



The Role of Traditional Villages in Efforts to Combat Child Sexual Violence in Buleleng Regency

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Abstract

This research is based on the issue of the rampant cases of child sexual violence occurring in Buleleng Regency. The questions to be answered as the objectives of this research are: (1) how are the legal regulations governing the role of traditional villages in efforts to combat child sexual violence? and (2) what is the role of traditional villages in efforts to prevent child sexual violence in Buleleng Regency? The research method used is empirical legal research of a descriptive nature. The data and data sources used in this study are primary and secondary data. Data collection techniques used in this study are document study, observation, and interviews. The sample determination technique used in this study is non-probability sampling with purposive sample as the sample type. The data collected in this study is further constructed qualitatively and presented descriptively. The results of this study found that: (1) the regulation regarding the role of traditional villages in efforts to prevent child sexual violence is not explicitly regulated in the Child Protection Act, the Sexual Violence Act, and related regulations at the provincial and Buleleng Regency levels; and (2) the role of traditional villages in efforts to prevent child sexual violence in Buleleng Regency is not very significant. This is due to the lack of specific legal basis regulating the role of traditional villages in preventing child sexual violence.

Keywords: Traditional Villages, Sexual Violence, Children.

Introduction

Child sexual violence is a serious crime that is increasingly prevalent over time and significantly threatens and endangers the lives of children, damages their personal lives and development, and disrupts the comfort, tranquility, security, and order of society. Children, as the nation's future generation, play a crucial role in national development and are entitled to protection from the state in accordance with the provisions of the 1945

constitution of the Republic of Indonesia (UUD 1945), which states that children have the right to protection from violence.

Sexual violence against children can take the form of pre-contact sexual behavior between a child and an older person, such as through words, touch, visual images, exhibitionism, and so on. Furthermore, sexual violence against children can involve direct sexual contact between a child and an adult, such as incest, rape, sexual exploitation, and the like. In general, the factors that cause sexual violence against children are related to parental or family factors, social or community environmental factors, and factors originating from the child. The consequences of sexual violence against children can be observed through common signs of sexually abused children, including behavioral signs, cognitive signs, socio-emotional signs, and physical signs (Nursairiani Simatupang, 2018)). The impact of sexual violence against children is undoubtedly very harmful to the child and can disrupt their growth and development, which is guaranteed by the applicable laws in Indonesia.

Regarding child sexual violence, Indonesia has regulations in place to prevent such occurrences, serving as guidelines for everyone to adhere to. The relevant regulation is the Law Number 23 of 2002 concerning Child Protection (hereinafter referred to as the Child Protection Law), which has been amended twice by Government Regulation Number 1 of 2016 concerning the Second Amendment to Law Number 23 of 2002 concerning Child Protection, as stipulated by Law Number 17 of 2016 regarding the Determination of Government Regulations in Lieu of Law Number 1 of 2016 concerning Child Protection as a Law. Article 15 paragraph (f) of the Child Protection Law stipulates that every child has the right to protection from sexual crimes.

In the Child Protection Act, it is stipulated that any person is prohibited from committing sexual violence through sexual intercourse against a child. The provision regarding this prohibition is regulated in Article 76D which states: 'Every person is prohibited from committing violence or threatening violence to force a child to have sexual intercourse with him or with another person.' Additionally, Article 76E also stipulates the prohibition of sexual violence through sexual abuse against a child, which reads: 'Every person is prohibited from committing violence or threatening violence to force, engage in deceit, perpetrate a series of lies, or persuade a child to engage in or allow indecent acts. As for the consequences when any person commits sexual violence as stipulated in Articles 76D and 76E of the Child Protection Act, the consequences are regulated in Article 81 paragraph (1) and Article 82 paragraph (1) of the Child Protection Act. Article 81 paragraph (1) states: 'Every person who violates the provisions as referred to in Article 76D shall be punished with a minimum imprisonment of 5 (five) years and a maximum of 15 (fifteen) years and a fine of up to Rp5,000,000,000.00 (five billion Indonesian Rupiah).' Meanwhile, Article 82 paragraph (2) reads: 'Every person who violates the provisions as referred to in Article 76E shall

be punished with a minimum imprisonment of 5 (five) years and a maximum of 15 (fifteen) years and a fine of up to Rp5,000,000,000.00 (five billion Indonesian Rupiah).

Indonesia is currently experiencing a state of emergency due to sexual violence. This is not just an assumption, but there are various facts that can be seen from reported cases and news coverage in various media outlets in Indonesia (Asni, 2020:221). According to the Simfoni PPA data in mid-2022, the total number of violence cases against children was 4,148 cases with a total of 4,526 victims. Meanwhile, the number of child sexual violence victims was 2,436 individuals, indicating that 53.8% of the violence victims were victims of sexual violence (Ministry of Women's Empowerment and Child Protection, 2022). Quoting CNN Indonesia (2023), the total number of sexual violence cases against children in 2022 based on the Ministry of Women's Empowerment and Child Protection records reached 9,588 cases. This number increased from the cases reported in mid-2022 and showed an increase from the year 2021, which had 4,162 cases.

Cases of sexual violence against children are not only known to occur at the national level, but are also known to occur in small towns in every province and even at the district level. One of the districts known to have cases of sexual violence against children is Buleleng Regency. This is known through data obtained from the Indonesian National Police of Bali Province Buleleng Resort (hereinafter referred to as Buleleng Police), as well as data obtained from current and factual information sources. Based on the data obtained from Buleleng Police, the occurrence of sexual violence against children in the jurisdiction of Buleleng Police every year experiences fluctuations.

Based on the data on the number of cases of sexual violence against children in Buleleng Regency sourced from the Criminal Investigation Unit of Buleleng Police, it is known that: (1) in 2018 there were 10 cases; (2) in 2019 there were 20 cases; (3) in 2020 there were 5 cases; (4) in 2021 there were 18 cases; and (5) in 2022 there were 23 cases. Based on these case data, fluctuations in the number of cases of sexual violence against children can be observed in the last five years from 2018 to 2022.

It is known that there was an increase in the number of cases of sexual violence from 2018 to 2019. Then there was a decrease in the number of sexual violence cases in 2020, followed by an increase in the number of sexual violence cases against children in 2021 until 2022. The cases of sexual violence against children in Buleleng Regency as mentioned above involve cases of molestation and sexual intercourse with children (Adnyana Ole, 2023). The fluctuation in the number of cases of sexual violence against children is influenced by certain factors, both from the perspective of legal awareness of the community and from the perspective of optimizing law enforcement, including the COVID-19 pandemic that affected the world, including Indonesia. However, the presence of these cases of sexual violence indicates that sexual violence, especially against children, still occurs in Buleleng Regency.

Cases of sexual violence against children in Buleleng Regency do not only occur within the five-year period from 2018 to 2022. As we enter 2023, cases of sexual violence against children still occur in Buleleng Regency. In 2023, cases of sexual violence against children have occurred again. Even in 2023, which has not yet been two months, there have been two cases. This means that, on average, there is one case per month. This was revealed by the Public Relations Officer of Buleleng Police, AKP I Gede Sumarjaya, on Wednesday, February 8, 2023. The two cases in early 2023 referred to are cases of student rape whose video recordings were circulated on social media and cases of sexual intercourse against a child by her own uncle (Ole, 2023).

The existence of cases of sexual violence against children in Buleleng Regency is certainly a distressing issue. This is because children, who should be safe and assured in their lives according to the law, are threatened by sexual predators, disrupting their growth and development due to the impact of the sexual violence they experience. Looking at the legal substance, starting from national laws to regional regulations applicable in Buleleng Regency, they have regulated child protection. In addition, law enforcement agencies, in this case the Police, have made various efforts to prevent and combat sexual violence against children. These efforts by the Police include preventive measures such as raising awareness about the importance of early sex education, the impacts of free association, and the impacts of sexual violence, preventive efforts to prevent the circulation of pornography, and repressive efforts to prosecute offenders in accordance with the law (Ni Putu Rai Yuliantini*, 2021). However, considering the cases of sexual violence against children in Buleleng Regency, it is evident that in terms of legal substance and structure, existing laws have not been able to effectively prevent sexual violence against children in Buleleng Regency. Therefore, the author believes that community involvement is necessary to prevent and address sexual violence against children in Buleleng Regency.

Community involvement in preventing and addressing sexual violence against children is certainly a responsibility in the provision of child protection, which is legally regulated in the Child Protection Act. In Article 20 of the Child Protection Act, it is stipulated that the state, government, local government, family, parents or guardians, and the community are obliged and responsible for child protection. Furthermore, the Child Protection Act also stipulates that the community's obligation and responsibility for child protection are carried out through community role activities in child protection. The obligations and responsibilities in question are carried out by involving community organizations. Therefore, with the issues related to the cases of sexual violence against children in Buleleng Regency and the ineffective application of laws and law enforcement efforts, community involvement is crucial. In this case, given the cases of sexual violence against children in Buleleng Regency, the intended community organizations can refer to the traditional villages in Buleleng Regency.

Traditional Villages that have grown and developed for centuries in Bali and have rights of origin, traditional rights, and original autonomy rights to regulate their own households have been proven to contribute significantly to the sustainability of community life in the nation and state. Traditional villages have also been proven to play a significant role in the development of society, the nation, and the State. With the contribution of traditional villages to community life, they can also play a role in combating sexual violence against children.

Based on the conceptual analysis and empirical conditions as described above, the author believes that this issue has strategic value for examination. Considering that children becoming victims of sexual violence is a serious problem in their development towards the future. Moreover, there are such complex issues that cannot be solved solely with legal regulations and law enforcement efforts. Therefore, community involvement, particularly traditional villages, in efforts to address sexual violence against children is needed. Therefore, considering the issues in Buleleng Regency, the research problem to be discussed in this study is: (1) how are the legal regulations governing the role of traditional villages in efforts to combat sexual violence against children? and (2) what is the role of traditional villages in efforts to prevent sexual violence against children in Buleleng Regency?.

Methods

The research on the 'Role of Traditional Villages in Combating Child Sexual Violence in Buleleng Regency' is a type of empirical legal research. This research is descriptive in nature and aims to describe something in a specific area and at a specific time. The data used in this research comes from primary and secondary sources. The primary data used are traditional village figures in Buleleng who serve as informants in this research. The secondary data used consist of primary legal materials and secondary legal materials. The data collection techniques used in this research are document study and interviews. The sample determination technique used in this research is non-probability or non-random sampling, specifically purposive sampling. The data collected in this research is then constructed qualitatively and presented descriptively.

Discussion and Result

The Regulation of the Role of Traditional Villages in Combating Sexual Violence against Children

The term "customary law community" is known as "traditional community" or "the indigenous people" in everyday life, referred to as the "customary community" (Aprilianti Kasmawati, 2023). The customary law community is a spontaneously arising community in a specific area, whose establishment is not determined or ordered by higher authorities or other rulers. They have a strong sense of solidarity among the members of the community as outsiders and utilize their territory as a

source of wealth that can only be fully utilized by their members (Naimah & Mukhoirotin, 2021).

In the context of customary law, a community refers to a group of people related to a fixed repeated pattern, a community with similar behavioral patterns where the same behavior grows and is manifested by the community. From these patterns, rules are formulated to govern the way of life (Nugroho, 2016:64). A customary law community with a structural basis on descent is a community where its members feel bound by an order based on the belief that they all come from the same descent (Soetoto, Ismail, & Lestari, 2021:47). On the other hand, a customary law community with a territorial structure is one where its members feel united and collectively constitute the unity of the respective customary law community (Soetoto, Ismail, & Lestari, 2021:49).

According to Article 18 of the 1945 Constitution, the state acknowledges and respects special or particular units of regional government as regulated by law. Additionally, the state also recognizes and respects the units of customary law communities along with their traditional rights as long as they are still alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia, as regulated by law. The state's recognition of customary law community units is a privilege for traditional communities that have preserved their traditions for generations. Nevertheless, customary law communities are also part of society at large, and in the nation's life, they play an important role in creating order and common welfare.

Customary law communities in Indonesia have various terms or names depending on the customary law community unit, such as in Bali, where it is called "desa adat" (customary village). Generally, the term "desa" (village) carries several meanings. A village can be interpreted as a settlement area for inhabitants, and it can also mean a situation in relation to place, time, and condition (Windia & Sudantra, 2016:51). According to Soetardjo Kartohadikoesoemo as quoted by Windia & Sudantra (2016:51), the word "desa" is derived from Sanskrit and carries the meaning of homeland, place of origin, and birthplace. In this sense, a customary village as a unit of the customary law community is where the people are born, grow, develop, and are able to maintain the customs that characterize their way of life.

In the context of community participation in addressing a crime, a customary village indirectly bears the responsibility for addressing crimes or criminal acts that occur in Indonesia. This is due to the presence of legislation that regulates community participation in the prevention and handling of crimes or criminal acts. This inability of a legal substance and structure to achieve the legal objective of societal order has implications for the reality that shows customary villages do not have a significant role in cases of child sexual violence that occur in their customary law area. This is

expressed by one of the customary village heads in Buleleng Regency and the Chairperson of the Customary Village Council in Buleleng Regency.

First, based on the interview with Jro Mangku Wayan Gunawan as the Head of Sangsit Dangin Yeh Customary Village, it was stated that the customary village is not fully able to play a role in addressing child sexual violence. This is because the customary village feels that it does not yet have a formal legal basis to play a role in addressing child sexual violence. Furthermore, within the customary village itself, there are no specific customary rules governing the role of the customary village in addressing child sexual violence. Gunawan further stated that as part of the Unitary State of the Republic of Indonesia, customary villages must be given a clear legal basis to play a role in addressing child sexual violence. Considering that customary rules and behavior still adhere to the positive law in Indonesia, in other words, all activities conducted by customary villages must not contradict the laws applicable in Indonesia.

Second, the statement regarding the minimal role of customary villages in addressing child sexual violence was also expressed by I Dewa Putu Budharsa as the Chairperson of the Customary Village Council in Buleleng Regency. Budharsa stated that there is no specific regulation in positive law that governs the role of customary villages in addressing child sexual violence. Furthermore, it was explained that those with the authority to address child sexual violence are the police, integrated services for women and children, and the social services. Moreover, within the customary villages in Buleleng Regency, there are no specific regulations governing the role of customary villages in addressing child sexual violence.

Based on the two statements from the informants above, it can be stated that the regulations in laws and local regulations regarding community participation in addressing child sexual violence cannot be fully understood by customary villages as a form of responsibility that must be implemented. This is because the existing regulations are still general and do not bind customary villages to actively participate in addressing child sexual violence. Therefore, specific regulations are needed to govern the role of customary villages in addressing child sexual violence. Considering that customary villages play a very important role in creating order and welfare in the lives of the community, especially the customary law community within a customary village.

The Role of Traditional Villages in Efforts to Mitigate the Occurrence of Sexual Violence against Children in Buleleng Regency

Talking about the role of traditional villages in efforts to prevent child sexual violence in Buleleng Regency, traditional villages in this context are the indigenous legal community units in Bali that have their own territory, position, original composition, traditional rights, wealth, traditions, social norms, and life manners of the community passed down through generations within the sacred place (kahyangan

tiga or village kahyangan), tasks, authority, and rights to manage and take care of their households. Considering the definition of traditional villages based on the Regional Regulation of Bali Province Number 4 of 2019 concerning Traditional Villages in Bali (Bali Traditional Village Regulation), it can be simply stated that a traditional village is an organization of the Balinese Hindu community based on a unity of residence and fundamental spiritual aspects for the pattern of relationships and social interactions in Balinese society (Windia, 2008:40).

According to the Bali Traditional Village Regulation, traditional villages have the duty to realize the *kasukretan* of the traditional village, which includes tranquility, prosperity, happiness, and peace in both the tangible and intangible realms. Moreover, the duties of traditional villages are not limited to socio-economic tasks but also include socio-cultural and religious tasks. Traditional villages have the obligation to preserve and maintain the cosmic balance of Bali's nature, both tangible and intangible, the balance of the relationship between humans and Hyang Widhi Wasa/The Almighty God, humans and nature as the vessel of life, and humans among themselves."

The task of the traditional village as mentioned above can be a basis for addressing the occurrence of child sexual violence in Buleleng Regency. However, in the Local Regulation (Perda) of Traditional Villages in Bali, provisions regarding the role of traditional villages in combating child sexual violence are not explicitly regulated. Therefore, the role of the traditional village in this context can be interpreted as a role in realizing the well-being of the traditional village, encompassing peace, prosperity, happiness, and harmony, by addressing child sexual violence. However, the regulation regarding the tasks of the traditional village is not directly related to the role in addressing child sexual violence. Even though there is a connection between combating child sexual violence and the creation of well-being in the traditional village, the reality is that traditional villages feel they do not have sufficient legal support to serve as a basis for their role in combating child sexual violence.

Based on interviews with Jro Mangku Wayan Gunawan, the Head of Sangsit Daging Yeh Traditional Village, and I Dewa Putu Budharsa, the Chairman of the Council of Traditional Villages in Buleleng Regency, it can be stated that the lack of regulation regarding the role of traditional villages in combating child sexual violence results in their limited involvement in addressing child sexual violence. Furthermore, Budharsa stated that traditional villages in Buleleng Regency, including the Council of Traditional Villages, have not been directly involved in addressing child sexual violence in the region. This is due to the lack of legal basis and collaboration with the authorities responsible for combating child sexual violence.

Budharsa further stated that the role of traditional villages so far in combating child sexual violence in Buleleng Regency has been limited to reporting incidents of

child sexual violence to the police, the competent authority. This role is part of the general community's involvement in combating child sexual violence in Buleleng Regency. In other words, there hasn't been a specific role played by traditional villages in combating child sexual violence. This is also related to the lack of regulation regarding the role of traditional villages, as discussed earlier. Therefore, in the context of combating child sexual violence by traditional villages, further regulations are needed at both the national and local levels. Considering that traditional villages play a significant role in community, national, and state development, their existence must be safeguarded, nurtured, protected, developed, and empowered to achieve a peaceful and harmonious life for the community in general and the Balinese people in particular (Widnyani & Susanti, 2022:94).

The inadequate regulations regarding the role of traditional villages in combating child sexual violence as mentioned above can be addressed through collaboration between traditional villages and the police or law enforcement authorities responsible for addressing child sexual violence. This was stated by I Dewa Putu Budharsa, the Chairman of the Traditional Village Council of Buleleng Regency. Budharsa stated that in order to play a role in preventing child sexual violence, traditional villages and/or the Traditional Village Council can collaborate with the police as law enforcement authorities. Furthermore, Budharsa stated that the active party in this collaboration is the police. In other words, the police in their role as law enforcement authorities need support from traditional villages, especially in efforts to combat child sexual violence in Buleleng Regency.

The collaboration between traditional villages and the police as mentioned above needs to be carried out to empower traditional villages to actively participate in preventing child sexual violence in Buleleng Regency (Zaman & Zulfikri, 2022:7). From the perspective of traditional villages, the intended collaboration can refer to the provisions in the Traditional Village Regulation in Bali. Article 82 of the regulation stipulates that traditional villages can collaborate with other traditional villages, *sesa*, and/or other parties. In carrying out such collaboration, the traditional village coordinates with the Traditional Village Council according to its level. Then, the collaboration as intended is documented in the form of a mutual agreement or a written agreement. This means that the mutual agreement or written agreement as intended is submitted to the respective level of the Traditional Village Council.

Considering the parties collaborating with the traditional village are the police, according to the provisions of the Traditional Village Regulation in Bali above, the police can be categorized as other parties. In conducting collaboration with other parties as referred to in the Regulation, it is further stipulated in Article 85 of the Traditional Village Regulation in Bali that the collaboration of the traditional village with other parties is carried out to accelerate and enhance the implementation of development and empowerment of the traditional village. The collaboration with

other parties as referred to is deliberated in the traditional village's paruman (meeting). Furthermore, aspects to be considered include that collaboration with other parties as intended must not contradict the traditional values, religion, traditions, culture, and local wisdom of Bali, and the collaboration of the traditional village with other parties is carried out by the prajuru (management) of the traditional village and documented in the form of a mutual agreement or written agreement.

The collaboration between traditional villages and the police as law enforcement agencies in efforts to combat child sexual violence as mentioned above is an attempt to address the issue related to the lack of a strong legal foundation for traditional villages to play a role in preventing child sexual violence in Buleleng Regency. However, legal reforms to supplement the necessary regulations to underpin the involvement of traditional villages in preventing child sexual violence must continue. This is aimed at creating adequate legal regulations that can be utilized by traditional villages to establish customary rules (perarem and/or awig-awig) which can then serve as a basis for traditional villages to actively participate in efforts to prevent child sexual violence in Buleleng Regency.

Conclusion

Based on the results of the research and discussions conducted, the following conclusions can be drawn.

1. The regulation regarding the role of traditional villages in efforts to prevent child sexual violence is not explicitly defined in the Child Protection Act, the Sexual Violence Act, and related regulations at the provincial and Buleleng Regency levels. The regulation regarding the role of the community in efforts to combat child sexual violence is only generally stipulated in legal provisions governing the general role of the community in preventing child sexual violence. This has implications for the role of traditional villages, which has been relatively limited due to the lack of legal foundation concerning the role of traditional villages. Therefore, legal grounds regarding the role of traditional villages in efforts to prevent child sexual violence in the future are necessary.
2. The role of traditional villages in efforts to prevent child sexual violence in Buleleng Regency is not very significant. This is closely related to the absence of regulations defining the role of traditional villages in efforts to prevent child sexual violence in Buleleng Regency. Traditional villages can only function similarly to the general community, limited to reporting cases of child sexual violence in Buleleng Regency to the

police, who are law enforcement authorities with the jurisdiction to address incidents of child sexual violence in Buleleng Regency.

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