



RESEARCH ARTICLE

Legal Protection for Children Born as A Result of Broken Marriage Promises in The Sabu Tribe of Ntt

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ARTICLE INFO	ABSTRACT
<p>Received: My 3, 2024</p> <p>Accepted: Jul 15, 2024</p> <p>Keywords</p> <p>Child protection</p> <p>Protection of illegitimate children</p> <p>Protection of Sabu tribal children</p>	<p>In an ideal world, a legally married husband-and-wife couple receives a child. Not all children are born into married couples, as the facts show. A child born as a consequence of a broken marriage vow may go unacknowledged by the father. Indigenous peoples typically pursue IJK cases through litigation or non-litigation (customary law), viewing the breach of a marriage vow as a disgraceful act. It differs from the Sabu Tribe in East Nusa Tenggara (NTT). The prosecution of individuals who disregarded their pledge to join the Sabu tribe remains unfulfilled. The result is a violation of the rights of newborn infants. Research identifies breaches of children's rights, including the right to education, the right to care and affection from others, and the right to be free from violence. To safeguard the ana bue pa, the government must work in conjunction with various entities, including religious institutions, traditional institutions, NGOs, educational institutions, and traditional institutions.</p>

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INTRODUCTION

The children are in charge of the family and the nation's future. Various collaborative activities frequently highlight the role of children in the family, community, and government. The family eagerly anticipates the arrival of offspring. Ideally, a marriage institution should deliver children. Evidence suggests that not all children are born into a legal marriage, often referred to as illegitimate children. Children born to a woman who is not legally married to the man she has sexual relations with are considered illegitimate. The definition of extramarital relations is the relationship between a man and a woman who subsequently bear children, but their union is not considered a legal marriage in accordance with positive law, religion, and custom (Villacampa & Torres, 2021).

One example is the birth of children from a sexual encounter between a woman and a single man. The man promised to marry his fiancée, but he failed to fulfill his obligations. This occurrence is known as the Broken Marriage Promise (IJK) case. If children are born from the marriage, verbal promises made between a male and another individual in the context of executing a marriage have the potential to cause harm to the woman and the child (Delprato et al., 2017).

Positive law, religious law, or customary law all regulate IJK as disgraceful conduct. This arrangement aims to empower IJK victims, particularly women and children, to assert their legal rights through court litigation, customary non-litigation, and religious methods.

The attitude of the general public, including traditional communities, toward the demand for legal rights for women and children who are victims of IJK is distinct from that of the Sabu tribe in East Nusa Tenggara (NTT). In the past, the Sabu tribe has refrained from prosecuting individuals who violate the IJK. The reason for this stance is that Sabu society has a mechanism in place to protect children who are victims of marriage promises. The Sabu tribe refers to Ana as a victim of Kawain's promise, with the phrase "ana bue pa kepue" signifying a child who fell from a tree stump. The Sabu tribe referred to Ana Bue Pa Kepue's mother as Wobeni Wue, translating to "single mother." (Mannaa, 2020)

One of the factors contributing to the prevalence of IJK cases among women and children of the Sabu tribe is the lack of demand for the legal rights of victims of marriage promises. The government has not disclosed any official data concerning the quantity of ana bue pa kepue. This investigation accumulates dispersed information regarding ana bue pa kepue (Emirza & Bayrak, 2024).

Compassion International, which currently assists children from impoverished families, reported that 486 (14%) of the 3566 children it helped in Sabu Raijua Regency were ana bue pa kepue. The head of Kudjiratu Village, East Sabu subdistrict, Sabu Raijua Regency, estimated that there will be 50 ana bue pa kepue in his area by 2022. Ten churches shared this information. The investigation is based on the following circumstances: 1) Which of Ana Bue Pa Kepue's liberties has the IJK violated? 2) Measures that must be implemented to safeguard ana bue pa kepue.

METHOD

Empirical research employs a methodology to investigate the law in its authentic context, analyze its operation within society, and comprehensively analyze a specific event or situation by gathering facts and refining the concepts it encompasses. Field data was collected at Sabu Raijua Regency. Data was collected through interviews and a literature review (Jaelani & Luthviati, 2021). The resource persons in this research include adult offspring of marriage promise victims (ana bue pa kept), women marriage promise victims (women we), traditional leaders, religious leaders, teachers, and regional governments. This research aims to identify the rights of bue pa kept children who suffer from broken marriage promises within the Sabu tribe and explore potential measures to protect these rights. This perspective aims to offer a comprehensive explanation and representation of how law is applied in society (Ratnawati et al., 2023).

RESULTS AND DISCUSSION

Sabu Raijua Regency, situated in the southern province of East Nusa Tenggara (NTT) in Indonesia, is the residence of most of the Sabu tribe. Due to its proximity to the sea, Sabu Raijua Regency is considered one of Indonesia's most remote regions. It covers an area of 460.47 km². In 2022, the population of Sabu Raijua Regency will be 92,792, with 47,357 (51%) more women than 45,433 (49%) men. Protestants comprise the plurality of the population, with 92,294, Catholics comprising 2,562, Muslims comprising 739, and Hindus comprising four individuals. In 2016, 6,431 individuals, or 7.24% of the total population, adhered to the Jingitui ethnic religion. In its entirety, the population was 88,826 in 2016. Previous researchers have posited that to understand the Sabu tribe, it is necessary to examine it from three perspectives: 1) The value system, 2) the system of lineage, and 3) The patterns of relationships among the residents are also important. The following is an explanation of these three aspects .

System of values. In this context, value is defined as what is valuable and significant, and vice versa. Traditions can express values through symbolic meaning and philosophy. Values manifest as a specific

behavior, serving as a principle or standard in the lives of individuals and groups with diverse interests. There are three distinct ways to illustrate the Sabu tribe's value system (Krivickas et al., 2010).

a) The legend of ancestral kinship. The Sabu tribe perpetually celebrates and contemplates ancestral relationships, viewing them as a "reality" of the entire cosmic order and universe. Pemure is a term that The term "pemure" describes the process of creating, activating, and growing something into existence. To the development of its roots, known as amo. As a result, shoots and other growth occur at the plant's summit. The base, or kepue, is Deo Ama (God the Father, the highest). As a result, people refer to him as Pa Dida and perceive him as invisible. Consequently, the relationship between the base and stalk, as well as everything above. The fundamental characters regard a significant location as a source of supernatural power, upon which they place their trust. The Sabu tribe's beliefs regarding myths are consistent with the function of myths as proposed by Wilkinson and Phipilp. Specifically, myths serve to preserve life and human interactions through rituals, as well as provide a pathway to sanctity in various aspects of life.

b) Rites are social actions and religious expressions that indicate an individual's relationship with the transcendent, the supernatural, and other people. The Sabu tribe's core ritual, unclean geru rai (blaspheming the earth), is performed to commemorate, repair, and purify events and incidents such as birth, marriage, death, soul and spirit purification, house construction, planting, harvesting, harvest delivery, and disease healing. These rituals invite ancestors to preserve their lives. In this context, rites are symbolic behaviors that serve to establish or repair relationships between humans and external forces, including nature and ancestors, as well as to restore relationships between humans.

c) The ethics of unity, togetherness, and harmony: The Sabu tribe interprets the concept of harmony as "conformity" between the cosmos and the cosmic. In the context of ana bue pa kept, the rite of existence serves as a declaration and acknowledgment of who is "owned" and who is "possessed." The Sabu tribe must adhere to ethical standards in their daily lives, which include distinguishing between right and wrong and appropriate and inappropriate. The values and ethos of pamengeru rai classify conflicts and differences into two categories: hot and salty. A ceremony (rite) will serve these elements, cooling and sweetening them simultaneously.

All Sabu individuals are simultaneously members of the matrilineal/hubi and patrilineal/udu groups. The hubi group has a sub-clan named Wini, and the udu group has a sub-clan named Kerogo. Matrilineal groups influence rituals associated with human life crises, such as birth and mortality. The patrilineal/Udu group is involved in the distribution of Udu land and property and inheritance matters. The Sabu Rajua Regency is home to 43 Udu and 104 Kerogo. Kinship ties stem from the duty to support each other, known as aa-ari, signifying a relationship akin to brothers and sisters, encompassing relationships among neighbors (Meyer & Stark, 2022).

The Sabu tribe maintains intimate relationships with one another, including between the Udu and Wini. The value of unity significantly influences the Sabu tribe's existence. Therefore, the Sabu tribe must perform admirable deeds, offer sacrifices to appease God, and uphold social harmony and cohesion by sharing traditional rituals. The communal ethos, rather than the individual, is the governing force of life. Moral values govern life together, known as kako kendi nga penumbra media nga parade. This term refers to supporting one another in life and enduring the ups and downs of life together in love.

The Sabu Rajua Regency Government acknowledges the Sabu indigenous community. According to the Sabu Rajua Regency's Regional Regulation Number 8 of 2022, which pertains to the Arrangement and Empowerment of Community Institutions, Villages/Subdistricts, Village Traditional Institutions, and Communities, According to Article 136, the Sabu Customary Law comprises three components. a) Traditional Law Community Institutions: The Sabu Customary Law comprises six traditional institutions, namely the Seba, Hawu Mihara, Liae, Rajua, Menia, and Hawudimu. b) The Customary Law Community Unitary Territory is equivalent to the

customary law territory. c) Indigenous communities in each customary territory continue to maintain and enforce the customary law (Marek et al., 2024).

The Sabu Raijua Regency Government established the Mone Ama Council in 2022 through Decree (SK) Number 43/KEP/HK/2022. The Mone Ama Council is a collective leadership body responsible for regulating the lives of its residents. The Mone Ama Council position entails the following responsibilities: a) conducting ritual education activities and b) performing traditional rituals in their respective traditional areas, using traditional speech. c) collaborating with the regional administration to ensure successful implementation. The traditional institutions in Sabu can expand their role in resolving conflicts and customary disputes by employing examples from the Riau region, especially Maluku (Morra et al., 2023).

The role of ana bue pa kepue in the Sabu tribe is significant.

In general, Indigenous peoples consider the presence of children to be of great significance within the family, as Indigenous communities intend to preserve and perpetuate the kinship system. Despite the importance of children in traditional communities, the acceptance of children produced from legitimate and illegitimate marriages varies according to customary law. In the same vein, the Sabu tribe. The significance of children in the tribe is a result of the following: a) the frequent occurrence of childbirth-related fatalities in Sabu in the past, and b) the substantial population decline that resulted from disease outbreaks like cholera and malaria in the 1800s. Sabu Island's population declined by approximately 40%, requiring approximately 80 years to regain its previous level. c) In society, women who do not have children are regarded as the subject of slander. d) In relationships between men and women who are single or unmarried, there are no sanctions for women who give birth to children outside of marriage (Jamin et al., 2023).

The Sabu tribe places the descendants of Ana Bue Pa Kepeue in the following order:

a) The presence of children blesses the Sabu tribe and the family. Since the infant is in the womb, giving birth, and growing up, there are numerous prohibitions, taboos, and rites. The objective is to ensure that children develop healthy habits until adulthood. As discussed previously, the context of children as a boon is inextricably linked to the context of Sabu, which has experienced a population decline.

The presence of children is perceived as the custodian of the family and clan, as children are the successors of the family and clan/Edu. In this instance, Ana Bue Pa Kepeue will join her grandfather's clan, which is her mother's clan. The Happo Ana rite/acceptance of new citizens, performed a few days after Ana's birth, commemorates her acceptance as a family member. The tribe will use the dabba ana rite to approve or confirm Ana Bue Pa Kepue as a member. The Tae Loas Rite in Wakung Village, Manggari, NTT, resembles establishing an infant as a tribe member. The traditional (patrilineal) society of Lampung transforms out-of-marriage children into tribal children.

b) According to Sabu customary law, an ana bui pa kept refers to a child who solely has legal (customary) connections to his mother and her family. The child is the exclusive property of the mother's family. Her grandfather's or father's surname follows the mother's. This situation is comparable to other customary laws, in which an illegitimate child is only legally associated with his mother.

c) Ana Bue Pa Kepue possesses the same inheritance rights as her mother's siblings. This entitlement stems from his status as the offspring of his grandparents. Nevertheless, not all blue pakepue individuals are granted privileges during its implementation.

The losses suffered by Ana bue pa kepue were a result of her broken marriage promise

As previously stated, the Sabu tribe does not demand legal rights from women who are victims of marriage promises (women we and ana bue pa kept), nor do they demand legal rights from perpetrators of violated marriage promises. This attitude shapes the losses that Ana Bue Pa Kepeue

endures. The implementation of Law Number 35 of 2014, which amends Law Number 23 of 2002 regarding child protection (Child Protection Law), documents violations and losses of children's rights. Ana bue pa kept has incurred the following losses and rights violations:

a) Ana bue pa kept is not legally related to her father; as a result, she is not entitled to use her father's surname, inherit family property, or use her father's Edu property. According to Tholib Setyadi, a child born out of matrimony in customary law is only legally related to the mother who gave birth to him; he has no legal relationship with his father. Children who are born outside of marriage are still considered fatherless in certain regions. This situation aligns with previous research findings, which indicate that the existence of children born outside of marriage leads to conflict between families and within society regarding their rights and obligations. As long as their father does not recognize them, they do not have the right to inherit from him. This circumstance contravenes children's rights, as Article 14 of the Child Protection Law stipulates that "every child has the right to be raised by their parents. In the event of a child's separation from their parents, they have the right to meet and maintain personal contact with them, receive care and protection, and obtain living expenses, among other rights (Pratt et al., 2024).

b) Ana Bue Pakepue is unaware of her father's identity and does not receive affection or concern from him. In interviews with ana bue pa kepue (adults), they generally expressed that they were extremely depressed and yearned for their father's affection. When they were still in school, they were often sad and wept when they saw their peers being taken to school, and they were accompanied by their father when they received their report cards. He continued to cry during his testimony. Moreover, Ana Bue Pa Kepue (IT) was aware of her father's readiness recently, despite his advanced age of 45 years (Madhani & Baines, 2020).

Experts argue that a father's ability to remain composed in the face of adversity, his enthusiasm for business, his empathy, and his self-assurance reflect his contribution to his child's development of a positive mentality. The absence of a father's involvement in the upbringing of children results in psychological issues, including low self-confidence, disorientation, and impaired decision-making abilities. Losing a father figure at a young age further exacerbates this condition.

This situation constitutes a violation of the rights of minors, as outlined in Article 26 and Article 40 of the Protection Law. Article 26 stipulates that "parents are obliged and responsible for caring for, nurturing, educating, and protecting children; developing children according to their abilities, talents, and interests; providing character education; and instilling moral values in children." Article forty stipulates that "adoptive parents are obliged to inform their adopted children about their origins and their biological parents by taking into account the child's readiness." (Corbit et al., 2022)

c) Ana Bue Pakepue loses her relationship with her mother or women if her mother marries someone else. As a member of the family, Ana Bue Pa Kepeue cannot follow her mother's lead if she marries a man who is not her father. Her involvement in her husband's family makes her an interloper. Upon escorting the mother to her husband's family's residence, a religious figure reported witnessing a mother and child under the age of 10 weeping goodbye.

Specialists assert that the absence of maternal care adversely affects children's development, leading to the following effects: The lack of maternal care can lead to negative emotions, such as feelings of worthlessness and loneliness. 2) poor conduct, including failing to comply with adult directives and social norms; and 3) encountering challenges in establishing relationships with others. 4) Emotional imbalance, including melancholy, anxiety, irritability, and a lack of motivation 5) Feeling a sense of abandonment and a loss of a mentor.

This situation violates the Infant Protection Law, which states that "every child has the right to be raised by his own parents." A child has the right to meet and have personal contact with his or her parents, receive care and protection, receive living expenses, and have other rights if he or she is required to be separated from them (Rodríguez Sánchez, 2022).

d) Teachers classify Ana Bue Pakepue as a child who frequently displays poor school behavior, putting her at risk of dropping out. According to one of the educators, the Bue Pakapue children often exhibit negative behaviors at school, including delay, disruptive behavior toward their peers, and disregard for their assignments. Additionally, some individuals refrain from engaging in social activities with their peers. This is because their mothers must exert considerable effort to provide for them. Ana Bue Pa Kpeue is also prone to dropping out of school because of her mother's financial constraints.

The family is the initial source of stimulation for children's development. However, divorce or separation may result in parents not adequately nurturing and loving their children, leading to negative behaviors like frequently missing classes and disrupting peers at school. These behaviors demonstrate children's desire for attention. This circumstance contravenes Article 9 of the Child Protection Law, stipulating that "Every child has the right to receive education and instruction in the context of personal development and their level of intelligence by their interests and talents."

e) Ana Bue Pakepue is vulnerable to violent incidents. Ana Bue Pa Kepue claimed that their mother had subjected them to violence, including chastisement and beatings, for inquiring about their father. A neighbor once perpetrated sexual violence against one of the female students at Ana Bue Pa Kepeu. Wobeni females are more susceptible to sexual violence if they lack a father, as they are not apprehensive of others, according to the resource person.

f) Ana Bue Pakepue, one of the women, recounted her experience of being repeatedly raped and becoming impregnated during her high school years. His aunt, who lived with them after her mother's death, was the perpetrator. Her uncle was also her aunt's husband. As a result, they evicted him from his home and forced him to stop attending school. He said this incident could not have happened if he had a father because he would have lived with his parents.

The conditions above demonstrate that ana bue pakepue children are more susceptible to acts of violence than children who have fathers. Ana Bue Pakepeu women are more vulnerable to sexual violence incidents than their male counterparts. Acts of violence adversely affect children's lives, both in the immediate and long term.

Article 15, which stipulates that "Every child has the right to obtain protection from sexual crimes," highlights the violation of children's rights in this condition. Article 54 guarantees protection from physical, psychological, and sexual violence to every infant.

The Urgency of Legal Protection for Children Ana bue using pue

The aforementioned circumstance of violation of ana bue pa kepue's rights is an urgent matter that requires attention to guarantee that she can exercise her rights. The infant in the case of IJK is not deserving of the status of being guilty, and as a result, he loses from the perspective of state law and religious norms. This is due to the fact that he was born against his will. Consequently, legal protection must be provided for the legal repercussions that result from an illegitimate child. The objective is to grant him the same privileges as legitimate children. The principle of "equality before the law" is the foundation of this. This principle is enshrined in UUD 45 Article 28B Paragraphs (1) and (2) and Article 28D Paragraph (1), which asserts that "everyone has the right to protection, recognition, guarantees, and fair legal certainty, as well as equal treatment before the law." (Flowers & Zetino, 2024)

Legal protection is fundamentally concerned with the legal assurances that enable an individual to exercise their rights, including both public and private rights. It is crucial to obtain legal protection for children, as they are a vulnerable demographic. The objective of child protection is to guarantee the fulfillment of children's rights, enabling them to live, grow, develop, and participate in a manner that is consistent with human dignity and dignity. Additionally, it is intended to provide protection from violence and discrimination, with the ultimate goal of fostering the development of quality, noble, and prosperous Indonesian children.

One of the national development objectives is the government's emphasis on child protection. As per Article 1 paragraph (2) of Law Number 35 of 2014 concerning Child Protection, "Child protection is: all activities to guarantee and protect children and their rights so that they can live, grow, develop, and participate optimally in accordance with human dignity, as well as receiving protection from violence and discrimination." In the UUP, there are four principles of child protection: non-discrimination, the right to life and survival, the best interests of the child, and reverence for the child. The principle of non-discrimination underscores the necessity of safeguarding all children, irrespective of their status, whether they were born from a marriage or as the result of a broken marriage (Barnert, 2024).

In its efforts to safeguard illegitimate children, the Indonesian Government has achieved a significant legal milestone through Constitutional Court Decision Number 46/PUU-VIII/2010. The decision asserts that Article 43 paragraph (1) of the Marriage Law, which stipulates that children born outside of marriage are only subject to civil relations with their mothers, violates the 1945 Constitution if it is interpreted as erasing civil relations with men, as can be demonstrated through technology or other evidence. This decision serves as confirmation that illegitimate children maintain a civil relationship with their father.

It's important to note that this decision, while significant, does not fully address the issue of prosecuting IJK perpetrators. This is due to the deeply rooted cultural traditions of the Sabu tribe, which do not demand the rights of perpetrators who violate their marriage promises. The Sabu tribe's cultural mechanisms, such as the family and clan's obligation to raise children, are vital. However, the family's limited economic circumstances pose a challenge in fulfilling this obligation (Dall'Oglio et al., 2024).

In light of this circumstance, the government must implement measures to keep the legal protection of ana bue pa. Implemented initiatives include:

- 1) Raising awareness among the Sabu tribe community, traditional leaders, women, and ana bue pakepue about how IJK violates the rights of children and women, leading to their losses. Consequently, the perpetrators must be held accountable for their actions and guided to prevent future occurrences. The Sabu tribe must recognize that the failure to demand a marriage promise is detrimental to women we and ana bue pa kept, creating the potential for similar incidents. Teachers, religious leaders, and regional administrations involved in this endeavor must all participate.
- 2) To ensure that children can continue their education, the Sabu Raijua Regency Government must identify kids whose parents are economically disadvantaged and provide them with access to social assistance from the government. The East Flores Regency Government has implemented an economic empowerment paradigm (Wang et al., 2022).
- 3) The Sabu Raijua district government, NGOs, and religious leaders advocate for traditional institutions to provide significant attention to this issue. The expectation is that we will be able to participate in initiatives to resolve cases and motivate perpetrators to accept responsibility. For instance, in the traditional communities of Lampung and Minahasa in Indonesia, men who perpetrate IJK are subject to customary sanctions.

- 4) The government can develop community-based child protection programs; religious institutions, NGOs, and schools can create community-based child protection programs to provide psychosocial assistance to women and ana bue pa queue. This support is intended to alleviate their social and psychological stress (Livingstone et al., 2024).

CONCLUSION

The attitude of the Sabu tribe, which does not demand the legal rights of women and ana bue pakepeue, is not optimally followed by the responsibility of the family and tribe to protect ana bue pa. This condition causes losses and violations of Anabue Pakepue's rights. The rights of ana bue pa kept that are violated include the right to know the identity of parents, parental care, the right to education, and the right to be free from physical and psychological sexual violence. Protection of ana bue pakepue is an urgent action that needs to be taken. Regional governments need to build cooperation with various parties, such as traditional institutions, religious institutions, educational institutions, and NGOs, to carry out multiple efforts for prevention and treatment.

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