PROGRESSIVE ISLAMIC LAW AND MISEK TRADITION OF DAYAK NGAJU IN CENTRAL KALIMANTAN

Sadiani, Ali Murtadho Emzaed, Muhammad Amin, Mualimin,
Valencia Kirana Rosadhillah

IAIN Palangka Raya, Indonesia
IAIN Palangka Raya, Indonesia
IAIN Palangka Raya, Indonesia
IAIN Palangka Raya, Indonesia
Sakarya Üniversitesi, Türkiye
sadiani.mh@iai-palangkaraya.ac.id

ABSTRACT

Misek tradition is known as the proposing procession of the Dayak Ngaju community in Central Kalimantan before marriage. This tradition is still preserved by the indigenous people, even though they have converted to Islam. As a law that lives in society, misek has become the nation's cultural heritage and, at the same time, enriches the national cultural treasures of Indonesia. The presence of Islam in the lives of the Dayak Ngaju community did not immediately eradicate the misek tradition. Progressive Islamic law has an elastic accommodation to adapt misek cultural values. This research aimed to analyze the progressive Islamic law and misek tradition of the Dyak Ngaju Community in Central Kalimantan. The research was empirical legal research, with data sources from observation, interviews, and documentation. Accommodation theory is used for the research. The research showed two conclusions. First, Misek's traditional practice has two processes, namely the misek hakumbang auh process (the small proposal procession) and the misek hakumbang hai (the big proposal procession). Second, progressive Islamic law accommodates the cultural values of misek, both misek hakumbang auh and misek hakumbang hai as good customs. The Misek tradition can coexist with Islamic law without losing its traditional identity.

Keywords: Progressive Islamic Law; Misek; Dayak Ngaju;

ABSTRAK


**Kata Kunci:** Hukum Islam Progresif; *Misek*; Dayak Ngaju;

**Introduction**

The tradition of proposing marriage to prospective brides is known as *misek*.¹ It is still practiced today by the Dayak Ngaju community in Central Kalimantan.² This tradition is proof that Indonesia has cultural diversity among its people. It has become the nation's cultural heritage and, at the same time, enriches the national cultural treasures. The presence of Islam in the lives of the Dayak Ngaju community did not immediately eradicate the *misek* tradition.

The *misek* procession begins with the man's family going to the woman's family's house. This procession is the first step in proposing. The first meeting between the man's family and the woman's family aims to negotiate and find a mutual agreement. The mutual agreement is to have an answer to the proposal from the man's family, whether accepted or rejected.³ Acceptance of this proposal will continue at the second meeting. The second meeting was a big gathering of two families at the woman’s place. The unique tradition is the involving of man’s big family, from grandparents to second cousins. They present to witness the *misek* tradition at the woman’s house.⁴ This *misek* tradition often meets in a marriage ceremony of female Dayak Ngaju in Central Kalimantan.⁵ This is different

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¹ *Misek* (Dayak Ngaju language of Central Kalimantan) means proposing for marriage. It is an activity of proposing or marrying a girl or women from the Dayak tribe, in which the people of Central Kalimantan perform meetings between the parties to carry out question-and-answer interactions (dialogue).


⁵ The marriage of Reza bin M. Yuzak (from Banten and Islam by religious background) to G (Female Dayak, nurse by profession and from Palangka Raya, converted to Islam/mualaf) the wedding (both in Dayak tradition and Islam) in 2017 at the bride’s house, Jl. Bukit Hindu Palangka Raya. The author and two friends, Surya Sukti and Mazrur (lecturers at IAIN Palangka Raya) act as witnesses at the wedding.
from the marriage of the Dayak Bakumpai tribe, which does not perform this traditional marriage because it is considered not to follow Islamic teachings.

Research on Dayak Ngaju's traditional marriages is quite rare. Two studies found, including Muhammad Aulia Rahman, et. al. and Surya Sukti, et.al. While, Syaikhu, et. al. review the inheritance of Dayak Ngaju common law as part of resolving inheritance issues in Indonesia which adheres to legal pluralism. Meanwhile, Putri Fransiska Purnama Pratiwi discusses the distribution of inheritance for adopted children based on Dayak Ngaju common law. Satriya Nugraha discusses the enforcement of Ngaju Dayak criminal law. Putri Fransiska Purnama Pratiwi discusses the Dayak Ngaju customary sanctions. Research by Cahya Wulandari et.al discusses the mediation method in resolving criminal cases in the Dayak Ngaju community, which has been practiced for a

ceremony. The marriage follows to Dayak tradition. Meanwhile, the second Dayak traditional wedding event occur on March 5, 2022, in Bukit Rawi Village. Markoto who comes from Orent Kambang Village, Dirung Lingkin District, Murung Raya Regency married a female from Bukit Rawi, Pulang Pisau Regency. These two couples married according to the kaharingan religion. During the proposal process, they practice the misek hakumbang auh tradition.

The Dayak Bakumpai tribe is a part of the Dayak tribe, whose people are predominantly Muslim. They inherited the religion of their ancestors.


This article reviews the phenomenon of Dayak Ngaju traditional marriage that is used as a solution by couples who are constrained by the rules in Marriage Law No. 1 of 1974, which regulates age limits, prohibitions on interfaith marriages, and so on. Surya Sukti, Munib, and Imam S. Arifin, “Pernikahan Adat Dayak Ngaju Perspektif Hukum Islam (Studi Di Kabupaten Gunung Mas Kalimantan Tengah),” El-Mashlahah 10, no. 2 (2020): 65–75, https://doi.org/10.23971/mashlahah.v10i2.2284.


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Meanwhile, when investigating marriage arrangements in general, surely, a lot has been done. Then, this research discusses the *misek* tradition in the Dayak Ngaju community. The research aims to analyze progressive Islamic law and *misek* in the Dayak Ngaju community of Central Kalimantan.

**Method**

The research was empirical legal research, using a sociological juridical (legal) approach. The sociology of law places social phenomena in society as a factor outside legal norms that can influence the enactment of Islamic law. On the contrary, Islamic legal norms can also influence the existence of traditional values. The sociological approach is used to understand the dynamics of society regarding the practice of its social life. *Misek* is a custom that is a product of the creativity of the Dayak Ngaju community in Central Kalimantan, which will intersect with progressive Islamic legal norms. But, how far progressive Islamic law can accommodate it?

Empirical legal research has primary data. First, the families of married couples. Second, several traditional community leaders. Third, Dayak's traditional academics. Interviews can provide a lot of information related to the practices of the Misek tradition. Furthermore, documentation data on *misek* traditional practices can be obtained via the YouTube channel. Meanwhile, secondary data was obtained from books, holy books, journals, theses, dissertations, etc that are relevant to the research topic. Meanwhile, the data will be analyzed qualitatively to obtain a comprehensive and in-depth understanding.

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This research uses accommodation theory to analyze the relationship between Islamic law with progressive character, and the reality of the misek tradition in the Dayak Ngaju community in Central Kalimantan. The universality of Islamic law must accommodate the heterogeneity of customs and culture which tends to be dynamic and the fundamental nature of human creativity.

**Finding and Discussion**

**Progressive Islamic Law and Customs**

Progressive Islamic Law is understood as a method of approach to Islamic law that tries to interpret and apply the principles of Islamic law contextually and relevant to its time. This approach recognizes the need to develop the interpretation of Islamic law to be followed with changing social, economic, and technological developments. The location of the nature of the progression of Islamic law can adapt to the reality of social life that is not limited to space and time. Accommodating the value of ‘urf as one part of the variety of epistemology of understanding Islamic law must be understood as part of the character of progressive Islamic law.

‘Urf is one part of the epistemology of understanding Islamic law that is mu’tabar. Even, its existence is still recognized in Islamic law. It comes from Arabic, ’arafa means knowing. While Khalaf defines it in terms of something that is not only known by the general public, it is also commonly done both concerning words and deeds. Thus, ‘urf is not only known by many people, it is also believed, and practiced as a habit. There are at least two ‘urf, namely ‘urf sahih and ‘urf fasid. Only the ‘urf Sahih can have

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18Accommodation theory is known as a social theory that places conflicting social groups trying to make adjustments so that conflict does not occur again in the future. Through the negotiation process, they agreed to stop and avoid conflict by carrying out peaceful and safe interactions. Accommodation is a process to produce cooperation that does not eliminate the identity of the two groups. So both groups can live their lives peacefully and side by side. M. Taufiq Rahman, *Glosari Teori Sosial* (Bandung: Ibnu Sina Press, 2011).


legal force as it does not conflict with Islamic law.\textsuperscript{23} The reason is that ‘urf is a source of Islamic law since it has an important role in regulating the community.

The customs and local cultural traditions can play a significant role in the context of Islamic law, especially in indigenous peoples who have a strong cultural heritage.\textsuperscript{24} Customs can affect how Islamic norms and laws are interpreted and praised in life. Islamic law and customs can influence each other.\textsuperscript{25} Sometimes, Islamic law influences customs. On another occasion, custom also influences Islamic law, such as in the context of marriage. Customs often have a big impact on marriage and family matters. Some aspects, such as marriage processions, women’s rights, and inheritance, may be greatly influenced by local traditions. In this context, the interpretation of Islamic law can be adjusted and adapted to the customs to reach a more harmonious agreement between religious and cultural norms.

The relationship between Islamic law and the value of the traditions among society in a place is not a relationship that has occurred in recent years. However, its relationship occurred when Islam was born together with the birth of Islam itself. Islam has an accommodative character through its legal understanding. The universality of Islamic law is proof that Islam can enter the realm of space, which is free of space and time. In the perspective of Fazlur Rahman, the ideal moral of the Quran is \textit{Qadim}.\textsuperscript{26} Although Islam appears in Arab land, it does not mean attached to its culture. Thus, Islamic law can accommodate the values of customs and local culture if it does not violate the principles of Islam.\textsuperscript{27}

Although Islam is not always attached to Arabic culture, Arab cultures are often accommodated by Islam as Islamic law, for example, the pilgrimage and Umrah, respect for the Kaaba, the sacredness of the months as haram, and so forth. However, the

\textsuperscript{24}Eric J. Trozzo, “Mythos and Postdigital Theology: Beyond the Limits of Digitalization,” \textit{Khazanah Theologia} 4, no. 2 (2022): 91–102, \url{https://doi.org/10.15575/kt.v4i2.19591}.
\textsuperscript{27}Jazuni, \textit{Legislasi Hukum Islam Di Indonesia} (Bandung: PT Citra Aditya Bakti, 2005).
accommodation has followed the decree of the Prophet, which is through the hadith or revelation.28

Hashmi researches the jinayat (criminal) and mu’amalah law, which is sometimes frequently a continuation. It can be accommodated as a whole, but also not infrequently rejected. Nevertheless, the accommodation has adapted to the character and principle of the teachings of Islamic law. For example, in the family law field before the presence of Islam, Arabic culture already knew the ba’ulah marriage. This ba’ulah marriage is practiced as a marriage that requires the existence of ijab-qabul (solemnization of a marriage in islam) by submitting the proposal first from the prospective man to the woman. This marriage is then enshrined in Q.S. Al Baqarah (2): 235. Furthermore, there is the practice of divorce raj’i and ba’in. Those have also been practiced in Arabic culture before Islam came.29 Thus, the presence of Islam does not eradicate the Arabic values and culture, but Islam can be accommodated into Islamic law, if it is not against it.30

Misek Practices of the Dayak Ngaju Community in Central Kalimantan

Misek is from the Dayak Ngaju language of Central Kalimantan which means to propose. Meanwhile, Misek hakumbang auh is an engagement ceremony carried out by a man to a woman from the Dayak tribe. This misek tradition involves two big families, both men and women. The parties condition the time, place, and circumstances for a question-and-answer interaction (dialogue) to occur.31

There are at least two misek procession sessions in this activity, namely the small misek procession and the big misek procession. In connection with this procession, Frans stated, "adat misek kilau je jadi tege hong adat dayak yete ati due tahapa je nyewut misek kurik dan misek hai hakumbang auh."32 (The tradition of proposing as practiced in Dayak

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29Hasanuddin Hashmi, “Islamic Jurisprudence in Early Islam, A Study of the Sources of Islamic Law during the Lifetime of the Prophet Muhammad” (UCLA, 1989), https://www.proquest.com/openview/8c0b715fb17ac7bf5d7e38ee9b55d8f9/1?pq-origsite=gscholar&cbl=18750&diss=y.
33Frans, Interview (Palangka Raya, 2023).
customs is that there are two stages called small proposing and big proposing hakumbang auh / asking questions and answers). In more detail, the procession is described as, first, the *misek hakumbang auh* (small proposal) procession. This procession is the first proposal procession before the *misek hakumbang hai* procession. This *misek* was started by the man’s family coming to the woman’s family’s house. This meeting was intended to negotiate and find a mutual agreement between the two families. Agreement of the proposal from the man’s family can be accepted or rejected. \(^{34}\)

In this part of the small *misek* procession, the man is represented by one or two people to meet the woman’s parents. Here, *misek hakumbang auh* only discusses the status of the woman, whether she is being proposed to by another man or not. Another discussion is about whether the proposal from the man is accepted or rejected. At this meeting, the schedule for the next big *misek* procession must be determined, including the male family participants who will attend the procession. As Ruan put it:

> Ewen je umba hong acara hasundau yete ije atawa due biti uluh je nyuhu bara ewen je hate manyundau bapa en indu bawi je ngahandak isek nah. Gawi misek kurik hakumbang auh kau nah tau inyewut nampara misek akan nyampai kahandak palus hasundau hapakat barake bara utus je hate dengan bapa atawa indu je bawi. Palus kutak je nyampai hapakat hasundau yete manatap andau Karen tanggal misek hai, palus pandumah papire biti uluh bara ewen je hate akun manyampai tuntang misek anak bawi ewen, mun keluarga je bawi hakun hapakat palus tau manatap andau, tanggal ah bar ate harun tau haisek hai. \(^{35}\) (Parties involved in conducting a small proposing meeting are one or two delegates from the man’s family to meet the father and mother of the prospective woman. The *hakumbang auh* tradition is an initial application to convey the aims and objectives of the visit and a brief discussion between the envoys of the man’s family and the woman’s family. They convey an agreement to meet regarding the day and date of the big proposal as well as a visit from several people from the man’s family to discuss the matter and business of proposing. If the woman’s family was willing to agree and determine the day and date, then a *misek hai* would be carried out).

Furthermore, the *misek hakumbang auh* could be considered complete when the proposal from the man is accepted with a symbol of acceptance of the money (*pangumbang*) given to the woman. However, if the money (*pangumbang*) is rejected by the woman’s family, then this is a sign that her proposal has been rejected. It is seen from

\(^{34}\)KT, *Interview* (Palangka Raya, 2023).

\(^{35}\)Ruan, *Interview* (Palangka Raya, 2023).

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the alive of the common law, which is a local wisdom in arranging agreements between the parties.\footnote{Muhammad Ruhly Kesuma Dinata et al., “Good Governance and Local Wisdom in Law Enforcement,” Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi 5, no. 3 (2022): 227–242, https://doi.org/10.24090/volksgeist.v5i2.6740.} This is confirmed by an explanation from Ruan:

\textit{Nampara sundai tikas te ih je imander, limbah lepah taluh je nyurah, utus bara hatue manenga duit, mun duit je nenga te indinun ike, bara te arti eh keluarga manarima hisek uluh te akan anak bawin ikei, sabalik ah mun ikei dia mandinu duit te nampara misek kurik, arti eh ikei dia hakun anak bawi ise ke ukluh te. nah waktu te ikei narima duit pasisek kurik uluh te, arti eh ikei narima palus tau inarus kan misek hai hakumbang auh.}\footnote{Ruan, Interview (Palangka Raya, 2023).} (The first meeting only discussed the mentioned things. After the meeting ended, the envoy from the man’s family handed over the money (\textit{pangumbang}). If the money given was accepted, it meant that my family accepted the proposal. On the other hand, when the money was rejected, the \textit{Misek kurik} was also rejected. And, at that time, my family was willing to accept the proposal and continue to the big proposal level or \textit{misek hai}).

Second, the \textit{misek hakumbang hai} procession (big proposal). This procession is carried out after the \textit{misek hakumbang auh} agreement occurs when the proposal of the man family accepted. After the envoy from the man’s family receives an answer that the woman is not in favor of another man and accepts his proposal, the big proposal can be carried out. The implementation of the \textit{misek hakumbang hai} activity is very unique. The unique is that the number of men’s families who come is relatively huge. The men involved their big family, from the oldest family to their children, grandchildren, and even second cousins who attended the activity. As Ruan said:

\textit{Uluh je takait yete keluarga hai bara ewen je umba dumah manduhup palus jadi saksi hong acara misek hai te. limbah te bara handaitaulan je makat dumah bara kaluarga je tambakas sampai je tabelu uras imbit dumah, kilau (bue, tambi, yapang, umai, andi, kaka, pahari, mina, mama, busu, tambusu, tambakas, sawa, bana).}\footnote{Ruan, Interview (Palangka Raya, 2023).} (The parties involved were extended and big families from both parties who were also present as a form of support to witness the big proposing process. The family members who were invited, from the oldest family to children and grandchildren, grandfather, grandmother, father, mother, younger brothers, sisters, brothers, aunts and uncles, father’s youngest sister, youngest sister, father’s oldest brother, husband, and wife’s partner from the family).

Both parties, the male or female family, were each represented by several delegates. At least, these envoys can act as spokespersons, translators, witnesses, and observers. A spokesperson has the task of conveying the intent and purpose of the man’s family’s visit.
Meanwhile, the translator has the task of translating the language conveyed by the spokesperson. Meanwhile, other delegates were witnesses and observers of this tradition. As Frans said:

*Tege je gawi sebagai surung isek (pander) (bahut nah mina-mama), tege kea je gawi sebagai panenga pamahaman bara kudak je dia ingasene, tege kea je jadi saksi machining palus tege kea je sebagai manyeneh nampayah yete babuhan kaluarga je bawi hatue masih tabelu, anak ensu, nenek dan kakek.* 

(Some serve as spokespersons (usually Mina/Mama). Also, some serve as translators of the meaning of language that they do not understand. Others serve as witnesses and observers (audience), especially the family who are still aged, such as young people and children and grandchildren, as well as tambi/bue).

Apart from being attended by the two big families, *Misek hakumbang hai* was also attended by traditional officials, such as a mantir. A mantir is a traditional leader who has the task of leading deliberations. Discussions in deliberations led by the mantir to produce an agreement regarding the requirements after the proposal is accepted. These requirements are the gift, the value of the palaku (dowry), determining the day of the marriage contract, and the need for a customary marriage agreement. Ruan said that:

*Hasupa hasundau maja misek hai, inyakum pandumah bara tokoh adat ( waktu te gawin imandu bara mantir adat). taluh je imander hong musyawarah yete inarima paisek (waktu te) palus papire syarat manyarat je harus nenga (natekah tau hatwar bara keluarha ikei dengan calon warang watu te, palus je imander ye te: 1) paramun misek (sasarah lamaran) ye te narai bewei je tau nengan calon bana sahindai ewen hatunangan, 2) Rega Jujuran je handak inenga, 3) manantu andau nikah upacara agama palus nikah upacara adat Karen paramun syarat nikah adat dayak, 4) syarat hapa janji nikah adat.*

(A large proposing meeting attended by traditional leaders (at that time, the procession led by a mantir). The discussion in the deliberation was the acceptance of proposing (at that time) with several conditions that had to be fulfilled (although, there was sometimes bargaining between my family and the prospective in-laws), which are discussed: 1) the handover or gift of proposing for marriage is the prospective husband give before the engagement, 2) the amount of jujuran (dowry), 3) determining the wedding day religiously and the traditional marriage as well as the conditions for marriage Dayak customs, and 4) requirements for a traditional marriage agreement.)

They become the witness and pray to the prospective couple who will conduct the marriage contract. The extended family present at the *misek hakumbang hai* and become the witnesses that the man who agreed will marry the woman he has proposed. And they

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39Frans, Interview (Palangka Raya, 2023).
40Frans, Interview (Palangka Raya, 2023).
give blessings to the bride and groom so that they can carry out their wedding ceremony on a determined date. They were there to witness the hakumbang auh tradition at the woman’s family house.\textsuperscript{41} This misek phenomenon is often found in every proposal involving a Dayak Ngaju girl’s marriage in Central Kalimantan.\textsuperscript{42} It is different from the marriages of the Dayak Bakumpai tribe, which do not conduct such traditional marriages because it is considered not to follow the teachings of the Islamic religion.\textsuperscript{43}

**Progressive Islamic Law and Misek Tradition of the Dayak Ngaju Community in Central Kalimantan**

The character of progressive Islamic law is based on the nature of Islamic law to accommodate the realities of life in communities that have different customs, cultures, and traditions. This condition was practiced when Islam arrived in Arabia which can accommodate the reality of these differences. It is normal if someone views that Islam as a religion emerged from the dialectic between God’s desires and human culture.\textsuperscript{44} This accommodation is a form of Islamic response to the real conditions of society, which tend to be dynamic, changing, and developing. Islamic law is for the benefit of humans (anthropocentric) to live a prosperous life in this world and the hereafter within the framework of devotion to Allah SWT.

Philosophically, the life of the Dayak tribe is *belom bahadat*, which is the basis of all aspects of their life. As part of their ancestral heritage, they must study, understand, and practice it to create a safe and comfortable living atmosphere. Misek is one of the noble life forms of the Dayak community. Dayak people believe that marriages that violate ancestral customs bring curses (*tulah*). This curse not only affects the violator but

\textsuperscript{41}Pra, *Interview* (Palangka Raya, 2023).

\textsuperscript{42}The marriage of doctor Reza bin M. Yuzak (from Banten and Islam by religious background) to G (Female Dayak, nurse by profession and from Palangka Raya, converted to Islam/mualaf) the wedding (both in Dayak tradition and Islam) in 2017 at the bride’s house, Jl. Bukit Hindu Palangka Raya. The marriage follows to Dayak tradition. Meanwhile, the second Dayak traditional wedding event occur on March 5, 2022, in Bukit Rawi Village. Markoto who comes from Oreng Kambang Village, Dirung Lingkin District, Murung Raya Regency married a female from Bukit Rawi, Puluang Pisa Regency. These two couples married according to the Kaharingan religion. During the proposal process, they practice the misek tradition.

\textsuperscript{43} The Dayak Bakumpai tribe is a part of the Dayak tribe, whose people are predominantly Muslim. They inherited the religion of their ancestors. And, they are not converted (mualaf).

can also affect other people and even the natural environment.\textsuperscript{45} Violators of customary law can be subject to 
\textit{singers} (customary fines). If the person's violation is too great, the customary decision will punish him by expelling him from the community’s village.\textsuperscript{46} The goal is the consequences of his actions do not result in the loss of many people.\textsuperscript{47}

Genealogically, the Dayak tribe has the Kaharingan belief, which contains rules of life, not only the scope of customs but also teachings on good behavior, called belom \textit{bahadat} (ethical living). These rules for belom \textit{bahadat} are conveyed orally by parents to generations (children and grandchildren) from generation to generation so that they are always \textit{bahadat}. The term \textit{hadat} (custom) in the Dayak Ngaju community is a form of nobility, which, according to their belief, originates from \textit{Raying Hatala Langit} (the Creator).\textsuperscript{48} Paying attention to \textit{hadat} or belom \textit{bahadat} is noble or \textit{akhlakul karimah} (virtuous) in Islamic terms. Its scope covers all lines of daily life, for example, social interactions, marriage, norms, laws, and all matters relating to religious rituals. Furthermore, it also includes good relations between humans and the natural environment. The rules in custom are predominantly in the form of unwritten rules. Rules can grow and develop and even disappear as society grows and develops.\textsuperscript{49}

The \textit{misek} tradition is a proposing tradition of the Dayak Ngaju community in Central Kalimantan, which is still preserved and practiced as a cultural heritage. This tradition is part of the traditional procession before the bride and groom carry out their marriage contract. This tradition, in the context of Islamic family law, is included in the chapter on \textit{munakahat}, especially in the discussion of \textit{khitbah} (proposal).

\textsuperscript{45}\textit{Tulah} or misfortunes have an impact on the surrounding environment, for example, rice, vegetables, and fruit planted by the community fail to harvest, which the community believes is the result of violations of ancestral customs. Examples of acts that violate customs are marriage with pregnancy, inbreeding, and taboo marriage (\textit{pali}).


\textsuperscript{47}Rena Yulia, Aliyth Prakarsa, and Mohammad Reevany Bustami, “Harmonizing Adat Obligations and State Law: A Case Study of Murder and Rape Cases in Baduy’s Indonesia,,” \textit{Journal of Indonesian Legal Studies} 8, no. 2 (2023): 803–54, \url{https://doi.org/10.15294/jils.v8i2.72283}.

\textsuperscript{48}Hermogenes Ugang, \textit{Menelusuri Jalur-Jalur Keluhuran} (Jakarta: BPK Gunung Mulia, 2019).

\textsuperscript{49}Mohammad Daud Ali, \textit{Pengantar Ilmu Hukum Dan Tata Hukum Islam Di Indonesia} (Jakarta: Raja Grafindo Persada, 2019).

\url{https://e-journal.iain-palangkaraya.ac.id/index.php/maslahah/index}
Khitbah (proposal) in the Islamic legal tradition is the initial process, leading to marriage between a man and a woman. In the Compilation of Islamic Law, especially Article 1 Chapter I letter a, stated that “Proposing is an effort towards an arranged marriage relationship between a man and a woman.” His activity is carried out properly (ma’ruf), which is conducted by a man directly to the woman’s family or through the intermediary of a messenger to convey the intention of his proposal to the woman’s family. The intention of the proposal was made by the man clearly, namely by using words that meant the proposal. Likewise, the intention of the proposal can be done in a satire way. Both are permitted by the Quran, as stated in Q.S. al-Baqarah (2): 235. Through this verse, Allah expressly allows for implicit proposals to any woman he desires to become his wife. Even though, this verse has the context of a proposal to a woman whose husband died. However, proposals are also implicitly addressed to women who are still single if they have not been proposed to by another man.

Meanwhile, the majority of scholars stated that the proposal in a marriage is not an obligation. However, as a recommendation aimed at men who want to marry a woman, they must start the marriage process with the woman’s family. This proposal aims to provide a moral message and etiquette to start plans to build a household that wants to realize happiness, sakinah, mawaddah, warahmah. The status of a proposing in a series of marriages is the initial step towards realizing a good marriage. The real purpose of proposing is to see directly the woman that is going to marry, both related to identity and personality. Following the Hadith of the Prophet SAW, “If someone among you proposes to a woman, if he can, then, he can see her, so that he can encourage her to marry, then do it.”

The proposal does not have any specific legal consequences for the prospective bride and groom. There is no relationship between rights and obligations as husband and wife. There is no rights as husband and wife. Moreover, they are not allowed to meet together without a mahram (blood relationship person). Meet-in-person or khalwat

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50Al-Sayyid Sābiq, Fiqh Al-Sunnah I (Beirut: Dār al-Fikr, 1983).
51Kompilasi Hukum Islam (Bandung: Citra Umbara, 2016).
52Sābiq, Fiqh Al-Sunnah I.
53Ahmad Rofiq, Hukum Perdata Islam Di Indonesia, Revisi (Jakarta: Rajawali Grafindo Persada, 2015).
54Al-Shan’any, Subul Al-Salam (Kairo: Dar Ihya al-Turats al-Islamy, 1960).

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(seclusion) is an act that is prohibited by Islam for both prospective bride and groom. The rights and obligations of husband and wife are present by the time the marriage contract occurred along with fulfilling the conditions and harmony in marriage.

Proposals in Islamic law do not require handovers or gifts from the man to the woman.\textsuperscript{55} An obligatory gift in the wedding procession is the dowry. The dowry does not have the substance of a gift in \textit{mu'amalah}. However, it is a gift from a man to a woman in the form of goods, money, or services that do not conflict with Islamic law. This dowry is mandatory and one of the conditions for a marriage to be valid.\textsuperscript{56} Regarding the dowry, Allah says in Q.S. al-Nisa (4):4. Based on the verse, the gifts at the time of marriage made by the man to the woman as a dowry are mandatory. If the dowry is not fulfilled, the marriage is considered invalid and even damaged.

The tradition of \textit{khitbah} in Islamic law is simple without giving offerings or gifts in any form. It is only an activity carried out by the man to the woman’s family to convey the intention of making her his wife. Also, it aims to find out whether the woman he is going to propose to is someone else’s proposal or not. Furthermore, the proposal is intended to get to know the personality and character of the woman more closely. The man could involve his family, himself, or even through a messenger to convey his intentions.

Meanwhile, the \textit{misek} tradition has two processions, namely \textit{misek hakumbang auh} and \textit{misek hakumbang hai}. The tradition of \textit{khitbah} and \textit{misek} have the same goal in the man’s efforts to ask the woman’s family about approval of the proposal. The tradition of giving a certain amount of money as a contribution towards a man’s proposal and involving the man’s extended family is the difference between \textit{khitbah} and \textit{misek}. However, this does not mean that Islamic law forbids these two things. Islamic law is accommodating to this tradition. Giving \textit{pengumbang} is not an obligation, but has become a tradition in \textit{misek}. This gift will also be accepted by the woman’s family as a sign of acceptance of the proposal made by the man. Pra stated that:

\begin{itemize}
  \item \textsuperscript{56}Ibnu Rusyd, \textit{Bidayatul Mujtahid} (Mesir: Mustafa Al-Babi al-Halabi, 1960).
\end{itemize}
Ikei dumah maja kan huma ketun tuh palus manyampai hajat misek anak bawi ketun je jadi bujang akan kabalin hatue ikei, lepah te palus inyarah duit 50 kuyan atau 100 kuyan hapa bukti katulus atee.57 (We came to visit her/his place and told them about our intention to propose to your adult daughter to be our son’s wife. After conveying this intention, we were then handed over a sum of cash as a sign of our sincerity worth the money (the nominal value is relative, for example, IDR 50,000 or IDR 100,000)

Pangumbang, in the Dayak Ngaju tradition, is the giving of a certain amount of money by the man to the woman during the misek (proposal) tradition. This tradition will have different terms in other regions. For example, giving at the time of a proposal to Javanese people is known as tukon or tondo tresno. This tradition is considered good by the people as a sign that a man who will become a husband loves his wife.58

It is crucial to know the issue of pengumbang during the misek tradition, which is the woman's family will not accept the pengumbang if the proposal is rejected. However, the problem arose when during misek hakumbang auh, the woman’s family received a proposal from the man. However, when the misek hakumbang hai or close to the day of the marriage ceremony, there is a unilateral cancellation from the woman’s family, then the pengumbang, which has been accepted by the woman, will become a problem. The gift of pengumbang during misek hakumbang auh should require an explanation of the status of the gift. The goal is to avoid causing unwanted problems in the future. For example, there is the potential for a broken brotherhood to occur due to the cancellation of a marriage. If the contract is a gift or grant given by a man to a woman, the man cannot demand that the money be returned.

There are at least two situations after the money is accepted by the woman but the proposal does not continue with the marriage contract. First, the man unilaterally cancels his proposal to continue with the marriage, then the man has no right to ask them to return the pengumbang money. When carrying out Misek, the man should have carefully considered whether to continue with marriage or not. Second, if the woman makes the cancellation unilaterally, then the woman’s family must return the pengumbang to the man’s family. The woman is seen as the party who has committed a disappointing act. Thus, the status of the pengumbang money must be understood as a form of gift or even

57Pra, Interview (Palangka Raya, 2023).
58Rofiq, Hukum Perdata Islam Di Indonesia.
a grant to the woman for her willingness to be proposed to be his wife. However, noted that *pengumbang* or *tukon, peningset, tondo tresno*, or other terms are different from dowry in marriage.

Islamic law and *misek* tradition are two different identities. Islamic law originates from Islamic teachings, while *misek* originates from customs. Without considering the substance, it seems as if there is a conflict between the two entities. The characteristics of progressive Islamic law accommodate dynamics (*harakah*), such as the dynamics of the life of the Dayak Ngaju community through the *Misek* tradition, which is a piece of evidence that it can interact with a good cultural values and customs of the community.\(^5^9\)

The *misek* tradition is considered as a tradition that holds good values to carry out a marriage contract. Even though, there are two stages of *misek, misek hakumbang auh* and *misek hakumbang hai* that are one unit in the Dayak Ngaju custom of carrying out the marriage proposal. The value of the proposal made by the man to the woman is the value of getting to know both parties. And, the value of ensuring that the woman is not in someone else’s proposal, the value of the seriousness of his desire to get married. Even though, in the *misek* tradition, the man’s family gives the *pengumbang* money. It is not considered an act that is prohibited by Islamic law. Because it is considered as a gift or grant to the woman. Even, it is to show the man’s sincerity and affection for the woman who will become his wife. These values are almost the same as the values of *khitbah* of the Islamic legal tradition before further implementation at the marriage level.

Thus, the *misek* tradition, both *misek hakumbang auh* and *misek hakumbang hai*, is a tradition originating from the custom of marriage between men and women of the Dayak Ngaju community which accommodated as a law and harmony and follows with Islamic legal traditions in the context of *khitbah*. Here lies the progressiveness of Islamic law, which can enforce traditions that work together and do not eradicate each other.\(^6^0\)

Following the rules of *fiqhiyyah, al-’adah muhakkamah*,\(^6^1\) customary practices in a

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\(^6^1\)Jalaluddin Al-Suyuthi, *Al-Asybah Wa Al-Nazha’ir*, n.d.

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society can be used as a source of law because it has an important role in regulating society. Moreover, the *misek* tradition does not conflict with Islamic law. The unique accommodative character that is part of the character of progressive Islamic law still provides space for the customs and traditions of *misek* with its identity. Meanwhile, Islamic law has a tradition of *khitbah* with its identity. In this way, the accommodative character of progressive Islamic law still provides space for each with its own identity.

**Conclusion**

The traditional practice of *misek* practiced by the Dayak Ngaju people in Central Kalimantan is carried out in two traditional processions. First, the *misek hakumbang auh* (small proposal) procession is known as the initial proposal. The *pengumbang* money is used by the man as a gift or grant to the woman. Second, the *misek hakumbang hai* procession (big proposal). Delegates from each side of the family negotiate and attended by traditional leaders or a *mantir* to discuss and reach an agreement on the form of the offering, the value of the *palaku* (dowry), determining the day of the marriage contract, and the need for the terms of a traditional marriage agreement. *Misek hakumbang auh*, as a good custom, can be accommodated and practiced because it does not conflict with Islamic law. The values contained in this tradition synergize with the objectives of the *khitbah* in Islamic law. The relationship between progressive Islamic law and *misek* occurs in an accommodative manner that still provides space for traditional identity. The meeting point between Islamic law and customs is at the level of good values that do not conflict with Islamic teachings (*syara’*).

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