

Customary Sanctions in the Kitab Simbur Cahaya Ratu Sinuhun Study of Dark Pregnant Women in Indigenous Communities Inland South Sumatra

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Abstract

This article is to analyse the practice of customary sanctions for women who are dark pregnant in the Kitab Simbur Cahaya as practised by the Inland Communities of South Sumatra. Then analyse the reasons why the people of the interior of South Sumatra still apply customary sanctions for women who are dark pregnant. This article is qualitative. The research was conducted field research supported by library research. The object of research was conducted in the inland communities of South Sumatra. The approach used in this research is a case approach. Data collection techniques by means of observation, interviews and documentation. The results of the discussion are, the form of customary sanctions for dark bunting women, namely fines and mbasuh dusun sanctions. The implementation of the mbasuh dusun sanction is by slaughtering livestock in the form of male goats whose bellies are striped with white fur. The blood of the goat is used to wash the hands and feet of the adulterer. Sanctions for adultery perpetrators in the form of mbasuh dusun are customary sanctions that are complaints. Regarding the status of illegitimate pregnant women victims of rape, the Kitab Simbur Cahaya does not explain in detail, but in fact in the inland community, illegitimate pregnant women victims of rape are still given sanctions. The reason why the people in the interior of South Sumatra apply customary sanctions for women who are illegally pregnant is as a preventive measure, as an effort to educate women, while the mbasuh dusun sanction is to avoid all kinds of calamities that will occur in the village.

Keywords: Marriage, *Maqāṣid ash-Sharī'ah*, Nias, Positif Law



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INTRODUCTION

One of the customary laws in Indonesia that still exists today is the customary law derived from the Kitab Simboer Thahaja (hereinafter EYD: Simbur Cahaya) (Asnawi. 2023). This traditional book is a combination of customary law that developed orally in the interior of South Sumatra, with the teachings of Islam (Habib Shulton Asnawi 2022). Kitab ini diyakinisebagaibentukundang-undangtertulisberdasarkansyariat Islam, yang pertama times applied to the people of the archipelago (Amanah 2020). In Kitab Simbur Cahaya in the chapter "Adat Bujang Gadis and Kawin" there are rules for customary criminal practices against adultery perpetrators. Quoting the results of Muhamad Setiawan's research, that the customary sanctions for adultery in the Kitab Simbur Cahaya are in the form of a fine of a certain amount in addition to the sanction of being married and the sanction of mbasuh dusun

(Setiawan 2022). In line with Asep Yudha Wirajaya's research, it is explained that the Kitab Simbur Cahaya regulates customary sanctions against women in the case of kerap gawe, namely if women commit indecent acts or sexual abuse (Wirajaya 2018).

As in this article, the existence of Kitab Simbur Cahaya is still practiced, especially in the inland communities of South Sumatra, namely in the Rambang Tribe area, Karya Mulya Hamlet, Rambang Kapak Tengah District, South Sumatra. Kitab Simbur Cahaya is the law of the land for the people of the interior of South Sumatra, one of which regulates customary sanctions for adultery perpetrators (Amanah 2020). When there is a case of adultery that results in the woman becoming pregnant, in the Kitab Simbur Cahaya the woman is referred to as a dark bunting woman. Dark pregnant women in the customs of the inland community of South Sumatra are subject to customary sanctions (Yusdani 2018).

There are several conditions in which women can be referred to as illegitimate pregnant women, namely when a woman becomes a victim of rape and then becomes pregnant, a woman engages in promiscuity and then becomes pregnant, a woman has a family and then becomes pregnant with a man who is not her husband (M. Anwar Nawawi 2022). The status of an illegitimate pregnant woman, whether the illegitimate pregnant woman is a victim or not, in the inland community of South Sumatra, will still be subject to severe sanctions (Wijaya, Widodo, and Subiyantoro 2018).

The sanction is applied and becomes the authority of the customary tetuah, in the inland community of South Sumatra the customary tetuah is referred to as pasirah or proatin (Berlian 2020). The problem is when women who are illegally pregnant are victims of rape but are still given customary sanctions, even the customary sanctions given are quite severe. The sanctions applied to pregnant women who are victims of rape discretize women, women seem to be the object of crime, women are not seen as victims of crime. The customary punishment applied to the dark pregnant woman is not without basis and purpose. Surely there are meanings or philosophical values contained in it, so why the people in the interior of South Sumatra still apply these rules. There are several studies similar to this research that have been conducted by other researchers, including research by Ilhamudin and Amanah, with the title "Simbur Cahaya Tradition in Ogan Ilir Regency, South Sumatra", this research explained that Simbur Cahaya is still applied by the people of South Sumatra, especially in Ogan Ilir Regency.

One proof of the application of this Book is the implementation of the Quranic tradition for children. As the testimony of a living witness, a traditional Quran teacher, she is named Marliah, she is currently 51 years old (Amanah 2020). Furthermore, research by Muhamad Setiawan, with the title "Review of Jinayat Fiqh on Zina Perpetrators in the Simbur Cahaya Law", this study analyzes the sanctions for adultery perpetrators by pasirah. The crime of adultery in Simbur Cahaya is in the form of a fine of a certain amount in addition to the sanction of being married and the sanction of mbasuh dusun, for zina muhsan, a fine and sanction of mbasuh dusun are applied, while for zina gair muhsan, a fine and sanction of being married are applied (Setiawan 2022). Another study was conducted by Yusdani, with the title "The Book of Simbur Cahaya...", the results of this study concluded that the Book of Simbur Cahaya contains noble moral and ethical values. This book is applied and believed by the people in the interior of South Sumatra, and this book is a book by Ratu Sinuhun. This

research reveals that Kitab Simbur Cahaya contains rules related to teenage relationships. The recommendation of this researcher is the teaching of values and good behavior intended by teenagers in the association in the Kitab Simbur Cahaya should be reconsidered, especially in the current era of regional autonomy (Yusdani 2018).

The focus of the study of this article is how is the practice of customary sanctions for dark pregnant women in the Kitab Simbur Cahaya which is believed and held firmly by the Inland Community of South Sumatra? Why do the people in the interior of South Sumatra still apply customary sanctions for women who are dark pregnant?

RESEARCH METHODS

This article is analyzed qualitatively, which is the result of field research supported by library research. The object of special research was carried out on the inland community of South Sumatra. The approach used in this research is a case study approach. The case occurred in the Rambang Tribe, Karya Mulya Hamlet, Rambang Kapak Tengah District, South Sumatra. Primary data sources in this study are traditional leaders of the inland communities of South Sumatra. Data collection techniques by means of observation, interviews and documentation.

RESULTS AND DISCUSSION

The Practice of Customary Sanctions for Dark Pregnant Women in the Inland Communities of South Sumatra

The practice of customary sanctions for women with dark pregnancy regulated in the Kitab Simbur Cahaya by the people of South Sumatra is currently applied more to the inland community (*uluan*) (Rudiansyah Siregar 2022). While in urban communities the rules of Simbur Cahaya are not strictly enforced because the realization of society is based on the freedom of its members to act and relate to each other, while rural communities are based on a sense of unity among its members (Cahyaningsih 2020).

This is because adultery is considered despicable and is a prohibited act in the customs of the inland community of South Sumatra. So that when women commit this despicable act and arrive at the condition of Dark Bunting in the sense of unclear pregnancy, then the woman is given quite severe sanctions.

The act of dark bunting will be given customary sanctions, namely sanctions in the form of *mbasuh* *dusun* and fines, one of which is providing livestock. The provisions of customary sanctions in the form of livestock, as Article 11 and Article 23 of the Kitab Simbur Cahaya:

If the woman who is pregnant in the dark, and it is not evident who owns the deed, stays in the house of the one who is going to give birth, then the one who owns the house shall be charged with the flour of a sheep. Article 11

*If the wife of a person who is illegitimate and *lakinja* complains, the woman shall be punished with up to 12 *ringgit* and shall wash the hamlet, namely: 1 *kerbo*, 100 *gantang* of rice, 100 *bidji* of coconuts, 1 *gutji* of sugar *nau* 1 *gutji* of *bekasam* and property of responsibility. Article 23*

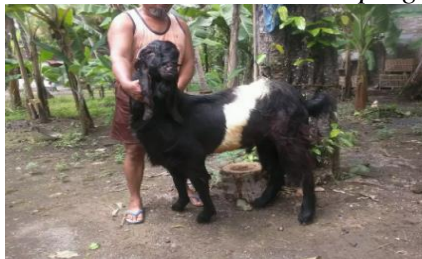
The application of customary sanctions in the form of fines and *mbasuh* *dusun* is still practiced by the Rambang Tribe community, Karya Mulya Hamlet, Rambang Kapak Tengah District. Based on the results of interviews with traditional leaders of the Rambang Tribe (Interviewee I), explaining clearly related to the existence of the application of customary

sanctions sourced from the Kitab Simbur Cahaya, the traditional leaders of the Rambang Tribe explained that:

"The Rambang tribe still applies customary law, and government structures and traditional leaders will impose customary sanctions on people who commit customary violations. Usually the sanctions given are related to violations regarding farming (fields or gardening), besides that sanctions are also given to women who are pregnant outside of marriage or illegitimate bunting. However, the practice of applying customary sanctions in the Rambang Tribe community last occurred approximately two years ago. The sanction given is the mbasuh Dusun sanction. The implementation of the mbasuh Dusun sanction is by slaughtering livestock in the form of male goats. However, not all male goats can be used as a sanction for mbasuh Dusun for illegitimate pregnant women. The only male goat that can be used is a black goat whose belly is striped with white fur" (Interview with Grandfather Mulyadi as a Customary Leader of the Rambang Tribe Community, Karya Mulya Hamlet, Rambang Kapak Tengah Subdistrict, December 23, 2022).

Picture I:

Example of a white-striped black goat as a witness requirement for *mbasuh Dusun* for dark pregnant women



He further explained that:

"After the black goat with white stripes is deemed to have met the requirements for the mbasuh Dusun sanction ritual, then the goat is slaughtered. Meanwhile, the blood of the goat is put into a place called a bowl. The purpose of the goat's blood in the bowl is to be used to wash the hands and feet of the adulterer. The Rambang people believe that washing hands and feet with goat's blood is to cleanse the sins of the adulterer. If the adulterer is not able to provide a black goat with white stripes (economic limitations), then the customary leader asks the adulterer to temporarily leave the local hamlet, and the adulterer can return to his hometown if he can provide a goat for the condition of washing the hamlet for his forbidden act that was once committed" (Interview with Grandfather Mulyadi as a Customary Leader of the Rambang Tribe Community, Karya Mulya Hamlet, Rambang Kapak Tengah District, December 23, 2022).

From the discussion of the practice of customary sanctions for illegitimate pregnant women, as above, it can be reaffirmed that when there is a case of illegitimate pregnant women, the sanction is a fine, one of which is providing livestock, the second sanction is *mbasuh ndusun*. The *mbasuh Dusun* sanction is carried out as an effort to remove bad luck or bad luck due to the forbidden act of adultery, where adultery is considered a humiliation that contains disasters to the hamlet. The community believes that, when there is an illegitimate pregnant woman, then the whole community will not get blessings, meaning that the community experiences fear if in one area they will get punishment from the Almighty Creator. Therefore, to avoid punishment in the form of doom and calamity, it is necessary to purify the hamlet, which is called *mbasuh Dusun*.

The existence of mbasuh dusun sanctions, in the inland communities of South Sumatra, in practice is not necessarily directly given customary sanctions in the form of mbasuh ndusun. The mbasuh dusun sanction is imposed on those who have really been proven to have committed forbidden things (adultery), especially women up to the state of dark bunting. Sanctions for adultery perpetrators in the form of mbasuh dusun are customary sanctions that are complaining in nature. This means that the perpetrator of adultery can only be subject to customary sanctions if first there is a family or party who feels aggrieved to complain first to community leaders or directly complain to local traditional leaders. In the positive legal term of the Criminal Code (KUHP) in Indonesia, it is referred to as a complaint offense. It is more clear that, after being complained about, the process of implementing customary sanctions for adultery perpetrators can be carried out. As the case below:

Case I: The chronology of the case is that SL began to suspect his wife, because his wife was often alone and busy playing with her cellphone with a smiling face. SL investigated his wife's suspicious behavior, over time the husband's suspicions turned out to be true that his wife had had an affair. Then SL reported his wife to the police on charges of adultery, then after receiving a complaint. However, the police did not obtain sufficient evidence to complete the follow-up of the infidelity case, so the police handed over and suggested that the case be resolved by custom in the place where the adultery was committed, through customary law, the wife finally admitted that it was true that she had committed adultery with another man when her husband was not at home. After a customary deliberation, the perpetrator of the adultery needed to be sanctioned mbasuh dusun or not, then the results of the customary deliberation asked the cheating wife to confirm whether she was pregnant or not, after a medical examination, the wife was proven to be pregnant. Then, customary sanctions were determined in the form of a fine of Rp. 2,500,000 and the sanction of mbasuh dusun by cutting livestock in the form of goats (Interview with SL (husband), victim of infidelity, Sarang Elang Hamlet, West Pemulutan Subdistrict, December 04, 2022).

Case II: There was a practice of customary sanctions against women who were illegally pregnant. In this case, the woman was pregnant without knowing who impregnated her (teenage promiscuity). In the Simbur Cahaya customary criminal law system, women who commit adultery on a consensual basis and then become pregnant, or women who become pregnant due to the crime of rape, are still given customary sanctions. The practice of this customary sanction occurs in the inland community of Tambangan Kelekar, Gelumbang District.

The chronology of the disclosure of this case stems from the neighbor of the pregnant woman (initials AK), who saw her moody, pale, weak and vomiting. AK's neighbor then conveyed this suspicion to her parents. After her parents found out, AK's parents confirmed AK to tell the truth about what happened. Then AK admitted that she was pregnant. However, AK was confused when asked who had impregnated her. Because the men who hang out with AK when confirmed were more than three men, some were consensual and some were forced, so AK could not be sure who the man who impregnated her was.

In this case, the researcher was constrained in uncovering in-depth data, due to the factor that the case was a fairly confidential case because it was considered by the family as a disgrace. However, at the time of the researcher's interview, AK as a woman who was

illegally pregnant, in the process was still given customary sanctions, in the form of fines and customary sanctions mbasuh dusun.

In Kitab Simbur Cahaya, especially in rural communities, there is no concept of rape. Indigenous people do not see what causes a woman to become pregnant in the dark. Is it because of rape or other reasons. What is stipulated in local customary law, if a woman is illegally pregnant and it is not known who the man who impregnated her is, then the woman must be given a customary sanction, namely that she must leave her family (out of the village) for three years. If the woman (victim) returns to her home or village, she is required to pay a fine. Based on the results of an interview (Interviewee II) with one of the traditional leaders, explained:

"Indeed, the law in the local custom does not regulate (dark bunting as a victim of rape or because of promiscuity) women who are dark pregnant are still subject to customary sanctions, because maybe in the past there were no cases of rape, so that the Kitab Simbur Cahaya did not regulate it, the customary rules only see women who are dark pregnant because of adultery, meaning that the adultery is an element of the customary crime". (Interview with Mr. SS as a community leader in the interior of Tambangan Kelekar Gelumbang Subdistrict, December 06, 2022)

In addition, not all inland communities understand that the normative source of these customary sanctions is from the Kitab Simbur Cahaya, but there are most people who understand and know that the customary sanctions have their historical source from the Kitab Simbur Cahaya. The people who know the rules of customary sanctions against illegitimate pregnant women are those who are local natives and some traditional leaders also understand the majority of these customary rules.

The reason why the people in the interior of South Sumatra apply customary sanctions for women with dark pregnancies

The existence of the implementation of the Kitab Simbur Cahaya, one of which still exists today, is the customary rules regarding the application of sanctions for women who are illegally pregnant. The sanction given is a fine as well as the sanction of mbasuh dusun or can be referred to as the purification of the dusun. Why do rural communities, especially the Rambang Tribe, Karya Mulya Hamlet, Rambang Kapak Tengah Sub-district, still apply customary sanctions for women who are illegally pregnant? As the results of an interview (Interviewee VI) with one of the local traditional leaders, the reasons are:

"The implementation of customary sanctions for dark pregnant women is nothing but a form of preventive measure, which aims to prevent this prohibited act from happening again. With the application of this sanction, the hope is that it can arouse considerable fear in the soul of a mu'min to do the prohibited act not to be repeated, as well as prevent the community from the bad consequences that might occur". (Interview with Grandfather Siadi as a Customary Leader of the Rambang Tribe Community, Karya Mulya Hamlet, Rambang Kapak Tengah Subdistrict, December 23, 2022)

Picture II:
Interview with a Traditional Leader of the Rambang Tribe



Why women are subjected to sanctions is inseparable from the purpose of the creation of Kitab Simbur Cahaya, this book was created by Ratu Sinuhun, who was the initial spearhead of the birth of the feminist movement in South Sumatra. Ratu Sinuhun is a feminist of the archipelago from the 17th century AD, even Ratu Sinuhun's thoughts are still widely believed by the Malay community to be feminist fighters such as the existence of fines or severe punishment for men who disturb women.

Related to the existence of the application of sanctions for women who are illegally pregnant, this is in line with what was conveyed by a community leader in Dusun Semarang Elang, West Pemulutan District, (Interviewee VII) who explained that the application of customary sanctions for illegally pregnant women is an effort to provide moral education for women.

"The punishment of mbasuh dusun for young people who commit adultery until they get pregnant, aims to make the perpetrators, especially women, be careful in socializing. Women have dignity, so that's why Ratu Sinuhun asks all women to maintain self-esteem, not to be easily deceived by masher men, because in the era before independence, women were oppressed, women as slaves, even women as sexual graters. Hence, through the sanctions for women who are illegally pregnant, this is an effort to educate women to be able to raise their status higher. Because when women become pregnant outside of marriage, the one who is often victimized is the woman herself. This means that this is a thinking education for women to be more careful not to engage in promiscuity without marital ties, let alone leading to adultery and then getting pregnant" (Interview with Mr. BL as a community leader in Elang Nest Hamlet, West Pemulutan Subdistrict. December 04, 2022)

In the event of pregnancy outside marriage (dark bunting), the person concerned is given customary sanctions. As mentioned above, this customary sanction is called "Basuh Dusun", and is applied to perpetrators who violate the rules of the Kitab Simbur Cahaya. Pembasuan Dusun or Cleaning the Hamlet by slaughtering animals, a kerbo and a goat whose meat is distributed to the rural community, besides that, a joint dhikr is also carried out in an open field which is carried out after the Asr prayer, as well as going around the hamlet (paraded) in groups by mentioning that they have committed acts prohibited in religion.

Picture III:

Example of a ritual to ward off bad luck mbasuh dusun by distributing food to



Citing the results of Nurmala's research, that the mbasuh dusun sanction applied to women who are dark pregnant has the aim of maintaining the condition of the village so that it is always in purity and clean, and at the same time so that this forbidden act is not repeated, and also as a repulsion to avoid all kinds of calamities that will occur in the village (Muhtadin, Antasari, and HAK 2022).

According to the old understanding, dark bunting (adultery) is an insult that contains misfortune or disaster to the public (old hamlet), therefore it is necessary to take alms to get rid of bad luck (rejecting bad luck) which is said to wash the hamlet (Zaharuddin and Sharmani 2023). This mbasuh dusun sanction can reduce and even make the perpetrator deterrent, so it is hoped that sanctions like this will be more applied and enforced according to applicable regulations (Zaharuddin and Sharmani 2023). Seeing the association of teenagers today is very worrying, it is not wrong if the sanction of mbasuh dusun as a punishment given to those who violate the law (Taufiq, Pribadi, and Ramli 2023).

CONCLUSIONS

The practice of customary sanctions for women who are illegally pregnant in the interior of South Sumatra is sourced from the Kitab Simbur Cahaya. Until now, it still exists, the practice of its application is currently carried out on residents in the interior region (uluan). The forms of customary sanctions for dark pregnant women are fines and mbasuh dusun sanctions. The implementation of the mbasuh dusun sanction is by slaughtering livestock in the form of male goats whose stomachs are striped with white fur. While the goat's blood is put into a place called a bowl, the purpose is to wash the hands and feet of the adulterer. The sanction for adultery perpetrators in the form of mbasuh dusun is a customary sanction that is complaint in nature. Regarding the status of women who are illegally pregnant victims of rape, the Simbur Cahaya Bible does not explain this, but in fact in rural communities women who are illegally pregnant victims of rape are still given sanctions. The reason for the inland community of South Sumatra to apply customary sanctions for women who are illegally pregnant is as a preventive measure, which aims to prevent prohibited acts from recurring. Another reason, as an effort of ahklak education for women. Another reason is that the mbasuh dusun sanction applied to dark pregnant women aims to maintain the condition of the village so that it is always in purity and clean, in addition to the mbasuh dusun sanction as a repulsion to avoid all kinds of calamities that will occur in the village.

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