

Palaku's Position in the Traditional Marriage of the Dayak Muslim Community in Tewah District, Gunung Mas Regency

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ABSTRACT

The Dayak Muslim community in Tewah District, Gunung Mas Regency is sometimes quite burdensome for some men with the high value of the act (maskawin) so that the prospective groom is not able to fulfil it, even though this behaviour is chosen by the Tewah community as a legal foothold in the marriage tradition. This research aims to focus on the position of the perpetrators in the customary marriage of the Muslim Dayak community in Tewah District, Gunung Mas Regency, the amount of the perpetrators in the customary marriage of the Muslim Dayak community in Tewah District, Gunung Mas Regency and the perpetrators in customary marriage in Tewah District, Gunung Mas Regency are determined in the form of land. This research includes empirical research with the type of legal sociology. It is studied through a socio-legal qualitative approach which is analyzed through the theory of Legal Certainty. The results of this research are: the position of the perpetrator in the Dayak customary marriage is first, the position of the perpetrator as a dowry, second, the position of the perpetrator as a condition, third, the position of the perpetrator as a symbol of self-esteem. The implications of these findings are the need for a balance between traditional values and the economic ability of the prospective groom, as well as dialogue to adapt customary practices to current socio-economic conditions. This study demonstrates the importance of flexibility and adaptation in traditional practices to reduce excessive financial burden on individuals.

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1. Introduction

Marriage is a condition that must be done by couples who want to build a family. So with a marriage, the couple will be considered legitimate by the state and society. Indonesia as a country of law, has rules that regulate marriage. Marriage Regulations are regulated in Law No. 1 of 1974 concerning Marriage. Based on Article 1 of Law Number 1 of 1974 concerning Marriage which applies comprehensively to the people of Indonesia, marriage is a bond of birth and mind between a man and a woman as husband and wife with the aim of forming a happy and eternal family (household) based on the One Godhead (Hanifah, 2019). Marriage according to Customary Law is a bond between a man and a woman to form a household that is carried out in a customary manner by involving the families of both brothers and relatives (Abadi, 2021).

Marriage is an agreement (*akad*), but the meaning of the agreement here is different from the agreement as stipulated in Book III of the Civil Code. Marriage is an agreement whose purpose is to realize happiness between both parties (husband and wife), is not limited to a certain time and has a religious nature (there is an aspect of worship), even though it is not a marriage if the inner birth bond is not happy or the marriage is not eternal and not based on the One Godhead.

In general, based on Islamic law, marriage ceremonies are always accompanied by a series of conditions and pillars of marriage that must be met. The pillars of marriage are part of the essence of the continuity of marriage, something that must be there to determine whether a marriage is valid or not. The pillars of marriage itself have 5, namely: the bride-to-be, the groom-to-be, the guardian of the bride-to-be, two witnesses, and the shighat of the ijab of the wali and the qabul that is muttashil with the ijab of the husband. Without the essence of the marriage or one of the pillars is defective, for example, the groom or the bride or the guardian or the witness or the shighat, then marriage cannot be carried out. The condition of marriage is something that is certain or must exist but does not include the series, as well as dowry which does not have to be mentioned in the marriage contract and does not have to be submitted at the time of the contract (Mahmudi, 2021).

Regarding dowry, according to Article 30 of the KHI, dowry must be paid by the groom to the bride with the amount, shape, and type agreed upon by both parties. The obligation to hand over this dowry causes the husband to sin if he does not hand it over. The obligation to submit this dowry is contained in the words of Allah SWT. Q.S. An-Nisa Verse 4 that, "and give mascot (dowry) to the woman (whom you marry) as a gift of willingness. Then, if they give you a part of it with pleasure, accept it and enjoy the gift with pleasure."

So, based on the explanation above, it can be concluded that Islamic law does not regulate the minimum value of a dowry, because the amount of a dowry is left to the agreement of the prospective groom and the bride-to-be. As long as they agree, of course, the dowry is valid no matter how much it is. The most important thing is not to make dowry a thing that makes marriage difficult (Wirdayaningsih et al., 2020).

The purpose of dowry is to realize true love that will not be shaken even though life problems come one after another, or even though there are often mistakes between husband and wife (al-Bahrani, 2007).

The meaning of dowry if associated with traditional Dayak Muslim marriages in Central Kalimantan is known as *palaku*. *Palaku* in the context of customary marriage is a maskawin. *Palaku* (maskawin) is a payment intended for the bride that must be paid by the groom as a guarantee of life for the bride later. Therefore, this *act* must absolutely exist and is the main condition of marriage from the first (Telhalia, 2017).

In the past, *the perpetrator* was paid by handing over a *balanga*, which is a Chinese crock that has a high value. If there is no *balanga*, it can be replaced with a *garantung* (gong). However, in the next development, there was a shift in the value and shape of the hammer, which was in the form of a piece of land. This land can be a vacant plot of land, or in the form of a rattan orchard, fruit orchard, or rubber orchard (Puspitawati, 2019).

In later developments today, generally this behaviour is in the form of a piece of land. The value of land in *the* traditional Dayak (maskawin) varies, depending on where the land is located. But basically the value of this piece of land is quite large today. The problem is sometimes quite

burdensome for some men with the high value of the *behavior* (maskawin). Basically, this *palaku* can be cashed out, although most of these people choose the land to be used as a *palaku*.

Based on the description above, the author is interested in studying and researching further in the article written in the form of the title: "The Position of *Palaku* in Traditional Marriage in the Dayak Muslim Community in Tewah District, Gunung Mas Regency"

2. Materials and Methods

This research is qualitative research, employing a procedure that produces descriptive data in the form of written or spoken words from people and observed behaviours. Kirk and Miller define qualitative research as a particular tradition in the social sciences that fundamentally relies on observations of people in their own region and relates to those people in their language and terms.

Data will be collected through in-depth interviews, participant observations, and document analysis. Interviews will be conducted with various stakeholders, including community leaders, married couples, and local officials, to gather diverse perspectives on the tradition of maskawin. Participant Observation: Researchers will immerse themselves in the community, participating in and observing daily activities and rituals related to marriage customs. This will provide a deeper understanding of the context and nuances of the tradition.

Document Analysis: Relevant documents such as local regulations, historical records, and community bylaws will be reviewed to understand the formal and informal rules governing the practice of maskawin. Data Analysis: The collected data will be analyzed using a qualitative approach, specifically thematic analysis, to identify common themes and patterns. The analysis will focus on understanding the roles, perceptions, and impacts of the maskawin tradition on the community.

Validation: To ensure the credibility and reliability of the findings, triangulation will be employed by cross-referencing data from different sources and methods. Member checking will also be conducted, where participants review and provide feedback on the findings to ensure accuracy. This comprehensive qualitative approach allows for an in-depth exploration of the social and cultural dynamics surrounding the maskawin tradition in the Dayak Muslim community in Kecamatan Tewah, Kabupaten Gunung Mas.

3. Results and Discussions

Definition of *Palaku* in Traditional Marriage

Marriage dowry in the people of Central Kalimantan is known as Palaku. Palaku is from the root word "laku" which means to ask. Palaku means request. In the context of customary marriage, what is meant by palaku is maskawin (Dlaifurrahman et al., 2023). The term palaku is a special term used by the Dayak people in Tewah District. This maskaw is generally in the form of a piece of land given by the husband at or before the marriage procession to the wife as a condition of marriage (Japar et al., 2021).

The existence of the provision of a marriage act makes it a *way of hadat* or a condition to achieve a goal, namely an ideal marriage in an indigenous society. Palaku plays an important role in Dayak society related to traditional marriage because there is an obligation in terms of fulfilling the behaviour imposed on the prospective husband (Ali & Jeandry, 2019; Rahman, 2022).

The understanding of the perpetrators in the Dayak community, in general, is more inclined to

the term maskawin, this is not an exaggeration when viewed from the amount of property or objects that are the object of the giving of the act, as well as the obligation to fulfil it, namely when the perpetrator is issued by the prospective husband to the prospective wife which functions as a condition for marriage, whose purpose is to be intended for the individual woman or her family as a symbol of giving marriage (marriage portion) which similar to the mascot in Islamic law, which has been received by the community in most areas with a parental kinship system (bilateral) in general (Bakara et al., 2020).

1. Origin of Palaku,

About three hundred years ago in the village of Tumbang Miri, it is said that a couple named Damang Nuhun and Nyai Rentai lived. They are descendants of Kajai in Tumbang Miri which is the origin of Tetek Tatum. They both lead around 300 residents. His people are obedient and obedient to both of them because they always think about the welfare and prosperity of their people. The news of the arrival of the Dutch to this area to colonize received a strong challenge from the residents and they were determined to eradicate it. To face all possibilities that happen. Damang Nuhun and his wife invited their villagers to move to a new place where they could live safely. They moved to the middle of the Riam Hiram area in Kahayan Hulu. The place is indeed strategic as a defensive fortress. If people enter the upstream area of Kahayan, there is no other way but to pass through the mud, where people have to walk along the rocks that emerge from the surface of the water which is very hard and dangerous (Telhalia, 2017).

After this relocation of settlements, they rearranged their lives, arranged order and resistance and regulated the order of their country's government. Daman Nuhun chose Tingang Mayan Ut Kahacan and Karlawot Mating Uut Kaminting who were given the task of organizing and leading the youth to work for defense and resistance against Dutch soldiers. Other residents are in charge of providing food, taking care of livestock and making clothes. In essence, they have no difficulty managing their household economy because of the natural and environmental factors that they can take advantage of. Some time later Dutch soldiers came to this area by passing through Riam Hiram. The soldiers could be expelled so that the population escaped Dutch colonialism and lived a peaceful and peaceful life. A peaceful and peaceful life did not last long. This was not due to the arrival of the Dutch but because of a misunderstanding between Demang Nuhun and his wife Nyai Rentai. His wife was insulted by her husband's words, "Women cannot live without men and men cannot live without women." Actually, this does not need to be a problem that causes division, because Damang Nuhun's intention with his words is that we all need to always live in harmony, and need each other.

This misunderstanding turned out to be deeper and extended to all the children of the country so it became a division that was difficult to overcome. As a result, the land of Riam Hiran was divided into two, namely on the right side of the homecoming (upstream of the river) inhabited by men and their cattle of the male sex, while on the left it was inhabited by women and female cattle. Their possessions and tools of life are also divided in two. Damang Nuhun led the male side and Nyai Rentai led the female side. However, they were able to live this new life situation well for three months. One day livestock from the male village such as roosters, male dogs, bulls, and boars swam across Riam Hiran to the women's village where the female livestock gathered. Likewise, finally, the men in the man's village went en masse to the other side to reunite with their spouses and families, including Demang Nuhun and Nyai Rentai. Demang Nuhun and Nyai Rentai then told people to gather to talk

about the terms of marriage between two people of different sexes (Telhalia, 2017).

From this deliberation, several provisions in marriage were determined called Marriage Customs. The provisions in question are: (Ani et al., 2019)

- a) Marriage must be according to the bloodline.
- b) When getting married, the man who came to the woman's house and paid Palaku was a dowry.
- c) The receiving woman must hold a party to welcome the man.
- d) Men and women who become husband and wife have the same rights and responsibilities in fostering a household and offspring.
- e) The party who causes the divorce over his marriage must bear and compensate for the marital loss.

Then this customary provision was welcomed by all residents and since then the terms of marriage and the responsibilities of husband and wife in fostering a household have begun to be regulated, in accordance with the marriage customs that have been established until now.

Position of the perpetrator as a condition

One of the positions of *the perpetrators* in the customary marriage of the Dayak Muslim community in Tewah District is as a condition, as mentioned by the subject stating that *the behavior* in the customary marriage is very important because the behavior is the main condition in the customary marriage that must be fulfilled by the man as a guarantee for the future of the couple. The same thing is also mentioned by the subject that *the act* is very important because it is a condition that must be given by the groom to the bride's side and it is also a guarantee for the woman and it must be. The statement was also supplemented by a subject who said that it was important, because *this behavior* is one of the main conditions in Dayak traditional marriage.

As mentioned by the subject above, the author can understand that there is one of the positions of *the perpetrators* in the customary marriage of the Dayak Muslim community in Tewah District, namely as a condition. Conditions are everything that needs or should be present (Demak, 2018). In the marriage agreement of the Dayak Ngaju Dayak Ngju Central Kalimantan, there are eighteen (18) conditions that must be met by the prospective groom, namely: palaku (dowry), saput, clothes, garantung kuluk pelrim, balau singah pelrim, lilis turus perim, sinjang entang, lapik luang, duit lapik ruji, timbuk ladder, pananan pananan pahanjean germ, uwan lid, rapin tuak, bedding, Bulau Ngandung/Panginan Jandau Bangkang Lasung Sulau Garanuhing, Duit Turus and Batu Kaja (Demak, 2018). When the time comes for the groom to hand over the required objects through the Traditional Road or meet the customary requirements, those are the objects handed over as the Traditional Road.

Subject H stated that the handover of *the perpetrators* was handed over at the time of the customary marriage ceremony, which was carried out between the male and female parties which was witnessed by the damang and also the local customary mantir as well as from the whole family, both from the male and female sides. This statement was strengthened by Informant I that the *handover of the perpetrator* was at the time of customary marriage. It was immediately handed over during the traditional marriage ceremony. Everything is shown to the crowd. For example, we give clothes, bahalai cloth, read by people at each point. For example, the gong was cashed in 300 thousand directly to the woman. For example, earlier the land was given a letter, after that a set of cutlery and so on everything was given. In line with the submission of *the padak* if it is not submitted

at the time of the traditional marriage ceremony, it will result in the cancellation of the marriage because the main thing in the traditional marriage is *the palaku*, in the sense that this *palaku* is very important in the traditional Dayak marriage.

The position of *the perpetrator* as a symbol of self-esteem

One of the positions of the perpetrator in the customary marriage of the Dayak Muslim community in Tewah District is as a symbol of self-esteem, as mentioned by subject H117 states that the behaviour is the most important among all the articles and requirements that must be met in the customary marriage, from the male side to the female side because the behaviour is a symbol of the self-esteem of a Dayak woman who will become the wife of a man.

As mentioned by the subject above, the author can understand that there is one of *the positions of the perpetrators* in the traditional marriage of the Dayak Muslim community in Tewah District, namely as a symbol of self-esteem. The Dayak tribe of the Tewah people has customs that must be respected by any tribe, as well as Dayak girls who want to be proposed to by men must meet the requirements for a Dayak customary marriage where men are required to give *behaviour* because it is a symbol of the pride of a Dayak girl.

Reviewed from the theory of legal validity regarding the position of *the perpetrator* in Dayak customary marriage is analyzed using the theory of legal validity. The factual or empirical applicability in other mentions is the sociological applicability (*soziologische geltung*). *Soziologische Geltung* is interpreted as the acceptance or enactment of law in society apart from the reality of whether the legal regulations are formed according to formal requirements or not, in this case, it is more looking at the reality in society (Sarira, 2019).

The things that are analyzed about the position of the perpetrator in the Dayak customary marriage are in line with the theory of the validity of the law, namely in looking at the reality in the Tewah community regarding the position of the perpetrator in the Dayak customary marriage is very important, if there is no precedent, then the customary marriage cannot be carried out as well as the dowry in Islamic law which must be present in marriage, this is in line with the opinion of the Imam of the Maliki School. In Dayak customary marriage, the act is the most important main condition in the Dayak customary marriage, if the main condition in the Dayak customary marriage is that the marriage is not given by the male party, then the marriage becomes void/not carried out. This hammer is also a symbol of the pride of a Dayak girl that must be appreciated. In the legal rules on the position of the perpetrator in the Dayak Antara customary marriage, namely: the perpetrator must be in the Dayak customary marriage, the main condition in the customary marriage that must be given by the man to the woman, and a man who wants to marry a Dayak girl using Dayak custom must respect the girl and the custom itself because of the behavior is a symbol of self-esteem. If they are not fulfilled, then these laws apply.

4. Conclusion

From the description and discussion that has been presented in the previous chapter, the results of this study can be concluded as follows: Based on the research conducted by the author, the position of the perpetrator in the customary marriage of the Muslim Dayak community in Tewah District, Gunung Mas Regency is first, the position of the perpetrator as a mascot that this behavior is

the same as the dowry when the dowry is abolished by the prospective groom, the marriage cannot be carried out or the marriage cannot be canceled as explained by the Imam of the Maliki School. Second, the position of the perpetrator as a condition that the condition of the Dayak customary marriage is the act that is the main condition if these conditions are not met, then the customary marriage is canceled. Third, the position of the perpetrator as a symbol of self-esteem that the Dayak tribe of the Tewah community has customs that must be respected as well as Dayak girls who want to be proposed to by men must meet the requirements for a Dayak customary marriage, otherwise it is considered an insult to the symbol of the self-esteem of a Dayak girl. The implications of these findings are the need to pay attention to the balance between traditional values and the economic ability of the prospective groom, as well as the importance of dialogue to adapt customary practices to current socio-economic conditions. This study provides insight into the dynamics of customary law in a modern context and underscores the importance of flexibility and adaptation in traditional practices to reduce excessive financial burden on individuals

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