

KAFA'AH IN ISLAMIC LAW AND CUSTOMARY LAW: The Dynamics of Prospective Spouse Equality in A *Syariifah* Family Environment

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Abstract

This study aims to explore the concept of *kafa'ah* in marriage, particularly the perspectives of Islamic law and customary law regarding marriage within the *Syariifah* community. This tradition is unique as it emphasizes lineage parity, preserves the purity of Sayyid descent, and involves a strong community role in marriage. The research employs a Shari'a-based and conceptual approach, relying on library research. Data sources are drawn from relevant literature, including books, journals, and other scholarly works related to marriage law and Islamic legal sources. The findings indicate that Ulama Habib prohibits the marriage of a *Syariifah* woman to a non-Sayyid man, as it is considered incompatible (*sekufu*). In the Habib community, marriages within the *Ahlul Bait* family are deemed obligatory to find a suitable partner, as *Syariifah* and Sayyid marriages are not just tradition but also a command from the Prophet Muhammad. However, the marriage of a *Syariifah* to a non-Sayyid man is permitted under Islamic law, as all people are considered equal, and what distinguishes them is their piety (*taqwa*) to Allah SWT, not their lineage or noble status. The implications of this research suggest that lineage should not be a barrier to marriage as long as the partners possess good character (*akhlaqul karimah*). The concept of *kafa'ah* needs to be understood following the goal of building a harmonious family. The legal concept of *kafa'ah in fiqh munakahat* must be relevant to the context of society and the developments of the time.

Keywords: Marriage, Kafa'ah, and the *Syariifah* Community

Abstrak

Penelitian ini bertujuan untuk mengeksplorasi konsep *kafa'ah* dalam pernikahan, khususnya pandangan hukum Islam dan hukum adat terkait pernikahan di kalangan keluarga *syariifah*. Tradisi ini memiliki keunikan karena menekankan kesepadan nasab, menjaga kemurnian garis keturunan sayyid, dan melibatkan peran komunitas yang kuat dalam pernikahan. Penelitian ini menggunakan pendekatan syar'i dan konseptual, serta merupakan penelitian

kepustakaan (*library research*). Sumber data diperoleh dari literatur yang relevan, termasuk buku, jurnal, dan karya ilmiah lainnya yang terkait dengan hukum pernikahan dan sumber hukum Islam. Hasil penelitian menunjukkan bahwa ulama Habib melarang pernikahan seorang syariifah dengan laki-laki non-sayyid karena dianggap tidak sepadan (*sekufu*). Dalam komunitas Habib, pernikahan keluarga *Ahlul Bait* dianggap wajib untuk menemukan pasangan yang setara, karena pernikahan *syariifah* dan *sayyid* tidak hanya merupakan tradisi tetapi juga perintah dari Rasulullah SAW. Namun, pernikahan syariifah dengan laki-laki non-sayyid diperbolehkan menurut perspektif hukum Islam, karena semua orang dianggap sama, dan yang membedakan hanyalah ketakwaan mereka kepada Allah SWT, bukan keturunan atau status bangsawan. Implikasi dari penelitian ini adalah nasab tidak seharusnya menjadi penghalang dalam pernikahan, asalkan pasangan memiliki *akhlakul karimah*. Konsep *kafa'ah* perlu dipahami sesuai dengan tujuan untuk membangun keluarga yang harmonis. Hukum *kafa'ah* dalam *fiqh munakahat* harus relevan dengan konteks masyarakat dan perkembangan zaman.

Kata Kunci: Ta'aruf, Khitbah, Mamba'us Sa'adah

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Introduction

Allah created humans in the best form, male and female in pairs, so that they may relate to one another, love each other, produce offspring, and live in peace according to the Sharia and the guidance of Allah SWT and His Messenger. Marriage in Islam is not only a physical and spiritual bond between two individuals but also the main foundation for forming a harmonious and everlasting family following the teachings of the Almighty God.¹

Marriage is a fundamental aspect of human life, viewed as a means to perfect one's faith and fulfill the inner needs of both partners. In Islamic teachings, marriage aims to establish a happy family based on affection and love, as well as to produce legitimate offspring within society by adhering to the regulations set by Sharia.²

¹ Anwar Sadat et al., “Determination of Auspicious Days in Wedding Traditions in Mandar, West Sulawesi: Perspective of Islamic Law”, *Samarah: Jurnal Hukum Keluarga dan Hukum Islam*, vol. 7, no. 3 (2023), p. 1422.

² Rahmat Hidayat, “Peran Penyuluh Agama dalam Kehidupan Beragama guna Meningkatkan Keluarga Sakinah (Studi Kasus pada Majelis Ta’lim Al-Muhajirin Sukarame II Bandar Lampung),” *Mau’idhoh Hasanah: Jurnal Dakwah dan Ilmu Komunikasi* 1, no. 1 (17 Agustus 2019): 92–108, <https://doi.org/10.47902/mauidhoh.v1i1.35>.

Marriage also holds significant wisdom, such as perfecting one's faith, fulfilling the inner needs of the couple, and safeguarding against adultery and other sins. A life filled with peace and love, as well as maintaining purity within the framework of Islamic law, is highly desired by Allah SWT. *Nikah* refers to a legitimate bond between a husband and wife, resulting in rights and obligations between them. The marriage process does not happen spontaneously but involves several stages, starting from finding a partner to the actual marriage ceremony.³

According to Article 1 of Law Number 1 of 1974 on Marriage, marriage is a physical and spiritual bond between a man and a woman as husband and wife, to form a happy and eternal family (household) based on the belief in the Almighty God. Marriage involves both parties, both male and female, in achieving a better life. The relationship between a man and a woman can work well if both fulfill their roles according to their respective functions and mutual agreement. One factor contributing to balance and harmony is ensuring that neither the prospective wife nor husband feels burdened by the marriage. The level of *seikufu* or compatibility is a crucial factor in achieving household happiness and well-being, as well as preventing the marriage from ending in divorce.⁴

According to the hadith of Prophet Muhammad SAW, women are married for four reasons: their wealth, lineage, beauty, and religion. Therefore, seek a woman with good religion, for you will be successful. The main factor influencing marriage is the equality of the partners, where the prospective husband and wife should be balanced in terms of lineage, social status, economic situation, education, and other aspects to create harmony in the household. The *Maliki* school of thought considers that the criteria for equality include only religion and condition, while the *Shafi'i* school mentions six criteria for equality: religion, personal purity, freedom, lineage, absence of defects affecting choice, and profession.

³ Muh Zaitun Ardi, Samsidar Jamaluddin, and Shuhufi Nadyatul Hikmah, "Konsep Kafa'ah dalam Perkawinan Wanita Syarifah dengan Pria Non Sayyid Dikalangan Habaib Kota Palu", *Iqra: Jurnal Ilmu Kependidikan dan Keislaman*, vol. 19, no. 2 (2024), pp. 185–93.

⁴ Abdul Aziz Khotibul Umam, Muh Zaitun Ardi, and Jamaluddin Samsidar, "The Islamic Legal Perspective on A'Matoang in the Marriage Process (Exploring Agreements within the Monromonro Utara Community, Jeneponto Regency)", *International Journal of Health, Economics, and Social Sciences*, vol. 6, no. 1 (2024), pp. 56–9.

However, some opinions suggest that equality is not the primary criterion in marriage, but rather steadfastness and moral character.⁵

There are many ways that prospective couples can approach their future together, one of which is finding a good match. While this is not an absolute requirement, the presence of a suitable partner is crucial for the success of the marriage. *Kafa'ah* (compatibility) is encouraged by Islam when selecting a partner, but it is not a condition for marriage. *Kafa'ah* is a right of the prospective spouses. Therefore, an imbalanced, mismatched, or unsuitable marriage may lead to ongoing problems and is likely to result in divorce; thus, it can be annulled.

According to the Compilation of Islamic Law on Marriage Prevention, Article 61, Chapter X, incompatibility cannot be used as a reason to prevent marriage, except for incompatibility due to differences in religion or *ikhtilaf ad-diin* (disagreement in religion). This indicates that *kafa'ah* alone is not a reason to prevent a marriage, but differences in religion or *ikhtilaf ad-diin* are the criteria for *kafa'ah*.⁶

The reality in community life does not always proceed as expected. Many factors hinder the journey towards marriage. In society, there are various perspectives on the concept of *kafa'ah* itself, including economic, social, and particularly issues related to lineage within *syarifah* families. Many believe that marriage among *syarifah* families is something that can be taken lightly, and there is also a perception that such marriages are merely traditions aimed at glorifying lineage, without regard to existing laws.

This is because, in contemporary society, many people turn a blind eye to mistakes in marriage matters, thinking that the lack of *kafa'ah* or compatibility is not a mistake but rather a normal occurrence. However, *kafa'ah* in marriage, especially among *syarifah* families, is an aspect that needs to be carefully considered, both from social and lineage perspectives.⁷ The term *kafa'ah* is also recognized among *syarifah* families. Within *syarifah* families, there are

⁵ Riska Aulia, "Peran Perempuan dalam Organisasi Aisyiyah", *Holistic al-Hadis*, vol. 4, no. 2 (2018), p. 67.

⁶ Fauzah Nur Aksa et al., "Analisis Hukum Islam terhadap Penetapan Hukum Hakim tentang Perkawinan Beda Agama di Indonesia dalam putusan Nomor: 12/Pdt.P/2022/PN. Ptk", *Palita: Journal of Social Religion Research*, vol. 9, no. 1 (2024), pp. 13–22.

⁷ Dzakiyyatul Ilmi Sirait dan Mustapa Khamal Rokan, "Konsep Kafa'ah Pernikahan Dikalangan Komunitas Said/Syarifah (Studi Komunitas Said/Syarifah di Kota Medan, Sumatera Utara)," *AL-MANHAJ: Jurnal Hukum dan Pranata Sosial Islam* 5, no. 2 (25 Juli 2023): 1215–20, <https://doi.org/10.37680/almanhaj.v5i2.2881>.

specific criteria for determining whether someone is suitable to accompany their daughter in marriage. Compatibility (*sekufu*) is used as a measure of the appropriateness of the prospective partner with the daughter. In *syarifah* families, they are expected to marry someone who is also a *syarif* and is not permitted to marry someone who is not a *syarif*. Suitability is used as a standard for determining whether the man is compatible with the daughter. This practice is intended to protect, preserve, and maintain the purity of their lineage, ensuring it remains connected to the Prophet Muhammad SAW. In other words, if a *syarifah* marries someone who is not a *syarif*, it would tarnish the purity of the lineage. Typically, a *syarifah* seeking a spouse leaves the decision to the family's wishes. The many choices of *syarifah* women regarding family preferences are largely due to their obedience, particularly to their parents.⁸

Regarding marriages between *syarifah* and *syarif*, there are differing opinions. Some believe such marriages are permissible, while others argue they are not allowed due to incompatibility in terms of lineage. For example, in Takalar, many *syarifah* have married non-*syarif* individuals without considering their lineage. Some are aware of this issue but choose to ignore it as if it were not worth contemplating.⁹

In the application of the concept of *kafa'ah*, a *syarifah* may face sanctions from the community, particularly from her extended family, if she dares to marry someone who is not a *syarif*. One of the sanctions is the denial from her extended family, stating that she is no longer part of their family. Additionally, she may be prohibited from residing in her parents' hometown, as it is considered that she has failed to uphold the preservation of lineage and descent connected to the Prophet Muhammad SAW.¹⁰ In both customary law and Islamic law, there is no explicit evidence from the Qur'an or Hadith that clearly mandates or allows the concept of *kafa'ah* specifically within *syarifah* families regarding marriage.¹¹ Given this issue, the author believes that studying the concept of *kafa'ah* in marriages among *syarifah* families will be a highly interesting study, as it will impact various aspects of life.

⁸ Ahmad Muzakki, "Kafaah dalam Pernikahan Endogami Pada Komunitas Arab di Kraksaan Probolinggo", *Istidla: Jurnal Ekonomi dan Hukum Islam*, vol. 1, no. 1 (2017), pp. 15–28.

⁹ Abdullah M. Nur, "Kafa'ah Dalam Pernikahan Dalam Perspektif Syekh H. Nuruzzahri Yahya", *Jurnal Al-Mizan*, vol. 10, no. 2 (2023), pp. 169–93.

¹⁰ Syarifah Gustiawati and Novia Lestari, "Aktualisasi Konsep Kafa'ah Dalam Membangun Keharmonisan Rumah Tangga", *Mizan: Journal of Islamic Law*, vol. 4, no. 1 (2018), <https://www.jurnalfai-ukabogor.org/index.php/mizan/article/view/174>, accessed 8 Aug 2024.

¹¹ Otong Husni Taufik, "Kafah Dalam Pernikahan Menurut Hukum Islam," *Jurnal Ilmiah Galuh Justisi* 5, no. 2 (22 November 2017): 246, <https://doi.org/10.25157/jigj.v5i2.795>.

In society, there are varying views on the concept of equality in marriage, especially regarding economic, social, and lineage factors. In some communities, marriage is seen as a tradition for glorifying lineage, without considering the existing laws. In *syarifah* families, equality is deemed important and can influence marriage decisions. If a *syarifah* marries a non-*syarif*, she might face social sanctions from her family and community.

In the application of the concept of equality, a *syarifah* who marries a non-*syarif* may face penalties such as denial from her extended family or a ban on living in her parents' hometown. This aims to preserve the authenticity of lineage and maintain the connection with the Prophet Muhammad SAW. However, there is no clear evidence from customary law or Islamic law that explicitly mandates or allows flexibility on this issue within *syarifah* families.

This argument is supported by various studies showing that marriage in Islam is not merely a spiritual bond between two individuals but a fundamental foundation for creating a harmonious and enduring family, following religious teachings. For example, a study on the concept of *kafa'ah* in marriage conducted by Paimat Sholihin (2021) indicates that the principle of equality or *kafa'ah* between spouses is a crucial aspect in achieving marital happiness. This study highlights that *kafa'ah* encompasses aspects such as lineage, religion, and social status, all of which play a significant role in building a harmonious family.¹²

Furthermore, research by Zainal Arifin Haji Munir (2023) on marriage traditions in South Sulawesi shows that the concept of *kafa'ah* is still highly valued, especially among *syarifah* families. In this community, marriages between *syarifah* and non-*syarif* often lead to social sanctions, such as denial from the extended family. The study reveals that, although there is no explicit evidence in the Qur'an or Hadith mandating the preservation of lineage among *syarifah* families, this tradition is maintained as a form of respect for the descendants of the Prophet Muhammad SAW.¹³

Another relevant study is by Akhmad Fauzi (2023), which discusses cultural adaptation and the Urgency of Equality (*Kafa'ah*) in Islamic Marriage. Fauzi states that Sharia principles allow for local cultural adaptations as long as they do not conflict with fundamental

¹² Paimat Sholihin, "Kafaah Dalam Perkawinan Perspektif Empat Mazhab", *SEMJ: Sharia Economic Management Business Journal*, vol. 2, no. 1 (2021), pp. 1–13.

¹³ Zainal Arifin Haji Munir, "Equality (Kafa'ah) In Marriage: A Dialogue of Islamic, State, and Customary Law in Indonesia", *Journal of Law and Sustainable Development*, vol. 11, no. 11 (2023), p. e1495. Usrotuna, Vol. 01, No. 01, (2024)

religious principles. In the context of marriage, this means that practices like *kafa'ah* can be accepted as long as they do not contradict Islamic teachings. This research supports the argument that the practice of *kafa'ah*, which has become a long-standing tradition in some communities, aligns with the objectives of marriage in Islam, namely forming a happy family and obtaining legitimate offspring.¹⁴

Using the "double movement" theory, this research offers novelty in understanding marriage in Islam as a fundamental basis for forming a harmonious and enduring family. This theory enables an analysis that combines sociological perspectives with Sharia principles, providing a more holistic view of the concept of marriage and partner equality.

The "double movement" theory helps to see how balanced (*kafa'ah*) marriages in terms of religion, lineage, economy, and social aspects can influence the happiness and well-being of a household. For instance, in the context of *syarifah* families, equality is used as a criterion for the suitability of a partner to protect and preserve the authenticity of the lineage connected to the Prophet Muhammad SAW. A *syarifah* marrying a non-*yarif* may face social sanctions from the family and community, such as denial by the extended family or prohibition from residing in the parental hometown.

This approach also allows for understanding how the practice of *kafa'ah*, although not a prerequisite for marriage, is still recommended in Islam to prevent ongoing issues and potential divorce. According to the Compilation of Islamic Law on Marriage Prevention, Article 61, Chapter X, inequality in *kafa'ah* cannot be used as a reason to prevent marriage, except for differences in religion.

Thus, the use of the "double movement" theory provides a strong analytical framework and a new, applicable perspective for understanding the complexities of marriage within Islamic and social contexts. This research not only highlights the importance of maintaining cultural values and local traditions but also ensures that such practices align with religious principles, contributing new insights to the academic discussion on the relationship between local traditions and Islamic law in Indonesia.

The goal of this research is to fill the knowledge gap regarding equality in marriage from an Islamic perspective using the "double movement" theory. The study aims to explore how Islamic marriage practices can be integrated with cultural values and customs in

¹⁴ Akhmad Fauzi, "Urgensi Ekualitas (Kafa'ah) Dalam Pernikahan Islam Ditinjau Dari Perspektif Habitus dan Ranah Pierre Bourdieu", *Journal of Comprehensive Science (JCS)*, vol. 2, no. 1 (2023), pp. 460–75.

Indonesia, including in South Sulawesi Province. Through an interdisciplinary approach involving religious studies, cultural anthropology, and sociology, this research aims to provide a deeper understanding of the interaction between religious values and local wisdom in forming sustainable and relevant marriage institutions for Indonesian society.

Additionally, this research emphasizes the importance of the concept of *kafa'ah* in Islamic marriage, which encompasses not only religious aspects but also social, economic, and lineage aspects. The study also considers how *kafa'ah* practices affect household well-being and help avoid potential conflicts or divorces. In the context of *syarifah* families, preserving lineage authenticity through balanced marriages is crucial for protecting identity and cultural heritage.

Thus, this introduction not only provides the necessary theoretical context and background for understanding this research but also highlights its novelty, uniqueness, and main objectives. This research will develop our understanding of marriage as a core element of the complex social and cultural structure in Indonesia and encourage critical thinking about traditional values in the context of the modern era.

Method

This research employs a literature review approach to explore legal concepts in marriage. This approach was chosen to understand the relevant literature on the topic, including books, journals, and academic works related to inheritance law, sources of Islamic law, and Sharia family law. The study integrates Sharia perspectives with references from the Qur'an, Hadith, ijtihad, and fatwas for relevant legal analysis, and utilizes a normative legal approach to understand statutory texts and legal theories. The data used are qualitative from secondary sources, such as literature supporting legal analysis of marriage in the context of Islam and customary law. Data collection methods include a systematic literature review focusing on information related to marriage law. Data analysis is conducted through data reduction, data presentation, and continuous conclusion drawing to achieve a deep understanding. Data validity is reinforced through source triangulation and the use of credible references. This research is expected to make a significant contribution to understanding and interpreting marriage law and to serve as a basis for the development of better legal policies or practices in the future.

Results and Discussion

Marriage in the View of Islamic Law

Marriage in Islamic law is a foundation in the formation of an Islamic society, regulated by ethical principles and legal provisions derived from the *Qur'an* and *Sunnah*. Qur'anic verses, such as those found in *Surah Ar-Rum* (30:21)¹⁵ and *Surah An-Nur* (24:32), emphasize the importance of marriage as a basis for achieving tranquility and security in life within a shared bond.¹⁶

From the perspective of Islamic law, the conditions for a valid marriage include consent, the presence of a marriage guardian (*wali*), a dowry (*mahr*) as the woman's right, and the presence of fair witnesses. The marriage contract (*akad nikah*) is a crucial step, where both parties agree to the stipulated conditions. The role of the marriage guardian is essential in facilitating this process, ensuring fairness and validity in the marriage.¹⁷ The rights and responsibilities of both husband and wife are equitably regulated, with Islam emphasizing the protection and well-being of the family. This protection includes the rights of women, such as the right to the dowry as a form of respect for the woman.¹⁸ Marriage in Islam is not merely a legal bond but also carries ethical values, justice, and equality to create a harmonious and sustainable relationship.¹⁹

In practice, Muslim communities are encouraged to understand the ethical values of marriage, including mutual respect, support, and maintaining family continuity.²⁰ Hadiths from the Prophet Muhammad (SAW) also highlight the importance of marriage. As narrated

¹⁵ Winceh Herlena and Muads Hasri, "Tafsir QS. An-Nur: 32 Tentang Anjuran Menikah (Studi Analisis Hermeneutika Ma'na Cum Maghza)", *Al-Dzikra: Jurnal Studi Ilmu al-Qur'an dan al-Hadits*, vol. 14, no. 2 (2020), pp. 205–20.

¹⁶ *Ibid.*

¹⁷ Fauzan Ghafur Fazari Zul Hasmi Kanggas, "Kedudukan Pencatatan Perkawinan dalam Hukum Islam dan Hukum Positif di Indonesia", *Journal of Indonesian Comparative of Syari'ah Law*, vol. 3, no. 2 (2021), pp. 219–31.

¹⁸ Sifa Mulya Nurani, "Relasi Hak Dan Kewajiban Suami Istri Dalam Perspektif Hukum Islam (Studi Analitis Relevansi Hak Dan Kewajiban Suami Istri Berdasarkan Tafsir Ahkam Dan Hadits Ahkam)", *Al-Syakhsiyah: Journal of Law & Family Studies*, vol. 3, no. 1 (2021), pp. 98–116.

¹⁹ *Ibid.*

²⁰ Muhammad Husni Mohd Amin, "Solidification of Worldview, Liberation Strategy and Revival of Sunnism Leading to the 12th Century A.D. / 6th Century A.H. Muslim Liberation of Jerusalem", *Afskar: Jurnal Akidah & Pemikiran Islam*, vol. 26, no. 1 (2024), pp. 121–166.

in *Bukhari* and *Muslim* hadiths, "O young people, whoever among you can marry, let him marry, for marriage helps to lower the gaze and protect one's chastity."²¹

Therefore, a deep understanding of the legal, and ethical aspects, and the advice from the *hadiths* of the Prophet is crucial in guiding and implementing marriage according to Islamic teachings²² Through this comprehensive understanding, it is hoped that marriage can become a strong foundation for forming a moral, harmonious, and obedient family following Islamic teachings.²³

Kafa'ah: The Concept of Equality of Bride and Groom in Islam

Kafa'ah or *kufu'* means similar, balanced, and harmonious. In Islamic legal terms, *kafa'ah* refers to the balance and compatibility between prospective husband and wife so that neither party feels envious or unsuitable in the marriage process.²⁴ According to the definitions provided by Slamet Abidin and Aminuddin, and followed by Abdul Rahman Ghazali, *kafa'ah* refers to the equality between the prospective husband and wife in terms of status, social level, moral character, and wealth.²⁵ In other words, the emphasis on *kafa'ah* is on the balance, harmony, and compatibility between the prospective husband and wife, particularly in aspects of religion such as moral character and worship.

If *kafa'ah* is interpreted as equality in terms of wealth or nobility between the prospective husband and wife, it would lead to the formation of castes, which is not permitted in Islam. This is because, in the sight of Allah SWT, all humans are equal and only piety differentiates them.²⁶ The legal basis for *kafa'ah* in Islam can be found in several legal sources. In *Surah An-Nisa* (4:32), Allah SWT says, "And do not covet what Allah has bestowed upon some of you more than others. For men is a share of what they have earned,

²¹ Samsidar, "The Islamic Legal Perspective on A'Matoang in the Marriage Process (Exploring Agreements within the Monromono Utara Community, Jeneponto Regency)".

²² Muh Zaitun Ardi and Nadyatul Hikmah Shuhufi, "Analysis of Islamic Law of the Appasili Tradition in Marriage: Case Study of Takalar Regency", *Indonesian Journal of Islamic Law*, vol. 07, no. 1 (2024), pp. 40–62.

²³ John Makdisi, "Legal Logic and Equity in Islamic Law", *The American Journal of Comparative Law*, vol. 33, no. 1 (1985), p. 63.

²⁴ Taufik, "Kafāah Dalam Pernikahan Menurut Hukum Islam."

²⁵ Ayda Mazaya, Rokhu Dlotul Laeliyah, dan Widodo Hami, "Kafāah Dalam Pernikahan Untuk Membentuk Keharmonisan Rumah Tangga," *Al-Usroh: Jurnal Hukum Keluarga Islam* 2, no. 01 (30 Juli 2024): 9–17, <https://doi.org/10.55799/alusroh.v2i01.330>.

²⁶ Muhamad Adlan dan Moh. Yustafad, "Pandangan KH. Husain Muhammad Tentang Kafāah Dalam Pernikahan Untuk Membentuk Keluarga Bahagia," *Legitima: Jurnal Hukum Keluarga Islam* 4, no. 1 (11 Januari 2022): 93–105, <https://doi.org/10.33367/legitima.v4i1.2220>.

and for women is a share of what they have earned. And ask Allah for His bounty. Indeed, Allah is All-Knowing of everything." This verse indicates that balance and equality between partners are important in marriage. The Prophet Muhammad *SAW* also said, "If a man whose religion and character you are pleased with comes to you, marry him. If you do not do so, there will be fitnah on the earth and great corruption." (*HR. Tirmidzi*).²⁷ This hadith emphasizes the importance of balance in religion and character as key factors in choosing a spouse. Additionally, scholars agree that *kafa'ah* is one of the important principles in selecting a partner. It serves not only as advice but also as a guideline in marriage to ensure compatibility and harmony in the household.

The criteria for *kafa'ah* in marriage refer to several important aspects considered relevant for achieving balance and compatibility between prospective husband and wife. These criteria include social status, educational level, character (*ahlak*), and wealth, all of which contribute to harmony in the household.²⁸ In the context of social status, *kafa'ah* underscores the importance of equality in social standing between prospective partners to avoid imbalance in their social relationships. Educational level is also an important criterion in *kafa'ah*, as equality in education can support better communication and understanding between husband and wife. *Akhlak* is a primary measure in *kafa'ah* because, in Islam, good character and adherence to religious teachings are crucial criteria in selecting a spouse. Balance in *ahlak* will create a harmonious household environment filled with positive religious values. Additionally, wealth is also a consideration in the measure of *kafa'ah*, although it should not be the sole determining factor. Balance in financial matters can help reduce conflicts related to economic issues in the household.²⁹ However, it is important to remember that the criteria for *kafa'ah* are not intended to create caste or social stratification but to ensure that prospective partners have adequate equality in aspects that support household harmony and well-being.

Kafa'ah in marriage is a factor that can promote happiness between husband and wife and provides greater assurance for the safety of women from household failures or

²⁷ Putri Alya Nurhaliza Riru Rahimah, Sri Lutfiatul Ulfa Dan Fajar Syarif, "Peran Sosial Perempuan Dalam perspektif Al-Qur'an", *Al Furqan: Jurnal Ilmu Al Quran dan Tafsir*, vol. 4, no. 2 (2021), pp. 199–219.

²⁸ Samsidar Jamaluddin and Nadyatul Hikmah, "Konsep Kafa'ah dalam Perkawinan Wanita Syarifah dengan Pria Non Sayyid Dikalangan Habaib Kota Palu".

²⁹ Husna Sulfiyah and Hartini Tahir, "Konsep Kafa'ah Pada Perkawinan Anggota TNI dalam Perspektif Hukum Islam", *Qadauna: Jurnal Ilmiah Mahasiswa Hukum Keluarga Islam*, vol. 2, no. 1 (2021), pp. 205–16.

disruptions. Although *kafa'ah* is highly recommended when selecting a life partner in Islam, it is not a requirement for the validity of a marriage.

Implications of *Kafa'ah* for Achieving the Goals of Marriage

Religious matters are one of the criteria that must be adhered to in marriage. In Law No. 1 of 1974, Article 2, paragraph 1, it is stated that "Marriage is valid if conducted according to the laws of each religion and belief." The factor of religion is also the only criterion that serves as a common point in the views of various *madzhab*s regarding *kafa'ah*. The determination of *kafa'ah* based on religion can be linked to the very purpose of marriage.³⁰ According to Islam, the general objectives of marriage are to achieve a peaceful life, maintain personal dignity and purity of sight, and obtain offspring.³¹ Additionally, marriage aims to expand and strengthen familial relationships and to build a better future for the individual, the family, and society. In the Marriage Law (Law No. 1/1974), Article 1 states that marriage is the physical and spiritual bond between a man and a woman as husband and wife, to form a happy and everlasting family (household) based on the belief in God Almighty.³²

Therefore, when viewed from the perspective of these marriage objectives, *kafa'ah* in marriage can support the achievement of these goals. The background to the application of the *kafa'ah* concept in marriage is to avoid potential problems in future marital life. The objectives of marriage will be achieved if the cooperation between husband and wife runs smoothly, creating a peaceful, safe, and prosperous atmosphere within the household. Although the factor of *kafa'ah* is one of the main pillars, the factors of religion and noble character remain more important and are prioritized in marriage.

³⁰ Bing Waluyo, "Sahnya Perkawinan Menurut Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan," *Jurnal Media Komunikasi Pendidikan Pancasila dan Kewarganegaraan* 2, no. 1 (14 April 2020): 193–99, <https://doi.org/10.23887/jmppkn.v2i1.135>.

³¹ Henderi Kusmidi Kusmidi, "Konsep Sakinah, Mawaddah Dan Rahmah Dalam Pernikahan," *EL-AFKAR: Jurnal Pemikiran Keislaman dan Tafsir Hadis* 7, no. 2 (6 Desember 2018): 63, <https://doi.org/10.29300/jpkth.v7i2.1601>.

³² Syarifah Lisa Andriati, Mutiara Sari, and Windha Wulandari, "Implementasi Perubahan Batas Usia Perkawinan Menurut UU No. 16 Tahun 2019 tentang Perubahan Atas UU No. 1 Tahun 1974 tentang Perkawinan," *Binamulia Hukum*, vol. 11, no. 1 (2023), pp. 59–68.

Kafā'ah in Marriage within the Syarifah Family: The View of the *Habaib*

Identifying and give special attention to the factor of *nasab* (lineage) is essential because this issue significantly influences a person's nature, character, and dignity.³³ Lineage is a part of the bloodline of both parents. In the case of those with Arab ancestry, there are differences in *kufū'* among them. The same applies to the Quraish group and other Quraish members. Therefore, a non-Arab (*Ajam*) man is not equal to an Arab woman, and an Arab man who is not from the Quraish group is also not equal to a Quraish woman. Imam Shafī'i holds that a Quraish man is not equal (*kufū'*) to a woman from the Bani Hashim and Bani Muthalib.

If a Quraish man is not equal to a woman from Bani Hashim and Bani Muthalib, then it is even more apparent that a man who is not from the Quraish group (*Ajam*) who wishes to marry a woman from Bani Hashim and Bani Muthalib is very much not *kufū'*. A *wali* should not marry a woman to a man who is not *kufū'*, as the *wali* has the right to prevent a woman from marrying a man who is not equal (*kufū'*).³⁴ Imam Shafī'i said:

"If a woman marries a man who is not of equal status (*kufū'*) without the consent of her guardian, the marriage is invalid." Imam Hanafi opines: "If a woman marries a man who is not of equal status (*kufū'*) without the consent of her guardian, then the marriage is not valid, and the guardian has the right to prevent her from marrying a man who is not equal, as it may bring disgrace to the family."

Imam Ahmad holds:

"A woman is entitled to all her guardians, whether close or distant. If any one of them does not consent to the marriage with a man who is not of equal status, then he has the right to annul it." Another narration from Imam Ahmad states: "A woman is under the protection of Allah; if all her guardians and the woman herself agree to marry a man who is not of equal status (*kufū'*), then their consent is not valid."

³³ "Analysis of Islamic Law of the Appasil Tradition in Marriage: Case Study of Takalar Regency".

³⁴ Najmah Sayuti, "Al-Kafā'ah Fi Al-Nikah", *Kafā'ah: Journal of Gender Studies*, vol. 5, no. 2 (2015), p.

Fundamentally, the verses of the Qur'an that mention the virtues and grandeur of *Ahlul Bayt* in general serve as a reverse argument for the application of *kafa'ah* in *shariah* life. One of these verses is found in the Qur'an in Surah Al-An'am, verse 87, which reads:³⁵

"And We exalted some of their forefathers, their descendants, and their brothers in rank. And We chose them and guided them to the straight path."

Imam Ali bin Abi Thalib emphasized this:

"No one in this nation can be compared to the family of Muhammad SAW."³⁶

Regarding the family of the Prophet *SAW*, Imam Ali stated that no one in this world is equal to them (*seikufu*) and no one can be considered their equal in terms of honor. Imam Tirmidhi narrated a hadith from Abbas bin Abdul Muttalib, where the Prophet *SAW* was asked about the honor of their lineage, and he replied:

"I am Muhammad, the son of Abdullah, the son of Abdul Muttalib. Indeed, Allah created His creation and made me the best among them. Then He divided them into two groups and made me part of the best of those two groups (the Arabs and the non-Arabs). Then He divided them into tribes and made me the best among those tribes. Then He made them into households and made my household the best among their households, and my personality the best among them."

Imam Baihaqi, Abu Nu'aim, and Tabrani narrated from *Aisyah* that *Jibril* said:

"I have observed the east and west of the earth, but I have not found a man more virtuous than Muhammad and his descendants."³⁷

³⁵ Ummi Salami and Abidah Abidah, "Perspsi Syarifah Di Hidayatullah Balikpapan Tentang Syarifah Yang Menikah Dengan Laki-Laki Non Sayyid", *Ulumul Syar'i: Jurnal Ilmu-Ilmu Hukum dan Syariah*, vol. 9, no. 1 (2021), <https://e-journal.stishid.ac.id/index.php/uls/article/view/82>, accessed 9 Aug 2024.

³⁶ Lina Mayasari Siregar, "Upaya Pendidikan Islam Pada Masa Awal Nabi Muhammad SAW", *Jurnal Pendidikan Agama Islam Al-Thariqah*, vol. 1, no. 1 (2017), pp. 104–14.

³⁷ *Ibid.*

The members of *Ahlul Bayt* naturally and inherently hold a special position because they are the descendants of Allah's chosen human, the Great Prophet Muhammad SAW. This biological relationship is an undeniable fact that cannot be paralleled by others. Moreover, after the revelation of Allah SWT in *Surah Al-Abzab* verse 33 and the prophet SAW well known as *Hadith Tsaqalain*, he further emphasized:

"O people, indeed, virtue, honor, status, and leadership lie with the Messenger of Allah and his descendants. Do not be misled by falsehood."

In another hadith, it is emphasized:

"Fear Allah and hold fast to the Qur'an and His Sunnah. Indeed, in this house, there is goodness and virtue, and do not criticize the *Ahlul Bayt*."³⁸

This indicates the significance of lineage in determining the virtue and status of a person according to Islamic law.

Analysis of the Concept of *Kafa'ah* in the *Syarifah* Family Environment

In addition to the conditions and pillars affecting the validity of marriage, marriage also involves the concept of *kafa'ah*, which refers to the equality of prospective partners in various aspects, including religion, lineage, and education. Based on this concept of *kafa'ah*, a fatwa was issued prohibiting marriage between a woman of noble lineage (*syarifah*) and a non-Sayyid man, as it is considered unequal and potentially harmful to the lineage of the Prophet Muhammad SAW.³⁹

Kafa'ah is considered very important in marriage as a preventive measure against potential discord within the household, rather than as a condition for the validity of the marriage. The prohibition of marriage between a *syarifah* woman and a non-Sayyid man is

³⁸ Ade Kosasih, "Fenomena Menjelang Kelahiran Nabi Muhammad: Kajian Terhadap Naskah Al-Hamziyyah Karya Al-Bushiri: Fenomena Menjelang Kelahiran Nabi Muhammad: Kajian Terhadap Naskah Al-Hamziyyah Karya Al-Bushiri", *KABUYUTAN*, vol. 1, no. 2 (2022), pp. 68–76.

³⁹ Muh Zaitun Ardi, "The Essence of Polygamy and Its Association with Indonesian Marriage Law," *AL RISALAH: Jurnal Ilmu Syariah Dan Hukum* 22, no. 1 (2022): 1–19, <https://doi.org/10.24252/alrisalah.vi.26486>.

related to the concept of *kafa'ah* concerning lineage. As is known, lineage (*nasab*) is a significant aspect of the *kafa'ah* concept for *syarifah*. In Islamic jurisprudence, the lineage of Arabs is seen as a source of pride due to its association with honor, hence non-Arabs are not considered equivalent to Arabs. Similarly, Arabs who are not from the Quraysh tribe are not viewed the same as those from the Quraysh tribe, as the Quraysh are considered superior to other tribes.

Moreover, descendants of Banu Hashim and Banu Muthalib are regarded as less preferable compared to others, even those from the lineage of Abdi Shams. If someone from Banu Hashim or Banu Muthalib marries a female slave under certain conditions and the slave gives birth to a daughter, the daughter becomes his property. According to the *qawl rajih* (preferred opinion), he is permitted to marry that daughter, and her lineage is considered to have a respectable and noble status. From the above explanation, it is evident that Arabs and non-Arabs are not regarded as equal, and it is highly inappropriate for a daughter of the Prophet Muhammad *SAW* to be married to a non-Sayyid man. This is why a *syarifah* woman is not allowed to marry a non-Sayyid man. Furthermore, the prohibition of marriage between a *syarifah* woman and a non-*syarif* man aims to protect and uphold the honor of the Prophet's lineage to prevent it from mixing with others. In the context of *kafa'ah* related to lineage, preserving the lineage of the Prophet is crucial, which is why scholars issued a fatwa that a descendant of the Prophet should not marry outside her own family.

According to Habib Rabi'ah Alawiyyah, referencing the work *Bughyah al-Mustarsyid* written by al-'Alim al-'Allamah as-Sayyid Abdurrahman bin Muhammad bin Husain al-Masyhur al-Ba'alawii and the book *Qawaniin Syar'iyyah wa al-Ifta'iyyah* written by al-'Alim al-'Allamah Sayyid Utsman bin Abdullah bin Agil bin Yahya, it is strongly prohibited for a *syarifah* (noblewoman) to marry a non-*syarif* (noble man), whether considering ownership of wealth or similar factors. Moreover, from the perspective of lineage, according to them, this harms the aspect of descent, meaning that the lineage of the Prophet is disrupted when a *syarifah* marries a non-*syarif*.⁴⁰

This fatwa is not merely a result of jurisprudential understanding. There are indications that this fatwa also stems from the influence of Sufism, as it is known that almost

⁴⁰ Eka Suriansyah and Rahmini Rahmini, "Konsep Kafa'ah Menurut Sayyid Usman", *El-Mashlahah*, vol. 7, no. 2 (2019), <https://e-journal.iain-palangkaraya.ac.id/index.php/maslahah/article/view/1426>, accessed 9 Aug 2024.

KAFĀ'AH IN ISLAMIC LAW AND CUSTOMARY LAW...

all Islamic thinkers in the classical era were supporters and proponents of Sufi knowledge. Consequently, the authors of jurisprudential texts were not free from the influence of Sufi teachings they possessed. In Sufi understanding, honoring the family of the Prophet is a non-negotiable duty and is profoundly ingrained, reflecting their deep love for the Prophet, which is highly emphasized in Sufism. This profound love translates into respect and honor for those considered descendants of the Prophet, such as the *Habib* and their lineage.

Thus, the *Habib* and their descendants are given a place of high honor and respect, so to insult them is to insult the Prophet, to disturb them is to disturb the Prophet, to slander them is to slander the Prophet, and to defame them is to defame the Prophet, including in matters such as marrying the descendants of the Prophet to individuals who do not share the same *kafā'ah* of lineage. This reflects the prohibition against a *syarifah* marrying a non-*syarifas* as outlined in the jurisprudential texts concerning *kafā'ah*. Therefore, respecting and honoring the Prophet and his family and descendants continues to impact this prohibition.

In addition, the Rabi'ah Alawiyyah institution has also issued this prohibition considering that they are part of the Ahlul Bayt of the Prophet and have spent much time and are close to the scholars among the *habib*. This is based on the fatwa of al-Ba'alawii and influenced by the scholars such as Shaykh Abdurrahman al-Saqqaf, Imam Muhammad bin Abi Bakar al-Asykharii al-Yamani, Shaykh Umar Muhdhar, Shaykh Abu Bakar al-Sakran, Shaykh Abdullah al-Aydrus, Shaykh Ali bin Abi Bakar al-Sakran, Imam Abdullah Bafaqih, Imam Abdullah bin Yahya, Imam Muhammad bin Sulaiman al-Kurdi al-Madani, Muhammad bin Ali al-Faqih al-Muqaddam, and Imam Alawy bin Tsaqaf bin Muhammad al-Ja'farii. The basis for this is found in the Qur'an, in *Surah Ash-Shura* (42:23):

“Say, 'I do not ask you for any reward for it except love for kinship.' And whoever does good, we will increase for him good. Indeed, Allah is Forgiving and Appreciative.”⁴¹

And *Surah Al-Abṣar* (33:33):

⁴¹ Rohmad Nurhuda, “Pembaharuan Hukum Islam”, *ElDusturie*, vol. 1, no. 2 (2022), <https://jurnal.iainponorogo.ac.id/index.php/eldusturie/article/view/5098>, accessed 9 Aug 2024.

“O wives of the Prophet, you are not like anyone among the women. If you fear Allah, then do not be soft in speech, lest he in whose heart is a disease be moved with desire. But speak a speech known.”⁴²

Based on this normative foundation, it is obligatory to purify and love the *Ahlul Bayt*, including noble women. Therefore, the concept of *mahfum mukhalafah* is that it is forbidden to defile the purity of the *Ahlul Bayt*, especially if it involves tarnishing it. From the perspective of Habib Rabi'ah Alawiyah, who adheres to the fatwas of *Ahlul Bayt* scholars, marrying a noblewoman to a non-noble man is seen as defiling the *Ahlul Bayt* of the Prophet, as it is not equal (*kufū*) to unite the lineage of *Ahlul Bayt* with those who are not from *Ahlul Bayt*.

Furthermore, according to the majority of scholars, *kafa'ah* is a measure based on religion and character, not on lineage, business, wealth, or anything else. Based on this view, even if a man is not from a prominent family, he is entitled to marry a woman from any background. Humans originate from the same source and share the same human values, and no one is more noble in the sight of Allah SWT than another person except for their piety towards Him and fulfilling their duties to Allah SWT and their social responsibilities.

Thus, the principle of choosing a spouse in Islam is based on religious requirements and noble character, while honor, wealth, lineage, and other factors are not considered essential for true happiness in this world or the hereafter. This is because, in Islam, all people are equal; there is no distinction between the rich and the poor, the white and the black. All these aspects are merely superficial. In terms of practicing religious teachings and receiving rewards from Allah SWT, there is no difference between men and women based on their actions. This is stated and explained in the Qur'an, where it is noted that all human beings are equal, and only their level of piety, faith, and righteous deeds differentiate them.

If Muslims adhere to the Qur'an and *As-Sunnah*, there would no longer be cases where parents force their children to choose partners based on inheritance, wealth, lineage, or social status. Parents would wisely follow Islamic rules, as Islam has its marriage concepts according to the *ulama* of Islamic jurisprudence. The concept of marriage in Islam does not

⁴² Urwatul Wusqa, “Wanita: Kedudukan Dan Tinjauan Karirnya Dalam Kehidupan Sesuai Al-Quran Dan Hadits,” *Kafa'ah: Journal of Gender Studies* 1, no. 2 (12 Juli 2011): 173, <https://doi.org/10.15548/jk.v1i2.77>. Usrotuna, Vol. 01, No. 01, (2024)

KAFĀ'AH IN ISLAMIC LAW AND CUSTOMARY LAW...

require equality in lineage, wealth, or social status; instead, what is crucial in marriage is religion and character.

In analyzing the concept of *kafā'ah* in the context of *Syariifah*, Karl Polanyi's "Double Movement" theory can be used to understand the dynamics of marriage traditions and the social changes occurring. First, Social and Cultural Transformation: The concept of *kafā'ah*, which requires prospective partners to have an equal status, reflects how this tradition adapts to changes in society. *Ulama Habaib* prohibits marriage between *Syariifah* and non-Sayyid men due to perceived inequality in lineage. However, in a more open and pluralistic society, this view is being adjusted. Social changes influence societal views on equality in marriage, with some groups beginning to accept marriages between *Syariifah* and non-Sayyid men as a form of adaptation to contemporary conditions. This shows how society strives to maintain traditions while facing changing social realities.

Second, Protection and Adjustment Movement: Islamic law, in essence, allows flexibility in marriage matters. Despite strict traditional guidelines on lineage equality, Islamic law emphasizes piety as a primary factor in judgment. This reflects a protective movement where society seeks to preserve cultural and religious identity while adapting traditions to more inclusive principles. This adaptation is not just about maintaining traditional norms but also about how society integrates universal Islamic values with local practices.

Third, Dynamics of Social and Religious Influence: Changes in the understanding of *kafā'ah* also reflect shifts in social and religious influences. Openness to marriages between *Syariifah* and non-Sayyid men can be seen as a response to the need for social harmony and inclusivity in an increasingly diverse society. This demonstrates how society attempts to reconcile tensions between tradition and Islamic law in a manner that reflects the evolution of social and religious views.

By using the "double movement" theory, we can understand how the tradition of *kafā'ah* adapts to remain relevant in modern society while preserving important cultural values and identities in the context of marriage. This process illustrates how society manages social change while retaining key elements of its traditions in the face of contemporary demands.

The arguments above show that the concept of *kafā'ah* in the *Syariifah* context is not merely a marriage rule but a tradition reflecting the identity and cultural values that have developed and been preserved over centuries. The prohibition of marriage between *Syariifah*

and non-Sayyid men by *ulama Habaib* emphasizes the importance of equality in lineage, while adjustments in modern society demonstrate the flexibility and adaptation of this tradition to social changes. This discussion provides valuable insights into a more inclusive and socially responsive understanding of Islamic law and how this tradition can continue to be relevant in an increasingly diverse and open society.

Conclusion

Based on this research, it can be concluded that the concept of *kafa'ah* in the Syariifah community holds significant importance in marriage traditions, particularly among the Habaib scholars. First, the prohibition of marriage between a Syariifah and a non-Sayyid man is emphasized because it is considered unequal or not *kufur*, especially in the context of Arab lineage that upholds equality in genealogy. Second, from the perspective of the Habaib scholars, marriage between a Syariifah and a Sayyid is considered obligatory to preserve the purity of the Ahlul Bait lineage, as stated by Habib Utsman bin Yahya, who affirms that this marriage is not only a tradition but also a command from the Prophet Muhammad SAW to maintain the continuity of the lineage until the end of times. Third, although there is a view that marriage between a Syariifah and a non-Sayyid man is permissible from an Islamic legal standpoint, emphasizing that all humans are considered equal and only piety distinguishes them before Allah SWT, this view remains a topic of debate within the community. This research highlights the importance of considering cultural and legal contexts in understanding and applying the concept of *kafa'ah*, and underscores the need for further research to explore the social and religious impacts of this practice in an increasingly complex society.

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