



The Legal Dilemma of Chemical Castration in Algeria: Balancing Criminal Legality and Human Dignity Amidst Legislative Silence

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ABSTRACT

This study aims to analyze chemical castration as a newly introduced mechanism within criminal policy to address sexual offenses against minors, in light of the balance between the need to deter sexual crimes and the imperative to protect human dignity. It departs from the growing gravity of sexual crimes against children and the resulting societal demand for harsher punishment, by examining the legitimacy of incorporating chemical castration into the Algerian penal system. This modern measure, which functions by suppressing sexual hormones to reduce aggressive impulses, has sparked deep doctrinal debate—between those who regard it as a preventive measure that enhances public safety, and those who view it as a violation of bodily integrity and human rights protected under international conventions. The study also

discusses the Algerian constitutional framework, which enshrines the principles of legality and protection of the human body, concluding that the adoption of chemical castration requires explicit legislative regulation defining its nature and safeguards. Ultimately, the research finds that chemical castration represents a hybrid measure, combining elements of deterrence and treatment, and recommends that the Algerian legislator conduct a careful assessment before its adoption to ensure compliance with the Constitution and international human rights obligations.

INTRODUCTION

The issues pertaining to the sexual assault and exploitation of minors are universally recognized as some of the most heinous, grievous, and alarming crimes within the fabric of modern societies. This recognition stems from the devastating, multifaceted, and long-term psychological, physiological, and sociological repercussions that such crimes inflict upon the victims, effectively shattering their fundamental well-being. The profound gravity of these offenses has exerted significant pressure on legislative and judicial authorities worldwide, compelling them to engage in an arduous search for efficacious and robust mechanisms designed for the prevention and deterrence of such catastrophic criminal activities. In recent decades, the field of criminal policy has witnessed profound paradigm shifts and deep structural transformations, necessitated by the burgeoning challenges posed by the contemporary reality of sexual criminality against children. These developments, which frequently provoke intense social shock and profound moral anxiety among the general public, have driven legislators in numerous jurisdictions to explore non-conventional, innovative legal instruments aimed at addressing the inherent dangerousness of these offenders and significantly curtailing the probability of criminal recidivism. Among the most prominent and controversial of these tools, which has ignited

a fierce and polarized debate within both jurisprudential circles and human rights advocacy groups, is the measure colloquially and legally referred to as Chemical Castration.

This specific procedure, alternatively classified as a sanction or a medicalized intervention, is fundamentally predicated upon the administration of sophisticated pharmacological agents. These medical substances are designed to induce a temporary yet substantial inhibition and suppression of the sexual hormones (specifically, androgens) that are biological drivers of sexual desire and behavior. The ultimate objective of this hormonal suppression is to physiologically diminish the aggressive impulses inextricably linked to sexual assault. Indeed, this mechanism has been formally integrated and implemented within the legislative frameworks of several foreign nations, including but not limited to France, Poland, South Korea, and various states within the United States of America. In these jurisdictions, chemical castration is applied either as a voluntary measure, often serving as a stringent condition for parole or conditional release, or as a mandatory sanction, functioning as a specific statutory penalty imposed upon perpetrators of aggravated sexual assaults, particularly those targeting infants and minors.

Notwithstanding its purported efficacy, chemical castration remains the subject of a monumental and unresolved dialectic between two opposed jurisprudential schools of thought.

The first orientation, which is primarily preventive and prophylactic in nature, posits that this measure constitutes an exceptionally effective tool for neutralizing. Proponents of this view argue that it significantly bolsters communal security and serves as a vital barrier against the recurrence of the crime. Their logic is anchored in the philosophical premise that the collective right to safety and the specific protection of the child's innocence must take precedence over the individual rights of the offender who has, through their own transgressions, forfeited certain social and legal claims. Conversely, the second jurisprudential orientation contends that this procedure strikes at the very core of inherent human dignity. They argue that it involves a form of bodily intrusion and physical interference that is strictly prohibited under the mandates of international human rights law. They specifically invoke the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, asserting that such measures represent a violation of the prohibition against any treatment that is cruel or degrading, even when conducted under the auspices of criminal justice.

Within this complex conceptual landscape, this study seeks to illuminate the current state of criminal policy within the Algerian Legislative Framework. Algeria, like many other nations, has unfortunately become a theater for sexual crimes perpetrated against children, leading to a surge in societal demands for the imposition of the most draconian and rigorous penalties against such offenders. Consequently, this subject acquires a singular importance given that the national punitive system has, for several years, trended toward an intensification of sanctions for crimes affecting children. This trend is clearly manifested in the Child Protection Law and the subsequent amendments to the Penal Code, both of which introduced stringent provisions targeting sexual predators. However, the Algerian legislator has remained notably silent regarding the specific issue of chemical castration, failing to address it either explicitly

or by implication. This legislative silence raises critical questions concerning the possibility of adopting such a measure, perhaps under the legal umbrella of preventive measures or within the broader framework of the reform and rehabilitation of the offender. Despite the growing international debate, Algerian legal scholarship has not yet provided a systematic analysis of chemical castration within the framework of criminal legality and human dignity.

The complexity of this issue is further exacerbated by the fact that the traditional demarcation between Punishment and Preventive Measures is becoming increasingly blurred in contemporary criminal jurisprudence. Modern criminal policy is progressively moving toward the adoption of what are known as Hybrid Measures, which simultaneously combine punitive-deterrent characteristics with therapeutic-remedial objectives. Chemical castration epitomizes this duality; it possesses a judicial character because it is typically mandated by a court order, yet it also maintains a medical-preventive character because its primary aim is the reduction of criminal risk through biological and clinical intervention.

The significance of this research is manifested in its endeavor to address the existing legislative vacuum within the Algerian penal system. It achieves this by critically evaluating the potential for incorporating chemical castration as a tool for achieving Preventive Justice, while ensuring that such an inclusion does not undermine the fundamental and non-derogable guarantees of the accused. Theoretically, this study contributes to the enrichment of Arab criminal jurisprudence by engaging in a modern discourse that keeps pace with international trends in combating sexual criminality. Practically, it aims to provide the Algerian legislator with a balanced and nuanced vision that navigates the tension between the imperatives of social security and the necessity of respecting the foundational human rights of the individual.

Consequently, and considering the aforementioned context, the Fundamental Problematic that this research seeks to address

can be formulated as follows: To what extent can chemical castration be characterized as a criminal penalty that is compatible with the principles of criminal legality and international human rights standards? Conversely, should it be regarded merely as a preventive measure cloaked in a punitive appearance, thereby conflicting with the constitutional values regarding human dignity and bodily integrity as enshrined in Algerian legislation?

To address this problem, the researcher will adopt a Descriptive-Analytical and Comparative Methodology. This approach will involve a comparative analysis of the jurisprudential and legal conceptualization of chemical castration, considering international experiences. By utilizing analytical tools, the study will discuss the legal translatability of chemical castration into the Algerian legal environment, grounded in constitutional principles and relevant international human rights conventions.

The study employs a descriptive-analytical and comparative methodology, examining selected foreign legal systems to assess the normative transposability of chemical castration into the Algerian constitutional framework. The analysis is conducted across multiple levels, including the doctrinal, constitutional, and international human rights dimensions, with reference to the legal experiences of France, Poland, and the USA.¹

1. THE CONCEPTUAL AND THEORETICAL FRAMEWORK OF CHEMICAL CASTRATION

Chemical castration is theoretically conceptualized as a sophisticated pharmacological and therapeutic intervention. It primarily entails the systematic administration of anti-androgen medications or the utilization of gonadotropin-releasing hormone inhibitors that act upon the pituitary-gonadal axis. The fundamen-

tal objective of this clinical procedure is to substantially decrease testosterone concentrations or systematically inhibit their physiological and psychological impact on the physical and behavioral disposition of the individual subjected to the treatment. It is analytically imperative to distinguish chemical castration from Surgical Castration. While the latter is characterized by the permanent, irreversible, and physical excision of the gonads, the effects of chemical castration are generally characterized by their reversibility; physiological functions typically resume once the pharmacological regimen is suspended. In contrast, surgical intervention produces a definitive and permanent cessation of reproductive and sexual capacity. Chemical castration specifically seeks to attenuate the offender's sexual libido and curb habitual deviant behaviors that may precipitate the commission of further offenses. Consequently, within several modern legislative frameworks, this procedure is classified as a preventive or therapeutic measure proposed to convict as a condition for parole, while other systems have institutionalized it as a supplementary or alternative sanction within the functional hierarchy of criminal punishment.²

1.1 Definition and differentiation of chemical castration from other sanctions

In its technical and jurisprudential sense, chemical castration refers to the strategic deployment of specific medicinal or hormonal substances that induce either a temporary or prolonged suppression of sexual desire in the perpetrator. This is particularly targeted at those convicted of heinous crimes such as rape or sexual aggression against children, with the overarching goal of preventing future criminal recidivism.

1 Miftahzen, H. R., Kamila, S. (2025). Chemical castration punishment: An international human rights law perspective. *Realism: Law Review*, 3(1), 18.

2 Lee, J. Y., Cho, K. S. (2013). Chemical castration for sexual offenders: Physicians' views. *Journal of Korean Medical Science*, 28(2), 171–172.

Legal scholars emphasize the distinction between chemical and surgical methods: the former is limited to a medico-pharmacological intervention that regulates hormonal secretions specifically testosterone without compromising the anatomical integrity or physical structure of the human body.³ This non-invasive nature has provided a jurisprudential justification for various legislatures to adopt it as a therapeutic-preventive measure rather than a traditional punitive sanction.

This mechanism has been institutionalized in several sovereign states that have enacted specialized legislation for sex offenders against minors, including Poland, the Czech Republic, the Russian Federation, South Korea, and various jurisdictions within the United States. Consequently, it has become the focal point of a rigorous ethico-legal debate concerning its legitimacy and its compatibility with fundamental human rights principles, most notably the right to bodily integrity and human dignity.

Furthermore, a distinction must be drawn between chemical castration and other rehabilitative measures. Unlike standard psychiatric treatments, chemical castration does not necessarily aim to cure a clinical mental disorder in the traditional medical sense; rather, it often functions as a coercive judicial procedure imposed by court order or as a prerequisite for early release. It likewise differs from Psychosexual Therapy, which focuses on behavioral modification through cognitive-behavioral programs without interfering with the body's endocrine system.

From a strictly legal perspective, chemical castration defies easy classification within the traditional taxonomies of punishment. It possesses a hybrid nature that intersects retribution with therapy, and coercion with prevention. Some legislatures categorize it as a Security-Therapeutic Measure, whereas others view it as an Accessory Penalty added to custodial sentences. For instance, Polish Law No. 240/2009

mandates the submission of sex offenders against children to chemical castration following a mandatory consultation with a specialized medical board. Conversely, in the United States, several states apply it under the Informed Consent model as a condition for parole, where the offender theoretically chooses the treatment over continued incarceration.⁴

In the context of Islamic Jurisprudence, castration is not recognized as a standardized Sharia sanction. The general principles of Islamic law emphasize the sanctity and inviolability of the human body, prohibiting any physical alteration or harm except in cases explicitly mandated by divine text, such as Qisas. Thus, the introduction of chemical castration may clash with the principle of the sanctity of the body, which Muslim jurists have affirmed by stating that the body is a trust, that neither the individual nor the state may infringe upon without legitimate scriptural justification.⁵

1.2 Historical and intellectual evolution of chemical castration

Castration is not a novel concept in the history of punitive systems; its origins can be traced back to ancient civilizations, including the Babylonian, Greek, and Roman eras, where physical castration was utilized as a retributive penalty for adultery, treason, or crimes of honor. However, with the evolution of humanistic thought and the rise of reformist movements in the 18th century, physical castration receded in favor of custodial imprisonment.

The surge in sexual offenses against children in the late 20th century reignited the debate over the efficacy of traditional penalties. The perceived failure of general and specific deterrence provided by mere incarceration, coupled with high recidivism rates, led to

3 Schmucker, M., Lösel, F. (2008). Does sexual offender treatment work? A systematic review of outcome evaluations. *Psychological Bulletin*, 13(1), 97–127.

4 Mohamadi, I. (2022). Modern trends of the punitive policy in facing sexual crimes. *Journal of Contemporary Legal Studies*, (27), 45–67.

5 Al-Zuhayli, W. (2006). *Islamic jurisprudence and its evidence* (4th ed.). Dar al-Fikr. Cairo, 185.

the conceptualization of chemical castration. It first appeared in medical literature in the 1950s, specifically using medroxyprogesterone acetate to treat sexual obsessions. By the late 1980s, it transitioned into legal application in California and Florida as a condition for parole. At the dawn of the 21st century, Eastern European nations began legislative adoption (Poland in 2009, the Czech Republic in 2010), largely driven by public outcry following high-profile pedophilic incidents. These nations framed the procedure as Mandatory Medical Treatment to bypass constitutional objections to corporal punishment. Meanwhile, Western European nations, such as France and Germany, remain significantly more reserved, viewing chemical castration as a potential violation of Article 3 of the European Convention on Human Rights. This perspective is reinforced by the standards set by the European Committee for the Prevention of Torture (2017) regarding the medical treatment of detainees.⁶

1.3 Medical, scientific, and jurisprudential nature

From a scientific standpoint, the procedure relies on GnRH agonists or anti-androgens such as Leuprolide or Cyproterone Acetate. These are administered through periodic injections to significantly lower sexual activity and aggressive libidinal impulses. Empirical studies suggest that the effects are transient and diminish upon the cessation of treatment, rendering it a reversible measure, unlike the finality of surgical intervention.⁷

Medical professionals emphasize that chemical castration is a physiological tool for impulse control rather than a comprehensive

psychological cure. Therefore, medical associations recommend its integration into a Multimodal Treatment Program that includes psychological and behavioral counseling. Field experiments in Sweden and South Korea have demonstrated that recidivism rates among those subjected to chemical castration decreased by approximately 30% to 40% compared to those who only served custodial sentences, proving its efficacy as a preventive measure provided it is subject to strict judicial and medical oversight.⁸ Recent comparative legal analyses⁹ and international reviews of legislation¹⁰ suggest that the success of such measures depends on rigorous adherence to international human rights frameworks

Ultimately, this sanction/measure is anchored in two complementary principles of modern criminal jurisprudence: the Principle of Deterrence and the Principle of Social Protection. From a deterrent perspective, it is viewed as a rigorous response that generates a profound psychological impact on both the offender and society. From a preventive perspective, it serves as a functional tool to neutralize the biological drivers of crime. Nevertheless, it continues to raise fundamental questions regarding the boundaries of state authority in interfering with the human body. While some argue the state has a Right of Defense against dangerous criminals, others maintain that bodily integrity is the essence of human dignity and cannot be treated as a mere instrument of penal policy.

6 European Committee for the Prevention of Torture (CPT). (2017). 27th General Report of the CPT. Council of Europe.

7 Thibaut, F., De La Barra, F., Gordon, H., Cosyns, P., Bradford, J. M. (2019). The World Federation of Societies of Biological Psychiatry (WFSBP) guidelines for the biological treatment of paraphilias. *The World Journal of Biological Psychiatry*, No. 11, 604–655.

8 Kim, S., Cho, S. (2010). Chemical castration for sexual offenders in Korea: Analysis and proposal for legislation. *Korean Journal of Legal Medicine*, No. 34, 101–110.

9 Sugiana, D., Rosmery, M., Amalia, R. (2022). Analysis of chemical castration punishment for sexual crimes perpetrators in view of human rights (Case study of sexual harassment of 14 Santriwati in Bandung Regency). *Journal of Citizenship*, 6(1).

10 Çöpür, M., Çöpür, S. (2021). Chemical castration as an evolving concept: Is it a possible solution for sexual offences? *The Journal of Forensic Psychiatry & Psychology*, 32(1), 1–26.

2. THE LEGAL NATURE OF CHEMICAL CASTRATION: THE DIALECTIC BETWEEN CRIMINAL SANCTION AND PREVENTIVE MEASURE

Modern criminal jurisprudence maintains a fundamental and structural distinction between Punishment, viewed as a retributive sanction for a criminalized act, and Preventive Measures, conceptualized as functional instruments designed to shield society from criminal dangerousness. While punishment is intrinsically linked to the Principle of Guilt, preventive measures are anchored in the element of future risk or threat. The eminent jurist Mirabeau elegantly articulated this dichotomy by stating: Punishment is justified by the past, while the preventive measure is justified by the future. This distinction is paramount in determining the precise positioning of chemical castration within the hierarchical punitive system.¹¹ When scrutinizing the core of the chemical castration procedure, we observe a duality: it is imposed following a judicial finding of guilt and via a court verdict characteristic that aligns it with traditional punishment. However, if we examine its ultimate teleological objective, namely, the prevention of future recidivism, it qualifies as a preventive measure par excellence.

2.1 Chemical castration as a criminal sanction

Within several legislative frameworks, chemical castration is formally recognized as a punitive sanction that either integrates with custodial sentences or partially replaces them. For instance, in the jurisdiction of California, Law No^o 794 of 1996¹² stipulates that any individual convicted of the rape of a child may be

11 Ahmed, M. (2020). Alternative sanctions in contemporary criminal policy: A comparative study between precautionary measures and custodial penalties. *Dar al-Nahda al-Arabiya*.

12 Law of California No. 794, September 21, 1996, Chemical Castration of Sex Offenders.

subjected to chemical castration as a mandatory condition for parole. From the perspective of criminal retribution, this measure serves as a deterrent mechanism specifically tailored for a category of offenders characterized by a high probability of recidivism. Proponents of this punitive orientation rely on the Principle of Proportionality between the crime and the penalty. They argue that since an assault against a child constitutes a profound violation of society's collective moral fabric, the law's intervention into the offender's biological body is justified as a reciprocal measure to prevent further violations of potential victims' physical integrity. Nevertheless, this purely retributive characterization faces significant opposition. For example, French law, while permitting the administration of libido-suppressing agents, mandates the informed consent of the convict and classifies the procedure strictly within the framework of Psychosexual Treatment, explicitly denying it the status of a criminal penalty. This reflects a significant jurisprudential trend toward depenalizing chemical castration.¹³ As argued by Hess et al, the ethical debate remains unresolved in European jurisprudence, particularly concerning the balance between social security and human rights.¹⁴

2.2 Chemical castration as a preventive measure

Preventive measures in modern criminal thought aim to protect the social order from criminal dangerousness, irrespective of the offender's total criminal responsibility. The scholar Zimring defines them as precautionary procedures imposed upon those whose dangerousness is established in order to preclude

13 French Ministry of Justice. (2020). Report on the implementation of preventive measures and sanctions against perpetrators of sexual crimes in France. General Directorate of Criminal Affairs and Pardons.

14 Ohoiwutun, Y. A. T., Putra, G. A., Taniady, V. (2026). Integrating psychiatric assessment in chemical castration sanctions for child sexual offenders in Indonesia. *Sriwijaya Law Review*, 10(1), 109–125.

their return to criminal conduct.¹⁵ Within this intellectual framework, many jurists perceive chemical castration as a physiological tool to regulate sexual impulses, aligning it more closely with Medical Preventive Measures typically imposed on individuals with psychological disorders that pose a threat to public safety.

In this regard, the European Court of Human Rights (Strasbourg) explicitly supported this orientation in the landmark case of *Kudla v. Poland* (2000). The court clarified that therapeutic interventions do not constitute treatment provided they are genuinely aimed at treatment and are conducted under the strict supervision of an independent medical authority. However, the demarcation line between and remains exceptionally thin and continues to be a subject of intense legal debate.

2.3 Legal differentiation and systematic classification

In its technical and jurisprudential sense, chemical castration refers to the strategic deployment of specific medicinal or hormonal substances that induce either a temporary or prolonged suppression of sexual desire in the perpetrator. This is particularly targeted at those convicted of heinous crimes such as rape or sexual aggression against children, with the overarching goal of preventing future criminal recidivism.

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2.3.1 The formal criterion

This criterion focuses on the procedural foundation of the measure. A Punishment cannot be imposed except through an explicit statutory text issued by the legislative authority in adherence to the Principle of Legality and can only be enacted via a final judicial verdict following a definitive finding of guilt. In contrast, the Preventive Measure is characterized by greater procedural flexibility; it may be instituted even in the absence of a formal conviction, provided there are clear indicators of criminal risk or the likelihood of recidivism, as seen in therapeutic measures for those lacking full criminal capacity, such as the mentally ill.¹⁷

15 Zimring, F. E. (2019). *The changing legal world of adolescence*. Oxford University Press.

16 Schmucker, M., Lösel, F. (2008). Does sexual offender treatment work? A systematic review of outcome evaluations. *Psychological Bulletin*, 13(1), 97–127.

17 Abu al-Khair, S. (2021). Precautionary measures in contemporary criminal policy: A study in concept, legal nature, and practical effects. *Dar al-Matbouat al-Jami'iyah*.

2.3.2 *The functional criterion*

This involves identifying the primary objective of the procedure. Punishment is an embodiment of retribution for guilt; it is a social reaction to criminal conduct intended for general and specific deterrence and the realization of justice through desert. Conversely, the Preventive Measure seeks neither retribution nor deterrence in the traditional sense, but rather the Prophylaxis of future danger. It targets the future by addressing the psychological or behavioral catalysts of crime to protect society.¹⁸

2.3.3 *The objective criterion*

This rests on the nature of the effect the measure has on the individual. Punishment, by its very nature, inflicts pain, hardship, or deprivation, whether of liberty, property, or bodily autonomy. The Preventive Measure, however, aims at reform, rehabilitation, or clinical stabilization. Its foundation is rather than Blame, and its intent is not to cause suffering but to neutralize the threat posed by the individual.

3. LEGAL IMPEDIMENTS TO THE IMPLEMENTATION OF CHEMICAL CASTRATION WITHIN THE ALGERIAN LEGAL SYSTEM

Currently, the Algerian legislator has not formally integrated chemical castration into its punitive arsenal. However, a significant and escalating debate has emerged following recurrent and harrowing cases of sexual assault against minors. Public discourse has increasingly demanded the adoption of such measures, notwithstanding the substantial legal contradictions they present. Article 34 of the Algerian Constitution explicitly mandates that

the State shall protect the inviolability of the person and their bodily integrity; no person shall be subjected to torture or inhuman treatment in the Constitutional Amendment, 2020.¹⁹ Furthermore, Article 38 emphasizes that the primary objective of penalties is rehabilitation and social reintegration rather than mere retribution. Consequently, any future legislative initiative aimed at legalizing chemical castration must meticulously balance the collective right to social security with the individual's fundamental right to physical sanctity. This section elucidates the constitutional, human rights, and practical obstacles facing Algerian criminal policy in this regard.

3.1 Constitutional obstacles to chemical castration

The legal nature of chemical castration reflects an evolution in the concept of criminal sanctioning toward an intersection with clinical medicine and preventive science. It is a hybrid procedure that merges punishment with treatment and deterrence with reform. In modern legal systems, it cannot be accepted unless it resides within a framework that respects constitutional mandates and human dignity, subject to rigorous judicial and medical oversight.

3.1.1 *Chemical castration and the principle of criminal legality*

The Principle of Legality is the cornerstone of any penal system. Article 167 of the 2020 Algerian Constitutional Amendment stipulates that Criminal penalties shall be subject to the principles of legality and personality. This is translated in Article 1 of the Penal Code:²⁰ "No crime, no penalty, and no security measure shall exist without a law". Furthermore, Article 39 of the Constitution prohibits any physical or moral violence or any infringement upon dig-

18 Abdul Ghani, K. (2019). *The general theory of punishment in criminal law: A study in the philosophical and functional foundations of punishment and precautionary measures*. Dar al-Fikr al-Jamail.

19 Law No. 20-16, December 30, 2020, containing the Constitutional Amendment, Official Gazette N 82.

20 Ordinance No. 66-156, June 8, 1966, Algerian Penal Code, (as amended and supplemented).

nity. Introducing chemical castration as a new sanction raises profound questions regarding its harmony with these principles, especially as it oscillates between a compulsory medical procedure and a punitive retribution. In this context, the World Health Organization (2015) underscores the critical ethical considerations involved in medical treatments that significantly affect the biological and bodily integrity of individuals.²¹

The constitutionalization of legality aims to protect individuals from legislative arbitrariness and the expansive interpretation of penal texts. Since chemical castration is absent from the existing Algerian penal repertoire, its adoption would necessitate an explicit, detailed legislative amendment defining its nature, duration, executive authority, and procedural safeguards to avoid violating the principle of non-retroactivity of laws.²² Similar challenges have arisen in Poland and the Czech Republic, where the constitutionality of such laws was challenged for infringing upon bodily integrity.²³

3.1.2 Respect for bodily integrity and human dignity

The right to physical sanctity is an absolute constitutional right. Article 39 of the Algerian Constitution forbids all forms of torture or degrading treatment. Subjecting an offender to chemical treatment that alters their physiological functions constitutes, in principle, an infringement upon bodily integrity unless performed with free and informed consent under independent medical supervision. The constitutional risk lies in transforming a therapeutic measure into a retributive mutilation, rendering it a form of legalized physical distortion. Some

constitutionalists argue this contradicts Article 7 of the International Covenant on Civil and Political Rights,²⁴ which prohibits non-consensual medical treatment (UN Human Rights Committee, 2018). Conversely, others argue that since it is reversible and non-surgical, it is more humane than long-term incarceration or capital punishment.²⁵

3.1.3 The principle of proportionality

Legality requires that a penalty be proportionate to both the gravity of the act and the personality of the offender. While theoretically justified by the severity of crimes against children, applying chemical castration without prior psychological profiling and medical guarantees could turn it into a collective penalty that infringes upon the offender's right to reintegration. The French Constitutional Council (2010) emphasized that any measure affecting the human body must remain subject to voluntary and continuous consent.

3.2 Human rights and ethical impediments

3.2.1 Contradiction with international standards

Instruments such as the Universal Declaration of Human Rights and the ICCPR serve as the supreme reference for evaluating sanctions. Moreover, the United Nations Human Rights Council clarifies that non-consensual medical interventions, such as compulsory chemical castration, must be strictly scrutinized to ensure they do not constitute cruel, inhuman, or degrading treatment. Articles 3 and 5 of the Declaration protect the right to life, liberty, and security of a person, prohibiting cruel treatment. Forced chemical castration may be deemed a form of inhuman treatment, inconsistent with international obligations. The UN Committee

21 World Health Organization. (2014). Health care for women subjected to intimate partner violence or sexual violence: A clinical handbook. <<https://iris.who.int/server/api/core/bitstreams/3e906b26-c609-4a2f-9cf6-c1c42f186809/content>>.

22 Boucheir, A. (2021). The Algerian constitutional system after the 2020 amendment. Office of University Publications (OPU).

23 Smith, J. (2019). Criminal law and human rights in modern justice systems. Oxford University Press.

24 United Nations Human Rights Council. (2019). Report on the protection of human dignity in criminal sanctions. <<https://undocs.org/A/HRC/42/20>>.

25 Berger, R. (2020). Chemical castration and human rights: Legal and ethical perspectives. Cambridge University Press.

Against Torture has stated that in the absence of free consent,²⁶ this procedure represents a violation of Article 16 of the Convention.²⁷

3.2.2 *The ethical dilemma: state vs. body*

A philosophical question arises: To what extent can the state interfere with the human body in the name of public safety? Excessive control over the body leads to a violation of bodily liberty. Using the body as an instrument of deterrence risks opening the door to other regressive legislations, such as organ removal or forced medical implants, threatening the balance between security and freedom, a concept famously critiqued by Michel Foucault in his analysis of power and punishment.²⁸

3.2.3 *Rights to treatment and dignity*

Under the Nelson Mandela Rules, convicts do not lose their right to dignity or healthcare. If chemical castration were imposed, it must be under an independent medical board and with the offender's consent. Forcing treatment is a direct violation of Article 10 of the ICCPR,²⁹ which mandates that all persons deprived of their liberty shall be treated with humanity.

3.2.4 *Practical and rights-based challenges in Algeria:*

- Absence of National Framework: The lack of specific legislation makes implementation vulnerable to judicial arbitrariness;
- Lack of Specialized Cadres: Algeria currently lacks sufficient medical-legal expertise to supervise such complex hormonal interventions;
- Risk of Misuse: Potential for misuse in

social or political contexts against marginalized groups;

- Supervision: The absence of independent medical-judicial oversight could lead to grave human rights violations.

3.3 Position of Algerian jurisprudence

While Algerian legal scholars have yet to reach a definitive consensus, many incline toward rejecting chemical castration because it is an unjustified breach of bodily integrity. They argue that deterrence can be achieved through aggravated custodial sentences and psychological security measures. This contrasts with comparative jurisprudence, which is split: a supporting trend viewing it as a preventive-therapeutic tool, and an opposing trend viewing it as a cruel, retributive practice that fails to address the root causes of criminality.

CONCLUSION

In conclusion, it can be asserted that the issue of chemical castration represents one of the most complex and sensitive legal and human rights dilemmas in contemporary jurisprudence. It reflects the intricate and often tense relationship between the collective imperatives of social defense and the fundamental constitutional obligation to respect inherent human dignity. This subject raises a core problematic concerning the boundaries of the State's punitive authority and the normative constraints that should govern legislative intervention when it pertains to the sanctity of the human body. The persistent tension between the preventive-prophylactic dimension of chemical castration and its punitive-deterrent character makes it exceptionally difficult to categorize within a singular legal framework, as it simultaneously embodies the characteristics of a criminal sanction and a therapeutic measure. Although grounded in the Algerian legal framework, the findings of this

26 United Nations Committee against Torture. (2008). General comment No. 2: Implementation of article 2 by States parties (CAT/C/GC/2). United Nations.

27 United Nations Human Rights Council (2019), op. cit.

28 Foucault, M. (1995). *Discipline and punish: The birth of the prison*. Vintage Books.

29 United Nations International Covenant on Civil and Political Rights, December 16, 1966, 999 U.N.T.S. 171, Art. 10. <<https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>>.

study are transferable to other legal systems confronting similar debates on hybrid preventive sanctions, particularly in jurisdictions balancing crime prevention with constitutional guarantees of human dignity.

Furthermore, this study reveals that the discourse surrounding chemical castration transcends purely legal considerations, extending into ethical, clinical, and sociological dimensions that touch upon the very heart of the philosophy of criminal justice. The debate remains polarized between those who perceive it as a progressive mechanism for offender rehabilitation and communal protection, and those who condemn it as an egregious violation of bodily integrity and the inviolability of the human person. The ultimate challenge remains the reconciliation of society's right to security with the individual's right to physical and moral autonomy, within the context of the rapid transformations characterizing modern criminal policy.

Research Findings

Through the systematic analysis conducted in this study, the following findings have been established:

- **Hybrid Legal Nature:** The analysis confirms that chemical castration is a hybrid procedure that amalgamates punitive, medical, and preventive characteristics. Formally, it is typically enacted via a judicial verdict; objectively, it inflicts a temporary physical deprivation; yet its primary teleological goal is preventive, aimed at the neutralization of criminal recidivism;
- **Diverse International Outcomes:** The study of varied international experiences, including Poland, the Czech Republic, Russia, the United States, and South Korea, demonstrates that when chemical castration is integrated with comprehensive rehabilitative programs and rigorous supervision, it leads to a statistically significant reduction in recidivism

rates. However, these successes are accompanied by severe constitutional and human rights risks in instances of forced application or the absence of procedural safeguards;

- **Constitutional and Human Rights Tensions:** From a constitutional perspective, chemical castration raises fundamental issues regarding the Principle of Legality, the right to bodily integrity, and the sanctity of human dignity. It also intersects with Algeria's international obligations under the Convention Against Torture and other human rights instruments;
- **Infrastructural Requirements:** On a practical and clinical level, the implementation of any chemical castration program necessitates a specialized medical-judicial infrastructure, continuous clinical monitoring, and an independent assessment of the risk-benefit ratio, supported by scientific tracking systems;
- **The Algerian Context:** While chemical castration remains a debatable option in Algeria if framed as a voluntary, legally regulated therapeutic choice, it faces categorical opposition if applied coercively. Adopting it as a mandatory penalty is fraught with grave constitutional and human rights perils.

Recommendations and Proposals

Based on the aforementioned findings, the researcher proposes the following recommendations to the Algerian legislator and judicial authorities:

- **Avoidance of Mandatory Penalties:** We recommend abstaining from enacting mandatory chemical castration as a criminal penalty in response to populist or public pressure. Such a move would entail significant constitutional risks that conflict with the fundamental rights

enshrined in the Algerian Constitution and international conventions;

- **Establishment of a Voluntary Legal Framework:** Should the legislator consider this path, it must be within a strictly limited and optional framework. Chemical castration should only be offered as a voluntary, temporary therapeutic alternative and a condition for parole, provided it is requested by the convict freely and after exhausting other rehabilitative means;
- **Mandatory Informed Consent:** A prerequisite for any pharmacological intervention must be the explicit, written, and informed consent of the individual. This consent should only be valid after a comprehensive clinical briefing and the approval of a sworn psychiatrist, with the offender retaining the right to withdraw from treatment at any time without additional penal consequences;
- **Judicial Oversight and Due Process:** Any decision to apply this measure must be based on a final judicial verdict, support-

ed by independent medical and psychological reports proving the danger of recidivism. Robust mechanisms for appeal and periodic judicial review must be available before a competent court;

- **Formation of a Multi-disciplinary Oversight Commission:** We propose the creation of an independent Medio-Judicial Committee comprising specialists (Psychiatrists, Urologists, Endocrinologists), legal experts, and human rights representatives. This commission would be tasked with evaluating cases, supervising the implementation, and submitting periodic reports to the judiciary;
- **Adherence to International Standards and Transparency:** Any legislation concerning chemical castration must demonstrate absolute compliance with the Convention Against Torture and the ICCPR. Transparency must be maintained through the publication of periodic reports accessible to international human rights mechanisms and the national public.

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