



## Act Of Settlement By Investigators Against Alleged Adultery

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**Abstract:** This study aims to determine the resolution by investigators to the alleged adultery. The method used in this study is an empirical or sociological research methodology. This study used a qualitative approach and sampling using Purposive Sampling and used descriptive analysis techniques. The results of this study show that the settlement of suspected criminal acts of adultery in the jurisdiction of the Gorontalo Police is carried out with Preventive Efforts, namely socialization or counseling in each village and village. Then the Gorontalo Police often patrols to order or prevent acts prohibited by law including adultery behavior and the form of repressive efforts carried out by the police or investigators of the Gorontalo Police is through investigations, arrests, investigations, until it reaches the judiciary which is then decided by the judge. The repressive efforts made by the police are based on the preliminary evidence that exists because this adultery case is a complaint that can certainly be dismissed because of the party being harmed or caught by Tanagan. Investigators must be more courageous in providing stricter and more straightforward law enforcement in terms of cracking down on the crime of prostitution or in other words adultery.

**Keywords:** Investigator; Settlement; Adultery

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### How to cite (Chicago Style):

Haris, R.W., Puluhulawa, M.R.U., Badu, L.W. 2021. "Act Of Settlement By Investigators Against Alleged Adultery" *Estudiante Law Journal*. Vol. 3 (2): 309-320

## 1. Introduction

Life in society in meeting the needs of life often there are crimes and offenses committed by certain people and people who threaten part of the members of society, which in legal science is known as criminal acts. One of the influences of the existence of a criminal crime is that humans who cannot adjust to the development of an increasingly sophisticated technology, many people who use technology make them forget their obligations because they have often participated in the trend in that development. <sup>1</sup>So campaign internet technology yang semakin pesat telah givekan dampak yang sanga tbesar pada masya rakat dunia. Moreover, human beings are destined to succumb to evil.<sup>23</sup>

The Indonesian State System in the norms of the State of law is carried out by the government to regulate its society in matters of personal, family protection from deviant behavior towards one's own dignity, especially towards women called adultery, which is regulated in the criminal law. Adultery is an act that was forbidden by both god's law and man's law long ago. However, in Indonesia, the law that can prohibit adultery is very weak and does not represent the will of society in general.

The criminal law system regarding criminal acts in Indonesia views the delik of adultery as part of the deliberations on decency. This is due to the differences in perspectives and values behind it. The prevailing legal system in a society that still upholds the values of decency. Adultery will be viewed as a form of deed that can depend on the will of each individual. Adultery would be seen as despicable if it was committed in the frame of marriage and not considered a violation of the evils against god's law that must be eradicated. Efforts to reform Indonesia's criminal law, which have been buzzing so far, are expected to make many new changes regarding the weaknesses of criminal regulations regarding adultery as regulated in article 284 of the Criminal Code.<sup>4</sup>

In general, the formulation of the crime of adultery is regulated in Article 284 of the Criminal Code which can be categorized as one of the crimes against decency. Based on Article 284 of the Criminal Code, an act referred to as adultery is an act of intercourse committed by a man and a woman who are both or one of them are married. So that if the act of adultery is committed by a man and a woman who are both not bound by marriage with another person then it does not include the act of adultery. In addition, the crime of adultery regulated in Article 284 of the Criminal

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<sup>1</sup> Dian Ekawaty Ismail, Mohamad Taufiq Zulfikar Sarson. (2021). Criminology Analysis Of Women's As Perpetrators Of Domestic Violence Crimes. *Journal of Law Review*. 3 (3), 58

<sup>2</sup> Mohamad Rivaldi Moha. (2020). The Urgency of Pendaftaran Penyelenggara Electronic System Bagi Pelaku Usaha E-Commerce. *Journal Law Review*. 2 (2), 115

<sup>3</sup>Ende Hasbi Nassaruddin. *Criminology*. (Bandung: Pustaka Setia, 2016), 2

<sup>4</sup> Yuliansyah, Dimas, Revelation. (2021). Police Efforts in Enforcing The Law Terhadap Crime of Adultery. *Journal of Law*. 1 (1), 27

Code is an absolute complaint (absolute klachtdelicten). That is, this criminal act can only be prosecuted if there is a complaint on the part of the aggrieved victim.<sup>5</sup>

The Unitary State of the Republic of Indonesia guarantees the welfare of each of its citizens, including the protection of human rights. The reason is that government policies as stated in laws and regulations are always followed by criminal sanctions and state involvement which is also one of the characteristics of the conflict phenomenon. Furthermore, the form of the legal system also requires people to have love and affection, mutual respect, mutual respect, help, loyalty, honesty, and adequate physical and spiritual support, so that the application of the legal system can run in accordance with the life of society in general. Furthermore, the important point in the preparation of every policy issued by the Government comes solely from the wishes of the people. So that when this does not cause problems and if the policy is not in accordance with the pattern of behavior of the community, then the government must solve a problem with the community itself. Everybody else, including the government, must heed it, by making laws on the basis of natural rights themselves. Therefore, the recognition and confirmation of the state of law, one of its objectives is to protect human rights, meaning that the rights and at the same time individual freedoms are recognized, respected and upheld. Considering that Indonesia is also one of the countries that prioritizes the constitution in every aspect of the life of the nation and state.<sup>678910111213</sup>

Gorontalo, especially in the legal area of the Gorontalo Resort Police, adultery is often carried out. Not only teenagers or young people but also those who are married still commit the act of adultery with not the spouse they married. The police are not a few who carry out patrols to regulate and prevent this act of adultery. Disciplinary patrols are carried out every Wednesday night and Saturday nights, which does not rule out other days. This regulation is carried out in places such as boarding houses, inns, night entertainment venues, and even some hotels that have been used as places for

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<sup>5</sup> Suhartini, Sabekti Rama Syandi. (2019). Settlement of The Crime of Zina Through Mediation Perspectives of Positive Law and Islamic Law. *Journal of Bina Mulia Law*. 4 (1), 74

<sup>6</sup> Hwian Christianto, Michelle Kristina. (2022). Fulfilling The Right Of Education During Covid-19 Pandemic Period: A Comparative Study. *Journal Law Review*. 4 (1), 1

<sup>7</sup> Yudha Chandra Arowana. (2019). Mediation Pathways in Land Dispute Resolution as a Boost to Human Rights Fulfillment. *Journal of Law Review*. 1 (2), 216

<sup>8</sup> Dedi Sumanto, Titin Samsudin, Fikri Asnawi Amiruddin. (2021). The Existence Of The Religious Court In Handling Divorce Cases On The Reason Of Domestic Violence. *Journal Law Review*. 3(2), 228

<sup>9</sup> Nurdin, Princess Handayani. (2019). The Legal Politics of Political Education Regulation By Political Parties. *Journal Law Review*. 1 (2), 146

<sup>10</sup>Fitriyadi, Ahmad Adi. (2020). Differentiation of Refugees And Asylum Seekers In International Refugee Law And Its Relationship To The Principle Of Non-Refoulement. *Journal Law Review*. 2 (2), 127

<sup>11</sup>Daffodils, Dolot Alhasni. (2020). Determination of Legal Protection of Holders of Neighboring Rights. *Journal of Law Review*. 2 (1), 67

<sup>12</sup> Badu, Lisnawaty. (2012). Euthanasia And Human Rights. *Journal of Legality*. 5 (1), 1-11

<sup>13</sup>Fakhris Lutfianto Hapsoro. (2020). Interpretation of the Constitution In Testing Constitutionality To Realize The Living Constitution. *Journal of Law Review*. 2 (2), 145

adultery itself. With the implementation of this patrol, not a few have been found to commit the act of adultery. Without delaying time from the police, they immediately secured and followed up the act into the realm of law.

In accordance with the initial observations made by prospective researchers, data was obtained from 2018-2021 where the number of adultery cases in the Gorontalo Resort Police area has decreased, but not all of them have been completed. The following is the data of the perpetrators of adultery in the father's will of the Gorontalo Resort Police:

**Table 1. 1**  
**Adultery Cases In Gorontalo Regency**

YEAR	REPORT	FINISH
2018	44	25
2019	32	16
2020	17	13
2021	12	9

*Source: Polres Gorontalo, 2021.*

From the description above, it is explained that there are still many reports that have not been completed by investigators of the Gorontalo Resort Police. It can be seen that in 2018 there were 44 cases of adultery and those that were declared complete were only 25, while in 2019 the number of cases was 32 and those that were completed were only 16, continuing until 2020 the number of cases was 17 cases that were completed only 13 cases and in 2021 there were 12 reports of adultery cases and only 9 cases were declared complete. From the table report above, we need to know that there are some cases that are not investigated further because they have resolved the problem in a restorative justice or familial manner.

From this data, it can be seen that the role of investigators in uncovering the criminal act of adultery has not been fully maximized. Due to the large number of unresolved cases, the difficulty of investigators in uncovering cases of criminal adultery that occurred in Gorontalo Regency in the last three years or from 2018-2021 because there are things that are not suitable to get to the stage of further investigation because there is a whistleblower who has not come again, and when he is no longer active, there are also those whose witnesses are lacking or do not meet the investigation procedures, the victims have not arrived again, making it difficult for investigators to follow up on the case. The difficulty of investigators in finding the truth of information is also one of the reasons that it does exist. So that when one matter is not resolved, it will be overhauled by the turn of the year.

As the times develop, it is possible that the problem will continue to grow. Considering that yesterday's matter was not resolved, the perpetrator was not deterred from his actions. The investigators are currently required to immediately investigate the

existing case firmly, responsibly, and thoroughly. If there is another mistake like last year, a notice of dismissal of the case will be made at the direction of the Civic Police (Head of the Investigation and Criminal Unit).

## **2. Method**

In this paper, researchers want to use a type of empirical research, as explained by Mukhti Fajar that empirical research is legal research that will provide a complete understanding of law in the context of norms when applied in a social context.<sup>14</sup> Data collection was carried out interviews with subjects in the study using purposive sampling techniques and using qualitative approaches and descriptive data analysis techniques.

## **3. Investigators' Settlement Action Against Alleged Adultery**

Talking about the role of investigators in solving alleged criminal acts of adultery in the Gorontalo Police Law area has actually been carried out well, but there are several things that are obstacles to this settlement. The lack of information provided by witnesses to investigators is one of several obstacles that have been explained or presented for the results of the interview. The next step in the data analysis process is to carry out interpretation activities of the results of the research, namely connecting the findings of the research results carried out in the field with the theoretical framework (literature review) that has been established from the beginning.

When viewed from the progress of the times, it is not surprising that some people follow the development of technology and westernized culture so as to convey things that are challenged with religious and cultural values. Adulterous behavior is also considered a community disease where the perpetrator is not a legal married couple in the eyes of religion and the State who lacks awareness and understanding that the behavior is not good and is not in accordance with what is taught by religion and existing norms. Then behavior that is not in accordance with the norms or can be called misappropriation of existing norms turns out to cause disruption of the order and tranquility of family life. Such misappropriation is usually stamped by society as an offence and even as a crime.<sup>15</sup>

Regarding this issue, some people feel disturbed by them not reluctant to report to the police in the hope of an effort from the police to be able to deal with this adultery problem and if you look at the authority of the Indonesian republican police as stated in the Law of the Republic of Indonesia Number 70 of 2009 concerning the Police of the Republic of Indonesia, in article 7 paragraph 3 it clearly gives functions to the police to carrying out a process of protection and protection to the victimized

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<sup>14</sup> Mukti Fajar & Yulianto Achmad, *Legal Research Dualism (Normative And Empirical)*, (Yogyakarta: Pustaka Pelajar, 2010), 153.

<sup>15</sup> Bambang Waluyo. *Criminal and Criminal Prosecution*. (Jakarta: Sinar Grafika, 2008), 1

community. Thus, efforts in carrying out that function, must be carried out as well as possible within the framework of effective and efficient law enforcement.<sup>16</sup>

Intended in terms of providing protection to the community related to the sense of comfort and security that must be guaranteed by the police, especially those related to the settlement of suspected criminal acts of adultery, therefore the police or investigators must work optimally to realize the law of the Republic of Indonesia Number 70 of 2009 concerning the National Police of the Republic of Indonesia concerning the Indonesian State Police, article 7 paragraph 3 clearly gives the function to the police to carry out the process of protection and protection to the community, including the Gorontalo Police Police.

In Gorontalo Province, especially in the Gorontalo regency, the police have a responsibility in tackling community diseases in terms of adultery with several efforts made by the police to bring order to these community diseases. The police's efforts in resolving alleged criminal acts of adultery in the legal area of the Gorontalo Police, namely, include efforts;

#### 1. Preventive Efforts

Preventive efforts are preventive measures so that there is no violation of applicable norms, namely by trying to prevent factors of intention and opportunity from meeting so that the situation of KAMTIBMAS is maintained safe and controlled. Preventive efforts by the police are a form of tasks to maintain the security and control of the community and prevention which is carried out early through educational activities, namely by conducting socialization or counseling to the community with the main goal of creating an awareness not to do an act that will later harm oneself.<sup>17</sup>

Based on the explanation above, researchers can conclude that preventive efforts are the initial efforts made by the Gorontalo Police Police to prevent adultery behavior. Efforts are made in the preventive countermeasures stage, namely instilling good values and norms into a person, but we must return to each other because what can change a person's behavior is oneself. This preventive effort is indeed more emphasized to provide self-awareness with the aim of crossing the desire to commit adultery because according to researchers this adulterous behavior can cause a breakdown of a person's household and will also get a bad view of the surrounding community if caught

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<sup>16</sup> Mohamad Risky Alhasni, et. All, (2020). *Assessing the Role of The Police In Preventing Criminal Acts of Obscenity Against Minors*, Le Journalgalitas. 12 (2), 114

<sup>17</sup> Dela Ware Ranto Kaya. (2016). The Role of the Police in Efforts to Prevent Ding Dong Gambling Crimes /Slot Machines In The Mandau Sector Police Jurisdiction. *Jom Journal, Faculty of Law*. 3 (2), 8

or known to have committed adultery with those who are not their legal husband or wife.

The existence of an adultery case in Gorontalo regency made the Gorontalo police make efforts to uncover cases of criminal adultery that occurred in Gorontalo regency. The National Police in terms of enforcing the law is really in a stable and consistent state based on the duties and functions of the national police, as stipulated in law No. 2 of 2002 concerning the Police of the Republic of Indonesia. Based on the results of an interview with AIPDA S. DALE, SH. As the head of the CID unit of the PPA of the Gorontalo Police, he said that efforts to overcome adultery perpetrators were carried out using several approaches, including,<sup>18</sup>

a. Providing Counseling Socialization

The Gorontalo Police department provides socialization or legal counseling in each village, in each village related to the impact of domestic violence. One of the causes of domestic violence is adultery or infidelity on the part of the husband or wife. The Gorontalo Police Department cooperates with the Legal Section of the Regional Secretary of Gorontalo Regency to provide legal counseling to the community.

b. Conducting Patrols

The Gorontalo Police department conducts routine patrols every Wednesday and Saturday night, occasionally in conducting patrols the Gorontalo Police in collaboration with the Indonesian National Army (TNI) unit and the Pamong Pradja Police unit to minimize the number of adulterers in Gorontalo regency.

2. Repressive Efforts

Repressive Effort is one of the efforts aimed at someone who has fallen into bad or negative things. And minimize it again to do positive things. This action is a series of efforts to prevent a criminal act that has occurred and actions taken by the Police or investigators with the aim of cracking down on violations of norms in order to cause a deterrent effect on the perpetrators.<sup>19</sup>

The form of repressive efforts carried out by the police or investigators of the Gorontalo Police is through investigations, arrests, investigations, and samapai in the judiciary which is then decided by the judge. The repressive efforts made by the police are based on the preliminary evidence that exists because this adultery case is a complaint that can certainly be dismissed because of the aggrieved or caught party. Because to make an arrest until it is continued in the investigation process, it must be in accordance with article 16 paragraph (1) of Law Number 2 of 2002 concerning the National Police of the Republic of

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<sup>18</sup> Interview with AIBDA S. DALE, SH. Head of the CID Unit of the PPA of the Gorontalo Police

<sup>19</sup> Dela Ware Ranto Kaya, *Op. Cit* 9

Indonesia and if the evidence is sufficient, the case is transferred to the prosecutor's office. This repressive effort was carried out in order to provide sanctions for the perpetrators of the criminal act of Adultery. Based on the results of an interview with AIPDA S. DALE, SH. As the head of the CID unit of the PPA Gorontalo Police:<sup>20</sup>

"When the investigator receives a report or there is a reported case, it is clear that the investigator's action is a legal process with reports from the victims, be it from the husband or wife who feel aggrieved, it remains in the legal process. The article element of adultery is to have copulation or bodily relations between men and women. And the one who commits copulation is perhaps unless caught, for it is impossible for anyone who performs the copulation to ask one to see the act of adultery still the adulterer will look for quiet places that no one else will certainly see. And indeed, in the process of this adultery case, there are obstacles in the evidence of witness statements, especially if there is a suspect who is suspected of committing adultery, he does not admit his actions because there are also suspects who strictly do not admit their actions. Unless the investigator obtains other evidence in the form of a letter which for example there is a marriage certificate".

Based on the explanation above, it can be understood that the investigator has a very important function and role in efforts to overcome adultery behavior both preventively and repressively. Conducting patrols and security and services to the community are essential tasks in preventive measures, the target of which is to eliminate or at least overcome and minimize the occurrence of adultery and infidelity in Gorontalo regency. Any countermeasures cannot promise with certainty that a deviant act cannot be repeated or will not appear again other deviant acts, but nevertheless these countermeasures must still be carried out to better ensure the protection and welfare of the community.<sup>21</sup>

If you refer to what Prof. Fenty Puluhulawa said in his writings that the government through the law has given a point of departure for the judiciary, which is to be done for the sake of justice based on the Almighty Godhead.<sup>22</sup> Quoting as said by Fence M. Wantu in his Journal that the Essence of justice is something of judgment from a person to another, which is generally seen from the party who receives treatment only. quoting as said by Suwitno Yutye

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<sup>20</sup>Interview Results with AIBDA S. DALE, SH. Head of the CID Unit of the PPA Gorontalo Police, on Tuesday, May 17, 2022, at 13.00 WITA

<sup>21</sup> Aniza Lakoro. (2020). Weak Police in Handling Online Lottery Gambling Crimes. *Journal of Legality*, 13 (1), 35

<sup>22</sup> Fenty Puluhulawa, Lusiana M, Tujow, Sutrisno. (2020). Application of the Principles of Justice, Legal Certainty and Expediency in Judges' Decisions. *Journal of Gorontalo Law Riview*. 3 (2), 174



Imran that Justice serves as a guideline to distinguish between just and unjust acts elements of the aspect of justice can be contained in the substance.<sup>2324</sup>

In addition to the role of the investigator carried out, researchers hope that there will be good communication between married couples, both outwardly and inwardly. So that it can reduce the intention to carry out infidelity or adultery. And researchers hope that the awareness of adulterers will be more aware so that the relationship with the family can be well established. Lack of communication between families can weaken family ties, as well as lack of regularity and intensive contact between families can result in weakening of family ties or *extended family* ties so that it is undeniable to have an impact on the harmonization relationship between the two husbands and wives. Therefore, harmonization between the family environment is needed in order to effectively overcome deviant behaviors carried out by a person.<sup>25</sup>

#### 4. Conclusion

The settlement of alleged criminal acts of adultery in the jurisdiction of the Gorontalo Police is carried out by Preventive Efforts carried out by the Gorontalo Police, namely socialization or counseling in each village and village. Then the Gorontalo Police often patrols to order or prevent acts prohibited by law including adultery behavior and Repressive Efforts are one of the efforts aimed at someone who has fallen into bad or negative things. And minimize it again to do positive things. The form of repressive efforts carried out by the police or investigators of the Gorontalo Police is through investigations, arrests, investigations, and samapai in the judiciary which is then decided by the judge. The repressive efforts made by the police are based on the preliminary evidence that exists because this adultery case is a complaint that can certainly be dismissed because of the party being harmed or caught by Tanagan.

Investigators should be more courageous in providing stricter and more stringent law enforcement when it comes to cracking down on the crime of prostitution or in other words adultery. This activity is a despicable act in the eyes of Religion and certainly injures the customs in the Gorontalo area in particular. Therefore, law enforcement, especially all *stakeholders*, must act decisively and seriously in dealing with crime to ensure social welfare for their communities.<sup>26</sup> The improvement of public welfare facilitated by this law is certainly synergistic with Subekti who has the idea that "the

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<sup>23</sup>Fence M. Wantu. (2013). Constraints of Judges in Creating Legal Certainty, Justice, And Expediency In Civil Courts. *Pulpit Journal of Law*. 25 (2), 206

<sup>24</sup> Suwitno Y. Imran. (2021). The Urgency Of Regulation Of The Ultra Qui Judicat Principle In Criminal Judgments. *Journal Law Review*. 3 (2), 398

<sup>25</sup>Mohamad Rusdianto U. Puluhulawa. ett. All. (2019). Criminal Policy in Overcoming Crimes using Wayer Arrows By Children In The City Of Gorontalo. *Juridical Journals*. 6 (2), 102

<sup>26</sup>Ariefulloh, Abd Asis, Maskun. (2019). The Dilemma of Imposing Traffic Offence Sanctions Against Children. *Journal of Law Review*. 1 (2), 198

law is dedicated to the direction of the state which in essence is to produce glory and joy for its society.<sup>27</sup>

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<sup>27</sup> Jufryanto Puluwulawa, Mellisa Towadi, Dan Vifi Swarianata. (2020). Legal Protection of Leato Underwater Sites / Japanese Cargo Wreck. *Journal of Legal Reform*, 24 (2), 201

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