

# Protection Model For Minors As Witnesses And Victims Of Sexual Violence: A Local Wisdom Approach From The Buton Archipelago Community

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**Abstract:** Sexual violence is a serious crime requiring multidimensional handling, making this research highly urgent due to the absence of prior studies specifically analyzing a local wisdom-based child protection model in the region. This research uses a socio-legal research type. The findings reveal differences and similarities in the child protection models across the three districts. In Central Buton, perpetrators face customary and social sanctions, including partial body burial or a pocong oath (swearing while wrapped in a shroud) if they refuse to admit their actions. In South Buton, offenders are required to pay boka (customary fines). Meanwhile, in Buton District, perpetrators are exiled from the village, subjected to customary fines, and undergo the Kaleoleo ritual submerging their head in the sea; if dishonest, they cannot endure long underwater. All three customary institutions share similarities in their decision-making process for imposing sanctions through council deliberations involving the Mosque Imam, Sara, Parabela, Village Head, and Neighborhood Chief. It is recommended to revise regulations both at the legislative and regional levels to ensure effective implementation.

**Keywords:** Protection; Children; Witnesses and Victims; Sexual Violence; Buton

## 1. Introduction

Sexual violence is a crime that is currently rampant.<sup>1</sup> Based on 2024 data, the Ministry of Women's Empowerment and Child Protection recorded 14,374 cases of sexual violence. This figure is up from the 12,836 cases reported in 2023. In 2022, there were 11,455 cases, and in 2021, there were 9,819 cases. When viewed from 2021 to 2024, the number of sexual violence cases reported to the Ministry of Women's Empowerment has increased every year. The actual number of cases may be higher because victims do not report the sexual violence they experience<sup>2</sup>.

Therefore, a child-centric approach and prioritizing the best interests of the child are necessary. In the Buton Islands, for instance, which is one of the regions with the lowest cases of sexual violence, data from the Women's Empowerment and Child Protection Agency (DP3A) of Southeast Sulawesi Province recorded only 10 cases in 2023 and just 5 cases in 2024. This data shows a year-on-year decrease. This decline is attributed to the

<sup>1</sup> Edy Nurcahyo, Muh Sutri Mansyah, and Sulayman Sulayman, "Model Integrasi Perlindungan Perempuan Sebagai Saksi Dan Korban Kasus Kekerasan Seksual Yang Berbasis Komunitas," *JURNAL USM LAW REVIEW* 8, no. 1 (April 2025): 320–31, <https://doi.org/10.26623/julr.v8i1.11529>.

<sup>2</sup> Faisal Javier, "Tren Kekerasan Seksual di Indonesia," *tempo.co*, April 18, 2025, <https://www.tempo.co/data/data/data/tren-kekerasan-seksual-di-indonesia-1232833>.

approach used in handling sexual violence cases, which is based on local wisdom. These values can create a safer and more child-friendly environment.

However, the potential of this local wisdom has not been fully utilized in the context of child protection, as it is hindered by a lack of integration into national law. The handling of sexual violence cases against children has so far still been dominated by a formal legal approach, which often pays insufficient attention to the psychological and social aspects of the child. Lengthy and bureaucratic legal processes can exacerbate the trauma experienced by the child, whether as a victim or a witness. This is where the crucial role of local wisdom comes in, as the cultural values alive within the community can serve as a tool to enhance public awareness and participation in protecting children. A local wisdom-based child protection model in the Buton Islands can serve as an alternative solution that bridges the formal legal approach and the cultural values prevalent in society. To demonstrate the novelty of this research, three prior studies have been identified that can serve as comparisons. The first study is by Mastur<sup>3</sup>. The results of this study indicate that legal protection for child victims of sexual violence remains weak, despite several existing regulations. The issue is that victims are reluctant to report the sexual violence they experienced due to law enforcement officials who are still not sufficiently supportive of victims.

The second study is by Maria Novita Apriyani<sup>4</sup>. The results show that one of the rights of sexual violence victims is restitution provided by the state. However, the right to restitution has not yet functioned effectively due to a lack of understanding among law enforcement officials regarding victims' rights and the procedures for fulfilling restitution. The third study is by La ode Muhammad Karim<sup>5</sup>. The results show that the integration of the Witness and Victim Protection Agency (LPSK) into the criminal justice system is crucial for fulfilling the rights of sexual violence victims, thus necessitating a revision of the criminal procedural law. In reality, however, many law enforcement officials are still unaware of the existence of the LPSK and its role. Therefore, socialization regarding the position of the LPSK as a state institution focused on protecting victims is also needed.

Based on the three previous studies, it can be concluded that the approach of prior research was still general, whereas the current research employs a comprehensive approach. The substance of previous research was limited to general concepts, while the current research promotes the formation of a model for the protection of underage children as witnesses and victims of sexual violence based on local wisdom. The novelty of this research on a local wisdom-based model for protecting children as witnesses and victims of sexual violence cases in the Buton Islands lies in it being the first study to identify local wisdom as a means of child protection; this specific topic has not been previously researched by others. Furthermore, it utilizes a new approach in handling sexual violence cases. Another advantage is that the local wisdom-based protection model can be adopted into national law. Therefore, this research is crucial to conduct. To focus the issues in this research, the following problem formulations are presented, how is the protection of children as witnesses and victims based on local wisdom implemented in the Buton Islands

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<sup>3</sup> Mastur Mastur, Syamsuddin Pasamai, and Abdul Agis, "Perlindungan Hukum Terhadap Anak Korban Kekerasan Seksual," *Journal of Lex Philosophy (JLP)* 1, no. 2 (December 2020): 2, <https://doi.org/10.52103/jlp.v1i2.213>.

<sup>4</sup> Maria Novita Apriyani, "Restitusi Sebagai Wujud Pemenuhan Hak Korban Tindak Pidana Kekerasan Seksual Di Indonesia," *Risalah Hukum*, June 4, 2021, 1–10, <https://doi.org/10.30872/risalah.v17i1.492>.

<sup>5</sup> Muh Sutri Mansyah et al., "LPSK Integration At The Investigation Stage In Fulfilling The Rights Of Victims Of Sexual Violence," *Jurnal Hukum Volkgeist* 8, no. 2 (2024): 171–79, <https://doi.org/10.35326/volkgeist.v8i2.5265>.

and what are the challenges and advantages of integrating local wisdom-based protection for children as witnesses and victims of sexual violence in the Buton Islands.

## **2. Method**

The research method uses a type of socio-legal research, assisted by R&D (Research and Development) with an ADDI design consisting of five stages: Analysis, Design, Development, Implementation, and Evaluation. The Analysis stage, involves examining the model of local wisdom-based protection for witnesses and victims in the Buton Islands, obtained through exploration and interviews (with traditional leaders, the Head of the Women's Empowerment and Child Protection Agency, and Resort Police officials) in the Buton Islands region, which includes Baubau City and Central Buton Regency. The Design stage involves identifying the model of local wisdom-based or customary law-based protection for witnesses and victims in each of those regions. The Development stage involves validating the integration between the local wisdom-based protection model and national law, and conducting a first revision by testing it up to the stage of finalizing the protection model. The Implementation stage consists of a Pre-Test, a Large-Scale Readability Test, and a Post-Test. This stage is carried out to determine the applicability of the local wisdom-based protection model. The Evaluation stage is conducted to determine the response and feedback from Customary Institutions, the Women's Empowerment and Child Protection Agency, and the Resort Police regarding the protection model.

## **3. Results and Discussion**

### **3.1. Local Wisdom-Based Protection Model for Children as Witnesses and Victims of Sexual Violence in the Buton Islands**

Sexual violence against children has become a serious problem in Indonesia, including in the Buton Islands region of Southeast Sulawesi. Data from the Indonesian Child Protection Commission (KPAI) shows an annual increase in cases of sexual violence against children, with many cases going unreported due to various social and cultural factors. Amidst these challenges, the Butonese people actually possess a wealth of local wisdom that can serve as a foundation for building an effective and sustainable child protection system<sup>6</sup>. The Buton Islands, with a community that still strongly holds onto its traditions, has various cultural values and practices relevant to child protection. A strong kinship system, strict social monitoring mechanisms, and noble values regarding the protection of vulnerable groups have been part of Butonese society's life for centuries. This local wisdom, if managed properly, can become the first line of defense in preventing and handling cases of sexual violence against children.

This local wisdom-based child protection model from Buton is important to develop for several fundamental reasons. First, formal legal approaches are often not fully effective due to various bureaucratic obstacles<sup>7</sup>, limited resources, and a lack of alignment with the local socio-cultural context. Second, children who are victims or witnesses of sexual violence

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<sup>6</sup> Andri Yanto and Faidatul Hikmah, "Akomodasi Hukum Yang Hidup Dalam Kitab Undang-Undang Hukum Pidana Nasional Menurut Perspektif Asas Legalitas," *Recht Studiosum Law Review* 2, no. 2 (November 2023): 81–91, <https://doi.org/10.32734/rslr.v2i2.14162>.

<sup>7</sup> Nyoman Serikat Putra Jaya, "Hukum (Sanksi) Pidana Adat Dalam Pembaharuan Hukum Pidana Nasional," *MASALAH-MASALAH HUKUM* 45, no. 2 (April 2016): 123, <https://doi.org/10.14710/mmh.45.2.2016.123-130>.

require protection that is not only legal but also psychological and socio-cultural<sup>8</sup>. Third, community-based systems have proven to be more sustainable as they grow from values already internalized by the citizens.

This research will comprehensively outline a model for protecting children as witnesses and victims of sexual violence, based on the local wisdom of the Buton Islands community. This model is built upon three main pillars: prevention (preventive), handling (curative), and recovery (rehabilitative), all of which are sourced from the long-standing values and cultural practices of Buton.

The following three traditional institutions in the Buton Islands are the objects of research on efforts to protect children as witnesses and victims of sexual violence based on local wisdom. First, the Bumbunawulu Traditional Institution, located in Wongko Village, Gu District, Central Buton Regency. It was established in 1918. In 2020, it once implemented customary criminal law in a case of adultery. The sanction imposed was a fine, called Kaalanolalo, which means "soul mistake." The amount of the fine was 2 million rupiah or 2 boka (1 boka = 60 thousand rupiah). This fine is later used for social work in the village. If the fine is not paid, the local community believes the village will experience a disaster, referred to by the term Natolo Kaampo. This means the place where the adulterer passed will be traversed by pigs that will eat the crops of local residents who have gardens. One piece of evidence is called Kabonkanotondo, meaning "the fence collapses because a pig passed by." Furthermore, if the perpetrator is unknown, the village will be visited by pigs, monkeys, and other wild animals.

Second, the Wabula Traditional Institution, located in Wabula Village, Wabula District, Buton Regency. It was established in 1978. The imposition of customary punishment is decided through deliberation (*musyawarah*) involving the Mosque Imam, Sara (community leaders), and Parabela (traditional guards). If a crime occurs and the perpetrator is unwilling to admit their deed, a traditional procession called Kaleoleo is conducted, where the suspect is plunged into the sea. If they can endure (stay underwater) for a long time, they are not the perpetrator; conversely, if they surface immediately or soon after, they are deemed the perpetrator. Types of customary crimes that can be punished include: assault against a wife, which is fined 80 boka, and drinking (alcohol), fined 1 million rupiah. In the case of adultery, the parties will be forced to marry. If deviant behavior remains unknown to the community, the village will experience disasters such as unpredictable rain, lightning, and wind.

Third, the Wapulaka Traditional Institution, located in Bahari Village, Central Buton Regency. It was established in 1999. To determine the imposition of customary punishment, deliberation is held among traditional figures, including the Mosque Imam, Moji (a title), Parabela (La Tajo - traditional guards), the Village Head, and the Hamlet Head. The form of punishment is a fine sanction (*kadosa*), ranging from the lowest 2 boka, 3 boka, up to 12 boka. Here, 1 boka equals 48 thousand rupiah. The parties may even be forced to marry. If such an event remains unknown, the village will experience drought, rain, flu accompanied by lightning, a phenomenon called Pahalata. In its application, the local customary law pays significant attention to the rights of women, especially children. Furthermore, the decision-making process is conducted through deliberation (*musyawarah*). This resolution model is relevant to the spirit of the Indonesian nation, Pancasila. The fourth principle, "Democracy Guided by the Inner Wisdom in the Unanimity Arising from Deliberations Amongst Representatives" (*Kerakyatan yang*

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<sup>8</sup> Yoserwan Yoserwan, "Eksistensi Hukum Pidana Adat Dalam Hukum Pidana Nasional Setelah Pengesahan KUHP Baru," *UNES Law Review* 5, no. 4 (June 2023): 1999–2013, <https://doi.org/10.31933/unesrev.v5i4.577>.

Dipimpin oleh Hikmat Kebijaksanaan dalam Permusyawaratan/Perwakilan), contains the value of deliberation. This principle signifies that all decisions and policies must be based on deliberation to reach a consensus, not on the will of certain individuals or groups. Therefore, it is highly relevant that these three traditional institutions still apply this model of imposing customary sanctions<sup>9</sup>.

The protection of children as witnesses and victims of sexual violence through customary criminal law must be continuously preserved and enforced to maintain its existence as an integral part of the Indonesian legal system. Customary criminal law is a cultural heritage containing values of local wisdom, restorative justice, and social balance that have been tested for centuries. As a manifestation of the sovereignty of indigenous peoples, this law is not only effective in resolving conflicts in a familial manner but is also capable of creating contextual justice oriented towards restoring social harmony<sup>10</sup>. Constitutional recognition in Article 18B paragraph (2) of the 1945 Constitution, as well as various national and international legal instruments, have provided strong legitimacy for the existence of customary law. In practice, customary criminal law often has a more positive impact than formal law because its sanctions are educative and rooted in community values, such as mechanisms for customary fines, restoration rituals, or resolution through deliberation (*musyawarah*). Furthermore, customary law also plays an important role in preserving the environment and managing natural resources based on local wisdom<sup>11</sup>. Therefore, efforts to integrate customary criminal law with the national legal system through special regulations, documentation, and socialization to law enforcement officials must be continually carried out. Thus, the sustainability of customary criminal law will not only serve as a guardian of cultural identity but also as a real solution for creating inclusive and sustainable justice for children as witnesses and victims.

### **3.2. Challenges and Advantages of Integrating Child Protection as Witnesses and**

#### **Victims of Sexual Violence Based on Local Wisdom in the Buton Islands**

This research stems from a paradoxical reality. On one hand, Indonesia has made significant strides in building a comprehensive criminal law framework to protect children from sexual violence, marked by the enactment of Law Number 17 of 2016 concerning the Stipulation of Government Regulation in Lieu of Law Number 1 of 2016 on the Second Amendment to Law Number 23 of 2002 on Child Protection into Law, and more recently, Law Number 12 of 2022 on Sexual Violence Crimes (UU TPKS)<sup>12</sup>. The UU TPKS, in particular, is seen as landmark legislation that expands the definition of sexual violence, regulates protection mechanisms for victims, and affirms a restorative approach<sup>13</sup>. However, on the other hand, the implementation of these progressive criminal law policies at the grassroots level still faces complex multidimensional challenges,

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<sup>9</sup> Tody Sasmita Jiwa Utama, "‘Hukum Yang Hidup’ Dalam Rancangan Kitab Undang-Undang Hukum Pidana (KUHP): Antara Akomodasi Dan Negasi," *Masalah-Masalah Hukum* 49, no. 1 (January 2020): 14, <https://doi.org/10.14710/mmh.49.1.2020.14-25>.

<sup>10</sup> Damianus Rama Tene, Andi Mulyono, and Nurjanah Lahangatubun, "Implikasi Penerapan Hukum Pidana Adat Dalam Penyelesaian Tindak Pidana Pasca Pembaruan Hukum Pidana Nasional Indonesia," *Ekspose: Jurnal Penelitian Hukum Dan Pendidikan* 22, no. 2 (December 2023): 29–41, <https://doi.org/10.30863/ekspose.v22i2.4151>.

<sup>11</sup> Rahmat Hi. Abdullah, "Urgensi Hukum Adat Dalam Pembaharuan Hukum Pidana Nasional," *FIAT JUSTISIA: Jurnal Ilmu Hukum* 9, no. 2 (April 2016), <https://doi.org/10.25041/fiatjustisia.v9no2.595>.

<sup>12</sup> La Gursi et al., "Islamic Legal Perspective on Data of Child Victims of Sexual Violence: A Case Study of the Indonesia's Court," *De Jure: Jurnal Hukum Dan Syar'iah* 16, no. 2 (December 2024): 2, <https://doi.org/10.18860/j-fsh.v16i2.28358>.

<sup>13</sup> Mansyah et al., "LPSK Integration At The Investigation Stage In Fulfilling The Rights Of Victims Of Sexual Violence."



especially when confronting the socio-cultural specificities of Indonesia's highly heterogeneous society. The main challenge no longer lies in the absence of legal norms (law in books), but in the deep gap between state law and the various legal systems and local values lived and upheld by society (living law), such as the customary law in the Buton Islands which is still in effect today. Consequently, the integration of child protection for witnesses and victims of sexual violence that is sensitive and based on local wisdom becomes an imperative<sup>14</sup>.

The challenges faced if the integrated customary criminal law of the Buton Islands with national criminal law is applied are as follows. First, and most fundamentally, is the value disharmony between universal national law and particular local wisdom. Many indigenous and local communities in Indonesia still uphold values such as family honor, social stability, and shame avoidance. In the context of sexual violence against children, the issue is often not viewed solely as a crime against the individual victim, but more as a disgrace that must be covered up to protect the family's and community's reputation. The resolution mechanism mandated by national law—reporting to law enforcement and an open criminal trial process (even with closed mechanisms available)—is instead seen as a step that will publicize the shame and embarrass the entire extended family. Consequently, efforts often arise from the family or traditional leaders to resolve the case familiarly (non-litigation) in ways that do not always consider the best interests of the child, such as forced marriage between the (child) victim and the perpetrator, or peaceful settlement by paying a sum of money or goods (compensation). Practices like these, which from a local perspective might be considered wisdom for maintaining social cohesion, are actually forms of re-victimization and a denial of justice for the child victim, as well as sabotaging the criminal law enforcement efforts regulated by the state.

The second challenge relates to the capacity and perspective of law enforcement officials (police, prosecutors, judges) in handling cases involving children with cultural sensitivity. Law enforcement officials, as the spearhead of criminal policy, are often confined within a rigid positivist legal paradigm and lack exposure to an anthropological understanding of the societies they serve. They might view all out of court settlements as illegal or obstructing the legal process, without understanding the root of the conflict and the underlying power dynamics. On the other hand, there are also officials from certain local communities who might be overly submissive to social pressure and the authority of traditional leaders, thus tending to perpetuate settlement practices that are unjust for victims<sup>15</sup>. The inability of officials to act as a bridge between state law and local wisdom—to distinguish which local values are still relevant and protective for children and which are outdated and exploitative becomes a major obstacle. Training for officials must not only focus on legal procedures (pro justitia) but also on socio-legal approaches and trauma-informed investigation, enabling them to interact with child victims and their families with empathy, while still adhering to the principles of child protection<sup>16</sup>.

The third challenge is the weakness of integrated, locally perspectived support infrastructure. The Child Protection Law and UU TPKS have mandated the establishment of institutions such as Integrated Service Centers (Sentra Pelayanan Terpadu / SPT) or Regional Technical Implementation Units (Unit Pelaksana Teknis Daerah / UPTD) for Women and Child Protection (Perlindungan Perempuan dan Anak / PPA). However, the existence and effectiveness of these institutions are highly uneven, especially in remote

<sup>14</sup> Nurcahyo, Mansyah, and Sulayman, "Model Integrasi Perlindungan Perempuan Sebagai Saksi Dan Korban Kasus Kekerasan Seksual Yang Berbasis Komunitas."

<sup>15</sup> Lukman Hakim, "Analisis Ketidak Efektifan Prosedur Penyelesaian Hak Restitusi Bagi Korban Tindak Pidana Perdagangan Manusia (Trafficking)," *Jurnal Kajian Ilmiah* 20, no. 1 (January 2020): 43–58, <https://doi.org/10.31599/jki.v20i1.69>.

<sup>16</sup> Muh Sutri Mansyah, *Perlindungan Saksi Dalam Kerangka Hukum Nasional*, Insight Mediatama, 2023.

areas. Such support institutions often lack adequate human and financial resources and fail to involve key local actors like traditional leaders, religious figures, community elders, and traditional health practitioners who are actually trusted by the community. Integrating local wisdom into child protection requires the presence of "cultural translators"<sup>17</sup> who can facilitate dialogue between victims, families, communities, and state apparatus. Respected local figures, if given a proper understanding of children's rights and psychological trauma, can become powerful agents of change in transforming social norms from within and encouraging communities to accept more modern, victim-centered protection mechanisms. Based on an analysis of the above challenges, this research concludes that integrating local wisdom into child protection criminal law policy is not about accommodating all traditional practices without filter, but about engaging in a critical and constructive dialectical process. True local wisdom is that which inherently also protects the dignity and welfare of the child. Therefore, the strategic steps that must be taken are: first, to identify and revitalize local values that align with the principles of child protection, such as the value of mutual cooperation (*gotong royong*) to protect weak community members, the value of care, and the value of honesty. Second, to build a hybrid model of restorative justice that accommodates the role of trained cultural mediators—who could be progressive traditional leaders or social workers who understand the local culture—to facilitate a settlement process that fulfills two things: restoring the victim and holding the perpetrator accountable, without sacrificing the safety and future of the child victim. This model does not replace criminal justice but can run parallel or serve as an alternative in certain cases with strict supervision from authorities. Third, massive and dialogical legal education for traditional and local communities in the Buton Islands is crucial to build a shared understanding that hiding sexual crimes against children is not wisdom, but negligence that will damage their own future generations<sup>18</sup>. Thus, the intended integration is a creative synergy where the state is present not as an authoritarian law enforcer, but as a facilitator that strengthens the protective values already present within the community, while correcting values that have become distorted and are counterproductive to protecting children, who are the nation's future.

Analyzed from the theory of criminal law policy, Indonesia's legislative policy has shown very progressive advances. This theory emphasizes rational and systematic efforts to use criminal law as an instrument of social policy to achieve specific social goals in this case, maximal protection of children. This is reflected in the birth of Law Number 17 of 2016 and, ultimately, Law Number 12 of 2022 on Sexual Violence Crimes (UU TPKS). This formative policy (law making) has fulfilled the *ultimum remedium* element by expanding the definition of sexual violence<sup>19</sup>, regulating heavy sanctions, and most importantly, promoting a victim-centered restorative approach. However, Ancel's theory also includes applicative policy (law enforcement), where the biggest challenges actually emerge. Ideal policy on paper (law in books) becomes dysfunctional when implemented (law in action) in the complex socio-cultural field of Indonesia. Law enforcement officials often get trapped

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<sup>17</sup> Ridho Sadillah Ahmad, "Perlindungan Hukum Terhadap Anak Sebagai Korban Kekerasan Seksual ditinjau dari UU No. 23 Tahun 2002 tentang Perlindungan Anak," *Jurnal Justitia Jurnal Ilmu Hukum dan Humaniora* 8, no. 1 (February 2025): 1, <https://doi.org/10.31604/justitia.v8i1.188-198>.

<sup>18</sup> Muh Sutri Mansyah et al., "The Judge's Paradigm In Deciding Criminal Cases Of Sexual Violence From A Victimological Perspective," *Buana Gender: Jurnal Studi Gender Dan Anak* 9, no. 1 (August 2024): 46–53, <https://doi.org/10.22515/bg.v9i1.8666>.

<sup>19</sup> Muh Sutri Mansyah and La Ode Bunga Ali, "Integrasi Lembaga Perlindungan Saksi Dan Korban (LPSK), Pada Tahap Penyidikan Dalam Memenuhi Hak Korban Tindak Pidana Kekerasan Seksual," *HUNILA: Jurnal Ilmu Hukum dan Integrasi Peradilan* 2, no. 2 (2024): 169–76, <https://doi.org/10.53491/hunila.v2i2.972>.

in a rigid legalistic-positivistic paradigm, seeing cases merely as violations of state norms without considering the cultural context surrounding the victim and perpetrator. An approach solely oriented towards punishment (punitive) without building bridges with local resolution mechanisms can actually alienate society from the law itself, causing criminal policy to fail as an effective instrument of social policy.

This is where the legal protection theory proposed by Philipus M. Hadjon becomes relevant. This theory emphasizes that legal protection is not only preventive (through norms) but also repressive (through enforcement), and primarily must provide a sense of justice for the protected party, in this case, the child victim. Ideal protection according to this theory is holistic, covering physical, psychological, and social aspects. The heaviest challenge arises when protection efforts by the state clash with the protection mechanisms possessed by local communities. For many communities, "protection" means maintaining family/community integrity and honor by resolving problems internally, often through peaceful means involving traditional leaders. Practices like 'ruislag' (settlement with compensation) or even forced marriage, which from the perspective of national law are forms of re-victimization, are considered a form of protection against greater disgrace in certain local cultural perspectives. Therefore, the legal protection offered by the state is often not accessed because it is perceived as not providing a "sense of justice" aligned with their believed values, and is even seen as a threat to their social cohesion. Effective legal protection must be able to understand this dichotomy and find a meeting point that does not sacrifice the best interests of the child<sup>20</sup>.

This search for a meeting point necessitates referencing Friedrich Carl von Savigny's theory of the spirit of the people (*volksgeist*). Savigny argued that living and effective law is not made but found, growing from the spirit of the people itself, reflecting the customs, beliefs, and values developed within a nation's society<sup>21</sup>. Law imported from outside and enforced will always face rejection and will never be truly effective. In the context of sexual violence against children, Indonesia's diverse *volksgeist* often still holds values of collectivism, respect for traditional leaders, and harmonious conflict resolution<sup>22</sup>. These values are the local wisdom in the Buton Islands that could actually become a strong ally. For example, the humanitarian value of protecting the weak and the value of deliberation for consensus (*musyawarah untuk mufakat*) can be redirected to support victims, not protect perpetrators. The challenge for our criminal law policy is that the UU TPKS and its derivatives are perceived as legal products that are 'made' and less 'found' from the plural spirit of the Indonesian nation. It has not yet fully succeeded in engaging in a dialectic with the various local *volksgeist* that exist.

Therefore, integrating local wisdom is not romanticism towards potentially irrelevant traditions, but an intelligent applicative policy strategy based on a synthesis of these three theories. Criminal law policy must be designed to facilitate, not destroy, existing protection mechanisms within communities, provided that these mechanisms undergo a strict filtration process to ensure they align with the principles of child protection and human

<sup>20</sup> Muh Sutri Mansyah et al., "Penyuluhan Hukum Pencegahan Kekerasan dalam Rumah Tangga sebagai Upaya Penanggulangan Kejahatan," *TAAWUN* 4, no. 01 (January 2024): 93–101, <https://doi.org/10.37850/taawun.v4i01.625>.

<sup>21</sup> Khairani Mukdin and Novi Heryanti, "Perspektif Hukum Islam Terhadap Efektifitas Pelaksanaan Restorative Justice Pada Anak Berhadapan Dengan Hukum," *Gender Equality: International Journal of Child and Gender Studies* 6, no. 2 (September 2020): 2, <https://doi.org/10.22373/equality.v6i2.7790>.

<sup>22</sup> Muh Sutri Mansyah et al., "Ensuring Justice: An In-Depth Analysis of Witness Protection in Divorce Cases within the Religious Court in Indonesia," *Al-Ahkam: Jurnal Ilmu Syari'ah Dan Hukum* 8, no. 2 (December 2023): 124–37, <https://doi.org/10.22515/alakhkam.v8i2.8066>.



rights<sup>23</sup>. This filtration process must involve key actors who understand both worlds: national law and customary/local law. They act as ‘cultural translators’ who can formulate hybrid protection models. For example, a restorative justice model does not always have to be conducted in a courtroom. It can be facilitated by trained, progressive traditional leaders, involving the victim's and perpetrator's families, the community, and supervised by social workers and law enforcement officials, with outcomes that not only restore the victim but also hold the perpetrator accountable and are sanctioned by the court. Thus, criminal law is no longer seen as an external coercive tool, but as a crystallization of the noble values of the Indonesian nation's own spirit (Volkgeist) that wants to protect its young generation<sup>24</sup>. The success of criminal law policy in protecting child victims of sexual violence highly depends on its ability not to be an isolated ivory tower, but to embrace, empower, and revitalize local wisdom that aligns with the spirit of the times and human rights, so that the law truly lives and breathes within the applicable spirit of the nation.

#### **4. Conclusion**

The fulfillment of the rights of children as witnesses and victims of sexual violence remains minimal. A new approach is needed in mitigation efforts: the integration of local wisdom to guarantee the fulfillment of the rights of child witnesses and victims, as seen in the Buton Islands. There are customary criminal laws still in effect today. At the Bumbunawulu Traditional Institution in Central Buton Regency, perpetrators are subject to customary and social sanctions, including the partial burial of the body or a pocong oath (a sworn oath wrapped in a shroud) if they do not admit to the deed. Meanwhile, at the Wapulaka Traditional Institution in South Buton, perpetrators are obliged to pay a boka (customary fine), and if the perpetrator is unidentified, the community believes the village will be struck by a disaster such as a storm and residents will be afflicted with flu. As for the Wabula Traditional Institution in Buton Regency, perpetrators are expelled from the village and subject to a customary fine, as well as a process called Kaleoleo (submerging the head in the sea; if the person is dishonest, they will not last long underwater). These three traditional institutions share a similarity in their decision-making process for imposing customary sanctions through deliberation by a council involving the Mosque Imam, Sara (community leaders), Parabela (traditional guards), the Village Head, and the Neighborhood Head (RT). Suggestions from the Police, Prosecutor's Office, Buton Regency Government and the Court together with Buton traditional institutions to formulate a regulation equivalent to a Regional Regulation in order to integrate the protection of witnesses and victims of sexual violence based on local wisdom.

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<sup>23</sup> Josephin Mareta, “Analisis Kebijakan Perlindungan Saksi dan korban,” *Mimbar Hukum* 20, no. 1 (2019): 20–100, <https://doi.org/89787767>.

<sup>24</sup> Utama, “Hukum Yang Hidup’ Dalam Rancangan Kitab Undang-Undang Hukum Pidana (KUHP): Antara Akomodasi Dan Negasi.”

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