

## **ENDOGAMOUS MARRIAGE OF WEST LAMPUNG SAIBATIN COMMUNITY FROM THE PERSPECTIVE OF ISLAMIC LAW**

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### **Abstract**

Endogamous marriage is a union between tribes, ethnicities, and families in the same environment. Endogamous marriage in the family environment is a marriage between cousins and descendants who are the same or still have a family relationship between the two. Marriage or *nayuh* in the Saibatin community is carried out by people of the same tribe, one faith, and even some with close relatives. The meaning of close is marriage between third cousins and so on. With the development of the current era, the marriage system among clans or tribes has faded after a shift in social values. This study aims to analyze endogamous marriages in the Saibatin tribe according to the perspective of Islamic law. This research is field research with a descriptive-qualitative approach. The research subject comprises a married couple who have entered an endogamous marriage. The research location is in three villages from several sub-districts in West Lampung Regency. The results of the researcher's survey of respondents and correspondents show that endogamous marriages did not conflict with Islamic law. According to *maqasid shari'ah*, it is judged as permissible to be carried out as the law is *daruriyat* because it is to maintain religion, soul, mind, offspring, and property. According to *urf*, it is judged as *shabih urf* because it does not conflict with Islamic law and is based on *taghayurul ahkam wal amkinah*. Endogamous marriages are rare due to shifting social values in local customary law; as for the marriage law, it is *mubah*.

**Keywords:** *Endogamous Marriage; Islamic Law; Nayuh*

### **Abstrak**

Perkawinan Endogami adalah perkawinan antar suku, etnis, dan keluarga dalam lingkungan yang sama. Perkawinan endogami dalam lingkungan keluarga merupakan perkawinan antar sepupu, seketurunan, yang sama atau masih memiliki hubungan keluarga diantara keduanya. Pernikahan atau nayuh pada masyarakat saibatin adalah pernikahan yang dilaksanakan oleh sesama suku, satu keyakinan, bahkan ada yang dengan kerabat dekat. Maksud dekat yaitu perkawinan antar sepupu tingkat ke 3 sampai seterusnya. Sedangkan perkembangan zaman saat ini, sistem perkawinan sesama marga, suku/clan sudah luntur setelah adanya pergeseran nilai-nilai sosial. Adapun tujuan penelitian ini adalah untuk menganalisis perkawinan endogami pada suku adat saibatin menurut perpektif hukum Islam. Penelitian ini merupakan penelitian lapangan (field research). Penelitian ini bersifat deskriptif kualitatif, subjek penelitian terdiri dari pasangan suami istri yang telah melakukan perkawinan endogami. lokasi Penelitian terletak ditiga Desa dari beberapa Kecamatan di Kabupaten Lampung Barat. Adapun hasil survey peneliti terhadap responden dan koresponden setelah peneliti melakukan kajian terhadap pernikahan endogami yang terjadi di Lampung Barat tersebut tidak bertentangan dengan syari'at agama Islam. Menurut maqasid syaria'ah dihukumi boleh dilaksanakan sebagaimana hukumnya daruriyat karena untuk memelihara agama, jiwa, akal, keturunan, dan harta, sedangkan menurut urf yaitu dihukum urf shahih karena tidak bertentangan dengan hukum Islam dan berdasarkan taghayurul ahkam wal amkinah yaitu pernikahan endogami sudah jarang karena pergeseran nilai-nilai sosial pada hukum adat setempat dan adapun hukum pernikahannya yaitu mubah.

**Kata Kunci:** *Perkawinan Endogami; Hukum Islam; Nayuh*

## A. Introduction

The society in Indonesia is made up of diverse ethnic groups, each with unique customs and traditions<sup>1</sup>. These customs are integral to their society and contribute to their distinct characteristics<sup>2</sup>. The people of Indonesia residing in different areas practice various family traditions that can be categorized into three groups: patrilineal, matrilineal, and parental customs<sup>3</sup>. The indigenous people of Lampung represent one of the ethnic groups mentioned above, and their marriage pattern is distinct<sup>4</sup>. The Lampung tribe is made up of two native communities, known as Jurai Pepadun and Jurai Saibatin<sup>5</sup>. The marriage practices within the Saibatin community are shaped by a range of factors, including the kinship system, religious beliefs, and the values and norms that have evolved within the community's customary law<sup>6</sup>. In Indonesia, it is commonly acknowledged that there are three distinct types of marriage systems, which can be outlined as follows:

1. The Endogamous System refers to a marriage system where individuals are restricted to marrying within their family tribe. This implies that individuals are prohibited from marrying individuals outside of their family tribe.

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<sup>1</sup> Endang Fatmawati, "Strategies to Grow a Proud Attitude towards Indonesian Cultural Diversity," *Linguistics and Culture Review* 5, no. S1 (2021): 810–20.

<sup>2</sup> Ibodulla Ergashev and Nodira Farxodjonova, "Integration of National Culture in the Process of Globalization," *Journal of Critical Reviews* 7, no. 2 (2020): 477.

<sup>3</sup> Alexander Stark and Fatan Hamamah Yahaya, "The Paternal Side of the Family within a Matrilineal Society: An Example of the Minangkabau in Indonesia," *IIUM Journal of Human Sciences* 3, no. 2 (2021): 54–67.

<sup>4</sup> Abdul Qodir Zaelani et al., "An Implementation of the Joint Inheritance Division of Ethnic Groups in Lampung, Indonesia," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 3 (2023): 1373–96.

<sup>5</sup> Henry Susanto, Yusuf Perdana, and Justika Indriyani, "Sakukha Traditions: Preserving the Tradition in the Society of West Lampung to Enhance Historical Mindness," *International Journal of Multicultural and Multireligious Understanding* 8, no. 5 (2021): 446–57.

<sup>6</sup> Risma Margaretha Sinaga, "The Kinship Commodification of Local Ethnic in Lampung in Multicultural Relations," *Folklor/Edebiyat* 27, no. 108 (2021): 1163–73.

2. The Exogamous System is opposed to the Endogamy system. In this system, a person must marry someone outside his tribe, such as Alas, Minangkabau, Tapanuli, Gayo, South Sumatra, Buru, and Seram.
3. Unlike the endogamy and exogamy systems, the epitherogamy system is characterized by the absence of any restrictions. Restrictions apply solely to familial connections or bonds, such as the restriction on marriage due to nasab. *Mushaharah* (*periparan*) refers to various familial relationships, including marriage with relatives and relatives by marriage.

In societal interactions, customary practice is deeply ingrained and respected, like the traditions of the Lampung Saibatin community, specifically the *Mulang Muakhi* marriage (a form of marriage limited to close relatives within the same tribe)<sup>7</sup>. Marriages performed within the Saibatin community strictly prohibit inter-village or inter-tribal unions<sup>8</sup>. In the Saibatin environment, marriages are exclusively conducted among individuals with close familial ties<sup>9</sup>. In Islamic law, there is no explicit requirement stating that marriage must be restricted to close relatives, members of the same tribe, family members, individuals from the same village, or residents of nearby settlements.<sup>10</sup> Nevertheless, individuals can select their life companion for matrimony based on the *mukafa'ah* (compatibility)

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<sup>7</sup> Syaripudin Basyar, Zulhannan Zulhannan, and Ahmad Muzakki, "Islamic Characters Education Construct Of Young Generation Based On Local Cultural Values Of Lampung Indigenous Peoples," *AKADEMIKA: Jurnal Pemikiran Islam* 25, no. 1 (2020): 65–90.

<sup>8</sup> Bertha Sri Eko and Hendar Putranto, "Face Negotiation Strategy Based on Local Wisdom and Intercultural Competence to Promote Inter-Ethnic Conflict Resolution: Case Study of Balinuraga, Lampung," *Journal of Intercultural Communication Research* 50, no. 5 (2021): 506–40.

<sup>9</sup> Suhairi Suhairi, "The Impact of the Sesan Customary Practice on the Traditional Marriage of the Lampung Pepadun Society in Instilling Sharia Social Values," *Journal of Social Studies Education Research* 12, no. 3 (2021): 225–47.

<sup>10</sup> Idrus Hakimy, *Pokok-Pokok Pengetahuan Hukum Adat Minang Kabau* (Bandung: PT.Remaja Rosda Karya, 2017). Page. 16

of the potential bride and groom for union.<sup>11</sup> In Surah Yasin verse 36, Allah the Almighty mentions:

سُبْحَانَ الَّذِي خَلَقَ الْأَزْوَاجَ كُلَّهَا مِمَّا تُنْبِتُ الْأَرْضُ وَمِنْ أَنْفُسِهِمْ  
وَمِمَّا لَا يَعْلَمُونَ

Meaning: Glory be to the One Who created all things in pairs—"be it" what the earth produces, their genders, or what they do not know!

Concerning marriage regulations, it is important to note that these regulations are not solely based on Islamic law in Indonesia<sup>12</sup>. They are also governed by legal and customary laws that have evolved within society<sup>13</sup>. In Indonesia, the regulation of marriage is based on the customary laws of different ethnic groups.<sup>14</sup> During its early stages of development, the Saibatin community upheld a conventional culture regarding familial connections via matrimony<sup>15</sup>. Endogamous matrimony within the community is a consensus among family members to enhance familial bonds.<sup>16</sup> One of the methods to uphold familial connections within the Saibatin community involves entering into matrimony with one's relatives, commonly known as "*Kawin Mulang Muakhi*," or marrying within one's familial circle. This practice fosters a reciprocal bond through marriage. The Lampung Saibatin community practices a form of marriage known as endogamy to foster a sense of closeness and connection between individuals, which they call "ripaddeppe' mabelae." This term pertains to "drawing in" and "connecting" all relatives who have dispersed extensively in terms

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<sup>11</sup> Hakimy. h. 16

<sup>12</sup> Fatum Abubakar, "Islamic Family Law Reform: Early Marriage and Criminalization (A Comparative Study of Legal Law in Indonesia and Pakistan)," *Al-Ahkam Jurnal Ilmu Syari'ah Dan Hukum* 4, no. 2 (2019).

<sup>13</sup> Gunther Teubner, "Societal Constitutionalism: Alternatives to State-Centred Constitutional Theory?," in *Luhmann and Law* (Routledge, 2022), 473–98.

<sup>14</sup> Raharjo, *Sosiologi Pedesaan Dan Pertanian* (Yogyakarta: Gajah Mada University, 2018). Page.402

<sup>15</sup> Arsyad Sobby Kesuma, Kiki Muhamad Hakiki, and Bukhori Abdul Shomad, "Negotiation Of Islam And Local Culture In Traditional Lampung Marriage," *Al-Adyan: Jurnal Studi Lintas Agama* 17, no. 1 (2022): 201–19.

<sup>16</sup> Otje Salman, *Rekonseptualisasi Hukum Adat Kontemporer* (Bandung: Pt. Alumni, 2019). Page.23

of familial ties. The objective is subsequently achieved by implementing endogamy as a customary cultural practice to uphold robust familial bonds. In the Lampung Saibatin community, it is crucial to uphold and preserve self-confidence and the reputation of one's family as primary responsibilities. This is also a contributing factor as to why the Lampung Saibatin community holds marriages with individuals from the same Lampung background in high regard. Nevertheless, as time passed, the Lampung Saibatin community underwent social transformations. These transformations included eliminating restrictions on intermarriage between individuals from different familial or tribal backgrounds to ensure that the Saibatin community could select a life partner without any restrictions.

In his thesis titled "Endogamous Marriages among the Amuntai Community of Palangkaraya City," H. Maksum discusses the occurrence of endogamous marriages within this community<sup>17</sup>. He identifies various factors contributing to this phenomenon, including social orientation, preservation of lineage purity, the desire to maintain family property, and the prevalence of arranged marriages. Regarding one of the underlying reasons for endogamous unions, the practice of arranged marriages conducted without the agreement of the individuals involved goes against the regulations stated in Law Number 1 of 1974 Article 6 and Law Number 7 of 1984, which pertain to the endorsement of the convention aimed at eradicating any kind of gender-based discrimination.<sup>18</sup>

Nenni Ranchman stated in endogamous marriage from the perspective of customary law and Islamic law: *The results showed several factors behind the retaining endogamous marriage, among others: purity of lineage, wealth care, and spatial orientation (territorial). In practice, endogamous marriage has an impact, especially for perpetrators of endogamy*

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<sup>17</sup> Sudarno Shobron and Muh Nur Rochim Maksum, "Humanist Education the Dayak of Kalimantan Indonesia Islamic Perspective," *Solo Universal Journal of Islamic Education and Multiculturalism* 1, no. 01 (2023): 20–29.

<sup>18</sup> H. Maksum, *Perkawinan Endogami Dikalangan Masyarakat Amuntai Kota Palangkaraya*, (Palangkaraya : IAIN Palangkaraya, 2021)

*itself, among others: strengthens kinship, wealth preservation or heritage, and the impact of physical or mental disability in the offspring.*<sup>19</sup>

In his journal titled "Endogamous Marriage from the Perspective of Islam and Science," A. Darruslam discusses the various viewpoints on endogamous marriage in Islam. He highlights that while some texts in the Qur'an and hadith prohibit endogamous marriage in terms of *nasab* or kinship, there are also texts that permit it, such as marriage with cousins. Scientific evidence also supports the notion that endogamous marriage can have detrimental effects on family life, particularly in terms of health. The research suggests that it is anticipated to encourage individuals to engage in exogamous unions or marriages outside of their kinship circles to foster the development of superior generations.<sup>20</sup>

Based on the research above, there is a notable distinction in the standpoint of this study. While previous studies primarily focused on the legal aspects of *sekufu* marriage, which encompassed lineage and physical attributes, this research delves into the analysis of the Lampung Saibatin customary society. It specifically examines the social transformations within the West Lampung Saibatin community from the lens of Islamic law.

According to the information, the author plans to study endogamous marriage within the Saibatin community of West Lampung Regency, focusing on its interpretation within Islamic law. This research will serve as a valuable material for further investigation. Two types of benefits are associated with research, which can be categorized as theoretical and practical. From a scientific standpoint (in theory), it is anticipated that the findings of this research will enhance the advancement of knowledge and provide valuable insights for readers in general, particularly students studying Islamic Fiqh, regarding the principles governing marriage within the Islamic community. The outcomes of this

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<sup>19</sup>Nenni rachman, *Jurnal Ar-risalah perkawinan endogami perspektif hukum adat dan hukum islam* (Watampone: stain watampone, 2016)

<sup>20</sup> A. Darrusalam, *Jurnal Pernikahan Endogami Perspektif Islam dan Sains*, (Makasar: Universitas Ushuludin Filsafat dan Politik, 2017)

study are anticipated to provide valuable insights for professionals working in educational institutions, courts, and the Indonesian community. Additionally, it will serve as a valuable resource for future researchers to better understand the legal implications surrounding the continuation of a marital relationship between individuals related by kinship.

## **B. Methods**

Based on the nature of the study, this study is classified as field research.<sup>21</sup> This study examines the endogamous marriage in the Lampung Saibatin traditional community and its correlation with social transformations in the West Lampung Saibatin community. The researchers will analyze this phenomenon from the standpoint of Islamic principles. This study aims to explore the social factors that contribute to the formation of households through endogamous marriages in the Saibatin community of Balik Bukit sub-district, West Lampung Regency, from the perspective of Islamic law. This research adopts a descriptive qualitative approach. The population under investigation is the Saibatin Community located in West Lampung. The technique employed for sampling is deliberate sampling, whereby the sample will solely consist of individuals who hold significant positions in endogamous marriages, specifically traditional, religious and Saibatin community leaders.

Primary data refers to information from original and authoritative texts, such as the Qur'an and Hadith. This research uses primary data to determine the legal aspects of endogamous marriage and develop a perspective on building a harmonious household within the Islamic law framework, specifically focusing on the Saibatin community in West Lampung. Primary data refers to information obtained directly from the subject of investigation and subsequently analyzed by the author. Secondary data refers to information obtained through extensive literature research, encompassing the examination and analysis of various sources such

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<sup>21</sup> Rifa'I Abu Bakar, *Metodologi Penelitian*, (Yogyakarta: Suka Press, 2021), page. 5

as Law No.1 of 1974,<sup>22</sup> KHI, Fiqh, and other relevant materials. In this particular situation, the existing data can be utilized to ascertain the principle of endogamous marriage in establishing a balanced household viewpoint of Islamic law within the Saibatin community of West Lampung. In this particular scenario, alternative sources of information can include existing literature that discusses the examination of endogamous marriage and its correlation with social transformation from the standpoint of Islamic law.

The writer employs the *Maqasid-Ashari'ah* and Al-Urf theories to derive Islamic law or address any encountered issues in this research. The primary focus of *muqasid al-shari'ah* revolves around examining a law's rationale and underlying reasons. In the field of *Ushul Fiqh*, there exists a distinction between *hikmah* and *illat*. *Illat* refers to a specific, evident attribute that can be objectively understood (*Zahir*). It is accompanied by a standard (*mundhabit*) and legal provisions (*munasib*), which serve as a determining factor for the existence of the law.<sup>23</sup> In the meantime, *hikmah* is the law's objective or aim, intending to benefit individuals. In this context, the term 'Urf' holds an identical significance to the term *al-'adalah* (customs).<sup>24</sup>

In the field of Ushul fiqh, the concepts of custom (*al-'adah*) and 'Urf play a crucial role. Both originate from Arabic and have been incorporated into the official Indonesian language. Urf originates from the term 'araf, derived from the word *al-ma'ruf*, denoting something recognized or familiar. The term *adat* is derived from the term 'ad, which refers to the variation of the word *al-'adah*, denoting a habitual repetition. The definition of 'Urf essentially refers to a circumstance, verbal expression, behavior, or arrangement that has been familiar to individuals and has evolved into a customary practice to either perform or disregard. Within

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<sup>22</sup> Presiden Republik Indonesia, *Undang-Undang No.1 Tahun 1974*, (Jakarta: September, 2020 ), page.5

<sup>23</sup> Abd al-Wahhab Khallaf, *Ilm Ushul alFiqh*, (Mesir, Maktabah al-Da'wah al-Islamiyah, 1990), page. 65.

<sup>24</sup> Sri Hajati, *Buku Ajar Hukum Adat*, (Jakarta: Kencana, 2018), page.1

society, 'Urf is frequently recognized as a form of tradition or practice.

'Urf is a custom that is engaged in by numerous individuals (collectives) and emerges from human inventive ingenuity in constructing societal principles. Based on this comprehension, a habit's positive and negative aspects do not emerge as an immediate concern as long as it is practiced collectively and falls under the category of 'Urf. Varying viewpoints exist among the madhhabs, and the inclusion of 'Urf is a topic of contention among scholars.

Regarding data analysis, this study employs deductive reasoning methods, specifically data analysis techniques that commence from commonly studied facts or events to generate specific conclusions. The author conducts a comprehensive qualitative analysis once all the necessary data has been gathered.

## **C. Results and Discussion**

### **1. Implementation of Endogamous Marriage in the Saibatin Community of West Lampung**

Lampung The Saibatin community, as a whole, holds a deep reverence for their forebears, ensuring the preservation of ancestral traditions and maintaining a profound sense of respect for their legacy. Lampung, where most of the population practices Islam, upholds traditions that align with Islamic teachings without straying from religious principles. One such tradition is the *Nayub* ceremony, which is a part of traditional weddings conducted by the Saibatin community. This ceremony involves the union of a man and a woman, legally binding them as husband and wife under the law, religion, and customs. It is also seen as a way to honor the creator and ancestors.

Utilizing the Saibatin community's metacognitive understanding of the *Nayub* tradition, each customary activity encompassed within the *Nayub* Tradition holds significant significance regarding both custom and religion. The significance of the *Nayub* tradition is a crucial objective for a Balancer, necessitating their adherence to the *Nayub* tradition. The significance encompasses communication with the Saibatin

community and interested individuals. As a means of communication to the entire Saibatin community, particularly in the West Lampung region, The Saibatin community believes that the *Nayuh* tradition serves as a foundation for publicly announcing the union between two families. This practice aims to alleviate any concerns within the community regarding the public display of a man and woman walking together, indicating their intention to marry.

Utilizing the Saibatin community's metacognitive understanding of the *Nayuh* tradition, each customary practice encompassed within the *Nayuh* Tradition holds significant significance in cultural and religious aspects. The *Nayuh* tradition holds significant significance for a Balancer, necessitating their adherence to its practices. The message within the content pertains to the Saibatin community and interested individuals. To inform the entire Saibatin community, particularly in the West Lampung Saibatin community, it is important to highlight the *Nayuh* tradition of officially announcing the union between two families. This tradition ensures that the public perceives the marriage of a man and a woman as legitimate and encourages them to confidently display their relationship in front of the community.

Based on traditional customs, the institution of marriage encompasses three dimensions: legal, societal, and religious considerations. Firstly, considering the legal aspect, it is important to note that marriage is a robust and binding contract that entails various rights and responsibilities. Additionally, considering the societal perspective, it is widely believed in every nation that individuals in a marital union hold a higher status than those not in such a union. From a religious standpoint, marriage holds significant importance and is considered a sacred occasion due to its association with religious values of sanctity. As per Prof. Djojodiguno's perspective, marriage is not merely a contractual or agreement-based arrangement but a communal bond that serves as the central sphere of existence for spouses and their offspring. In the local dialect of Lampung, the term used is bulambanan or kinship group. According to the perspective of the Lampung

community, the married couple is perceived as a unified entity. This can be observed through the symbolic act of the bride and groom relinquishing their childhood names and adopting a shared name.

The objective of marriage within customary law communities based on kinship is to ensure the continuation of offspring along the paternal or maternal line, fostering happiness within kin family households, preserving customary cultural values and harmony, and safeguarding inheritance. Due to the differences in descent and kinship systems among Indonesian ethnic groups, along with variations in environmental and religious practices, the objectives of customary marriage for indigenous communities also vary across different ethnic groups. Additionally, there are variations in the legal implications and marriage rituals associated with these unions.

The Saibatin community practices a form of marriage known as endogamous marriage, which involves the union of individuals who share similar backgrounds in terms of education, social status, language, and religion. Currently, the Saibatin community continues to uphold the practice of Endogamous marriage, even in the present era. It is simply that the thickness of the language has diminished over time. This could be attributed to different languages, diverse regions, and varied lineages. These are some of the reasons why certain individuals continue to preserve it.

The findings indicated that various elements incentivize individuals to uphold endogamous unions, such as spatial positioning (territoriality), ensuring the purity of progeny, safeguarding property, and the practice of arranged matrimony. Due to its alignment with the Lampung saying, which goes “*sapa sai haga ngelestariko adat budaya lampung, mak ganta kapan lagi, mak kham sapa lagi?*” (who will preserve Lampung's cultural customs? If not now, then when? and if not us, then who?) The present condition of endogamous marriage in Saibatin society is limited to tribesmen rather than close relatives due to the persisting concept of *mabram* or blood relation. Since the era of modernization, numerous individuals have broadened their sense of kinship by entering into

matrimony with members of different tribes while upholding their convictions and religious principles. Furthermore, numerous socialization occasions have taken place involving customary leaders and guidance from parents to foster camaraderie and enhance future generations.

## **2. Islamic Law Perspective on Endogamous Marriage in the Saibatin Community**

Marriages involving individuals who share a familial bond, such as first cousins, second cousins, and third cousins, are called endogamous or kinship marriages.<sup>25</sup> In contemporary society, the practice of endogamous marriages continues to persist, even within the Saibatin community residing in West Lampung. The research examines marriages involving individuals who are related as first and second cousins. Even though the public may not widely accept this particular form of marriage based on kinship and is often considered taboo, it remains within the boundaries of Sharia law without any violations.

In the interpretation of Surah An Nisa verses 23-24, there exist women who are permanently prohibited from marrying a man. They are considered perpetually forbidden (*mu'abbad*), both presently and in the future, making their union not permissible. Within the female population, there exist individuals with whom men are prohibited from entering into temporary marriages. These women are commonly called temporary or temporal haram (*muaqqat*). The passage depicts the women not permitted to enter into matrimony. There are no restrictions on marrying with cousins who are related by one or two degrees. This is further highlighted by the Marriage Law Number 1 of 1974, which does not explicitly forbid the union of cousins in matrimony.<sup>26</sup> According to Article 8, it is not permissible for two individuals who share a direct lineage, descending or ascending, to enter into a marital union. Genetically connected within the horizontal lineage, specifically among brothers and sisters, among an individual and their parents' siblings, and among an individual and their grandmother's siblings.

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<sup>25</sup> Soerjono soekanto, *Hukum Adat Indonesia*,, page. 13

<sup>26</sup> *Op.cit*, page. 241

Connected through matrimony, specifically relatives through marriage such as extended family members, step-offspring, husbands of daughters, and maternal or step-paternal figures. Connected through nourishing infants with breast milk, specifically parents who breastfeed, breastfed children, siblings, and aunts/uncles who breastfeed. In the case where a husband has multiple wives, if someone is connected to the wife either as a relative or through the role of an aunt or niece. Engage in a romantic connection restricted by their religious beliefs or other relevant guidelines, preventing them from entering into matrimony.

Arranged marriages are commonly observed among Saibatin, leading to the formation of kinship marriages in most cases.<sup>27</sup> The process of arranged marriage involves discussions between the parents of potential couples. During the initial stages of the process, the potential partner is not directly involved. The child's future spouse selection is determined when both parents reach a mutual understanding. Within the Saibatin community, it is extremely rare for individuals to decline being paired with a potential partner. It is a common practice for younger individuals to adhere to the wishes and instructions of their parents. In the Islamic faith, arranged marriages are not prohibited. The Prophet frequently accompanied his companions in their search for a life partner. Nevertheless, certain couples are granted the liberty to select their significant other, although obtaining consent from their parents is imperative.

Regarding the prerequisites for engaging in adat practices, the concept of kinship marriage has successfully met most of these criteria. The initial condition pertains to the advantage of the tradition for the community. In this scenario, most Saibatin actors acknowledge the advantages of matrimonial alliances within families. Furthermore, it also prevents any potential harm to the household caused by choosing a partner who does not align with Islamic principles. The second condition pertains to equitable custom implementation within a specific setting. According to the

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<sup>27</sup> Interview R-4, December 26, 2022 at. 15.49 Indonesian Western time.

researcher, this endogamous marriage is conducted equitably, involving both males and females. There is a distinction in that men can either embrace or decline the arranged marriage. In contrast, women must embrace the arranged marriage that the parents of both individuals involved have devised. The third condition necessitates that the 'Urf utilized as a foundation for establishing the law existed during that period rather than being a later development.<sup>28</sup> In a certain context, 'Urf can be deemed permissible if 'Urf is already established and remains valid when making a legal decision. In this particular scenario, the practice of endogamous marriage was already established and in effect before any prohibition or alternative tradition was introduced. The fourth condition is that the tradition does not conflict with the established Shara arguments and definitive principles. According to the researchers, endogamous marriage is not in conflict with sharia law. This stipulation merely strengthens the necessity of a valid tradition, as any tradition that contradicts Sharia's established principles is considered an invalid tradition that scholars unanimously refuse to accept. In the context of the Qur'an, specifically surah An Nisa verses 23-24, it can be understood that there is no restriction on the practice of endogamous marriage. This is by the customary law that is followed by the Saibatin community. The Saibatin community should observe and consider the potential bride they are considering.

Marriage within the West Lampung Saibatin community, characterized by endogamy, can be analyzed using the *maslahah mursalah* perspective, emphasizing that actions should encompass positive outcomes or advantages. If this marriage within the same social group is believed to bring about positive outcomes, then future generations can inherit such marriages. Endogamous marriage is observed within the Saibatin community of West Lampung, analyzed using the *maqasid syariah* approach. *Maqashid* is the *jama' taksir* of *isim mufrad maqshud*, meaning objectives.<sup>29</sup> Every

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<sup>28</sup> Sulaiman Rasjid, *Fiqih Islam*, (Jakarta: Attahiriyah,, 1993), page. 374

<sup>29</sup> Busyro, *Memahami Al-syari'ah pengetahuan dasar mengenai masalah*, (Bandung: Kencana prenatala, 2019). page. 17

endeavor should possess a clear objective within its framework. The same applies to Sharia as well. The objectives of Sharia, when expressed textually, are known as *Maqashid Sharia*. The primary objective of *maqashid Sharia* is to achieve the advantages for humanity (*mashalih al-ibad*) in both their worldly matters and their matters hereafter. The scholars concur on this matter since all the regulations in Sharia are intended to foster *maslahah* or advantage, well-being, and harmony for humanity in all aspects of their lives, encompassing worldly matters and matters about the afterlife.

Endogamous marriages strive to uphold the goals of *syar'i*, encompassing five distinct elements. If this marriage within a closed community can successfully fulfill the five objectives of *maslahah*, it will lead to feeling satisfied. The five goals are:

- 1) Maintaining religious integrity. Endogamous marriages are thought to give benefits for both sides, between the bride and groom and the extended family because they are religiously based. The initial basis for choosing a mate should be the same religion because Islam advises picking a companion based on religious compatibility.
- 2) Maintaining the soul's integrity. This should not be the first consideration when selecting a partner to protect the soul between the potential bride and groom because Allah controls death, spouse, and sustenance. If the parents do not approve of the union, one of the potential bride and grooms may be jeopardized. On the contrary, an arranged marriage that does not receive the approval of the two prospective brides and they are unaware will be disappointed, hurt, and even threatened with suicide because the two prospective brides have most likely chosen their respective soul mates.
- 3) Upholding one's mental integrity. Endogamous marriage, for the goal of sustaining mental integrity, can be utilized as a complementary foundation for selecting a mate because of the marriage that is performed.
- 4) Maintaining offspring integrity. Endogamous marriage to produce decent children should only be used as a supplement to

an arranged marriage. In endogamous marriages among the Saibatin group, an arranged marriage is carried out because the potential bride and groom's parents already know each other. Because both parents are related, they already know the quality of their future son-in-law. It does not, however, rule out the potential of close relatives producing good offspring in terms of religion and morals. Likely, children born outside the circle of people who adhere to the principle of endogamous marriage have higher morals and values than near relatives.

- 5) Maintaining the wealth's integrity. Allah entrusts assets and money. When someone dies, he leaves behind all of his property and wealth. Endogamous marriages to retain property and riches are extremely risky. The goal of marrying close relatives to keep wealth under family control does not guarantee that wealth will expand.
- 6) Furthermore, income does not ensure household happiness or harmony.
- 7) Regarding the history of endogamous marriages resulting from parental matchmaking, it is preferable to first present information and obtain consent from the potential bride and groom. This is also related to Article 6 of Marriage Law Number 1 of 1974, which states that "marriage must be based on the consent of the bride and groom." It does not have to be forced so that family ties grow close or even the family's wealth is maintained, which will result in separation because the prospective bride and groom are not sincere. Marriage with the blessing of the parents and the sincerity of the bride and groom is preferable to marriage without the blessing of the parents and the sincerity of the bride and groom.

Meanwhile, if the theory of legal change in Islamic legal studies is considered, this cannot be avoided. Although the law is characterized as *kbita'b* Allah in conventional ushul fiqh language, it does not imply that Islamic law is fixed and cannot change. The idea of changing the law is seen in the existence of one of the rules from *al-qawa'id al-fiqhiyah*, which says *Taghayyur Al-Ahkam Bi*

*Taghayyur Al-Azminah, Wa Al-Amkinah, Wa Al-Ahwal Wa Al-Niyat Wa Al-Awaid.*

Ibn Qayyim al-Jauziyyah devised the preceding rule. He emphasizes the significance of this guideline in his introduction. Failure to comprehend this norm might lead to difficulty comprehending and applying Sharia. According to Ibn Qayyim, Shari'ah is founded on intelligence and human benefit in this world and the next. Shari'ah is founded on justice, kindness, benefit, and wisdom. As a result, if a problem deviates from these standards, it is almost probably not Sharia. In addition to Ibn Qayyim, numerous scholars make the same regulations, specifically regarding modifications in Islamic law, including the rules in *majallat al-ahkam al-adliyyat*, where it is stated in article 39 that those who can amend a law are *Az-zaman, Anniyat, Al-ahwal, and A'waid.*

As a result, Endogamous Marriage in the West Lampung Saibatin group has undergone internal and external changes, which include the following:

The internal factors:

- a. New invention
- b. Discovery
- c. Invention
- d. Innovation
- e. Social conflicts
- f. Differences of opinion, interests, and social jealousy
- g. Rebellion
- h. Disillusionment with an order
- i. Community's dynamics
- j. Natal
- k. Mortality
- l. Migration

External factors:

- a. Natural disasters
- b. Wars
- c. Foreign custom's influence

Thus, from the explanation above, endogamous marriages carried out by several family members in the Saibatin community

have a good purpose to maintain household harmony so that there is no divorce because they maintain the good name of the family and prevent divisions within the family or relatives. Based on the explanation above, starting from the theory and views of classical and modern scholars and based on the results of the research above, the researcher concludes that the marriage carried out by the Saibatin community does not oppose Islamic law or Law No. 1 of 1974 and the Compilation of Islamic Law.

#### **D. Conclusion**

Based on the previous discussion, the researchers can deduce that customary marriage law entails more than just the involvement of the two individuals getting married. It also encompasses the interests of the community and tribe to maintain a cultural legacy. The primary objective of such customary marriages is to ensure the continuation of the cultural heritage, allowing the tribe and its traditions to persist amidst the advancements of the contemporary world. Intra-group Marriage As per Fiqh Law, the following principles are outlined: Based on the principles of *maqasid shari'ah*, it is considered permissible to enforce this law as it is necessary to uphold religion, well-being, intellect, progeny, and property. Similarly, according to customary practices, it is deemed valid as it does not contradict Islamic law.

Furthermore, considering the changing nature of societal norms, endogamous marriages have become uncommon in local customary law. Lastly, it is important to note that marriage laws permit such unions. The Saibatin community is known for maintaining a strong sense of harmony within their marriages. They prioritize the importance of familial bonds and adhere to their religious beliefs and the regulations outlined in Law No.1 of 1974, ensuring that their unions remain intact.

In this study, the researchers aim to guide relevant parties, like BP-4 at the Islamic Religious Affairs Office, on the importance of inquiring about the matchmaking factor in endogamous marriages. It is suggested that they ask the prospective bride and groom if they are familiar with and have knowledge about the matchmaking process before marriage. This step is crucial to

prevent the formation of loveless and unhappy households that may eventually lead to separation. Parents who support the idea of hereditary, endogamous unions should refrain from coercing their children into marrying close relatives. Instead, they should prioritize allowing their children to choose their partners independently, even if those partners happen to be close relatives. Prospective students who intend to investigate the same subject matter should address any deficiencies in this thesis.

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