



## **Cancellation of the Maanyan Dayak Traditional Engagement Agreement**

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### **Abstract**

*A proposal of marriage is an attempt to bring together a man and a woman with the consent of both parties, who mutually promise to marry. The purpose of this study is to examine the implications of canceling a proposal of marriage based on the customary law of the Dayak Maanyan tribe. This study uses a non-doctrinal or socio-legal research approach through qualitative interviews with traditional leaders, processing data from primary, secondary, and tertiary legal materials. The legal implication of canceling a proposal of marriage in the Dayak Maanyan tradition is a customary sanction called sapu hirang, which is determined by the traditional leader. However, if the cancellation is for legitimate reasons, such as inappropriate behavior by one of the parties, the traditional leader can provide special consideration and adjust the sanctions imposed.*

**Keywords: Agreement, Proposal, Customary Law**

### **Introduction**

A proposal or more commonly called an engagement is an initial act before the legal event of marriage takes place. According to etymology, proposing or proposing means asking a woman to become a wife (for oneself or another person). According to terminology, a proposal is an effort towards a matchmaking relationship between a man and a woman or a man asking a woman to become his wife, in ways that are common in society.<sup>1</sup> The Big Indonesian Dictionary defines the word meminang as asking a girl to become his wife, a proposal is a request or proposal from a man (or his family or

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<sup>1</sup> Tihami, Sohari Sahrani, *Fikih Munakahat*, Rajawali Pers, Jakarta, 2010, hlm. 24

representatives) to a woman to become his wife, while the person who proposes is called the suitor.

The relationship between men and women during the engagement period is like the relationship between foreign men and women. Therefore, both of them are still obliged to maintain the boundaries of the Shari'a, such as lowering their eyes, guarding their words, and not being alone without the presence of a mahram.<sup>2</sup> The engagement period is not a period of freedom to interact like husband and wife. But it is the initial stage of getting to know each other in a justified corridor with the aim of ensuring compatibility before moving on to marriage. This is also accompanied by an agreement between both parties. Agreement regarding the desire for marriage is reached by both parties after first making an application, namely a request or consideration put forward by the man to the woman.<sup>3</sup>

The engagement period is the period where both parties, the prospective bride and groom, wait for the wedding to take place. This proposal officially begins when the party being proposed receives a sign or symbol of bond from the applicant. Even though the time for the wedding is near, even only a few days later, in this short period of time the prospective bride and groom are considered to have entered into a commitment to propose. This period, although short, still has an important symbolic value, even though it is not as formal and does not take as much time as the proposal process which is usually longer and more detailed. During this time, both the prospective bride and groom and their extended families usually prepare themselves, both physically and mentally, for the wedding day.

Marriage is a physical and spiritual bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family (household) based on the belief in the Almighty God.<sup>4</sup> Customary law recognizes marriage as a system that focuses on the union of two extended families, not merely individual relationships. This aligns

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<sup>2</sup> Al-Zuhayli, W. (2011). *Al-Fiqh al-Islami wa Adillatuhu* (Vol. 7). Damascus: Dar al-Fikr

<sup>3</sup> Soerojo Wignjodipoero, 1987, *Pengantar dan Asas-Asas Hukum Adat*, Gunung Agung, Jakarta, hlm.124.

<sup>4</sup> Hilman H. 2007. *Hukum Perkawinan Indonesia*. Bandung: Mandar Maju. hlm 6

with the marriage traditions of the Dayak Maanyan tribe in Central Kalimantan. The Dayak Maanyan view marriage as a spiritual bond involving a highly valued spiritual commitment to maintain harmony, well-being, and honor for both parties.

There are three main stages in the traditional wedding ceremony of the Dayak Maanyan tribe. The first stage is called *ngatet taulang paner/mupuh*.<sup>5</sup> and *Itunti*<sup>6</sup>. This stage is the stage where the male heir comes to the female heir to express the intention of establishing a bond between the male child and the female child. The second stage is called *Adu Pamupuh*<sup>7</sup>, which is the stage where a man and a woman agree with both parties and promise each other to enter into a certain marriage. At this stage, the male heir hands over a certain amount of money or goods to the female, all of which is recorded in the proposal agreement. If the process goes smoothly, then ideally after that the marriage will continue within the agreed time period. The third stage is the marriage stage which in the Dayak tribe is called Maanyan *Piadu*.<sup>8</sup> *Piadu* means marriage, at this stage there is fulfillment of customary law as the final series and a statement that the marriage is valid according to custom.<sup>9</sup>

Problems arise in the second and third stages. The time between the *adu pamupuh* (proposal) and *the piadu* (marriage) can be weeks, months, or even years. The longer the time between the proposal and the wedding, the greater the risk of problems. Conflicts in the post-proposal period vary widely, from minor to major, from minor to potentially fatal, such as the cancellation of the proposal. If the proposal is canceled, the agreement that was agreed upon is also canceled. Sometimes this agreement must be canceled for various reasons, such as family disputes, incompatibility between the prospective bride and groom, or unforeseen changes in circumstances. Cancelling a proposal has complex legal implications.

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<sup>5</sup> *ngatet taulang paner/mupuh* This is the process by which the man or the man's heirs visit the woman's residence to announce their intention to propose to the woman through the methods established by local customs. This process involves introductions between the extended families of both parties, which are carried out alternately.

<sup>6</sup> *Itunti* is the introduction stage and conveys the purpose of the male's family's arrival to the female

<sup>7</sup> *Adu Pamupuh* is the stage before marriage in the form of an engagement

<sup>8</sup> *Piadu* is the implementation of marriage

<sup>9</sup> Wahatin Seok, Sekertaris Damang Adat Dayak Maanyan Barito Timur, interviewed on 25 June 2024

In one case, the items presented as a proposal are considered symbols of a serious intention to proceed to marriage, and canceling the agreement can lead to demands for the return or compensation of these items. Furthermore, customary law views this cancellation as a violation of customary values and social norms, which in turn can affect the reputation and social relationships of the families involved. This can even lead to social isolation or negative stigma against the individual or family deemed to have violated customary norms. Examples range from minor issues such as disputes over marriage plans to major issues that must be resolved through customary law, such as infidelity. If the proposal is canceled, the agreement that was agreed upon is also canceled.<sup>10</sup> Cancelling a proposal has complex legal implications. On the one hand, the Dayak Maanyan tradition has its own rules and sanctions governing the cancellation of a proposal, while state law stipulates that agreements must be complied with.<sup>11</sup>

## **TRADITIONAL MARRIAGE OF THE DAYAK MAANYAN TRIBE OF CENTRAL KALIMANTAN**

The traditional marriage of the Maanyan Dayak Tribe is something noble and sacred. Traditional marriage among the Maanyan Dayak community has been practiced since ancient times, even to the present day and is believed to continue into the future. Marriage traditions are a form of local wisdom and cultural values inherent in the Maanyan Dayak community. The Maanyan Dayak tribe views marriage as a form of physical and spiritual bond involving spiritual commitment, which is upheld to maintain harmony, well-being, and honor of both parties. However, with the development of the times, the best marriage for the Maanyan Dayak Tribe is one that is in accordance with the freedom and to the extent of each person's sense of responsibility. This freedom does not mean neglecting

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<sup>10</sup> *Ibid*

<sup>11</sup> Provisions regarding the conditions for the validity of an agreement in Article 1320 KUHperdata

the stages that must be carried out if the marriage is to be recognized according to tradition. The ideal stages in a Maanyan Dayak marriage are:<sup>12</sup>

1. *ngatet taulang paner/mupuh* and *Itunti*;
2. *Adu Pamupuh* or proposal and;
3. *Piadu* namely the implementation of marriage and the fulfillment of customary law.

### **STAGES OF THE TRADITIONAL PROPOSALS OF THE DAYAK MAANYAN TRIBE OF CENTRAL KALIMANTAN**

Proposal or what is more commonly called marriage proposal is an initial act before a marriage takes place. According to the terminology, marriage proposal is an effort towards an arranged marriage relationship between a man and a woman or a man asking a woman to become his wife, in ways that are generally applicable in society.<sup>13</sup> Although proposing marriage is an integral part of the wedding procession, its implementation is not regulated by national marriage laws or religious law. The proposal in action can be said to be binding on both parties, this is because the proposal is accompanied by the handing over of a binding sign. This series of activities involves a variety of steps and traditions that vary between communities, reflecting local cultural values and norms.

The proposal process for the Dayak Maanyan people in Central Kalimantan begins after the *ngatet taulang paner/mupuh* and *Itunti* ceremonies. At this stage, the groom will visit the prospective bride's family with the clear intention of introducing himself and his family. This meeting serves as a bridge to build closer relationships between the two families and discuss mutual intentions for the marriage. In Dayak Maanyan culture, mutual agreement between families is crucial, and open dialogue is the foundation for moving on to the next stage. Once confident in each person's decision and the support of the family, the process continues to the proposal stage. At this stage, the groom will submit a formal proposal to the prospective bride's family.

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<sup>12</sup> Interview with Bapak Frituah, Mantir Adat Desa Sababilah on 30 Juni 2024

<sup>13</sup> Tihami, Sohari Sahrani, *Fikih Munakahat*, Rajawali Pers, Jakarta, 2010, hlm. 24

The traditional proposal procedure of the Dayak Maanyan tribe is as follows: First, the prospective bride and groom visit a traditional leader and submit a written statement agreeing to marry, along with supporting evidence, usually stamped. The leader then summons the parents or heirs to inform them of their wishes. After an initial agreement is reached, a deliberation is held between the heirs from both families. During this meeting, they discuss various aspects of the marriage, including when and how the proposal will be carried out and compliance with customary law. This deliberation results in a proposal agreement, which serves as an official document confirming the commitment between the two parties.

This commitment is necessary because the proposal process typically takes a considerable amount of time, sometimes months or even years. This process involves not only an agreement between the bride and groom but also many other factors, such as the readiness of both families and the traditions that must be adhered to. During this period, the bride and groom and their respective families communicate and discuss to ensure that all customary requirements are met. This is also a time to assess the emotional and financial readiness of both parties, as marriage in the Dayak Maanyan community is not simply a ceremonial event but also a social bond that binds two families. Therefore, this proposal agreement is used to ensure that the proposal will proceed to marriage. Therefore, the proposal process is not merely a formality, but also reflects the respect, commitment, and traditions held dear by the Dayak Maanyan community.

## **LEGAL ASPECTS OF AGREEMENTS IN MAANYAN DAYAK TRADITIONAL ASSIGNMENT**

Contract law is a part of civil (private) law. A contract is an event in which one person promises to another person or where two people promise each other to carry out something.<sup>14</sup> The definition of a contract is regulated in Article 1313 of the Civil Code, which states that "a contract is an act by which one or more people bind themselves to

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<sup>14</sup> R. Subekti, 1990, *Hukum Perjanjian*, Cetakan ke 12, Jakarta: Intermasa, hlm 1

one or more other people."<sup>15</sup> In the context of the Dayak Maanyan traditional marriage proposal, the concept of this agreement is very relevant because the proposal involves a clear commitment between both parties and their families. Article 1313 of the Civil Code refers to an agreement as a legal action that has the aim of causing legal consequences. In this case, the proposal agreement letter made by the prospective bride and groom's family is not just a formality, but is a legal action that aims to bind the two families in a social and cultural commitment.

According to the Civil Code, agreements are divided into two main categories: named agreements and unnamed agreements. Named agreements are those specifically regulated by law, such as sales, leases, or loans. Conversely, unnamed agreements are those that lack specific provisions in law, allowing for greater flexibility in their drafting.<sup>16</sup>

The Dayak Maanyan traditional engagement contract falls into the category of unnamed agreements. Although not formally regulated by national law, the customary engagement contract holds significant power and significance in the social and cultural context of the Dayak Maanyan community. This agreement is formed based on traditional values and agreements between the families of the prospective bride and groom, and is recognized as a crucial step before the marriage ceremony. Although not formally regulated by national law, the customary engagement contract holds significant power and significance in the social and cultural context of the Dayak Maanyan community. This agreement is formed based on traditional values and agreements between the families of the prospective bride and groom, and is recognized as a crucial step before the marriage ceremony.

If the proposal is canceled then the agreement will also be canceled. Violation of the agreement that has been made can be considered a breach of contract or an unlawful act. Likewise with the Dayak Maanyan traditional marriage agreement. The agreement is

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<sup>15</sup> See article 1313 KUHPperdata

<sup>16</sup> Hukum Online. Macam-macam perjanjian dan syarat sahnya. <https://www.hukumonline.com/klinik/a/macam-macam-perjanjian-dan-syarat-sahnya-1t4c3d1e98bb1bc/> diakses pada 26 Agustus 2024

not just a formality, but is an integral part of the marriage process which involves a number of commitments and obligations from both parties. If one of the parties violates the engagement agreement, this can give rise to juridical consequences in accordance with applicable law.

The factors causing the marriage proposal to be canceled based on an interview with Mr. Nalolonahap, the staff of the Paju X traditional court are as follows:

1. Bad behavior

Usually during this proposal period there is a waiting period, approximately 3 months or 4 months, and this time is usually specified in the agreement or not. During the waiting period before the marriage takes place, both parties sometimes also assess each other's behavior, therefore, if bad behavior is found during the proposal period, then there is a possibility that the proposal will be cancelled.

2. One of the parties betrays

Betrayal here is that one of the parties still tries and approaches or has a relationship with the opposite sex, even though they are already engaged in an engagement.

3. One of them died

As is known, death (passing away) is the destiny of God Almighty for humans as creatures, and death itself cannot be known by humans, when and where. Likewise, if the death occurs to someone who has been involved in a marriage proposal, the marriage proposal is automatically canceled.

## **IMPLICATIONS OF THE CANCELLATION OF THE DAYAK MAANYAN TRADITIONAL PROSPECTUS AGREEMENT**

The implications of canceling the marriage agreement in the Dayak Maanya custom can be described as follows:

1. Violation of Custom

In the Dayak Maanyan community, a proposal of marriage is considered a sacred customary commitment. Unilateral cancellation without clear reasons or mutual consent can be considered a violation of customary law.

## 2. Customary Fines (Sapu Hirang)

If a proposal is canceled, the party who cancels the agreement is usually subject to a customary fine, known as saou hirang. This fine serves as a form of reparation for the violation, and the amount can vary depending on the prior agreement or the provisions of the Mantir Adat.

## 3. Family Reputation

The cancellation of a proposal also impacts the reputation of the family, both the man and the woman. For the Maanyan Dayak people, who highly value family honor, this can impact social relationships within their community. Families deemed to have violated tradition can lose the trust of the surrounding community.

## **TRADITIONAL FINE 'SAPU HIRANG' AS AN EFFORT TO SETTLEMENT OF TRADITIONAL FIRING**

As stated by Wahatin Seok<sup>17</sup> "The settlement of cases that apply in Tamiyang Layang regarding a man who unilaterally cancels his engagement to a girl, the process can be carried out amicably, meaning accompanied by a traditional mantir, the parties and both families. While the venue is usually held at the home of the family whose engagement was canceled or at the home of a traditional official. This family agreement also determines the amount of the customary fine, including discussing the money or goods that have been given by the man to the girl's family and including the sanction of cleansing or sapu hirang." In short, Sapu Hirang functions to remove or erase all bad impressions (disgrace) before the marriage takes place.

Frituah explained<sup>18</sup>"If one of the parties cancels the marriage agreement or in other words cancels the marriage proposal, for example if the man is found to be cheating then afterwards a meeting will be held between the families with the traditional Mantir as

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<sup>17</sup> Wahatin Seok, Sekretaris Damang Adat Dayak Maanyan Barito Timur, interviewed on 25 Juni 2024

<sup>18</sup> Frituah, Mantir Adat Dayak Desa Sababilah Barito Selatan, interviewed on 30 Juni 2024

the mediator. Usually there are two options, the marriage proposal will be continued or cancelled. If it continues then the man will be fined *bapu hirang* which means cleansing but if it is cancelled then the fine will be in accordance with the agreed marriage agreement, there is written a sanction if the agreement is cancelled. For example, a fine of Rp. 25,000,000. If the man objects, we will leave it to the family as to what is good."<sup>19</sup>

The customary law expert explained that if one party cancels a proposal, customary law will be implemented according to the agreement at the time of the proposal. Several procedures for imposing sanctions for customary violations involving proposal cancellations were identified, which stem from the violation of customary norms and result in the victim feeling insulted and having their dignity violated.

Regarding customary violations in the form of canceling a marriage proposal by one of the parties, sometimes those who will report it to the *Kedamangan* or *Mantir* of village customs and to the family of the betrayed are members of the community who hear and see that the perpetrator of the cancellation of the proposal is married or with another girl. Then with regard to the procedures or procedures for implementing sanctions for canceling the proposal, this is done through an agreement between both family parties.

The customary sanctions imposed on a man who unilaterally cancels his engagement to a girl can be carried out amicably, meaning accompanied by a traditional *mantir*, the parties, and both families. The venue is usually the home of the family whose engagement was canceled or at the home of a traditional official. This family agreement also determines the amount of the customary fine, including discussions about money or goods given by the man to the girl's family, and includes a cleansing sanction or *sapu hirang*. This *Sapu Hirang* is carried out if there is a mistake or certain actions by one or both prospective bride and groom before the wedding takes place. In essence, *Sapu Hirang* aims to remove or cleanse all negative impressions (disgrace) before the wedding takes place.

Apart from the sanction of *sapu hirang* which means cleaning, there are also other sanctions stated and written in the proposal agreement if the agreement is cancelled. For

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<sup>19</sup> Frituah, *Mantir Adat Dayak Desa Sababilah Barito Selatan*, interviewed on 30 Juni 2024

example, a fine of IDR 25,000,000 (twenty five million rupiah) is paid by the party who cancels. The process of canceling the marriage proposal in the Dayak Maanyan traditional community will be accompanied by the Traditional Mantir. In this family agreement, the Traditional Mantir guides the customary fines that will be imposed on the party who cancels the proposal and also discusses goods and money as a sign of binding the proposal, which have been accepted by the woman.

This means that the imposition of customary sanctions or fines involves the Customary Mantir or its officials. Considering the implementation of sanctions (*sapu hirang*) for the cancellation of a proposal carried out through customary deliberation, it is actually a means of providing education or understanding to the person who canceled the proposal and the community members, that such actions are reprehensible and contain elements of insult and offend self-respect. The existence of this proposal cancellation is also a violation of custom, because the proposal itself is carried out through a customary process, attended by the customary leader and his officials, the village head and community members, as the final stage before the marriage is carried out.

### **Conclusion**

The legal implications of canceling a proposal in the Dayak Maanyan tradition reflect the complex relationship between customary values, social systems, and moral aspects within the community. A proposal is not simply an agreement between two individuals; it also involves the extended family and the customary community. Therefore, canceling a proposal has widespread implications, not only for the parties involved personally but also for social relationships and the family's status within the community. In the Dayak Maanyan context, customary law emphasizes the importance of maintaining family honor and social harmony. Cancelling a proposal is considered a serious violation of customary norms and has the potential to cause tension between families. To address this, customary law provides a resolution mechanism through the application of sanctions, such as *sapu hirang*. This sanction has a profound purpose: to erase the negative impression (disgrace) caused by the cancellation of the proposal and restore harmony between the disputing parties.

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