

## ***Surat Panggul: Prenuptial Agreement In The Dayak Ngaju Tribe***

**Jamilatun Nissa**

Universitas Islam Negeri Maulana Malik Ibrahim Malang

[machatea03@gmail.com](mailto:machatea03@gmail.com)

**Miftahul Huda**

Universitas Islam Negeri Maulana Malik Ibrahim Malang

[miftahul.huda1974@gmail.com](mailto:miftahul.huda1974@gmail.com)

### **Abstract:**

The marriage ritual of the Ngaju Dayak community is composed of several parts that are integrated into one unit, aiming to give meaning to the marriage ceremony in terms of customs and religion. One of the traditional marriage procedures of the Ngaju Dayak tribe is the Surat Panggul, or prenuptial agreement, which is agreed upon to preserve the marriage and prevent divorce. This presents an interesting issue for research, examining whether the contents of the Surat Panggul or prenuptial agreement of the Ngaju Dayak tribe conflict with or align with Marriage Law No. 1 of 1974. This study is a juridical-empirical research using a qualitative descriptive approach. The results of this study indicate that the practice of the Ngaju Dayak community's pre-marriage procession has benefits if carried out and does not contradict the Qur'an and Hadith. It can be classified as a custom that has positive impacts and mashlahah (benefits). From the perspective of the prenuptial agreement provisions in Indonesia, as stipulated in Law No. 1 of 1974 on Marriage, the Surat Panggul or customary prenuptial agreement does not conflict with the existing regulations.

**Keywords:** Surat Panggul, Prenuptial Agreement, Surat Panggul.

### **Abstrak:**

Ritual pernikahan masyarakat Dayak Ngaju terbentuk dari beberapa bagian yang telah berpola dalam satu kesatuan, dengan tujuan untuk memberikan makna pada upacara pernikahan dalam aspek adat dan agama. Salah satu prosedur pernikahan tradisional suku Dayak Ngaju adalah Surat Panggul atau perjanjian pranikah yang disepakati untuk melestarikan pernikahan agar perceraian tidak terjadi. Hal ini menjadi masalah menarik untuk diteliti di mana isi Surat Panggul atau perjanjian pranikah suku Dayak Ngaju bertentangan atau selaras jika dilihat dari Undang-Undang Perkawinan No. 1 Tahun 1974. Penelitian ini merupakan penelitian yuridis-empiris dengan menggunakan pendekatan deskriptif kualitatif. Hasil penelitian ini adalah bahwa praktik prosesi masyarakat Dayak Ngaju sebelum menikah memiliki manfaat jika dilaksanakan dan tidak bertentangan dengan Al-Qur'an hadits, dapat diklasifikasikan sebagai adat yang memiliki dampak baik dan mashlahah. Kemudian dari sudut pandang ketentuan perjanjian pranikah di

Indonesia, yaitu yang terdapat dalam Undang-Undang No. 1 Tahun 1974 tentang Perkawinan, surat panggul atau perjanjian pranikah adat ini tidak bertentangan dengan ketentuan yang ada.

**Kata Kunci:** Surat Panggul, Perjanjian Pranikah, Surat Panggul.



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## Introduction

In general, all prospective married couples before carrying out marriage are allowed to make a prenuptial agreement. This freedom is based on Article 1338 of the Civil Code (KUHPerdata).<sup>1</sup> However, when making a prenuptial agreement, there are several things that must be taken into account, namely that a prenuptial agreement must not violate or conflict with morals, public order, and must not conflict with the basics of marriage law.<sup>2</sup> Basically, people's habits in Indonesia, when making prenuptial agreements, are usually based on several considerations. This is because some people think that a prenuptial agreement is an agreement that is projected as a weapon for women to prevent prospective husbands from committing polygamy or controlling joint property.

This is different from the Dayak Ngaju tribe community with religious ceremonies, such as the marriage procedure in the Dayak Ngaju tribe community which is called "*Pelek Rujin Pangawin*".<sup>3</sup> The marriage ceremony ritual is one of the religious rituals and is considered traditional which characterizes the existence of the Dayak Ngaju Tribe as an indigenous community group. This is because the marriage ritual does not only apply to the Dayak community who adhere to the Hindu *Kaharingan* religion, but is also carried out by the Dayak Ngaju community who have converted to other religions. One of the customs that develop in society is marriage. In fact, each region sometimes has a marriage custom that is different from other regions. In line with MacIver's thoughts on customs, according to him, a custom can influence a person's way of thinking, beliefs and habits that have been standardized and apply to certain groups, which include house construction procedures, ancestor worship procedures to marriage.<sup>4</sup>

The traditional marriage of the Dayak Ngaju Tribe is a mandatory ritual for the local community to uphold traditional values and ancestral culture.<sup>5</sup> In terms of Dayak Ngaju traditional marriage, it has become a guideline in their lives. Therefore, regardless of religion, the implementation of traditional marriages must continue to be preserved and cultivated. If you look closely, the marriage rituals of the Dayak Ngaju community are formed from several parts that have been patterned into one unit. This aims to reconstruct the understanding and meaning of wedding ceremonies in the aspects of tradition and

<sup>1</sup> Soedharyo Soimin,S.H., *Kitab Undang-Undang Hukum Perdata* (Jakarta: Sinar Grafika, 2010), 328.

<sup>2</sup> Prodjodikoro,R. Wirjono, *Hukum Perkawinan Di Indonesia* (Bandung: Sumur, 1981), 7

<sup>3</sup> Noriani Noriani, "Perkawinan Adat Masyarakat Muslim Suku Dayak Ngaju: Sejarah Dan Akulterasi Islam Terhadap Budaya Lokal Di Desa Petak Bahandang" (undergraduate, IAIN Palangka Raya, 2019), <http://digilib.iain-palangkaraya.ac.id/2188/>.

<sup>4</sup> Amran Suadi, *Hukum Penegakan, Realitas Dan Nilai Moralitas Hukum* (Jakarta Timur: Kencana, 2019).

<sup>5</sup> Thamrin Salomo and Utuyama Hermansyah, "Perkawinan Adat Suku Dayak Ngaju Di Desa Dandang Kabupaten Kapuas," *Journal Pendidikan Ilmu Pengetahuan Sosial* 1, no. 1 (June 10, 2014): 20–27.

religion. By understanding marriage procedures that can be considered customary and religious, it is hoped that they can return to the world of spiritual depth, subtlety of conscience and sharpness of heart as a group of people with a calm, peace-loving character in accordance with the concept of *Belum Bahadat* (customary living) and *Huma Betang* culture.<sup>6</sup>

One of the traditional marriage procedures of the Dayak Ngaju tribe is a *Surat Panggul* or prenuptial agreement letter which is agreed upon by the bride and groom with the aim of strengthening or perpetuating their marriage so that divorce does not occur. Because divorce in the Dayak Ngaju tribe is a disgrace and a taboo that should not happen.<sup>7</sup> In general, people still don't know enough about the existence of prenuptial agreements. However, for the Dayak Ngaju people, the existence of a *Surat Panggul*/prenuptial agreement is nothing new. This is because it has existed since the time of their ancestors.<sup>8</sup> This has become an interesting problem to investigate which the contents of the *Surat Panggul* or prenuptial agreement of the Ngaju Dayak tribe are contradictory or in harmony when viewed from Law No. 1 of 1974 concerning Marriage.

To explain the originality of the research, several previous research journals are presented in this paper. Namely: The first research from Dlaifurrahman, Aseri and Mujiburohman which examines the marriage agreement of the Ngaju Dayak tribe in Central Kalimantan, which in conclusion says that the marriage agreement or tahu promise pangawin is the hadat law of the Ngaju Dayak community to form a lasting household because marriage is a sacred and holy thing for the Ngaju Dayak tribe.<sup>9</sup> Then the second research from Nurulia Shalehatun Nisa which examines the Review of Fiqh Urf 'Against the Practice of Marriage Agreements, which in conclusion says that the marriage agreement carried out in the Dayak Ngaju customary society has an important role, even though it is part of a series of traditional marriage rituals originating from the Kaharingan Hindu religion. However, in practice, the marriage agreement in the Dayak Ngaju customary society can still be implemented and taken advantage of even by people who are Muslim.<sup>10</sup> Then the third research from Imam Syafi'i, Mufidah CH, Suwandi on the Phenomenon of Dayak Tribal Marriage Agreements, which in conclusion says that if the Dayak customary community's marriage agreement is viewed from the perspective of Ash-Syatibi's customs, the marriage agreement is included in the customs that apply in the community which is recognized by Shari' as a provision with a note that it does not

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<sup>6</sup> Murhaini, Suriansyah, *Singer Dalam Pusaran Perubahan Masyarakat Dayak Ngaju* (Kalbar: Lembaga Literasi Dayak, 2016)h.112-113.

<sup>7</sup> Ela Novialayu, Sakman, and Offeny, "Pelaksanaan Perkawinan Menurut Adat Dayak Ngaju Di Kecamatan Timpah Kabupaten Kapuas," *Jurnal Paris Langkis* 1, no. 1 (August 17, 2020): 1-14, <https://doi.org/10.37304/paris.v1i1.1665>.

<sup>8</sup> Juliani Agung Wati Nurul Veronika Saputri et al., "Sistem Tradisi Perkawinan Adat Dayak Ngaju Di Desa Pamarunan Kecamatan Kahayan Tengah," *Jurnal Kewarganegaraan* 5 No. 2 (Desember 2021).

<sup>9</sup> Muhamamad Dlaifurrahman, Akhmad Fauzi Aseri, and Mujiburohman Mujiburohman, "Hukum Hadat Dayak Ngaju: Tahuu Janji Pangawin Di Kalimantan Tengah," *Al Qalam: Jurnal Ilmiah Keagamaan Dan Kemasyarakatan* 17, no. 1 (January 30, 2023): 414-32, <https://doi.org/10.35931/aq.v17i1.1576>.

<sup>10</sup> Nurulia Shalehatun Nisa, "Tinjauan Fiqh 'Urf Terhadap Praktik Perjanjian Perkawinan (Studi Empiris Adat Dayak Ngajudi Kota Palangka Raya)," *ASASI: Journal of Islamic Family Law* 2, no. 2 (April 20, 2022): 222-33, <https://doi.org/10.36420/asasi.v2i2.195>.

conflict with Islamic teachings, namely realizing human benefit.<sup>11</sup> Meanwhile, this paper will examine the prenuptial agreement or Surat Panggul of the Ngaju Dayak tribe which is associated with Law No. 1 of 1974 concerning Marriage.

## Method

This research is a juridical-empirical research that explores and searches for legal attitudes or behavior of a person or group of people related to the law and the source of data is directly encountered in the community or about the social symptoms of society.<sup>12</sup> as for the research approach used is descriptive-qualitative this is to describe the circumstances that occur in the community with more specific also in depth. The location of this research is Palangkaraya City because this location is very supportive in obtaining valid data information. Data collection methods used were structured interviews and document review. The sampling technique in this research is purposive sampling by determining the subjects who will be used as informants in this research are Ngaju Dayak Customary Administrators and Ngaju Dayak communities with the criteria of having carried out Ngaju Dayak traditional marriages, where the data obtained will be processed using editing techniques, classification, verification, analysis and finally conclusions.

## History of Traditional Marriage In The Dayak Ngaju Tribe

The Dayak Ngaju tribe is the original and largest tribe that lives in Central Kalimantan. The philosophy of "*belom bahadat*" is used by the Dayak Ngaju tribe as a basis for aspects of social life which means "*hidup bahadat*". For the Dayak Ngaju community, the influence and role of customs in social life is still very strong, one of which is the holding of marriages. In implementing marriage, the Dayak Ngaju community strictly avoids unconventional forms of marriage, because it can bring disrepute to the prospective bride and groom and even their entire families and also their future descendants.

The customs of the Dayak tribe are strongly influenced by ancient religious beliefs or what is known as the *Kaharingan* religion. Like other regions in Indonesia that have indigenous religions, *Kaharingan* is included in one of the indigenous religions of the archipelago that exists today and is also maintained by the followers of this religion. The *Kaharingan* religion is said to be the original belief of the Dayak tribe, this is because before the arrival of world religions, this belief was already born and grew on the island of Kalimantan. The history of the marriage of the Dayak Ngaju tribe begins with the life story of Manyamei Tunggal Garing Janjahanan Laut and Kameluh Putak Bulau Janjulen Karangan. One day there was a meeting between Manyamei and Kameluh which ended in them living together. During their relationship, Kameluh experienced repeated miscarriages.<sup>13</sup>

In the miscarriage of Kameluh's first pregnancy, the blood of the miscarriage was thrown into the sea where it was believed to be the ancestor of supernatural spirits that

<sup>11</sup> Imam Syafi'i, Mufidah Ch, and Suwandi Suwandi, "Fenomena Perjanjian Perkawinan Suku Dayak (Analisa Adat Dan Keadilan Gender Dalam Islam)," *Kafa'ah: Journal of Gender Studies* 12, no. 1 (June 15, 2022): 22–36, <https://doi.org/10.15548/jk.v12i1.488>.

<sup>12</sup> Bachtiar, *Metode Penelitian Hukum* (Pamulang: Unpam Press, 2018).

<sup>13</sup> Sriyana Hiskiya, "Makna Simbolik Perkawinan Adat Dayak Nhaju Di Kota Palangka Raya" No.20 (2020), <https://doi.org/10.33084/anterior.v20i1.1546>.

were disturbing the area of the land. Miscarriage of the second pregnancy, the blood was thrown into the river which was believed to be a supernatural spirit disturbing the water. Miscarried in her third pregnancy, her blood was thrown into the sea where it was struck by thunder and lightning, which is then believed to be the ancestor of buffalo, cows and bulls. The miscarriage of her fourth pregnancy, her blood was thrown into the forest where it is believed to be the ancestor of the *Bahutai Bungai*, the ancestor of the *Tandang Haramaung* (tiger) and the ancestor of evil spirits in the forest. Miscarried in her fifth pregnancy, her blood was thrown into the jungle and transformed into various types of wood, roots and the ancestors of various types of snakes.

A miscarriage in the sixth pregnancy, her blood was thrown under the house and then transformed into King Tingkaung Langit, the ancestor of all types of dogs. A miscarriage in her seventh pregnancy, her blood was thrown in the kitchen where it was then struck by lightning and is believed to have transformed into putir balambang kawu, the ancestor of all types of cats. Miscarried in her eighth pregnancy, her blood was thrown in the yard and then struck by thunder and lightning and is believed to have become the ancestor of all types of village chickens. A miscarriage in her ninth pregnancy, her blood was thrown behind the house where it was believed to transform into various types of wild boars and village pigs. A miscarriage on her tenth pregnancy, her blood was thrown behind the village where it was believed to be transformed into grass and wood which functioned as medicine for humans. and in the eleventh miscarriage, the blood is thrown into the sawang grove and is believed to be the ancestor of the 14 elements of *Patahu*, namely supernatural spirits that guard human settlements.

From the miscarriage incident on the orders of Raying Hatalla Langit, King Uju Hakandung formalized the relationship between Manyamei and Kameluh by carrying out a marriage ceremony and then after carrying out the marriage ceremony Kameluh became pregnant again and gave birth to three twin boys who were named King Sangiang, King Bunu and King Sangen.<sup>14</sup>

Based on the original beliefs of the Dayak tribe, the Dayak traditional community understands that marriage is a form of awareness of events in the past. They believe that ranying hatalla Langit creates living creatures in pairs with the aim of producing offspring in a way that is justified by religion and custom. So from the story of Manyamei and Kameluh above, it can also be seen that marriage for the Dayak Ngaju tribe is something noble and holy. The implementation process does not only involve the two parties concerned, but also involves several other parties, such as the families of both parties, relatives and the Traditional Mantir. Then as an example, the Dayak Ngaju community has a custom to make a Surat Panggul or prenuptial Agreement. A prenuptial agreement or Surat Panggul according to Dayak Ngaju custom is a written agreement containing an agreement that has been signed by the prospective husband and wife, witnesses from both parties, Damang or Mantir. Guidelines for implementing customary rules in the Dayak community based on the Tumbang Anoi Customary Law.

### **Traditional Procession of the Dayak Ngaju Tribe Pre-married**

Among the Dayak people, more specifically the Dayak Ngaju tribe, marriage which is considered ideal and highly desired by the general public, is a marriage between

<sup>14</sup> Noriani, "Perkawinan Adat Masyarakat Muslim Suku Dayak Ngaju."

two people who are cousins, namely second degree cousins, which among the Dayak Ngaju tribe are called *bajenan*, whose grandfather is a full brother. . Apart from that, marriages that are considered good are marriages between two people (male and female), cousins whose mothers are siblings, and between cross-cousins, namely children of siblings on the mother's side or children of sisters on the father's side.<sup>15</sup>

Marriages that are considered discordant, in the Dayak Ngaju tribe community are called *salahari*, are marriages between two cousins whose fathers are full brothers (patri-parallel cousins), and especially marriages between people of different generations, for example between a child. with her parents, or between a girl and her uncle. According to the Dayak Ngaju tribe, marriage is something noble and holy, therefore it is very, very reprehensible if a marriage is polluted by divorce or violates customary norms. If there is contamination of the essence of marriage, it means that it has polluted its nobility and holiness, then there will be certain sanctions. according to the violation that has been committed.<sup>16</sup> The philosophy of marriage for the Dayak people is to maintain the dignity of women and children, not play around with marriage and marriage is only done once in a lifetime. Marriage is very sacred, marriage provides protection for women, children and lineage and both parties participate in marriage. The Dayak people really protect their bloodline, therefore the Dayak people are very anti-divorce. Therefore, marriage is also considered part of custom and is also carried out according to custom.<sup>17</sup> For the Dayak people, traditional marriage must be carried out absolutely. If they don't carry out customs then they are living uncivilized lives, meaning they are living in this world in vain. Customs are manners, rules, so for the Dayak people, customs are very important according to their respective tribes.<sup>18</sup>

Before getting married, the Dayak Ngaju tribe people first carry out ritual ceremonies such as a marriage procession called *pelek rujin pangawin*, this is one of the rituals that is considered a characteristic of the existence of the Dayak Ngaju tribe as an indigenous community group. For indigenous peoples, this is an effort to maintain the traditional values they adhere to. Apart from that, Dr. Mambang I Tubil in his interview stated: *"The value contained in the prenuptial agreement between the parties is that they have good faith to carry out a legal action according to custom to bind themselves in a special bond/relationship. According to the Dayak Ngaju tribe, marriage is a sacred and noble thing, so that the principles embedded in marriage can only be separated by death."*<sup>19</sup>

Based on this, the researcher concluded that the Dayak Ngaju community instills something good from generation to generation. The implementation of marriage among the Dayak community can be divided into four stages, namely<sup>20</sup>(1) *Hakumbang Auh*. This is the first step in the marriage procession which consists of conveying a man's intentions

<sup>15</sup> Singer Dalam Pusaran Perubahan Masyarakat Dayak Ngaju.

<sup>16</sup> "Dayak Ngaju Customary Fines in Pre-Marriage Agreement to Minimize Divorce in The Perspective of Maslahah Mursalah Ramadhan Al-Buthi | Rahman | El-Mashlahah," accessed September 24, 2023, <https://e-journal.iain-palangkaraaya.ac.id/index.php/maslahah/article/view/5623>.

<sup>17</sup> Dlaifurrahman, Aseri, and Mujiburohman, "Hukum Hadat Dayak Ngaju."

<sup>18</sup> Satriya Nugraha, "Eksistensi Hukum Adat Melalui Penerapan Singer (Denda Adat) Dalam Perceraian Suku Dayak Ngaju," *Belom Bahadat* 12, no. 1 (July 28, 2022): 80–93, <https://doi.org/10.33363/bb.v12i1.787>.

<sup>19</sup> Dr Mambang I Tubil, Interview, (Malang, 24 September 2023)

<sup>20</sup> Dlaifurrahman, Aseri, and Mujiburohman, "Hukum Hadat Dayak Ngaju."

to a girl who he wants to become his wife. In the Dayak community's customs, if a young man wants to take a girl as his wife, he will first convey his intentions to his parents. If approved, the parents will choose someone as an intermediary whose job is to contact the girl's family. This intermediary is called *uluh helat* or commonly called *saruhan* or *taten tupai*. His intentions and wishes were conveyed to the girl's family through this intermediary. (2) *Mamanggul*. This stage is a continuation of *hakumbang auh*, which is a way to ask the girl officially after the man's family knows that their heart's desire has been accepted by the girl. At this event the men handed over several items as proof of their sincerity and seriousness, including a *balanga* (original Chinese jar) or a gong. At this event, the two parties discussed the timing of the proposal, namely *maja misek*. In its current development, proof of *mamanggul* is no longer in the form of a gong but in the form of *duit panggul*. On this occasion an agreement was made. This agreement can be written or verbal, made in the form of a letter of agreement called a *Surat Panggul*. If the girl's family then refuses, then the *mamanggul* evidence will not be returned to the young man.

Then the procession that must be done next is, (3) *Maja Misek*. Means to visit or *bertandang*. *Maja misek* means to ask. *Maja misek* is a meeting between the young man's family and the girl's family. During the meeting, they came to a mutual agreement on: (a) Time or schedule for holding the wedding party; (b) The conditions for marriage, which are called *Jalan Hadat*, are what must be fulfilled by the man in accordance with the provisions that apply both according to regulations, customary law and traditions that apply in the girl's family; (c) The size of the *palaku* is the dowry that must be handed over; (d) The costs of the wedding party and how they are distributed, whether they are borne entirely by the man or shared; (e) Sanctions or fines imposed in the event of cancellation or postponement by one of the parties;

Their agreement was an agreement which was then outlined in a *Surat Panggul*. Apart from discussing this, on this *maja misek* occasion we also discussed the customary requirements for cases: (a) If the bride-to-be still has an older sister who is not married, then she must pay *palangkah* or *panangkalau* to her older sister because she predeceases her older sister; (b) If the girl has a distant family relationship called *jereh*, for example if she is still related to the young man's nephew, then they must pay a fine and carry out the *tambalik jela* ceremony before the marriage ceremony takes place.

After reaching an agreement, the man hands over the *paramun pisek* (customary requirements for proposing), namely objects that must be given to the woman based on customary law provisions. These customary requirements usually consist of women's clothing, cosmetics, shoes, sandals, and others. Then the procession that must be done next is, (4) *Managgar Janji* atau *Mukut Rapin Tuak*. This means confirming promises, that is, both parties meet again specifically to determine when the marriage will take place. If at the time of *maja misek* only the approximate month has been determined, then when *mananggar janji* the wedding date is discussed. On this occasion, the prospective groom hands over the wedding expenses, including: (a). the cost of making palm wine (*rapin tuak*); (b). party fees called *bulau ngandung* or *panginan jandau*; and (c). *jangkut amak* or bedding and fill the bedroom. Some of the customs related to the procession before the wedding above, especially the terminology, are not found in other tribes, so

they are typical of Dayak Ngaju culture.<sup>21</sup> However, the substance is in several other tribes, for example *palaku* in the Dayak Ngaju tribe is the same as dowry or dowry in other tribes, such as the Malay tribe who call it dowry or *jujuran*.

There are 17 *jalan hadat* that a prospective husband must hand over to his future wife, but there can be fewer than 17 provided that each prospective bride and groom agree. The *jalan hadat* is known as *jujuran*.<sup>22</sup> There are conditions that must be fulfilled by the prospective groom to be given to the prospective bride and her family during the traditional wedding ceremony. The number of *jalan hadat* includes 16-17 items, namely: (1) *palaku*, comes from the word *lak* which means to ask or request. Dayak society always places women in the main position, but not more powerful than men, but because they consider that women are weak, they are looked after, looked after and must be cared for. *Palaku* is the absolute right of a wife, which can be in the form of money, land, gold, jewels or other jewelry. A husband has no right to sell or pawn it to someone else. The *palaku* value is determined according to the weight value in kilograms or piculs, for example 300 kg (3 picul gongs) or 500 kg (5 pikul gongs). However, currently these items are difficult to find, therefore *palaku* can be replaced with gold or other jewelry according to the agreement. There are also those who give in the form of money, land or gardens. Dayak people can accept the term dowry as essentially the same as *palaku*, but if you look at the symbolic meaning, it is similar but not the same. Therefore, in the prenuptial agreement or *Surat Panggul* according to the Dayak Ngaju tribe custom, the term *palaku* is still written that way and is not translated;

Then the *Jalan Hadat* that must be done next is (2) *lapik luang/sangku*, means a base or seat, while the meaning of *luang* is intermediary, negotiator or courier. *Luang* is entrusted to represent the family of the prospective bride and groom in discussing previous promises (customary requirements), before the marriage takes place; (3) *saput*, According to the Dayak Ngaju tribe, it is a gift from the future husband to his future wife's siblings. The meaning of the gift is respect, binding a sincere feeling of brotherhood as part of the future wife's family and the gift can be anything, goods or money depending on the wishes of the agreement; (4) *rapin tuak*, *tuak* is a typical Dayak drink made from sticky rice cooked and processed with yeast. The goal is not to get drunk. At the haluang event, the groom-to-be gives this palm wine to facilitate the conversation, so that the event becomes lively and full of friendly banter; (5) *pakaian*, clothing, is a set of men's clothing and is given to prospective in-laws, meaning it is a sign of respect for the love and protection given;

Then the *Jalan Hadat* that must be done next is (6) *sinjang entang*, *sinjang* means cloth covering the body or known as *tapih* (*tapih/sarong*), while *entang* is a long cloth for carrying a baby (*bahalai*). *Sinjang entang*, reminds of a mother's love in educating and caring for children from childhood to adulthood. Therefore, a prospective son-in-law gives *sinjang entang* to the prospective in-laws; (7) *tutup uwan*, meaning gray hair cover, is a gift of respect in the form of 2 meters of black cloth given to the *tambi* (grandmother) as a sign of gratitude for taking part in looking after and raising her granddaughter (the future bride); (8) *lilis lamiang turus pelek*, *lamiang* means jewelry a type of beads made

<sup>21</sup> ela Novialayu, Sakman, And Offeny, "Pelaksanaan Perkawinan Menurut Adat Dayak Ngaju Di Kecamatan Timpah Kabupaten Kapuas," *Jurnal Paris Langkis* 1, no. 1 (August 17, 2020): 1–14, <https://doi.org/10.37304/paris.v1i1.1665>.

<sup>22</sup> "Pemenuhan Hukum Adat Dalam Perkawinan Dayak Ngaju - Dr. Telhalia, M.Th. -.. -.

from red lamiang stone. *Turus* means wood stuck into the ground. Its use is as a land boundary marker, a stake for tying pets, and in general, stakes are often used by people to tie boat ropes and trunks so they don't get swept away by river flows, especially during the rainy season. *Pelek* means a broken piece of wood as a sign to direct someone when in the forest as explained previously. In a *Lamiang turus pelek* becomes a milestone to commemorate the beginning of a new household. Apart from that, lamiang is also used as a symbol of steadfastness and honesty in the vows of the bride and groom as a milestone in the promise of loyalty they have made;

Then the *Jalan Hadat* that must be done next is (9) *garantung kuluk pelek*, The symbolic meaning of *Garantung kuluk pelek* is that marriage begins with a mutual agreement between both partners and families. This item reminds us to maintain the marriage bond and not destroy it. But currently this item is difficult to find so it can be replaced with money or gold equivalent to the gong; (10) *bulau singah pelek*, bulau means gold, namely it is made from starting metal, the selling price is high and its light will not fade. Give a minimum of 1 kiping (2.7 grams) of gold. *Singah* means light. The overall meaning of *Bulau singah pelek*, is a wedding ring that is placed on the ring fingers of the bride and groom. The gold ring symbolizes sincerity and pure love for living a domestic life together. Wedding rings remind them of the promises made; (11) *lapik raji*, given in the form of Dutch silver coins worth one ringgit, meaning that building a household requires basic capital. The money is not spent because the money is considered the basis of life;

Then the *Jalan Hadat* that must be done next is (12) *timbuk tangga*, is family assistance provided by the prospective groom and prospective bride, work carried out in mutual cooperation, together in a family atmosphere which will soon be carried out. *Tumbuk tangga* is given in the form of a plate filled with rice or some replace it with a certain amount of money according to mutual agreement; (13) *pinggan pananan pahenjean kuman*, consisting of one plate, one glass, one bowl, one spoon and other utensils and cutlery. They ate a plate together, drank from the same glass, a bowl together and ate with the same spoon. This shows that from the start they entered household life, learning in unity and oneness; (14) *duit turus*, given in the form of coins provided by both parties. It was distributed to those present at the time, especially to the parents with the intention that they were general witnesses of the marriage. They have witnessed the fulfillment of customary marriage laws, so that if in the future there is a dispute that leads to divorce, the parents who have received the money will still be called to settle it;

Then the *Jalan Hadat* that must be done next is (15) *bulau ngandung*, is a party fee for a wedding party. The costs of this party are usually borne jointly according to the agreement between both parties at the time of the maja misek. However, there are also things that men can do. Generally, the costs for parties held at home are lighter; (16) *jangkut amak*, means mosquito net, amak means mat. This is a set of bedding, symbolizing the completeness of family welfare facilities. Payment is made before the wedding party takes place; and (17) *batu kaja*, a gift from the groom's parents to the bride. The gift can be in the form of gold jewelry or other traditional items according to ability. This will be given when the husband brings his wife to her parents' house for the pakaja manantu event; Apart from that, Krysti Indryani in her interview said: "The process is quite long, there are several processions, one of which is collecting the traditional

*marriage conditions that the man must give to his partner. If one of the conditions given is lacking, there will be a separate fine.*<sup>23</sup>

In the traditional view of the Dayak Ngaju people, the purpose of implementing the procession before the wedding of the Dayak Ngaju community is to foster harmony in life and as an effort to preserve traditional traditions which are unique and family related. According to Abdul Wahab Khalaf, he explained that there is no difference between '*urf*' and *adat*. Customs are formed from human habits according to their degrees, both generally and specifically.<sup>24</sup> Mustofa Ahmad Al Zarqo, quoted by Nasruh Haroen, said that customs must apply to most people in a particular area, not individuals or certain groups, and are not natural habits, but arise on the basis of thought and experience. The term *ushul fiqh* uses the term '*urf*' rather than *adat*.<sup>25</sup>

Regarding customary issues, there is one of the five main rules in the science of *qawa'id al-fiqhiyah*. These rules "Customs can be used as legal (consideration)." <sup>26</sup>

Based on these rules, the position of custom in Islamic law can be used as material for legal consideration. The Dayak Ngaju community procession before marriage is born from habit, namely an action that is carried out repeatedly by the community, adhered to as positive life values. This habit pattern is accepted as something that is binding and obeyed by society, and is felt as an obligation that must be carried out. So that this habit becomes a custom that applies to society. Dayak customs are an ancestral cultural heritage that has the meaning and value of balance to maintain the sanctity of a marriage. Even though the Dayak Ngaju community is Muslim, the implementation and position of the procession before the wedding is a custom that can be done or not.<sup>27</sup> Thus, the aim and purpose of the procession of the Dayak Ngaju tribal community before the wedding above, can explain that the procession before the wedding is carried out based on the rules that apply in the Dayak Ngaju traditional community. Based on the information above, researchers did not find that there was a procession that was contrary to the Al-Qur'an or the provisions of Islamic law. Seeing this, from the perspective of the implementation of customs that are still carried out today by considering the benefits obtained, it can be concluded that the practice of the procession of the Dayak Ngaju tribe before marriage is classified as a custom that has a good impact and *maslahah* for those who carry it out.

### ***Surat Panggul Or Prenuptial Agreement In Force In The Dayak Ngaju Tribe Perspective Of Marriage Law Number 1 Of 1974***

Before holding a wedding, the Dayak Ngaju people carry out several processions, one of which is the *mamanggul* procession. During this procession, the Dayak Ngaju people generally make a pre-nuptial agreement or *Surat Panggul* which will serve as a guideline when carrying out a marriage later. This is in line with Julius S.Y Pahoe's opinion in his interview: "Apart from fulfilling customary law, the aim is to maintain the

<sup>23</sup> Krysti Indryani, Interview, (Malang, 04 October 2023)

<sup>24</sup> Abdul Wahhab Khalaf, *Ilmu Ushul Fikih* (Jakarta: Darul Qalam, 2002), 58.

<sup>25</sup> Nasrun Haroen, *Ushul Fiqh 1* (Jakarta: Logos, 1996), 98.

<sup>26</sup> A. Djazuli, *Kaidah-Kaidah Fikih: Kaidah-Kaidah Hukum Islam Dalam Menyelesaikan Masalah-Masalah Yang Praktis* (Jakarta: Kencana, n.d.), 78.

<sup>27</sup> Nurulia Shalehatun Nisa, "Tinjauan Fiqh '*Urf* Terhadap Praktik Perjanjian Perkawinan (Studi Empiris Adat Dayak Ngaju Kota Palangka Raya)," *Asasi: Journal Of Islamic Family Law* Vol.2 No.2 (April 2022), <https://doi.org/10.36420/Asasi>.

*commitments that have been decided*<sup>28</sup> Based on this, it can be concluded that the position of the Surat Panggul or prenuptial agreement is very important among the Dayak Ngaju tribe community. A prenuptial agreement or Surat Panggul according to Dayak Ngaju custom is a written agreement containing an agreement that has been signed by the prospective husband and wife, parents or guardians of the prospective husband and wife, witnesses from both parties, Damang or Mantir.

The prenuptial agreement or Surat Panggul in the Dayak Ngaju community is born from habit, namely an action that is carried out repeatedly by the community, adhered to as positive life values. This habit pattern is accepted as something that is binding and obeyed by society, and is felt as an obligation that must be carried out. So that this habit becomes a custom that applies to society.<sup>29</sup> The Dayak tribe highly values marriage bonds, if a divorce occurs it is a very embarrassing shame, because the Dayak tribe is famous for its loyalty to its partner and only death can separate them.<sup>30</sup> *Surat Panggul* or prenuptial agreement is made to protect the rights and dignity of each partner. The *Surat Panggul* or prenuptial agreement executed by the Dayak Ngaju tribe refers to the stories of the marriage between Raja Garing Hatungku and Nyai Endas Bulau Lisan Tingang.<sup>31</sup>

*Surat Panggul* or the prenuptial agreement of the Dayak Ngaju tribe is carried out based on the ethical and aesthetic background of the customary rules that apply among the Dayak Ngaju tribe. A *Surat Panggul* is an agreement between both parties (husband and wife) that each of them, both the first party (husband) and the second party (wife), promise to love, help and maintain household harmony in good times and bad and not to divorce their partner until the end of life.<sup>32</sup> If in the future there is a problem in the household that the husband and wife are no longer able to solve, then they agree to solve it in a family way. If it cannot be resolved amicably, then the case will be resolved through the Kedamangan Dayak Traditional Institution in the village or sub-district. If the problem cannot be resolved according to custom, resulting in divorce, then the guilty party will be subject to customary sanctions by paying the innocent party (who was harmed). While *palaku* (dowry) remains the right of the second party, this is a decision that has been in place for a long time. *Palaku* will remain the property of the woman and her children because *palaku* is a sign of a woman's honor and when she divorces she will no longer be a girl. This shows that a woman has high honor and dignity and must be respected and loved.

*Surat Panggul* the Dayak Ngaju traditional prenuptial agreement has four components of the agreement agreed upon by the bride and groom, namely: (1) marriage agreement between the bride and groom; (2) If there is a dispute, it is resolved amicably or more often it is handed over to the local Damang Adat where the bride and groom are presented to make peace or find a solution; (3) Property during marriage is joint property,

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<sup>28</sup>Yulius SYPahoe, Interview, (Malang, 04 October 2023)

<sup>29</sup> Muh Azhari, "Kearifan Lokal Masyarakat Suku Dayak Kalimantan Tengah Indonesia," *Seminar Internasional Riksa Bahasa*, 2019, <http://proceedings.upi.edu/index.php/riksabahasa/article/view/1087..>

<sup>30</sup> "Dayak Ngaju Traditional Marriage, Central Kalimantan: Concept and Juridical Review | Aditya | Pena Justisia: Media Komunikasi Dan Kajian Hukum," accessed August 6, 2023, <https://jurnal.unikal.ac.id/index.php/hk/article/view/2724>.

<sup>31</sup>Dr Mambang I Tubil, Interview, (Malang, 24 September 2023)

<sup>32</sup> roly Muliaz, "Pelaksanaan Perkawinan Menurut Hukum Adat Dayak Ngaju Ditinjau Dari Hukum Islam," *Jurnal Sagacious* 4, no. 2 (June 30, 2018): 63–72.

if you have children then all the inheritance is given to the children, if you don't have children then the inheritance is handed over to the local Damang Adat so that the Damang Adat distributes it to the surviving family of the spouse in accordance with Dayak Ngaju customary law; (4) If a divorce occurs, then: (a) The party who is at fault or who causes a quarrel or dispute is subject to customary sanctions in accordance with the agreed agreement; (b) *Palaku* (dowry) remains the property of the wife, it cannot be taken back in the event of a divorce unless the husband can restore his wife's virginity then the palaku can be taken back; (c) Property during the household becomes the property of the child and the rights of the innocent.

Based on the prenuptial agreement or *Surat Panggul*, the party who caused the divorce will receive sanctions. Apart from that, Rhendi Sepriany in his interview "*If at any time a violation occurs or one of the parties is proven guilty, there are things that become obligations for the violator or there are sanctions, usually in the form of goods or land.*"<sup>33</sup> Based on this, it can be concluded that Dayak customary law regulates in detail human life, especially marriage, which is considered sacred and noble.

If a divorce occurs, the settlement follows the provisions regarding divorce of the Dayak traditional community which are regulated in Dayak Customary Law article 3 concerning *Singer Hatulang Belom* (one-sided divorce fine) and article 4 concerning *Singer Hatulang Palekak Sama Handak* (divorce fine based on mutual will). The fines for unilateral divorce are: (1) In accordance with the prenuptial agreement or *Surat Panggul*; (2) The Customary Mantir can increase or increase the fine of up to 30 kati ramu (Rp. 3,000,000.00) to the guilty party if deemed necessary; (3) If there are children, joint assets are divided between the innocent party and the children. Meanwhile, the fine for divorce based on mutual wishes is the division of joint assets in accordance with the prenuptial agreement or *Surat Panggul*. If there are children, the property becomes the right of all the children. If there are no children, then the assets are divided jointly. In general, couples who enter into a *Surat Panggul* or Prenuptial Agreement, the contents of the agreement are both related to the fidelity of husband and wife, this is understandable because the contents of the agreement are focused on matters relating to morality, not property. But there is also something related to assets, if one of the parties dies. Before the parties (husband and wife) agree on a prenuptial agreement or *Surat Panggul*, the man must first fulfill a series of customary obligations (fulfillment of the *jalan hadat*), by giving a number of items to his future wife. Some of these traditional items have been converted into money or items that are easier to find.<sup>34</sup>

Prenuptial agreements or *Surat Panggul* at a time when Dayak people could not yet read and write agreements were made orally. However, for now the agreement is made in written form and signed on a stamp of IDR 6,000 (now IDR 10,000) by the husband and wife witnessed by the parents of both parties, acknowledged, ratified and also signed by the local Mantir Adat or Damang Traditional Head.<sup>35</sup> The parties involved in witnessing and signing the pre-nuptial agreement document or *Surat Panggul* is not a

<sup>33</sup>Rhendi Sepriany, Interview, (Malang, 04 October 2023)

<sup>34</sup>Dr Mambang I Tibil, Interview, (Malang, 24 September 2023)

<sup>35</sup> Muhammad Aulia Rahman, "Denda Adat Dayak Ngaju dalam perjanjian pranikah untuk meminimalisasi perceraian perspektif Maslahah Mursalah Ramadhan Al-Buthi di Kecamatan Jekan Raya, Kota Palangka Raya, Kalimantan Tengah" (masters, Universitas Islam Negeri Maulana Malik Ibrahim, 2022), <http://etheses.uin-malang.ac.id/43333/>.

matter of different religions, in the sense that the husband and wife may be Muslim, but the parents are Christian or *Kaharingan*, as are the Mantir and Damang, the traditional heads. This document complements the marriage certificate/book which is also owned by the husband and wife. So each husband and wife have 1 marriage book and 1 agreement document or *Surat Panggul* to be used as commitment material and used as written evidence in case there are problems in the future. All gifts or payments in exchange for money or goods by husband and wife must be paid in full by the husband before the marriage takes place.<sup>36</sup> After the payment, everything is continued with the preparation of a prenuptial agreement or *Surat Panggul*, which in practice can be done before or after the marriage contract. All gifts are truly honest and objective, meaning that they are not just played on paper or verbally, but are actually real, for example the location of the land, its size and the paperwork must be clear. The parties, especially the husband, cannot lie.

When the customary rules regarding the *Surat Panggul* had not yet been written, the contents of the agreement used the Dayak Ngaju language, as did the discussions between the parties, in this case Damang and Mantir, the prospective husband and wife and their parents, the witnesses and the audience almost all used the language of the Dayak Ngaju tribe. Now the contents of the prenuptial agreement or *Surat Panggul* have been standardized using Indonesian as in the example attached. There are several aspects that can be seen from the *Surat Panggul* in order to realize a commitment: (1) Tendency not to ignore or insult a partner's choices; (2) Willingness to sacrifice or the tendency to abandon activities that are undesirable in marriage; (3) Accommodating behavior or the tendency to accept a partner's shortcomings; (4) There is cognitive interdependence or a tendency to think in terms of we, us rather than me or mine. Based on the four components and several aspects of the *Surat Panggul*, it can be concluded that the *Surat Panggul* or prenuptial agreement is very important and must always be preserved. This is in line with Den Aren's opinion in his interview which also said: "*I think it is very important because the existence of a pelvic letter or prenuptial agreement letter protects the rights and obligations of husband and wife and children. To be a limit to not acting as you please.*"<sup>37</sup>

In articles I and II of the pelvic letter or prenuptial agreement, it contains a statement that the willingness to love for the lifetime of the chosen partner and an agreement not to divorce the partner. This is a commitment to seriously build a household which of course does not contradict anything, because this seriousness has a positive impact on couples who make this prenuptial agreement or surat panggul. Then, Article III generally contains the division of property obtained during marriage. This is of course regulated according to the applicable law and agreed upon by the couple and their families. Furthermore, Article IV contains fines in the event of divorce for logical reasons, such as divorce caused by one of the spouses having an affair. Even so, the fines stipulated still have limits so as not to violate decency. Then in article V, it contains ownership of the dowry, which of course belongs entirely to the wife.

<sup>36</sup> "Pemenuhan Hukum Adat Dalam Perkawinan Dayak Ngaju - Dr. Telhalia, M.Th. - Google Books."

<sup>37</sup> Den Aren, Interview, (Malang, 04 October 2023)

In the academic paper of Marriage Law Number 16 Of 2019, there are several prohibitions that cannot be contained in a prenuptial agreement, namely:<sup>38</sup> (1) Prohibition of prenuptial agreements that remove the husband as the head of the marriage; (2) Abolishing his authority as a father; (3) Loss of the rights of a husband or wife who dies; (4) Prohibition of making an agreement that the husband will have a greater share in the activa than his share in the passive. The purpose of this prohibition is that the husband and wife benefit themselves to the detriment of third parties; (5) Prohibition of making an agreement that the relationship between husband and wife will be controlled by the laws of a foreign country. If we look at the provisions regarding what prohibitions are contained in the prenuptial agreement in this academic paper. this is if we have returned to the articles in Surat Panggul or the Ngaju Dayak customary agreement does not contain the prohibitions specified above. So it can be concluded that this Surat Panggul can run in harmony with Marriage Law Number 1 Of 1974.

Then the prenuptial agreement in general has been regulated in Marriage Law Number 1 Of 1974 and the Compilation of Islamic Law (KHI). According to Chapter V of Law Number 1 of 1974 concerning marriage and the Compilation of Islamic Law, a prenuptial agreement is an agreement made by a prospective husband and wife before carrying out a marriage by mutual agreement. The prenuptial agreement is made in writing which is legalized by the marriage registrar. The prenuptial agreement is valid from the time of the marriage. The prenuptial agreement can be changed later with the agreement of both parties. However, this prenuptial agreement cannot be legalized if the contents of the prenuptial agreement violate the boundaries of law and decency.

If you look at the contents of the Dayak Ngaju traditional prenuptial agreement and the prenuptial agreement according to Marriage Law Number 1 Of 1974, there are several differences, namely:<sup>39</sup> (1) The ratification of the traditional prenuptial agreement or *Surat Panggul* is through the Customary Mantir or Damang, while the prenuptial agreement is generally ratified by the marriage registrar; (2) Making a prenuptial agreement or *Surat Panggul* goes through several processions and conditions that need to be fulfilled, whereas prenuptial agreements generally do not require a procession before the marriage; (3) The contents of the *Surat Panggul* or prenuptial agreement usually contain the amount of fines that have been agreed upon and the marriage equipment that must be fulfilled, while prenuptial agreements generally only contain points and do not include fines if there are violations; (4) *Surat Panggul* this traditional prenuptial agreement is known to the prospective partner, parents, family or heirs, whereas the prenuptial agreement that generally exists in Indonesia is known only to the prospective partner and third parties if concerned.

Based on the differences in prenuptial agreements or *Surat Panggul* above, researchers do not see any contents of the agreement that conflict with the points of article 29 of Marriage Law Number 1 Of 1974. However, if we examine it further, the *Surat Panggul* or prenuptial agreement has a broader function because it not only concerns property issues resulting from marriage but also includes conditions or desires that must be fulfilled by both parties as long as they do not violate legal boundaries and morality. In this case, what is meant by not violating the law is that none of the points in the *Surat*

<sup>38</sup> "Na\_ruu\_perkawinan, [https://www.bphn.go.id/data/documents/na\\_ruu\\_perkawinan\\_.pdf](https://www.bphn.go.id/data/documents/na_ruu_perkawinan_.pdf).

<sup>39</sup> "Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan," n.d.

*Panggul* contradict the Constitution of the Republic of Indonesia and eliminate the husband's obligation to fulfill household needs.

### Conclusion

Dari penelitian yang telah dilakukan, dapat diambil kesimpulan bahwa The traditional procession of the Dayak Ngaju community before marriage has stages and steps that need to be followed, such as *Hakumbang Auh* (conveying a man's intentions to a girl he wants to become his wife), *Mamanggul (formal proposal)*, *Maja Misek* (is a meeting between the young man's family and the girl's family), *Mananggar Janji* or *Mukut Rapin Tuak* (second meeting of the woman and the man specifically to determine when the marriage will take place). At this *mamanggul* stage, both parties meet and determine *Jalan Hadat* which is the dowry of the Dayak Ngaju tribe which has the meaning of reflecting the ethics of life of the Dayak community, especially a man towards a woman and her family. Viewed from a customary point of view, the Dayak Ngaju community's practice of procession before marriage has benefits if it is carried out and does not conflict with Al-Qur'an hadith. So this can be classified as a custom that has a good impact and is mashlahah for those who carry it out. Then, The *Surat Panggul* or prenuptial agreement according to Dayak Ngaju custom is a written agreement whose contents are agreed upon by both parties to the prospective bride and groom and the parents of the prospective bride and groom, witnessed by witnesses and the Traditional Mantir and known to the Damang Traditional Head. From the point of view of the provisions of the prenuptial agreement in Indonesia, namely those contained in Marriage Law Number 1 Of 1974, this surat panggul or customary prenuptial agreement does not contradict the existing provisions.

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