

## The Impact of the Words '*Digawa*' and '*Kegawa*' in Customary Law in Cirebon

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### ABSTRACT

This study originates from a phenomenon in Cirebon society regarding the actions of ex-husbands reclaiming dowry items upon divorce. The focus of this research lies in the meanings of *digawa* and *kegawa*, terms used in the traditional handover ceremony of prospective brides in Cirebon, and their legal implications for the husband's dowry in cases of divorce. This study aims to analyze the meanings of *digawa* and *kegawa* in the traditional handover ceremony of prospective brides and their implications for the ownership of the husband's dowry after divorce. The research employs a qualitative method with an approach that examines *digawa* and *kegawa* in relation to prenuptial agreements within the traditional handover ceremony of prospective brides. The findings indicate that the meanings of *digawa* and *kegawa* provide a legal justification for ex-husbands to reclaim dowry items previously given during the handover ceremony. The legal aspect of this tradition essentially represents a form of a prenuptial agreement. The legal standing of the traditional handover ceremony does not indicate any deviation from marriage law, as initially perceived by Cirebon society regarding ex-husbands' actions.

**Keywords:** dowry; *digawa*; *kegawa*; prenuptial agreement; tradition

### INTRODUCTION

When the marriage ends up in divorce in Cirebon, the men bring back their belongings, some do not bring them given in the handover tradition of the bride and groom. The event, carried out before the holding of the marriage contract or the main event of the marriage.<sup>1</sup> The ex-wife has the obligation to return or replace the items that have been given or received at the handover ceremony of the prospective bride and groom. Some people think that it is not good for ex-wives to return or replace lost items, the justification for which is found at the handover ceremony of the bride and groom.<sup>2</sup> As one of the traditions of a series of events in marriage,<sup>3</sup> not much is known about the hidden meaning of a marriage agreement.

The hidden meaning as a form of marriage agreement is reflected when the male family, submits the groom to the recipient from the bride's family, generally done at the bride's place. At the handover ceremony of the prospective bride and groom, the recipient uses a symbolic sentence that leads to the marriage agreement, 'what is your luggage or your belongings'. The sentence has two keywords that indicate the existence of a marriage agreement, namely the word '*digawa*' and the word '*kegawa*'. The implications of the two keywords have legal consequences if the marriage ends in divorce.

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<sup>1</sup> Maizar Karim, "Seloko Adat Ular Antar Serah Terima Adat Pada Pernikahan Adat Melayu Jambi: Kajian Bentuk dan Fungsi," *Pena: Jurnal Pendidikan Bahasa dan Sastra*, Vol. 6, no. 2, 2017, p. 2, 1–21.

<sup>2</sup> Lisa Wage Nurdiyanawati and Siti Hamidah, 'Batasan Perjanjian Perkawinan yang Tidak Melanggar Hukum, Agama, dan Kesusilaan', *Jurnal Ilmiah Pendidikan Pancasila dan Kewarganegaraan*, Vol. 4, No. 1, 2019, p. 101–108.

<sup>3</sup> Bayu Ady Pratama and Novita Wahyuningsih, "Pernikahan Adat Jawa di Desa Nengahan, Kecamatan Bayat, Kabupaten Klaten," *Haluan Sastra Budaya*, Vol. 2, No. 1, 2018, p. 19.

The researcher borrows the terms Ahmad Dahlan and Firdaus Albar, the word marriage agreement which is interpreted the same as a premarital agreement.<sup>4</sup> The aim is to avoid the meaning of the word marriage agreement after marriage or marriage is carried out, as well as to provide initial information on the use of the word intended in the study. Maizar Karim's research in *seloko adat ulur* between handovers in Jambi, has similarities with the handover event in Cirebon, does not mention the existence of words that lead to a marriage agreement.<sup>5</sup> His research focuses more on Jambi's traditional literary values which are starting to erode.

Hanafi Arief's view regarding marriage agreements, rarely occurs or is found in Indonesia, due to the strong kinship relationship and customary law of the community.<sup>6</sup> The research proves that it does not mean that it is not found at all, but that marriage agreements are rarely carried out in a society that still holds traditional values. Hanafi Arif's research is corroborated by Rahmadika Sefira Edlyanafitri, marriage agreements are not known in customary law and are contrary to community values, over time marriage agreements are often carried out with the motive of financial inequality.<sup>7</sup> There is a difference between researches conducted by Hanafi Arief which still sees the existence of marriage agreements in indigenous peoples. Rahmadika Sefira Edlyanafitri very firmly stated that indigenous peoples were not known, but that the marriage agreement was born with the existence of human development on which it was based, namely the financial inequality between husband and wife. Due to financial reasons pushing for a marriage agreement to be made after the marriage contract, of course, provided that the two are still bound in marriage.<sup>8</sup>

Hanafi Arief's view on marriage agreements with traditional nuances is reflected in the research of Suhartini and Syandi Rama Sabekti, *Perampam Dene's* marriage agreement in Gayo<sup>9</sup>. *Perampam Dene*, fines a man or woman who breaks the agreement, comes from the habit of repeatedly being obeyed as a positive value, binding and obeyed by the Gayo community.<sup>10</sup> The *Perampam Dene* Agreement in Gayo, imposed punishment on men or women. Before getting to know *Perampam Dene's* writing tradition was carried out orally, many of its developments violated it, to avoid this incident, now the agreement is made in writing.

In the *Purut* tradition of the *Lundayeh Dayak* community, the man gives a sign in the form of money or goods to the woman, the punishment is imposed on the bride-to-be, not on the man who made a mistake.<sup>11</sup> In order to maintain its tradition, an institution that has a task in this field was created. The *Purut* tradition has similarities with the *ikat* tradition in Cirebon, money or objects are

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<sup>4</sup> Ahmad Dahlan dan Firdaus Albar, "Perjanjian Pranikah: Solusi Bagi Wanita," *Yinyang: Jurnal Studi Gender dan Anak*, Vol. 3, No. 1, 2008, p. 141, 140–51.

<sup>5</sup> Karim, 'Seloko Adat Ular Antar Serah Terima Adat Pada Pernikahan Adat Melayu Jambi: Kajian Bentuk dan Fungsi', p. 15.

<sup>6</sup> Hanafi Arief, 'Perjanjian Dalam Perkawinan (Sebuah Telaah Terhadap Hukum Positif Indonesia)', *Al'Adl*, Vol. IX, No. 2, 2017, p. 151–72.

<sup>7</sup> Rahmadika Sefira Edlyanafitri, "Pemisahan Harta Melalui Perjanjian Kawin dan Akibat Hukumnya Terhadap Pihak Ketiga," *Lex Privatum*, Vol. III, No. 1, 2015, p. 111, 110–23.

<sup>8</sup> Putu Astika Yasa and Made Subawa, "Analisis Putusan Mahkamah Konstitusi Nomor 69/PUU-XII/2015 tentang Perjanjian Kawin," *Kertha Semaya : Journal Ilmu Hukum* Vol. 7, No. 12, 2019, p. 1–14.

<sup>9</sup> Suhartini and Syandi Rama Sabekti, 'Perjanjian Perkawinan Perampam Dene Dalam Adat Gayo Ditinjau dari Kitab Undang-Undang Hukum Perdata dan Hukum Islam', *Masalah-Masalah Hukum*, Vol. 48, No. 2, 2019, p. 224–43.

<sup>10</sup> Suhartini dan Sabekti, *Ibid*, 228.

<sup>11</sup> Parsi Bilung, "Kedudukan Hukum Perkawinan Adat Dayak Lundayeh dalam Hukum Perkawinan Nasional," *Akta Yudisia*, Vol. 3, No. 2, 2018, p. 66, 56–76.

given to the prospective bride, if the marriage does not take place, the woman returns it. The *Ikot* tradition is carried out before submission or application, by the prospective groom's family to the bride's.<sup>12</sup>

The *Perampam Dene* and *Purut* traditions both have ways to maintain it, in Gayo it is changed by using writing while in *Lundayeh Dayak* has an institution to maintain it. In the handover tradition in Cirebon, there is no written evidence and there is also no institution that oversees the tradition. On the other hand, the marriage agreement does not only have an effect on civil relations, but also concerns the relations of inheritance, kinship, kinship and neighborhoods as well as concerning traditional and religious ceremonies.<sup>13</sup>

To date, no research has specifically examined the meanings of '*digawa*' and '*kegawa*' in the traditional handover ceremony of prospective brides in Cirebon and their implications for the ownership of the husband's belongings after divorce. Although there have been studies on prenuptial agreements in Indonesian civil law, research highlighting prenuptial agreements that are conveyed orally without official recognition within the cultural context of Cirebon remains limited.<sup>14</sup> Therefore, this study is expected to contribute to a better understanding of the existence of oral prenuptial agreements within customary communities and their impact on legal and social practices.

However, prenuptial agreements within the framework of Indonesian civil law are regulated under *Law No. 1 of 1974 on Marriage*, which stipulates that such agreements may be made before, during, or after marriage and must be legalized by a marriage registrar or notary to have legal force.<sup>15</sup> Thus, this study serves as a foundation for understanding how '*digawa*' and '*kegawa*' function as an oral form of a prenuptial agreement without formal recognition and how the Cirebon's community acknowledges and applies these concepts in their legal and social practices.

The words '*digawa*' and '*kegawa*' in the traditional handover ceremony of prospective brides in Cirebon do not have written evidence or a formal customary institution to regulate them. This study focuses on how the meanings of '*digawa*' and '*kegawa*' can be upheld as part of a marriage agreement despite the absence of sufficient proof. This research aims to analyze the legal and social implications of the use of '*digawa*' and '*kegawa*' in Cirebon's marriage traditions, particularly in divorce cases where an ex-husband requests the return of dowry items given during the handover ceremony.

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<sup>12</sup> Anonime, 'Ragam Unik Prosesi Pernikahan Adat Cirebon, Jawa Barat', *Mahligai the Beauty of Indonesia*, 11 July 2017, <https://mahligai-indonesia.com/featured/keunikan-pernikahan-adat-cirebon-4333>.

<sup>13</sup> Santoso, "Hakekat Perkawinan Menurut Undang-Undang Perkawinan, Hukum Islam dan Hukum Adat," *Yudisia*, Vol. 7, No. 2, 2016, p. 430, 412–34.

<sup>14</sup> Sarip Sarip et al., 'Legal Dialectics: Age Limits for Marriage and Political Rights in Indonesia', *Jurnal Hukum Novelty*, Vol. 13, No. 1, 2022, p. 49, Jamaluddin Faisal, Ahmad Tholabi Kharlie, and Achmad Cholil, 'Pre-Marriage Course in Indonesia and Malaysia', *AHKAM : Jurnal Ilmu Syariah*, Vol. 20, No. 1, 2020, p. 97–114,; Ettore Morelli, 'Bonded: Elite Marriage and Slavery in Nineteenth-Century Lesotho', *Slavery & Abolition*, Vol. 43, No. 2, 2022, p. 285–319.

<sup>15</sup> Muhammad Sodiq, 'Dualisme Hukum di Indonesia: Kajian Tentang Peraturan Pencatatan Nikah Dalam Perundang-Undangan', *Al-Ahwal: Jurnal Hukum Keluarga Islam*, Vol. 7, No. 2, 2014, Sarip Sarip, 'The Identity Politics of the Minority in Knitting the Constitutionality (The Legal Review of Sunda Wiwitan Community of Cigugur, Kuningan, West Java)', *Fiat Justisia*, Vol. 11, No. 3, 2017.

The benefit of this study is to provide an understanding of the existence of a marriage agreement that is conveyed orally and to offer solutions for maintaining such an agreement despite the lack of written documentation or an institution overseeing its enforcement. Through this research, it is expected to reveal how words spoken during the handover ceremony of prospective brides influence social discourse, particularly in divorce cases where a man demands the return of items given at the time of marriage.

## METHODS

The present study uses qualitative research methods using field materials.<sup>16</sup> In this study, conducting an in-depth study of the meaning of the words '*digawa*' and '*kegawa*' in the handover ceremony of the bride and groom in Cirebon as words that indicate the existence of a marriage agreement. Conclusions are drawn by looking at cases that have implications for divorce due to the meaning in the study.<sup>17</sup> The case study that the author uses to determine the meaning of the words contained in the tradition of the bride and groom handover ceremony for a marriage agreement that has an impact on divorce which requires the ex-wife to return goods or replace goods received at the handover ceremony of the prospective bride in Cirebon.

This study was conducted in Cirebon, focusing on the response of the prospective groom to the terms '*digawa*' and '*kegawa*', which have the potential to affect the obligations of a woman in marriage. An imbalance in understanding these concepts may lead to inequality in marriage and impact household harmony. This research employs an empirical juridical approach by analyzing applicable legal norms and examining their implementation in social practices within the community.<sup>18</sup> This approach was chosen because the terms '*digawa*' and '*kegawa*' in the handover tradition of prospective brides and grooms are not formally recognized in written law but still function as binding agreements in customary practice. The research method involves observing the procedures of wedding invitation handover and the handover procession of the prospective bride and groom. This study originated from the researcher's personal experience in 2014 when first encountering the use of the terms '*digawa*' and '*kegawa*' in the context of marriage. A more intensive study was conducted from 2018 to 2020, coinciding with the opportunity to witness a marriage contract ceremony in Cirebon.

Sources of data in this study are divided into two, namely:<sup>19</sup> Sources of library data consisting of, relevant books, relevant Islamic law books, supporting data sources such as scientific articles; 2) Field data sources consist of personal experiences in Cirebon, observations at bridal handover events in Cirebon, discussions with Cirebon elders or community leaders, prospective grooms in Cirebon,

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<sup>16</sup> Sugiono, *Metode Penelitian Kuantitatif dan Kualitatif*, Alfabeta, Bandung: 2009, p. 56.

<sup>17</sup> Depri Liber Sonata, "Metode Penelitian Hukum Normatif Dan Empiris: Karakteristik Khas dari Metode Meneliti Hukum," *Fiat Justisia*, Vol. 8, No. 1, 2015, p. 15–35.

<sup>18</sup> Ahmad Nurozi and Dadan Muttaqien, 'The Effectiveness of Crime Prevention with Corporal Punishment in Nanggroe Aceh Darussalam', *Millah: Jurnal Studi Agama*, Vol. 20, No. 2, 2021, p 223–44, Sally Shinan Zhu, 'Law Embodied: Re-Imagining a Material Legal Normativity' London: 2017, p. 29.

<sup>19</sup> Johnny Ibrahim, *Teori & Metode Penelitian Hukum Normatif*, ed. Setiyono Wahyudi, Revisi, Bayumedia Publishing, Malang: 2008, p. 227.

prospective brides in Cirebon, parents of parties the bride and groom in Cirebon, and the Cirebon community in general. Data collection methods used are: 1) Observation; 2) Interview; and 3) Documentation.

The technique used in this research is qualitative. The data analysis used in this study are: 1) obtaining a description of the marriage agreement, the words '*digawa*' and '*kegawa*', divorce in Cirebon. 2) analyzing data in more detail and depth about divorce which has a correlation with the handover ceremony of the prospective bride and groom in Cirebon; 3) the author uses to analyze data on divorce events in Cirebon related to the meaning of '*digawa*' and '*kegawa*' in Cirebon.

## DISCUSSION

### The meaning of '*digawa*' and '*kegawa*' Tradition of Prospective Bride and Groom's Handover

Speaking the meaning of the word is the task of semantics, meaning a sign or symbol, its verbal form means marking or symbolizing, in the form of a concept or meaning.<sup>20</sup> The semantic meaning is found in the words '*digawa*' and '*kegawa*' in the handover ceremony for the bride and groom in Cirebon. The use of the words '*digawa*' and '*kegawa*' to express a meaning and get an identity in the Cirebon community group. In the study of this tradition, it has importance with semantics, because the analysis of meaning can provide a practical classification of the cultural life of the wearer. The meaning of discourse is determined by the social context that accompanies the presence of '*digawa*' and '*kegawa*' which is influenced by culture.

One of the distinguishing features of Indonesian culture is the traditions embedded in the daily lives of its people. In this context, tradition encompasses customs passed down through generations and practiced in social life, both within families and in the broader community.<sup>21</sup> Some traditions evolve into customary law (*hukum adat*) when they are recognized as binding rules and carry social sanctions for those who violate them.<sup>22</sup> The tradition of handing over the prospective bride and groom in Cirebon represents one such cultural practice. In its implementation, the meanings of '*digawa*' and '*kegawa*' function similarly to customary legal norms, despite not being explicitly codified in written law. These terms establish conditions, prohibitions, and consequences that influence marital relationships.<sup>23</sup> Although they lack formal legal status and are not enforced by state institutions, their acceptance and application within the community indicate that this tradition holds a binding force akin to living customary law (*hukum adat yang hidup*).

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<sup>20</sup> Derris Ris Riana et al., 'Tuturan Bermakna Budaya Sebagai Pembelajaran Kearifan Lokal Masyarakat Banjar: Studi Etnopedagogi Cultural Speech as Learning Local Wisdom of Banjar People: Ethnopedagogy Study', *Ranah: Jurnal Kajian Bahasa*, Vol. 11, No. 2, 2022, p. 306.

<sup>21</sup> Erwati Aziz, Mohammad Dzofir, and Aris Widodo, "The Acculturation of Islam and Customary Law: An Experience of Minangkabau, Indonesia," *Qudus International Journal of Islamic Studies*, Vol. 8, No. 1, 2020, p. 140, 131–60.

<sup>22</sup> Erni Hastuti and Teddy Oswari, "Budaya Pernikahan Masyarakat Minang Rantau Di Jakarta," *Jurnal Universitas Gunadarma*, Vol. 10, No. 8, 2016, p. 2, 1–11.

<sup>23</sup> Satjipto Rahardjo, *Ilmu Hukum*, Penerbit PT Citra Aditya Bakti, Bandung: 2000, p. 67.

Public knowledge of the meaning of '*digawa*' and '*kegawa*', is influenced by globalization and the development of writing.<sup>24</sup> Globalization encourages people to leave written traditions and encourages the marginalization of the unwritten rule of law. Both are not obstacles because as an unwritten tradition, they prioritize the balance of society.<sup>25</sup> Ignorance of the meaning of '*digawa*' and '*kegawa*' is one of the reasons why people pay less attention to the handover ceremony of the prospective bride and groom, which actually contains the meaning of a marriage agreement. It is natural that most people are surprised when an ex-husband asks his ex-wife to return her belongings during the handover ceremony for the prospective bride and groom. This state of affairs, engendering hatred of men, was reversed by the research of St. Rahmawati who expressed hatred towards.<sup>26</sup>

The key words, the wedding handover ceremony must be clear so that people do not easily judge what they see without studying the chronology of events before the marriage is carried out.<sup>26</sup> In line with Imam Al-Ghazali's view, losing knowledge, including meaning, will make a person mentally ill.<sup>27</sup> The meaning aims, in order to provide knowledge of traditional values that should not be ruled out. If the exploration of meaning is not carried out, the tradition will lose its spirit or be destroyed.<sup>28</sup> The meaning can give instructions to the younger generation not to make decisions quickly on events in life and be easily provoked. This kind of situation is in line with the research conducted by Septi Gumiandari and Ilman Nafi'a, Cirebon people are easily carried away by provocations related to belief, are easy to judge, claim against anyone who is not in their heart.<sup>29</sup> Departing from being easily provoked about the understanding of men asking for the return of luggage that has been handed over to the women, it has actually indicated a kind of deviation from tradition that is not widely known about the truth.<sup>30</sup> The situation is very different, that is, most of it is done by people who are educated or highly educated, without wanting to first learn about its details, ultimately causing heresy against their own traditions.

Today's society views the written tradition as being more rational than the unwritten tradition. This misconception has occurred since the Enlightenment era.<sup>31</sup> The word that leads to the formation of a marriage agreement can be seen clearly in the words '*digawa*' and '*kegawa*', derived from the interrogative sentence (?). The question sentence was directly asked by representatives of the bride and groom against the prospective groom, as witnesses, namely the families of both parties. This situation, similar to the Minang traditional marriage tradition, marriage involves two families, not

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<sup>24</sup> John Gilissen and Frits Gorle, *Historische Inleiding Tot Het Rech Terj. Sejarah Hukum-Suatu Pengantar*, ed. Aep Gunarsa, 1st ed. PT. Refika Aditama, Bandung: 2005, p. 11.

<sup>25</sup> Fatin Hamamah and Sarip, "Optimalisasi Lembaga Adat Desa Meneguhkan Konstitusionalisme," *Pagaruyuang Law Journal*, Vol. 2, No. 2, 201, p. 167, 163–80.

<sup>26</sup> St. Rahmawati, "Mainstreaming of Gender Equality in Islamic Family Law: Opportunities and Challenges," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam*, Vol. 4, No. 2, 2020, p. 374, 360–74.

<sup>27</sup> Misbah Zainul Mustofa, *Ihya 'Ulumuddin Menuju Filsafat Ilmu dan Kesucian Hati Dibidang Insan Ihsan*, CV. Bintang Pelajar, Gresik: n.d., p. 26.

<sup>28</sup> Mustofa. *Ibid.* p. 36.

<sup>29</sup> Septi Gumiandari and Ilham Nafi'a, "The Role of Cirebon Women Ulama in Countering Religious Radicalism," *Qudus International Journal of Islamic Studies (QIJIS)*, Vol. 8, No. 1, 2020, p. 34, 33–64.

<sup>30</sup> Sarip, 'Wawancara Dengan Arkali Sebagai Sesepuh yang Melakukan Acara Serah Terima Calon Pengantin di Cirebon' (2 September 2018, 2018).

<sup>31</sup> Bryan S. Tuner, *Agama Dan Teori Sosial Rangka Pikir Sosiolog Dalam Membaca Eksistensi Tuhan di Antara Gelegar Ideologi-Ideologi Kontemporer*, ed. Inyik Ridwan Muzir, 2nd ed, RCiSoD, Yogyakarta: 2003, p. 317.

only the bond between a man and a woman.<sup>32</sup> The full sentence sounds "*apa barang gawaan sing calon pengantin lanang digawa atawa kegawa?*" terjemahannya "apakah barang bawaan dari calon pengantin laki-laki dibawa atau terbawa?" the translation is "Is the luggage of the groom-to-be brought or unconsciously taken?"

The sentence, uttered by the prospective bride or her representative, is answered by the groom or his representative. This word has consequences in society when a marriage ends in divorce. The answer '*digawa*', indicates that in the event of a divorce, the ex-wife must return the luggage given during the handover ceremony for the bride and groom. Likewise, the '*kegawa*' answer indicates that if one day there is a divorce in the course of building their household, then the ex-husband may not ask his ex-wife to return the luggage that was handed over at the bridal handover ceremony. The two keywords are so valuable that people who don't know it give rise to negative views of men.

The groom candidates choose two words between '*digawa*' or '*kegawa*', the meaning of the words '*digawa*' and '*kegawa*' has the basic word '*gawa*', in Indonesian it means '*bawa*'. The prefix (di-) in Indonesian forms a passive verb and meaning, in fact, the word '*digawa*' in Cirebon society has an active meaning. Then the prefix (ke-) in Indonesian generally forms an adjective, but in the sense of '*kegawa*' the Cirebon people's habit is more passive. Because it means passive, meaning that in reality whatever is already there, the man can give policies, for example, even though there is a right to bring back the luggage, he cannot do it. However, the prohibition occurs if during the handover ceremony the man does not bring his belongings back, there is no right to take it and if it is done it is against the law or the man has defaulted.

The proof lies in the witnesses who witnessed the handover ceremony and heard statements from the prospective groom. At the event, what was said by the groom-to-be was not written down and only witnessed by their respective families. Research on the word '*bawa*' is a verb, in Indonesian which has three meanings:

1. Holding or lifting something while walking or moving from one place to another;
2. Transport, load, move, deliver; and
3. Invite to go, lead, go together.<sup>33</sup>

This means that the marriage agreement which is semantically contained in the meaning of '*digawa*' and '*kegawa*' in the handover ceremony of the prospective bride and groom, can apply as law for both parties. Consequently, what has been said and witnessed cannot be taken back, except through the policies of both parties. The word '*Bawa*' as a verb, requires that there is a form of the object, the form of the object itself is reflected in the word '*gawaan*' in Indonesian 'default' which has the meaning:

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<sup>32</sup> Asmaniar Asmaniar, "Perkawinan Adat Minangkabau," *Binamulia Hukum*, Vol. 7, No. 2, 2018, p. 135, 131–40,

<sup>33</sup> Tim Redaksi Kamus Bahasa Indonesia, "Kamu Bahasa Indonesia", Pusat Bahasa Departemen Pendidikan Nasional, Jakarta: 2008. p. 146.

1. The belongings brought/taken/carried/lifted and so on;
2. Property brought at the time of marriage;
3. Gifts, gifts, when grandma comes;
4. Innate, character traits and so on that are brought from birth; and
5. Consequences of.<sup>34</sup>

The word '*digawa*' as an answer, is a choice containing meaning, the luggage that the prospective groom brings, is brought back if there is a divorce on the way. The word '*kegawa*' as an answer, is also the meaning of luggage in the event of a divorce will be taken back by the men. It can be seen that between the meanings of "*digawa*" and "*kegawa*", for some Cirebon people, they do not pay attention to their meaning, especially for the younger generation, and there is no problem at the time of the marriage agreement with the sentence in question, between the prospective groom and the bride are both speak Cirebon.

The results of the interview with Arkali who is an elder in the handover ceremony for the bride and groom. The emphasis on the words '*digawa*' and '*kegawa*' is done when the bride and groom speak Sundanese and the groom speak Cirebon, repeated three times. The same thing was also said by Asmirah, basically in the handover ceremony there was an advice from each family, there was a kind of marriage agreement, the legal force of which was on all those present.<sup>35</sup> Another reinforcement came from community leaders, who stated that many young people did not know the values contained in the handover ceremony for the prospective bride and groom, causing children today to not know the traditions.<sup>36</sup> It is very reasonable to ask this question three times to a Cirebon-speaking male candidate and a Sundanese-speaking woman, because it is the groom who carries the luggage during the handover ceremony for the prospective bride and groom.<sup>37</sup>

The handover of the bride and groom in the wedding tradition in Cirebon is generally carried out before the wedding ceremony at the bride's residence. When the prospective groom arrives, his relatives are accompanied by items in the form of equipment (1) Personal needs which include: bed or cot, mattress, wardrobe, clothes for the bride-to-be, cosmetics, sandals, shoes and other jewelry; (2) Kitchen necessities can be in the form of: vegetables, firewood, a goat, and kitchen money, the amount of which is adjusted according to ability. The luggage is the simplest and must exist, although nowadays there is a shift to be estimated with a certain amount of money for the prospective groom who is far from the prospective bride's residence.

The words '*digawa*' and '*kegawa*' are very important in the handover tradition of the bride and groom, as a lesson for the community to see the tradition. As one of the efforts to document the portrait of the tradition that gave birth to the marriage agreement and does not conflict with the legislation, religion, and decency with a note knowing its meaning. The meanings of '*digawa*' and '*kegawa*' in reality are often abused which is more due to not paying attention to what is in the

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<sup>34</sup> Tim Redaksi Kamus Bahasa Indonesia, *Ibid.*, p. 149.

<sup>35</sup> Sarip, 'Wawancara Dengan Arkali Sebagai Sesepeuh Yang Melakukan Acara Serah Terima Calon Pengantin di Cirebon'.

<sup>36</sup> Sarip, 'Wawancara Dengan Asmirah Sebagai Mantan Kepala Desa Sidwangi di Cirebon pada Acara Serah Terima pada Tahun 2020' (Cirebon, 2020).

<sup>37</sup> Sarip, 'Wawancara Dengan Robi Sesepeuh di Kelurahan Sumber Kabupaten Cirebon' (Cirebon: Cirebon, 2020).

handover ceremony of the bride and groom. Academically, meaning can be a very significant effort in providing enlightenment to the tradition of marriage agreements that are hardly given a place among the younger and educated generations in Cirebon.

### **The Position and Strength of the Marriage Agreement the Handover of the Bride and Groom**

A contract, including a marriage agreement within the customary handover of the bride and groom, holds the same legal standing as any other marriage agreement. Civil law adheres to the principle of freedom of contract, which allows individuals to enter into agreements, whether regulated or not explicitly stipulated by legislation.<sup>38</sup> The terms '*digawa*' and '*kegawa*' in Cirebon society are often perceived as irrelevant or inconsistent with formal marriage agreements. However, in reality, these customary terms do not contradict the essence of contractual agreements within the handover tradition of the bride and groom. Moreover, from a legal perspective, such agreements remain in line with the validity requirements of a contract as stipulated in Article 1320 of the *Burgerlijk Wetboek*/Indonesian Civil Code, which includes the following conditions:<sup>39</sup>

1. Mutual consent of the parties entering into the agreement;
2. Legal capacity to enter into a contract;
3. A specific subject matter;
4. A lawful cause.

On the other hand, power is very much needed to show the existence of a marriage agreement that comes from tradition without having written evidence and its enforcement agencies. A position without power is likened to an official who has no power. The power of the agreement contained in the handover of the bride and groom lacks strength due to the understanding of the community, not caring about the community, the next generation who does not care about the values of local wisdom in Cirebon. The consequence of the marriage agreement is that in the presence of divorce, Islam views divorce as something that is not good in marriage.<sup>40</sup>

Marriage agreements in Indonesia, made by prospective married couples refer to the provisions of Article 29 of Law no. 1 of 1971 concerning Marriage. After the decision of the Constitutional Court No. 69/PUU-XIII/2015, a marriage agreement can be made by husband and wife as long as the marriage bond is valid and binding, both to both parties, and to third parties as long as the third party is involved.<sup>41</sup> The legal basis of the marriage agreement contained in the Law and the Decision of the Constitutional Court; both are likened to atoms that undergo exchange in one

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<sup>38</sup> Billy Dicko Stepanus Harefa and Tuhana, 'Kekuatan Hukum Perjanjian Lisan Apabila Terjadi Wanprestasi (Studi Putusan Pengadilan Negeri Yogyakarta Nomor 44/PDT.G/2015/PN.YYK)', *Privat Law IV*, no. 2 (2016): 113–22.

<sup>39</sup> Subekti and R. Tjitrosudibio, *Kitab Undang-Undang Hukum Perdata (Burgerlijk Wetboek) Dengan Tambahan Undang-Undang Pokok Agraria dan Undang-Undang Perkawinan*, Duapuluh d, PT. Pradnya Paramita, Jakarkat: 1996, p. 339.

<sup>40</sup> Jamaluddin Faisal, Ahmad Tholabi Kharlie, and Achmad Cholil, "Pre-Marriage Course in Indonesia and Malaysia," *AHKAM: Jurnal Ilmu Syariah*, Vol. 20, No. 1, 2020, p. 99, 97–114.

<sup>41</sup> Yasa and Subawa, 'Analisis Putusan Mahkamah Konstitusi Nomor 69/PUU-XII/2015 tentang Perjanjian Kawin'.

molecule. The exchange itself must occur in one molecule, this marriage contract as the molecule.<sup>42</sup> Therefore, what is meant by the position of the marriage agreement is related to the legal basis that discusses the marriage agreement in the realm of marriage law.

Every agreement certainly has consequences arising from events that have been agreed upon by both parties to the agreement. The practice that gives birth to the pros and cons of the marriage agreement which is attached to the handover tradition of the prospective bride in Cirebon, can be seen in the subject who made the marriage agreement represented by both parties from each family. The existence of the prospective groom and prospective bride in the handover ceremony of the prospective bride and groom both have a passive position, meaning that they do not take an active role in the event.<sup>43</sup> The passivity of the two was seen that the groom-to-be was only given two choices between the words '*digawa*' and '*kegawa*', while the bride-to-be did not say or utter any words except for the family who represented her.<sup>44</sup>

For the elders, the position of the marriage agreement in Cirebon, the presence of representation in the handover ceremony basically has the same power as the laws made by the state.<sup>45</sup> Laws made by the state often emphasize development alone and pay less attention to the pillars of humanity in developing traditions.<sup>46</sup> Arkali said that there were negative prejudices from young people in Cirebon because at the handover ceremony for the prospective bride and groom, young people did not take seriously what was actually being discussed by both parties. Salika also conveyed compassion for young people that young people are now happier with the ways in which the state governs, compared to the way society rules. He said that it was the legal weakness of parents or elders who were then often sidelined and judged to be uncivilized.<sup>47</sup>

In addition, Sadli, who is a young man in Cirebon, also said, what was discussed in the handover of the prospective bride and groom then became a benchmark in having a family. When it was mentioned about young people, not many people knew, instead he denied it by giving his argument. In his argument, those who do not know the rules that exist in the handover of the prospective bride and groom come from educated circles, not young people who go to the fields every.<sup>48</sup> Of course, what he says, is the work that remains regarding the Cirebon educated people who are not paying attention to the existing traditions. In addition, the results of a search conducted on several village officials who are still under forty years old in Cirebon, who on average have secondary education, are also not aware of the existence of a marriage agreement contained in the handover ceremony of the prospective bride and groom.

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<sup>42</sup> Frijof Capra, *The Turning Point: Science, Society and The Rissing Culture* Terj. Titik Balik Peradaban: Sains, Masyarakat dan Kebangkitan Budaya, ed. M.Thoyibi (UMS), 1st ed., PT. Bentang Pustaka, Yogyakarta: 1997.

<sup>43</sup> Sarip, 'Serah Terima Pernikahan di Desa Sidawangi', Cirebon: 2018.

<sup>44</sup> Arkali, 'Memaknai Serah Terima Calon Pengantin dalam Tradisi Timbal Balik Pertanyaan Kedua Keluarga Calon Pengantin' (wawancara 2 Agustus 2020, 2020).

<sup>45</sup> Sarip, 'Wawancara Dengan Asmirah Sebagai Mantan Kepala Desa Sidawangi di Cirebon Pada Acara Serah Terima pada Tahun 2020'.

<sup>46</sup> Muhammad Ishom, "The Callenging Role of Penghulu And Marriage Administrators in Border Areas of Indonesia: Entikong and Sekayam, West Kalimantan," *Ahkam: Jurnal Ilmu Syariah*, Vol. 19, No. 2, 2019, p. 394, 391–410.

<sup>47</sup> Sarip, 'Wawancara Dengan Salika Dalam Menanggapi Keberadaan Aturan-Aturan Kebiasaan yang Dikesampingkan Kaum Muda' (Cirebon, 2020).

<sup>48</sup> Sarip, 'Wawancara Dengan Sadli Pemuda yang Kesehariannya Sebagai Petani' (Cirebon, 2020).

This situation is in line with the research of Suzanne Naafs and Ben White, in middle- and upper-class youth in the city who pride themselves on looking trendy, very passionate about connecting with a global lifestyle.<sup>49</sup> This evidence, most likely for young people or for teenagers who are exposed, what is called an agreement must be made in writing. As with the *Prampam Dene* tradition in Gayo, which changed the format of the agreement that was previously made orally, because many violated it, it was then made in writing. While the agreements contained in the words 'digawa' and 'kegawa' attached to the handover ceremony of the prospective bride and groom are not made in writing, the power of proof is placed on the witness who witnessed and for the execution itself lies in the wisdom of the divorced man himself.

Whereas the marriage agreement itself is interpreted as a contract, made by the prospective bride and groom before marriage, the contents bind both partners.<sup>50</sup> The meaning of such a marriage agreement is likely to give rise to perceptions from relatives who are less able to understand the meaning implied in the handover ceremony of the prospective bride and groom. Zakiyah's view, regarding the marriage agreement is a formal agreement, requires the pouring of the agreement in a form of agreement with formality, besides having to fulfill the legal requirements of the agreement, it must also be stated in an authentic deed.<sup>51</sup> What Zakiyah said, it turns out that it is related to the marriage agreement that exists in the marriage tradition in Cirebon, of course, it is very difficult to get a place, especially with regard to having to put it in an authentic deed that requires written evidence.

However, when referring to Ter Haar, where customary law by ignoring its written parts (consisting of village regulations, king's orders) is the whole regulation that is embodied in the decisions of legal functionaries (in a broad sense). The decision is believed to have power and influence in its implementation and applies immediately and no one dares to disobey.<sup>52</sup> Its implementation is carried out or carried out in earnest without favoritism. It is very natural that until now no written book or rules have been made. Even though in the development of society, it may experience a shift according to human needs as happened or done by the Gayo community, switching from oral tradition to written tradition with the reason to provide legal certainty.

So it is not surprising that A. Suriyaman Mustari Pide stated that customary law is the whole law that is not written and lives in society, which can be in the form of morality, habits, and customs that have legal consequences.<sup>53</sup> Basically, although the keywords in the handover of the prospective bride and groom in Cirebon do not have written evidence which ultimately creates a dilemma among today's society, they basically have the legal power of a written marriage agreement. So the position

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<sup>49</sup> Suzanne Naafs and Ben White, "Generasi Antara : Refleksi Tentang Studi Pemuda Indonesia \* Pemuda Sebagai Generasi Orang Muda Adalah Aktor Kunci Dalam," *Jurnal Studi Pemuda*, Vol. 1, No. 2, 2012: p. 93, 89–106.

<sup>50</sup> Mardani, *Hukum Keluarga Islam di Indonesia*, Kencana Prenadamedia Group, Jakarta: 2016. p. 82.

<sup>51</sup> Rahmida Erliyani and Fatma Surah, *Aspek Hukum Perjanjian Perkawinan*, ed. Diana Rahmawati, K-Media, K-Media, Yogyakarta:2016. p. 18.

<sup>52</sup> A. Suriyaman Mustari Pide, *Hukum Adat Dahulu Kini dan Akan Datang*, 1st ed. Kencana, akarta: 2014. p. 5.

<sup>53</sup> Pide.

can also apply as the legal position of marriage after the decision of the Constitutional Court. The words '*digawa*' and '*kegawa*' refer to atoms moving in one molecule. While the molecule itself is the handover of the bride and groom in which there are values of the marriage agreement. In order to see the existence of tradition, it is not enough to just look at the position of tradition, but must be placed in its position.<sup>54</sup>

The position of the marriage agreement attached to the handover ceremony of the bride and groom has the same legal power. The strength of the marriage agreement that comes from the handover ceremony of the bride and groom in Cirebon, as stated in Article 29 of Law no. 1 of 1974 concerning Marriage, it is not clear and unequivocal about the marriage agreement, including the contents of the marriage agreement. It is only in Article 29 paragraph (2) that the limits that must not be violated are law, religion, and decency. The marriage agreement originating from the handover ceremony of the prospective bride is not a legal vacuum as is the legal vacuum regarding inter-religious marriages.<sup>55</sup> Instead, it was deliberately made empty and did not provide space for traditional values which, in fact, had nothing to respond to excessively by the people of Cirebon.

## CLOSING

The conclusion of this study indicates that the meaning of '*digawa*' and '*kegawa*' in the tradition of handing over the prospective bride and groom in Cirebon has legal consequences on the ownership of the husband's belongings after divorce. Although some members of the Cirebon community consider this concept irrelevant to prenuptial agreements recognized by law, in reality, '*digawa*' and '*kegawa*' function as binding oral agreements between both parties in marriage. The legal impact becomes evident upon divorce, where the husband claims the right to reclaim the belongings given during the handover ceremony. This has led to legal debates, particularly due to the absence of written documentation or a formal institution overseeing such agreements. From a civil law perspective, agreements established through this tradition can be classified as prenuptial agreements under the principle of freedom of contract, as stipulated in Article 1320 of the Indonesian Civil Code. However, due to the lack of written documentation and formal registration, its legal force remains weak within the formal legal system. Therefore, efforts are needed to bridge the understanding between customary law, traditions, adat, and positive law to ensure legal certainty regarding the ownership of belongings in the event of a divorce and to prevent disputes within the community.

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<sup>54</sup> Elya Kusuma Dewi Sarip, Diana Fitriana, 'Mendudukan Fatwa Majelis Ulama Indonesia Sebagai Doktrin Perundang-Undangan', *Journal Legislasi Indonesia*, Vol. 16, No. 3, 2019, p. 289–98.

<sup>55</sup> Rosdiana, Ummu Hanah Yusuf Saumin, and Masayu Mashita Maisarah, 'Rosdiana, Ummu Hanah Yusuf Saumin, & Masayu Mashita Maisarah', *Ahkam: Jurnal Ilmu Syariah*, Vol. 19, No. 1, 2019, p. 81–96.

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