

Litigation_and_Penology_of_Pe dophilia_revisi.docx

by

Submission date: 15-Nov-2022 07:05AM (UTC+0700)

Submission ID: 1954160871

File name: Litigation_and_Penology_of_Pedophilia_revisi.docx (109.03K)

Word count: 8415

Character count: 49432



Litigation and Penology of Pedophilia in the Perspective of Indonesian Conventional and Islamic Laws

Iffatin Nur

UIN Sayyid Ali Rahmatullah, Tulungagung

iffaeltinury@gmail.com

Teguh Teguh

UIN Sayyid Ali Rahmatullah, Tulungagung

muhammad.teguh.ridwan@gmail.com

Hiba Fajarwati

UIN Sayyid Ali Rahmatullah, Tulungagung

hibafajarwati@gmail.com

Abstract: *The high number of pedophilic incidences in Indonesia is partly due to the lack of community's social control and the weak supervision of the litigation and penological processes. Considering the impact of pedophilia to victims including long-term trauma, injury and socio-moral damage that tends to be acute and dangerous, intensive monitoring of both litigation and penological processes must be carried out on a massive scale to ensure and maximize that the sustainable protection for children which guarantees and protects their rights so they can live, grow, develop and participate optimally appropriate to human dignity and integrity as well as get protection from any form of violence and discrimination act. This empirical-normative-juridical qualitative study uses emic and etic approaches; the data analysis refers to the explication technique developed by Von Eckartsberg, Wertz, and Schweitzer, starting with data interpretation and continuing with the integration of interview results and normative juridical analysis. The results of the study show that the litigation and penology of pedophilia are in line with the Indonesian conventional law and in accordance with the objectives of Islamic*

law (maqāṣid sharī'ah) eventhough at its penological aspect it is not pretty optimal yet.

Abstrak: *Tingginya angka kejadian pedofilia di Indonesia antara lain disebabkan oleh kurangnya kontrol sosial masyarakat dan lemahnya pengawasan terhadap proses litigasi dan penologi. Mengingat dampak pedofilia terhadap korban termasuk trauma jangka panjang, cedera, dan kerusakan sosial-moral yang cenderung akut dan berbahaya, pemantauan intensif baik proses litigasi maupun penologi harus dilakukan secara masif untuk memastikan dan memaksimalkan keberlanjutan perlindungan bagi anak yang menjamin dan melindungi hak-haknya agar dapat hidup, tumbuh, berkembang, dan berpartisipasi secara optimal sesuai dengan harkat dan martabat kemanusiaan serta memperoleh perlindungan dari segala bentuk aksi kekerasan dan diskriminasi. Penelitian kualitatif yuridis-normatif-empiris ini menggunakan pendekatan emic dan etic. Analisis data mengacu pada teknik eksplikasi yang dikembangkan oleh Von Eckartsberg, Wertz, dan Schweitzer, dimulai dengan interpretasi data dan dilanjutkan dengan integrasi hasil wawancara dan analisis yuridis normatif. Hasil penelitian menunjukkan bahwa litigasi dan penologi terhadap kasus pedofilia di Indonesia sudah sesuai dengan hukum konvensional Indonesia dan sejalan dengan tujuan hukum Islam (maqāṣid sharī'ah) meskipun pada aspek penologinya belum cukup optimal.*

Keywords: *Indonesian conventional law; Islamic law; litigation; pedophilia; penology*

A. Introduction

The increasing scale and complexity of the problems faced by children¹ are marked by the increasing number of children who experience

¹ K. L. Nunes and C. A. Hermann, "Special Issue of Sexual Abuse: A Journal of Research and Treatment - Connecting Theory with Research: Testing Hypotheses About the Causes of Sexual Offending", *Sexual Abuse*, vol. 28, no. 1, 2016, pp. 73–74; D. Daipon, "Kekerasan Seksual Pada Anak di Indonesia (Tipologi, Respon Pemerintah dan Hukum Islam)," *Alhurriyyah: Jurnal Hukum Islam*, vol. 1, no. 2, 2016, pp. 195-214.

mistreatment in the forms of exploitation,² burdening and stereotypes,³ stigma,⁴ violence,⁵ victimization, trafficking,⁶ neglect, exile, abortion, and even murder. Anwar mentions the high incidence of pedophilic cases in Indonesia due to the weak community's penological process.⁷ Meanwhile, in general, most cases of pedophilia occur because of psychological problems and lack of social control.⁸

Pedophilia is indeed an *extra ordinary* crime considering that the victims are powerless children and the impact can result in long-term trauma. The trauma affects the victims psychologically and brings physical and social-moral damages that will eventually harm them in their future. The psychological trauma is dominantly greater than the physical injury. Other than eliminating self-confidence to victims, it can also degrade their feelings. Such children will lose dysfunction in their sexual activity, undergo the rise of phobia and have the feeling of being isolated and tainted due to what the offenders had done to them. To girl victims, a delay in menstruation will also occur due to long-term stress they experience.⁹

² C. Bennell, L. J. Alison, K. L. Stein, E. K. Alison, and D. V. Canter, "Sexual offenses against children as the abusive exploitation of conventional adult-child relationships", *Journal of Social and Personal Relationships*, vol. 18, no. 2, 2001, pp. 155–171; M. Yirdam-R, "Peran Ecpat (End Child Prostitution, Child Pornography, and Trafficking of Children for Sexual Purposes) dalam Menangani Kasus Prostitusi Anak di Meksiko Tahun 2005-2015," *JOM FISIP*, vol. 4, no. 2, 2017, pp. 1-15.

³ Iffatin Nur, "The Redefinition of Child of Adultery", *International Journal of Science and Research*, vol. 4, no. 3, 2015, pp. 2186-2192.

⁴ S. Jahnke, K. Philipp and J. Hoyer, "Stigmatizing attitudes towards people with pedophilia and their malleability among psychotherapists in training", *Child Abuse & Neglect*, 40, Feb 2015, pp. 93–102.

⁵ W. N. Rakhmad, "Kekerasan Terhadap Anak dalam Konstruksi Koran Tempo," *Jurnal Ilmu Sosial*, vol. 15, no. 1, 2016, pp. 53–62.

⁶ S. Y. Ardianto, "Perlindungan Hukum terhadap Anak sebagai Korban dari Tindak Pidana Perdagangan Anak di Kota Pekanbaru," *Jurnal Ilmu Hukum*, vol. 3, no. 1, 2010; Salundik, "Penegakan Hukum terhadap Tindak Pidana Pelaku Pedofilia", *Jurnal Ilmu Hukum Tambun Bungai*, vol.1, no.1, 2016, pp. 1-11, p.2.

⁷ S. D. Anwar, *Pentingnya Membangun Komitmen Bersama untuk Mencegah Maraknya Kekerasan Seksual dan Pornografi*, (Jakarta: Dirjen Informasi dan Komunikasi Publik -Kemenkominfo, 2014).

⁸ E. Widjajanti and R. Windari, "Pedophilia as a form of sexual deviance from a social bond theory", *IJUM Law Journal*, vol. 29 no. S1, 2021, pp. 177-194.

⁹ S.E. Cutler and S. Nolen-Hoeksema, "Accounting for sex differences in depression through female victimization: Childhood sexual abuse", *Sex Roles*, vol. 24, 1991. pp. 425-438; G.C. Davison, J.M. Neale and D. Hindman, *Abnormal*

Pedophilic crime cannot be neglected; it has become both national and international issue.¹⁰ Even, more than two decades ago, pedophilia had been a major crime in the United States. In 1996 alone, there were approximately 234,000 offenders convicted of rape or sexual assault under the jurisdiction of correctional agencies, according to the Bureau of Justice Statistics.¹¹ Last year, an independent commission of investigation in France revealed that 216,000 children were victims of pedophilic sexual abuse in the French Catholic Church. They became victims in 1950-2020. A report by AP News, Wednesday (6/10/2021), said that 80 percent of victims were boys, although overall 75 percent of victims of sexual harassment in France were girls. In reports related to sexual violence happened in French churches, the perpetrators were clergies. The number reached 2,900-3,200. That figure is about 2.7 percent of the total 115,000 clergies recorded during the period the harassment occurred. Since the number of perpetrators is less than the number of victims, this means that one perpetrator targeted a large number of child victims. The investigation noted the number of perpetrators may have been higher.¹²

The number of cases and victims tends to increase over years. As reported by the Ministry of Women Empowerment and Child Protection, in 2019, a total of 11,057 cases were recorded with 12,285 victims. Then, in 2020 the total number of cases was 11,278 with 12,425 children victims. In the first semester of 2021, there were 7,089 cases with 7,784 children victims of violence. That number is an increase of around 39 percent from the figure for the same period the previous year, which was 4,615 children.¹³ The cases of sexual violence such as rape and sexual abuse of children dominated during the Covid-19 corona virus pandemic. Based on data from the Indonesian Commission for Child Protection (Komisi Perlindungan Anak Indonesia or KPAI), in 2020, there were 419 cases of

Psychology, 8th ed., (New York: John Wiley, 2004). See also: Iffatin Nur, et al., "Building Pedophilia-Free Zones Based on Juridical and Educative Islamic Law's Perspectives." *The Social Sciences*, vol. 15, no. 7, 2020, pp. 273-282, p. 274.

¹⁰ Nur, et al., "Building Pedophilia-Free Zones", p. 277.

¹¹ Dennis J. Stevens, "Pedophilias: A Case Study", *Journal of Police and Criminal Psychology*, vol. 17, no. 1, Spring 2002, pp. 36-51, p. 36.

¹² Tommy Kumia, "Pedofilia di Gereja Prancis: 216 Ribu Anak Jadi Korban", *Liputan6.com*, 6 October 2021.

¹³ R. Handayani, et al., "Anak Korban Kekerasan Meningkat", *republika.id*, 8 September 2021.

children in conflict with the law for being victims of sexual violence.¹⁴ Just for an example, in November 2021 the Resort Police Office of Batang, Central Java, revealed allegations of sexual deviation cases committed by FWR (33) to 30 under-aged children (i.e. a pedophilia crime) and charged him suspect.¹⁵

The more worrying fact is the occurrence of several cases of pedophilia within some Islamic boarding schools. Most people were made angry considering the fact that the perpetrators of sexual harassment against the young student victims were their own teachers and clerics. Just to mention but few, the recent cases include: 1) a cleric, initial FZ, at the 'Lembah Arafah' Islamic Boarding School of Lumajang, East Java, was suspected of molesting 3 female students, 2) eleven under-aged female students became victims of sexual abuse and rape by 3 teachers and 1 senior at the Ridayul Jannah Islamic Boarding School of Depok, West Java, 3) in Subang, West Java, an Islamic boarding school leader, initial DAN (45), raped his 15-year-old female student for a year and had committed his lewd acts ten times from December 2020 to December 2021, 4) an administrator and owner of the Madani Boarding School of Bandung, West Java, initial HW (37), raped dozens of his female students, 5) a son of a well-known cleric in Jombang, East Java, initial MSAT (42), was charged a suspect in the case of molestation and rape of female students at the Majma'al Bahrain Siddiqiyah Islamic Boarding School,¹⁶ and 6) in September 2021, a teacher at one of the Islamic boarding schools in Ogan Ilir, South Sumatra, was suspected of having committed a criminal act of sexual abuse against 12 of his under-aged students.¹⁷

Public attention and awareness must now begin to focus on monitoring the litigation and penological processes of pedophilia, as the most tragic crime that has befallen the future children of the Indonesian nation, both pure pedophilia and pedophilia that end in sadistic murders involving mutilation to victims' bodies. Intensive supervision of the litigation and penological processes of pedophilia as an *extra ordinary*

¹⁴ D. H. Jayani, "Kasus Kekerasan Seksual terhadap Anak Mendominasi saat Pandemi Covid-19", *katadata.co.id*, 27 May 2021.

¹⁵ Editorial Team, "Bejat, Tersangka Pedofilia di Batang Mengaku Cabuli Lebih dari 30 Anak", *Liputan6.com*, 11 November 2021.

¹⁶ Jayani, "Kasus Kekerasan Seksual terhadap Anak."

¹⁷ Editorial Team, "Kasus Pedofilia, Guru Pesantren Cabuli 12 Murid Ditangkap", *CNN Indonesia.com*, 15 September 2021.

crime aims to ensure and maximize sustainable child protection.¹⁸ This must be done considering the impact of pedophilia which results in long-term trauma, physical and psychological injuries, and socio-moral damages that tends to be acute and dangerous to victim children.¹⁹

Regarding pedophilia in Indonesia, some previous research had been conducted. In early 2016, Reha studied about the criminal law policy in dealing with pedophilic crimes. He found that the government must pass applicable policies and there must be a law reform to tackle such crime. The offenders must be sentenced using article 82 of the Act No. 2 of 2002 with a minimum of 3 years and a maximum of 15 years imprisonment depending on the weight of the crime they committed.²⁰ Meanwhile, in her paper, Nurjanah states that, essentially, child protection is all efforts carried out to create conditions so that every child can enjoy their rights and carry out obligations for their development and growth, physically, mentally and socially. Child protection is embodiment of justice in a society; so, it is necessary to support children in various areas of state's and society's life.²¹ Therefore, legal certainty needs to be sought for the sake of continuing child protection activities and prevent abuses that lead to undesired negative consequences in the implementation of child protection,²² including from becoming victims of pedophilic crimes.

In 2018, Saputra and Soponyono studied the criminology on pedophilia prevention in Indonesia. They found that to overcome the crime, it is necessary to carry out pre-emptive, preventive, repressive, and rehabilitative methods. They also noted that the attention of Indonesian government to child protection was increasing evidenced by the issuance of the Government Regulation in lieu of the Act (PERPPU) No. 1 of 2016 which was later legislated through the enactment of the Act No. 17 of

¹⁸ L. Arliman, "Reformasi Penegakan Hukum Kekerasan Seksual Terhadap Anak Sebagai Bentuk Perlindungan Anak Berkelanjutan," *Kanun: Jurnal Ilmu Hukum*, vol 19, no.2, 2017; D. R. P. Hutagulung, et al., "Juridical Study of Castration Shot on Pedophilia Offender Based on the Purpose of Criminalization," *Bengkoelen Justice*, vol. 7, no. 2, 2017; D. Maryani, "Politik Hukum Perlindungan Anak di Indonesia," *Jurnal Hukum Sehasen*, vol. 1, no. 2, 2017, pp. 1-19.

¹⁹ Nur, et al., "Building Pedophilia-Free Zones", p. 277

²⁰ Febby Rahmad Reha, "Kebijakan Hukum Pidana dalam Penanggulangan Tindak Pidana Pedofilia", *JOM Fakultas Hukum*, vol. 2, no. 2, 2016, pp. 1-15.

²¹ Siti Nurjanah, "Keberpihakan Hukum Islam terhadap Perlindungan Anak", *Al-Adalah*, vol. 14, no. 2, 2017, pp. 391-432.

²² *Ibid*, p. 397.

2016.²³ Then, a research by Sungkono in 2020 shows that the protection of children against pedophilia is regulated in the Act No. 35 of 2014 which includes threats of fines and imprisonment and even castration to offenders. The crime of pedophilia in Islamic criminal law is categorized in *jarimah ta'zir* (a crime in which its sanction is not mentioned by religious texts), therefore, its sanction is handed over to the authorities (*ūlil amr*). The heaviest punishment is stoning. The contents of the Indonesian positive criminal law legislation in general are in line with Islamic criminal law (*jinayah*) if understood contextually.²⁴

Differing from those previous studies, this paper tries to observe the litigation and penology of pedophilia specially to focus on whether their processes so far have been in accordance with the various regulations of Indonesian conventional law and Islamic law. This study is a *field research* with a qualitative approach, employing empirical-juridical and normative-juridical approaches. The data collection in this study used *emic* and *etic* approaches: the *emic* approach was aimed at revealing research data from the perspective and subjective experience of the research subject, while the *etic* approach was used as data triangulation, as well as to reveal complementary data that did not appear in the interview. The data collection method in this study used *in-depth focused interview* with officers of some cities' Office of Protection for Women and Children in Kediri, Nganjuk, and Malang and with some judges who handled pedophilic cases on district courts of those cities. The analysis refers to the technique of explication developed by Von Eckartsberg, Wertz, and Schweitzer, which begins with data interpretation and continues with the integration of the results of the interview.

B. Literature Review

Litigation refers to the process of resolving disputes by filing or answering a complaint through the public court system.²⁵ Litigation is the process of taking a dispute to a court of law. If parties in dispute cannot agree between themselves about the fair and proper outcome of a dispute,

²³ Tri Akhmad Aji Saputra and Eko Soponyono, "Criminology Study on Pedophilia Prevention in Inonesia", *Jurnal Hukum Novelty*, vol. 9, no. 2, 2018, pp. 117-127.

²⁴ Bagas Adhi Sungkono, "Tindak Pidana Pedofilia dalam Perspektif Hukum Pidana Islam dan Hukum Pidana Positif", *UG Thesis*, (Magelang: Universitas Muhammadiyah Magelang, 2020).

²⁵ Legal Information Institute, "litigation", *law.cornell.edu*, (n.d.).

they will present their respective cases to a court for its judgment. It is a broad term that describes a long and sometimes complex process.²⁶ To make it clearer, litigation which means “dispute” (*litigatio* in Latin), is a law concept used to describe the process of enforcing or defending an entity’s legal rights. It is a contested action usually made in front of a judge between two opposing sides.²⁷

In science, ‘penology’ is the field of study that focuses on the principles and methods related to the punishment of crimes. The meaning of penology is derived from the Latin word “poena”, which means penalty. The penology definition may include various aspects of punishment, such as the study of prisons. In a broader use, penology may focus on prison management or prison administration, as well as how crimes are defined and punished.²⁸ So, in this paper, penology is meant by the latter explanation which is about how a crime, in this case pedophilia, is defined and punished.

According to Britannica, ‘penology’, also called Penal Science, is the division of criminology that concerns itself with the philosophy and practice of society in its efforts to repress criminal activities.²⁹ As the term signifies (from Latin *poena*, “pain,” or “suffering”), penology has stood in the past and, for the most part, still stands for the policy of inflicting punishment on the offender as a consequence of his/her wrongdoing; but it may reasonably be extended to cover other policies, not punitive in character, such as probation, medical treatment, and education, aimed at the cure or rehabilitation of the offender; and this is, in fact, the accepted present sense of the term. Modern penology assumed every criminal act to be a deliberate choice determined by a calculation of the prospective pleasures and pains of the act contemplated. All that was needed to overcome the criminal purpose was to provide for each and every crime a penalty adequate to overbalance its assumed advantages.

The term ‘pedophilia’ was popularized by Wilhelm Stekel, a psychotherapist, on 1925.³⁰ Pedophilia is defined as unusual sexual

²⁶ Burlingtons, “What is litigation?”, *burlingtonslegal.com*, 11 August 2020.

²⁷ P. Keheley, “What is litigation in law?”, *digitalwarroom.com*, 25 May 2020.

²⁸ L. Langford, “The Concept of Penology”, *Study.com*, 21 April 2022.

²⁹ The Editors of Encyclopaedia Britannica, “penology”, *Encyclopedia Britannica*, (n.d.).

³⁰ W. Stekel, *Sexual Aberrations: The Phenomena of Fetishism in Relation to Sex, Disorders of the Instincts and Emotions the Parapathic Disorders*,

behavior involving inhumane sexual partners, without permission, accompanied by coercion and torture.³¹ Textually, this term has not been found in the literature of Indonesian conventional and Islamic laws but that does not mean that this crime against humanity can be separated from the bondage of the laws.³² A legal analogy process applies both in conventional law³³ as well as Islamic law.³⁴

The term 'pedophilia' is derived from Greek. It consists of two syllables: *pedo* which means child and *philos* which is interpreted as strong desire or a sense of love. Terminologically, pedophilia is defined as the condition of being sexually interested in children or sexual activity with children.³⁵ The Diagnostic and Statistical Manual of Mental Disorders, fourth edition (DSM-IV) and its text revision (DSM-IV-TR) define pedophilia as "*recurrent, intense sexually arousing fantasies, sexual urges or behaviors involving activity with a prepubescent child or children, generally 13 years or younger.*"³⁶ People suffering pedophilia have sexual deviations because they choose under-aged children as their sexual desires. Pedophiles cannot satisfy their passions with adults of the same age or older so that they choose children to satisfy their lust and their actions are often repeated.³⁷ Pedophiles use their manipulative skills to victimize children, tending to use children's natural curiosity about sexuality to exploit them.³⁸

(Whitefish-MT: Kessinger Publishing, 2004); APA, *Diagnostic and Statistical Manual of Mental Disorders*, (Virginia: American Psychiatric Publishing, 2013).

³¹ A. M. Kring and S. L. Johnson, *Abnormal Psychology*, 15th ed., (Hoboken-NJ: Wiley Publishing, 2022).

³² V. K. Winarto, "Kebijakan Kriminalisasi Terhadap Pelaku Tindak Pidana Pedofilia Menurut Hukum Pidana Indonesia." *JOM Fakultas Hukum*, vol. 3, no. 2, 2016, pp. 1-15.

³³ S. Marzuki, et al., *Pelecehan Seksual: Pergumulan antara Tradisi, Hukum dan Kekuasaan*, (Yogyakarta: UII Press, 1995); W. Walayuliansari and R. Achmad, "Penegakan Hukum Pidana Terhadap Tindak Pidana Pedofilia," *Legalitas: Jurnal Hukum*, vol. 1, no. 2, 2017, pp. 115-160.

³⁴ Iffatin Nur, "Islamic Law on Gender Based Sexual Violence," *Ahkam: Jurnal Ilmu Syariah*, vol. 8, no. 1, 2013, pp. 57-64.

³⁵ C. McIntosh, *Cambridge Advanced Learner's Dictionary*. 4th ed., (Cambridge: Cambridge University Press, 2013).

³⁶ L. J. Cohen and I. Galynker, "Psychopathology and personality traits of pedophiles," *The Psychiatric Times*, vol. 26, 2009, pp. 42-47; Nur, et al., "Building Pedophilia-Free Zones", p. 275.

³⁷ J. B. Mokale, "Pedofilia Sebagai Salah Satu Bentuk Kejahatan Kekerasan Seksual Terhadap Anak", *Lex Crimen*, vol. 2 no. 5, 2013, pp. 98-107.

³⁸ Stevens, "Pedophiles: A Case Study", p. 36.

Pedophilia is categorized as a crime if fulfilling some significant characteristics. In one of his articles, O' Grady presented three extreme characteristics of a pedophilia as follows: 1) pedophilia is said to be *obsessive* in which most deviant actions undertaken by a perpetrator control almost overall aspects of his/her life from his/her job, reading materials, hobbies, clothes, even his/her house's design and furniture, 2) pedophilia is said to be *predatoric*, it means that a perpetrator will spend all capabilities and efforts to be able to hunt down his/her desired targeted victim(s), and 3) pedophiliacs tend to keep documentation of targeted victims very neatly in the form of videos, photos, and other matters related to them.³⁹

In Indonesia, the enactment of the Act No. 23 of 2002 concerning Child Protection⁴⁰ and its amendments⁴¹ may be considered as one more appropriate step for reforming the regulations in Indonesia, especially those regarding child protection, in efforts to ensure the fulfillment of children's rights so that they can grow and develop optimally in accordance with the human dignity and receive protection from any form of violence and discriminatory.

In the Islamic teachings, the discussion of crimes and their treatment, both repressive and preventive, is described in *fiqh jināyah* (Islamic criminal law) which is often times assessed as 'cruel'. For example, the punishment in the forms of cutting hands, binding, and stoning. However, an in-depth discussion of Islamic criminal law will provide evidence of the wrong impression about it. This is because not all criminal acts in Islam is threatened with '*hudūd*' (punishment that has been determined by Islamic legal texts) or '*ta'zir*' (punishment given by Islamic judge in the absence of legal texts) or '*qiṣās*' (an equal punishment given to the perpetrator similar to the injury suffered by the victim), but

³⁹ Ron O'Grady, "Eradicating pedophilia: Toward the humanization of society", *Journal of International Affairs*, vol. 55, no. 1, 2001, pp. 123-140.

⁴⁰ Government of Indonesia (GoI), "*Undang-undang (UU) No. 23 tahun 2002 tentang Perlindungan Anak.*"

⁴¹ Read further: GoI, "*Undang-undang (UU) No. 35 tahun 2014 tentang Perubahan atas Undang-Undang Nomor 23 Tahun 2002 Tentang Perlindungan Anak*", GoI, "*Peraturan Pemerintah Pengganti Undang-Undang (PERPPU) No. 1 tahun 2016 tentang Perubahan Kedua atas Undang-Undang Nomor 23 Tahun 2002 tentang Perlindungan Anak*" and GoI, "*Penetapan Peraturan Pemerintah Pengganti Undang-Undang Nomor 1 Tahun 2016 Tentang Perubahan Kedua Atas Undang-Undang Nomor 23 Tahun 2002 Tentang Perlindungan Anak Menjadi Undang-Undang.*"

there is also crimes which are threatened with *diyāt* (appropriate fine). *Diyāt* may be carried out when the victim's family has forgiven the offender(s) such as the case of unintentional murder.⁴² Moreover, those punishments which might be regarded as 'cruel' are imposed only to offenders who had had been evidenced to conduct severe crimes which inflicted others. In this regard, Islam upholds justice for all by threatening offenders with sanctions so as to deter them from conducting crimes so much so that social order can be preserved.

C. Results and Discussion

1. Litigation and Penology of Pedophilia in Indonesian Conventional Law

In Indonesia, the litigation process of pedophilia goes through at least several stages: the investigation, examination, and trial stages. The *first stage* is the investigation; at this stage the police and non-governmental organizations pick up the child victim for the sake of the investigation. Then, at the *second stage*, the examination, the child victim is carried out at the Women and Children Protection Unit of a city or regencial police office. The investigation is carried out by female police officers. This is so done in a hope that female police officers will have more empathy, sympathy, and better understanding towards the suffering experienced by child victims, especially in criminal acts of decency such as pedophilia. It is expected that child victims can freely and openly provide information regarding sexual harassment they underwent without any shame or fear.

At the investigation stage, the child victim is accompanied by his/her parents to maximize the protection for the child up to every stage of the judicial process. Assistance is also intended to ensure the fulfillment of children's rights as stipulated in article 23 paragraph 2 of the Indonesian Act No. 11 of 2012 concerning the Juvenile Criminal Justice System which reads: "At every level of examination, the child victim or child witness must be accompanied by parents and/or a person trusted by the

⁴² Ririn Isna Magfiroh and Ashif az-Zafi, "Eksistensi Fiqih dalam Penerapan Hukum Zina di Indonesia", *DIKTUM: Jurnal Syariah dan Hukum*, vol. 18, no. 1, 2020, pp. 102-117.

child victim and/or child witness, or Social Worker."⁴³ The need of parental assistance for children in the investigation process aims to foster a sense of security and protection for them considering that parents are the main protectors for them. The need of assistance from the Indonesian Commission for the Protection of Women and Children (Komisi Perlindungan Perempuan dan Anak) for child victims of pedophilia is intended to have them free from having the feelings of being afraid, stressed, and depressed at every stage of the litigation process, especially at the investigation stage. Assistance is also carried out by non-governmental organizations as a form of community's participation, role and supervision in children protection.

At the *trial* stage, the witness children are not sworn in, the child victims can be witnesses at the trial according to the provisions of Article 12 of the United Nations (UN) Convention on the Rights of the Child⁴⁴ which has been ratified by Indonesia through the Presidential Decree No. 36 of 1990 concerning Ratification of the Convention on the Rights of the Child.⁴⁵ Suffering experienced by the victim children serves as the basis for the judge's consideration before passing a verdict; the aggravating matter in so doing is that *"the defendant's actions can damage mentality and cause a long-term trauma that affect the growth and development of children in the future."*

As mentioned by Nur et al., the normative references to prohibit pedophilia are contained in the Indonesian Penal Code (Kitab Undang-Undang Hukum Pidana or KUHP),⁴⁶ the Indonesian Law of Crime Procedure Code (Kitab Undang-Undang Hukum Acara Pidana or KUHAP),⁴⁷ the Indonesian Act No. 7 of 1984 concerning the Ratification of the Convention on the Elimination of All Forms of Discrimination Against Women, the Indonesian Act No. 39 of 1999 on Human Rights,

⁴³ Government of Indonesia (GoI), "*Undang-undang (UU) No. 11 tahun 2012 tentang Sistem Peradilan Pidana Anak.*"

⁴⁴ United Nations (UN), "UN General Assembly Resolution 44/25 on the Convention on the Rights of the Child", *un.org*, 20 November 1989.

⁴⁵ GoI, "*Keputusan Presiden (KEPPRES) No. 36 Tahun 1990 tentang Pengesahan Convention on the Rights of the Child (Konvensi tentang Hak-Hak Anak).*"

⁴⁶ GoI, "*Undang-Undang (UU) No. 1 tahun 1946 tentang Peraturan Hukum Pidana.*"

⁴⁷ GoI, "*Undang-undang (UU) No. 8 tahun 1981 tentang Hukum Acara Pidana.*"

the Indonesian Act No. 23 of 2002 on the Protection of Children,⁴⁸ the Indonesian Act No. 23 of 2004 on the Elimination of Domestic Violence, the Indonesian Act No. 13 of 2006 on the Protection of Witness and Victim, the Indonesian Act No. 35 of 2014⁴⁹ which is the first amendment of the Indonesian Act No. 23 of 2002, and the **Government Regulation in lieu of the Act (PERPPU) No. 1 of 2016**⁵⁰ which is the second amendment to the Indonesian Act No. 23 of 2002 and was later on legalized by the enactment of the Indonesian Act No. 17 of 2016⁵¹ on the Government Stipulation of PERPPU No. 1 of 2016 into Act. The dictum revised mainly in articles 81 and 82 with the weighting down and additional penalties for perpetrators of sexual violence crimes against children: imprisonment of up to 20 years, life imprisonment, capital punishment, publication of the perpetrator's identity, installation of electronic detectors, and up to a chemical castration.⁵² With these legal references, it is expected that law enforcers can provide the fairest punishment to pedophiles.

Criminal sanctions against perpetrators of pedophilia in Indonesian conventional law refer to KUHP and PERPPU No. 1 of 2016 which is the **second amendment to the Act No. 23 of 2002 on Child Protection** especially articles 285, 287, 289, 290, 292, 293, 294, and 295 as well as article 81 of the Act No. 1 of 2016 *juncto* article 76D of the Act No. 35 of 2014 which read: "1) anyone who violates the provisions as referred to in Article 76D shall be sentenced to a minimum imprisonment of 5 (five) years and a maximum of 15 (fifteen) years and a maximum fine of Rp.5,000,000,000.00 (five billion rupiah), 2) the criminal provisions as referred to in paragraph (1) shall also apply to any person who intentionally commits a trick, a series of lies, or persuades a child to have intercourse with him or with another person, 3) In the event that the criminal act as referred to in paragraph (1) is committed by parents,

⁴⁸ GoI, "Undang-undang (UU) No. 23 tahun 2002 tentang Perlindungan Anak."

⁴⁹ GoI, "Undang-undang (UU) No. 35 tahun 2014 tentang Perubahan atas Undang-Undang Nomor 23 Tahun 2002 Tentang Perlindungan Anak."

⁵⁰ GoI, "Peraturan Pemerintah Pengganti Undang-Undang (PERPPU) No. 1 tahun 2016 tentang Perubahan Kedua atas Undang-Undang Nomor 23 Tahun 2002 tentang Perlindungan Anak"

⁵¹ GoI, "Undang-undang (UU) No. 35 tahun 2014 tentang Penetapan Peraturan Pemerintah Pengganti Undang-Undang Nomor 1 Tahun 2016 Tentang Perubahan Kedua Atas Undang-Undang Nomor 23 Tahun 2002 Tentang Perlindungan Anak Menjadi Undang-Undang."

⁵² Nur, et al., "Building Pedophilia-Free Zones", pp. 277-278.

guardians, people who have family relationships, child caretakers, educators, educational staff, officers who handle child protection, or it is committed by more than one person collectively, the punishment shall be increased by 1/3 (one third) of the criminal threat as referred to in paragraph (1), 4) in addition to the perpetrators as referred to in paragraph (3), the addition of 1/3 (one third) of the criminal threat is also imposed on the perpetrators who have been convicted of committing a crime as referred to in Article 76D.”

In the event that the criminal act as referred to Article 76D of the Act No. 35 of 2014 causes more than 1 (one) person to die, results in serious injury, mental disorder, infectious disease, impaired or loss of reproductive function, and/or the victim dies, the perpetrator shall be sentenced to death, for life, or imprisonment for a minimum of 10 (ten) years and a maximum of 20 (twenty) years.⁵³ In addition to being subject to the punishment as referred to in paragraph (1), paragraph (3), paragraph (4), and paragraph (5), the perpetrator may be subject to additional punishment in the form of announcing the identity of the perpetrator. Against the perpetrator as referred to in paragraph (4) and paragraph (5) may be subject to action in the form of chemical castration and installation of electronic detection devices. The action as referred to in paragraph (7) shall be decided together with the principal punishment by specifying the period of execution of the action. Additional penalties and excluded actions for child perpetrators.⁵⁴

The article 82 of PERPPU No. 1 of 2016 *juncto* article 76E of the Act no. 35 of 2014 states: “Anyone who violates the provisions as referred to in Article 76E shall be sentenced to a minimum imprisonment of 5 (five) years and a maximum of 15 (fifteen) years and a maximum fine of Rp. 5,000,000,000.00 (five billion rupiah). In the event that the criminal act as referred to in paragraph (1) is committed by parents, guardians, people who have family relationships, child caretakers, educators, education personnel, officers who handle child protection, or is committed by more than one person jointly. the same, the penalty is added 1/3 (one third) of the criminal threat as referred to in paragraph (1). In addition to the perpetrators as referred to in paragraph (2), the addition of 1/3 (one third) of the criminal threat is also imposed on the perpetrators who have been convicted of committing a crime as referred to in Article 76E. In the event

⁵³ GoI, “Undang-undang (UU) No. 35 tahun 2014.”

⁵⁴ Ibid; GoI, “Undang-undang (UU) No. 1 tahun 2016.”

that the criminal act as referred to in Article 76E results in more than 1 (one) person being killed, causing serious injury, mental disorder, infectious disease, disruption or loss of reproductive function, and/or the victim dies, the penalty is increased by 1/3 (one third) from the threat of punishment as referred in paragraph (1). In addition to being subject to the punishment as referred to in paragraph (1) to paragraph (4), the perpetrator may be subject to additional punishment in the form of announcing the identity of the perpetrator. The perpetrators as referred in paragraphs (2) to (4) may be subject to action in the form of rehabilitation and installation of electronic detection devices. The perpetrators as referred in paragraphs (2) to (4) may be subject to action in the form of rehabilitation and installation of electronic detection devices. Additional penalties are excluded for child perpetrators.”⁵⁵

In Indonesia, the regulation of castration punishment is in accordance with PERPPU No. 1 of 2016.⁵⁶ Castration is a surgical procedure and/or usage of chemicals that aims to eliminate testicular function in males or ovarian function in females. Castration can be performed on either animals or humans. There are two kinds of castration applied in various countries, namely physical castration and chemical castration. Physical castration is carried out by amputating the testicles of the perpetrators of pedophilias so that the perpetrators lack the hormone testosterone which affects their sex drive.

Chemical castration is not only introduced in Indonesia. In Europe, castration has been carried out since the beginning of the 20th century to punish sex offenders as a form of treatment. Back in 1929, Denmark was a pioneer country for the implementation of castration for perpetrators of sex crimes. Then, it was followed by the State of Germany (1933), Norway (1934), Finland (1935), Estonia (1937), Iceland (1938), Latvia (1938), and Sweden (1944) which enacted similar regulations. The theory that underlies the implementation of such castration is eradicating

⁵⁵ GoI, “Undang-undang (UU) No. 35 tahun 2014”; GoI. “Undang-undang (UU) No. 1 tahun 2016.”

⁵⁶ S. Sarah, “Sanksi Bagi Tindak Pidana Pedofilia Menurut Peraturan Pemerintah Pengganti Undang-Undang (PERPPU) Nomor 1 Tahun 2016 Tentang Perlindungan Anak Dan Hukum Pidana Islam,” *UG Thesis*, (Palembang: UIN Raden Fatah, 2017).

sexual urges which is believed to be the dominant etiologic factor within the offenders' sexual behavior.⁵⁷

It was introduced in the United States, for example, even some years back before Indonesia. Since 1996, in effort to address the increasing concerns regarding sex offender recidivism, nine states in the United States have passed legislation authorizing the use of either physical or chemical castration.⁵⁸ Chemical castration, unlike physical castration, is not performed by amputating the testicles. It is done by inserting antiandrogen chemicals, either through pills or injections into a person's body with the aim of weakening the testosterone hormone. In simple terms, chemicals that are put into the body will reduce or even eliminate the ability to erect, libido or sexual desire. Chemical castration punishment is in the form of antiandrogen injections. If it is stopped, a person's sexual drive and erectile function will appear again. In Indonesia, the first example of castration verdict was given to MA, a pedophilia offender in Mojokerto, who raped 9 under-aged girls in 2019. He was also sentenced to 12 years in prison and a fine of 100 million rupiahs or a subsidiary to 6 months in prison.⁵⁹

The PERPPU, which later was legislated through the Act No. 17 of 2016, serves as the legal basis for castrating pedophiliacs perpetrators. The article 81 paragraph (7) of this PERPPU reads: "*the perpetrators as referred to in paragraph (4) and paragraph (5) may be subject to action in the form of chemical castration and installation of electronic detection devices. The action is decided together with the main punishment by specifying the period of execution of the action. The chemical castration action is imposed for a maximum period of 2 years and is carried out after the convict has served the main sentence; the implementation of chemical castration is under periodic supervision by the ministry that carries out government affairs in the fields of law, social and health accompanied by rehabilitation.*" As stated in article 81 paragraph (7) of PERPPU, there are

⁵⁷ Linda E. Weiberbeg, "The Impact of surgicalm Castration on Sexual Recidivism Risk among Sexually Violent Predatory Offenders", *The Jurnal of the American Academy of Psychiatry and the Law*, vol. 33, no. 1, 2005, pp. 16-36, p. 18.

⁵⁸ C. L. Scott and T. Holmberg, "Castration of sex offenders: prisoners' rights versus public safety", *Journal of the American Academy of Psychiatry and the Law*, vol. 31, no. 4, 2003, pp. 502-509, p. 502.

⁵⁹ I. N. Manafe, "Baru Pertama Kalinya di Mojokerto, Hakim Vonis Pemerkosa 9 Anak dengan Hukuman Kebiri Kimia", *tribunnews.com*, 26 August 2019.

provisions for pedophilia perpetrators who can be subject to chemical castration which include two types as contained in article 81 paragraph (4) and (5): 1) perpetrators who have been sentenced for the same crime (residivist) and 2) perpetrators may be sentenced to death, life imprisonment or imprisonment for a minimum of 10 years and a maximum of 20 years, as stated in Article 81 paragraph (5) of PERPPU because of these conditions: the victim is more than 1 (one) person, resulting in serious injury, mental disorder, infectious disease, impaired or loss of reproductive function, and/or the victim dies (Suryani and Mulyati, 2012). The article 81 paragraph (4) of PERPPU states: *"In addition to the perpetrators as referred to in paragraph (3), the addition of 1/3 (one third) of the criminal threat is also imposed on perpetrators who have been convicted of committing a crime as referred to in article 76D."*

The Indonesian Constitution of 1945 as the highest legal norm in Indonesia has outlined in article 28B paragraph 2 that *"every child has the right to survive, grow and develop and has the right to receive protection from violence and discrimination."*⁶⁰ With the inclusion of children's rights in the body of the Constitution, it can be understood that the position and protection of their rights are important matters that must be further elaborated and conducted in daily reality. Even, in the Act No. 39 of 1999, 15 articles, - from articles 52 to 66 -, were formulated specifically to regulate children's rights.⁶¹ This is because the legislators realize that children are group of humans who are very vulnerable to experience violations against their rights.⁶²

The litigation process of pedophilic cases in Indonesia, from the processes of investigation, examination and up to trial, has complied with the code of ethics and conventional laws and teachings of Islamic law. Maximization of punishment is intended to provide a deterrent effect for offenders so as not to repeat the same crime. This is in line with the purpose of punishment in the perspective of conventional law and Islamic law in order to provide a deterrent effect and foster and recover pedophilia perpetrators. The weighting of sanctions is also a warning to the public not to commit these crimes. However, the application of sanctions to new

⁶⁰ GoI, *"Undang-Undang Dasar 1945"*, with its 1st amendment (19 October 1999), 2nd amendment (18 August 2000), 3rd amendment (19 November 2001), and 4th amendment (10 August 2002).

⁶¹ GoI, *"Undang-undang (UU) No. 39 tahun 1999 tentang Hak Asasi Manusia."*

⁶² Nur, et al., *"Building Pedophilia-Free Zones"*, p. 278.

types of punishment in Indonesia is the last alternative (*ultimum remedium*) for pedophilia offenders. This is relevant because of the high incidence and sadicity of pedophilia in the last twenty years. Meanwhile, the execution of castration convicts is carried out by the Indonesian National Police employing their medical officers.

As mentioned in a paper by Nur et al., relating to deterrent effect for pedophilia offenders, each region studied had been dealing with pedophilic cases very well. Recent penalties for the offenders were found to be more than five years or seven years whereas, before the Act No. 17 of 2016 enforced, the punishment for them ranged from five to seven years imprisonment. Since, its enforcement, the punishment has become increasingly severe. This enforcement is a form of the Indonesian government's seriousness in prosecuting such offenders. Previously, the penalty is a maximum of seven years; the new rule applies a sentence of more than seven years. In these three said cities, criminals of pedophilia or obscenity had been sentenced more than 10 years. This was due to a juridical consideration that apart from the large number of children becoming victims, the crimes had left physical and psychological damages to the victims.⁶³

2. Litigation and Penology of Pedophilia in Islamic Law

In the literature of Islamic law, litigation and sanctions for pedophilia offenders refer to, among others, the Holy Qur'an Sura (QS) al-Nisā' [4]: 65, QS al-Mā'idah [5]: 49, and QS Šād [38]: 26 and some hadiths of the Prophet narrated by those whose credibility and validity are not in doubt. Allah says in QS al-Nisā' [4] verse 65:

"But no by thy Lord they can have no (real) faith until they make thee judge in all disputes between them and find in their souls no resistance against thy decisions but accept them with the fullest conviction."⁶⁴

Then, in QS al-Mā'idah [5]: 49, He says:

"And this (He commands): Judge thou between them by what God hath revealed and follow not their vain desires but beware of them lest they beguile thee from any of that (teaching) which God hath sent down to thee.

⁶³ Nur, et al., "*Building Pedophilia-Free Zones*", p. 278.

⁶⁴ A. Y. Ali, *The Meaning of the Holy Quran*. (Beltsville, MD: Amana Publication, 2008), pp. 204-205.

And if they turn away be assured that for some of their crimes it is God's purpose to punish them. And truly most men are rebellious."⁶⁵

Whereas in QS *Ṣād* [38]: 26, His saying is:

"O David! We did indeed make thee a vicegerent on earth; so judge thou Between men in truth (and justice), Nor follow thou the lusts (of thy heart), for they will mislead thee from the path of God : for those who wander astray from the path of God, is a penalty grievous, For that they forget The Day of Account."⁶⁶

In all these verses, Allah commands muslims to uphold justice as taught by Him through His revelation and not to follow one's lust when doing so.

Pedophilia itself is a form of adultery. Regarding its punishment, there are some hadith from the Prophet, including: 1) from Zaid bin Khalid al-Juhani, he said, "*I heard the Prophet (peace be upon him, pbuh) ordered that unmarried adulterers be lashed a hundred times and exiled for a year,*"⁶⁷ and 2) in another hadith, from 'Ubadah ibn al-Shamit, he said that the Messenger (pbuh) said: "*Take it from me, take it from me! Allah has made for them a way out. (If adulterers are) a man with a woman then the punishment is to be lashed a hundred times and to be exiled for a year. (In case of adultery involving) two married people then the punishment is to be lashed a hundred times and stoned.*"⁶⁸

Pedophilia can be classified into two categories namely being attracted to girls and attracted to boys (i.e. practising anal sex (*liwāt*) with the following sanctions introduced.⁶⁹ For perpetrators of heterosexuality involving adultery, the *maḏhab* (schools of thought) of Maliki, Hanafi, Hanbali, Shafi'i, Zaidiyah, Shi'a and *Ẓahiri* agree unanimously that they are subject to sanction of committing *zinā* (adultery). If the conduct is limited to sexual harassment, there is a debate: according to Maliki and

⁶⁵ Ali, "*The Meaning of the Holy Quran*", p. 264.

⁶⁶ Ibid, p. 1167.

⁶⁷ Muhammad al-Bukhari, *Ṣaḥīḥ al-Bukhārī*, vol. XII/156, (Riyadh, KSA: Bait al-Afkar al-Dauliyah, 1998). Hadith no. 6831.

⁶⁸ Imam Muslim, *Ṣaḥīḥ Muslīm*, vol. III/1316, (Riyadh, KSA: Maktabatur Rusyd, 2001). Hadith no. 1690.

⁶⁹ Abdul Qadir Audah, *Tasyri' al-Jina'i al-Islami*, (Beirut: Muassasah al-Risalah, 1992); Nur, "*Islamic Law on Gender Based Sexual Violence*"; Safinah, "*Sanksi Hukum Terhadap Perbuatan Liwath Dengan Anak Di Bawah Umur (Studi Perbandingan Undang-Undang No. 35 Tahun 2014 tentang Perlindungan Anak dan Qanun Nomor 6 Tahun 2014 Tentang Hukum Jinayat)*," *Petita*, vol. 1, no. 2, 2016, pp. 127-140.

Shafi'i schools, they are sentenced through a *ta'zir* (a judge's wise opinion based on the absence of clear Islamic postulates), while the Hanafi, Hambali, Zaidiyah, Shia and Zāhiri schools agree with the imposition of committing adultery. For homosexual acts, the Shafi'i school prefers *rajam* (stoning) while the Hanafites opt imposing *ta'zir* to the perpetrators.⁷⁰

Meanwhile, punishments for pedophilias can refer to the classical *fiqh* (Islamic jurisprudence) literature of the Shafi'i school, including the books *Asnā al-Mathālib fī Syarh Raudl al-Thālib*,⁷¹ *Nihāyah al-Muhtāj ilā Syarh al-Minhāj*,⁷² *Tuhfah al-Muhtāj fī Syarh al-Minhāj*,⁷³ *Hāsiyah ash-Syarwānī* as mentioned in *Tuhfah al-Muhtāj fī Syarh al-Minhāj*, *Fathu al-Wahhāb bi Syarh Manhaj ath-Thulāb*,⁷⁴ *al-Mausū'ah al-Fiqhiyah al-Kuwaitiyah*,⁷⁵ *Shahīh al-Bukhārī*,⁷⁶ *Fathu al-Bārī*,⁷⁷ *Shahīh Muslim*,⁷⁸ *Syarh Shahīh Muslim*,⁷⁹ and *Tafsīr al-Qurthubī*.⁸⁰ These literature explain that *kasru al-shahwah* (destroying one's lust), the act of 'turning off the libido' temporarily by using *kāfūr* (camphor, a crystalline ketone obtained from *cinnamomum camphora*) is legally permissible⁸¹ for men who are not financially ready to get married but have a strong desire to have sexual intercourse. Borrowing *qiyās jāli* (major analogy method) of the Shafi'i *maḏhab*, the castration against pedophilia perpetrators is certainly permissible because the legal *illāt* (effective cause) is much stronger and has a high preference value.

⁷⁰ Audah, "Tasyri' al-Jina'i al-Islami"

⁷¹ Zainuddin al-Anshāri, *Asnā al-Mathālib fī Sharh Raudlah al-Thālib*, (Cairo: Dār al-Kitāb al-Islāmi, [n.d.]).

⁷² Syamsuddin al-Ramli, *Nihāyah al-Muhtāj ilā Syarh al-Minhāj*, (Beirut: Dār al-Fikr, 1984).

⁷³ Ibn Hajar al-Haitamī, *Tuhfah al-Muhtāj bi Syarh al-Minhāj*, (Cairo: Dar al-Alamiyyah, (n.d.)).

⁷⁴ Zainuddin al-Anshāri, *Fathu al-Wahhab bi Syarh Manhaj al-Thulab*, (Cairo: Dar al-Fikr, 1994).

⁷⁵ al-Auqaf al-Kuwaitiyah. *Al-Mausū'ah al-Fiqhiyyah al-Kuwaitiyah*. (Beirut: Dar al-Kitāb al-'Ilmiyyah, 2020).

⁷⁶ al-Bukhari, "Ṣaḥīḥ al-Bukhārī."

⁷⁷ Ibn Hajar al-Asqalani, *Fathu al-Bārī*, (Cairo: Dar al-Taqwa, 2020).

⁷⁸ Muslim, "Ṣaḥīḥ Muslim."

⁷⁹ Imam al-Nawawi, "Al-Minhaj Syarah Shahih Muslim bin al-Hajjaj", In Suharlan and Darwis (trans. and eds.), *Syarah Shahih Muslim*, (Jakarta: Darus Sunnah, 2013).

⁸⁰ Muhammad al-Qurthubi, *Tafsir al-Qurthubi: al-Jami' li Ahkam al-Qur'an*, (Beirut: Dar al-Risalah, 2006).

⁸¹ al-Anshāri, "Asnā al-Mathālib."

In the literature of *fiqh* of Shafi'i *mazhab*, people who already have the financial ability to get married (*mu`nah*) and already have a high sexual desire are legally obliged to do so. However, those who have a high sexual desire but incapable financially are ordered to fast or suppress the sexual desire temporarily. The suppression of sexual desire in the past was done by using *kāfūr*. Nowadays, the contextualization of *kāfūr* is in the form of chemical castration either using drugs or other means such as injections that can paralyze one's sexual desire. Such suppression is only temporary, not permanent.⁸²

Regarding pedophilia with sexual disorders such as *liwāṭ*, both homosexuals and lesbians, a punishment imposed is the death penalty to offenders. Therefore, In Islam, sexual harassment (including pedophilia) is regarded as a great sin because it is categorized as an act of adultery and can harm society both to people who are mature and sane as well as to children who are still weak and fragile. In Islam, every action that can be detrimental to the benefit of community must be subject to proper sanctions. Public interest must be upheld high and prioritized. Nur and Muttaqin emphasized that rejecting *mafsadāt* (damages) over attaining *maṣlahāt* (benefits) is in accordance with the principle of Islamic law that says "*dar'u al-mafāsīd muqaddam 'alā jalb al-maṣāliḥ*" (rejecting harms takes precedence over attaining benefits).⁸³ In this context, protecting the larger part of community, especially children, from becoming victims of pedophilia is prioritized than letting the perpetrators of pedophilia live with their wellbeing.

It must be realized that pedophilia offenders have the potency to transmit dangerous disease and destroy future generations; therefore, they deserve proper punishment for the crime they did. In the perspective of Islamic law, through the preventive method of *uṣūl fiqh* (fundamentals of Islamic jurisprudence) which is *sadd al-ẓarī'ah* (closing the opportunity of wrongdoings), the heavy punishment for pedophilic offenders is meant to protect children as the nation's future generation and give deterrent effect to offenders in effort to preserve the larger community from the impacts of this particular crime. The weighting of castration sanctions and

⁸² Murobi, A. "Hukuman kebiri bagi pelaku pedofil (studi analisis Bahtsul Masail PWNU Jateng 2015)", *UG Thesis*, (Yogyakarta: UIN Walisongo. 2016).

⁸³ Iffatin Nur and M. N. Muttaqin, "Reformulating the Concept of Maṣlahah: From a Textual Confinement towards a Logic Determination." *Justicia Islamica Jurnal Kajian Hukum Dan Sosial*, vol. 17, no. 1, 2020, pp. 73-91.

the death penalty for perpetrators with more than three victims introduced by the Indonesian government which is intended to save the future of children and as an effort to minimize the number of victims is in line with the objectives of Islamic law (*maqāṣid sharī'ah*) which are to preserve the seven fundamental elements: *ḥifẓ al-dīn*, *ḥifẓ al-naḥs*, *ḥifẓ al-'aql*, *ḥifẓ al-nasl*, *ḥifẓ al-māl*, *ḥifẓ al-'ird* and *ḥifẓ al-bī'ah* (protection and preservation of religion, soul, intellect, lineage, property, dignity, and environment respectively), which are commonly known as *kulliyāt sab'ah*.⁸⁴

All the founders of *māẓhab* state that adultery, whether homosexual or others, is unlawful. According to Maliki, Shafi'i, and Hambali, the perpetrator of *liwaṭ* (homosexual) must be subject to *ḥadd* (crime punishment) in the form of stoning regardless the perpetrator be a man, a woman, a widower or a widow. Meanwhile, according to Imam Hanafi, if the offender does it repeatedly then he/she must be castrated or killed. Offenders of *liwaṭ* or homosexuals are included in the category of actions that are contrary to religious norms and moral norms, and deviate from the existence of humanity and nature.

D. Conclusion

From the results of the study which had been discussed, it can be concluded that the litigation and penology of pedophilia in Indonesia are intended to protect children in general from the harmful impacts of the crime in the form of psychological, physical and social-moral damages, to save the larger society from the offenders' wrongdoings, and to give deterrent effect to the offenders so not to repeat what they did. The litigation process and the punishment imposed to offenders are in accordance with several dictums of both Indonesian conventional legislations and Islamic law, although the application of punishment has not been maximized optimally yet.

In the perspective of *maqāṣid sharī'ah*, the litigation and penology of pedophilia in Indonesia, which include some regulations involving threats of fines and imprisonment and even castration to

⁸⁴ For more explanation about *maqāṣid sharī'ah*, read further: Jasser Auda, *Maqashid Shariah as Philosophy of Islamic Law: A Systems Approach*, (London: IIIT, 2008) and Iffatin Nur, et al., "Maqasid al-Shari'at: The Main Reference and ethical-Spiritual Foundation for the Dynamization Process of Islamic Law", *Ahkam: Jurnal Ilmu Syari'ah*, vol. 20, no. 2, 2020, pp. 331-360.

offenders, is very much appropriate with the objectives of Islamic law, especially to preserve one's religion, soul, intellect, lineage, honor, and environment.

References

Books, Journal Articles and Thesis:

- Ali, A. Y., *The Meaning of the Holy Quran*. Beltsville, MD: Amana Publication, 2008.
- al-Anshāri, Zainuddin, *Asnā al-Mathālib fī Sharh Raudlah al-Thālib*, Cairo: Dār al-Kitāb al-Islāmi, (n.d.).
- al-Anshārī, Zainuddin, *Fathu al-Wahhab bi Syarh Manhaj al-Thulab*. Cairo: Dar al-Fikr, 1994.
- Anwar, S. D., *Pentingnya Membangun Komitmen Bersama untuk Mencegah Maraknya Kekerasan Seksual dan Pornografi*, Jakarta: Dirjen Informasi dan Komunikasi Publik-Kemenkominfo, 2014.
- APA, *Diagnostic and Statistical Manual of Mental Disorders*. Virginia: American Psychiatric Publishing, 2013.
- Ardianto, S. Y., "Perlindungan Hukum terhadap Anak sebagai Korban dari Tindak Pidana Perdagangan Anak di Kota Pekanbaru," *Jurnal Ilmu Hukum*, vol. 3, no. 1, 2010. <https://jih.ejournal.unri.ac.id/index.php/JIH/article/view/1041/1034>
- Arliman, L. "Reformasi Penegakan Hukum Kekerasan Seksual Terhadap Anak Sebagai Bentuk Perlindungan Anak Berkelanjutan," *Kanun: Jurnal Ilmu Hukum*, vol 19, no.2, 2017. <https://jurnal.hukumonline.com/a/5cb4957f01fb73001038c895/reformasi-penegakan-hukum-kekerasan-seksual-terhadap-anak-sebagai-bentuk-perlindungan-anak-berkelanjutan>.
- al-Asqalani, Ibn Hajar, *Fathu al-Bārī*, Cairo: Dar al-Taqwa, 2020.
- Auda, Jasser, *Maqashid Shariah as Philosophy of Islamic Law: A Systems Approach*, London: IIIT, 2008.
- Audah, Abdul Qadir, *Tasyri' al-Jina'i al-Islami*, Beirut: Muassasah al-Risalah, 1992.
- al-Auqaf al-Kuwaitiyah. *Al-Mausū'ah al-Fiqhiyyah al-Kuwaitiyyah*. Beirut: Dar al-Kitab al-'Ilmiyyah, 2020.
- Bennell, C., Alison, L. J., Stein, K. L., Alison, E. K., and Canter, D. V., "Sexual offenses against children as the abusive exploitation of conventional adult-child relationships", *Journal of Social and Personal Relationships*, vol. 18, no. 2, 2001, pp. 155–171. <https://doi.org/10.1177/0265407501182001>.

- al-Bukhari, Muhammad, *Ṣaḥīḥ al-Bukhārī*, Riyadh, KSA: Bait al-Afkar al-Dauliyah, 1998.
- Cohen, L. J. and Galynker, I., "Psychopathology and personality traits of pedophiles", *The Psychiatric Times*, vol. 26, 2009, pp. 42-47.
- Cutler, S.E. and Nolen-Hoeksema, S., "Accounting for sex differences in depression through female victimization: Childhood sexual abuse", *Sex Roles*, vol. 24, 1991. pp. 425-438. <https://link.springer.com/article/10.1007/BF00289332>
- Daipon, D., "Kekerasan Seksual Pada Anak di Indonesia (Tipologi, Respon Pemerintah dan Hukum Islam)," *Alhurriyyah: Jurnal Hukum Islam*, vol. 1, no. 2, 2016, pp. 195-214. <https://ejournal.iainbukittinggi.ac.id/index.php/alhurriyyah/article/view/489/0>
- Davison, G. C., Neale, J. M. and Hindman, D., *Abnormal Psychology*, 8th ed., New York: John Wiley, 2004.
- al-Haitamī, Ibn Hajar, *Tuhfah al-Muhtāj bi Syarh al-Minhāj*, Cairo: Dar al-Alamiyyah, (n.d.).
- Hutagulung, D. R. P., et al., "Juridical Study of Castration Shot on Pedophilia Offender Based on the Purpose of Criminalization," *Bengkoelen Justice*, vol. 7, no. 2, 2017.
- Jahnke, S., Philipp, K., and Hoyer, J., "Stigmatizing attitudes towards people with pedophilia and their malleability among psychotherapists in training", *Child Abuse & Neglect*, 40, Feb 2015, pp. 93–102. <https://doi.org/10.1016/j.chiabu.2014.07.008>.
- Kring, A. M. and Johnson, S. L., *Abnormal Psychology*, 15th ed. Hoboken-NJ: Wiley Publishing, 2022.
- Magfiroh, Ririn Isna and az-Zafi, Ashif, "Eksistensi Fiqih dalam Penerapan Hukum Zina di Indonesia", *DIKTUM: Jurnal Syariah dan Hukum*, vol. 18, no. 1, 2020, pp. 102-117. <https://doi.org/10.35905/diktum.v18i1.1314>.
- Maryani, D., "Politik Hukum Perlindungan Anak di Indonesia," *Jurnal Hukum Sehasen*, vol. 1, no. 2, 2017, pp. 1-19. <https://jurnal.unived.ac.id/index.php/jhs/article/view/409>
- Marzuki, S., et al., *Pelecehan Seksual: Pergumulan antara Tradisi, Hukum dan Kekuasaan*. Yogyakarta: UII Press, 1995.
- McIntosh, C., *Cambridge Advanced Learner's Dictionary*. 4th ed., Cambridge: Cambridge University Press, 2013.
- Mokale, J. B., "Pedofilia Sebagai Salah Satu Bentuk Kejahatan Kekerasan Seksual Terhadap Anak", *Lex Crimen*, vol. 2 no. 5, 2013, pp. 98-107. <https://media.neliti.com/media/publications/3083-ID-pedofilia-sebagai-salah-satu-bentuk-kejahatan-kekerasan-seksual-terhadap-anak.pdf>.
- Murobi, A., "Hukuman kebiri bagi pelaku pedofil (studi analisis Bahtsul

- Masail PWNu Jateng 2015”, *UG Thesis*, Yogyakarta: UIN Walisongo. 2016.
<https://eprints.walisongo.ac.id/id/eprint/6730/5/BAB%20IV.pdf>
- Muslim, Imam, *Ṣaḥīḥ Muṣṭafī*, Riyadh, KSA: Maktabatur Rusyd, 2001.
- al-Nawawi, Imam, “Al-Minhaj Syarah Shahih Muslim bin al-Hajjaj”, In Suharlan and Darwis (trans. and eds.), *Syarah Shahih Muslim*, Jakarta: Darus Sunnah, 2013.
- Nunes, K. L. and Hermann, C. A., “Special Issue of Sexual Abuse: A Journal of Research and Treatment - Connecting Theory with Research: Testing Hypotheses About the Causes of Sexual Offending”, *Sexual Abuse*, vol. 28, no. 1, 2016, pp. 73–74. <https://doi.org/10.1177/1079063215617372>.
- Nur, Iffatin, “Islamic Law on Gender Based Sexual Violence,” *Ahkam: Jurnal Ilmu Syariah*, vol. 8, no. 1, 2013, pp. 57-64. <https://doi.org/10.15408/ajis.v13i1.951>
- Nur, Iffatin, “The Redefinition of Child of Adultery”, *International Journal of Science and Research*, vol. 4, no. 3, 2015, pp. 2186-2192. <https://www.ijsr.net/archive/v4i3/SUB152538.pdf>
- Nur, Iffatin, et al., “Building Pedophilia-Free Zones Based on Juridical and Educative Islamic Law’s Perspectives.” *The Social Sciences*, vol. 15, no. 7, 2020, pp. 273-282. <https://docsdrive.com/pdfs/medwelljournals/sscience/2020/273-282.pdf>
- Nur, Iffatin and Muttaqin, M. N., “Reformulating the Concept of Maṣlaḥah: From a Textual Confinement Towards a Logic Determination.” *Justicia Islamica Jurnal Kajian Hukum Dan Sosial*, vol. 17, no. 1, 2020, pp. 73-91. <https://doi.org/10.21154/justicia.v17i1.1807>
- Nur, Iffatin, et al., “Maqasid al-Shari’at: The Main Reference and ethical-Spiritual Foundation for the Dynamization Process of Islamic Law”, *Ahkam: Jurnal Ilmu Syari’ah*, vol. 20, no. 2, 2020, pp. 331-360. <https://doi.org/10.15408/ajis.v20i2.18333>.
- Nurjanah, Siti. “Keberpihakan Hukum Islam terhadap Perlindungan Anak”, *Al-Adalah*, vol. 14, no. 2, 2017, pp. 391-432. <https://doi.org/10.24042/adalah.v14i2.2905>
- O’Grady, Ron, “Eradicating pedophilia: Toward the humanization of society”, *Journal of International Affairs*, vol. 55, no. 1, 2001, pp. 123-140. <https://www.jstor.org/stable/24357674>
- al-Qurthubi, Muhammad, *Tafsir al-Qurthubi: al-Jami’ li Ahkam al-Qur’an*, Beirut: Dar al-Risalah, 2006.
- Rakhmad, W. N., “Kekerasan Terhadap Anak dalam Konstruksi Koran Tempo,” *Jurnal Ilmu Sosial*, vol. 15, no. 1, 2016, pp. 53–62. <https://ejournal.undip.ac.id/index.php/ilmusos/article/view/106>

79/8474

- al-Ramli, Syamsuddin, “*Nihāyah al-Muhtāj ilā Syarh al-Minhāj*,” Beirut: Dār al-Fikr, 1984.
- Reha, Febby Rahmad, “Kebijakan Hukum Pidana dalam Penanggulangan Tindak Pidana Pedofilia”, *JOM Fakultas Hukum*, vol. 2, no. 2, 2016, pp. 1-15. <https://media.neliti.com/media/publications/116198-ID-kebijakan-hukum-pidana-dalam-penanggulan.pdf>
- Safinah, “Sanksi Hukum Terhadap Perbuatan Liwath Dengan Anak Di Bawah Umur (Studi Perbandingan Undang-Undang No. 35 Tahun 2014 tentang Perlindungan Anak dan Qanun Nomor 6 Tahun 2014 Tentang Hukum Jinayat),” *Petita*, vol. 1, no. 2, 2016, pp. 127-140. <https://doi.org/10.22373/petita.v1i2.88>.
- Salundik, “Penegakan Hukum terhadap Tindak Pidana Pelaku Pedofilia”, *Jurnal Ilmu Hukum Tambun Bungai*, vol.1, no.1, 2016, pp. 1-11. <https://journal.stihtb.ac.id/index.php/jihtb/article/view/47>
- Saputra, Tri Akhmad Aji and Sopyono, Eko “Criminology Study on Pedophilia Prevention in Inonesia”, *Jurnal Hukum Novelty*, vol. 9, no. 2, 2018, pp. 117-127. http://journal.uad.ac.id/index.php/Novelty/article/view/11387/pdf_19
- Sarah, S., “Sanksi Bagi Tindak Pidana Pedofilia Menurut Peraturan Pemerintah Pengganti Undang-Undang (PERPPU) Nomor 1 Tahun 2016 Tentang Perlindungan Anak Dan Hukum Pidana Islam,” *UG Thesis*, Palembang: UIN Raden Fatah, 2017. <http://repository.radenfatah.ac.id/id/eprint/11255>
- Scott, C. L. and Holmberg, T., “Castration of sex offenders: prisoners’ rights versus public safety”, *Journal of the American Academy of Psychiatry and the Law*, vol. 31, no. 4, 2003, pp. 502–509. <https://jaapl.org/content/31/4/502.long>
- Stekel, W., *Sexual Aberrations: The Phenomena of Fetishism in Relation to Sex, Disorders of the Instincts and Emotions the Parapathiac Disorders*, Whitefish-MT: Kessinger Publishing, 2004.
- Stevens, Dennis J., “Pedophilias: A Case Study”, *Journal of Police and Criminal Psychology*, vol. 17, no. 1, Spring 2002, pp. 36-51. <https://www.ojp.gov/ncjrs/virtual-library/abstracts/pedophilias-case-study>
- Sungkono, Bagas Adhi, “Tindak Pidana Pedofilia dalam Perspektif Hukum Pidana Islam dan Hukum Pidana Positif”, *UG Thesis*, Magelang: Universitas Muhammadiyah Magelang, 2020. <http://eprintslib.ummgl.ac.id/id/eprint/2534>
- Suryani, N. and Mulyati, N., “Penegakan Hukum Terhadap Pelaku Pedofilia Berdasarkan Undang-Undang Nomor 23 Tahun 2002

- tentang Perlindungan Anak,” *Jurnal Hukum Pidana dan Kriminologi (Delicti)*, vol. X, no. 2, 2012.
- Walayuliansari, W. and Achmad, R., “Penegakan Hukum Pidana Terhadap Tindak Pidana Pedofilia,” *Legalitas: Jurnal Hukum*, vol. 1, no. 2, 2017, pp. 115–160. <http://legalitas.unbari.ac.id/index.php/Legalitas/article/view/65>
- Weiberbeg, L. E., “The Impact of surgicalm Castration on Sexual Recidivism Risk among Sexually Violent Predatory Offenders”, *The Jurnal of the American Academy of Psychiatry and the Law*, vol. 33, no. 1, 2005, pp. 16-36. <https://pubmed.ncbi.nlm.nih.gov/15809235/>
- Widjajanti, E. and Windari, R., “Pedophilia as a form of sexual deviance from a social bond theory”, *IJUM Law Journal*, vol. 29 no. S1, 2021, pp. 177–194. [https://doi.org/10.31436/iiumlj.v29i\(S1\).641](https://doi.org/10.31436/iiumlj.v29i(S1).641)
- Winarto, V. K., “Kebijakan Kriminalisasi Terhadap Pelaku Tindak Pidana Pedofilia Menurut Hukum Pidana Indonesia.” *JOM Fakultas Hukum*, vol. 3, no. 2, 2016, pp. 1-15. <https://media.neliti.com/Media/Publications/183213-Id-Kebijakan-Kriminalisasi-Terhadap-Pelaku.Pdf>.
- Yirdam-R, M., “Peran Ecpat (End Child Prostitution, Child Pornography, and Trafficking of Children for Sexual Purposes) dalam Menangani Kasus Prostitusi Anak di Meksiko Tahun 2005-2015,” *JOM FISIP*, vol. 4, no. 2, 2017, pp. 1-15. <https://jom.unri.ac.id/index.php/JOMFSIP/article/view/14815/14363>

Regulations:

- Government of Indonesia (GoI), “*Undang-Undang Dasar 1945*”, with its 1st amendment (19 October 1999), 2nd amendment (18 August 2000), 3rd amendment (19 November 2001), and 4th amendment (10 August 2002). <https://www.dpr.go.id/jdih/uu1945>
- GoI, “*Undang-Undang (UU) No. 1 tahun 1946 tentang Peraturan Hukum Pidana.*” Available at: <https://www.dpr.go.id/dokjdih/document/uu/814.pdf>.
- GoI, “*Undang-undang (UU) No. 8 tahun 1981 tentang Hukum Acara Pidana.*” <https://peraturan.bpk.go.id/Home/Details/47041/uu-no-8-tahun-1981>.
- GoI, “*Keputusan Presiden (KEPPRES) No. 36 Tahun 1990 tentang Pengesahan Convention on the Rights of the Child (Konvensi Tentang Hak-Hak Anak).*”

- <https://peraturan.bpk.go.id/Home/Details/63923/keppres-no-36-tahun-1990>
- GoI, “*Undang-undang (UU) No. 39 tahun 1999 tentang Hak Asasi Manusia.*” <https://peraturan.bpk.go.id/Home/Details/45361/uu-no-39-tahun-1999>
- GoI, “*Undang-undang (UU) No. 23 tahun 2002 tentang Perlindungan Anak.*” <https://peraturan.bpk.go.id/Home/Details/44473/uu-no-23-tahun-2002>. It was then amended firstly by UU No. 35 tahun 2014 and secondly by PERPPU No. 1 tahun 2016. The PERPPU was then legislated by UU No. 17 tahun 2016.
- GoI, “*Undang-undang (UU) No. 11 tahun 2012 tentang Sistem Peradilan Pidana Anak.*” <https://peraturan.bpk.go.id/Home/Details/39061/uu-no-11-tahun-2012>
- GoI, “*Undang-undang (UU) No. 35 tahun 2014 tentang Perubahan atas Undang-Undang Nomor 23 Tahun 2002 Tentang Perlindungan Anak.*” <https://peraturan.bpk.go.id/Home/Details/38723/uu-no-35-tahun-2014>
- GoI, “*Peraturan Pemerintah Pengganti Undang-Undang (PERPPU) No. 1 tahun 2016 tentang Perubahan Kedua atas Undang-Undang Nomor 23 Tahun 2002 tentang Perlindungan Anak.*” <https://peraturan.bpk.go.id/Home/Details/61883/perpu-no-1-tahun-2016>
- GoI, “*Undang-undang (UU) No. 17 tahun 2016 tentang Penetapan Peraturan Pemerintah Pengganti Undang-Undang Nomor 1 Tahun 2016 Tentang Perubahan Kedua Atas Undang-Undang Nomor 23 Tahun 2002 Tentang Perlindungan Anak Menjadi Undang-Undang.*” <https://peraturan.bpk.go.id/Home/Details/37575/uu-no-17-tahun-2016>.
- United Nations (UN), “UN General Assembly Resolution 44/25 on the Convention on the Rights of the Child”, *un.org*, 20 November 1989. <https://documents-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/547/84/IMG/NR054784.pdf?OpenElement>. Accessed 22 October 2022.

Website Articles:

- Britannica, The Editors of Encyclopaedia. “penology.” *Encyclopedia Britannica*, (n.d.). Available at: <https://www.britannica.com/topic/penology>. Accessed 27 October 2022.
- Burlingtons, “What is litigation?” *burlingtonslegal.com*, 11 August 2020.

- Available at: <https://burlingtonslegal.com/news/what-is-litigation-all-you-need-to-know-about-the-law-process/>
Accessed 20 October 2022.
- Editorial Team, “Bejat, Tersangka Pedofilia di Batang Mengaku Cabuli Lebih dari 30 Anak”, *Liputan6.com*, 11 November 2021. <https://www.liputan6.com/regional/read/4707813/bejat-tersangka-pedofilia-di-batang-mengaku-cabuli-lebih-dari-30-anak>. Accessed 20 October 2022.
- Editorial Team, “Kasus Pedofilia, Guru Pesantren Cabuli 12 Murid Ditangkap”, *CNN Indonesia.com*, 15 September 2021. <https://www.cnnindonesia.com/nasional/20210915193740-12-694905/kasus-pedofilia-guru-pesantren-cabuli-12-murid-ditangkap>. Accessed 20 October 2022.
- Handayani, R., et al., “Anak Korban Kekerasan Meningkat”, *republika.id*, 8 September 2021. <https://republika.id/posts/20091/anak-korban-kekerasan-meningkat>. Accessed 20 October 2022.
- Jayani, D. H., “Kasus Kekerasan Seksual terhadap Anak Mendominasi saat Pandemi Covid-19”, *katadata.co.id*, 27 May 2021. <https://databoks.katadata.co.id/datapublish/2021/05/27/kasus-kekerasan-seksual-terhadap-anak-mendominasi-saat-pandemi-covid-19>. Accessed 20 October 2022.
- Keheley, P., “What is litigation inlaw?” *digitalwarroom.com*, 25 May 2020. <https://www.digitalwarroom.com/blog/what-is-litigation>. Accessed 20 October 2022.
- Kurnia, Tommy, “Pedofilia di Gereja Prancis: 216 Ribu Anak Jadi Korban”, *Liputan6.com*, 6 October 2021. <https://www.liputan6.com/global/read/4676681/pedofilia-di-gereja-prancis-216-ribu-anak-jadi-korban>. Accessed 28 October 2022.
- Langford, L., “The Concept of Penology”, *Study.com*, 21 April 2022. <https://study.com/learn/lesson/penology-concept-aspects-society.html>. Accessed 22 October 2022.
- Legal Information Institute. “litigation”, *law.cornell.edu*, (n.d.). <https://www.law.cornell.edu/wex/litigation>. Accessed 22 October 2022.
- Manafe, I. N., “Baru Pertama Kalinya di Mojokerto, Hakim Vonis Pemerkosa 9 Anak dengan Hukuman Kebiri Kimia”, *tribunnews.com*, 26 August 2019. <https://www.tribunnews.com/regional/2019/08/26/baru-pertama-kalinya-di-mojokerto-hakim-vonis-pemerkosa-9-anak-dengan-hukuman-kebiri-kimia>. Accessed 22 October 2022.

ORIGINALITY REPORT

10%

SIMILARITY INDEX

10%

INTERNET SOURCES

5%

PUBLICATIONS

7%

STUDENT PAPERS

MATCH ALL SOURCES (ONLY SELECTED SOURCE PRINTED)

4%

★ iosrjournals.org

Internet Source

Exclude quotes On

Exclude matches < 1%

Exclude bibliography On