



## Customary Law Community Marriage System In Waropen District

Daniel Tanati

Faculty of Law, University Cenderawasih, Papua, Indonesia

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### **Abstract**

Marriage is a physical and spiritual bond that cannot be separated from human life and where in marriage there must be a process or procedure in marriage as well as in traditional marriages in Waropen Regency, it cannot be separated from the marriage system in customary law communities. The aim of this research is to find out the marriage system of the customary law community in Waropen Regency. This research method is empirical juridical, by looking directly at the field through interviews with related parties. The results of this study explain that the marriage system of the Indigenous Peoples of Waropen Regency, namely through proposals, is carried out for bridegrooms who still have close family ties and who are able to marry as adults. The height of an adult, the point of comparison is a man who graduated from a traditional school. Proposals are usually made to the daughter of the father's sister. If the application is approved, the dowry or dowry will be determined. Mahar comes in the form of plates and money, the use of plates as dowry is essentially related to the underlying philosophy that plates are tools/containers for eating and drinking which are considered luxurious/special and can also indicate one's social status.

**Keywords:** *System; Marriage; Customary Law Community; Waropen Regency*

### **Introduction**

Within the State of Indonesia, the various ways of our association vary according to region and ethnicity, even though the principles and characteristics are the same, namely the Indonesian language. Each region and ethnicity has its own customs and habits which are still active and are still carried out by the people there. The level of civilization and modern lifestyles cannot eradicate the habits of life in all societies, but through this gradual process, the habits are adapted only with progress and development, so that the habits of life in these societies are preserved forever.

The wealth of regional and ethnic customs in Indonesia enriches the culture of the Indonesian people, so these customs should always be preserved. Customs are a reflection of the nation's character, and are one of the embodiments of the nation's soul from time to time. Therefore, every country in the world has its own customs that are different from one another. Even though times and civilization have changed, the customs of the people are still very strong today, including wedding customs.

Even though times and civilizations have changed, people's culture remains firmly rooted today, including in matters of marriage. In that area, marriage must follow the rules that have been passed down from generation to generation, although occasionally adjusted to the current developments. Marriage has an important role in the survival of our society as it affects not only the married couple, but also the parents, siblings and families of both.

Marriage in the area usually follows customs that have been passed down from generation to generation, although sometimes they adjust to the current developments. Marriage is very important for the survival of our society, because it involves not only the married couple, but also parents, siblings, and even the families of both parties. Therefore, it is not possible to celebrate marriages indiscriminately, because marriage is a sacred event in human life which has a concept stipulated in religious law, constitutional law, and indigenous peoples. Conceptually, every marriage involves legal aspects, such as the process, procedures for implementation, and obstacles to marriage.

According to Article 1 of Law no. 1 of 1974, marriage is a physical and spiritual union between a woman and a man as husband and wife with the aim of forming a happy and eternal family, which is based on belief in the One and Only God. According to the law, marriage is an inner bond between a man and a woman in marriage, not just to satisfy lust.

The purpose of marriage according to custom is usually to maintain and continue the life of indigenous peoples. However, because every society has a different kinship system, the purpose of marriage is adapted to the existing kinship system. For example, in patrilineal indigenous peoples, the purpose of marriage is to maintain the lineage from the father's side. While in a matrilineal society, the aim is to maintain the lineage from the mother's side. The importance of marriage is not only related to the relationship between the two families of the bride and groom, but also the relationship between the family of the bride and the family of the groom, such as parents.

Marriage Customary Law is a rule of law that regulates the form, practice, and dissolution of marriage in Indonesia. The legal rules for customary marriages vary in each region in Indonesia due to differences in society, customs, religion and beliefs. In addition, marriage customs and inter-ethnic marriages have also changed over time.

According to the 1974 Marriage Law which was changed to Law no. 16 of 2019, marriage is a union between a man and a woman as husband and wife, which aims to form a happy and lasting family. Marriage between a man and a woman is based on Belief in the One and Only God and is a sacred bond. Marriage is an instinct and human nature as a social being to continue offspring.

There are 2 (two) types of marriage requirements, namely material and formal requirements. Material requirements are conditions that exist and are related to potential partners; This type of requirement is also known as a subjective requirement. Formal requirements are rules or procedures for carrying out marriage according to law and religion, also known as substantive requirements.<sup>1</sup>

Civil marriage is a marriage that has a legal effect in accordance with the customs of society. This legal effect existed before the marriage took place, such as the relationship between children, youth, and the parents of the prospective spouse. After marriage, parents have rights and responsibilities (including family members/loved ones), they perform traditional ceremonies, and they promote and maintain harmony, wholeness, and closeness in the lives of the children of the marriage.<sup>2</sup> The principles of marriage according to customary law are as follows:

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<sup>1</sup> Abulkadir Muhammad, *Hukum Perdata Indonesia*, Citra aditya Bakti, Bandung, 1993, hlm. 76

<sup>2</sup> Hilman Hadikusuma, *Hukum Keekerabatan adat*, Fajar agung, Jakarta, 1990, hlm. 9

- a. The purpose of marriage is to form a harmonious, happy and lasting family and relatives.
- b. Marriage must be recognized not only legally, but also by the immediate family.
- c. In accordance with the provisions of customary law in force, a man can marry several women as his wife.
- d. Approval from parents and family members is required before marriage.
- e. Indigenous peoples can reject husband and wife who are not recognized by indigenous peoples.
- f. Children who are not old enough or mature but need permission from their parents or relatives can marry.
- g. Divorce can worsen the relationship between the two parties.
- h. The working relationship of the two partners is based on the provisions of the applicable customary law.

Marriage according to customary law is defined as a legal provision regarding the form, application process, marriage, and the end of marriage. The customary rules for marriage in Indonesia vary depending on the style, customs, religion and beliefs of the people concerned. However, marriage rules (customs) also progress and change according to social developments and the times.

### ***Method***

The method in this study is empirical juridical, by looking directly at the field through interviews with related parties.

### ***Result and Discussions***

Waropen Regency is part of the Papua Province which was originally formed based on Law no. 26 of 2002 has the District of Waropen Yapan as the main district. In the preamble to Law Number 26 of 2006 it was stated that taking into account the progress of the Papua Province in general and the inspiration that is developing in society, it is deemed necessary to improve administration, serve the community and carry out development. recognize the welfare of the people.

The philosophy of the Indonesian nation, Pancasila, originates from customs which are the original laws of Indonesia. Therefore, Indonesian national law must be rooted in customs. Based on common law, customs are very appropriate and can meet the needs of society in the future. Customary law lives because it arises from social processes based on legal knowledge obtained from real human needs in life.

Customary law is also sourced from human thought and is supported and followed by humans. The survival of people or society is guaranteed and can only be achieved through marriage. According to custom, marriage is not only between a man and a woman, but is also a matter for parents, family and society. Marriage is not only an important event for the living, but also a very important event and attracts the attention of those who are haunted by the ancestral spirits of both parties.

Although national marriage law applies throughout Indonesia, customary marriage law still applies in several regions and groups. Law Number 1 of 1974 regulates reasons for marriage, marriage requirements, prevention of marriage, dissolution of marriage, marriage contract, rights and obligations of husband and wife, property in marriage, marital dissolution, status of children, custody rights, and other dispositions.

Even so, the Marriage Law does not regulate the types of marriage, matchmaking methods, and traditional ceremonies, which are still included in the realm of customary law. Everything that is not regulated in the Marriage Law but related to marriage remains valid and can be carried out in Indonesia, as long as it does not conflict with the meaning of marriage itself. According to customary law in Indonesia, the marriage system consists of three types, namely:

- a) Endogamy system, where a person can only marry someone who comes from his own family tribe.
- b) Exogamy system, where a person is only allowed to marry someone from another tribe and not allowed to marry someone from his own tribe.
- c) The Eleutherogami system, in contrast to the Endogamy and Exogamy systems, where there are no specific prohibitions or obligations. However, the prohibition in this system includes kinship relations such as marriage to stepmother, mother-in-law, daughter-in-law, stepchildren, mother, grandmother, biological children, grandchildren, siblings, and relatives of the father or mother.

Similarly, customary law also stipulates the following marriage requirements:

- a. Consent, according to custom, no one can freely express the desire to marry without obtaining the consent of parents or relatives, even if the person is an adult.
- b. Age limit, although common law does not regulate the age limit for marriage in general. According to custom, a person's maturity is measured by his physical signs, such as when a girl starts menstruating and has protruding breasts, it indicates that she is an adult. Whereas in men, his prowess can be seen from the change in his voice, and that is a sign of virility. Therefore, the age limit is not measured based on age because most parents do not record their child's birth date because they are still illiterate.

Meanwhile, marriage among the Waropen community can occur between those who still have close family ties or have no family ties at all. In the marriage system, the villagers in Waropen Regency are familiar with the procedure for marriage, namely through marriage, namely when applying to a prospective bride who still has a close kinship relationship, her name is "Maro" who has previously been married. the process of choosing a partner (groom) or "Firumi".

If there is a divorce in this marriage, then the family ties are also broken. Especially among the Oudate/Kuriye there is an unwritten rule that an adult male child can marry. The height of an adult, the point of comparison is a man who graduated from a traditional school. Proposals are usually made to the daughter of the father's sister. If the application is approved, the dowry or dowry will be determined. In the past, the dowry was usually in the form of a red wooden boat, arrows, jubi, kayak sempe, arrow sticks, machetes, axes, pig knives, dogs or other necessary items. At present there has been a change whereby the dowry is no longer used, but is diverted to household items, dishes and money.

Based on the philosophy behind it, in the past, plates (and other glassware) were actually eating/drinking utensils that were considered luxurious/special, and these items could indicate a person's social status. Currently, the plate is still used as a dowry because it always does not deviate from the philosophy that this plate can always celebrate certain events. Plates are always at home and we use them every day to eat. Dishes that are always at home always remind parents of their children and parents-in-law. Here it seems clear that the social changes that occur among indigenous peoples can change the paradigm of the meaning of objects that are used as dowries.

## **Conclusion**

The marriage system in the customary law community in Waropen district, namely by proposing marriage, is carried out for brides who still have close family relations and who can enter into marriages are adult sons. Adult size, the benchmark is a male who has finished carrying out a traditional school. Proposal marriage, usually done to the daughter of his father's sister. If the application is accepted, then the dowry is determined. The dowry is in the form of plates and money, the use of plates as dowry is inseparable from the underlying philosophy where plates are means/tools for eating and drinking which are classified as luxurious/special and can also indicate one's social status.

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