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**THE CONCEPT AND EXISTENCE OF KAFA'AH MARRIAGE BETWEEN KRABAT COMMUNITY OF KYAI BATU AMPAR PERSPECTIVE MAQOSID AL-SHARIAH IMAM ASY- SYATHIBI**

**KONSEP DAN EKSISTENSI KAFA'AH PERNIKAHAN ANTAR KRABAT KOMUNITAS KYAI BATU AMPAR PERSEPEKTIF MAQOSID AL- SYARIAH IMAM ASY- SYATHIBI**

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**ABSTRACT**

*The purpose of this study is to investigate the concept of Kafa'ah or the selection of a mate based on equality is an urgency in marriage. The criteria for kafa'ah in general vary from place to place, as well as what happened to the community of kyai batu ampar Madura in their marriage system through the concept of kafa'ah by way of marriage between relatives. The author looks for answers through observation by asking the perpetrators of inter-kinship marriages of kyai Batu Ampar Madura. This type of research is an empirical juridical research (field research) which was conducted in Madura Pamekasan. The sources of data taken are primary data sources, namely 3 respondents who have married between relatives, and some secondary data the authors take from books or journals related to the concept of kafa'ah in marriage. The results of research related to the concept of kafa'ah from the perspective of Maqisid Al-Syariah Imam Al-Syatibi in marriages between relatives of the kyai of Batu Ampar Madura have three criteria as tools to maintain the situation, namely; Aspects of heredity, religion, and property, can be proven with these three aspects it is easier to form the Sakinah Mawaddah Warahmah family.*

**Keywords:** *Kafa'ah, Maqosid As-Sharia, Marriage, Kyai Batu Ampar.*

**ABSTRAK**

*Tujuan penelitian ini adalah untuk menganalisis konsep Kafa'ah atau pemilihan jodoh berdasarkan kesetaraan merupakan urgensi dalam pernikahan. Kriteria kafa'ah pada umumnya berbeda-beda dari satu tempat ke tempat lain, begitu pula yang terjadi pada masyarakat kyai batu ampar Madura dalam sistem perkawinannya melalui konsep kafa'ah dengan cara kawin antar kerabat. Penulis mencari jawaban melalui observasi dengan menanyai para pelaku nikah siri kyai Batu Ampar Madura. Jenis penelitian ini adalah penelitian yuridis empiris (field research) yang dilakukan di Madura Pamekasan. Sumber data yang diambil adalah sumber data primer yaitu 3 responden yang telah menikah antar saudara, dan beberapa data sekunder penulis ambil dari buku atau jurnal yang berkaitan dengan konsep kafa'ah dalam pernikahan. Hasil penelitian terkait konsep kafa'ah dalam perspektif Maqisid Al-Syariah Imam Al-Syatibi dalam perkawinan antar kerabat kyai Batu Ampar Madura memiliki tiga kriteria sebagai alat*

<b>Al-'Adalah:</b>	e-ISSN: 2503-1473
Jurnal Syariah dan Hukum Islam	Vol. 7, No. 1, Juni 2022, 01-18

untuk mempertahankan keadaan, yaitu; Aspek keturunan, agama, dan harta, dapat dibuktikan dengan ketiga aspek tersebut lebih mudah membentuk keluarga Sakinah Mawaddah Warahmah.

**Kata Kunci:** *Kafa'ah, Maqosid As-syariah, Pernikahan, Kyai Batu Ampar.*

## INTRODUCTION

Human nature on earth as social beings has the desire to live together by carrying out social relations. So it can be clearly known that in fact to form a legitimate man and woman in running a household in accordance with the recommendations of Islamic law is needed with the existence of wedding first.<sup>1</sup>

Marriage is one of the most important parts of human life, in order to expect the creation of a harmonious family and be blessed by Allah SWT. So in terms of choosing a potential partner is one very important part in marriage. There are several motivations that encourage a man to choose a woman for his life partner in marriage, as well as the encouragement of a woman when choosing a man to be her life partner.<sup>2</sup> Marriage can also be interpreted as an inner and outer bond between a man and a woman as husband and wife with the aim of forming an eternally happy family (household) based on God Almighty.<sup>3</sup>

Selective couples are expected to be able to create a harmonious household, many dynamics are carried out to achieve this, such as trying to find a potential partner or a selective life partner. However, this effort is not a guarantee, but doing so is a form of endeavor to achieve the goal and become a Sakinah Mawaddah Warahmah (SAMARA) household.<sup>4</sup>

The explanation above clarifies the importance of choosing and sorting out a suitable life partner, even someone who is going to get married must find the best partner for him, so that the main wishes in marriage can be achieved perfectly, according to expectations. At least people who get married can reduce negative

<sup>1</sup> Defanti Putri Utami, "Batas Minimal Perkawinan Indonesia, Perspektif Hukum Islam, Hukum Positif dan Medis," *Jurnal Al-Adalah*, Vol. 6, No. 2 (Desember 2021), 188.

<sup>2</sup> Achmad Mubassir Dan Isa Anshori, "Konsep *Kafa'ah* Antara Golongan *Bā'alawī* Dan *Mashāyikh* Dalam Perkawinan Masyarakat Arab Ampel Kota Surabaya," *Jurnal Maqosid*, Vol. 8, No. 1, (2019).

<sup>3</sup> Nastangin, N. "Tinjauan Filosofis (Pasal 2 Ayat (2) Undang-Undang Pernikahan No 1 Tahun 1974 Tentang Pencatatan Pernikahan)". *Mahakim*, 2(1). (2018).

<sup>4</sup> Ahmad Muzakki, "Kafaah dalam perkawinan endogami pada keturunan Arab di Kraksan Probolinggo," *Istidlal*, Vol, 1 No,1 (April 2017), 19.

<b>Al-'Adalah:</b> Jurnal Syariah dan Hukum Islam	e-ISSN: 2503-1473
	Vol. 7, No. 1, Juni 2022, 01-18

impacts, such as reducing divorce rates, domestic violence infidelity and other negative impacts.

At first, happiness when viewed from the perspective of lineage and property will lead to various problems or polemics, the polemic itself is like causing a caste comparison for the two, whereas in essence all humans are equal in the sight of Allah SWT, comparable. Also, what really needs to be considered in choosing a mate is the haliyah and amaliyah of the two potential partners who will take their new life together.<sup>5</sup>

Kafa'ah is essentially to protect women and their families from the negative perspective of the community or other families. Women who want their offspring to have the same lineage as themselves should not be forced to marry men who are not as kufufu, nor should female guardians who want their family be made into gossip, should not be forced to marry off their children to those who are not equal.

Talking about marriage, there will be some interesting problems that always need to be studied, such as the problem of compatibility in choosing a partner, in the science of fiqh it is explained by the term kafa'ah where the meaning of kafa'ah (Equality) is Etymologically equal, balanced or harmonious, meaning kafa' ah in marriage is that the husband must be selective for his wife, in the sense that they have the same position in social, moral and economic matters.<sup>6</sup>

Kafa'ah in marriage is a variable that is able to produce the formation of harmony between the two candidates, and is more supportive of the safety of women from failure or turmoil in the household. The more similarities there are in the position of men and women, the opportunities for both (couple) are more secure and are further away from failure.<sup>7</sup>

Among the fuqaha, there are differences of opinion regarding the concept of kafa'ah, especially regarding the factors that are taken into account in determining one's kufu. According to the Hanafi school, the factors of lineage, Islam, work, independence, religion, and property determine equivalence, while according to the

<sup>5</sup> Tihani dan Shohari Syahrani. *Fikih Munakahat; Kajian Fikih Nikah Lengkap*, (Jakarta: Rajawali Press, 2009), 56.

<sup>6</sup> Rusdaya Basri, *Fikih Munakahat Mazhabul Arba' dan kebijakan Pemerintah*, (Kaffah Learning Center Sulawesi Selatan), 64.

<sup>7</sup> Muh Ilham Azis, Achmad Musyahid, Fatmawati, "Tinjauan Hukum Islam Terhadap Nilai-Nilai Kafaah dalam Praktik Perkawinan Sayyid di Sulawesi Selatan," *Jurnal Al- Qadau*, Vol 8 Nomor 2 (Desember 2021).

Maliki school, only religious factors are taken into account in determining the concept of equivalence. In the Shafi'i school of thought, lineage, religion, independence, and profession factors are taken into account in determining a person's equivalence.<sup>8</sup>

While the reality that occurs in society, especially the kyai Batu Ampar Madura community regarding the concept of kafa'ah in marriage, it seems as if this has been deeply rooted in habits and has become a custom in society. Kafa'ah seems to be a benchmark in determining a life partner to continue to a more serious level. If you refer to the Islamic tradition, the purpose of this kafa'ah is limited in terms of piety and devotion to worship. If kufu 'or kafaah is interpreted as an equation then this can give birth to social strata in people's lives. While Islam itself rejects the existence of social caste, because in essence what God sees towards his servant is the piety of the servant.<sup>9</sup>

In the case of the necessity of kinship kafaah for the community of descendants of Kyai Batu Ampar, this problem is not in accordance with the sap, this is not in accordance with the similarities in Islam. It's not that in Islam there is no difference, it doesn't distinguish one group from another, whether a person is good or not is determined by his heart and practice. So if it is concluded that the necessity of prioritizing one lineage in marriage between clans or tribes does not match the spirit of the concept of kafa'ah in Islam.

Also presented by KH. Fathur Rosi as the caretaker of the Islamic boarding school in Pamekasan, Madura, he advised his sons and daughters that if they were to marry in the future, they should choose a strong religion, even though he is the son of someone who has a low degree in the eyes of humans. This is due to the understanding of the Prophet's command to find a partner because of his religion. He also alluded to the practice of kafa'ah that has been going on among Islamic boarding schools, especially in Pamekasan, which has been going on for a long time. According to him, marriage between one kyai's son and another kyai's daughter is a culture that is no longer relevant.<sup>10</sup>

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<sup>8</sup> Paimat Sholihin, "Kafaah Dalam Perkawinan Perspektif Empat Mazhab," *Journal Sharia Economic Management Business*, Vol. 2, No. 1, (Februari 2021).

<sup>9</sup> Muhamad Adlan, Moh. Yustafad, "Pandangan KH. Husain Muhammad Tentang Kafa'ah Dalam Pernikahan Untuk Membentuk Keluarga Bahagia," *Jurnal Hukum Keluarga Islam*, Vol 4, Nomor 1, (Desember 2021).

<sup>10</sup> Fahmi Assulthoni, "Analisis Masalah Terhadap Konsep Kafa'ah Dalam Tradisi Perkawinan Di Kalangan Pesantrenpamekasan," *Journal of Islamic Family Law*, Vol 08, No 01, (Juni 2018).

<b>Al-'Adalah:</b> Jurnal Syariah dan Hukum Islam	e-ISSN: 2503-1473
	Vol. 7, No. 1, Juni 2022, 01-18

Based on the results of the analysis above, it can be seen that the analysis carried out by previous studies is very different from the title of the problem that the author will raise. As for the difference in this study, namely the form of the kafa'ah variable itself, case studies and the analytical knife used, this analyst focuses on marriages between relatives who are married to non-community kyai Batu Ampar and not those married to community kyai Batu Ampar it is separate in the matter of kafa'ah. The similarities with Husni Hasbi's research are that they both explain the concept and existence of kafa'ah in marriage law.

The description above can be concluded that this research is very feasible to be studied and analyzed, because it is more specific to the concept of marriage kafa'ah community kyai Batu Ampar Madura. And this research has not yet been investigated with the analysis knife of Maqosid Al-Sharia Imam Asy-Syathibi.

## **METHOD**

The purpose of this study is to study and analyze the concept of kafa'ah and the existence of the Kyai Batu Ampar community in Lumajang Regency, from the perspective of Maqosid Al-Sharia Imam Asy-Syathibi. This study uses a qualitative approach to describe and analyze social phenomena, events and activities. The type of research used is a field study, through interviews (Field research). This research reveals something that is factual and in accordance with the reality that occurs in the field. The sources of data taken are primary data sources, namely 3 respondents who have married between relatives of the Batu Ampar kyai. The secondary data sources are books and books that explain about marriage.

## **DISCUSSION**

Kafa'ah should exist in marriage, with the existence of kafa'ah in marriage it will be easier to form a happy family, sakinah mawaddah wa Rahmah. However, following the concept of kafaah, there will certainly be different interpretations between one scholar and another, one of them is Imam al-Mawardi where he interprets kafaah in language as balanced, namely there is a balance between a man and a woman in marriage. al-Mawardi in determining Kafa'ah he put forward more requirements than several criteria that had previously been developed and known to the general public

through the hadith of the Prophet Muhammad which stated that women are married for four reasons, namely because of wealth, lineage, beauty and because of their religion, Imam al-Mawardi added several criteria as mentioned in his book al-Hawi al-Kabir adding criteria or conditions of kafaah to seven, namely religion, lineage, independence, livelihood, age and safety from disgrace, as something that must be considered when going to marry.<sup>11</sup>

In this concept, the standard limit for determining kafa'ah is the status of the person, the woman who is the person a man wants to propose to, at least she has the same haliyah, as in terms of lineage, religion, if there is a deficiency for the woman becomes an obstacle. . If the woman can accept the man's shortcomings, it is not a problem, it becomes a problem if the men cannot accept the woman's shortcomings (unequal), so it is not according to the size of the elite or high ranking and high status groups. What is considered by the general public to be incompatible with a woman and her family status, then it cannot be used as an excuse by her guardian to prevent marriage, because as a result it can lead to even more severe disasters. In any case, a guardian has no right to force him to marry someone he does not love. Because this often brings disaster and damage to the household.<sup>12</sup> In this case, the basis or argument for the concept of kafa'ah as in the word of Allah SWT as follows:

يَأْتِيهَا النَّاسُ إِنَّا خَلَقْنَاكُمْ مِنْ ذَكَرٍ وَأُنْثَىٰ وَجَعَلْنَاكُمْ شُعُوبًا وَقَبَائِلَ لِتَعَارَفُوا ۗ إِنَّ أَكْرَمَكُمْ عِنْدَ اللَّهِ أَنْفُسُكُمْ ۗ إِنَّ اللَّهَ عَلِيمٌ خَبِيرٌ

"O people! Indeed, We created you from a male and a female, then We made you into nations and tribes so that you might know one another. Verily, the most honorable of you in the sight of Allah is the one who is most pious. Verily, Allah is All-Knowing, All-Aware."<sup>13</sup>

In addition, there are similarities in the Qur'an to choose a partner in marriage, instructions in choosing a partner can be seen in the word of Allah SWT, as a practical guide to the implementation of marriage, including the word of Allah as follows;

وَأَنْكِحُوا الْأَيَامَىٰ مِنْكُمْ وَالصَّالِحِينَ مِنْ عِبَادِكُمْ وَإِمَائِكُمْ ۚ إِنْ يَكُونُوا فُقَرَاءَ يُغْنِهِمُ اللَّهُ مِنْ فَضْلِهِ ۗ وَاللَّهُ وَاسِعٌ عَلِيمٌ

<sup>11</sup> Nazaruddin Yusuf, "Menelusuri Pemikiran Imam al-Mawardi Kafaah Syarat Mukhtabarah Dalam Perkawinan," *Jurnal Penelitian Sosial Agama*. Vol. 3 No. 1 (2018).

<sup>12</sup> Haryadi Z. "Kafa'ah: Implementasi Standar Pasangan Ideal Menurut Fikih Dalam Hukum Perkawinan Di Indonesia," *Ijtihad Jurnal, Hukum Islam Dan Pranata Sosial*. Vol, 33 no 1, (2017)

<sup>13</sup> Al-Qur'an, 49: 13.

"And marry those who are single among you, and also those who are worthy (to marry) of your male and female slaves. If they are poor, Allah will empower them with His bounty. And Allah is Extensive (His gift), All-Knowing."<sup>14</sup>

The textual narrative above mentions the desired and expected characteristics in building a household that is *sakinah mawaddah warahmah* as well as being able to be relied on in many ways such as responsibility, and socializing.

In the Hadith of the Prophet it is also stated;

إذا خطب إليكم من ترضون دينه وخلقه فزوجوه؛ إلا تفعلوا تكن فتنة في الأرض، وفساد

عريض

"The Prophet Muhammad said; If someone comes to you, whose morals and religion are pleasing to you, then marry him, if you don't do it, there will be mischief on earth."<sup>15</sup>

Also mentioned in a Riwayah, Kholasah Hukumul Al-Hadith regarding the criteria for choosing a life partner as follows;

حَدَّثَنَا مُسَدَّدٌ حَدَّثَنَا يَحْيَى عَنْ عُبَيْدِ اللَّهِ قَالَ حَدَّثَنِي سَعِيدُ بْنُ أَبِي سَعِيدٍ عَنْ أَبِيهِ عَنْ أَبِي هُرَيْرَةَ رَضِيَ اللَّهُ عَنْهُ عَنْ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ تُنْكَحُ الْمَرْأَةُ لِأَرْبَعٍ لِمَالِهَا وَلِحَسَبِهَا وَجَمَالِهَا وَلِدِينِهَا فَاظْفَرُ بِذَاتِ الدِّينِ تَرَبَّتْ يَدَاكَ

"Musaddah told us, Yahya told Musaddah, from Ubaidillah said Sa'id bin Abi Sa'id told me what he got from his father, from Abu Hurairah Ra, from the Prophet SAW. He said, "Marry a woman for four reasons, because of her lineage, religion, and wealth and beauty, and hold on to her religion so that you will find happiness."<sup>16</sup>

Based on the four criteria above, Islam is more focused on religion. Religion is very significant in choosing a mate because this is an effort for prospective husbands and prospective wives to have wider opportunities in forming *sakinah, wawaddah, warahmah* households. So that compatibility in marriage is a variable that can support the formation of the happiness and prosperity of a married couple, it is more secure for women to be safe from failure and shock in running the household.

The scholars determine the criteria for determining whether or not a person is *kufu*. According to Imam Malik, there are two characteristics of *kafa'ah*, namely religion

<sup>14</sup> Al-Qur'an, 24: 32.

<sup>15</sup> Ibnu Majah, Sunan Ibnu Majah, *Mausu'ah Al-Hadis Al- Syarif, Kitab Al-Nikah*. Bab; Al-Kafa'ah Hadis nomor 1957.

<sup>16</sup> Abu Hurairah, *Kholasah Hukumul Al- Hadist*, 5090.

Al-'Adalah: Jurnal Syariah dan Hukum Islam	e-ISSN: 2503-1473
	Vol. 7, No. 1, Juni 2022, 01-18

and condition, meaning that it means being safe from physical or mental disabilities, not a matter of honor or heredity.

According to Imam Hanafi there are 6 kafa'ah criteria including; lineage, religion, Islam, property, profession. According to Imam Shafi'i there are 6 criteria for kafa'ah; including independence, chastity, religion, lineage, no physical or mental disabilities. Meanwhile, according to Imam Hambali, the criteria for kafa'ah are five of them; profession, religion, lineage, property, independence.<sup>17</sup>

In the compilation of Islamic law (KHI) regarding the prevention of marriage, article 61 chapter X that no sekufu 'cannot be used as an excuse to prevent marriage, unless there are differences in religion. This indicates that kafa'ah does not include a reason so as to prevent a marriage, but it is inequality in religion that is the measure of kafa'ah.<sup>18</sup>

Based on the clarification above, kafa'ah is not a condition for a valid marriage, but includes a condition that allows the woman or her guardian to continue or cancel the marriage if indeed the male candidate is not suitable (kufu'), and the woman did not please him. It's the same as having physical or mental disabilities as mentioned in the disgrace of marriage, (Uyubun Nikah) which in that point of view can be used as a prospect for Faskh Marriage (Cancelling the marriage).<sup>19</sup>

## MAQOSID AL-SHARI'AH THEORY

Maqosid Al-Shari'ah is linguistically composed of two words, namely Maqosid and Syari'ah. Maqosid is the plural form of Maqoshid which means purpose or intention. Shari'ah literally means الموضح الى الماء which means the way to the water source. The road to water sources can also be said as dynamics to the main source, some of the objectives of the Shari'a in Maqosid Al-Shari'ah Imam Al-Syatibi are seen from two aspects. First, the law. Second, it is based on the human intent that is aimed at or burdened by the Shari'a. The first purpose relates to the aspect that God intended in determining the principles of the teachings of the Shari'a, and from God's position it aims to establish them to be understood or understood, also so that humans

<sup>17</sup> Wahbah Zuhaily, *Al- fiqh al- Islam wa- Adillatuhu*, Juz, VII (Cet. III; Beirut; Dar- al Fikri 1409 H/ 1989 M), 235-236.

<sup>18</sup> Abdurrahman, *"Kompilasi Hukum islam ( KHI) Indonesia"*

<sup>19</sup> Tihami dan Sohari Sahrani, *"Fikih Munakahat"*, 64



<b>Al-'Adalah:</b>	e-ISSN: 2503-1473
Jurnal Syariah dan Hukum Islam	Vol. 7, No. 1, Juni 2022, 01-18

who are burdened with Shari'a can carry out at the same time they understand the intent and purpose of the wisdom of the Shari'a.<sup>20</sup>

### **CONCEPTION AND EXISTENCE OF MARRIAGE KAFA'AH BETWEEN RELATIVES OF KYAI BATU AMPAR MADURA**

Regarding the term kafa'ah (selective) also occurs among the Kyai Batu Ampar Madura community, these circles determine special benchmarks for sorting and selecting potential partners in marriage. This selectivity is used as a benchmark in the concept of sekufu' whether or not the person is with his daughter. The people of the Ampar Madura stone community are also known as Lora (Gus) for the nickname of the son and Neng (Nyai) for the nickname Petri, usually this nickname is only reserved for the sons and daughters of the descendants of the kyai.

"A woman from the descendants of the kyai of Batu Ampar Madura cannot marry a person who is not of Batu Ampar descent. This goal is only to maintain, protect and preserve the purity of lineage, religion and property, that way, if a Neng (Nyai) marries someone from a different clan or lineage, that person can decide the lineage (lineage) of their ancestor Sheikh Abd. Mannan alias Persuade Kosambih."<sup>21</sup>

Marriage is a journey to obtain and preserve offspring as well as what happened among the descendants of the Batu Ampar kyai in Madura, these circles have implemented inter-kinship marriages and this has become a tradition and has even been integrated into their lives and is difficult to replace because it has been passed down from generation to generation in the past. every child and granddaughter.

"The descendants of the Batu Ampar kyai both in Madura and in Java are all descendants of Sheikh Abd. Mananan (Bujuk Kosambih) is located in Pamekasan Regency, Madura, even though he is still the son of Syarif Husain Banyusangka, Bangkalan Madura. Syarif Husain, is one of the immigrant scholars, he is still a descendant of Sunan Ampel Surabaya. Anthropologically the nickname Bujuk Kosambi is not an ordinary term, but it contains a spirit of fighting, preaching and Taqorrub ilallah".<sup>22</sup>

<sup>20</sup> Abd. Rasyid As'ad, Konsep Maqosid Al- Syari'ah dalam Perkawinan, Hakim Pengadilan Mojokerto, 17 Maret 2022.

<sup>21</sup> Ubaidillah, *Wawancara*, Madura, 26 Februari 2022.

<sup>22</sup> Nurul Hikam, *Keturunan Kyai Batu Ampar Madura, Wawancara*, 26 Februari, 2022.

Then in the matchmaking process between the descendants of the kyai Batu Ampar according to KH. Muhammad Mukhlas matchmaking is carried out by both parents without any ties or it may not be the parents who determine the matchmaking problem, but there is a condition that one descendant of the Batu Ampar kyai must be.

"Marriage between relatives of the descendants of the Batu Ampar kyai is usually without a fiancé, if there is even a sirri must be married, but my daughter has found her own soul mate and coincidentally the boyfriend is still in the same line as the descendants of the kyai of Batu Ampar Madura, and my only child is a boy. find a soul mate with a woman of a different lineage, and I do not forbid it because our reason is that the lineage is still connected if the male is still a descendant of the Batu Ampar kyai, if my daughter is a girl and then gets a candidate from someone else's lineage, not one clan from us in the sense of not being sekufu' so I forbid it."<sup>23</sup>

#### **THE CONCEPT OF MARRIAGE KAFA'AH BETWEEN RELATIVES OF THE BATU AMPAR KYAI COMMUNITY FROM THE MAQOSID AL-SHARIA PERSPECTIVE**

Regarding the term kafa'ah (selective) also occurs among the Kyai Batu Ampar Madura community, these circles determine special benchmarks for sorting and selecting potential partners in marriage. This selectivity is used as a benchmark in the concept of sekufu' whether or not the person is with his daughter. The community of Batu Ampar Madura is also known by the name Lora (Gus) for the nickname of the son and Neng (Nyai) for the nickname of the daughter, usually this nickname is only reserved for the sons and daughters of the descendants of the kyai.

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<sup>23</sup> Muhammad Mukhlas. Keturunan Kyai Batu Ampar Madura, *Wawancara*, 27 Februari 2022.

<sup>24</sup> Ubaidillah, *Wawancara*, Lumajang, 26 Februari 2022.

*"The descendants of the Batu Ampar kyai both in Madura and in Java are all descendants of Sheikh Abd. Mananan (Bujuk Kosambih) is located in Pamekasan Regency, Madura, even though he is still the son of Syarif Husain Banyusangka, Bangkalan Madura. Syarif Husain, is one of the immigrant scholars, he is still a descendant of Sunan Ampel Surabaya. Anthropologically, the nickname "Bujuk Kosambi" is not an ordinary term, but it contains the spirit of fighting, preaching and Taqorrub ilallah.<sup>25</sup>*

Then in the matchmaking process between the descendants of the kyai Batu Ampar according to KH. Muhammad Mukhlas matchmaking is carried out by both parents without any ties or it may not be the parents who determine the matchmaking problem, but there is a condition that one descendant of the Batu Ampar kyai must be.

*"Marriage between relatives of the descendants of the Batu Ampar kyai is usually without a fiancé, if there is even a sirri must be married, but my daughter has found her own soul mate and coincidentally the boyfriend is still in the same line as the descendants of the kyai of Batu Ampar Madura, and my only child is a boy. find a soul mate with a woman of a different lineage, and I do not forbid it because our reason is that the lineage is still connected if the male is still a descendant of the Batu Ampar kyai, if my daughter is a girl and then gets a candidate from someone else's lineage, not one clan from us in the sense of not being sekufu' So I forbid it."<sup>26</sup>*

In the problem of the matchmaking model between the relatives of the kyai of Batu Ampar Madura, there are several differences with the others. But on the other hand there is a point in common with the necessity to choose a selective mate (Sekufu'), this rule is so binding that if one of his descendants violates it in the sense of marrying a different clan (different kin) then there are consequences such as breakup of lineage and scolding from the family.<sup>27</sup>

Thus it can be said that the marriage between relatives in the community of kyai Batu Ampar Madura is still well maintained and implemented.

**Table I: Actors of Inter-Kabupaten Marriage of Kyai Batu Ampar Madura Community**

No.	Informant Name	Kafa'ah Law	Kafa'ah Purpose	Kafa'ah Standardization
1	Ubaidillah	Mandatory among the Batu Ampar Madura Community	Defending Lineage and Religion	Same in Nasab
2	Nurul Hikam	Mandatory among the Batu Ampar Madura Community	Defending lineage and religion, wealth.	Similarity in Nasab

<sup>25</sup> Nurul Hikam, *Wawancara*, Madura, 26 Februari, 2022.

<sup>26</sup> Muhammad Mukhlas, *Wawancara*, Lumajang, 27 Februari 2022.

<sup>27</sup> Ubaidillah, *Wawancara*, Lumajang, 26 Februari 2022.

3	Muhammad Mukhlas	Mandatory among the Batu Ampar Madura Community	Defending Lineage and Religion	Similarity in Nasab
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So with the reasons above, it is the custom of a kyai, especially the descendants of the kyai of Batu Ampar Madura, to marry off their descendants with the same lineage. However, the consideration of the kyai in matching and marrying their sons and daughters is not enough on their wealth, the other most important factor is the problem of amaliyah. This is believed to make the family of their sons and daughters live in harmony.

### **THE FACTORS OF MARRIAGE BETWEEN RELATIVES OF THE KYAI OF BATU AMPAR MADURA**

The community of kyai Batu Ampar Madura still applies marriage between relatives of one descendant of Sheikh Abd Mannan Batu Ampar Pamekasan Madura (Bujuk Kosambih). It is still very visible and firmly attached to his daily life. One of the phenomena is how the community phenomenon of the Batu Ampar kyai maintains the marriage system or matchmaking between relatives which they have believed in since their ancestors. This marriage system is greatly influenced by the community by culture, daily social life, especially beliefs which are the main basis for the existence of the kyai Batu Ampar Madura community.

There are three factors behind the necessity of similarity in lineage in the marriage of the descendants of the kyai Batu Ampar Madura, namely heredity, the madzhab adhered to, and social factors. with the same kin, the lineage will be broken and the family will get scolded and ridiculed.<sup>28</sup>

Similarity in lineage is something that is considered very important in marriage among the descendants of the Batu Ampar Madur kyai, this issue has become a point of view among scholars and has become a conversion of opinions and is accompanied by arguments as supporters. The Syafi'I School and the Hambali School are groups that are very supportive of the kafa'ah tradition that applies to the descendants of the Batu Ampar kyai, Madura.

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<sup>28</sup> Nurul Hikam, *Wawancara*, Madura. 26 Februari, 2022.

However, the most important factor in this inter-kinship marriage is the lineage factor, because the core purpose and goal of the descendants of the Batu Ampar kyai is that their sons and daughters must marry people who have the same lineage, regardless of their occupation and economy, besides that there are other factors. very strong belief in their religion.

On the other hand, factors that become criteria outside of sekufu' in religion are an upright and polite life attitude, not because of heredity, beauty, wealth, and so on. A pious man even though he comes from low descent has the right to marry a woman of high rank, a man who has any greatness has the right to marry a woman who has a high degree and fame. Likewise, even a poor man has the right and is allowed to marry a wealthy woman, as long as the man is Muslim and can abstain from begging.<sup>29</sup>

Meanwhile, M. Quraish Shihab has his own view on the concept of kafa'ah that kafa'ah in marriage is a very important thing that must be considered, namely in terms of religion and morals. So it is permissible for a poor but pious man to marry a rich woman.<sup>30</sup>

**Table II: Factors Required Kafa'ah Nasab In Marriage Between Krabat Kyibatu Ampar Madura**

No	The factor of the necessity of the similarity of kinship marriage between the kyai of Batu Ampar Madura, kyai	Information
1	Nasab	It is a tradition that must be applied since the ancestors.
2	People	If you marry off your sons and daughters with different backgrounds, then you will get insults from your family and other people, the reason being that you are not as same.
3	Which Schools Are Followed	The tradition of kafa'ah among descendants of kyai Batu Ampar Madura is part of the opinion of the Syafi'iah and Hanabilah groups which are indeed quite strict in terms of similarity in lineage for these groups.

<sup>29</sup> Syarifah Gustiawati, Novia Lestari, "Aktualisasi Konsep Kafa'ah Dalam Membangun Keharmonisan Rumah Tangga." *Jurnal Ilmu Syariah*, Vol 4 No. 1 (2016)

<sup>30</sup> M. Quraihsh Shihab, *Wawasan Al-Qur'an*, (Bandung: Mizan, 1999), 35.

## **THE CONCEPT OF MARRIAGE KAFA'AH BETWEEN RELATIVES OF THE BATU AMPAR KYAI COMMUNITY FROM THE MAQOSID AL-SHARIA PERSPECTIVE**

Based on the explanation above, the author relates the concept of kafa'ah by using the analysis knife of Maqosid Al-Sharia Imam Asy-Syathibi as follows;

Marriage is viewed from the kafa'ah aspect with the perspective of Maqosid Al-Sharia Imam Asy-Syathibi, which initially in the view of the ulama was a form of effort to find the equivalent in terms of lineage, religion and property. Therefore, it can be emphasized that equality can be seen through conformity which prioritizes compatibility of heart and is based on a pious balance between the two prospective couples. So that it can be ignored to seek selectivity to go to the Sakinah family, Mawaddah Warohmah.<sup>31</sup>

The absence of a clear argument regarding kafa'ah in Islam, makes the issue of kafa'ah raises differences of opinion among Muslims themselves. The great scholars in the field of jurisprudence from the four high priests of the madhhab, namely Imam Abu Hanifa, Imam Malik bin Anas, Imam Muhammad bin Idris al-Shafi'i, and Imam Ahmad bin Hambal have a different view on the concept of kafa'ah in a marriage. . The basic concept of kafa'ah according to Hanafi scholars is composed of nasab (descendants or nationality), Islam, hirfah (profession), hurriyah (independence), diyannah (character), and wealth.<sup>32</sup>

Imam Abu Hanifah put kafa'ah as one of the conditions in the marriage process, on the grounds that it is often the case that a marriage bond does not use or ignores the concept of kafa'ah and the marriage ends in an annulment or is terminated by the female guardian. From this case it can be seen how the position or power of a guardian in the marriage bond of a woman or a person under her guardianship.

Then, Malikiyah scholars are of the view that the criteria in kafa'ah are only diyannah or also called character and free from various physical defects, especially large defects that can cause a woman to be able to exercise her khiyar rights or voting rights, such as: leprosy, madness or sopak disease. While in economic matters, independence, lineage, and a profession are only considerations. Furthermore, these Shafi'i scholars have a concept that is almost the same as the Hanafiyah scholars and

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<sup>31</sup> Abu Ishaq Al-Syatibi, *Al-Muafaqat Fi Ushul As-Syari'ah*, (Bairut; Dar Al-Kutub Al Islamiyyah), Juz II, 56.

<sup>32</sup> Amir Syarifuddin, *Hukum Perkawinan Islam Di Indonesia* (Jakarta: Kencana, 2006), 142.

there are slight differences, namely the Syafi'i scholars emphasize the element of independence and do not make wealth a qualification in kafa'ah.<sup>33</sup>

Kafa'ah criteria According to the Syafi'iyah scholars, such as nasab (nationality), quality of faith (religion), independence for oneself and a profession. Meanwhile, in the view of the Hanabilah scholars, they qualify various things that can be used as a benchmark or standard of a kafa'ah in a marriage bond, namely the understanding of religion, nationality, independence, work/livelihood, and wealth.<sup>34</sup>

The scholars have agreed to place the religious factor as a criterion for kafa'ah that must be prioritized even the Malikiyah scholars make the religious factor the most important factor that can be used as a criterion in kafa'ah. Therefore, the basis that can be used as a guide for someone who wants to carry out a marriage is the religious and character factors possessed by the prospective partner, because this is the basis for selecting a prospective partner in a marriage.

The creation of a sakinah family is the dream of every human being. Because it is undeniable that the sakinah family has a major role in increasing community efforts in practicing religious values, faith, piety and morality. As stated above, the family is a reflection of a nation, because the family is the smallest unit that supports and generates the birth of society and the nation. So, the family does have a big contribution to the rise and fall of a society. So that the goal of creating a sakinah family can be achieved, it is necessary if all family members are required to be able to know eight functions in the family, including: 1) Religious function. 2) Socio-cultural function. 3) The function of love. 4) Protect function. 5) Reproductive function. 6) Social and educational functions. 7) Economic function. 8) Environmental development function. But in general the realization of a peaceful family in the language of the sakinah family religion. The idealized family for all humans is a family of faith and material needs are met. Even though you don't have excess wealth, but still faith is enough. Don't let not having both of them is a family that is not ideal.<sup>35</sup>

<sup>33</sup> Suud Sarim Karimullah, "Pembaharuan Konsep Kafa'ah Dalam Perkawinan," *Jurnal Keislaman*, Vol 5, No 1, (Maret 2022).

<sup>34</sup> Djamaan Nur, *Fikih Munakahat* (Semarang: Dina Utama, 1993), 79.

<sup>35</sup> Marmiati Mawardi, "Keluarga sakinah dan konsep pola pembinaan," *Journal international ihya' 'ulum al-Din*. Vol 18 no 2. (2016).

## CONCLUSION

Based on the above discussion in the previous sub-sections and also reviewed from Maqosid Al-Sharia Imam Asy-Syathibi related to the reinterpretation of the conception of kafa'ah and its existence as follows; That Kafa'ah in marriage law is a conception made by fiqh scholars as conceptual to solve marriage problems, usually this is used in times of finding a mate, by looking at a person's background, selectivity and equality towards himself both in lineage, religion, and properties. In reviewing the concept of kafa'ah and its existence there are several differences according to the region and thinking patterns of each school. Therefore, it can be said that the concept of kafa'ah always experiences differences of opinion, even though kafa'ah is not a concept of pure stipulations from syar'i rules but is conceptualized as Islamic religious teachings in the realm of marriage legal problems.

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