

LEGAL PROTECTION OF WOMEN AND CHILDREN IN BULELENG DISTRICT

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ABSTRACT

Women and children are vulnerable to crimes that need to be protected, especially in Buleleng Regency. There are always cases of violence against children and women. Violence that often occurs against women is domestic violence which is a fact that objectively occurs in many societies. The phenomenon of domestic violence has become part of the household life of many families in various communities and various regions in Indonesia, especially in Buleleng Regency. Violence against women and children includes all forms of violence based on gender, both physical, sexual and emotional acts that make women suffer, including all forms of threats, intimidation and violations of the rights or freedom of women and children, both openly and in secret. The purpose of this study was to analyze and provide legal protection for women and children in Buleleng Regency, Bali, Indonesia. The research method used in this research is normative juridical using literature study. The result is that the Buleleng district government has taken several measures to prevent violence against women and children by: disseminating statutory regulations; provide counseling/guidance; provide education on the dangers of violence in household; conduct seminars/workshops or the like; forming networks in efforts to prevent violence; coordinating, integrating, synchronizing violence prevention based on a partnership pattern; establishing a violence prevention system, mapping locations or areas prone to violence and increasing public awareness in behaving in accordance with religious norms.

Key words: legal protection, women, children, violence, legal system.

INTRODUCTION

In the preamble of the 1945 Constitution of the Republic of Indonesia in paragraph IV, it is explained about the objectives of the formation of the State which states that "The State protects the entire Indonesian nation and all Indonesian bloodshed and to promote public welfare, educate the nation's life and participate in implementing world order based on freedom, lasting peace and social justice". The definition of protecting here includes protecting every citizen, including from all forms of violence. In addition, Article 28 G paragraph 2 of the 1945 Constitution states that everyone has the right to be free from torture or treatment that degrading human dignity. Thus the right to get protection from violence is guaranteed by the constitution (Itasari, E. R. 2020).

Women and children are vulnerable to crimes that need to be protected (Arifin, R., & Lestari, L. E. (2019). Children are an inseparable part of the continuity of human life and the sustainability of a nation and a State. In the Indonesian constitution, children have a strategic role which explicitly states that the State guarantees the right of every child to survive, grow and develop as well as protection from violence and discrimination, therefore the best interests of children should be lived as the best interests for the survival of mankind.

The phenomenon of violence against women and children has recently become a very hot topic of discussion. How not, in every region there are always cases of violence against children and women (Arianta, et. al, 2020). Violence that often occurs against women is domestic violence which is a fact that objectively occurs in many communities. Like it or not, the phenomenon of domestic violence has become part of the household life of many families in various communities and various regions in Indonesia.

Violence against women and children includes all forms of violence based on gender, both physical, sexual and emotional acts that make women suffer, including all forms of threats, intimidation and violations of the rights or freedom of women and children, both openly and in secret. Violence is prone to occur against children and women. Said to be vulnerable because of the disadvantaged position of children and women. Prone children and women (children and women at risk) are children and women who have a high risk of experiencing disorders and problems in their development, both physically, mentally and socially.

Violence against women and children is a violation of human rights. Their dignity and dignity must be protected by women and children victims of violence and guaranteed their right to live in accordance with their nature without discrimination. In the context of preventing and overcoming violence against women and children in Buleleng District, it is necessary to protect women and children victims of violence.

In the framework of protecting human rights, in essence, the protection of women and children is a manifestation of the right to life, the right to be free from servitude or slavery. This human right is immutable and universal, meaning that it applies to everyone regardless of origin, sex, religion and age so that every State is obliged to uphold it without exception. Efforts to protect women and children law need to be carried out continuously for the sake of quality human resources are maintained. The quality of protection for women and children should have the same degree or level as protection for adults and men, because everyone has the same position before the law (equality before the law).

The protection of women and children victims of violence in the regions requires institutional support and regulations that can guarantee its implementation. Regional regulations regulate protection efforts for victims, especially in terms of prevention, service, and empowerment of women and children's victims of violence in Buleleng Regency.

RESEARCH METHODS

This type of legal research can be seen from its data sources and objectives. Judging from the data source, legal research can be divided into normative legal research and empirical legal research. Legal research that is carried out by sorting and collecting library legal materials or secondary data is called normative legal research, while legal research which primarily examines primary data is called empirical legal research.

This type of research used in this research is normative legal research. Normative legal research is research by examining secondary material or data which includes research on legal principles, legal systematics, legal synchronization level, legal comparisons and legal history. The types of approaches used in this research are the statutory approach (statue approach), the conceptual approach, and the case approach. The legal materials used are primary, secondary, and tertiary legal materials. In the context of collecting legal materials, the authors used document study techniques, then described them according to the subject matter which was studied in a qualitative juridical manner.

This research was conducted in three stages. First, literature research. This stage is carried out by collecting secondary and primary data. Furthermore, a document study of the legal material was conducted. Second, field research. This stage begins to compile an interview guide that contains questions to be asked to research subjects. The interview guide was sent to the research subject accompanied by a request to be studied and to prepare the required data and a request for time to conduct the interview, according to a predetermined time. Third, processing and analyzing data and preparing research reports. In this stage the research data is processed and analyzed and then stated in the results of research and discussion.

LITERATURE REVIEW

Definition of Legal Protection

Legal protection is all efforts to fulfill rights and provide assistance to provide a sense of security to witnesses and / or victims of legal protection of crime victims as part of public protection, which can be realized in various forms, such as through the provision of restitution, compensation, medical services and legal assistance. Legal protection is provided to legal subjects in the form of instruments, both preventive and repressive in nature, both oral and written. In other words, it can be said that legal protection is a separate description of the function of the law itself, which has the concept that law provides justice, order, certainty, benefit and peace.

Understanding above so that some experts express their opinions regarding the meaning of legal protection, among others. According to Satjipto Raharjo (2000), legal protection is defined as providing protection to human rights that are harmed by others and this protection is given to the community so that they can enjoy all the rights provided by law.

According to Philipus M. Hadjon (1987), legal protection is the protection of dignity and recognition of human rights owned by legal subjects based on legal provisions from arbitrariness, whereas according to Soetiono, legal protection is an act or effort to protect people from arbitrary actions by the authorities who are not in accordance with the rule of law to create order and peace so as to enable humans to enjoy their dignity as humans. According to Muchsin, legal protection is an activity to protect individuals by harmonizing the relationship of values or rules that are incarnated in attitudes and actions in creating an orderly relationship between human beings.

According to Hadjon, legal protection for the people includes two things, namely:

- a. Preventive Legal Protection, namely a form of legal protection where the people are given the opportunity to submit objections or opinions before a government decision takes a definitive form.
- b. Repressive Legal Protection, namely a form of legal protection which is more aimed at conceptual dispute resolution, the legal protection provided to the Indonesian people is an implementation of the principle of recognition and protection of human dignity which originates from Pancasila and the principles of the rule of law based on Pancasila.

In essence, every person has the right to protection from the law. Almost all legal relationships must receive protection from the law. Therefore there are many kinds of legal protection. Of the many types and types of legal protection, some of them are quite popular and are familiar to us, such as legal protection for consumers. This legal protection for consumers has been regulated in the Law on consumer protection, which regulates everything that is the right and obligation between producers and consumers.

Legal Protection Principles

The principle of legal protection against government action rests on and originates from the concept of recognition and protection of human rights because according to the history of the West, the birth of the concepts of recognition and protection of human rights is directed at limiting and laying out the obligations of society and the government (Yuliantini, 2020). The dominant aspect in the western concept of human rights emphasizes the existence of rights and freedoms inherent in human nature and status as an individual, these rights are above the state and above all political organizations and are absolute so that they cannot be contested. Because of this concept, criticism is often raised that the western concept of human rights is an individualistic concept (Mangku, 2020).

Then with the inclusion of social rights and economic rights as well as cultural rights there is a tendency to begin to fade away from the individualistic character of the western concept. In formulating the principles of legal protection in Indonesia, the basis is Pancasila as the state ideology and philosophy (Purwendah, 2021). The conception of legal protection for people in the west is based on the concepts of *Rechtstaat* and "Rule of the Law". Using the western conception as a framework for thinking based on Pancasila, the principle of legal protection in Indonesia is the principle of legal protection, recognition and protection of human dignity and dignity. originating from Pancasila (Awaliyah Siti *et al.* 2020). The principle of legal protection against government actions rests on and originates from the concept of recognition and protection of human rights because according to its history in the West, the birth of the concepts of recognition and protection of human rights is directed at limiting and laying out the obligations of society and the government (Suastika I Nengah *et al.* 2020).

Definition of Children

Children are an inseparable part of the sustainability of human life and the sustainability of a nation and state. In order to be able to take responsibility for the sustainability of the nation and state, every child needs to have the widest possible opportunity to grow and develop optimally, both physically, mentally and socially. For that, it is necessary to make protection efforts to realize the welfare of children by providing guarantees for the fulfillment of their rights without discriminatory treatment.

The state upholds human rights, including children's rights, which is marked by the guarantee of protection and fulfillment of children's rights in the 1945 Constitution of the Republic of Indonesia and several provisions of laws and regulations, both national and international. This guarantee is strengthened through the ratification of the international convention on the Rights of the Child, namely the ratification of the Convention on the Rights of the Child through Presidential Decree Number 36 of 1990 concerning Ratification of the Convention on The Rights of the Child.

The State, Government, Local Government, Community, Family and Parents are obliged to provide protection and ensure the fulfillment of children's human rights in accordance with their duties and responsibilities. Protection of children carried out so far has not provided guarantees for children to get treatment and opportunities in accordance with their needs in various fields of life, so that in implementing efforts to protect children's rights by the government must be based on human rights principles, namely respect, fulfillment and protection. on Children's Rights.

As an implementation of the ratification, the Government has passed Law Number 23 of 2002 concerning Child Protection, which substantively regulates several things, including the problem of children who are dealing with the law, children from minority groups, children from victims of economic and sexual exploitation, Children who are trafficked, children who are victims of riots, children who become refugees and children in situations of armed conflict, child protection based on the principle of non-discrimination, the best interests of the child, respect for children's opinions, the right to live, grow and develop. In its implementation, this Law is in line with the mandate of the 1945 Constitution of the Republic of Indonesia regarding human rights guarantees, namely that children as humans have the same rights to grow and develop.

Even though the legal instruments have been owned, in the course of its passage, Law Number 23 of 2002 concerning Child Protection has not been able to run effectively because there are still overlaps between sectoral laws and regulations related to the definition of children. On the other hand, the rampant crimes against children in society, one of which is sexual crimes, require increased commitment from the Government, Local Government, and the Community as well as all stakeholders related to the implementation of Child Protection. For the effectiveness of monitoring the implementation of Child Protection, an independent institution is needed which is expected to support the Government and Local Governments in the implementation of Child Protection.

RESULT AND DISCUSSION

In the Big Indonesian Dictionary (Kamus Besar Bahasa Indonesia/KBBI) defines protection as: a. shelter; b. actions (things and things) protect. Meanwhile, the meaning of protection related to the protection of children and women is regulated in Buleleng Regency Regional Regulation Number 5 of 2019, which states that in article 1 paragraph 14: "Protection of women is all activities shown to provide a sense of security, namely carried out by the police, prosecutors, courts, social institutions or other parties who know or hear about the occurrence of violence against women "and article 1 paragraph 15:" Child Protection is all activities to guarantee and protect children and their rights so that they can live, grow, develop, and participate actively. optimally in accordance with human dignity and protection from violence and discrimination".

Thus, the word protection implies, namely, an act of protection or an act of protecting the rights of certain parties which is shown for certain parties by using certain methods. The law in providing protection can be done through certain methods, including by making regulations (by giving regulation), which are aimed at guaranteeing rights and obligations as well as guaranteeing the rights of legal subjects, both at the central and regional levels; enforcing regulations (by law enforcement) by state officials. So it can be said that through legal protection will give birth to a right and obligation between one another. Legal protection will be the right of every citizen, and on the other hand it can also be said that legal protection is an obligation for the State itself, therefore the State is obliged to provide legal protection to its citizens.

Women and children are groups that need protection because of their socio-cultural system and physical conditions. In Buleleng Regency Regional Regulation Number 5 of 2019, it is explained in article 3 that the purpose of protecting women and children from acts of violence is to: a. prevent all forms of violence against women and children; b. protect women and provide services to women and children victims of violence; and c. empowerment of women and children victims of violence. In addition, Article 4 explains that every woman and child victim of violence has the right to respect for human dignity; to get protection from the family,

community, local government and/or other parties either temporarily or based on the stipulation of protection from the court; have the right to recover physical, psychological and sexual health in accordance with the suffering experienced by victims of violence; the right to special treatment related to the confidentiality of the victim; have the right to assistance by social workers and legal assistance at every stage of the examination process in accordance with the provisions of laws and regulations; has the right to spiritual guidance services and the right to settlement through mediation, if it is the best solution for the benefit of the victim.

In protecting women and children, the Buleleng District Government is responsible for efforts to protect women and children from acts of violence in the form of: physical violence; sexual violence; economic violence; social violence; psychic violence; household neglect; coercion or deprivation of liberty; and threats of certain actions. Every person who hears, sees or knows the occurrence of violence is obliged to make efforts to: a. prevent criminal acts from taking place; b. provide protection to victims of violence; c. provide emergency aid and / or d. assist in the process of filing an application for protection determination.

The Buleleng district government has taken several measures to prevent violence against women and children by: disseminating statutory regulations; provide counseling / guidance; provide education on the dangers of violence in household; conduct seminars / workshops or the like; forming networks in efforts to prevent violence; coordinating, integrating, synchronizing violence prevention based on a partnership pattern; establishing a violence prevention system, mapping locations or areas prone to violence and increasing public awareness in behaving in accordance with religious norms. In addition to prevention, it can also be done by increasing family capacity in child protection and childcare skills. Prevention is not only carried out by the local government, but must also be carried out by the family / closest relatives, the community, educational institutions, health institutions, social community organizations, Pakraman villages and the business world and other institutions.

In protecting women and children, the local government of Buleleng Regency has established an institution that provides services for violence against women and children, namely the Integrated Service Center for the Empowerment of Women and Children or abbreviated as P2TP2A. The P2TP2A institution functions as an information center for women and children, a service center for women and children victims of violence and an empowerment center for women and children. In addition, the integrated service center for the empowerment of women and children has an obligation to:

- a. provide services as quickly as possible and free of charge to witnesses and / or victims;
- b. carry out protection and fulfillment of the rights of witnesses and / or victims to health rehabilitation, social rehabilitation of return, social reintegration and legal assistance;
- c. cooperating with certain institutions in providing interpreters and accompanying volunteers as needed for witnesses and / or victims;
- d. Networking with government or private hospitals for the treatment and health recovery of victims as well as collaborating with witness and victim protection agencies, social protection houses or trauma centers belonging to the government and communities or other institutions for the recovery of victims' health;
- e. provide convenience, comfort and safety for witnesses and / or victims;
- f. maintain the confidentiality of witnesses and / or victims;
- g. provide fulfillment of legal aid for witnesses and / or victims and
- h. in the case that the integrated service is carried out in a network, it is responsible for the entire process of service referral needed by the victim.

In providing protection, everyone can participate in providing protection for women and children from violence. Participation can be done by: reporting acts of violence against women and / or children; provide first aid to victims of violence; socialize the rights of women and children independently and / or form independent social institutions. In the case of social institutions, the community protects women and children from acts of violence, they have to coordinate with P2TP2A. Local governments encourage efforts to participate in protecting women and children from acts of violence. This participation is in the form of socialization to employees within the company regarding the dangers of violence against women and children; and assistance as a form of corporate social responsibility.

CONCLUSION

In protecting women and children, the Buleleng District Government is responsible for efforts to protect women and children from acts of violence in the form of: physical violence; sexual violence; economic violence; social violence; psychic violence; household neglect; coercion or deprivation of liberty; and threats of certain actions. Every person who hears, sees or knows the occurrence of violence is obliged to make efforts to: a. prevent criminal acts from taking place; b. provide protection to victims of violence; c. provide emergency aid and/or d. assist in the process of filing an application for protection determination. The Buleleng district government has taken several measures to prevent violence against women and children by: disseminating statutory regulations; provide counseling/guidance; provide education on the dangers of violence in household; conduct seminars/workshops or the like; forming networks in efforts to prevent violence; coordinating, integrating, synchronizing violence prevention based on a partnership pattern; establishing a violence prevention system, mapping locations or areas prone to violence and increasing public awareness in behaving in accordance with religious norms. In addition to prevention, it can also be done by increasing family capacity in child protection and childcare skills. Prevention is not only carried out by the local government, but also must be carried out by the family/closest relatives, the community, educational institutions, health institutions, social community organizations, Pakraman villages and the business world and other institutions.

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