



Check for updates

A study on the resolution of adultery cases within sabunese customary law

Yeni Hadi

Faculty of Law, Universitas Nusa Cendana Jl. Adi Sucipto Penfui, Kupang, Nusa Tenggara Timur, Indonesia

OPEN ACCESS

SUBMITTED 16 October 2024
ACCEPTED 09 December 2024
PUBLISHED 01 January 2025
VOLUME Vol.07 Issue01 2025

CITATION

Yeni Hadi. (2025). A STUDY ON THE RESOLUTION OF ADULTERY CASES WITHIN SABUNESE CUSTOMARY LAW. *The American Journal of Political Science Law and Criminology*, 7(01), 1–4. Retrieved from <https://www.theamericanjournals.com/index.php/tajpslc/article/view/5792>

COPYRIGHT

© 2025 Original content from this work may be used under the terms of the creative commons attributes 4.0 License.

Abstract: Adultery, a significant social and legal issue, is addressed through various legal frameworks, including customary laws that are deeply rooted in cultural traditions. This study explores the resolution of adultery cases within Sabunese customary law, focusing on the practices, principles, and sanctions employed in such cases. Through qualitative analysis of customary legal procedures, interviews with local authorities, and case studies, the research examines how Sabunese customary law defines, addresses, and resolves adultery disputes. The findings reveal a unique blend of restitution, reconciliation, and community involvement in the resolution process, offering insights into the intersection of law, culture, and justice in Sabunese society. This study highlights the role of customary law in shaping social norms and legal practices within the community, providing a deeper understanding of its relevance in contemporary legal systems.

Keywords: Sabunese customary law, Adultery, Legal resolution, Customary legal practices, Cultural norms, Dispute resolution, Restitution, Reconciliation.

Introduction: In the intricate tapestry of human societies, the institution of marriage holds a sacred and pivotal place. It is a union woven with threads of trust, commitment, and shared values. Yet, like any complex tapestry, it can fray and weaken, especially when confronted with the challenges of infidelity. Adultery, the breach of marital fidelity, is a universal issue that transcends cultural boundaries. How societies respond to and resolve cases of adultery reflects not only their legal systems but also their deeply ingrained values, norms, and social structures.

In this context, the Sabunese society of Indonesia provides a fascinating lens through which to examine the resolution of adultery cases. The Sabunese people, who inhabit the eastern islands of Indonesia, have a rich

and distinct cultural heritage. Within their community, customary law, known as "adat," has long played a central role in governing social interactions and maintaining order. Adultery cases, like other disputes, are subject to the mechanisms and principles of Sabunese Customary Law.

This study embarks on a comprehensive analysis of adultery case resolution within the framework of Sabunese Customary Law. It seeks to unravel the intricacies and nuances of how the Sabunese society addresses cases of marital infidelity, exploring the multifaceted dimensions of justice, gender dynamics, and social cohesion that underlie the process. By employing ethnographic research methods, legal anthropology, and interviews with community members, this research endeavors to provide a holistic understanding of how Sabunese Customary Law operates in this particular context.

The significance of this research extends beyond the Sabunese society itself. It offers valuable insights into customary legal systems and their role in maintaining social harmony and order in diverse cultural settings. Moreover, the study of adultery case resolution serves as a microcosm for understanding broader themes of justice, morality, and interpersonal relationships within any society.

As we embark on this journey into the heart of Sabunese Customary Law, we invite readers to explore the complexities and subtleties of adultery case resolution in this unique cultural context. By doing so, we aim to contribute not only to the academic discourse on legal anthropology but also to the broader conversation on the resilience and adaptability of customary legal systems in our ever-evolving world.

METHOD

The process of conducting a comprehensive analysis of adultery case resolution in Sabunese Customary Law involved a multifaceted approach that combined ethnographic research, legal anthropology, and in-depth interviews with members of the Sabunese community. This approach was essential to gain a deep understanding of the intricate dynamics at play in resolving cases of marital infidelity within their cultural framework.

Firstly, ethnographic research was conducted to immerse the researcher in the Sabunese community. This involved spending extended periods of time living among the Sabunese people, observing their daily lives, customs, and traditions. The goal was to develop a contextual understanding of how Sabunese society functions and how Sabunese Customary Law is woven into the fabric of their daily existence. Ethnographic

fieldwork provided critical insights into the role of customary law in resolving adultery cases and its integration into the broader social structure.

Legal anthropology served as the theoretical framework for this study. This approach allowed the researcher to examine the Sabunese legal system from a cultural perspective. It entailed a careful examination of the norms, rules, and practices that govern adultery case resolution in Sabunese Customary Law. By applying legal anthropology, the research could delve into the intricacies of how justice is conceptualized and administered in Sabunese society.

In addition to ethnography and legal anthropology, interviews played a pivotal role in data collection. Interviews with Sabunese community members, including elders, legal authorities, and those involved in past adultery cases, provided firsthand accounts and personal narratives. These interviews were crucial in uncovering the lived experiences, values, and perspectives of individuals within the community. They offered valuable insights into the practical application of customary law and how it shapes people's perceptions of justice and social order.

This comprehensive research process allowed for a nuanced exploration of adultery case resolution in Sabunese Customary Law. It illuminated the complex interplay between cultural norms, gender dynamics, and the pursuit of justice within this unique cultural context. By combining ethnographic research, legal anthropology, and interviews, this study aimed to provide a holistic and in-depth analysis that contributes to our understanding of how customary legal systems operate in diverse societies.

The comprehensive analysis of adultery case resolution in Sabunese Customary Law employed a carefully designed research methodology that combined ethnographic research, legal anthropology, and in-depth interviews. This multifaceted approach was instrumental in gaining a deep and holistic understanding of the processes and dynamics involved in resolving cases of marital infidelity within the Sabunese cultural context.

Ethnographic Research:

The research began with an immersive phase of ethnographic research. The researcher spent an extended period living within the Sabunese community, residing among community members, and actively participating in their daily lives and activities. This ethnographic phase aimed to develop a profound contextual understanding of Sabunese society, culture, and traditions. It included participant observation, participation in community events and rituals, and documentation of customary practices related to

conflict resolution, including adultery cases.

Legal Anthropology:

Legal anthropology provided the theoretical framework for the study. Drawing from established theories in this field, the research focused on examining the norms, rules, and practices governing adultery case resolution within Sabunese Customary Law. It aimed to uncover the underlying principles and cultural values that influence decision-making processes in such cases. This involved a thorough review of relevant legal texts, customary norms, and the historical evolution of Sabunese legal practices.

In-depth Interviews:

To gather primary data and personal narratives, in-depth interviews played a pivotal role in the research process. A diverse range of Sabunese community members, including elders, legal authorities, individuals involved in past adultery cases, and community leaders, were interviewed. These interviews were semi-structured and conducted in a culturally sensitive manner, allowing participants to share their perspectives, experiences, and insights regarding adultery case resolution within Sabunese Customary Law.

Data Analysis:

The data collected through ethnographic research, legal anthropology, and interviews were meticulously analyzed. Thematic analysis was employed to identify recurring themes, patterns, and variations within the data. This analysis aimed to uncover the complexities and nuances of the Sabunese customary legal system's response to adultery cases, as well as its implications for justice, social cohesion, and gender dynamics.

Ethical Considerations:

Ethical considerations were of paramount importance throughout the research process. Informed consent was obtained from all participants, and their anonymity and confidentiality were strictly preserved. The study adhered to ethical guidelines, ensuring respect for Sabunese cultural norms and practices.

By integrating ethnographic research, legal anthropology, and in-depth interviews, this research methodology facilitated a holistic exploration of adultery case resolution in Sabunese Customary Law. It enabled a nuanced understanding of how Sabunese society navigates the complex intersection of justice, culture, and community dynamics when addressing cases of marital infidelity.

RESULTS

The analysis of adultery case resolution in Sabunese Customary Law yielded several noteworthy results.

These findings provide valuable insights into how this unique legal system operates within the cultural context of Sabunese society.

Adultery as a Social Matter: Adultery cases in Sabunese Customary Law are not merely legal matters; they are deeply intertwined with social dynamics. The findings revealed that the community plays a central role in addressing adultery cases. When an allegation of adultery arises, it becomes a topic of discussion among community members, and they often play a part in the resolution process.

Restitution and Reconciliation: Unlike punitive justice systems, Sabunese Customary Law emphasizes restitution and reconciliation over punishment. When an adultery case is brought forward, the focus is on restoring harmony within the family and the community. This often involves negotiations between the involved parties, mediated by community elders or leaders.

Gender Dynamics: Gender dynamics play a significant role in adultery case resolution. The findings indicated that women accused of adultery face particular social pressures and stigmatization. The Sabunese legal system tends to be more lenient towards men in such cases, reflecting traditional gender roles and expectations.

Community-Based Decision-Making: The study revealed that decisions regarding adultery cases are made collectively within the community. Elders and leaders hold considerable influence in these decisions, and consensus-building is highly valued. This community-based approach aims to ensure that the resolution aligns with cultural norms and values.

DISCUSSION

The results of this comprehensive analysis provide a deeper understanding of how adultery cases are resolved within Sabunese Customary Law and shed light on the broader implications for legal systems in similar cultural contexts.

One of the key takeaways from this study is the emphasis on community involvement in resolving adultery cases. This communal approach reflects the interconnectedness of Sabunese society and highlights the significance of social cohesion. It also underscores the potential for restorative justice to address family disputes and maintain harmony within the community. However, it is essential to recognize that community involvement can also lead to social pressures and stigmatization, particularly for women accused of adultery. This aspect raises questions about gender equity and the need for a more balanced and fair approach within customary legal systems.

Additionally, the study's findings underscore the adaptability of Sabunese Customary Law in responding to contemporary challenges. Despite external influences and changing societal norms, the Sabunese legal system continues to serve as a vital mechanism for dispute resolution and community cohesion. This adaptability reflects the resilience of customary legal systems in the face of evolving cultural landscapes.

In conclusion, the comprehensive analysis of adultery case resolution in Sabunese Customary Law offers valuable insights into the complexities of justice, social dynamics, and gender roles within this unique cultural context. These findings contribute to the broader discourse on legal anthropology and customary legal systems, emphasizing the need for a nuanced understanding of how such systems operate in diverse societies. Moreover, they prompt critical reflections on the balance between tradition and modernity, equity in gender relations, and the role of community-based justice in maintaining social order and harmony.

CONCLUSION

The comprehensive analysis of adultery case resolution in Sabunese Customary Law has provided invaluable insights into the intricate web of justice, culture, and community dynamics within the Sabunese society. This study has shed light on the unique approach taken by the Sabunese people in addressing cases of marital infidelity, highlighting several key findings and implications.

First and foremost, it is evident that adultery cases in Sabunese Customary Law are not isolated legal matters but rather multifaceted social issues. The community's involvement in discussing and resolving such cases underscores the interconnectedness of Sabunese society. The communal approach seeks not only to restore the integrity of the affected family but also to maintain social cohesion within the broader community.

Restitution and reconciliation emerge as central themes in Sabunese adultery case resolution. The focus on restoring harmony and balance reflects the restorative justice principles embedded in Sabunese Customary Law. Instead of punitive measures, the system prioritizes negotiations and mediation, aiming to heal relationships and rebuild trust.

However, it is crucial to acknowledge the gender dynamics at play within this customary legal system. The findings reveal that women accused of adultery often face greater social pressures and stigma than men. The leniency shown toward men in such cases reflects traditional gender roles and expectations, raising important questions about gender equity and the need for a more balanced approach within

customary legal systems.

Community-based decision-making is a defining feature of Sabunese Customary Law. Elders and leaders play pivotal roles in facilitating discussions and achieving consensus. This collective approach ensures that resolutions align with cultural norms and values, making them more acceptable to the community at large.

In conclusion, the Sabunese Customary Law's approach to adultery case resolution is a testament to the resilience of traditional legal systems in the face of evolving cultural landscapes. It underscores the adaptability of such systems to contemporary challenges while preserving the core principles of community, reconciliation, and social cohesion.

This study prompts critical reflections on the delicate balance between tradition and modernity, gender equity in customary legal systems, and the role of community-based justice in maintaining social order and harmony. It serves as a valuable contribution to the broader discourse on legal anthropology and customary legal systems, emphasizing the importance of understanding and respecting the diversity of approaches to justice in different cultural contexts.

REFERENCES

- Astuti, G. F. Y. (2015). "Relevansi Hukum Pidana Adat dalam Pembaharuan Hukum Pidana di Indonesia". *Pandecta: Research Law Journal*, 10(2): 195-214.
- Bahiej, A. (2003). "Tinjauan Yuridis atas Delik Perzinahan (Overspel) dalam Hukum Pidana Indonesia". *Sosio-Religia*2(2): 1-21.
- Berlian, S., Andrisman, T., & Warganegara, D. (2019). "Mediasi Penal Melalui Lembaga Adat dalam Penyelesaian Kasus Perzinaan". *Jurnal Poenale*, 7(1): 1-12.
- Brenner, S. (2006). "Democracy, Polygamy, and Women in Post-Reformasi Indonesia." *Social Analysis*, 50(1): 164-170.
- Burns, P. (2007). "Custom, that is Before All Law". In *The Revival of Tradition in Indonesian Politics*: 88-106. London: Routledge.