

## Marriage within The Same Clan (Nikah Samih): An Analysis of Alas Customary Law from the Perspective of Islamic Law

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### Abstract

This study examines the prohibition of intra-clan marriage (Nikah Samih) in Alas customary law and analyzes the practice through Islamic law and *maqāṣid al-sharī‘ah*. The study aims to clarify the practice, its normative foundations, and its relevance to Islamic legal principles within the Alas community. A qualitative empirical design with an ethnographic approach guided the research; data were collected through literature review, in-depth interviews with customary and religious leaders, and field observation in Southeast Aceh Regency. Findings indicate that Alas customary law treats same-clan marriage as equivalent to consanguineous marriage, imposes strict prohibition, and applies customary sanctions as social control to protect family honour. The prohibition does not correspond to religiously forbidden (mahram) categories as listed in the Qur‘an (An-Nisa‘: 22–24). The community regards Nikah Samih as local wisdom that may be observed provided it does not conflict with *sharī‘ah*. A *maqāṣid* analysis demonstrates alignment of the customary prohibition with objectives of protecting lineage, life, intellect, and social harmony. The study concludes that *Nikah Samih* operates as a contextual customary norm motivated by *maṣlāḥah* (public interest) rather than as an absolute *sharī‘ah* rule.

**Keywords:** Alas customary law, nikah samih, islamic law, *maqāṣid al-syarī‘ah*, same-clan marriage.



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## Abstrak

Penelitian ini mengkaji larangan perkawinan satu marga (Nikah Samih) dalam hukum adat Alas dan menganalisis praktik tersebut dari perspektif hukum Islam dan *maqāṣid al-syārī‘ah*. Penelitian ini bertujuan menjelaskan praktik Nikah Samih, dasar normatifnya, serta relevansinya dengan prinsip-prinsip hukum Islam dalam masyarakat Alas. Penelitian menggunakan desain kualitatif empiris dengan pendekatan etnografi. Data dikumpulkan melalui studi kepustakaan, wawancara mendalam dengan tokoh adat dan tokoh agama, serta observasi lapangan di Kabupaten Aceh Tenggara. Temuan penelitian menunjukkan bahwa hukum adat Alas memandang perkawinan satu marga setara dengan perkawinan sedarah, menetapkan larangan secara tegas, serta menerapkan sanksi adat sebagai bentuk kontrol sosial untuk menjaga kehormatan keluarga. Larangan tersebut tidak termasuk dalam kategori perkawinan yang diharamkan secara *syar‘i* (*maḥram*) sebagaimana disebutkan dalam Al-Qur‘an Surah An-Nisā’ ayat 22–24. Masyarakat memaknai Nikah Samih sebagai kearifan lokal yang dapat dipatuhi sepanjang tidak bertentangan dengan prinsip-prinsip syariat Islam. Analisis *maqāṣid* menunjukkan bahwa larangan adat tersebut selaras dengan tujuan perlindungan terhadap keturunan, jiwa, akal, dan keharmonisan sosial. Penelitian ini menyimpulkan bahwa Nikah Samih berfungsi sebagai norma adat kontekstual yang dilandasi oleh pertimbangan *maṣlahah* (kemaslahatan umum) dan bukan sebagai ketentuan mutlak syariat Islam.

**Kata Kunci:** hukum adat alas, nikah samih, hukum islam, *maqāṣid al-syārī‘ah*, perkawinan satu marga.

## Introduction

Marriage is one of the most important social institutions in human life because it forms the foundation for family formation, the preservation of lineage, and the safeguarding of moral and social values within society. In the context of Muslim communities, marriage is understood not only as an outward legal bond between a man and a woman but also as a sacred covenant that carries religious and legal dimensions. Islam provides detailed rules regarding the conditions, pillars, and parties who may or may not be married to one another, as affirmed in the Qur‘an, Surah An-Nisa (4:22–24). These provisions demonstrate that Islam places significant emphasis on the clarity of lineage, family honour, and social order in matrimonial practice.<sup>1</sup>

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<sup>1</sup> Kementerian Agama RI, *Al-Quran Terjemahan Kementerian Agama RI* (Lajnah Pentashihan Mushaf Al-Qur‘an (LPMQ) Kementerian Agama RI, 2019).

Nevertheless, in the lived reality of Muslim communities in Indonesia, marriage practices are influenced not only by shari'a norms but also by local customary law that is deeply rooted and transmitted across generations. One example is the prohibition of same-clan marriage (*Nikah Samih*) in the Alas customary community of Southeast Aceh Regency.<sup>2</sup> In Alas adat, marriage between a man and woman from the same clan is perceived as a consanguineous union that violates customary norms and is therefore sanctioned socially and fined according to adat regulations. This prohibition is strictly enforced and remains observed by much of the Alas community to this day.

From the perspective of Islamic law, however, prohibitions on marriage are not based on shared clan membership but on *mabram* relationships whether by blood, suckling, or marriage as stated in Allah's revelation in QS. An-Nisa: 22–24:

وَلَا تَنكِحُوا مَا نَكَحَ أَبَاؤُكُمْ مِنَ النِّسَاءِ إِلَّا مَا قَدْ سَلَفَ إِنَّهُ كَانَ فَاحِشَةً وَمُفْتَأِتاً وَسَاءَ سَبِيلًا ۝ حَرِّقتْ عَلَيْكُمْ أُمَّهَتُكُمْ وَبَنِتُكُمْ وَأَخْوَنُكُمْ وَعَنْتُكُمْ وَخَلْتُكُمْ وَبَنْتُ الْأَخِ وَبَنْتُ الْأُخْتِ وَأُمَّهَتُكُمُ الَّتِي أَرْضَعْنَكُمْ وَأَخْوَنُكُمْ مِنَ الرَّضَاعَةِ وَأُمَّهَتُ نِسَابِكُمْ وَرَبَّابِكُمُ الَّتِي فِي حُجُورِكُمْ مِنْ نِسَابِكُمُ الَّتِي دَخَلْتُمْ هِنَّ فَإِنْ لَمْ تَكُونُوا دَخَلْتُمْ هِنَّ فَلَا جُنَاحَ عَلَيْكُمْ وَحَلَّا إِلَيْكُمُ الدِّينُ مِنْ أَصْلَابِكُمْ وَإِنْ جَمِعُوكُمْ بَيْنَ الْأَخْتَيْنِ إِلَّا مَا قَدْ سَلَفَ إِنَّ اللَّهَ كَانَ عَفُورًا رَّحِيمًا ۝ وَالْمُحْصَنَتُ مِنَ النِّسَاءِ إِلَّا مَا مَلَكَتْ أَمْبَاكُمْ كَيْنَتِ اللَّهُ عَلَيْكُمْ وَأَحْلَلَ لَكُمْ مَا وَرَاءَ ذِلِّكُمْ أَنْ تَبْتَغُوا بِأَمْوَالِكُمْ مُحْصِنِينَ عَيْرَ مُسْلِفِحِينَ فَمَا اسْتَنْتَعْمُ بِهِ مِنْهُنَّ فَأَتُوْهُنَّ أَجْوَهُنَّ فَرِيْضَةً وَلَا جُنَاحَ عَلَيْكُمْ فَيَمَا تَرَاضَيْتُمْ بِهِ مِنْ بَعْدِ الْفَرِيْضَةِ إِنَّ اللَّهَ كَانَ عَلَيْمًا حَكِيمًا

Translation: [22]. “Do not marry women whom your fathers married, except what has already occurred. Indeed, it is an outrageous and immoral practice and an evil way.”

[23]. “Prohibited to you (for marriage) are your mothers, your daughters, your sisters, your paternal aunts and maternal aunts, the daughters of your brother and the daughters of your sister, your foster-mothers who nursed you, your foster-sisters, the mothers of your wives, and the stepdaughters who are in your care because of the wives with whom you have consummated marriage — but if you have not consummated with them there is no sin upon you — and the wives of your sons who are of your own loins, and (it is forbidden) to combine two sisters in marriage, except for what has already occurred. Indeed, Allah is Oft-Forgiving, Most Merciful.”

[24]. “(It is also forbidden to marry) married women, except those whom your right hands possess. Lawful to you (otherwise) are all women beyond these, provided that you seek them in marriage with your wealth, not in fornication. And whatever you enjoy of them, give them their due dowries as an obligation. There is

<sup>2</sup> H. T. Akbar et al., ‘Sanksi Dan Denda Tindak Pidana Adat Di Tanah Alas.’, Pemerintah Kabupaten Aceh Tenggara, 2014.

*no blame upon you for what you mutually agree after the obligation. Indeed, Allah is Knowing and Wise.” (Kementerian Agama RI, 2019)*

The Qur'an in Surah An-Nisa' (4:22–24) establishes clear limits on women who are prohibited for marriage. These prohibitions fall into four principal categories: blood relations, suckling relations, marital relations, and existing marital status. Blood relations include mothers, daughters, sisters, aunts, and nieces. Suckling relations cover foster-mothers and foster-sisters. Marital relations encompass mothers-in-law, stepdaughters whose mothers have been consummated in marriage, daughters-in-law, and the prohibition of marrying two sisters simultaneously. Existing marital status refers to the prohibition of marrying a woman who is still legally married to another man. This classification demonstrates that Islamic law regulates marital prohibitions in a systematic manner to protect family integrity and ensure the validity of marriage in accordance with shari'a principles.

Within the Alas community, local religious leaders generally view same-clan marriage as not categorically prohibited under shari'a law. The restriction on *Nikah Samih* is instead understood as advisory in nature, serving to prevent practices that conflict with established customary norms. Religious leaders also associate this issue with the concept of *kafa'ah* (marital compatibility), particularly in relation to maintaining household harmony. Studies in family psychology suggest that marriages involving close kin may generate complex relational dynamics that increase the risk of disharmony. Proximate kinship often complicates conflict resolution, as family members may suppress grievances to preserve extended family relationships, thereby creating psychological pressure that disrupts marital balance. The customary restriction on same-clan marriage can therefore be interpreted as a preventive measure aimed at safeguarding domestic stability and avoiding broader social consequences, including status conflicts and damage to family honour.

Differences between customary norms and shari'a perspectives frequently generate social tension within the community. One party may assert the validity of the marriage under Islamic law because it falls outside Qur'anic prohibitions, while the other party rejects it based on adat restrictions. Such circumstances highlight the mediating role of religious scholars (*ulama*), who can clarify the legal standing of customary rules from an Islamic perspective and affirm that Islam acknowledges adat as part of social life insofar as it does not contradict explicit scriptural texts. A balanced understanding of both normative systems enables disputes to be resolved in a measured and peaceful manner.

From a normative standpoint, same-clan marriage does not fall within the category of marriages prohibited by Islamic law. The divergence between Alas customary rules and shari'a norms nevertheless produces academic debate and social challenges within the community. Cases frequently arise in which marriages are considered invalid under adat due to shared clan identity but remain legally valid under shari'a. This situation underscores the need for a comprehensive

examination of the *Nikah Samih* prohibition within the framework of Islamic law and for clearly defining the limits within which customary practices may operate without contravening shari‘a principles.

Previous studies contextualize this tension. Butar-Butar shows that semarga bans among the Batak Toba rest on patrilineal conceptions of single-lineage identity despite the absence of mahram status in Islamic law.<sup>3</sup> Research by Sari finds broad rejection of same-clan marriage among the Alas in Lawe Bulan District due to perceived cultural harm, alongside limited cases that proceed with acceptance of adat sanctions.<sup>4</sup> More recently, Aditia et al. document emerging generational shifts in Batu Mbulan Village, where younger cohorts increasingly question the ban under modernization pressures.<sup>5</sup>

Existing studies offer valuable accounts of how the prohibition of same-clan marriage operates within customary societies and shapes related social dynamics. Most of this literature, however, remains largely descriptive, emphasizing adat practices and patterns of social change without sufficiently engaging in normative analysis grounded in Islamic law and the objectives of the shari‘a (maqāṣid al-shari‘ah).<sup>6</sup> A maqāṣid-based approach is therefore essential to evaluate whether a customary norm, despite lacking explicit prohibition in classical fiqh, may nonetheless be regarded as consistent with the objectives of the shari‘a in terms of safeguarding human welfare.<sup>7</sup>

Research on maqāṣid al-shari‘ah identifies five fundamental objectives (*al-darūriyyāt al-khams*): religion, life, intellect, lineage, and property.<sup>8</sup> In the matrimonial context, *hijz al-nasl* (protection of lineage) is most directly relevant, while *hijz al-nafs* (life) and *hijz al-‘aql* (intellect) become pertinent when social practices risk producing conflict, psychological strain, or family breakdown. A maqāṣid lens therefore facilitates assessment of whether customary prohibitions serve genuine public benefit (*maslahah*) or instead contradict shari‘a aims.

Islamic legal theory also recognizes customary law (*‘urf*) as a contextual factor in legal determination provided it does not conflict with clear scriptural evidence. Indonesia’s multicultural setting renders the adat–shari‘ah relationship dynamic; many customary practices persist as elements of cultural identity while

<sup>3</sup> Ika Saprianti Butar-Butar, ‘Analisis Hukum Islam Dan Hukum Adat Dalam Pernikahan Semarga Pada Suku Batak Toba’, *Jurnal Ilmiah Mahasiswa Pendidikan [JIMEDU]* 1, no. 4 (2021): 1–10.

<sup>4</sup> Y. Sari, ‘Perkawinan Semarga Pada Suku Alas Di Kecamatan Lawe Bulan Kabupaten Aceh Tenggara’, *Jurnal Hukum Adat Nusantara* 6, no. 2 (2023): 134–49.

<sup>5</sup> Rozy Kurniady Aditia et al., ‘Pergeseran Larangan Perkawinan Semarga Dalam Masyarakat Adat Alas Di Desa Batu Mbulan Kabupaten Aceh Tenggara’, *Journal of Law & Policy Review* 2, no. 1 (2024): 60–73, <https://doi.org/10.34007/jlpr.v2i1.449>.

<sup>6</sup> A. W. Khalaf, *Ilmu Ushul Fiqh* (Ed. Revisi) (Dina Utama, 2014).

<sup>7</sup> M. R. Suhaimi and M. R. Hakim, ‘Al-Maqāṣid al-Syarī‘ah: Teori Dan Implementasi.’, *Jurnal Studi Syariah Kontemporer* 2, no. 1 (2023): 153–70.

<sup>8</sup> Paryadi, ‘Maqāṣid Al-Syarī‘ah: Definisi Dan Pendapat Para Ulama’, *Jurnal Pemikiran Hukum Islam* 4, no. 2 (2021): 201–16.

requiring careful legal and normative appraisal when they intersect with explicit religious provisions. Proportionate study of such intersections helps prevent the dominance of one normative order at the expense of the other.

Despite substantial descriptive work on same-clan marriage among the Alas, three gaps remain. First, integrative studies that combine empirical field data with normative analysis grounded in *maqāṣid al-sharī‘ah* are scarce. Second, prior research gives limited attention to how local religious authorities interpret adat prohibitions within the *sharī‘ah* framework. Third, systematic assessment of whether the *Nikah Samih* ban qualifies as local wisdom consonant with *maqāṣid* objectives is lacking. This study addresses those gaps by linking field evidence from the Alas community to a normative *maqāṣid* analysis, thereby clarifying whether the adat rule functions as complementary to *shari‘a* aims or as a competing norm.

Conceptually, this research begins with the assumption that not all customary norms absent from classical *fiqh* ought to be rejected, provided such norms do not conflict with fundamental *shari‘a* principles and in fact yield *maslahat* for society. Accordingly, the initial hypothesis of this study is that the prohibition of same-clan marriage in Alas adat, while not included among *shari‘i* prohibitions, is substantively aligned with the objectives of *maqāṣid al-syarī‘ah* particularly in safeguarding lineage and social harmony. This hypothesis will be tested through empirical data analysis and normative examination of Islamic legal sources.

This study employs a qualitative empirical approach with an ethnographic method. This approach was chosen because it is capable of uncovering the social and cultural meanings of the *Nikah Samih* prohibition directly from the perspectives of adat actors and religious leaders within the Alas community. Data were collected via field observation, in-depth interviews with customary leaders, *ulama*, and relevant stakeholders, and literature review of adat documents and Islamic legal sources. The obtained data were then analyzed through data condensation, data presentation, and conclusion drawing to identify patterns, meanings, and the relevance between adat and *shari‘a* in the practice.<sup>9</sup>

This study employs a normative analysis of Islamic legal provisions concerning marriage prohibitions, with special attention to Qur‘an (Surah *An-Nisā’*: 22–24) and scholarly discussions on *mahram* and ‘urf. The *maqāṣid al-sharī‘ah* framework, informed by authorities such as al-Shāṭibī and Khalaf, is used to evaluate whether the *Nikah Samih* prohibition embodies *maṣlahah* compatible with *sharī‘ah* objectives. Combining textual-normative analysis and *maqāṣid* reasoning enables a systematic linkage between adat practice and Islamic legal theory.

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<sup>9</sup> Matthew B. Miles and A. Michael Huberman, *Qualitative Data Analysis: An Expanded Sourcebook*, 2nd ed. (Sage Publications, 1994).

The principal objectives of the research are as follows: (1) to describe the practice and normative foundations of the same-clan marriage prohibition in Alas adat; (2) to analyze the prohibition from the perspective of Islamic law; (3) to assess its relevance to the aims of *maqāṣid al-sharī‘ah*; and (4) to formulate the normative position of the *Nikah Samih* prohibition as a contextual adat norm within the Muslim Alas community. The study aims to produce a balanced and proportionate understanding of the adat–shari‘ah relation in the domain of marriage, thereby contributing to contextual Islamic legal studies and offering practical guidance for community stakeholders and adat authorities facing social change.

## Discussion

### History of the Alas People and the Clan (Marga) System as the Basis for the Prohibition of Same-Clan Marriage (*Nikah Samih*)

The Alas people have long inhabited the Alas Valley in Southeast Aceh Regency. Early European accounts by Radermacher describe the community as originally mobile and practicing animism. Islam reached the region around 1325 and brought significant changes to the belief system, yet it did not eliminate preexisting customary practices. The term Tanoh Alas refers not only to a geographical territory but also to an ethnic identity that developed through a long historical process in which adat and religious influences interacted and coexisted.

This ethnic identity is historically linked to Raja Lambing, who occupies a central position in Alas genealogical narratives. According to Kreemer, the name Alas derives from a descendant of Raja Lambing who settled in Batumbulan, regarded as the oldest Alas settlement. Raja Lambing’s lineage, which local genealogies associate with figures such as Raja Lontung, gave rise to several clans, including the Selian clan, and through migration and intermarriage, related groups such as the Sebayang clan in surrounding areas, including Karo land. Subsequent movements of these lineages expanded their social presence across Southeast Aceh. Raja Lambing’s successor, Raja Dewa, also known as Malik Ibrahim, is traditionally credited with advancing Islam in Tanoh Alas. An agreement between the descendants of Raja Lambing and Raja Dewa produced the well-known maxim of Alas society, “*bidup dikandung adat, mati dikandung hukum Islam*,” which reflects an early and enduring integration of customary norms and Islamic values.<sup>10</sup>

Over time, the Alas community developed a social structure centered on the *marga* (clan) system. Clans function not only as markers of descent but also as normative frameworks that regulate social relations, kinship, and marriage. Early clans in Tanoh Alas included Bangko, Cibro, Desky, Keling, Kepale Dese, Keraus, Pagan, and Selian, followed by the emergence of clans such as Beruh,

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<sup>10</sup> N. Sekadang, ‘Sejarah Dan Adat Istiadat Masyarakat Alas di Aceh Tenggara’, Dinas Kebudayaan Aceh Tenggara, 2022.

Karo-karo, Munthe, Pinem, Sinaga, Sebayang, and Tarigan, reflecting ongoing genealogical expansion and social differentiation.<sup>11</sup>

Within the Alas worldview, members of the same *marga* are regarded as belonging to a single line of descent, and their relationship is perceived as equivalent to siblinghood.<sup>12</sup> In this context, *Nikah Samih* refers to marriage between individuals from the same clan. Shared clan membership signifies inclusion within a common genealogical stock rather than a mere family name, leading such unions to be socially understood as consanguineous even in the absence of demonstrable biological ties.<sup>13</sup>

Alas adat therefore treats same-clan relations analogously to biological siblinghood, expressed in the concept of *sandakhe semakhge*, which denotes socially constructed fraternal bonds. On this basis, *Nikah Samih* is prohibited because it is believed to transgress established kinship boundaries. The prohibition is reinforced by historical demographic experience, when smaller populations intensified perceptions of close relatedness. Same-clan marriage is also feared to exacerbate internal conflict during domestic disputes, as both parties remain embedded within the same kin group. Accordingly, the prohibition functions as a mechanism for preserving social harmony and strengthening collective solidarity.

The local Aceh Customary Council, Majelis Adat Aceh, emphasizes a preventive application of the *Nikah Samih* prohibition beginning at the stage of introduction (*ta'aruf*). This approach seeks to avert unions that would later be considered violations of adat. When violations occur, customary law provides a restorative mechanism through rituals locally known as *ngampeken me khumah adat*, which allow a couple to obtain adat recognition after completing prescribed procedures. Such violations are referred to as *ngekumpak pagakh* (“breaking the fence”), a metaphor that signifies the transgression of kinship boundaries. Sanctions typically take the form of fines ranging from Rp320,000 to Rp3,200,000, part of which is allocated to communal purposes through the Majelis Adat Aceh. This system reflects a restorative orientation aimed at restoring social balance rather than imposing punitive measures. Noncompliance with adat sanctions may result in social consequences, including ostracism or exclusion from village life.

The *Nikah Samih* prohibition in Alas adat is thus grounded in the community's historical experience, the structure of the *marga* system, and the collective need to maintain social order. The *marga* functions not merely as a marker of genealogical origin but also as a regulatory mechanism governing social conduct, particularly in marriage. Through this system, adat seeks to preserve

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<sup>11</sup> Sari, 'Perkawinan Semarga Pada Suku Alas di Kecamatan Lawe Bulan Kabupaten Aceh Tenggara'.

<sup>12</sup> H. T. Akbar et al., 'Pedoman Peradilan Adat Dan Hakim Fungsional Adat di Tanah Alas Kabupaten Aceh Tenggara', Pemerintah Kabupaten Aceh Tenggara., 2021.

<sup>13</sup> A. Jumni and N. Hasanah, 'Larangan Perkawinan Dalam Perspektif Hukum Islam Dan Implikasinya Di Masyarakat.', *Jurnal Studi Syariah* 9, no. 1 (2024): 77–92.

social harmony and ensure the continuity of shared cultural values within Alas society.

### **Same-Clan Marriage (*Nikah Samih*) in the Perspective of Islamic Law and Its Relation to Alas Adat**

Islamic matrimonial law is guided by a principle of selectivity that requires ensuring prospective spouses do not fall within prohibited mahram categories. These prohibitions are confined to relations by blood, suckling, and affinity (mushāharah) as established in the Qur'an and the hadith. Shared clan membership, therefore, does not by itself render a marriage impermissible under fiqh, which prioritizes lineage clarity and the validity of the marital contract over social identifiers such as clan affiliation.<sup>14</sup>

Empirical scholarship supports this legal position. Butar-Butar demonstrates that among the Batak Toba, prohibitions on semarga marriage lack a firm normative basis in Islamic law because members of the same marga are not necessarily mahram.<sup>15</sup> Such marriages are thus regarded as legally permissible (mubah) when the essential pillars and conditions of marriage are fulfilled and no greater harm results.<sup>16</sup> A similar conclusion is reached by Batubara in the Mandailing Batak context, where adat bans persist despite the absence of clear blood relations, largely due to social perceptions and fears of sanction rather than shari'a requirements.<sup>17</sup>

In the Alas context, adat explicitly enforces exogamous marriage patterns and imposes sanctions for violations, as documented by Fitrah and Astuti. These sanctions, including ostracism or banishment, confer substantial normative force on the *Nikah Samih* prohibition despite the lack of statutory codification.<sup>18</sup> Further evidence from Rasyid, Tanjung, and Siregar indicates that adat restrictions on certain kin marriages are driven primarily by concerns for family honour, conflict prevention, and social harmony rather than explicit religious legal grounds.<sup>19</sup> Taken together, these findings show that Alas adat functions as a socio-cultural adaptation that coexists with Islamic teachings while not always coinciding with fiqh rulings.

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<sup>14</sup> A. Muzakki, 'Kafā'ah Dalam Perkawinan Perspektif Fikih Dan Relevansinya Dalam Konteks Indonesia', *Jurnal Al-Ahwal* 14, no. 2 (2021): 189–204.

<sup>15</sup> Butar-Butar, 'Analisis Hukum Islam Dan Hukum Adat Dalam Pernikahan Semarga Pada Suku Batak Toba'.

<sup>16</sup> Pujo Pangestu et al., 'Larangan Pernikahan Semarga Dalam Adat Batak Labuhan Batu Utara Persepektif Teori Konflik George Simmel', *Ta'wiluna: Jurnal Ilmu Al-Qur'an, Tafsir dan Pemikiran Islam* 6, no. 1 (2025): 518–26.

<sup>17</sup> Samin Batubara, 'Pelarangan Perkawinan Satu Marga Dalam Adat Batak Mandailing di Desa Penyengerahan, Sumatera Barat', *Al-Risalah: Forum Kajian Hukum dan Sosial Kemasyarakatan* 18, no. 1 (2018): 1–12.

<sup>18</sup> Jariyatun Fitrah and Mirsa Astuti, 'Ketentuan Adat Alas Di Aceh Tenggara Tentang Perkawinan Semarga', *Eduyustisia: Jurnal Edukasi Hukum* 2, no. 3 (2024): 28–34.

<sup>19</sup> M. Rasyid et al., 'Larangan Perkawinan Sepupu Dalam Masyarakat Adat Alas: Studi Sosiologis Hukum Islam', *Jurnal Hukum Dan Masyarakat* 10, no. 1 (2025): 55–72.

Applied to *Nikah Samih*, local religious figures typically regard same-clan marriage as not inherently prohibited under shari‘a because it does not meet the *mahram* criteria. They commonly advise respect for prevailing adat provided the customary rule does not clearly contravene core Islamic principles. This position distinguishes legal validity under fiqh from social legitimacy under adat: a union may be valid in religious law while lacking local social acceptance.<sup>20</sup>

The relationship between Islamic law and customary law in this context is therefore functional rather than strictly hierarchical. Shari‘a establishes juridical limits on marriage, whereas adat governs social conduct and enforces sanctions that are immediately felt in daily life. Preference for adat compliance often reflects the tangible social consequences of noncompliance, which can produce conflict when couples appeal to religious permissibility while families cite customary prohibition. This produces a persistent “grey area” in which legal validity and social legitimacy diverge.

Resolving such disputes requires clear analytical distinctions between juridical nullity and social sanction, together with proportionate mediation by religious authorities and adat leaders. A *maqāṣid*-informed assessment can assist in determining whether an adat prohibition serves genuine public benefit (*maṣlahah*) and therefore merits social respect without usurping the juridical domain of shari‘a. This combined approach promotes legal clarity and social cohesion.<sup>21</sup>

In such circumstances, adat mechanisms such as *ngampeken me khumah* adat offer a conciliatory pathway through which couples who violate the *Nikah Samih* prohibition may attain adat recognition after fulfilling prescribed procedures and sanctions. This mechanism demonstrates the adaptive capacity of adat to restore social harmony and mitigate conflict rather than to impose rigid exclusion.<sup>22</sup> From the perspective of Islamic law, *Nikah Samih* is not included among marriages prohibited by shari‘a and is therefore legally mubah. Within Alas society, however, the prohibition retains strong socio-cultural significance as a means of preserving social order and family honour. These findings suggest that *Nikah Samih* cannot be adequately understood through a single legal lens. Its proper assessment requires situating Islamic law and adat as coexisting normative orders whose interaction shapes both legal validity and social legitimacy.

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<sup>20</sup> M. Hafizh and R. Armi, ‘Kedudukan Wali Mujbir Dan Wali Hakim Dalam Perkawinan Menurut Hukum Islam’, *Jurnal Hukum Keluarga Islam* 7, no. 2 (2022): 201–15.

<sup>21</sup> Muhammad Yusuf Rangkuti et al., ‘Penyimpangan Praktik Pernikahan Semarga dalam Adat Batak Mandailing di Kabupaten Mandailing Natal (Realitas, Faktor Penyebab, dan Pergeseran Norma)’, *Al-Mazaahib: Jurnal Perbandingan Hukum* 12, no. 2 (2025): 222–47.

<sup>22</sup> Tommy Christian Silalahi, ‘Perkawinan Semarga Menurut Hukum Adat Batak Toba (Studi Kasus Di Desa RiaRia, Kecamatan Pollung, Kabupaten Humbang Hasundutan, Sumatera Utara)’, *JOM Fakultas Hukum Universitas Riau* 8, no. 2 (2021): 1–15.

## **The *Nikah Samih* Prohibition in the Light of Maqāṣid al-Syarī‘ah and Social Welfare (*Maslahah*)**

The maqāṣid al-sharī‘ah approach evaluates whether legal rules or social practices accord with the fundamental objectives of Islamic law. Maqāṣid refer to the aims underlying sharī‘a legislation to secure benefits and prevent harm. Abdul Wahab Khalaf explains that sharī‘a rulings seek to safeguard essential (*darūriyyāt*), complementary (*hājīyyāt*), and definitional (*tahsīniyyāt*) human interests. Within this framework, al-Shāṭibī identifies five core objectives (*al-darūriyyāt al-khams*): protection of religion, life, intellect, lineage, and property.<sup>23</sup>

In the context of *Nikah Samih* among the Alas, three maqāṣid are particularly relevant: protection of life (*hifz al-nafs*), intellect (*hifz al-‘aql*), and lineage (*hifz al-nasl*). These objectives support interpreting the adat prohibition as a preventive, welfare-oriented norm. Protection of life is implicated insofar as semarga unions may trigger social conflict, psychological pressure, and sanctions that disturb personal tranquillity. Empirical findings by Fitrah and Astuti show that adat sanctions in Southeast Aceh produce tangible social consequences and substantial mental burdens for violators.<sup>24</sup>

Protection of intellect is likewise engaged because sustained conflict, stigma, and inter-clan tension can impair psychological balance and rational functioning. Research by Manalu et al. reports social pressure and relational strain experienced by participants in semarga marriages, particularly in early marital stages.<sup>25</sup> Taken together, these findings indicate that the Alas prohibition aligns with maqāṣid by mitigating psychosocial harm and preserving individual and communal wellbeing.<sup>26</sup>

The maqāṣid most directly relevant to matrimonial issues is *hifz al-nasl* (protection of lineage). Islamic law protects lineage through marriage rules and prohibitions on illicit sexual relations to preserve nasab clarity. In Alas adat, shared clan membership is commonly regarded as membership in a single genealogical stock, so semarga marriages are perceived to risk confusion about kinship status and lineage. Empirical studies among related Batak communities support this social logic: Siahaan and Amir report that semarga unions are socially characterized as “consanguineous” because clan members are understood as descendants of a common ancestor, while Batubara finds that prohibitions function to protect clan honour and kinship order even where such unions are

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<sup>23</sup> Khalaf, *Ilmu Ushul Fiqh* (Ed. Revisi).

<sup>24</sup> Fitrah and Astuti, ‘Ketentuan Adat Alas Di Aceh Tenggara Tentang Perkawinan Semarga’.

<sup>25</sup> Rosita Manalu et al., ‘Perkawinan Satu Marga (Perkawinan Adat Batak Angkola Di Kecamatan Sipirok Kabupaten Tapanuli Selatan Sumatera Utara)’, *Jurnal Ilmiah Wahana Pendidikan* 9, no. 13 (2023): 561–70.

<sup>26</sup> M. Irham, *Psikologi Keluarga: Dinamika Dan Problematika Rumah Tangga* (Raja Grafindo Persada, 2022).

not *mahram* under shari‘a.<sup>27</sup> Within a maqāṣid framework, these efforts can be read as protecting lineage in a socio-cultural sense rather than asserting a strict biological prohibition.<sup>28</sup>

The *nikah samih* prohibition also implicates collective welfare (*maṣlahah ‘ammah*). Assessment of *maṣlahah* must consider social consequences in addition to textual evidence. Rasyid et al. argue that adat operates as a social mechanism to prevent conflict, sustain extended-family harmony, and uphold communal dignity.<sup>29</sup> This supports viewing the *Nikah Samih* rule as an instrument of collective benefit: a context-sensitive customary measure aimed at reducing social friction rather than a rigid juridical ban.

From a maqāṣid perspective, *Nikah Samih* cannot be equated with an absolute shari‘i prohibition. In fiqh, semarga marriage is generally mubah because it does not fall within the *mahram* categories; the adat rule therefore functions as a contextual, preventive norm aimed at promoting *maṣlahah*. Provided the customary rule does not negate core shari‘a principles or produce injustice, it may be regarded as local wisdom consonant with maqāṣid al-shari‘ah. Observed changes in some Batak communities driven by modernization, education, and generational shifts show that customary sanctions are adaptable, which underscores that *maṣlahah* itself is context-sensitive and responsive to changing social conditions while remaining oriented toward preserving harmony and social order.<sup>30</sup>

## Conclusion

The prohibition of same-clan marriage (*Nikah Samih*) in Alas adat constitutes a socio-cultural norm rooted in the marga-based kinship system that functions to preserve social order, kinship clarity, and communal harmony. Within the adat framework, same-clan marriage is perceived as a socially constructed consanguineous union that risks disrupting established kinship relations and collective stability, which explains the imposition of customary sanctions. From the perspective of Islamic law, however, same-clan marriage does not fall within the *mahram* categories and is therefore regarded as legally permissible (*mubah*) in classical fiqh. A maqāṣid al-shari‘ah analysis demonstrates that the customary restriction embodies *maṣlahah* by supporting the protection of lineage (*bifz al-nash*), life (*bifz al-nafs*), intellect (*bifz al-‘aqd*), and social cohesion. In this respect, *Nikah Samih* occupies a mediating position between shari‘a

<sup>27</sup> Rebekka Nikita Siahaan and Diana Amir, ‘Perkawinan Semarga Pada Masyarakat Batak Toba Di Desa Tanah Jawa Kabupaten Simalungun’, *Zaaken: Journal of Civil and Business Law* 5, no. 1 (2024): 84–100.

<sup>28</sup> Batubara, ‘Pelarangan Perkawinan Satu Marga Dalam Adat Batak Mandailing di Desa Penyenggerahan, Sumatera Barat’.

<sup>29</sup> Rasyid et al., ‘Larangan Perkawinan Sepupu Dalam Masyarakat Adat Alas: Studi Sosiologis Hukum Islam’.

<sup>30</sup> Manalu et al., ‘Perkawinan Satu Marga (Perkawinan Adat Batak Angkola Di Kecamatan Sipirok Kabupaten Tapanuli Selatan Sumatera Utara)’.

permissibility and adat prohibition, illustrating how customary norms may operate as preventive and context-sensitive mechanisms without transforming into absolute shari‘i rules. The study highlights the importance of sustained dialogue between adat authorities and religious leaders to promote a balanced public understanding of this norm, while future research may examine comparative customary contexts or generational shifts in the interpretation of marriage prohibitions amid ongoing social change.

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