Optimization of *Gampong Pageu* in Preventing Sexual Crime in Children in *Kabupaten Bireuen*

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Abstract

The purpose of this study is to examine how Pageu Gampong is optimized in preventing sexual crimes against children in Aceh and what are the challenges in optimizing Pagen Gampong in preventing sexual crimes against children in Aceh, especially in Bireuen District. This research is descriptive qualitative research with a juridical-normative-empirical approach. The data collection technique was carried out by interviewing village apparatus/equipment in the village of Juli Tambo Tanjong as one of the villages that became the object of this research. Further data collection was carried out by means of a documentation study by collecting legal archives and Qanuns as support. The results of the study show that the optimization of Pageu Gampong in preventing sexual crimes in Bireuen Regency is carried out in two ways. First, as a preventive measure for village officials, Juli Tambo, who is part of the Gampong Pagen, makes and implements the Gampong Qanun in a comprehensive manner. Second, by repressive method, namely, if there is a sexual crime against children in the territorial area of Gampong Juli and the perpetrator is known, then the Gampong apparatus who are members of the Gampong Pageu will immediately follow up and forward it to the Bireuen Police. Then the challenge in the implementation of Pagen Gampong is that the role of Pagen Gampong is only limited to assisting victims without escorting cases until a judge's decision is made, with limited time, budget, and manpower from the Pageu Gampong itself.

Keywords: Gampong Pagen, Sexual Violence, Children

Introduction

Cases of violence against children are increasing from year to year. In the release given by the Secretary of the Ministry of Women's Empowerment and Child Protection (KemenPPPA) there was an increase in cases of violence from 2019 to the end of 2021, namely 11,057 cases in 2019,



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11,279 cases in 2020 and 12,566 cases in 2021. Especially for cases of violence in children can be classified as 45% sexual violence, 19% psychological violence and 18% physical violence.1 The Indonesian Child Protection Commission (KPAI) in its year-end notes noted that there were 18 cases of sexual violence against children counted from 2 January to 27 December 2021 in educational institutions with details of 4 cases under the Ministry of Education and Culture and 14 cases under the Ministry of Religion.² Regional Technical Implementation Unit for the Protection of Women and Children (UPTD-PPA) Aceh stated that there were 697 cases of violence against women and children recorded in Aceh. This case has increased during the Covid-19 pandemic.³ This fantastic figure is of concern to all parties in preventing and resolving cases of violence, especially cases of sexual violence against children in Aceh.

Aceh as an Islamic sharia area already has an independent problem solving system at the village level (Gampong) called *Pageu* Gampong which is known as the process of solving problems through adat.⁴ Solving problems at the village level is seen as a alternative in positive facilitating the community to access their rights and protection. In addition, this can also reduce the accumulation of cases in court.⁵ Settlement of problems at the village level has also been regulated in Qanun Aceh number 9 of 2008. The increase in cases of violence and sexual abuse of women and children is an indication of the weakening of social control institutions in society.6 Conditions like this if left unchecked will get worse without any optimization efforts. The problem of sexual violence against children is an important concern for every element, both academics, practitioners and society. So on this basis research on optimizing Pagen Gampong is very important to do.

Efforts to optimize *Pageu Gampong* as a step in preventing sexual crimes, especially against children, must be the concern of every village. The Bireuen Regency Government, as

¹ C. N. N. Indonesia, "KemenPPPA: Kasus Kekerasan Anak dan Perempuan Meningkat di 2021," nasional, accessed January 10, 2022, https://www.cnnindonesia.com/nasional/202112081 95408-20-731671/kemenpppa-kasus-kekerasan-anakdan-perempuan-meningkat-di-2021.

² "KPAI: Ada 18 Kasus Kekerasan Seksual Pada Anak yang Terjadi Selama Tahun 2021," suara.com, December 29, 2021, https://www.suara.com/lifestyle/2021/12/29/13343 4/kpai-ada-18-kasus-kekerasan-seksual-pada-anakyang-terjadi-selama-tahun-2021.

³ "Selama Pandemi, Kekerasan Seksual Perempuan Dan Anak Di Aceh Capai 697 Kasus," merdeka.com, December 12, 2021, https://www.merdeka.com/peristiwa/selama-

pandemi-kekerasan-seksual-perempuan-dan-anak-di-aceh-capai-697-kasus.html.

⁴ Hazar Kusmayantia and Efa Laela Fakhriahb, "The Practice of Dispute Resolution in Aceh's Traditional Justice," Practice 10, no. 3 (2019).

⁵ Nanda Amalia, Mukhlis Mukhlis, and Yusrizal Yusrizal, "Model Penyelesaian Sengketa Dan Peradilan Adat Di Aceh," Jurnal Hukum Ius Quia Iustum 25, no. 1 (2018): 159–79.

⁶ Husaini Husda and Zubaidah Zubaidah, "Role Optimization of Indigenous Institutions for Case of Violence Against Women and Children (Analysis Study in Aceh and Padang Provinces)," Budapest International Research and Critics Institute (BIRCI-Journal): Humanities and Social Sciences 1, no. 4 (2018): 170–80.

stated in the Bireuen Regency Qanun no 6 of 2018 article 16 lettere, says that the village government or keuchik has the authority to stipulate village regulations (Qanun Gampong). stipulate village regulations are statutory regulations stipulated by the keuchik or local village head. This determination was made after the contents of the Pageu Gampong were discussed and agreed with village elder (Tuha Peut Gampong). Several villages in the administrative area of Bireun Regency have started implementing village regulations. The village regulations, which then functions as the Pagen Gampong, if it is related to the context of sexual crimes, must at least be able to prevent and provide solutions to these crime cases.

Discussion about the role of *Pagen Gampong* has been discussed by several previous researchers. Specifically in dealing with cases of violence against women and children, Husda and Zubaidah discussed it entitled Role Optimization of Indigenous Institutions for Case of Violence Against Women and Children (Analysis Study in Aceh and Padang Provinces).⁷ The research results show that re-empowerment of social institutions is important because so far social institutions have been able to restore people's behavior patterns based on existing norms. Therefore, the government must work systematically to empower social institutions in accordance with the changes and demands of the times.

Subsequent research was carried out by Ernita Dewi and Said Amirulkamar who discussed about The Role of Community Characters in Sending Cases of Sexual Violence against Children.⁸ The results of the study show that so far there has been a role for the *Pageu Gampong* as a protector for the community. As the function of *Pageu Gampong* can be a social institution consisting of village officials having the duty to protect, guard, supervise and solve all problems that occur in society. *Pageu Gampong* continues to protect the community from all forms of crime and immoral acts, one of which is sexual violence against children and women.

As with the previous research above, to optimize its role in community life, especially in preventing cases of sexual violence against children, the purpose of this research is to examine how *Pageu Gampong* is optimized in preventing sexual crimes against children and what are the challenges in optimizing *Pageu* Gampong in prevention of sexual crimes against children in Aceh, especially in Kabupaten Bireuen.

⁷ Husda and Zubaidah.

⁸Ernita Dewi and Said Amirulkamar, "The Role of Community Characters in Sending Cases of Sexual

Violence against Children," Konfrontasi: Jurnal Kultural, Ekonomi Dan Perubahan Sosial 7, no. 4 (2020): 343–50.

Method

To facilitate researchers in conducting research, it is necessary to have a research methodology. This research is descriptive qualitative9 research using normative juridical and empirical juridical approaches. The objective of normative juridical is secondary legal material in the form of manuscripts collected both in literature and field documentation.¹⁰ While empirical juridical tries to validate data and implementation while in the field using observation and interview methods.¹¹ To obtain data the researcher used the participant observation technique, namely the researcher is also a community member from Aceh. Then the researcher also conducted structured interviews with predetermined subjects using a purposive sampling technique. The informants in the interview were the head of the Aceh customary council, Tuha Peut Gampong and other village officials as supporters. Data analysis techniques are carried out by carrying out data reduction, namely by grouping some data and separating and taking the data needed in the research. Then present the data in the form of a research report and at the final stage draw conclusions.

Discussion

Pageu Gampong in Village Level Legislation

The people of Aceh have historically been known as a very religious society and uphold the customary and legal culture inherited from their ancestors.¹² From the time of the kingdom, the people of Aceh already had rules of life based on Islamic law, which were later called Qanun. Qanun is a rule or law or it can be said that a regional regulation is implemented specifically by the Government of Aceh which is based on the Al-Quran and Hadith. The formation of Qanuns is not only carried out by the Provincial level government, the people of Aceh are given independence to form Qanuns in each Village (Gampong). Strictly speaking the mandate of the law requires every villages and settlements to form a legal entity with the aim of strengthening customary law and customary justice.13

As for the legal basis for implementing law at the village level in Aceh as contained in Law number 44 of 1999 which discusses the implementation of Aceh's privileges in articles 3 and 6 which explicitly say that the Aceh Region is given the authority to revive adat in

⁹ Ajat Rukajat, Pendekatan Penelitian Kuantitatif: Quantitative Research Approach (Deepublish, 2018), 1.

¹⁰ Jonaedi Efendi and Johnny Ibrahim, Metode Penelitian Hukum: Normatif dan Empiris (Prenada Media, 2018).

¹¹ Rukajat, Pendekatan Penelitian Kuantitatif, 77.

¹² Abdul Gani Isa, Formalisasi Syari'at Islam Di Aceh (Pendekatan Adat, Budaya Dan Hukum) (Banda Aceh: PeNa, 2013), 174–75.

¹³ Majelis Adat Aceh, Pedoman Peradilan Adat Di Aceh (Untuk Peradilan Adat Yang Adil Dan Akuntabel) (Provinsi Aceh: MAA, n.d.), 7.

accordance with Islamic sharia values referring to the Al-Quran and Hadith. Law No. 11 of 2006 concerning Aceh governance in Chapter XIII regarding institutions in article 98 paragraph 2 also emphasizes that customary settlement of social problems is pursued through customary institutions. Implementation of customary life is also regulated in Regional Regulation (Perda) number 7 of 2000 which emphasizes that customary institutions function as a means of control in society whose job is to create security, peace, harmony and public order. Not only as a means of social control, the government at the village level through customary institutions also has duties and obligations to resolve customary disputes, protect and maintain the preservation of customs and traditions, maintain peace and order and prevent the emergence of immoral acts in society. In solving problems, customary institutions make Tuha Peut and Imum meunasah as judges of peace. As regulated in Qanun no 5 of 2003 concerning Gampong Government in the Province of Nanggroe Aceh Darussalam.

Pageu Gampong are two terms in the Acehnese language which mean Pageu which means a fence or barrier,¹⁴ while Gampong is defined as a settlement or village.¹⁵ The function of a Pageu or fence can simply be understood as a protector or barrier, in a fenced-in scope. The term Pageu Gampong when viewed in a linguistic sense can be interpreted as a village fence which has the function of protecting the village from various disturbances. In terminology Pageu Gampong is a form of customary rules that are applied to every village or (Gampong) in Aceh Province. Pagen Gampong has a function as part of a social institution or structure at the village level community that has the authority to oversee regulations at the village level and also plays a role in increasing social control with an attitude of mutual care.¹⁶

The implementation of *Pageu Gampong* is usually carried out in the form of binding rules between fellow Acehnese people in a village commonly known as *Reusam Gampong* which must be obeyed by every citizen.¹⁷ The rules that have been made will always be guarded and maintained by the community together so that if there are indications of violations of these rules, the community will jointly enforce them. Community participation like this is expected to be able to

¹⁴ Razali Abdullah, Kamus Tiga Bahasa (Inggris, Aceh, Indonesia) (Banda Aceh: PeNa, 2009), 15.

¹⁵ Abdullah, 42.

¹⁶ Husda and Zubaidah, "Role Optimization of Indigenous Institutions for Case of Violence Against

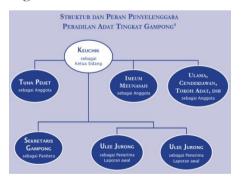
Women and Children (Analysis Study in Aceh and Padang Provinces)," 172.

¹⁷ Syahrizal Abbas, Antologi Pemikiran Hukum Syariah di Aceh (CV. Naskah Aceh, n.d.).

protect and maintain the safety of every villager, which in legal science is called legal awareness.

Referring to Qanun Aceh number 9 of 2008 concerning Fostering Customary and Customary Life in article 13 it is explained that there are 18 cases that can be resolved through adat in a village, including: disputes in the household; disputes between families related to Faraidh; disputes between residents; sordid khalwat; disputes about property rights; theft in the family (petty theft); common property disputes; petty theft; pet theft; customary violations regarding livestock, agriculture, and forests; disputes at sea; disputes in the market; light maltreatment; forest burning (on a small scale which harms indigenous communities); slander. harassment, incitement. and defamation; environmental pollution (light scale); threatening threats (depending on the type of threat); and other disputes that violate customs and traditions.¹⁸ In resolving the 18 cases, the Gampong government must first try to resolve them by using the customs that apply in a village government. As emphasized in paragraph 3.

Traditional justice instruments or those who become judges in resolving various disputes as regulated in the Adat justice manual in Aceh include (a) the keuchik (village head) as chairman, (b) Gampong secretary as clerk, (c) Imeum meunasah as member, (d) Tuha Peut as members and (e) Ulama, traditional leaders / scholars or people who are experts in the field of problems being resolved. The settlement process is carried out in a deliberative, orderly and documented manner and all decisions made can be considered completed without having to reto submit claims the formal justice environment.¹⁹ Efforts to resolve cases or disputes at the village are expected to provide a fair settlement of the cases that are being disputed. However, if the settlement at the level is unable to provide a Gampong settlement, the next settlement can be carried out by a higher institution such as the District Court or the Syar'iyah court. To be clearer on the structure and role of village-level customary justice administrators²⁰ can be seen in the image below:



Pagen Gampong seeks to provide protection, a sense of security and comfort in social life. Pagen Gampong as a rule that is applied evenly at the village level is at least able

¹⁸ "Qanun Aceh Nomor 9 Tahun 2009 Tentang Pembinaan Kehidupan Adat Dan Istiadat," n.d., 9.

¹⁹ Pedoman Peradilan Adat Di Aceh (Untuk Peradilan Adat Yang Adil Dan Akuntabel), 9. 20 10.

to provide legal protection and as a preventive effort against problems that occur at the village or level. In the context of sexual violence or crime, it should be able to provide protection to society from crimes and immoral acts, especially women and children as groups that are categorized as weak..²¹

Cases of Sexual Crime against Children in Aceh

Violence against children is an action or deed that causes harm to children, these losses can be in the form of physical, material and psychological harm to a child. One form of violence experienced by children is sexual violence.²² Sexual violence against children is carried out in the form of sexual activity committed against individuals who have not vet entered a mature age, where the crime is committed by people who are more mature than children by using children as a vessel for sexual pleasure.23 Ismantoro Dwi Yuwono further defines that sexual violence includes activities that threaten, coerce and rape.²⁴ End Child Prostitution in Asia Tourism (ECPAT) defines sexual crimes against children as a relationship between a child and someone

who is older or an adult where the child is used to satisfy sexual needs and is carried out by force, threats, bribes, deception and even pressure.²⁵

Sexual violence against children is a sexual crime directed at children which can be simply defined as all forms of sexual threats and coercion directed at children. In the Criminal Code (KUHP) in article 289 it is stated that whoever commits violence or threats of violence forces someone to commit or allows him to commit obscene acts, he will be punished for damaging decency with a maximum sentence of 9 years. The purpose of article 289 according to R. Soesilo is heinous acts related to sexual lust such as kissing, groping the genitals, fondling the breasts, and intercourse.²⁶

Komnas Perempuan stated that there are 15 categories of sexual violence, namely rape, sexual intimidation which includes threats or attempted rape, sexual harassment, sexual orientation exploitation, trafficking in women for sexual purposes, forced prostitution, sexual slavery, forced marriage including hanging divorce., forced pregnancy,

²¹ Dewi and Amirulkamar, "The Role of Community Characters in Sending Cases of Sexual Violence against Children."

²² Ivo Noviana, "Kekerasan Seksual Terhadap Anak: Dampak Dan Penanganannya," Sosio Informa 1, no. 1 (August 24, 2015): 15, https://doi.org/10.33007/inf.v1i1.87.

²³ Noviana, "Kekerasan Seksual Terhadap Anak."

²⁴ Ismantoro Dwi Yuwono, Penerapan Hukum dalam Kasus Kekerasan Seksual Terhadap Anak (MediaPressindo, 2018), 3–4.

²⁵ Noviana, "Kekerasan Seksual Terhadap Anak."

²⁶ Dwi Yuwono, Penerapan Hukum dalam Kasus Kekerasan Seksual Terhadap Anak, 2.

forced abortion, forced contraception and sterilization, sexual torture, inhuman punishment and sexual nuances, traditional practices with sexual nuances that harm or discriminate against women and sexual control, including through discriminatory rules based on morality and religion.²⁷ However, the 15 categories are not a final decision from "*Komnas Perempuan*". Along with the development of the times, there will be many cases of sexual violence in other forms.

Sexual crimes can have an extraordinary impact on victims of violence, especially children. Child victims of sexual crimes are deeply traumatized. Ivo Noviana stated that sexual crimes have an impact until a child reaches adulthood. Among these impacts include loss of children's trust in adults (betrayal), traumatized sexually (traumatic sexualization), feeling powerless; and the stigma (stigmatization) that is always attached to victims and victims can feel addicted to violent behavior or turn to revenge.²⁸ Mark Yantzi revealed that there were four impacts experienced by victims of sexual crimes, namely the first is the general view that sexual crime is a disgrace that must be kept secret or not discussed. Victims are also often blamed for the sexual crimes they experience. The

second is physical impact which includes bodily injuries or loss of hymen (virginity). The third is the impact of sexuality on the victim's partner if he later marries. Touching or experiencing sexuality with a partner will bring back memories of the traumatic events experienced by the victim. Then the fourth is the emotional impact, namely trauma which results in emotional instability so that victims tend to be insecure. ²⁹

Cases of sexual crimes against children have their own views in the context of Aceh. In the Aceh Qanun Number 6 of 2014 concerning Jinayat Law, forms of sexual crimes are represented by 2 forms of fingering (prohibited acts in Islamic law), namely sexual harassment and rape. Sexual harassment as explained in Article 1 paragraph 27 is an obscene act that is deliberately committed by someone in public, both male and female as the victim. Whereas rape in paragraph 30 is defined as sexual intercourse committed in the vagina or anus of another person or victim by inserting the perpetrator's penis or other object used by the perpetrator or into the vagina or victim's penis with the perpetrator's mouth or into the victim's mouth with the perpetrator's penis, with violence or coercion or threats against the victim. The attention

²⁷ "Instrumen Modul & Referensi Pemantauan," Komnas Perempuan | Komisi Nasional Anti Kekerasan Terhadap Perempuan, accessed June 11, 2022, https://komnasperempuan.go.id/instrumenmodul-referensi-pemantauan-detail/15-bentukkekerasan-seksual-sebuah-pengenalan.

²⁸ Noviana, "Kekerasan Seksual Terhadap Anak."

²⁹ Mark Yantzi, Kekerasan Seksual Dan Pemulihan (Jakarta: BPK Gunung Mulia, 2009), 21–30.

given to cases of sexual crimes against children can be seen from the punishment ('Uqubat) of whipping (Ta'zir). The punishment given to perpetrators of sexual crimes against children is at least 150 lashes and a maximum of 200 times. Meanwhile, for cases that were not children, it was only 125 times and a maximum of 175. This shows that there is a difference of 25 times more lashes were given to perpetrators of sexual crimes committed against children.

Optimization of Pageu Gampong

One of the objectives of forming Pageu is to create security and peace in social life. Therefore, the efforts of the government at the village or level must really be directed towards policies that can make the community safe and secure. The obligation to make a Qanun has been conveyed by the Bireuen District Government in Qanun number 6 of 2018 concerning governance. In Article 1 paragraph 18 it is stated that Qanun is a statutory regulation established by the Keuchik after being discussed and agreed with Tuha Peut (elders in a village). In carrying out the Qanun, the government at the village level is also required to establish a Customary Court to resolve cases that occur in the community.

The mechanism for establishing a Qanun was carried out by the government, Tambo Tanjong, by conducting Juli deliberations with all elements of government and the community, as stated by the headman (Keuchik). The Juli Tambo Tanjong government has also implemented and made a Qanun which will later function as the Pageu. The Gampong Juli Tambo Tanjong government has also implemented and made a gampong Qanun which will later function as the Pageu Gampong. The Juli Tambo Tanjong Village Government has drawn up a Village Qanun in a legal document to resolve problems within the vilage. Pagen Gampong has been active and exists in the midst of the Juli Tambo village community.³⁰

The formation of the Qanun implemented by the Juli Tambo government is in accordance with the Qanun mandate of the Bireuen District Government. Article 156 explains that the planning for drafting a Qanun is determined by the village head and included village elders and in the government's work plan. In drafting a Qanun, the Government must hold deliberations with the community or groups directly related to the substance of the regulatory material to be formulated as stated in Article 158 letters a and

³⁰ Wawancara dengan Geuchik Fadhli Kepala Desa Juli Tambo Tanjong pada tanggal 30 Agustus 2022

b. during the discussion and ratification stage, Village Eldersinvited the government to discuss the draft Qanun which was then ratified as statutory regulations at the village level.

The purpose of forming the Qanun Juli Tambo Tanjong can be seen from the scope of the Qanun implemented in article 3 paragraph: while the purpose of establishing the Qanun can be understood in terms of three objectives, namely:

First, the purpose of forming a qanun is to regulate all matters relating to the orderliness of the Juli Tambo Tanjong community, Juli sub-district, Bireuen Regency.

Second, in addition to regulating public order, qanuns must be implemented by every member of the community and officials who are authorized to make decisions contained in the qanun.

The three Qanuns were made with the aim of creating a sense of security and peace for the community in carrying out their daily activities.

Optimizing *Pageu Gampong* is carried out by increasing the role assigned by the village government in an effort to overcome various problems that exist in the or village. The village government of Juli Tambo Tanjong gave the mandate and duties to the youth to carry out as village.

In cases of sexual violence, the attention of the government of Juli Tambo Tanjong can be seen in Article 14 paragraph 1 of the

Qanun, which states that everyone is prohibited from behaving immorally on the street and in other public places. Further in article 17 which states that every person or entity is prohibited from forming and or holding associations that lead to immoral acts, violence and are normatively unacceptable to the culture of society and Islamic Sharia. The form of sanctions implemented by the government will be decided by the government based on the results of the deliberations. Regarding the resolution of cases of sexual violence, the government directly coordinated with the Bireuen Police. Optimization of Pageu in resolving cases of sexual violence is not carried out directly by the village government with Pageu. Crime and sexual violence is considered a sensitive matter and must be resolved at the police level. So far, the village government of Juli Tambo Tanjong has carried out various activities. So far, the government of Juli Tambo Tanjong has continued to work together with the community and Pagen to supervise and remind each other in order to create a safe, comfortable and prosperous .

Optimizing the role of *Pageu Gampong* has so far attempted to protect every community within a government to the fullest. However, in cases of sexual violence, the government at the level considers that the case is a sensitive case, so it must be handled directly by the authorities. So that the optimization of *Pageu* is carried out more as a

preventive step. Meanwhile, the handling of cases will be handed over to the police, both at the regional police level (Polsek) and at the resort police level (Polres).

Conclusion

The implementation of Pageu Gampong has so far been carried out by several villages in the Bireuen district to prevent sexual crimes against children in Bireuen district in two ways. First, as a preventive measure for officials who are members of the Pageu Gampong, to make and implement the Qanun in a comprehensive manner. Second, by repressive method, namely if there is a sexual crime against children in the territorial area of Juli, then the apparatus who are members of the Pagen will immediately follow up and forward it to the Bireuen Police, apparatus who are members of the Pageu will accompany the victim (child) and the victim's family together to make a report. However, in this study it was found that the role of Pagen Gampong was only limited to accompanying victims without escorting cases until a judge's decision was made. This is due to limited time, budget and manpower on the part of the Pagen Gampong institution .. This gives the impression that the efficiency and role of Pagen in Tambon Tanjung Juli village, Bireuen district is not optimal.

Efforts to optimize *Pagen Gampong* continue to be made to increase public peace, especially cases of violence and sexual crimes. Regarding this case of sexual violence against children, the Juli Tambo Tanjong government will coordinate directly with the Bireuen Police if any cases are found that are free of sexual crimes against children.

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