**Concept Hifz An-Nasl in Ticak Kacang Marriage, Dayak Siang Traditional**

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**Abstract:**

This study discusses the traditions of the Dayak Siang community in Murung Raya Regency, Central Kalimantan, namely the Ticak Kacang traditional marriage, in which the bride and groom are married on a gong covered with mats made of peanut leaves. Men and women who love each other or are considered ready to marry are immediately united in marriage to avoid unwanted things, such as having children out of wedlock. Ticak Kacang marriage is still maintained today as a local cultural marriage. Another reason this traditional marriage is still being carried out is as an alternative for couples who conflict with the formal rules that apply, such as the age of marriage. This research was conducted using qualitative methods with data collection using the documentation method. The results of this study are that the Ticak Kacang traditional marriage is a way for the community to maintain the sanctity of the village, avoid behaviour that is not in accordance with prevailing customary norms, and demonstrate the simple life they practice. Second, Muslims who carry out the Ticak Kacang wedding tradition continue to carry out Islamic wedding processions so that they are legally religious and state law and can preserve customary law traditions.

**Keywords:** Marriage, Ticak Kacang, Lineage Protection.

**INTRODUCTION**

Marriage or marriage according to the Marriage Law No. 16 of 2019 regarding Amendments to the Marriage Law No. 1 of 1974 regarding Marriage is an innate bond between a man and a woman as husband and...
wife to form a happy and permanent family (household) based on The Supreme Godhead. While according to the Compilation of Islamic Law (KHI) it is a very strong contract or *mitssaqan ghalidzan* to obey the command of Allah SWT and perform it as part of worship. (Amir Syarifuddin, 2009)

Marriage in Islam is part of the things prescribed or regulated by religion. Among the arguments that prescribe marriage is the Qur’anic verse contained in Surat Ar-Rum verse 2: "And among the signs of His power is that He created for you wives of your kind, so that you may incline and feel at peace with them, and be made- There is love and affection between you. Indeed, in such a thing there are signs for the people who think". (Alquran Dan Terjemahan Dilengkapi Panduan Waqaf Dan Ibtida’, 2016) Islam itself does not specifically regulate the way and method of how a marriage is conducted. Everything is returned and handed over to the prevailing customs that live in the area concerned. (Mudzhar, 2014) Islam only gives limitations on what is allowed and what is not allowed when performing a marriage.

Dr. Yusuf Al-Qardawi explained that at the time of the first arrival of Islam, society had laws arising from diverse and different customs and traditions. Then Islam accommodates the good and the good following the purposes of the *Shari‘a* and its principles. However, *Syara‘* also rejects customs and traditions that are not following Islamic law. In addition to that, there is also a part that has been improved and adjusted, so that it becomes in line and harmony with the objectives of the *shari‘a* and its principles. Then there are also not a few things that have been left by *shari‘a* without rigid and clear reforms, but given space as an elastic field of movement for kaidah ushul fiqh *al-‘urf as-sahih* (good habits). Here is the role of *‘urf* that can determine the consequences of the law, explaining the limitations and details. This is because among the human benefits are acknowledging and respecting what society considers good and has become a habit that has lasted for decades and from one generation to the next. So that this becomes an integral part of the social life of the community which is both difficult to get rid of and difficult to live without these customs. Custom is a material representation of a community’s life. (Paulus Alfons Y.D, 2009) The real material embodiment of the characteristics and local wisdom that lives and lives in the middle of the
community in a region. Custom lives in the social space, the studies of legal experts from the Dutch colonial era to the era of independence also show the existence of Customary Law, where the development of the study of law that lives in Indonesian society has given birth to several theories that mutually attract and connect in seeing its advantages. The theories are receptio in complexu, receptio theorie, and receptio a contrario. (Juliana Pretty Sanger, 2015)

Every marriage needs arrangements and discipline. One of the ways is by enforcing the registration of marriages by authorized officials. The registration of this marriage has been regulated in Article 2 paragraph 2 of Law No. 16 of 2019 changes to Law No. 1 of 1974 regarding marriage, every marriage is recorded according to the applicable laws. The registration of this marriage is a step taken by the government to regulate the administration of marriage and also to protect the rights of the husband and wife in the event of a dispute. (Usman, 2017) The complexity of the issue of marriage is not only in the administrative problem of recording, but it is no less important to discuss the status of children and their inheritance in a marriage consequence because a marriage does not only involve the legal consequences borne by the husband and wife but every element related to the husband's bond. the wife must also be observed strictly, and of course, this includes children born from the marriage relationship. (Nadriana & Yunani, 2023) Therefore, after we discuss the registration of marriages, we should also discuss the status of children and their inheritance.

The consequence of a marriage relationship is to give birth to descendants or children, so the State in this case arranges for legal protection for children born from a marriage. Legal protection is an effort given to legal subjects following legal regulations, both with preventive measures and repressive measures. Children are a hope that is greatly desired and hoped for by husband and wife, because one of the purposes of marriage is to have offspring or successor generations to create a happy family, and one of the legal consequences of marriage is the existence of a legal relationship between parents and their children. So that children are also entitled to legal protection that guarantees their rights and obligations in life they should. (Nadriana & Yunani, 2023)

A marriage that has been performed following the administration
set by the state will have legal force and can be proven that the marriage event has been valid and recognized by the state. This becomes an important principle for the interests of the husband and wife, the children born from the marriage as well as the property in the marriage. The purpose of registering this marriage is so that the marriage that has been performed has a strong and certain legal force, resulting in the emergence of rights and obligations between husband and wife, children born to be legitimate children, rights and obligations of parents towards children, mutual rights inherit between husband and wife and children with their parents, and for daughters, a father has the right to be the guardian of her marriage. (Mohd. Idris Ramulyo, 1996) According to Abdurrahman and Ridwan Syahrani, if a marriage is not recorded, the marriage remains valid according to religious teachings or beliefs, however, the marriage is invalid and not recognized by the State, as well as the consequences arising from the marriage. the responsibility of the parents towards the children born from the marriage. (Sendy, 2019)

Indonesia is an archipelago country consisting of many ethnic groups with various customs and multicultural cultures. One of them is the Dayak community which in many aspects still uses customs in various matters, especially in the ritual of a wedding. As is the case in Central Kalimantan, especially the Dayak Siang tribe in the Murung Raya regency has several customs, especially in matters of marriage. Murung Raya regency has several wedding processions, one of which is the traditional wedding in Murung Raya Regency, Tanah Siang Selatan District, which is the Ticak Kacang traditional wedding of the Dayak Siang tribe. (Ani et al., 2019)

All Dayak tribes have different traditional wedding processions that are following the culture and customs that prevail in each region. (Wilis Maryanto, 2000) One example is the Dayak Siang tribe in the Murung Raya regency which has a local traditional culture, namely the Ticak Kacang marriage which is still valid and is also defended by the local community, especially the Kaharingan (Hindu) religion as the ancestral religion of the Dayak Siang tribe, but on the way to the entry of Islam in the area, it did not prevent the implementation of the Ticak Kacang wedding ritual for Muslims.

In this Ticak Kacang traditional wedding, it is necessary to go
through several processes for the traditional wedding, at the first stage, the woman and man sit on a gong (a dais) that is given a mat (woven kajang leaves/rattan) with bahalai cloth (a precious object of Dayak traditional tradition) day), then what will be done by women and men holding sawang sticks and canes that are erected using the right hand, then the traditional head or damang who leads the wedding gives prayers or mantras facing forward and back after that ) using village chickens that are still alive and in the temple, when the marriage process is completed then the marriage is valid in the eyes of custom, As for one of the other reasons and causes of the community getting married through the Ticak Kacang traditional wedding ceremony apart from preserving customs is because this marriage is one of alternative marriage implementation for couples who want to implement marriage but clashed with the laws and regulations that apply in Indonesia.

METHOD

The method used as a reference in this research is qualitative, with data collection using the documentation method. (Suharsimi Arikunto, 2010) In connection with this, interviews were conducted with traditional leaders, religious leaders, community leaders and perpetrators of traditional marriages. Researchers also use a descriptive approach to describe the symptoms and phenomena. (Lexy J. Meleong, 2007) The topic discussed in this study is the Ticak Kacang traditional marriage from the perspective of Islamic law, which includes the implementation of the Ticak Kacang traditional marriage and the views of Islamic law on marriage.

RESULTS AND DISCUSSION

A. Concept of Marriage According to Islam

Marriage in Arabic is called marriage, which means wath’u, adhammu, aqad, and jam’u. (Muhammad Amin Suma, 2005) Wath’u which means intercourse, intercourse, or intercourse. Adhammu means to gather, unite and embrace. Aqad means binding and jam’u means collecting, uniting, and compiling. (Amir Syarifuddin, 2009) Marriage according to the Fiqh cleric, Ulama Hanafiyyah, defines marriage as a contract that is useful for having mut’ah (men have women completely)
Purposely. According to Syafi’iyah scholars, it is stated that marriage is a contract that guarantees ownership by using marriage *lafadz* or *tazwij* which means having children. Malikiyah scholars stated that marriage is a contract that is carried out and is intended to achieve (sexual) pleasure only. Meanwhile, the Hanabilah Ulama, mentions that marriage is a contract by using marriage *lafadz* or *tazwij* to get satisfaction. (Muhammad Amin Suma, 2005)

Although there are differences of opinion about the formulation of the meaning of marriage, from all differences of opinion there is one element in common, namely, marriage is an agreement between a man and a woman to form a *sakinah mawaddah warahmah* family and is accompanied by a very strong agreement (Amir Syarifuddin, 2009) or *mitsaqan ghalidzan*. Marriage in the Marriage Law Number 16 of 2019 Amendments to Law Number 1 of 1974 concerning Marriage contained in article 1 paragraph 2, namely: The inner and outer bond between a man and a woman as husband and wife to form a family, household happy and eternal based on the One Godhead. (Amir Syarifuddin, 2009) Inclusion based on the One Supreme Godhead is closely related to the first principle in Pancasila. This is a clear statement that marriage has a close relationship with religion and spirituality so marriage has both physical and spiritual elements. (Sahran Raden, 2011) Marriage is an important event in a person’s life. What is forbidden for a person, then turns into lawful using marriage. The implications of marriage are huge, broad, and varied. Marriage is also an initial suggestion to realize a social order, where if the family units are good and of good quality, it is certain that the community that is realized will be strong and good. When viewed from its very broad reach, marriage has a very strategic meaning in the life of a nation. In this context, the government has an interest in regulating the institution of marriage, so that an orderly and peaceful society can be realized. (Kamil Rizani dan Ahmad Dakhoir, 2020) This is reflected in Law No. 16 of 2019 Amendments to Law No. 1 of 1974 concerning Marriage which is a concrete form of government regulation of marriage to its citizens. The rise of the state brings a decisive arrangement in the continuity of the development of its customs, in this case, marriage. (Martin Chanock, 1989) Likewise, every marriage is expected to form an eternal family, to achieve this noble goal, the marriage law stipulates the
existence of the following principles: principles or principles regarding marriage following the development and demands of the times. (Dadan Muttaqien, 2006)

The dimension of customary law in a marriage is a legal symptom that appears and lives in the life of Islamic society, through internalization efforts in social interaction. In practice, there is often a struggle between the rules of Islamic law and local rules that live and grow and are embraced by local indigenous peoples. In the process, there is adaptation and assimilation between the rules, which creates a consensus as a reference in behavior that gets legitimacy from the community elites and their supporters. Because the number and distribution of ethnic and sub-ethnic groups are very large and diverse, the patterns of behavior are also very diverse. (Elsaninta Sembiring, 2014)

There are various patterns in the implementation of worship in the ritual dimension of Islamic teachings. This is related to the schools of thought of fiqh scholars (mazhab) that blend and adapts to local traditions. The diversity of behavior patterns is a very wide area, but has not been explored and widely exposed. A simple example in the implementation of a marriage there is a variety of patterns in terms of grouping the implementation of a marriage procession related to gender, ethnic origin, language applied in marriage, choosing the day and place of marriage, and the like. Similarly, the pattern of worship among certain community groups. Customary marriages are also closely related to kinship, including the recommendations and prohibitions of Allah SWT and the Prophet SAW which have become patterns of behavior that are embedded in people's lives, regarding patterns of marriage and inheritance. (Santoso, 2016)

Based on this, customary marriage in the context of customary law is the original product of traditional society. As Ter Haar explained that customary law is a deposit of social populist interaction that is formed and supported by social facts or facts as a long process and has been running for centuries. (M. Syamsuddin, 1998) Thus customary law is included in this case. Traditional marriage in Indonesia is a deposit of a traditional community structure that is based on the exchange of services from local communities. According to Van Volenhovven, customary law is the pure law of a group of people in Indonesia who are bound and
connected by territorial genealogical or ethnic relations. This is because customary law contains rules relating to religion and customs that apply and live in the community in an unwritten manner (living law). (Tamanaha Ehrlich, 2011)

Marriage is *sunnatullah*, not only done by humans but also by animals, even plants. This is mentioned in the Qur’an Surah Yasin verse 36 which reads: Glory be to God who has created all partners. both from what the earth grows and from themselves and from what they do not know. Marriage in customary law is not merely a bond between a man and a woman as husband and wife to get children as offspring and building and foster family and household life. But it also creates a legal relationship involving the members of the relatives from the husband's side and the wife's side. Marriage for customary law is part of an important ritual because it does not only involve the relationship between the bride and groom but also relates to the relationship between the bride and groom such as their relatives or other families. Even in customary law, it is believed that marriage is not only an important event for those who are alive but also an important event for their deceased ancestors and ancestors. The ancestral spirits of both parties are also expected to pray for and bless the continuity of their household to make it more harmonious and happy. (Djamanat Samosir, 2013)

The traditional marriage of Ticak Kacang is one of the traditions of the Hindu religious community (Kaharingan). (Nyalung & Sholahuddin, 2015) Hinduism gives freedom in carrying out traditional practices in a marriage. (Syed Nadeem Farhat, 2015) However, those who use this tradition are not only kaharingan, there are also people of different religions who can do this tradition, and there are 2 (two) kinds of Ticak Kacang marriages; some are descendants, and some are not descendants who do it. This traditional Ticak Kacang wedding is usually carried out for one day, the people who marry the Ticak Kacang need and must meet several customary requirements that have been implemented, in this Ticak Kacang traditional wedding it is necessary to go through several processes for the traditional wedding. In the first stage women and men sit on a gong (aisle) which is given a mat (woven kajang leaves / rattan) with bahalai cloth (precious objects of the Dayak noon tradition), then what will be done by women and men holding sawang stalks and
rattan erected by hand the right, then the customary head or damang who leads the marriage gives prayers or mantras with a position facing forward and backward after that mura (taken accommodated) using free-range chickens that are still alive and in the temple, and when the marriage process is complete then the marriage is legal in the eyes of custom. Usually, traditional Ticak Kacang marriages are carried out for reasons of mutual liking and if you are ready to carry out the wedding, it will be done as soon as possible to avoid something unwanted happening later. This marriage procession is only held traditionally and legally in the eyes of local customary law. (Wina Yunita, 2019)

The function of this Ticak Kacang marriage is as a way and form of society to preserve traditional social interests and keep the culture from being eroded by modernization. (Guillot et al., 2015) Although the status of this marriage is only legal according to local customs, this customary marriage is still very much guarded by indigenous peoples because its function is as a sacred procession to form a new life. Ticak Kacang marriage is also used as an alternative solution for people who want to get married but are constrained by finances. This marriage is used as an alternative to legally being married. However, the community can continue the marriage process along a legal and religious path if the community already has sufficient funds to obtain legal legality from the religious state. This customary marriage also eases the burden on the community because the process that must be carried out is shorter, namely one day. The Ticak Kacang traditional wedding is a way for people to show a simple life. One of the characteristics of the Ticak Kacang wedding is simplicity, it can be interpreted as not luxurious and excessive. Ticak Kacang marriages are also synonymous with couples who have a disadvantage or low economy and problematic marriages, such as pre-marital pregnancy couples. However, its validity is still recognized by adat. Because of this, this marriage model is still respected and upheld by the Dayak Siang community.

B. The Concept of *Hifz An-Nasl* in Ticak Kacang Traditional Marriage

theory of linkage between the relationship between religious law and customary law as previously described in customary law is the theory
of "receptio a complexu", "receptio theory" and "recentio a contrario theory". These three theories have the basis and source of their respective views in seeing the relationship between customary law and religious law that applies in Indonesia. The theory of "reception in complex" by its initiators explicitly states "Receptio in complexu" by Hindus from Hindu law, by Muslims and Islamic law, by Christians from Christian law. As long as the opposite can be proven, according to this teaching, indigenous law follows one’s religion, because if you embrace a religion, you must also follow those religious laws well and faithfully. If it can be proven that 1 (one) or several parts, complete customs or small parts as the opposite, then there are deviations in the religious law; and that the author of the teaching acknowledged that the refuting evidence was a sign, that he had had the vision and highest regard for the national legal awareness of the "brown-skinned people" of the king of the Netherlands. (Rahmad Alamsyah, 2021)

Everything that is prescribed by Islam has a purpose, at least it contains certain wisdom, including marriage. The purpose of Islamic marriage cannot be separated from the statement of the Qur’an, the first source of its teachings. A peaceful life (sakinah) is wrapped in feelings of love and supported by mutual understanding between husband and wife because "clothing" for their partner is the main purpose of Islamic marriage. The atmosphere of life aimed at by such a marriage can be easily achieved if the marriage is built on a solid foundation. A husband and wife life that is truly sakinah and happy. A sakinah and happy husband and wife will be able to develop an intimate and intimate relationship. This in turn will give birth to a good and pious next generation, who will become leaders of the pious (lil muttaqina imama). Preserving offspring is the goal of lawful marriage. Besides aiming to preserve good offspring, it is also to educate the human soul to increase the sense of affection, increase tenderness of the soul, and love. Every child born in the world is clean, holy, and Islamic, whether the child is a Muslim or a non-Muslim. Then it was his parents who maintained and strengthened his Islam. (Moch Azis Qoharuddin, 2021)

Children are a great gift given by Allah subhanahu wa ta’ala (SWT). A gift that makes a pair of hearts even happier. Happiness cannot be measured in material terms. Children are sustenance from Allah SWT.
The husband and wife should be grateful for the sustenance given. Among the forms of manifesting gratitude is by paying good attention to the rights of children. Thus, harmonious and happy relationships are established in the family, obedient and devoted children are created to their parents, and pious children's characters are formed who are ready to build religion, nation, and state. Islam is a perfect religion and rahmatan lil'alamin. Islam has taught all aspects of every aspect of life. Islam has taught children's rights that must be fulfilled by both parents. (Sri Mulyani, 2021)

The author observes that Ticak Kacang marriages that do not register marriages have the potential to give birth to legal problems in the future, especially the issue of the position of the child being born. First, the question of the validity of marriage will give rise to rights and obligations between husband and wife. The wife's right to a living and joint property depends entirely on the presence or absence of a valid marriage as the legal basis. Likewise, a legal marriage will give birth to legitimate children. Children born from illegitimate marriages have legal relations only with their mothers. Thus all rights of the child against his father will be lost and not recognized by state law. The right to care for children owned by their parents can only be obtained if they have legal marital status. (Prasetyo, 2020)

Second, the right of inheritance between husband and wife and their children. Ticak Kacang marriages that do not register their marriages may invalidate the right to inherit from each other. Regarding the legal status of children, we can refer to the provisions of Article 42 of the UUP which states that a legitimate child is a child born in or as a result of a legal marriage. So, if a child is born from a legal marriage that is carried out either at the Office of Religious Affairs (for a Muslim couple) or the Civil Registry Office (for a partner who is a non-Muslim religion), then the position of the child is a legal child in the eyes of the law and has rights and obligations of children and parents as stated in Article 45 to Article 49 of Law no. 16 of 2019 concerning Marriage. In addition, parents also need to pay attention to the provisions of Article 43 of Law no. 35 of 2014 concerning Child Protection which reads that the State, Government, Regional Government, Community, Family, Parents, Guardians, and social institutions guarantee the protection of children in embracing their
religion. The protection of children in embracing their religion as referred to in paragraph (1) includes fostering, mentoring, and practicing religious teachings for children. (Sri Mulyani, 2021)

The main objective of the shar'i'a is to be seen in the maintenance of the pillars of human welfare which includes five main benefits, namely: (1) his religion (hifż ad din), for example reading the two sentences of the creed, establishing prayer, paying zakat, fasting, and going to hajj; (2) his soul (hifż an-nafs) for example good food and drink, wearing clothes, shelter; (3) his mind (hifż al-aqîf). For example, studying so as not to be stupid; and (4) their descendants (hifż an-nasl) with the law of marriage and carry it out according to administrative procedures and rules and (5) their property (hifż al-mal), for example doing muamalah or doing business. (Abu-Shamsieh, 2020) As mentioned by As-Syatibi, the basic principles of Islamic shari'a according to Ibnul Qayyim are wisdom and the benefit or goodness of mankind in this world and the hereafter. This benefit lies in equitable justice, mercy (compassion and care), welfare, and wisdom. All problems that change, from justice into injustice, mercy turns into violence, prosperity into misery, and wisdom into ignorance, then all of this is contrary to Islamic shari'a. Therefore, Islamic shari'a is a source of happiness, conditioning, and calming of the soul. (M. Afandi, 2021)

Hifż An-Nasl (Maintaining Descendants) is an important essential legal consequence of marriage. Marriage the perspective of cultural preservation is very permissible to apply, but it is not finished with customary law. As a good citizen, you must also obey and implement the laws and regulations, in this case, you must register your marriage as regulated by law. So the marriage of Ticak Pea causes benefits (maslahah) that are greater than losses (mafsadah). (Jalili, 2021) The maqashid shari’a hifż an-nasl approach is a holistic approach that does not limit it to one history of hadith and partial law, but rather refers to general principles and common ground. So that the marriage of Ticak Kacang remains in accordance and in harmony with the concept of maqashid shari’a in Hifż An-Nasl. (Jasser Auda, 2008)
CONCLUSION

The traditional Ticak Kacang marriage is one way for the community to maintain the sanctity of the village, avoid behaviour that is not in accordance with prevailing customary norms, and demonstrate the simple life they practice. Muslims who carry out the Ticak Kacang wedding tradition continue to carry out Islamic wedding processions and marriage records so that Ticak Kacang marriages are legal according to religion and state law and preserve customary law traditions. Balancing these practices is in line with the interests that are the core of maqashid shari’a, namely Hifż An-Nasl (protection of offspring).

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