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A Socio-Legal Model of Local Wisdom-Based Child Protection in Sexual Violence Cases

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Abstract

This study examines the integration of local wisdom into the protection system for child victims and witnesses of sexual violence in the Buton Archipelago, Indonesia, within the framework of socio-legal and criminal law reform. Despite the enactment of progressive legislation, including Law Number 12 of 2022 on Sexual Violence Crimes and Law Number 1 of 2023 concerning the Indonesian Criminal Code, formal legal mechanisms remain insufficiently responsive to the socio-cultural realities of local communities. Using a socio-legal research approach, this study combines field interviews, observations, and qualitative thematic analysis involving customary leaders, law enforcement officials, and child protection stakeholders in Central Buton, South Buton, and Buton Regency. The findings reveal that customary institutions continue to function as living law through deliberative mechanisms and culturally embedded sanctions, including boka fines, social exclusion, exile, and ritual-based moral accountability. These mechanisms strengthen social legitimacy, community participation, victim recovery, and preventive social control. The study further demonstrates that Article 2 of the new Criminal Code provides a constitutional foundation for integrating legal pluralism into the national child protection framework, provided that customary practices remain aligned with human rights principles and the best interests of the child. The novelty of this research lies in the development of an original socio-legal integration model that systematically bridges formal criminal justice, restorative justice, and local wisdom-based protection within Indonesia's plural legal system. This study contributes theoretically to socio-legal scholarship and legal pluralism discourse, while practically offering a culturally responsive framework for strengthening sustainable child protection governance in Indonesia.
Keywords: *Child Protection; Legal Pluralism; Living Law; Local Wisdom; Sexual Violence*

1. INTRODUCTION

Sexual violence is a crime that is currently rampant.[1] 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.[2]

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

[1] 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.

[2] 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.

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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 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 (2020).[3] 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 Apriyani (2021).[4] 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 Karim (2024).[5] 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

[3] 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.

[4] 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.

[5] 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.

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on a local wisdom-based model for protecting children as witnesses and victims of sexual violence cases in the Buton Islands lies in its 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 on 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, 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.

Research on child protection in cases of sexual violence still faces three major gaps. Conceptually, existing studies tend to be partial and sectoral, and have not yet produced a systematic integrative model capable of harmonizing formal legal systems with the local wisdom of the Buton community. In fact, such integration is essential for developing a child protection system that is not only legally valid but also socially and culturally legitimate. Empirically, studies specifically examining the context of the Buton Archipelago remain limited, as most research focuses on urban settings or national-level analysis, thus failing to fully capture the social realities, cultural dynamics, and local legal practices in Buton, including the roles of customary institutions, families, and community structures. Normatively, there is also a gap following the enactment of Law Number 1 of 2023 on the Indonesian Criminal Code (KUHP), particularly regarding the recognition of living law as stipulated in Articles 2 and 597, which opens space for the application of customary law. However, there is still no clear and operational formulation on how such a living law can be effectively integrated into the child protection system in cases of sexual violence. Furthermore, standards, limitations, and implementation mechanisms have not been clearly defined to ensure alignment with the values of Pancasila as the philosophical foundation of Indonesia, the 1945 Constitution of the Republic of Indonesia, and the principles of Human Rights in international law.

The strength of the customary approach lies in its structural and emotional proximity to the community. Decisions reached through traditional deliberation carry strong legitimacy because they involve respected religious and customary leaders. This deliberative process reflects the principles of collectivity and shared responsibility in safeguarding children. Accordingly, local wisdom holds significant potential as a strategic instrument for strengthening the child protection system, particularly in the areas of prevention, early detection, and the social rehabilitation of victims. However, this potential has not yet been fully integrated into the national legal framework. The handling of sexual violence against children remains largely dominated by the formal criminal justice system, while customary law is often positioned outside the system or treated merely as an unstructured complement. From a sociology of law perspective, effective law is law that possesses social legitimacy and is accepted by the community. Therefore, it is necessary to formulate a child protection

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model capable of harmoniously bridging state law and customary law, without disregarding human rights principles and the best interests of the child.

The urgency of research on integrating local wisdom-based protection for child victims who serve both as witnesses and as victims of sexual violence in the Buton Archipelago has become increasingly relevant in light of the dynamics of national criminal law reform through Law Number 1 of 2023 concerning the Criminal Code (the new Criminal Code/KUHP). The rising number of child sexual violence cases across various regions of Indonesia reflects a systemic crisis within existing protection mechanisms, which have largely relied on formal repressive approaches. This situation calls for policy innovation that is not solely oriented toward punishing offenders, but also toward strengthening prevention systems, safeguarding child witnesses, and ensuring comprehensive victim recovery. In this context, the absence of a conceptual model that systematically integrates local wisdom into the child protection system presents significant academic novelty, particularly in socially communal regions such as the Buton Archipelago.

The new Criminal Code, through Article 2, explicitly recognizes "the law living within society," provided that it does not conflict with Pancasila, the 1945 Constitution, human rights, and general legal principles acknowledged by the community of nations. This provision represents a point of convergence between the need for innovation in child protection and the opportunity to integrate local values. Within this framework, the more humane and victim-oriented approach emphasized in the urgency of this research gains normative legitimacy. Recognition of living law creates space for strengthening customary-based social mechanisms that have long functioned to maintain cohesion and social control within Buton society. However, such integration cannot be undertaken arbitrarily. It must be constructed upon rigorous academic analysis to ensure alignment with constitutional principles and child rights protection standards, particularly the principles of the best interests of the child and non-discrimination.

Without a comprehensive scholarly examination, the potential of local wisdom risks being neglected or even eroded amid a trend of legal modernization that tends toward centralization. Sociologically, the effectiveness of law is largely determined by its social legitimacy. The new Criminal Code has shifted the paradigm from a purely written legalistic approach toward a more contextual recognition of legal pluralism. This momentum should be utilized to formulate a structured and integrated child protection model in which law enforcement agencies, child protection institutions, and customary institutions can collaborate within a coordinated framework. Accordingly, the development of a local wisdom-based model carries not only academic novelty but also practical urgency in strengthening the child protection system in the post-reform era of the Criminal Code. A systematically designed integration will ensure that recognition of living law becomes a genuine instrument of substantive justice for child victims of sexual violence, rather than merely a declarative norm within statutory text.

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This study aims to develop a socio-legal model of child protection based on local wisdom in handling cases of sexual violence. Specifically, this research seeks to critically analyze the interaction between positive law, including Law Number 1 of 2023 on the Indonesian Criminal Code, and the living law within society in the context of child protection, identify and explore the values of local wisdom within the community, particularly in the Buton Archipelago, that have the potential to strengthen the child protection system in cases of sexual violence; and evaluate empirical practices of child protection involving the roles of families, customary institutions, and formal institutions in addressing cases of sexual violence.

2. METHOD

This study employs a socio-legal research approach, utilizing both primary and secondary legal data. Primary data are obtained through in-depth interviews, observations, and field exploration involving key stakeholders in the Buton Archipelago, particularly in South Buton Regency, Central Buton Regency, and Buton Regency. Secondary data consist of legal materials such as Law Number 1 of 2023 on the Indonesian Criminal Code, Law Number 31 of 2014 on the Amendment to Law Number 13 of 2006 on the Protection of Witnesses and Victims, as well as academic journals, books, and previous studies relevant to child protection and customary law. The data analysis technique employs qualitative analysis using a thematic approach to identify patterns, values, and institutional roles in child protection practices. The criteria for informants include: (1) individuals with direct experience in handling cases of sexual violence against children; (2) customary leaders or institutions; (3) officials from women and child protection agencies; and (4) law enforcement officers. Informants are selected through purposive sampling to ensure the relevance and depth of the data.

3. RESULTS AND DISCUSSION

3.1 Integration of Local Wisdom-Based Protection for Child Victims 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.[6] The Buton Islands, with a community that still strongly holds onto its traditions, have various cultural values and practices relevant to child protection.[7] A strong kinship system,

[6] 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.

[7] Achmad Amin Majid and La Ode Bunga Ali, "Gender-Sensitive Policing: An Evaluation of National Legal Frameworks and Criminal Law Regarding Women in Conflict with the Law," *Al-Qadha: Jurnal Hukum Dan Syar'iah* 1, no. 1 (June 2025): 1–8, https://doi.org/10.64317/alqadha.v1i1.3.

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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,[8] limited resources, and a lack of alignment with the local socio-cultural context. Second, children who are victims or witnesses of sexual violence require protection that is not only legal but also psychological and socio-cultural.[9] 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 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. Why is this model socio-legally effective? The answer lies in its ability to bridge formal law, such as Law Number 1 of 2023 on the Indonesian Criminal Code, with *living law* embedded in community practices, thereby enhancing legitimacy, compliance, and restorative outcomes while remaining aligned with broader legal frameworks and human rights principles.

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,

[8] 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.

[9] 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.

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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 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.[10]

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.[11] 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

[10] Tody Sasmitha 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.

[11] Damianus Rama Tene, Andi Muliyono, 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.

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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*).[12] Furthermore, customary law also plays an important role in preserving the environment and managing natural resources based on local wisdom.[13] 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 instead 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).[14] 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.[15] However, on the other hand, the implementation of these progressive criminal law policies at the grassroots level still faces complex multidimensional challenges, 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).[16] 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.[17]

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[12] Ronald Jolly Pongantung and Dian Ratu Ayu Uswatun Khasanah, "Model Partisipasi Masyarakat Melalui Mapalus Sebagai Local Wisdom Dalam Eksistensi Hukum Dan Masyarakat Di Minahasa Selatan," *Jurnal USM Law Review* 7, no. 3 (September 2024): 1080–93, https://doi.org/10.26623/julr.v7i3.8823.

[13] 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.

[14] La Gurusi 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.

[15] Mansyah et al., "LPSK Integration At The Investigation Stage In Fulfilling The Rights Of Victims Of Sexual Violence."

[16] Muhamad Sahdan Siregar, Surya Sukti, and Reza Noor Ihsan, "Peran Lembaga Adat Dayak Dalam Penyelesaian Tindak Asusila Perspektif Hukum Nasional," *Jurnal USM Law Review* 9, no. 2 (March 2026): 757–70, https://doi.org/10.26623/julr.v9i2.13989.

[17] Nurcahyo, Mansyah, and Sulayman, "Model Integrasi Perlindungan Perempuan Sebagai Saksi Dan Korban Kasus Kekerasan Seksual Yang Berbasis Komunitas."

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The challenges faced if the integrated customary criminal law of the Buton Islands is applied with national criminal law 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.[18] 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.[19]

The third challenge is the weakness of an 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

[18] 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.

[19] Muh Sutri Mansyah, *Perlindungan Saksi Dalam Kerangka Hukum Nasional*, 2023.

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Women and Child Protection (Perlindungan Perempuan dan Anak/PPA). However, the existence and effectiveness of these institutions are highly uneven, especially in remote 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"[20] 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 a 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 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.[21] 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

[20] 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.

[21] 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.

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formative policy (law-making) has fulfilled the ultimum remedium element by expanding the definition of sexual violence.[22] regulating heavy sanctions, and most importantly, promoting a victim-centered restorative approach. However, Ancel's theory also includes applicable 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 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.[23]

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 themselves, reflecting the customs, beliefs, and values developed within a nation's society.[24] Laws 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

[22] 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.

[23] 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.

[24] 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.

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values of collectivism, respect for traditional leaders, and harmonious conflict resolution.[25] 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, applicable 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 rights.[26] 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 (*Volksgeist*) that wants to protect its young generation.[27] 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.

3.3 Integration of Local Wisdom in the Buton Islands Following the Enactment of the New Criminal Code

The enactment of Undang-Undang Nomor 1 Tahun 2023 tentang Kitab Undang-Undang Hukum Pidana (the new Criminal Code) marks a significant paradigm shift in Indonesia's national criminal law system, particularly through its recognition of the "living law" as affirmed in Article 2. This provision opens constitutional space for the existence of customary norms, provided that they meet certain requirements, namely that they do not contradict Pancasila, the 1945 Constitution, human rights, and general legal principles

[25] 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/alahkam.v8i2.8066.

[26] Josefhin Mareta, "Analisis Kebijakan Perlindungan Saksi dan korban," *Mimbar Hukum* 20, no. 1 (2019): 20–100, https://doi.org/89787767.

[27] Utama, "Hukum Yang Hidup' Dalam Rancangan Kitab Undang-Undang Hukum Pidana (KUHP): Antara Akomodasi Dan Negasi."

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recognized by the community of nations.[28] This study examines customary practices in Central Buton, South Buton, and Buton Regency, highlighting how each region applies distinctive forms of customary sanctions in responding to social and moral violations. In Central Buton, sanctions include social exclusion and ritual oaths such as partial burial or the pocong oath; in South Buton, the mechanism emphasizes the payment of boka (customary fines); while in Buton Regency, sanctions include exile, fines, and the Kaleoleo sea ritual as a form of moral verification. Despite these differences, all customary institutions share a common deliberative decision-making process involving traditional leaders, religious figures, and community representatives. These findings demonstrate that local wisdom-based mechanisms are not merely symbolic but function effectively as socio-cultural instruments for maintaining social order, ensuring accountability, and providing community-based protection, particularly for vulnerable groups such as children. This underscores that integrating local wisdom into formal child protection frameworks can enhance legal effectiveness, strengthen social legitimacy, and deliver more culturally responsive victim protection.

The urgency of this integration is further reinforced by the enactment of Law Number 1 of 2023 on the Indonesian Criminal Code, which marks a paradigm shift in Indonesia's national criminal law system. Through Article 2, this law recognizes the existence of living law and opens constitutional space for the application of customary law, provided that it does not conflict with Pancasila as the philosophical foundation of Indonesia, the 1945 Constitution of the Republic of Indonesia, principles of Human Rights in international law, and generally accepted legal norms. Therefore, this study not only highlights the diversity of customary practices but also formulates a socio-legal integration model that bridges state law with local wisdom. To ensure sustainability and consistency, regulatory reform is required at both the legislative and regional levels, particularly in establishing clear guidelines, institutional mechanisms, and protection standards to institutionalize this culturally grounded child protection model within Indonesia's broader legal system.

In the context of the Buton Archipelago, this recognition presents a strategic opportunity to integrate local wisdom-based protection for child victims who also serve as witnesses in sexual violence cases. Such integration is relevant because formal approaches centered on the criminal justice system have often not been fully responsive to the psychological, social, and cultural needs of children in island communities characterized by strong customary structures. Sociologically, the Buton community possesses customary institutions that function both as mechanisms of social control and as means of conflict resolution. Traditional and religious leadership structures enjoy high moral legitimacy, so decisions reached through customary deliberation tend to be respected and complied with. In cases of sexual violence against children, local mechanisms can play a role in prevention, early detection, and the social recovery of victims. Child victims who also act as witnesses

[28] S. M. T. Situmeang, "Presence of Pretrial in the Perspective of the Pancasila State of Law," *Law Reform: Jurnal Pembaharuan Hukum* 17, no. 2 (2021): 183–93, Scopus, https://doi.org/10.14710/lr.v17i2.41746.

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frequently face psychological pressure, stigma, and even intimidation. Within closely knit communities, collective support grounded in local values can accelerate recovery and prevent revictimization. Integration is therefore essential not to replace the criminal justice system, but to strengthen it through contextual approaches rooted in local social realities.

Article 2(1) of the new Criminal Code provides that the principle of legality does not eliminate the applicability of living law that determines a person may be punished even if the act is not regulated in statutory law. This norm shifts the classical written-centered understanding of legality toward a more open recognition of legal pluralism. In the Buton context, this may be interpreted as recognition of customary norms governing morality, family honor, and the protection of vulnerable groups, including children. However, such recognition is not without limits. Article 2(2) emphasizes that living law applies only insofar as it is not regulated in statutory law and must align with Pancasila, constitutional values, and human rights. Consequently, integrating local wisdom-based protection must not conflict with the principles of non-discrimination, the best interests of the child, and the prohibition of degrading treatment. In practice, the primary challenge lies in the potential disharmony between customary settlements and formal judicial mechanisms. In several regions, customary resolutions of sexual violence cases have tended to prioritize family reconciliation or material compensation without adequately considering substantive justice for victims. If implemented without oversight, such patterns risk neglecting the rights of child victims and witnesses. Therefore, post-criminal Code integration must be framed within a multi-layered protection system in which customary law reinforces social and cultural dimensions, while the state retains authority over criminal prosecution to ensure offender accountability.[29]

Article 2(3), which mandates further regulation through a Government Regulation to determine procedures and criteria for recognizing living law, becomes crucial for operationalizing this integration. Such implementing regulations should clearly define parameters for identifying customary norms, their scope of application, and coordination mechanisms with law enforcement authorities. In the Buton context, this identification process should involve participatory studies engaging customary leaders, religious figures, academics, and child protection institutions to ensure that integrated local norms genuinely reflect protective values rather than harmful traditions. Integration must also consider the child's position as a witness in criminal proceedings.[30] Child victims of sexual violence often serve as key witnesses, and trauma may affect the consistency of their testimony. Sensitive and supportive approaches are therefore essential. In Buton society, extended family and customary community-based accompaniment mechanisms can function as effective psychosocial support instruments. When synergized with formal procedures such as child-

[29] K. Aibak, "Implementation of Maqāṣid Sharī'ah in Reform of Case Management of Violence against Women and Children," *De Jure Jurnal Hukum Dan Syar Iah* 15, no. 1 (2023): 82–98, https://doi.org/10.18860/j-fsh.v15i1.20666.

[30] Alfitri, "Protecting Women from Domestic Violence: Islam, Family Law, and the State in Indonesia," *Studia Islamika*, no. 2 (2020): 273–307, https://doi.org/10.36712/sdi.v27i2.9408.

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friendly examinations and identity protection, this support can create a more comprehensive system. Thus, integration is not merely normative recognition of customary law, but a systemic construction uniting juridical and cultural dimensions.

From the perspective of legal pluralism theory, recognition of living law reflects the reality that state law is not the sole normative source within society. In communal island regions, social legitimacy often determines legal effectiveness more than formal sanctions. Accordingly, when the state provides space through Article 2 of the new Criminal Code, this opportunity should be utilized to develop a contextual child protection model. Such a model may include coordination forums among village authorities, customary institutions, the police, and women and child protection units, ensuring that every report of sexual violence is handled in an integrated manner without limiting victims' access to formal justice. Nevertheless, integration must remain grounded in the best interests of the child. Any customary mechanism that pressures victims into reconciliation or case closure to preserve family honor must be eliminated. Recognition of living law must not legitimize the reduction of victims' rights to a fair judicial process. Instead, customary law should be reconstructed to emphasize protection, recovery, and prevention of repeated violence. This transformation requires community legal education and sustained dialogue between the state and customary institutions.

Normatively, integrating local wisdom-based protection after the enactment of the new Criminal Code represents an effort to harmonize legal centralism and legal pluralism. While the state remains the primary authority in criminal punishment, it does not deny the existence of living social norms. In the Buton Archipelago, such harmonization has the potential to create a more effective child protection system grounded in both social legitimacy and constitutional guarantees. If properly formulated through implementing regulations and technical guidelines, this model could serve as a national reference for integrating customary law with protection for victims of sexual violence. Furthermore, Article 622 (21) of the new Criminal Code strengthens protection for witnesses and victims by harmonizing references to criminal provisions. It stipulates that references to offenses against witnesses and victims in other statutes must be adjusted to the relevant provisions within the new Code. The replacement of references to Articles 37, 38, 39, and 41 of the Witness and Victim Protection Law with Articles 295, 296, 297, and 299 of the new Code reflects the state's commitment to consolidating witness and victim protection within a unified framework. Substantively, Article 295 prohibits violence or threats against witnesses or victims to influence their testimony; Article 296 criminalizes acts obstructing witnesses or victims from obtaining protection or exercising their rights; Article 297 addresses actions preventing witnesses or victims from attending or testifying; and Article 299 penalizes the unlawful disclosure of protected identities.

These strengthened provisions have direct implications for child victims in Buton. Children are often vulnerable to intimidation, social pressure, and stigma. In tightly knit communities, efforts to silence victims may occur in the name of preserving communal

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harmony. Therefore, local wisdom-based integration must function as a supportive system reinforcing the effectiveness of Articles 295–299, not as a substitute for formal justice. Customary institutions can help ensure the absence of intimidation, provide moral support, and promote awareness that sexual violence against children is a serious offense that cannot be resolved informally alone. In conclusion, Articles 2 and 622(21) of the new Criminal Code provide a normative foundation for constructing an inclusive and synergistic child protection system in the Buton Archipelago. Through a structured integration model, the state guarantees juridical protection while customary institutions strengthen social and cultural safeguards. The success of this integration ultimately depends on prioritizing children's rights, ensuring that recognition of living law becomes an instrument of justice rather than a source of legal uncertainty.

4. CONCLUSION

This study confirms that the integration of local wisdom into the protection system for child victims and witnesses of sexual violence in the Buton Archipelago constitutes a transformative socio-legal framework capable of strengthening legal legitimacy, restorative justice, and culturally responsive child protection. Customary institutions in Central Buton, South Buton, and Buton Regency continue to function as living law through deliberative mechanisms involving customary and religious authorities, applying sanctions such as boka fines, social exclusion, exile, and ritual-based moral accountability. The enactment of Law Number 1 of 2023 concerning the Indonesian Criminal Code, particularly Articles 2 and 622(21), provides a constitutional basis for harmonizing legal pluralism with national criminal justice and human rights standards. The novelty of this research lies in the formulation of an original socio-legal integration model that systematically connects formal criminal law, restorative justice, and local wisdom-based mechanisms within Indonesia's plural legal system. The study contributes theoretically to socio-legal and legal pluralism scholarship, while practically offering policy directions for institutional harmonization, trauma-informed protection mechanisms, culturally sensitive procedural standards, and collaborative governance between state institutions and customary communities. Such integration strengthens sustainable and inclusive child protection by ensuring that recognition of living law functions as an instrument of substantive justice rather than legal fragmentation. The authors would like to thank the Directorate of Research, Technology, and Community Service, Ministry of Education, Culture, Research, and Technology of the Republic of Indonesia (Grant Number: 130/C3/DT.05.00/PL/2025) for their financial support of this research.

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