

## Prohibition of Same-Travel Marriages in the Customs of the Kampai Minangkabau Tribe Maqasid Al-Shari'ah Perspective Muhammad Tahir Ibnu 'Asyur

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### Abstract

*This article is motivated by the existence of the Minangkabau Kampai tribe's customs which prohibit inter-ethnic marriages. In fact, there is not a single verse or hadith found that prohibits the practice of marrying within one's tribe. Meanwhile, the Minangkabau tradition claims with its saying "Adat basandi syara' syara' basandi kitabullah", that in plain view this is contrary to Islamic law. The research method in this research is a literature review (Library Research) with a qualitative approach with the perspective of Maqasid al-Shari'ah Muhammad Tahir Ibnu 'Asyur. Library searches are used to obtain written data regarding research objects with the aim of being able to analyze the prohibition on intermarriage. The results that can be concluded are 1) The customs of the Minangkabau kampai tribe adhere to a matrilineal kinship system. The matrilineal system is a system that regulates the life and order of a society bound by kinship along the maternal line. Everything is arranged according to the mother's lineage. 2) According to Minangkabau customary rules, a person cannot marry someone from the same tribe. Minangkabau customs adhere to the exsogamy system, namely that a man is prohibited from marrying a woman of the same clan or tribe, he must marry a woman outside his clan. 3) Prohibition of same-ethnic marriages based on the Maqashid Syari'ah of Muhammad Tahir Ibn 'Asyun to strengthen marriage bonds (asiroh al-nikah), strengthen family ties (asiroh al-nasab wa al-qurabah), and strengthen marital ties (asiroh al-sibar) , by using the principle of freedom (al-Hurriyah).*

**Keywords:** Marriage, Tribe, Maqasid Al-Shari'ah

### INTRODUCTION

Indonesia is a country that has very diverse ethnic groups, each ethnic group has a different traditional marriage system. Meanwhile, if the customary marriage system is classified or grouped according to customary law, it consists of three forms: first, exogamy, namely that a man is prohibited from marrying a woman of the same tribe or clan as him, and is encouraged to marry someone from outside his tribe or clan. Second, endogamy means that someone is required to marry someone within their own circle of relatives (tribe, clan, family), and is prohibited from marrying someone outside their relatives. The third is

eleutrogamy, namely that a person is no longer required to marry someone from the same tribe or a different tribe from him, in meaning that something does not conflict with Islamic law and applicable legislation.<sup>1</sup>

In Minangkabau society, a rule applies regarding marriage called tribal exogamy, where people of the same tribe in a village are not allowed to marry. Marriage between ethnic groups is considered not good because it is the same as marrying within the same clan. Minangkabau custom stipulates that Minangkabau people are prohibited from marrying people from the same tribe (one ancestor) or the same tribe, because the lineage in Minangkabau is determined or drawn from the mother's lineage, which is also called matrilineal exogamy or matrilineal exogamy.<sup>2</sup>

In Minangkabau (West Sumatra) there are many tribes, each of which has its own characteristics in carrying out the marriage process. As the traditional saying goes, "different lubuak has different fish, different Nagari has different customs", meaning that different lubuk means different fish and different regions mean different customs. It is true that a nagari has similarities in cultural structure, but in determining customary law in a nagari there are differences, because in each nagari it is regulated again by the customs of each tribe.

Likewise, the customs that apply to the Kampai tribe, led by Ninik Mamak (tribal chief), strictly prohibit inter-ethnic marriages within a nagari. The reason why inter-ethnic marriages are prohibited within a nagari is because the Kampai tribal people are of the view that inter-ethnic relations are family relations and if they are violated it will clearly be contrary to customary law.<sup>3</sup>

This prohibition on inter-ethnic marriages has given rise to many different assumptions among the Minangkabau people, there are people who really do not want to enter into this kind of marriage for reasons of benefit for them, and there are some people who think that inter-ethnic marriages are not a problem in Islamic teachings. which in Islam clearly states who is a mahram and who is not a mahram.<sup>4</sup>

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<sup>1</sup>Halim Hadikusuma, *Hukum Perkawinan Adat*, (Bandung: Citra Aditya Bakti, 1990), 67-69

<sup>2</sup>Amir Syarifuddin, *Pelaksanaan Hukum Kewarisan Islam dalam Lingkungan Adat Minangkabau*, (Jakarta: Gunung Agung, 1984), 195.

<sup>3</sup>Helma Suryani, "Perkawinan Sesuku dalam Budaya Minangkabau di Nagari Batipu Ateh", (*Skripsi*, Jakarta: Universitas Islam Negri Syarif Hidayatullah, 2019), 3.

<sup>4</sup>Femilya Herviani, "Larangan Menikah Sesuku dalam Adat Minangkabau Prespektif Saddu Al-Dzari'ah: Studi Di Nagari Lareh Nan Panjang Kota Padang Panjang", *SAKINA: Jurnal of Family Studies*, (Februari, 2019), 3.

The verse of the Al-Qur'an which explains who cannot be married (not the mahram), is explained in the Al-Qur'an, Surah An-Nisa verses 22-23 and based on this verse fiqh scholars divide mahram into two types, namely mahram mu`aqqad and mahram mu`abbad. Mahram mu`aqqad is a prohibition for a certain time and mahram mu`abbad is a prohibition forever.<sup>5</sup>

If further classified, the temporary marriage prohibition (mahram mu`aqqad) applies in cases, including; prohibition on marrying two brothers at the same time, polygamy outside the limits, prohibition due to marriage ties, prohibition on marrying a wife who has had triple talaq, prohibition on marrying a woman who is still undergoing iddah, prohibition on marrying a woman who is still married, and prohibition on marrying someone those of different religions.

The prohibition on marriage forever (mahram mu'abbad) is further divided into three types, namely;

1. Women of the same generation (al-muharramat min an-nasab)

It is forbidden for a woman to marry a man forever, that is because of kinship or lineage. The people include; mother, child, sibling, father's brother and mother's brother, sister's and brother's children.

2. Breast-feeding women (al-muharramat min ar-rada'ah)

As for women who are forbidden to marry because of sexual relations, they include; the woman who breastfed him and so on in a straight line up and down, baby brother, baby uncle, and baby aunt.

3. Women who are forbidden to marry because of marital relations (al-muharramat min al-musaharah)

As for women who cannot be married to a man because of a mutually beneficial relationship, they include; a person who has been married by a father or stepmother, a woman who has been married to a son-in-law, a wife's mother or mother-in-law, a wife's child provided that the wife has been sexually intimate.<sup>6</sup>

Based on the description above, it can be clearly seen that the provisions for marriage in Islamic law are not found to be any prohibitions on inter-ethnic marriages, and these prohibitions are only found in Minangkabau customary rules. Where some people think there

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<sup>5</sup>Ahmad Rofiq, *Hukum Islam di Indonesia*, (Jakarta: PT Raja Grafindo Persada, 1995), 122.

<sup>6</sup>Abd. Rahman Ghazaly, *Fikih Munakahat*, (Jakarta: Kencana, 2003), 103-104.

is a conflict between the rules in Islam and the rules in Minangkabau, even though the Minangkabau people really uphold their motto which reads "adat basandi syara', syara' basandi kitabullah" which means customs based on sharia, and sharia based on the Book Allah (Al Quran), and In another proverb it is also mentioned "syara' mangato adat mamakai" which means that the sharia says about the customs that are used or carried out.<sup>7</sup>

Every law that is made must have a purpose and aim which will lead to benefit, as well as the existing regulations in Minangkabau, these problems will then be examined using the *istinbath ahkam* methodology which is based on *maqasid al-Shari'ah*, using a *maqasid analysis* knife. *al-Shari'ah* conceptualized by Muhammad Tahir Ibn 'Assyria.

## LITERATURE REVIEW

### The Concept of Marriage in Islam

According to the etymology, the meaning of marriage in Arabic is *nikah* or *zawaj*, both of which are words used by Arabs in everyday life and these words are also words that are often found in the *Al-Qur'an* and *Hadith*. The word marriage itself has the meaning of intercourse, sexual intercourse, gathering, *jima`* and contract.<sup>8</sup>

In the *Compilation of Islamic Law (KHI)* article 39 explains the prohibition on marriage, where it is prohibited for a man and a woman to marry people who are of the same lineage as the mother who gave birth to them or the mother's parents and their offspring, half-siblings, half-brothers, and with mother's sister. Furthermore, it is prohibited to carry out marriages with people who are related by marriage, such as marriages with the wife's mother or ex-wife's mother, with the father's ex-wife and with the wife's or ex-wife's children, unless the relationship with the wife before *dukhol* and with the child's ex-wife is terminated. Furthermore, there is a prohibition on marriage for people who are of the same breast, such as marrying a woman who is breast-feeding and so on in a straight line up, with a woman who is in the same milk line and a descendant in a straight line down, with a woman who is a half-brother and a half-breast niece, with a half-breed aunt and an aunt's grandmother. breast milk and above and with children breastfed by his wife and their offspring.<sup>9</sup>

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<sup>7</sup> Elsi Kumala sari, "Analisis Larangan Nikah Sesuku di Minangkabau Ditinjau dari Maqashid Syari'ah", *Skripsi*, Curup: IAIN Curup, 2019), 5.

<sup>8</sup> Mardani, *Hukum Perkawinan Islam di Dunia Islam Modern*, (Yogyakarta: Graha Ilmu, 2011), 4.

<sup>9</sup> Departemen Agama, *Kompilasi Hukum Islam*, (Jakarta: Dirjen Bimbingan Islam 1992), 26-27.

### The concept of Maqasid al Shari'ah MuHammad Tāhir Ibn'Assyria

According to the language, maqasid al-Shari'ah consists of two words, namely maqasid and al-Shari'ah. The word maqasid itself is the plural form of the word maqsad, the origin of which is qasd, which means something like heading towards a direction, goal, middle, balance, justice, a straight path, and not going beyond limits.<sup>10</sup>

Meanwhile, the word al-Shari'ah has the meaning of going to a water source, or also means a path that humans take to get to a water source.<sup>11</sup> According to the term al-Shari'ah, it is the law or rules prescribed by Allah to His servants, both those originating from the Qur'an and those originating from the sunnah of the Prophet Muhammad SAW. The sunnah here is in the form of actions, words and decrees of the Prophet, whereas according to al-Raysuni al-Shari'ah is the law and practice prescribed by the Islamic religion, both regarding the concept of aqidah and its legal rules.<sup>12</sup>

According to youHammad Tahir Ibn AssyriaThe essence of maqasid al-Shari'ah which is permitted by law, with the application of Islamic law is divided into two important points, namely maqasid al-Ammah and maqasid al-Khassah.<sup>13</sup> Maqasid al-Ammah are the meanings and wisdom that Allah SWT pays attention to or desires. Both in determining all or most of the provisions of sharia, where there is no limit to just one type of sharia law.<sup>14</sup> The scope of discussion includes, among others; al-Fitrah, al-Samahah (tolerance), al-Maslahah (benefit), universality, al-Musawah (equality), legal substantiality, saddu al Dzariah, supremacy of law, al-Hurriyah (freedom) and social stability and resilience.<sup>15</sup>

Maqasidal-Khassah are methods permitted by Allah SWT to realize useful or useful goals for humans, and to protect their general benefits in their specific behavior.<sup>16</sup> The forms of Maqasid al-Khassah include; special objectives in the context of family law, civil transaction law, employment law, trial and testimony law, tabarru' civil law (non-

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<sup>10</sup>Ahmad bin Muhammad bin Ali al-Fayumī al-Muqrī, *Al-Misbah al-Munīr fī Garīb al-Sharh al-Kabir li al-Raffī*, (Lebanon: Maktabah Lubnan, 1987), 192.

<sup>11</sup> Mahmud Syaltut, *Al-Islam Aqidah wa Shari'ah*, (Cairo: Dar al-Qalam, 1966), 12.

<sup>12</sup>Ahmad al-Raysuni, *Al-Fīkr al-Maqāsidi Qawā'iduhu wa Fawā'iduhu*, Matba'ah al-Najah al-Jadīdah, (Ribāth, tp, 1999), 10.

<sup>13</sup> Chamim Tohari, Pembaharuan Konsep Maqāsidi Al-Shari'ah dalam Pemikiran Muhamamad Tāhir Ibn 'Ashur, *Al-Maslahah*, Vol 13, No 1, (April, 2017), 11.

<sup>14</sup> Muhammad Tahir ibn 'Ashur, *Maqasid al-Shari'ah al-Islamiyyah*, (cet. II: Ordon-Oman: Dar al-Nafa'is, 2001), 251.

<sup>15</sup> Chamim Tohari, Pembaharuan Konsep Maqāsidi Al-Shari'ah dalam Pemikiran Muhamamad Tāhir Ibn 'Ashur, *Al-Maslahah*, Vol 13, No 1, (April, 2017), 12-16.

<sup>16</sup> Muhammad Tahir ibn 'Ashur, *Maqasid al-Shari'ah...*, 415.

compensatory transfer of assets) and criminal law.<sup>17</sup>Regarding the concept of maqasid of your own family law Hammad Tahir Ibn'Assyria categorize it into maqasid al-Khassah (special).<sup>18</sup>The concept of maqasid family law in question is as follows:

1. *Asirah al-Nikah* (confirms the marriage bond),

Marriage is something that every living creature, whether humans, animals or plants, will definitely do, which in its creation itself was given lust by Allah. The purpose of God's giving of this lust is so that living creatures can regenerate or reproduce. Different from the creation of other living creatures, humans are given privileges by God by being given reason, with the aim that humans can think and consider that the purpose of being given lust is not to satisfy biological desires and libido alone like animals do, but there is a more noble goal than that. , by carrying out marriages in accordance with the Shari'a and the harmony that has been determined by Allah SWT.<sup>19</sup>

Based on the legal provisions governing marriage, according to Ibn'Assyria There are two important points that are the aim of this law, namely: first, to show the difference between marriage and adultery. To show this difference, there are three provisions, namely the existence of a marriage guardian for a woman who is a pillar in carrying out the marriage contract, The dowry is an obligation for the husband to hand over to the wife<sup>20</sup> and announce or provide information about the marriage to at least two witnesses who are part of the marriage contract.

Second, as a distinction between a marriage contract and a transaction contract, where a marriage contract is a provision that is forever in nature and it is not permissible to carry out a contract within the specified time period as is the case with a rental contract, then regarding the requirement that the dowry be given by the husband to the wife, not given to parents rather than wife. This is the difference between a marriage contract and a sale and purchase contract, as in a sale and purchase agreement, money is handed over to the owner of the goods with the intention of replacing the goods purchased.<sup>21</sup>

2. *Asirah al-Nasab wa al-Qurabab* (confirms lineage and kinship ties)

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<sup>17</sup> Farida Ulvi Na'imah, et al, Introduction to Maqashid al-shari'ah, (Batu: Literasi Nusantara, 2019), 75-76.

<sup>18</sup> Indra, "Maqasid Asy-Syari'ah According to Muhammad At-Tahir Bin 'Asyur," (Medan: MA Thesis, UIN North Sumatra), 115.

<sup>19</sup> Farida Ulvi Na'imah, et al, "Pengantar Maqashid...", 75-76.

<sup>20</sup> Muhammad Tahir Ibn 'Assyria, *maqasid al-Shari'ah al-Islamiyyah...*, 435-440.

<sup>21</sup> Muhammad Tahir Ibn 'Assyria, *maqasid al-Shari'ah al-Islamiyyah...*, 435.

The lineage bond is the most basic bond in kinship relations, which underlies an individual being obedient and respectful towards parents and the generations above him, apart from that, he is also obliged to the peace and happiness of his children and the generations below him. A situation like this allows harmony and peace in the family to grow regularly. Furthermore, it depends on how the parties confirm and maintain it, and conversely, if the certainty of the lineage is doubted then the love and peace in the family will be in danger of being lost, for this reason the rules regarding certainty of lineage in a family is a very important need.<sup>22</sup>

As for the prohibitions that cause doubt about the authenticity of the lineage, namely, it is prohibited for a woman to have more than one husband, the prohibition for a male master to marry his slave except in an emergency, the law is different between male masters and female slaves and female masters and male slaves. -men, where male masters are allowed to have sex with their female slaves while female masters are prohibited from having sex with their male slaves, furthermore it is prohibited to let other people into the house or residence without the husband's permission, it is mandatory for a husband to provide support for his wife. the main provisions of the law in question according to Ibn'Ashuris to prevent anything that might cause doubt about the legitimacy of the wife's child's birth to the husband.<sup>23</sup>

### 3. *Asirah al-Sihar*(confirms marital ties)

This bond is formed from a combination of marriage ties and lineage ties. This marital bond creates a relationship between someone who is married and the family of the partner they marry. In Islamic law, this relationship is strengthened through the stipulation of the law of mateship between a married couple and close relatives of the couple they marry, such as between a husband and his mother-in-law, the wife's daughter if the wife is married to a widow, the wife's sister, the wife's aunt both from the father's side and from the other side. his mother, and vice versa between the wife and her husband's father and her husband's sons.

With the enactment of this law of marriage, each individual who marries will not be alienated from their family, thereby causing a breakdown in friendship. The important point contained in the law of morality is that it will influence the mindset of each individual to

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<sup>22</sup> Muhammad Tahir Ibn 'Assyria, *maqasid al-Shari'ah al-Islamiyyah*...442.

<sup>23</sup>Muhammad Tahir Ibn 'Assyria, *maqasid al-Shari'ah al-Islamiyyah* ...444.

respect each other, so that relationships between members of the opposite sex are carried out in a family manner and are not based on lust.<sup>24</sup>

4. *Turuqu inbilali bazibi al-awasiri al-salasi*(severing the ties of the three ties)

One of the maqasids of other family laws in Islamic law is to regulate and establish procedures for breaking marriage bonds, lineage bonds and marriage bonds, if these bonds no longer get the benefit that was expected, and cause more harm. greater than the harm if each of these relationships were severed.

The Sharia has established rules for severing the relationship in question in such a way with the aim of minimizing the harm caused by severing the bond. If it can no longer be avoided, to avoid severing the bond, peace should be made represented by each party. The way to end a marriage bond is through divorce by the husband and khulu' by the wife or fasakh, namely severing the bond through a court decision. The severance of the father's lineage relationship with the child is done in a spiritual way and the marital bond will be automatically severed if the marriage bond is severed.<sup>25</sup>

## METHOD

This research uses qualitative research methods with the type of field research. The data collection techniques used were interviews, observation and documentation on one of the tribes in Minangkabau, namely the Kampai tribe, with the research location being in Nagari Kambang Timur, Armyang District, Pesisir Selatan Regency.

## DISCUSSION AND ANALYSIS

### Prohibition of Same-Tribe Marriages in Kampai Tribe Customs

The prohibition on inter-ethnic marriages in the Kampai tribal community is due to the assumption in society that people of the same ethnic group are people of the same descent or blood ties. The above opinion is confirmed by the explanation of the Deputy Chair of the Nagari Traditional Meeting (KAN) Kambang Rahma Dianto Rajo Bagindo Sati that:

*"People of the same tribe are likened to a tree which has many branches, boughs and twigs, even though it has many branches, branches and twigs it still has the same and one trunk and veins"*

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<sup>24</sup> Muhammad Tahir Ibn 'Assyria, *maqasid al-Shari'ah al-Islamiyyah*...445-446.

<sup>25</sup> Muhammad Tahir Ibn 'Assyria, *maqasid al-Shari'ah al-Islamiyyah*...446-449.

Based on the explanation above, it can be understood that the Kampai tribe was formerly one descendant or one ancestor in a certain area. However, the Kampai tribe has now experienced development and spread widely to various other regions so that from each region a new niniak mamak (tribal chief) has been formed. This was then used to strengthen the reasons for prohibiting inter-ethnic marriages by the Minangkabau people, especially the traditional Kampai people.

Then there are other reasons why inter-ethnic marriages should not be carried out. This reason is in the interest of protecting offspring from undesirable things, as explained by the Deputy Chairperson of the Nagari Traditional Council (KAN) Kambang Rahma Dianto Rajo Bagindo Sati that, people who marry within their tribe usually often experience problems with their offspring: such as physical disabilities, idiot (stupid) and even unethical.<sup>26</sup> According to Martias Nan Rang Batuah, one of the Kampai niniak mamak (tribal chiefs), the impact of inter-ethnic marriages is as follows:

1. The emergence of stigmatization and ostracism from society towards the family has the consequence of disrupting the household and making it disharmonious.
2. The occurrence of psychologically unfavorable experiences in children due to gossip from society.
3. The emergence of conflict is quite worrying within the tribe if there is a fight or dispute in the household.
4. Not feeling comfortable in traditional community environments and traditional events.

The impact of the fourth point (4), namely: "not feeling comfortable during traditional events" is felt more by men, because during traditional events, married men will assume the role of Sumando (son-in-law) and became Mamak (leader of his tribe). This role will determine a man's sitting position at the event custom. If the traditional event is held by indigenous people of the same tribe as his wife then the role of a man at that time is as Sumando (son-in-law), and if the traditional event is held by indigenous people of the same tribe as his mother then the role of a man at that time is as mamak (leader of his tribe).

According to an explanation from Martias Nan Rang Batuah, Sumando's seat during traditional events is at the back of the house close to the kitchen, where he will later be tasked with serving food and drinks to Mamak or men of the same tribe as his wife. Meanwhile, Mamak's seat during traditional events is at the front of the house and will be served by

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<sup>26</sup> Rahma Dianto, interview (Koto Baru, 23 May 2023).

Sumando (son-in-law).<sup>27</sup> A mamak has a seat at the front of the house and Sumando is at the side behind the house, where a Sumando will be tasked with serving food and drinks to a mamak.<sup>28</sup>

Based on the illustration described above, in Minangkabau, especially the traditional Kampai tribe, there is a problem, when a marriage occurs between ethnic groups, a man then assumes two roles and positions at once. First, as Sumando because he was a son-in-law in his wife's tribe. Second, he becomes Mamak because he has the same ethnicity as his wife. Two roles and positions are borne by men as a consequence of intermarrying. This situation often becomes the subject of ridicule during traditional events, for example, if the perpetrator sits in the Sumando (daughter-in-law's) place, then the perpetrator will be teased and ridiculed because he should be in the mamak's place, and if the perpetrator sits in the mamak's place then the mamak will be teased and teased. because the perpetrator should have been at Sumando's place. These taunts and insinuations will cause disputes to arise, where the perpetrator feels alienated when attending traditional events,<sup>29</sup> thus causing poor communication between distant relatives or damage to marital relations.

The impact of same-ethnic marriages above is in line with what was experienced by Mondri, one of the Kampai tribal people who once had a same-ethnic marriage, where the perpetrator explained that he did not feel comfortable in a traditional community environment due to the effects of ostracism by the traditional community, the impact of this ostracism was also felt by their children and when attending traditional events they also felt ostracized and ridiculed by the indigenous people regarding their position and seating, however, during traditional events they were often not included, another impact of inter-ethnic marriages was that they caused conflict in their households.<sup>30</sup>

Minangkabau customary law does not specifically regulate the prohibition of inter-ethnic marriages. However, the behavior of tribal marriages is consistent Deputy Chairman of the Nagari Traditional Meeting (KAN) Kambang Rahma Dianto Rajo Bagindo Sati isa form of behavior or action that refutes the words of the niniak mamak (tribal chief), humiliates the niniak mamak (tribal chief) and disturbs the peace of the community.

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<sup>27</sup> Martias, interview (Padang Cupak, 30 May 2023).

<sup>28</sup> Observations, (Barangan, 12 May 2023).

<sup>29</sup> Erkhani Maskuri dkk, *Implementasi Nilai-Nilai Keislaman Dalam Tradisi Asrah Batin*, Al-Mada Vol 6 No 4: Islam Indonesia Traditions, 2024.

<sup>30</sup> Mondri, interview (Tampunik, 27 April 2023).

This behavior is a form of action that violates Minangkabau customary law, namely one of the points of the nan duo pulauh law which reads "dago dagi mambarimalu", meaning a behavior that humiliates and refutes the words of the niniak mamak (tribal chief), disrupting the upholding of customary rules and disturbing public peace. The form of sanction for those who marry within their tribe is to be fined by slaughtering a buffalo. According to custom, the niniak mamak (tribal chief) and the traditional community will not attend or interfere in the wedding ceremony, and are not allowed to carry out marriages in the traditional environment.

Even though Minangkabau custom prohibits inter-ethnic marriages, every same-ethnic marriage that has been carried out is never annulled, because it is the right of freedom for everyone to choose their own partner, as explained by the Deputy Chairperson of the Nagari Traditional Council (KAN) Kambang Rahma Dianto Rajo Bagindo Sati that Marriage between ethnic groups is not included in the haram category, it is only recommended to be avoided because it will have a negative impact on the traditional order, household, offspring and relationships between relatives. Furthermore, same-ethnic marriages also do not conflict with Islamic law, because basically the prohibition on inter-ethnic marriages aims to prevent marriages with people of the same blood or same descent, whereas in Islam it is also prohibited to marry people of the same descent and are brothers, only in the context of same-ethnic kinship. too broad.<sup>31</sup>

### **Analysis of the Concept of Maqasid Al-Shari'ah Muhammad Tahir Ibnu 'Assyria regarding the Prohibition of Same-ethnic Marriages in Kampai Tribe Customs**

If we look at the elements of mahram contained in the Al-Qur'an Surah An-Nisa verses 22-23, from this verse fiqh scholars classify mahram into two types, namely mahram mu`aqqad (temporary prohibition) and mahram mu'abbad ( forever banned). Mahram mu'abbad itself is divided into three, namely, al-muharramat min an-nasab (women of the same blood), al-muharramat min ar-rada`ah (women of the same blood) and al-muharramat min al-musaharah (women from a consanguineous relationship).<sup>32</sup>Of the three elements of mahram, the basis for the rule prohibiting intermarriage in the Minangkabau traditional community is al-muharramat min an-nasab, namely the prohibition of marriage for people of the same lineage or one descent, where the Minangkabau traditional community considers

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<sup>31</sup>Rahma Dianto, interview (Koto Baru, 23 May 2023).

<sup>32</sup> Abd. Rahman Ghazaly, Fikih Munakahat, (Jakarta: Kencana, 2003), 103-104.

that people of the same tribe are people of the same tribe. one descendant, blood ties and one ancestor.

As for the rules that have been made by Minangkabau traditional leaders and communities regarding same-ethnic marriages, this is an effort to strengthen the marriage bond (*asiroh al-nikah*) for Minangkabau traditional people who want to marry, where the existence of these rules can minimize the occurrence of problems. in the household later, so that harmonious, peaceful household relationships are established and problems are kept away from them.

There is an effort made by the Minangkabau traditional community, which really pays attention to the lineage of people who are going to marry, with the aim of avoiding anything that is undesirable for both their offspring and their household. Efforts made to prevent the occurrence of same-ethnic marriages (*senasab*) are a form of strengthening *nasab* and kinship ties (*asiroh al-nasab wa al-qurabah*), where according to Ibn Asyur if parties can maintain and strengthen these *nasab* ties, there will be harmony and peace in the world. The family will grow in conducive conditions, and conversely, if the authenticity of the lineage is doubted then harmony and peace in the family will be threatened with being destroyed, and there is a high possibility that frequent conflicts will occur.<sup>33</sup>

According to Minangkabau traditional leaders, marriage between ethnic groups is an unnatural marriage, because it is the same as marrying the same family, same blood or blood, and if the marriage is carried out, it will not only have an impact on the social environment but also have an impact on the offspring. This marriage between tribes is the same as protecting offspring from something undesirable, the rules regarding the prohibition of marriage between tribes are in line with one of the points of *daruriyyat al-Khams*, namely *hifz al-Nasl* which aims to preserve offspring, if this is ignored then the existence of offspring will be threatened.

This prohibition on inter-ethnic marriages aims to create good communication and harmonious relationships between distant relatives or marriage relations, where among those who marry from same-ethnic groups there is often poor communication such as teasing and disputes between *mamak* and *Sumando* regarding their position during traditional events. The purpose of the prohibition marriage between ethnic groups is appropriate with the

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<sup>33</sup> Muhammad Tahir ibn 'Ashur, *Maqasid al-Shari'ah al-Islamiyyah*, (cet. II: Ordon-Oman: Dar al-Nafa'is, 2001), 441

concept of maqasid al-shari'ah Muhammad Tahir Ibnu 'Assyria, namely strengthening family ties or distant family kinship (asiroh al-sihar). According to Ibn 'Assyur, the aim of confirming the marriage bond is to make a person connected to the family of his married partner, as in Minangkabau society, the aim is so that a husband is not isolated from his wife's family, the relationship between friendship and mutual respect is not broken.<sup>34</sup>

The rule regarding the prohibition of same-ethnic marriages in Minangkabau is not an absolutely prohibited rule, same-ethnic marriages may be carried out because it is everyone's right to choose their life partner. It's just that traditional leaders and communities will not interfere in these activities and are also not allowed to hold traditional receptions. If you want to hold a wedding reception, you are welcome to hold it outside the Minangkabau traditional area or environment. This principle is in line with one of the concepts of Maqasid al-Ammah put forward by Muhammad Tahir Ibnu 'Assyria is a concept *al-Hurriyah* (freedom). Where according to Ibn Asyur al-Hurriyah is a person's action freely by determining limits for himself to achieve the benefits he desires, or it can also be interpreted as actions that are in accordance with his own will without the presence of another party who can regulate that will.<sup>35</sup>

## CONCLUSION

The prohibition on inter-ethnic marriages in Minangkabau is a regulation made to prevent inter-ethnic marriages, on the grounds that the Minangkabau people consider people of the same ethnic group to be people of the same descent, blood and one ancestor based on the matrilineal system. As for the purpose of This prohibition on inter-ethnic marriages is to prevent undesirable things from happening to their descendants, their households, and their relationships with the community and their relatives, where if a violation occurs, sanctions will be given, namely the slaughter of buffalo, cows or goats and they will be disposed of according to custom or expelled from the tribe and not considered to be in the tribe or traditional community as long as they are still marrying within their tribe. The rule regarding the prohibition of same-ethnic marriages is not an absolute prohibition rule, because every person has the right to determine the partner they will marry, but if same-ethnic marriages are carried out, traditional leaders and communities will not interfere in the

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<sup>34</sup>Muhammad Tahir ibn 'Ashur, Maqasid al-Shari'ah...445

<sup>35</sup>Yourhammad Qahir Ibn., Asyur, Al-Nizom Al-Ijtimaifi Al-Islam, Cet. 1 (al Iskandariyah: 2005), 150

event and will not be allowed to hold receptions within the environment and Minangkabau traditional area.

Analysis of Maqasid al-Shari'ah Muhammad Qend Ibn Assyri regarding the prohibition on inter-ethnic marriages in Minangkabau, namely the regulations regarding the prohibition on inter-ethnic marriages in accordance with the concept of Maqasid al-Shari'ah Muhammad Q. The end of Ibn Asyur is to confirm the marriage bond (*Asirah al-Nikah*). Where the efforts of Minangkabau traditional leaders and communities in making and enforcing rules regarding the prohibition of inter-ethnic marriages are aimed at minimizing the occurrence of anything undesirable in the household. Strengthening the ties of lineage and kinship (*Asirah al-Nasab wa al-Qurabah*), where the efforts made by the Minangkabau people are to really pay attention to the lineage of people who are going to marry, with the aim of preventing same-sex or consanguineous marriages. Strengthening bonds of marriage or distant family kinship (*Asirah al-Sihar*), where the aim of this rule is to prevent mutually mocking behavior towards men who enter into same-ethnic marriages, so that men in the wife's family are not alienated, good communication is established and mutual respect between relatives from marriage. Furthermore, Minangkabau customary rules regarding the prohibition of inter-ethnic marriages also apply the principle of freedom (*al-Hurriyah*), where traditional leaders and communities do not absolutely prohibit same-ethnic marriages because basically each person has the right and freedom to choose their life partner, but there are separate consequences for those who violate these rules, such as not being able to hold traditional wedding receptions and leaders and indigenous peoples will not interfere in the marriage activities.

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