

The Ideal Concept on Preventing Sexual Offense for Teenager by the Indonesian State Police in West Papua

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ABSTRACT : Sexual offence is one of the oldest crime. In its development, it can take place to women in general, and particular for teenager. In Indonesia, the number of sexual offence is very high, including in West Papua. **Materials and Methods:** The type of this study was empirical legal studies, which took place in Manokwari District, Sorong District, and City of Sorong. This study was analysed qualitatively. **Results:** the ideal concept of preventing sexual offense in those district/city is to optimize the role of the directorate of national police development in maintaining public security and order, the role of the directorate of national police development in effort to maintain and increase synergy between community and police, and active role of community, religious leaders, and customary councils in order to maximize counseling on preventing sexual offense among the teenager. **Conclusions:** collaboration amongst the directorate of national police, the tribal chief, inter-faith forum, and local customary council is the main factors to prevent sexual offences for teenager.

KEYWORDS : Preventing Sexual Offence, Teenager, Indonesian State Police, West Papua.

I. INTRODUCTION

The technology and information have developed rapidly and have given an impact in positive and negative ways. [1, 2] One of the occurred effects negatively is the increasing number of sexual crimes that make a woman as the victim, especially teenager. The sexual offense is one of a crime that have a special attention in child protection. Article 15 of the Law No. 35 of 2014 Concerning Amendments of the Law No. 23 of 2002 provide clarity that every child has the right to be protected from sexual offense, even on the Law No. 35 of 2014 give a hint so the state, government, and all element of society give attention and protection to the children, both the perpetrators and victims.

Several factors causing the sexual offense against children in Indonesia in general and in West Papua particularly are caused by: 1) children/teenager is easily to be threatened and injured by the sexual perpetrator, considering children/teenager are unable to fight or guard themselves

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against the danger that will fall to them; 2) the development of technology and information from internet and social media with pornography content that is easily to access by children giving them a negative impact on their growth and development behavior; 3) the circulation of porn Compact Disks (DCs) and pornography reading is so rampant, localization of prostitutes, night club, and café that are often encountered. 4) lack of religious knowledge especially about faith and moral in school; 5) low level of community income as the result of the children/teenager getting less attention from parents; 6). the waning of manners, ethics, and behavior manner; 7) the emerging circulation of alcohol and drugs in West Papua; 8) an adequate budget but it is not followed by various programs to combat sexual offense by the West Papua Regional Police. 9) the expansion of the territory in West Papua was not followed with additional police personnel (Kamtibmas); and 10) the lack of socialization regarding on criminal acts against sexual and drugs in the community.

To prevent the crime against children, especially sexual offense then the Law No. 35 of 2014 Concerning Amendments of the Law No. 23 of 2002 on Child Protection emphasizes and gives obligation and responsibility to state, government (both central and regional government), society, family, and parents. [3] The role of states including the State Police Institution which play a role in overcoming juvenile crime and delinquency, including prevention of sexual offense. The role of Indonesian Police (POLRI) as stated on Article 30 Paragraph (4) Constitution of Republic of Indonesia 1945 and Police Law No. 2 of 2002 is: 1) as security guard and order in community. 2) as law enforcer. 3) as protector and services of society. Therefore, this article will be focused to make an ideal concept to prevent sexual offense in youth by the police in West Papua.

II. MATERIALS AND METHODS

This study is an empirical study that take location in West Papua, Manokwari District, Sorong District, and City of Sorong. Those districts and/or city were a significant and complex sexual offense places in West Papua. The data which obtained will be analyzed qualitatively.

III. DISCUSSION

The ideal concept on preventing sexual offense for teenager by the Police of Republic of Indonesia in West Papua

The increasing number of sexual offenses on children and teenager has been a serious concern on preventing sexual offense. This effort might not just in a form of law enforcement also related to the prevention of crime and protection of children and teenager that is the victim of sexual offense. Even after the completion of criminal process at the police level, this has not been able to provide protection to the sexual offense victims to obtain a legal certainty. When proceeding to the court, there still interference from various parties and/or involving customary councils and religious leader, for deliberations in resolving it with customary law.

In this context, any unwanted sexual offense, example sexual act, such as verbal or physic or condition of sexual nature, or other behavior of sexual nature which made a person feel offended and/or intimidated where such reaction is make sense in existing situations and condition, and

those action interferes with work, used as job requirement or made an intimidating working environment, hostile or disrespectful. In other words, sexual offense is the abuse of sexual behavior, request of sexual act (invitation to commit sexual acts, request or date). Verbal or physical statement of doing or gesture depicting sexual act (a message that showed sexually explicit content in print or electronic form such as Text Message, Email, Posters, CDs, etc.). An act that leading into unwanted sexual act make a statement from the receiver about unwanted act. The receiver feels insulted, offended and/or depressed by the act, so the perpetrator already feel that the victims will be insulted, offended, and/or depressed by those acts. Physical behavior (such as touching, kissing, patting, pinching, or sexual violence such as raping etc.) even sexual behavior which condescending (such glancing or staring a specific body part). Those sexual offense can result in difficulties that because teenager feel victimized, which can also risk health and safety of the victim.

In this context, the victim is defined as a person individually or collectively suffer a loss, including a loss from sexual offense and physical and mental violence, emotional sufferer, economic loss or basic distraction of his/her rights, from an act or payment that is a serious offense that is seen from the normative law aspect. While from the agreement aspect in the context of customary law, it is known as a mutual agreement. If it is seen from the human rights aspect, then this deviant behavior is a serious violation or a serious violation of international humanitarian law.

The term of victim also including family or the dependents of a direct victim and people who suffer a loss in proving assistance or assistance to a crime victim in a difficult circumstance or in preventing the sexual offense. A person must be considered as a sexual offense victim by the perpetrators can be identified, arrested, prosecuted, or convicted regardless of the familial relationship between the perpetrator and the victim of the crime. The protection and prevention also recovery that is given to the victim of the sexual assault cannot be a discrimination both because of rational reason, religion, gender, social background, or politics etc. Sexual offense can happen to everybody. Men or women by the perpetrator of this act which considered to be impolite, shameful or intimidating. This act can be occurred between the perpetrator and other children/teenager (vertical relation) or between school or university fellow friend (horizontal relation), between perpetrator with sexual offense.

The sexual offence is differentiated in 5 (five) forms of sexual harassment namely:

1. Physical harassment including unwanted touching that leading into sexual act such kissing, patting, pinching, glancing, or seeing lustfully.
2. Verbal harassment including verbal or unwanted comment about private life or part of body or appearance, jokes or comment that is sexual.
3. Harassment gesture including body language and or a sexual body movement, a repeated glistening, hand gesture or lip licking.
4. Written harassment or in picture including showing pornography material, picture, screensaver, or sexual poster, or harassment from email and other electronic communication way.
5. Psychology/emotional harassment consist of continuously unwanted request and invitation, an unwanted date request, sexual insult.

The measurement of fairness in sexual harassment can be seen if the act is leading into a sexual harassment resulting in offense, shame or fear. The main element of sexual harassment is an unwanted feeling by the victims. Other than the “unwanted”, there are also other impolite acts that lead into sexual harassment and according to the habit of the environment or can be known as one of the sexual harassments. While the act or interaction that occurs on a consensual basis is not something that is unwanted is not a sexual harassment.

The main element from sexual harassment is the presence of unwanted or rejection on a form of sexual. If that act is unwanted by the receiver then it can be categorized as a sexual harassment as it is stated on the article of sexual immorality. The Criminal Law Code (KUHP) generally (*Lex Generalis*) can be used as the basis with legal threats that is regulated on Article 289 – 299 of The Criminal Law Code. As for sexual immorality in work place, especially if it done by superior, it can be found on Article 294 Paragraph (2) No. 1 of the Criminal Law Code which threatened with maximum imprisonment of 7 years. [4, 5, 6]

Therefore, the construction of the ideal concept of overcoming sexual crimes among the teenagers is placed on the involvement of all stakeholders who have connections with an effort to combat sexual crimes as follows:

1. The Role of the Directorate of National Police Development in Maintaining Public Security and Order

The realization of a security and order in society will not be created without participation of all level of society. The involvement of all element of society in village is highly expected to maintain the condition of security and public order to create a conducive environment in the community. According to the Head of Public Safety and Order (BHABINKAMTIBIMAS) of Klamono Village, Sorong District, Edhy Rahmat, the participation of Directorate of Regional Police Community Development (POLDA) of West Papua in executing the function of KAMTIBIMAS to provide an outreach in the form of an appear for the community to jointly create harmonization among citizen and among religious leader to avoid sexual crimes among the teenagers. In this case, it is also delivered to not consuming excessive alcohol, because it can result in an unwanted act which can lead into crime.

BHABINKAMTIBIMAS of Klamono Village, Sorong Region, Edhy Rahmat, further stated that the role of society in maintaining the security of environment with the police, and also in reducing the level of criminal in society, the police need assistance from other parties such as interfaith forum and society, customary council and the head of harmony as the front guard, and also helping the police that have a duty to maintain security in the community. But all of that also need help from the community itself. Therefore, the community also has a role in maintaining the safety of their environment. In addition, the role of society in creating a safe and comfortable situation also stated in the body of the Constitution 1945, namely the community obligation as citizen as regulated on second chapter XII Article 30:

- Every citizen shall have the right and duty to participate in the defense and security of the state.
- The defense and security of the state shall be conducted through the total people's defense and security system, with the Indonesian National Military (TNI) and the Indonesian National State Police (POLRI) as the main force, and the people as the supporting force.

It is absolutely as an Indonesian citizen or society has an obligation and role in maintaining the state security, at least in its own area. To provide the security, POLRI needs help from the other parties so the level of teenager sexual offense can be reduced and even eliminated. If these three elements are working together, then the good security will be in the environment will be created.

There were many things can be done by society in helping the role of the security parties. As an example, reporting to the authorities such police, or the head of the neighborhood unit and the local community unit if seeing suspicious a person or group. This can be preventing and reducing the occurrence that will disturb the local order. Moreover, the society could also help with other way such helping the police to maintaining security in a security post. Environment Security System (SISKAMLING) is one of the medium. This Environment Security System is done well then it will not just make a secure environment, but also will make a togetherness between residents. This also will be affecting on reducing the internal problem between resident.

In this context, the role of police in law enforcement could be founded in Article 30 Paragraph (3), (4), and (5) the Constitution 1945 and Article 13 of the Law No. 2 of 2002 Regarding of the State Police, which state that "Principal Task of the State Police of the Republic of Indonesia shall be: Maintaining public orderliness and safety; Enforcing and providing protection, safeguard, and services to public". The duties of the police are preventive to prevent, arrange, or take an action in form of an effort, an activity to creating security, order, peace and calm in the community. Those effort that is made by the police is in a form of patrol, counseling, monitoring and helping on the community where if it linked to the laws it is known as protector (*pengayom*), security (*pelindung*), and society service (*pelayanmasyarakat*). This preventive duty is much more oriented in general public welfare. While, the repressive duties is much more oriented on the criminal law enforcement in the criminal justice system according to the laws and regulation that is on the criminal law code or other laws and regulations.

2. The Role of the Directorate of National Police Development in Effort to Maintain and Increase Synergy Between Community and Police

Relating to the preventive duties of police which preventing a criminal act, POLRI especially in Regional Police Sub-directorate of Community Development (DITBINMAS), according to Article 1 item 22 of Regulation of the Chief of Police of the Republic of Indonesia concerning on Organizational Structure and Working Procedure at Regional Police, stated that "Directorate of Community Development, hereinafter abbreviated as DITBINMAS, is an element on implementing the principle task at the Regional Police which is under the Chief of Regional Police ". Furthermore, on Article 156 Paragraph (2) of Regulation of the Chief of Police of the Republic of Indonesia concerning on Organizational Structure and Working Procedure at Regional Police, stated that the duties of DITBINMAS "to carry out community development which includes community police activities, public order and coordination, supervision and guidance of self-directed forms of security, Special Police (*POLSUS*), as well as cooperative activities in maintaining security and public order". Relating to maintain the security and discipline according to the expert Soerjono Soekanto state that the law enforcement lies in the activity of harmonizing the values that described in good principles as a series of defining final values in order to create and maintain social peace. [7, 8]

Therefore, which is not less important is how the awareness and the law culture in society on responding the preventive effort that is held by DITBINMAS. As it is known that the police are always identic with the function of detective and traffic, where it is almost rarely encountered a legal counseling activity or DITBINMASactivities as stated on Article 156 Paragraph (2) of Regulation of the Chief of Police of the Republic of Indonesia concerning on Organizational Structure and Working Procedure at Regional Police, the duty of DITBINMAS, including organizing community development, the community police activities, community order and coordination, security and developing as the form of community security (*swakarsa*), Special Police, and other collaboration in maintain security and community order. Even though the duties that DITBINMASHave in reality is a preventive task which is important in order to anticipate a criminal act and the disruption of Public Order and Security Awareness Group in society.

Depart from the problem, indeed, the preventive duties of law enforcement are not just to be a DITBINMASresponsibility because it will involve every stakeholder that is exist, because the fact that happen even though the preventive function of the police in this case is being done by DITBINMAS, but there still criminal case in the jurisdiction of the West Papua police where the author conduct the research.

3. Active Role of Community, Religious Leaders, and Customary Councils to Maximize Counseling on Preventing Sexual Offense Among the Teenagers

The role of religious leader, customary council, and the archipelago (Nusantara harmony) forum have an important role in order to stir the community anticipation on preventing teenager sexual offense. The success of the police, religious leader, and community element in order to stir the community participant in maintaining the rampant distribution of alcoholic beverage in regencies/cities in West Papua is largely determined by the ability or style of the community leader, religious leader, and the Nusantara harmony forum in providing coaching and legal counseling with the police. The participation of community is done with a process of appealing and giving suggestion to influence the society behavior especially to children/teenager that is directly the target of sexual offense. The synergy between every community element with the police institution is expected to help solve the problem of sexual offense in West Papua.

The police with religious leader and community element is actively to give an advice, lecture or sermon about legal counseling and sexual offence prevention on teenager and society with police. The role of religious leader and customary council is based on the faith responsibility toward the community in order to develop, motivate, and leading the teenager and society in order to actively participating on preventing the sexual offense. The form of children/teenager participation and society still using a primordialism element as the main factor in preventing the crime, therefore, it is the largest tribal chief who become the elected leader to become the head of harmony and the head of the Indonesia harmony, can work together with the police to be able to eradicate the perpetrators of child/teenager sexual offense.

In this context, in the perspective of criminal law and local customary law then the synergy between the police and the religious leader is one of the latest breakthroughs for the consolidate of legal enforcement process in Indonesia by promoting local wisdom. The completion of sexual

offense in the law enforcement will directly open up the space for wider participation in understanding the law for the public in the law enforcement process.

To complete criminal cases done by teenager and society in the context of settlement with local customary law in local wisdom can involve the element of community and the local police. It is also giving opportunity to the society to actualize their rights better without having reduction by the existing interest in law enforcement, such as when the settlement system in West Papua customary community and non-indigenous people of West Papua applies. However, every law enforcement is not fully smooth like how it is expected. Every parties that is take part in the law enforcement should understand and done every laws and regulation that applied consistently without ignoring the local customary law that is applied in the region.

Basically, the law enforcement in preventing teenager sexual offence can be aligned with religious leader, community element, police, and regional government. It is appropriate for law enforcement in West Papua and throughout Indonesia to be implemented effectively and still upholding legal principle without neglecting the agreement made by the two parties between the victim and the perpetrator. The people in West Papua especially in Sorong District, and Manokwari District in the process of law enforcement to the teenage sexual offense perpetrator involving the role from the religious leader, customary council, and the harmony forum of community which is the most respected and exemplary. In this context, the direct completion of teenage sexual offense case by the police that is held in District of Sorong, City of Sorong, and District of Manokwari involving the role of religious leader, customary council, and head of the harmony optimally.

The data showed that the sexual offense in district/city that involve the police and religious leader, customary council, the Nusantara harmony forum in district, and village, the level of teenage sexual offence and other crime is getting lower. Otherwise, the level of crime is higher. It can be seen from the table below:

Table 1: Sexual Offense in Indonesia

YEAR	Sexual Offense in Indonesia			
	2016	2017	2018	2019
KPAI	25	81	206	78 (until June)
LPSK	35	70	149	78 (until June)

Source: Detik News 2019

The law enforcement on preventing the teenage sexual offense, on the Indonesia National Police as it is showed in the Table 1 above showed that not every criminal act that is done by children/teenager from several case that is listed in the table above, and in the process to the court in Indonesia.

As for the sexual offense in West Papua according to the Regional Police of West Papua data can be seen from the Table 2 below:

Table 2: Sexual Offense in West Papua

Sexual Offense in West Papua		
YEAR	2018	2019
POLDA	164	61 (Until August)

Source: West Papua Regional Police 2019

The process of law enforcement by the Regional Police of Republic of Indonesia in West Papua on the 2nd table showed there is a change in the response to sexual offense from time to time. The prevention is held by the police with the element of community with a legal counseling activity to the teenager and community in West Papua has been done by all the Indonesian National Police Resort (POLRES) and/or Indonesian National Police Resort City (POLRESTA) in the jurisdiction of West Papua.

Table 3: The Sexual Offense in 2017 – 2018 in Regional Police in West Papua

No.	City/District	Number of Sexual Offense	
		January-December 2017- 2018	Percentage
1.	Fakfak	12	0,073%
2.	Kaimana	9	0,054%
3.	Manokwari	31	0,189%
4.	Manokwariselatan	8	0,048%
5.	Maybrat	9	0,054%
6.	Pengununganarfak	5	0,030%
7.	Raja ampat	7	0,042%
8.	Sorong	16	0,097%
9.	Sorong Selatan	13	0,079%
10.	Kota Sorong	35	0,213%
11.	Tambrauw	6	0,036%
12.	TelukBintuni	8	0,048%
13.	Wondama	5	0,030%
	Total	164	0.993%

The spread of sexual offense that happen in West Papua and has been projected on the Table 3 above has clearly showed an inconsistency in law enforcement on preventing teenager sexual offense, as it is stated on the laws and regulation, and Regulation of the Head of the National Police of the Republic of Indonesia No. 3 of 2015 Concerning of Community Police DIPA.

An injustice and legal uncertainty in the enforcement of crime of sexual offence that is done by the Indonesia National Police in West Papua with the community element and forums between religion, and tribal chief forum, to make a legal awareness socialization to all the society that is in jurisdiction of Regional Police of West Papua, can be seen in the Table 4:

Table 4: The Sexual Offense in 2019 in Regional Police in West Papua

NO	City/District	Number of Sexual Offense		Info.
		Jan-September of 2019	Percentage	
1.	Fakfak	5	0,081%	
2.	Kaimana	3	0,049%	
3.	Manokwari	10	0,163%	
4.	Manokwariselatan	2	0,032%	
5.	Maybrat	4	0,065%	
6.	Pengununganarfak	3	0,049%	
7.	Raja ampat	3	0,049%	
8.	KabupatenSorong	2	0,032%	
9.	Sorong Selatan	4	0,065%	
10.	Kota Sorong	15	0,024 %	
11.	Tambrau	3	0,049%	
12.	TelukBintuni	4	0,065%	
13.	Wondama	3	0,049%	
Total		61	0.723 %	

Source: Regional Police of West Papua 2019

From the table above which is the data that has been collected by the Directorate of General Criminal Investigation (DITRESKRIMUN) Regional Police of West Papua, and not including cases that has been a news, has been done in remoted area, and never handled before. Based on the sexual crime cases mentioned above, of course, it becomes a reflection for the police to anticipate the criminal acts that occur. Because in fact, with the presence of criminal act that is one of the indicators of preventive duty of the police has not been run optimally.

Therefore, referring to the analysis of the table above, the role and the function of the religious leader, customary council, inter-tribal chief forum and police is very important in controlling the tensions of criminological and social crimes that occur in community in a climate that is far from the understating of legal norms including creating comfort for all community to comply with local laws and customary laws. In this context, it can be said that the settlement of criminal cases in West Papua used dualism on resolving the teenager sexual offense between police and customary council community. This is due to the fact that every criminal case that occur, both victim and the perpetrators always involves a forum between the tribal chief and inter-faith forums, local customary council from each tribe to resolve the case.

IV. CONCLUSION

In order to maximize the enforcement of directorate of community development (DITBINMAS), the police have involving the community element actively both from a forum between the tribal chief, inter-faith forum, and local customary council. This is seen as the ideal prevention of teenage sexual offence that is held by the police of West Papua.

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