

Paradara: Offence in Decency in The Perspective of Hindu Law Occuring in Denpasar City

I Nyoman Alit Putrawan¹

¹Universitas Hindu Negeri I Gusti Bagus Sugriwa, Email: alitputrawan.80@gmail.com

Info Article

Received: 6th April 2020

Accepted: 10th July 2020

Published: 31st July 2020

Keywords:

Paradara; Decency of Decency;
Hindu law

Corresponding Author:

I Nyoman Alit Putrawan,

Email:

alitputrawan.80@gmail.com

DOI:

10.24843/JMHU.2020.v09.i02.
p.05

Abstract

The purpose of this study to discuss the *paradara* phenomena that occur in Denpasar and its causal factors as well as sanctions. This research is an empirical legal research conducted in the city of Denpasar. Primary data obtained through observation and interview techniques. The secondary data obtained through library research. The forms of *paradara* cases that occur in the city of Denpasar, among others: rape, sexual abuse of children, and adultery. The factors causing the *paradara* are unwise use of social media, economic factors, family factors and social environment. Sanctions that can be imposed on perpetrators of *paradara* are criminal as stipulated in Article 284 of the Criminal Code and imposition of customary sanctions. In Hindu law, the prohibition of *paradara* is regulated in several sacred libraries, including: *Manawadharmasastra*, such as *Manawa Dharmasastra*, *Sulwasutra*, *Jyotisastra*, and *Purana*. According to Hindu law, women must be respected and get the highest place.

I. Introduction

The formulation of the offense of decency is not easy because the understanding and boundaries of "decency" are quite extensive and can vary according to the views and values held by the community. However, to give a simple picture, it can be put forward the understanding of the offense of decency as an offense related to moral issues.¹ Indonesian criminal law regulates moral offenses in 2 (two) groups of criminal acts, namely "crimes against decency" (regulated in Chapter XIV Book II Article 281-303) and "misdemeanors relating to morals" (stipulated in Chapter VI Book III Article 532-547) which including the group "crimes against decency" Article 281-303 of the Criminal Code and violations of Article 532-547 of the Criminal Code.² Sociologically, the

¹ Lumingkewas, F. (2016). Tindak Pidana Kesusilaan dalam KUHP dan RUU KUHP serta Persoalan Keberpihakan Terhadap Perempuan. *Lex Crimen*, 5(1). p. 21.

² Juita, S. R. (2019). Urgensi Pembaharuan Hukum Pidana Dalam Kasus Kejahatan Kesusilaan: Kajian Tentang Sanksi Pidana Bagi Pelaku Kejahatan Kesusilaan Pada Anak. *Humani (Hukum dan Masyarakat Madani)*, 6(3), 53-71. p. 53-71.

destructive nature of these deeds is sometimes very dependent on public opinion at that time and place.³

Chastity crime is a crime that also occurs in Denpasar. The majority of the population in Denpasar itself are Hindus. It can be seen in the following table:

Table 1. Population of Bali Province by Religion Based on 2010 Population Census

| Regency Municipality | Religion | | | | | | | | | Total |
|----------------------|----------------|---------------|---------------|---------------------|---------------|------------|------------|----------|--------------|------------------|
| | Moslem | Catholic | Protestant | Hindu | Buddhist | Konghucu | Others | Missed | Not Stated | |
| Jembrana | 69 608 | 2 890 | 1 865 | 186 319 | 756 | 2 | 0 | 0 | 198 | 261 638 |
| Tabanan | 26 070 | 2 691 | 1 195 | 389 125 | 1 533 | 14 | 2 | 0 | 283 | 420 913 |
| Badung | 96 166 | 18 396 | 10 234 | 414 863 | 2 475 | 32 | 125 | 1 | 1 040 | 543 332 |
| Gianyar | 18 834 | 1 692 | 667 | 447 225 | 799 | 28 | 41 | 0 | 491 | 469 777 |
| Klungkung | 7 794 | 372 | 138 | 161 589 | 430 | 0 | 0 | 0 | 220 | 170 543 |
| Bangli | 2 185 | 197 | 56 | 212 325 | 113 | 1 | 0 | 0 | 476 | 215 353 |
| Karangasem | 16 221 | 398 | 197 | 379 113 | 334 | 1 | 4 | 0 | 219 | 396 487 |
| Buleleng | 57 467 | 3 132 | 916 | 557 532 | 3 127 | 97 | 15 | 0 | 1 839 | 624 125 |
| Denpasar | 225 899 | 34 686 | 16 129 | 499 192 | 11 589 | 252 | 95 | 0 | 747 | 788 589 |
| Bali | 520 244 | 64 454 | 31 397 | 3247 283 | 21 156 | 427 | 282 | 1 | 5 513 | 3 890 757 |

Source: Bali Provincial Statistics Agency, *Population of Bali Province by Religion Based on 2010 Population Census* Available from <https://bali.bps.go.id/statictable/2018/02/15/33/penduduk-provinsi-bali-menurut-agama-yang-dianut-hasil-sensus-penduduk-2010.html>

Deviations of religious values as well as the weakening of moral values lead to the occurrence of moral crime or *paradara*. *Paradara* is a term in Hindu law equated with the offense of decency, which includes crimes against women whether rape, sexual abuse, promiscuity or adultery. In Hindu law, this crime is regulated in several holy books such as Kautilya Arthashastra, Manawa Dharmasastra and Sarasamuccaya.

Hindu law basically values and protects women. It becomes the basis of protection for women from *paradara*. In Sloka 153 Sarasamuccaya is said "*I kang kaParadaran, sarwadyani tan ulahakena ika. Hawya angulahaken asing amuhara alpayus.*" (Regarding teasing / raping women, you must not do any of these efforts. Do not do anything that shortens life). The word *Paradara* is translated with the word seducing or raping women. The two meanings are not the same even though the word *Paradara* can be interpreted both. From the meaning of the word, *Paradara* is closer than raping because in the last understanding, there is an element of violence while the first is based on free will

³ Sudiby, A. (2019). Kebijakan Kriminal Terhadap, Gay, Biseksual Dan Transgender (LGBT) Dikaitkan Dengan Delik Kesusilaan Di Dalam Kitab Undang-Undang Hukum Pidana. *De Lega Lata: Jurnal Ilmu Hukum*, 4(1), 28-41. p. 31.

between the two parties or one of the parties feels tempted. Nevertheless, both actions are forbidden and despicable.

According to *Sloka 153 Sarasamuccaya*, it is stated that one should never act 1) do *Paradara*; 2) perform actions that can shorten life. Conducting *Paradara* is considered as the cause of the disaster and therefore can shorten life. It was further stated that when someone does *Paradara*, the action shortens life while the touches obtained in the form of physical pleasure with a woman who is not his wife are the same taste with the touch of skin with his own wife. Therefore, there is no point in doing *Paradara's* deeds.⁴

This *Paradara* phenomenon occurs in Bali in particular, especially in Denpasar city, the sexual crime is increasing very rapidly and is carried out with a very great mode to deceive the victims. Denpasar city is listed as the most crime-prone area compared to other districts throughout Bali. Based on Bali Police data, in 2016 the highest number of cases of decency crime occurred in Denpasar with 38 cases (sexual harassment 7, rape 8 cases, prostitution 16) with a total of 47 perpetrators in which the victims of Hindu religion 9 people). The report data of P2TP2A (the Center for Integrated Services for the Empowerment of Women and Children) Denpasar City showed that Denpasar placed the highest rank for crimes against women and children, namely 111 cases with 15 psychological cases, physical 13 cases, sexual 20 cases, 16 cases of neglect, theft of 19 causes, and 39 other cases. Of the 20 sexual cases, there were 19 female victims, with 9 Hindu victims, 7 Muslims and 3 Christians (Denpasar P2TP2A Data Base 2016).

Paradara in the study of The Hindu legal perspective is a crime that violates women's rights. This study will discuss the *paradara* phenomena that occur in Denpasar City, namely the forms of *paradara* that occur in Denpasar and its causal factors as well as sanctions that can be imposed on perpetrators both in the study of national law and customary law of Bali. The study will be discussed in the philosophy of Hindu law.

2. Research Methods

This research is an empirical juridical study that examines the *paradara* occurring in Denpasar City. The research design focuses on the study of national, Hindu, and customary law. Moreover, it is supported by observational case studies. In this research design, the main way of collecting data is by participation observation in which this research is carried out by means of participant observation in the community who have experienced crimes against women (*paradara*) in the Denpasar City area and by observing the behavior of the perpetrators of these crimes, by researching focal point in Denpasar City area. The source of the data comes from primary data conducted in Denpasar City through interview and observation techniques. Secondary data consists of primary legal materials (legislation) and secondary legal materials (books and journals) that are relevant to this study. Secondary data is collected through literature study

⁴ Pudja. (2019). *Sarasamuccaya*. Surabaya: Paramitha. p. 309.

techniques. Data analysis is carried out qualitatively so that the answers could be formulated for each problem discussed.

3. Results and Discussion

3.1. The Forms of *Paradara* in the Perspective of Hindu Law

Denpasar City is the capital of the Province of Bali with a complex pattern of life. As an urban area, the population lives in high heterogeneity. As a city center, various social classes, ethnic groups, religions and regions live in a unified territory; with various goals and interests. Denpasar City as the center of the city, made Denpasar as the center of government, trade, education, culture, tourism and industry. The urban community activities have a tendency to increase the number of crimes against decency.

Discourse about *paradara* has a very broad meaning such as teasing, sexual contact, having sex, even just by imagining having sex with someone who is not a legitimate husband or wife is something that is strictly prohibited or sinful. *Paradara* flourished in the Majapahit era because the views of Archipelago or Hindu Majapahit people were that general welfare was highly dependent on the peace and well-being of the family (his special wife); therefore, any attempt to disrupt other people's families was strictly forbidden. Even in the Religious Law (Majapahit Law) contains a prohibition for men to talk in quiet places with women who are married. The act is called by the term *Stri Sanggrahana* means: touching other people's wives. *Paradara* shows the condition of "anomie" as stated by Durkheim namely the destruction of social order as a result of the loss of standards and values.⁵

Factually, there have been various forms of *paradara* in Denpasar City. The *paradara* forms that occur namely:

1) Rape

Rape is an attempt to vent sexual desire by a man towards a woman in a manner that violates morally and / or applicable law. In this sense, what is called rape, on the one hand can be seen as an act (is the act of someone who forcibly wants to vent their sexual desires), and the other party can also be seen as an event (is a violation of norms and thus also orderly.⁶ Rape is sexual relations which are carried out without mutual will, forced by one party to the other party, victims can be under physical and / or psychological threats, violence, in an unconscious or absent state, are underage, or experience mental retardation and other disability conditions, so that they cannot reject what happened, do not understand, or cannot be held responsible for what happens to them.

⁵ Atmasasmita, R. (2010). *Teori dan Kapita Selekt Kriminologi*. Cetakan Ketiga, Bandung: PT Refika Aditama. p. 59.

⁶ Abdul, W., & Irfan, M. (2011). *Perlindungan Terhadap Korban Kekerasan Seksual*, Cetakan Kedua, Bandung: Refika Aditama. p. 40.

Rape that occurs will have a long psychological impact on the victim. Marlee Layh, Kelly Rudolph, and Heather Littleton of the Department of Psychology, East Carolina University, Greenville, NC, USA state "Rape survivors engage in more risky sexual behavior and report more sexual dissatisfaction and dysfunction than those without a history. However, little research has examined possible mechanisms to explain the relationship between rape and sexual health outcomes."⁷

Provisions regarding punishment for rape under the Law are regulated in Article 285 of the Criminal Code which states "Anyone with violence or threat of violence forces a woman to have intercourse with him outside of marriage, is threatened because of rape, with a maximum imprisonment of twelve years. "

Hindu law considers that raping is a very big sin, in *Sad Atatayi* called *Dratikrama* which is raping. *Sarasamuccaya sloka* 153 states that the act of raping should not be done because it can shorten life. *Manava Dharmasastra III Sloka* 63, states that by having low sex outside the way of marriage / raping, by ignoring the ceremonies of *pawiwahan* (marriage), *Weda*, doing with contempt, not paying attention to the advice of the saints, the big, rich and influential families will fall apart.⁸

2) Sexual abuse

Sexual abuse is a tendency to engage in sexual activities with helpless people such as children, both men and women, with violence or without violence. The definition of obscene in the Big Indonesian Dictionary, interpreted as follows: obscenity is the basic word of obscene, which is dirty and heinous in nature is not in accordance with courtesy. Types of molestation in the Criminal Code include:

- a) Obscene acts of violence (Article 289 of the Indonesian Criminal Code).
- b) Obscene acts with someone in a state of fainting or helplessness (Article 290 of the Criminal Code)
- c) Obscene acts with someone by means of persuading (Article 290 of the Criminal Code) /
- d) Obscene acts with someone by means of deception and power arising from association (Article 293 of the Criminal Code).

Based on the results of interviews with Luh Putu Anggreni, Chairperson of the Center for Integrated Services for the Empowerment of Women and Children (P2TP2A),

⁷ Layh, M., Rudolph, K., & Littleton, H. (2020). Sexual Risk Behavior and Sexual Satisfaction Among Rape Victims: Examination of Sexual Motives as a Mediator. *Journal of Trauma & Dissociation*, 21(1), 73-86. p. 73-86.

⁸ Putrawan, I. N. A. (2019). Delik Kesusilaan Pemerksaan Menurut Hukum Hindu. *Vidya Samhita: Jurnal Penelitian Agama*, 4(1). p. 2.

Denpasar City, in the case of sexual abuse, including rape of minors can be carried out with a variety of modus operandi as follows:⁹

Mode 1

The perpetrator commits the crime of rape of a minor by inviting acquaintance with the child who is going to be the victim, the offender offers something like driving her home or promising something. After the victim accepts the offer, the perpetrator commits sexual abuse.

Mode 2

Perpetrators commit the crime of molestation against minors by means of giving drinks in which the drink has been mixed with drugs that make children go to sleep or faint, these drugs are easily obtained at pharmacies without requiring a doctor's prescription such as Ctm (Chlorpheniramin) or Diazepam and other anesthetics that can cause strong drowsiness. After the victim is unconscious, the perpetrator does obscene acts.

Mode 3

Perpetrators commit molesting minors by means of inviting to play or talk with children and then takes them to a place with the lure will be given some money or gift. In this case, the offender has a soul that is close to children or who is often in the environment of them. After the they accept the invitation, the offender commits sexual abuse.

Mode 4

The mode of perpetrators of sexual abuse that makes children as the objects of sexual violence is by starting from electronic media in the form of social networks such as Yahoo, Facebook, Instagram and others used by the children. After the perpetrators talk or chat with the child victim, then the child is invited to meet with the them. They then lead the victim to a place to commit the offender's evil intentions of sexual abuse.

Mode 5

Perpetrators commit molestation of minors by means of kidnapping children who will be the object of molestation and take it to a place and then the perpetrators carry out their evil intentions to molest the child.

Mode 6

Perpetrators commit molestation of minors by hypnotize or make the victims unconscious with the subconscious force created by the offender. So, the children or victim will always obey what the offenders say that enable them to molest the victims.

Mode 7

The perpetrators commit sexual abuse of minors by means of violence or threats of violence against children or their victims so that the child becomes afraid, and the perpetrators are free to molest their victims (Anggreni, Interview, 27 November 2018).

Those are a number of modus operandi or methods used by perpetrators of sexual abuse in order to achieve sexual satisfaction that is vested in children. The various

⁹ Interview with Luh Putu Anggreni, Chairperson of the Center for Integrated Services for the Empowerment of Women and Children (P2TP2A), Denpasar City in Denpasar on November 27, 2018.

forms of mode carried out by the perpetrators is also caused by a factor that supports the act.

Sexual abuse is an act that is carried out by someone who is driven by sexual desire to do things that can arouse lust, thus causing satisfaction to him. The crime of obscenity continues to grow until now, it can be said that there is no significant change even though the structure and culture of society develops towards the modern direction. The problem of crime is part of social change and not something new, in principle, even though the place and time are different but still considered the same. The increase in crime from time to time is inevitable, due to the form of social change as the driving force. The crime of molestation against children as victims is one of the social problems that is so troubling for the community that it needs to be prevented and remedied. Therefore, this issue needs to get serious attention from all groups, especially criminologists and law enforcement.

3) Adultery

One example illustrating the principle that is contrary to the values living in Indonesian society is stated in the principle of formal legality. The principle holds that to determine whether an action is deemed illegal or as a criminal offense, it must be based on written law or regulations, so that if the action is not regulated in the written law, then the act cannot be considered as criminal acts, even though the legal feelings or values of the Indonesian people view such actions as inappropriate, reprehensible or contradictory / against the legal feelings (values) of the Indonesian people.

Every country whose inhabitants have a real religion and adherents to a belief. Adultery is illegal and the sanctions are imposed. The act of adultery is said to be the source of destruction and the act of adultery is considered to remarry, as mentioned in *Manawa Dharmasastra* VIII.353 "By adultery, it results in the birth of mixed colors between humans; then it causes sin which finally cuts to its roots and causes destruction of everything ", then *Manawa Dharmasastra* V.163 states that "A woman who commits adultery with a man of a higher class, leaving her own husband from the lower class will be despicable in life in this world and named after a woman who remarries even though only adultery "

Hindu law states that relationships made outside a legal marriage will give birth to offspring who are not entitled to inherit and cause destruction in family life. If the Brahmins commit adultery, then the sentence is a death sentence, because they are the protectors of the four castes. Ida Pedanda Gede Wayahan Wanasari as *Sulinggih* (Hindu's highest priest) explains that if a person who had been married and committed an affair then his sins would not be forgiven if he did not make moral improvements until the end of his life. People who fall into this despicable act is said to be going through a process of reincarnation or the process of rebirth of the soul in a different body with a low form (not human), such as leech animals. (interview, 27 September 2019)

The word adultery, a commensurate word in Hindu law, is *Paradara*, which means the wife of another person, what is meant by *paradara* is any indecent act towards another wife. What is considered as an act of adultery is not only sexual relations outside of legal marriage. Giving gifts to another person's wife or husband is also said to be an act of adultery. In the national law, adultery is regulated in Chapter XIV of the Criminal Code, Crimes Against Decency, precisely in Article 284-288 of the Criminal Code.

Rape, molestation of minors and adultery are prominent forms of *paradara* in community life in Denpasar, although there are still other acts of decency that occur. The crime of decency is not only seen as violating the rule of law, but also violates the norms of decency and propriety in society and religious norms.

Some of the holy books of Hindus, especially in the Hindu law books, namely *Manawadharmasastra*, *Sarasamuscaya*, and *Parasaradharmasastra*, *Adi Agama*, *Kutara Manava* consider that sex is something that is sacred. Therefore, sex can only be done if it has gone through a marriage process. In addition, women in Hinduism are highly respected and glorified, because Hindu women give birth to offspring who will continue the continuity of Hinduism. *Manawadharmasastra* III. 56 states that where women are respected, there the gods feel happy, but where they are not respected (abused), no sacred ceremony is rewarded. Thus, if someone is doing *paradara* then misery will be obtained.¹⁰ This statement is reaffirmed in chapter III of *sloka* 57 which reads "where women live in sadness, the family will quickly disintegrate and if women are happy that family will be happy".

Sloka 58 *Manawa Dharmasastra* says "if in a house where her woman is not properly respected, uttering curse words, the family will be completely destroyed as if destroyed by magical power." According to Manu in the book *Manawa Dharmasatra* states that women must be protected because they are a weak figure. Women are created from the left side of the *manu* or the cosmic person, in *Manawa Dharmasastra*. In *Manawa Dharmasastra*, IX *sloka* 5 regulates the husband's obligations towards his wife, namely "*Suksmebyo prasangebhyah Striyo raksyah wicesatah, Dwayorhi kulayoh cokam Awaheyure akaksitah.*" (Special women must be protected from their tendency to do evil, How sad it seems that if they are not guarded, it will bring suffering to both parties.

Manawa Dharmasastra, IX *sloka* 6 then states "*Imam hi sarwa warnanam pacyanto dharmata utamam, Yatante raksitum bharyam bhartaro dhurbala api.*" (By paying attention to the main obligations for all groups, even though the husband is weak, he must always try to look after his wife). From the presentation of some of the *sloka*, we can conclude that women in the perspective of Hinduism are highly exalted. If all people are aware of the greatness of a woman, then crime *paradara* will never happen.

¹⁰ Putrawan, I. N. A., Sirta, I. N., & Sudiana, I. G. N. (2019). *Paradara Dalam Delik Kesusilaan Di Kota Denpasar: Persepektif Hukum Hindu. Jurnal Penelitian Agama Hindu*, 3(1), 80-86. p. 80-81.

3.2. Factors That Cause *Paradara* in the City of Denpasar

Paradara or decency crimes committed against women are caused by various factors. The causes of the *paradara* in Denpasar are the access to social media, unequal economic resources, environmental influences and weak social control.

The rapid development of social media is also because everyone has their own media. If for traditional media such as television, radio, or newspapers, a large amount of capital and a large workforce are needed, then social media is different. Social media users can access it by using the internet network without much fee and can be done alone easily. The biggest social media most often used by teenagers are; Facebook, Twitter, Path, Youtube, Instagram, Kaskus, LINE, Whatsapp, Blackberry Messenger. Each of these social media has a special advantage in attracting many of the social media users they belong to ¹¹

Social media in the form of show, picture, or pornographic text becomes one of the source of *paradara*. For example, in the case of sexual harassment against children. The perpetrators do it because they often watch porn movie. The indicator is the free and easy way in accessing pornographic sites or contents through social media or internet and illegal porn cassette in the market. The mind and act of a person who accesses the porn sites in social media will be influenced indirectly. It influences the perpetrators to do sexual harassment against children. How far the social media can influence the case of children sexual harassment can be seen from the perpetrators and the most used social media they use to search porn sites that will influence them to do sexual harassment.

Social media provides a very wide place to be connected one other. The unwise use of social media can be a way for people who have married to do adultery. The introduction begins in social media and continues in the real word. Brandon T.Mc Daniela, Michelle Drouinb, Jaclyn D.Cravens state "Social media provides one route to behaviors that may be potentially harmful to romantic relationships, such as communicating with alternative partners, which can sometimes create relationship conflict, breakups, or divorce. Limited empirical evidence exists concerning social media infidelity-related behaviors and marital relationships."¹²

The unequal economy causes problems for the community, even though the state guarantees the welfare of its citizens, which is stated in Article 33 paragraph (3) of the 1945 Constitution. Creating prosperity for all citizens is the first and foremost task of every government. The basic idea of this premise starts from the fact that the government has the authority to manage all the resources in the economy, to be used

¹¹ Endah, T., Dimas, A., & Akmal, N. (2017). *Kajian Dampak Penggunaan Media Sosial Bagi Anak dan Remaja*. (Vol. 1, No. 1). Jakarta: Puskakom UI. p. 72.

¹² McDaniel, B. T., Drouin, M., & Cravens, J. D. (2017). Do You Have Anything to Hide? Infidelity-Related Behaviors on Social Media Sites and Marital Satisfaction. *Computers in human behavior*, 66, 88-95. p. 88-95.

for the maximum welfare of its people. The creation of prosperity for all has a lot of rationality. Welfare promotes economic efficiency through the positive externalities it creates.

Welfare will reduce poverty, as a direct and most important implication of meeting the basic needs of every citizen. Welfare also promotes social equality and reduces social inequality. Equality of economic, political, socio-cultural rights, to equal treatment before the law, can only be effectively promoted by creating equal welfare. Welfare will in turn promote socio-political stability, namely when all prosperous citizens are born and inward, and encourage community empowerment towards independence and dignity. According to I Gusti Ngurah Gede, a public figure in Denpasar, states:

To overcome the increasing crime, beside the legal action must be enforced, job creation must be done, so that the younger generation in general has the creativity of channeling talent and interest, government participation must be present in job creation, in addition to being a civil apparatus, the state can open the jobs opportunity through BUMN or BUMD in the region. For example in Denpasar City, many young people are involved and absorbed in both the formal and informal sectors.¹³

Another factor causing *paradara* is broken home. Broken home is a disunity in the family. Broken home can also be interpreted as a family condition that is not harmonious and does not work like a harmonious, peaceful, and prosperous family due to frequent commotion and disputes causing quarrels and end in divorce. It is the breaking up of a family unit, breaking the structure of social roles if one or several family members fail to carry out their role obligations.

Hinduism strictly forbids disunity within the family, moreover separating, because it results in disharmonious relationships between families in which fathers, mothers and children are an inseparable unit. In addition, the environment must support the formation of a harmonious family, so that children born and cared for are children who are *Suputra*, as well as the *pararem Desa Pakraman Renon* governing it, *Pararem No.001/Par-DPR/VI/2017 Pawos 6 Meprekarsa wong tua ipun, semeton/krama mangda ipianak nenten keni pamidanda:*

1. *Wong tua sida meprekarsa uratian lan kasih sayang majeng ring pianak*
2. *Wong tua sauningan ring tingkat perkembangan pianak, saha uning ring cecirin daa truna*
3. *Wong tua sida ngajahin mangda ipianak pageh/disiplin, tanggungjawab, lan sida ngemargiang swadikara/hak lan swadharna/kewajiban dados pakuwuban kaluwarga*
4. *Wong tua sane ngajahin ipianak mangda pageh/disiplin nenten dados antuk kroda/kekerasan*

¹³ Interview with I Gusti Ngurah Gede, a public figure in Denpasar, in Denpasar on November 16, 2019.

5. *Wong tua, prajuru banjar, prajuru desa muang panglingsir desa lan krama desa patut ngawentenang genah/tempat, sarana lan prasarana anggen nincapang kewagedan ipianak gumanti sida kawiguna ring pakeluarga, bebanjaran, desa lan siosan*
6. *Wong tua, prajuru banjar, prajuru desa muang penglingsir desa lan krama desa patut winungu/memfasilitasi geginan ipianak sane becik/positif.*

This *pararem* requires parents to pay attention, give education and affection for their children. Besides, community leaders, parents, and villagers must facilitate young people to be creative, so that juvenile delinquency and broken home do not occur. A husband must keep his wife full of affection because women have a gentle nature and they are very easily influenced by various things and they can easily change their nature. If women are guarded by violence, then they will be formed into a rough figure. A husband must know his wife's instincts well.

The social environment is one of the factors that can influence a person or group to be able to take action and change the behavior of each individual. The social environment that we know includes the family and peer's environment and the neighborhood. The family is a social environment that is first known by individuals from birth. Fathers, mothers, and family members, are social environments that are directly related to individuals, while society is a social environment that is known and that influences the formation of a child's personality, one of which is a game mate. A bad social environment will facilitate opportunities to become perpetrators and also become victims of crime. The crime is something that can be learned from the social environment.

The relationship between family members is generally imbued with an atmosphere of affection and a sense of responsibility; therefore, the family is the smallest social group with a very large influence on the process of socialization and interaction. The role of peers in adolescent association becomes very prominent. This is in line with increasing individual interest in friendship and participation in groups. Peer groups also become a learning community where is the formation of roles and social standards related to work and achievement.

3.3. Sanctions for *Paradara* Perpetrators

Every Indonesian citizen has the right to get legal protection and certainty in Indonesia. Justice and law enforcement are highly expected by the people of Indonesia in order to enforce the law. Law enforcement officers in *paradara*, provide sanctions for the perpetrators of crimes of *paradara* and other sacred objects. Citizens who are victims of *paradara* which includes immoral crimes against women such as rape, molestation, adultery and sexual intercourse are victims of Hindu immorality. The women who are Hindu are entitled to the same legal protection without exception.

Law enforcement towards *paradara* is enforcement of human dignity, especially for women. Dignity is a Roman thought with word *dignitas* meaning "status". It means in the Roman literature that honor and respect should be accorded to those who are worth it. It is also related to the status, reputation one has in society and the special

privileges one is given, but dignity is a virtue that cannot be compared to any other thing in terms of value.¹⁴

The imposition of sanctions is part of the law enforcement framework. The law enforcement against *Paradara* perpetrators is carried out by law enforcement officers according to national law. Perpetrators of crime that develop in the community, can not be left alone. The performance of the police as a law enforcement agency can impose sanctions on the perpetrators of the *Paradara* crime through the judiciary. Various penalties that can be given to the perpetrators of the *Paradara* crime are expected to be a deterrent effect, for them. Criminal sentences for them are in accordance with the provisions in the Criminal Code as described previously. Imposing sanctions for the perpetrators is a form of state responsibility in providing protection for the community.

Consistent law enforcement must continue to be pursued by the Denpasar City Police to restore public confidence in the laws applied in Indonesia, because the community is a factor that plays an active role in supporting the process of law enforcement. The role of law in a free society is "to enforce the truth and justice".

Hindu law means all civil law and ancient Hindu law, as real laws and procedures which are written in *Smerti* and accompanied by explanations and supported by sanctions. Like other ancient laws, Hindu law is mixed with religion. According to Hindu society, the *Dharma* includes not only what is known as a law in the modern understanding of the term, but all the rules, good and bad habits of human actions. As a result, in books or in the *Dharma* of literature we do not only find what is called law in the modern understanding of the term *Dharma* but also relate to other material namely moral and religion.

Hindu law according to the meaning of the word which is actually intended is the law of "religion". The same notions of law in the *Vedas* are *Rta* and *Dharma*. Both the *Rta* and the *Dharma* both mean law in Hindu Law. *Rta* is an eternal law of nature, while *Dharma* is an earthly law, whether applied or not. Other terms about law are *Widhi*, *Dresta*, *Events*, *Religion*, *Wyawahara*, *Nitiswara*, *Rajaniti*, *Arthasastra*, and others. This legal term is a translation of the word *Dharma*. Furthermore, regarding the *Vedas* as the main source of law, we can see from *Sloka* II. 6 formulated as follows "*Wedo'khilo dharma mulam smriti sile ca tad widam, acarasca iwa sadhunam atmanas tustirewa ca.*" (All *Vedas* are the main source of law, then followed by *Smrti* and the behavior of good people, habits and finally *atmanastusti* (self-satisfaction)).

Besides *Manawadharmasastra*, there are many other sources of Hindu law in a separate book in which the position is equivalent to *Manawadharmasastra*, such as *Sulwasutra*, *Jyotisastra*, *Purana*, *Dharma Satra* and others. Hindu law cannot be directly enforced in Bali. Hindu law is only philosophical in nature and provides a code of conduct for Hindus. Hindu law itself cannot be enforced in Bali, but the enactment of Hindu law can be done if Hindu law has been derivated into Balinese Customary Law.

In addition to providing criminal sanctions from judges, perpetrators can also be imposed with customary sanctions. The imposition of customary sanctions has

¹⁴ Sood, A. (2019). Laws Relating to Obscenity & Indecent Representation of Women. *Paripex-Indian Journal Of Research*, 8(9). p. 116.

occurred in the *paradara* case that occurred in Denpasar, namely in the area 03 Banjar Puseh Kangin Sanur, Denpasar, 2015. The perpetrator of molestation was sentenced to prison for 5 years and also subjected to *Sangaskara danda* sanctions in the form of *prayascitta* aimed at cleaning up *niskala* (the noetic). The offender who is a close person must be punished according to the applicable law seeing the impact caused. *Sangaskara danda*, is in the form of legal actions to restore the magical balance (the punishment is in the form of performing religious ceremonies).¹⁵

Pasek Suastika as a religious figure in the city of Denpasar, states that the sentence of 5 years and *Sangaskara danda* was very light, seeing the impact on the victims both on *sekala* (the real) and *niskala* (the noetic) basis. The perpetrators should be punished according to the child protection law which is 15 years imprisonment, while the Hindu law must be applied to the perpetrators not only cleaning sanctions, but also must be given a sanction of *menangaksama* (social sanction), and *ditundung* (expulsion). The perpetrator molested his own grandchild who was the successor to his descendants, he should have taken care of him but he destroyed it. The heaviest sanctions must be given to provide a deterrent effect for the perpetrators and other communities if doing the *paradara* (Interview on 30 November 2019).

The effort to tackle crime, whether it concerns the legal interests of a person, the community or the interests of the country's law, is not as easy as one might imagine, because it is almost impossible for the crime to be eliminated. Evil will remain as long as humans are still on the surface of the Earth, crime will be present at all levels of life. Crimes are very complex in nature, because the behavior of these criminals has many variations, in accordance with increasingly sophisticated developments, is influenced by technological advances, and has an effect on increasing the crime of obscenity, in which the increasingly widespread information through electronic and printed media from all parts of the world that are not through the sensor stage.

4. Conclusion

Factually, there are several cases of *paradara* that occur in the city of Denpasar, including rape, sexual abuse of children, and adultery. Factors causing the *paradara* in the city of Denpasar are the unwise use of social media, economic factors as well as family and social environmental factors. Sanctions that can be imposed on perpetrators of *paradara* are sanctions as stipulated in the Criminal Code. In addition, the imposition of customary sanctions can be also given to the perpetrators.

References

Book

- Abdul, W., & Irfan, M. (2011). *Perlindungan Terhadap Korban Kekerasan Seksual*, Cetakan Kedua, Bandung: Refika Aditama.
- Atmasasmita, R. (2010). *Teori dan Kapita Selekta Kriminologi*. Cetakan Ketiga, Bandung: PT Refika Aditama.

¹⁵ Satriana, I. M. W. C., & Dewi, N. M. L. (2019). Kerta Desa as a Customary Judicial Institution in the Settlement of Customary Conflicts Based on Bali Provincial Regulation Number: 4 of 2019. *Journal of Sustainable Development Science*. 1-7. p. 6.

- Endah, T., Dimas, A., & Akmal, N. (2017). *Kajian Dampak Penggunaan Media Sosial Bagi Anak dan Remaja*. (Vol. 1, No. 1). Jakarta: Puskakom UI.
- Pudja. (2019). *Sarasamuccaya*. Surabaya: Paramitha.

Journal

- Juita, S. R. (2019). Urgensi Pembaharuan Hukum Pidana Dalam Kasus Kejahatan Kesusilaan: Kajian Tentang Sanksi Pidana Bagi Pelaku Kejahatan Kesusilaan Pada Anak. *Humani (Hukum dan Masyarakat Madani)*, 6(3), 53-71. <http://dx.doi.org/10.26623/humani.v6i3.1433>
- Layh, M., Rudolph, K., & Littleton, H. (2020). Sexual Risk Behavior and Sexual Satisfaction Among Rape Victims: Examination of Sexual Motives as a Mediator. *Journal of Trauma & Dissociation*, 21(1), 73-86. <https://doi.org/10.1080/15299732.2019.1675112>
- Lumingkewas, F. (2016). Tindak Pidana Kesusilaan dalam KUHP dan RUU KUHP serta Persoalan Keberpihakan Terhadap Perempuan. *Lex Crimen*, 5(1). 21-27.
- McDaniel, B. T., Drouin, M., & Cravens, J. D. (2017). Do You Have Anything to Hide? Infidelity-Related Behaviors on Social Media Sites and Marital Satisfaction. *Computers in human behavior*, 66, 88-95. <https://doi.org/10.1016/j.chb.2016.09.031>
- Putrawan, I. N. A. (2019). Delik Kesusilaan Pemerkosan Menurut Hukum Hindu. *Vidya Samhita: Jurnal Penelitian Agama*, 4(1). 1-8.
- Putrawan, I. N. A., Sirta, I. N., & Sudiana, I. G. N. (2019). Paradara Dalam Delik Kesusilaan Di Kota Denpasar: Persepektif Hukum Hindu. *Jurnal Penelitian Agama Hindu*, 3(1), 80-86. <http://dx.doi.org/10.25078/jpah.v3i1.820>
- Satriana, I. M. W. C., & Dewi, N. M. L. (2019). Kerta Desa as a Customary Judicial Institution in the Settlement of Customary Conflicts Based on Bali Provincial Regulation Number: 4 of 2019. *Journal of Sustainable Development Science*. 1-7. <https://doi.org/10.46650/jsds.1.1.790.1-7>
- Sood, A. (2019). Laws Relating to Obscenity & Indecent Representation of Women. *Paripex-Indian Journal Of Research*, 8(9). 116-119.
- Sudibyo, A. (2019). Kebijakan Kriminal Terhadap, Gay, Biseksual Dan Transgender (LGBT) Dikaitkan Dengan Delik Kesusilaan Di Dalam Kitab Undang-Undang Hukum Pidana. *De Lega Lata: Jurnal Ilmu Hukum*, 4(1), 28-41. <https://doi.org/10.30596/dll.v4i1.3169>

Website

- Bali Provincial Statistics Agency, *Population of Bali Province by Religion Based on 2010 Population Census* Available from <https://bali.bps.go.id/statictable/2018/02/15/33/penduduk-provinsi-bali-menurut-agama-yang-dianut-hasil-sensus-penduduk-2010.html>