes often occur within the family. In cases of child sexual abuse by close family members, the perpetrators are generally people known to the victim.⁵The intention to commit sexual abuse against a child is inspired by the act itself. This intention to commit sexual abuse arises from the close relationship between the perpetrator and the victim, coupled with the lack of supervision from other parties.⁶become the main trigger that strengthens the perpetrator's intention to commit a crime.

Forced sexual intercourse against children within the family environment often causes profound trauma, sometimes lingering for years. This is due to several factors, such as the victim's powerless position, still dependent on their family because they are still children. Furthermore, the perpetrator uses various methods to deceive, pressure, and threaten the victim, even going so far as to threaten death, leaving the victim unable to resist.⁷

Children should grow up in a safe and loving environment, especially from their parents. However, in reality, in some cases, parents, particularly biological fathers or stepfathers, are the perpetrators of sexual violence against their own children. This creates deep, lasting trauma for victims, and in many cases, it's difficult to fully recover. Furthermore, many victims are reluctant to report the abuse due to fear and family pressure.⁸

Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia states that Indonesia is a state based on law. Indonesia has criminal law that aims to protect the interests of individuals or human and social rights.⁹Victims of sexual violence crimes are protected by law, here are some rules regarding sexual violence against children

The Criminal Code (KUHP) regulates criminal acts committed by any person and the criminal sanctions imposed for crimes and/or violations, the KUHP regulates criminal acts materially in Indonesia which are general in nature, one of which is the criminal act of forcing sexual relations carried out by means of violence or threats of violence against one's stepchildren is regulated in Article 418 of the 2023 Criminal Code, the following is the content of Article 418 paragraph 1: Any person who commits indecent acts with his biological

⁵Rima Syahputri, Delmira Syafrini, (2024), "Factors Causing Sexual Harassment of Children by Closest Families in Padang City", *Perspective Journal: Journal of Sociology and Education Studies*, Vol.7, No.4, page 474.

⁶Ibid.

⁷Hana Aulia Putri, Op.Cit, page 16.

⁸Muhammad Fahrudin Abisyfa, Hudi Yusuf, (2025), "Rape of Biological Children", *Indonesian Journal of Intellectuals and Scholars*, Vol.2, No.4, page 5372.

⁹Afric Stanley, (2023), "Regulation of Criminalization of Sexual Violence Crimes in Positive Law in Indonesia", *Locus: Journal of Legal Science Concepts*, Vol.3, No.4, page 205.

child, stepchild, adopted child, or child under his supervision, who is entrusted to him to be cared for or educated, shall be punished with a maximum imprisonment of 12 (twelve) years.

Based on Article 418 paragraph 1, a person who is considered to have violated the above article is a person who commits an act of forced sexual intercourse against a woman under the age of fifteen who is his biological child, stepchild, adopted child, or child under his supervision, who is entrusted to him to be cared for or educated, if a person commits this violation, he will be given a maximum sentence of twelve years in prison. However, with the existing developments, this regulation is considered incomplete regarding the content of the rules or provisions of the law on sexual violence.

With the rise in cases of sexual violence with diverse motives, the legal framework governing sexual violence is deemed out of step with current developments and societal needs. Given the rise in sexual violence cases in Indonesia, along with the various long-term implications for victims, civil society organizations have taken the initiative to propose the Draft Law on the Elimination of Sexual Violence (RUU PKS) as an effort to improve the law and address the many unresolved issues of sexual violence.

The Draft Law on the Elimination of Sexual Violence extends beyond codifying procedural law and criminal sanctions for sexual violence, but also broadly addresses benefits for victims of sexual violence. The Draft Law on the Elimination of Sexual Violence covers everything from prevention and fulfillment of victims' rights and recovery to regulating handling during the judicial process.

2. Forms of Coercion Carried Out by Stepfathers as Perpetrators of Criminal Acts of Forced Sexual Relations Against Children

Narratives about children's issues demonstrate a growing sense of concern and social responsibility among the wider community, particularly among parents. By raising awareness and understanding the importance of child protection, we also recognize that children are an investment in the nation's future. Children are human resources with the potential to build the nation and create a more just and prosperous society.¹⁰

Protecting children's rights, including the right to protection from all forms of violence and exploitation, is a moral and legal obligation. The educational process aimed at raising children's awareness of their rights and how to deal with social situations that may pose risks

¹⁰Yayan, Fajar, Sudjiono, (2024), "Preventive Efforts as a Form of Legal Protection from Crimes of Sexual Violence Against Children", Collaborative Journal of Science, Vol.7, No.5, page 1652.

is known as child protection.¹¹This not only includes providing information to children about children's rights and how to deal with social situations, but also providing information related to the forms of treatment someone can have towards children, including forced sexual relations with children.

3. Judge's Consideration Regarding the Increase in Sentence of Stepfather as Perpetrator of Forced Sexual Relations Analysis of Kisaran District Court Decision Number 253/Pid.Sus/2025/PN.Kis.

Kisaran District Court Decision Number 253/Pid.Sus/2025/PN.Kis which decided the case based on Article 81 paragraph (3) of the Republic of Indonesia Law Number 17 of 2016 concerning the Determination of Government Regulation in Lieu of Law Number 1 of 2016 concerning the Second Amendment to the Republic of Indonesia Law Number 23 of 2002 concerning Child Protection and other relevant laws and regulations. In the decision, the Defendant was charged with Article 81 paragraph (3) of the Republic of Indonesia Law Number 17 of 2016 concerning the Determination of Government Regulation in Lieu of Law Number 1 of 2016 concerning the Second Amendment to the Republic of Indonesia Law Number 23 of 2002.

Courts play a vital role in the process of seeking justice, and therefore must be independent and able to present the case without interference in any form. Judges play a crucial role in the judiciary because they have the authority to examine, try, and decide cases. Judges, in their professional duties, do not act independently; however, they are constrained by rules and norms.

It is known that there are 2 (two) categories of judge's considerations in deciding a case, namely the judge's considerations are juridical and non-juridical. Juridical considerations are judge's considerations that are based on juridical facts revealed in the trial and are stipulated by law as must be included in the decision, for example the public prosecutor's indictment, the defendant's statement, witness statements, evidence, and articles in criminal law regulations. In accordance with Article 197 paragraph (1) letter d of the Criminal Procedure Code, which states "considerations that are compiled briefly regarding the facts and circumstances along

¹¹Ibid.

with the evidence obtained from the examination at trial which are the basis for determining the defendant's guilt."¹²

Non-legal considerations are based on the defendant's background, the defendant's condition and the defendant's religion. The decision includes aggravating and mitigating factors as regulated in Article 197 paragraph (1) letter f of the Criminal Procedure Code, which states that "the articles of the statutory regulations which are the basis for the punishment or action and the articles of the statutory regulations which are the legal basis for the decision, accompanied by aggravating and mitigating circumstances of the defendant."¹³

The decision explains the circumstances that aggravate the defendant, namely:

1. The Defendant's actions resulted in the Child Victim Witness experiencing pain in his genitals.
2. The Defendant's actions damaged the future of the Child Victim Witness.

In the decision, mitigating circumstances include:

1. The defendant has never been convicted
2. The defendant admitted his actions

Based on the legal facts of Decision Number 253/Pid.Sus/2025/PN.Kis, the Defendant was legally and convincingly proven guilty of the criminal act charged to the defendant. However, this must first be considered as the indictment from the Public Prosecutor. The Public Prosecutor has charged the Defendant with an indictment that was compiled subsidiarily, so the Panel of Judges first considered the Primary Indictment as regulated in Article 81 Paragraph (3) of Law Number 17 of 2016 concerning Perppu (Determination of Government Regulation in Lieu of Law) Number 1 of 2016 concerning the second amendment to Law Number 23 of 2002 concerning Child Protection,

D. Conclusion

The regulation regarding the aggravation of criminal penalties for stepfathers as perpetrators who force sexual relations against children through Law Number 17 of 2016 concerning the Stipulation of Government Regulation in Lieu of Law Number 1 of 2016 concerning the Second Amendment to Law Number 23 of 2002 concerning Child Protection into Law contains the threat of the death penalty, up to chemical castration as regulated in

¹²Wahyu Sari Asih, (2021), "Judges' Considerations in Imposing Criminal Decisions on Violence Against Children (Study of Decision Number 166/Pid.Sus/2016/PN.Pwt)", *Verstek Journal*, Vol.9, No.2, page 283.

¹³Ibit.

Government Regulation Number 70 of 2020 concerning Procedures for the Implementation of Chemical Castration, Installation of Electronic Detection Devices, Rehabilitation, and Announcement of the Identity of Perpetrators of Sexual Violence against Children. Through this update, the state not only increases sanctions for perpetrators, but also prioritizes a protection paradigm through the fulfillment of rights and comprehensive rehabilitation for the future of victims.

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