

Cancellation And Return Of Engagement Gifts In Islamic Law

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Abstract

There are various reasons for the cancellation of the engagement by each party which gives the impression of being playful and not implementing the value of engagement, namely leading to marriage. This type of field research (field research), uses a normative approach that is based on Islamic Law and is descriptive qualitative in nature. This research is based on primary and secondary data collected using interview techniques, observation and documentation studies. This research explores the causes of cancellation of engagements and returns of gifts that occur in Bojong District, Pekalongan Regency and analyzes them from the perspective of Islamic law. The phenomenon of canceling engagements and returning gifts that occurred in Bojong District, Pekalongan Regency, was caused by differences in weton, lack of compatibility and the presence of a third party. Regarding engagement gifts, there are also parties who take the initiative to return them and are asked to return them

Keywords: Multimedia Utilization, Islamic Family Law, technology

A. Introduction

Engagement is the first step before a marriage contract, which is a request from a man to a woman with the intention of marrying her, by the man coming to the woman and her family explaining the purpose of his visit. An engagement in which there is a commitment and agreement between both parties agreeing to carry out the marriage. (Isnadul Hamdi, 2021: 44). When carrying out an engagement, it is usually followed by giving gifts as a sign of binding all or part of it by giving various kinds of gifts and gifts to strengthen the bond and relationship. Gifts are given in the form of gold, money, goods, food and so on as a sign that the man is serious about the woman he is betrothed to. Giving a gift is a sign that the man is tying the knot with the woman he is going to marry.

As for the Compilation of Islamic Law in Chapter 1, Article 1, a proposal or engagement is "Proposal is an activity that attempts to create an arranged marriage relationship between a man and a woman." Namely in a good way (ma'ruf). Islam also lays down several rules and laws for someone who is proposing or who will be proposed to in creating a happy and harmonious family as expected by everyone, rules such as selection based on religion and so on.

Reality that occurs in the community of Bojong District, Pekalongan Regency is that not all commitments or initial plans that have been agreed upon can work well, there are also those who decide and let go of the agreement at the time of the engagement. Regarding this matter, the cancellation of the engagement is carried out by one party or both parties. Cancellations occur because there are several conflicts or certain reasons. The cancellation of the engagement occurred without considering the initial plans that had been agreed upon and without thinking about the future after the cancellation of the engagement. Then, when the engagement is canceled, the gift given is usually returned by the woman or requested by the man. In the people of Bojong District, before getting married, they usually start with an engagement, so this has become a habit, it could even be said to be something that the majority of people in that area do before the marriage contract takes place. Research in the field shows that there were cases of 5 couples canceling engagements and returning engagement gifts for different reasons. Of the 5 couples, the cancellation of the engagement was carried out by the man, there were 3 cases and 2 cases were carried out by the woman. Regarding the return of engagement gifts, there were 2 men who asked for the gifts given back, there were also 3 women who returned gifts from the men.

Looking at the description above, there is research regarding how the law regarding canceling an engagement and returning an engagement gift in practice occurs in society. Therefore, the reality that occurs in the community of Bojong District, Pekalongan Regency is related to canceling engagements and returning gifts by reviewing Islamic law. Islamic law is rules based on the revelation of Allah SWT and the Sunnah of the Prophet and the rules established by Allah SWT and human relations with each other.

This research was conducted with the aim of finding out the causes of cancellation of engagements and returns of engagement gifts that occurred in Bojong District, Pekalongan Regency and analyzing them from the perspective of Islamic law with the title **“Cancellation and Return of Engagement Gifts in Islamic Law”**.

B. Method

This research is a type of field research, namely going into the field, through this, researchers can observe, explore and participate get data and information. This research uses an approach normative, namely an approach based on Islamic law for get answers to facts that occur in the field in accordance with the provisions shari'ah or not (Sugiyono, 2013: 7-8). So this research examines regarding the cancellation of sermons and the return of sermon deliveries according to Views of Islamic Law Case Study in Bojong District, Regency Pekalongan. This research data was collected through observation by the author carry out observations to directly observe the related research objects cancellation of sermons and return of delivery of sermons from parties the man took the basis of Islamic law, interviews

namely the author looked at several samples and conducted interviews with several couples or parties involved in canceling the sermon and return of sermon deliveries in Bojong District, apart from documentation namely digging up information from written sources, namely books, other literary sources such as journals, theses or theses as well as research previous studies that are relevant to this research. As for the collection technique. This research data uses qualitative analysis which begins with reduction data (data reduction), data presentation, and drawing conclusions or verification.

C. Discussion

A. Reasons for the cancellation of Engagement in Bojong District Pekalongan Regency

A marriage contract, but engagement is a custom carried out by the community in practice towards marriage, in this case it is almost certainly done before the marriage which makes the customs in the community in line with the thoughts of one of the scholars, Daud Al-Zhahiri, who stated that proposing is obligatory before the marriage (Abdul Aziz Muhammad Azzam and Abdul Wahhab Sayyed Hawwas, 2015:146). Judging from the various opinions of scholars regarding the law of engagement, however, Ibnu Rusyd confirmed the opinion of Daud Al-Zhahiri who said it was mandatory. Meanwhile, Syafi'iyah is of the opinion that legal engagement is sunnah, this relies on Rasulullah Saw who proposed to Aisyah Bint Abu Bakr. Imam Malik also said that legal engagement is sunnah. Various opinions regarding the law of engagement can be concluded, namely that it is permissible or permissible as long as there are no sharia prohibitions (Ahmad Rofiq, 2013: 79). Because the Qur'an does not explain in detail the legal basis for engagement. As for those who carry out an engagement, it is a good step to step into the marriage stage because engagement or proposing is also a gateway to marriage (Hafidhul Umami, 2020: 17). Engagement has no legal consequences of the marriage contract but it is bound by an agreement that has been agreed upon by both parties concerned. Engagement means asking or requesting, in custom which states that an engagement from one party to another party provides a statement of intention to enter into a marriage bond (Beni Ahmad Saebani, 2013: 146).

The purpose of the engagement is so that both parties and their families get to know each other more deeply. Also, both parties who have entered into an engagement certainly have a sense of peace of mind because each of them has proven their seriousness (Tihami and Sohari Sahrani, 2014: 23-24). This, as stated by C, is that the purpose of carrying out an engagement is with the aim of making the relationship clearer if the man proposing has proven that the woman is serious (C, Actor of canceling the engagement and returning the engagement gift, 2022). W also expressed the same thing, saying that the relationship they were in was not seen as not serious if they were already engaged, people knew there was already a bond (W Actor of canceling engagement and returning engagement gifts, 2022). As for the motivating factor for someone to get engaged, that is because they already know and have the blessing of their parents. As stated by T, this is because he doesn't

want to wait a long time when he is compatible with the woman and has the parents' blessing and immediately agrees to carry out the engagement (T The perpetrator of canceling the engagement and returning it engagement gift, 2022).

However, a person can also change their thought patterns or feelings over time. The majority of people in Bojong District before getting married is preceded by a proposal, namely an engagement. This can be said to be mandatory for someone who wants to get married because it has become a habit that is often carried out and has become a tradition at the beginning of someone's steps towards marriage. At the start of the engagement, of course both of them agreed that they were committed to keeping their promise together and would get married after the engagement was carried out. This is the case where someone has had an engagement but it has not resulted in a marriage, as happened in Bojong District, Pekalongan Regency. Engagement cancellations occur due to various reasons for each party involved.

The reasons for canceling engagements in Bojong District, Pekalongan Regency are different. The cancellation of an engagement occurs because one or both parties decide to end the relationship and do not lead to marriage. At the beginning of the engagement, both of them accepted and committed to each other. However, due to other causes and factors in the relationship, the engagement can be canceled. Because 11 engagement cancellations were carried out by NR and RM due to differences in weton because the weton calculations did not match. Because in the man's family there is still a strong tradition of calculating weton from generation to generation in his family if he wants to get married. Weton between a man and a woman who are going to get engaged is not compatible and falls into the term "Tibo Punggel" which means that they must be separated, if they are determined to proceed to the marriage stage, it is feared that undesirable things will happen. Like when someone dies or the relationship doesn't last. Regarding this reason, it is the man who cancels the engagement and the woman ultimately accepts the cancellation of the engagement made by the man. Even though in reality the cancellation of the engagement was not desired by both of them because the wetons of the two were not compatible (NR and RM, party canceling the engagement and returning the engagement gift, 2022).

There are also parties who cancel their engagement due to the presence of a third party. The third party here is another person who comes into the relationship of someone who has been bound by an engagement promise which makes the relationship not continue because one of the engaged parties breaks the agreed commitment. As this happened to parties T and C, the cause of the cancellation of the engagement was because there was a third party in the relationship who already had an engagement. However, the woman did not say so and denied that there was a third party (T party canceling the engagement and returning the engagement gift in 2022). The same thing experienced by parties W and A was caused by a third party. In canceling the engagement between A and W, it was not done properly because A himself felt that he had been disadvantaged by W's attitude which seemed to not respect A as his future partner who would later marry (W, Party who canceled the engagement and returned the engagement gift, 2022).

Apart from the reasons above, there are ongoing conflicts between the two parties which cause a lack of compatibility. This was expressed by AN and N, that the two of them were no longer suitable for a more serious relationship because there was a conflict that could no longer be resolved other than by canceling the engagement (AN, Party canceling the engagement and returning the engagement gift, 2022). The same thing expressed by KH and R said that the woman, KH, said that there would be no seriousness in the future, while the man, R, said that getting married also required capital, which meant that the two of them did not understand each other, causing the engagement to be cancelled. The engagement was canceled by the KH woman who asked for the engagement to be canceled because there was no compatibility.

Based on the explanation above regarding the reasons for canceling an engagement in Bojong District, if the reason for canceling the engagement is clear and does not harm either party then it is permissible as in the Compilation of Islamic Law in chapter III, namely the proposal in article 13 paragraph (1) The proposal has not caused legal consequences for the parties. free to break off the marriage relationship (Compilation of Islamic Law: 8). Regarding this article, a proposal or engagement may be cancelled.

However, what happened in Bojong District regarding the cancellation of the engagement was not in accordance with this article. As seen in the engagement itself, there is a promise which must be kept by each party engaged in the engagement. Cancellation of an engagement is permitted as long as no party is harmed and accepts the cancellation and does not cause harm. However, the reality of what happened in Bojong District was that the parties canceled their engagement for reasons that should not be the main issue of the cancellation. This is the case with incompatibility, caused by third parties or relationships that are not clear. This is the reason why the engagement is seen as a joke and the party carrying out the engagement does not apply important values to the engagement itself. If seen from the 13th Compilation of Islamic Law, article 13 (2), the freedom to terminate a marriage relationship is carried out in a good manner in accordance with the guidelines and local customs, so that harmony and mutual respect are maintained. Cancellation of the engagement that occurred in Bojong District, if related to Islamic law, is the same as one person's betrayal of another person. As in an engagement, the value of the engagement agreement and carrying out the marriage is contained, but in reality the parties cancel the engagement. Apart from that, there are also verses in the Qur'an that explain hypocrites, one of which is in Surah At-Taubah verse 67:

الْمُنَافِقُونَ وَالْمُنَافِقَاتُ بَعْضُهُمْ مِنْ بَعْضٍ يَأْمُرُونَ بِالْمُنْكَرِ وَيَنْهَوْنَ عَنِ الْمَعْرُوفِ وَيَقْبِضُونَ
أَيْدِيَهُمْ نَسُوا اللَّهَ فَنَسِيَهُمْ إِنَّ الْمُنَافِقِينَ هُمْ الْأَقْسَفُونَ

Meaning: "Hypocrites, men and women. Part with some of the others being the same, they told them to make that evil and forbid doing what is good and they grasp it his hand. They have forgotten Allah, so Allah forgot they. Indeed, hypocrites are

those who wicked” Qs. At-Taubah[9]: 67. (Al-Qur’anul Karim, Kementrian Agama RI, 2020: 197).

Cancellation of engagements that occurred in Bojong District indicates that people have broken their own promises, as is the hypocrisy of someone who is not responsible for their words. In other words, if the engagement is canceled based on willingness and clear reasons, such as differences in weton calculations, this cannot be negotiated because it has become a tradition that must be carried out. And cancellation does not cause any harm but rather benefits both parties. In contrast to cancellation which is detrimental to one of the parties, it clearly creates harm, namely a bad relationship and mutual hatred towards each other due to the cancellation being the presence of a third party, incompatibility or the occurrence of a continuous conflict.

Engagement processes in Bojong District are generally the same, namely in accordance with the *syara'* because the procedure for engagement is by visiting the woman's family, asking permission from her family and explaining the purpose of the man's visit. After that, the woman gave her answer to the proposal. The woman will answer whether she accepts the man's proposal or refuses. As for proposals received, both from the woman's family and the man's family will plan the wedding of the prospective bride and groom. Apart from that, this is accompanied by handing over the gifts brought by the man to the woman as a form of seriousness of the engagement.

After the cancellation of the engagement, it is related to the relationship pattern between the two parties. It is possible that the party who has canceled the Engagement will not have as strong a relationship as before with the party concerned. Because of this, there is already a gap between the two of them, whether it is problems from both of them or the families of both parties. The relationship or friendship that should have remained intact has now been interrupted by the cancellation of the engagement. Although the cancellation of the engagement can be done for clear reasons and does not harm either party. However, in Bojong District, not all parties cancel their engagements in an amicable manner. This affects the relationship pattern when not engaged. The majority of people initially engage in engagement so that their relationship can be established well, but in reality the opposite is true. The party who cancels the engagement no longer maintains a friendly relationship with each other, both from the family and friends of the parties who cancel the engagement. However, not all parties broke off friendship or friendship. Deciding or establishing a good relationship pattern depends on each party. The 15th party canceling the engagement still has a good relationship, although not like before. At least don't harbor feelings of hatred and break ties. As stated by NR, the party who canceled the engagement (NR, Party canceling the engagement and returning the engagement gift: 2022).

During cancellation done well, the relationship pattern afterward does not close the possibility can be done peacefully and amicably without breaking off ties of

friendship. In contrast to relationship patterns that are no longer well established, of course most relationship patterns cannot be established. The benefits of canceling an engagement can be maintained if the cancellation is done well, but if the cancellation of the engagement is done in a bad way it will cause more harm than good. The cancellation of the engagement was not carried out well and then the relationship pattern was not established as was done by W (W, Party for canceling the engagement and returning the engagement gift: 2022).

It can be seen from the explanation above that the relationship pattern after the cancellation of the engagement occurred that the majority of parties in Bojong District no longer had a good relationship because they canceled the *khitan* in an unreconciled manner. However, not all parties canceling engagements in Bojong District, the relationship pattern after the cancellation of the engagement is not good, there are also parties who still have a good relationship because when the engagement was canceled it was done in a peaceful manner and by mutual agreement without either party feeling disadvantaged.

B. Return of Engagement Gifts in Bojong District, Pekalongan Regency from the perspective of Islamic Law

After canceling the engagement, related things are carried out, namely the engagement gift items. Engagement gifts in the form of gold such as rings, bracelets or necklaces and other items such as food and snacks as a complement to the engagement gifts. When an engagement is canceled, there are parties who ask for the items given back and there are also parties who take the initiative to return them. When giving engagement gifts in Bojong District, Pekalongan Regency, the woman and the man do not determine the number or quantity of items given, only the capabilities of each party carrying out the engagement. Usually, when giving a ring, it indicates that the man and the woman have a sign that they are an engaged couple or prospective bride and groom who will enter into a marriage contract.

As for the return of engagement gifts, if seen based on the opinion of the ulama according to the opinion of the Hanafi madzhab regarding the position of giving gifts or engagement gifts from the man to the woman if the items given are still intact, as is the case with initial gifts, for example gold jewelry, rings, necklaces, bracelets and otherwise, the man has the right to ask for the item back. However if the item is lost or damaged, you have no right to ask for it back. According to Hanafiyah scholars, just as items given that have been damaged cannot be asked for back, similarly gifts also have the same law that cannot be asked for back (Muhammad Ra'fat 'Ustman, 2019:46). As was done by party A who insisted on asking W to return the engagement gift item, but the gift item given by party A was lost, this is not in accordance with the opinion of the scholars above because party A asked for a gift item whose status was lost or damaged.

According to the Malikiyah school of thought, the delivery of an engagement is seen and differentiated first as to who cancels the engagement between the man and the woman. If the engagement is canceled by the man, he has no right to ask for it

back. On the other hand, if the woman cancels the engagement, the man has the right to ask for the items he has given back (Muhammad Sukur, 2021: 127). Regarding the opinion of the Malikiyah school of thought, this is not in accordance with what was done by party A to party W. Because party A canceled the engagement, party A should not have asked for gift items that had been given by party W. In contrast to what happened, the cancellation of the engagement was carried out by KH with R's party is in accordance with the opinion of the Imam of the Malikiyah school because the woman's party cancels the engagement, the man, namely R, has the right to ask for the return of the items given to KH.

This is also not in accordance with what party W did with party A because party A canceled the engagement, so party A has no right to ask for it back. This is different from what was done by R, who, in accordance with the opinion of the ulama above, asked for the return of the items given by the engagement because it was the woman who canceled it, namely KH. (R and KH, Cancellation of engagement and return of engagement gifts: 2022). So, based on the opinion of the Malikiyah sect of scholars, it is permissible to ask for it back as long as it cancels the engagement from the woman.

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Meanwhile, according to the opinion of the Shafi'i school of thought, if a sermon is canceled, it is related to whether the items given are returned or not, that must be differentiated first regarding the intent and purpose of the items delivered by the sermon. As happened in Bojong District, when the majority of people gave sermons, they indicated that the status of the item was a gift (grant). Meanwhile, according to the Hanbali School of thought, if the sermon is canceled, the items

given can be asked for back as long as the marriage contract has not yet occurred. Because in this case the opinion requires the ability to request or return the items given if the marriage contract does not take place.

As explained in a hadith, items that have been given cannot be asked for back. The Hanafi school of thought, namely Ibn 'Abidin, says that in order to determine the right or not regarding the goods given when the sermon is returned or ask for the goods back, there must be willingness from both parties because in this case it is also stipulated that there should be no obstacles that cannot be asked for back. This was done by RM and NR, AN and N, and C and T who voluntarily returned the items they had given because they did not arrive at the wedding ceremony. Even though the return made was not complete in accordance with the initial sermon given. However, there is willingness on both parties and there are no demands whatsoever on the part of the man who provides it.

As explained above, regarding the delivery of sermon items, how to return or request them, which occurs in Bojong District, when it is related to Islamic law, gift items that have been given to other people, such as sermon delivery, as in a hadith which explains that items that have been given by other people have no right to be returned. asked to return. Remembering in a hadith narrated by As-Habus Sunan (Abu Daud, Ibnu Majah, Tirmidzy (Nasa-iy) from Ibnu Abbas, Rasulullah Saw said (Tihami and Sohari Sahrani, 2014:36-37).

لَا يَجِلُّ لِرَجُلٍ أَنْ يُعْطِيَ عَطِيَّةً أَوْ يَهَبَ هِبَةً فَيَرْجِعَ فِيهَا إِلَّا الْوَالِدَيْنِمَا يُعْطِي وَوَلَدَهُ.

Meaning: "It is not lawful for someone who has given something, or donated something, to ask for the item back, except for a father towards his child."

From Ibn Abbas and from Salim, Rasulullah Saw said:

أَلْعَا يُدْفِ هِبَتَهُ كَالْعَا يُدْفِي قَيْنِهِ.

Meaning: "A person who asks for something he has given back is like a person who licks his saliva back."

Regarding the delivery of sermons if requested again, as was done by party A who requested sermon delivery items. If it is related to the hadith above, it is not appropriate because goods given by other people do not have the right to be asked for back, especially when asking for it is done by forcing the party being asked for it. This is different from parties who take the initiative to return gifts for certain reasons that do not harm either party. This does not create a problem because both of them are on a voluntary basis.

Based on what happened, the parties canceled the sermon by requesting or returning the items given by the man in their respective ways. It is more appropriate to return a sermon delivery if it is done in a good and polite manner. Remembering that humans must have good manners and morals towards other people. As Rasulullah SAW also said, "The servant of Allah who is most loved by Allah is the one with the best morals" (Regarding this, the method of restitution carried out by party A towards party W. Even though there has been a cancellation of the sermon, the attitude must be maintained. The method carried out by party A namely asking for

gift items that have been given with a little force women's side. This is in accordance with what was expressed by W (W, Cancellation of sermons and return of sermon deliveries: 2022).

"When I asked for the ring that was given during the sermon, it was lost, I forgot to put it or something. Then my candidate forced me to be replaced. "Finally, I bought a ring instead, but it wasn't the same but more or less the same as the program given."

According to the method used by party A, it is not appropriate. In the case of asking for sermon delivery items, the man has the right to ask for them. However, when A asked for sermon delivery items, it was inappropriate to do so in a coercive manner. Because it is not appropriate for a Muslim to be rude to other people, which should be done in a good way (ma'ruf).

This is different from the method of returning sermon deliveries, where people are willing to return it voluntarily. How to return sermon delivery items voluntarily from someone who received them does not make it a problem. Because there is someone's good intentions in it so that the person concerned does not feel too deeply disappointed. Returning without having to be asked is something that should make a person aware of other people's feelings. Just like RM, who took the initiative to return the items given by NR. This was also done by AN who returned the sermon delivery items from N. and party C with party C. Both returned on the basis of initiative and voluntarily without any coercion from the party concerned. As the opinion of the Hanafi Madzhab scholar, Ibnu 'Abidin, said that to determine whether or not the goods given are entitled when the sermon is returned or ask for the goods back, there must be willingness on the part of both parties concerned.

Based on the explanation above by the author, it can be seen that even though canceling the sermon is permitted, it is not as easy to cancel it because the sermon itself is bound by promises from both parties. Like a promise, it must be kept, otherwise it refers to attitude someone about hypocrisy who doesn't stick to the promises he makes. When the sermon does not reach the wedding, the party canceling the sermon, there are parties who return it and some even ask for it back. In asking, there are parties who ask for the goods they give in a bad way, such as forcing them to return them. This is what makes a person's attitude towards other people unethical, even if it is what the woman who has been giving the sermon asks for. The method of return is as used by men who cancel the sermon and then ask for the items they gave back. This is different from the women who took the initiative to return the items they gave. Regarding the return of sermon deliveries, if you look at the opinion of the ulama, there are parties who are appropriate and who are not. If in the concept of Islamic law a hadith of returning or asking for delivered goods that occurred in Bojong District is not appropriate because the hadith says that you have no right to ask for gifted goods when they have been given by someone else.

D. Conclusion

Conclusion

Based on the results of research that the author has conducted, it can be concluded as follows:

1 The reasons for canceling engagement and returning engagement that occur in Bojong District, Pekalongan Regency are different. The cancellation of the engagement was due to differences in *weton*, the presence of a third party, and a lack of compatibility. The cancellation of the sermon is carried out based on the agreement of both parties and is carried out by one party who is canceling, this is what causes the relationship pattern after the cancellation of the engagement to not be well established. Likewise, with the return of the engagement delivery from the two couples who had canceled the engagement, there were parties who took the initiative to return the gifts given and there were parties who were asked to return them.

2 View of Islamic law regarding the cancellation of engagement and the return of engagement delivered in Bojong District, Regency Pekalongan, if seen from the cancellation of the sermon, is not in accordance with Islamic law because in the sermon itself there are promises and commitments from both parties that must be kept in order to move towards marriage. As is the case because a third party in a relationship is bound by engagement and there is no compatibility that seems playful. This causes more harm than good. This is different from what is done by mutual agreement due to differences in *weton*. As in the Al-Qur'an surah at-Taubah verse 67 and also the Sahih Hadith of Rasulullah Saw. which explains someone's hypocrisy in making promises that have been broken. Meanwhile, returning sermons delivered in Bojong District, Pekalongan Regency is not appropriate if the gift is intended to be a gift. If you look at the method of return, there are those that are in accordance with Islamic law, there are those that take the initiative to return and those that are not appropriate because the method of return is by force.

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