

Prohibition of Marriage Within Villages in a Review of Customary and Islamic Law

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Submitted: 2025-05-07; Accepted: 2025-05-28; Published: 2025-06-05

Abstract— In Islam, the term *mahram* means a person who is forbidden to marry. Although Islam has determined it, in jorong Bandar Mas nagari Cubadak Pasaman district, there is a tradition of prohibiting marriage relations for reasons outside the provisions of shara', namely, a man is prohibited from marrying a woman who is still in the same village with the man. Therefore, the author is interested in conducting research with the type of qualitative research that aims to understand the prohibition of marriage in one village. The results showed that one village marriage in the version of the Bandar Mas jorong community is a *pantang* marriage. *Kawin pantang* in Minangkabau custom can be understood as a marriage that is prohibited by custom or a marriage that cannot be carried out or held based on the values agreed upon in custom. In Islamic law, women who cannot be married are called *mahrams*. Linguistically, the term *mahram* comes from the word *haram*, which means forbidden or not allowed. The prohibition of marriage in the same village is not known in Islam. Regarding the prohibition of marriage in the same village, a common ground can be found between the two. Customary law can be considered to strengthen Islamic law. Marriage with someone other than a relative will strengthen the offspring, as reported by the Companions and the opinion of Imam Ghazali.

Keywords— Custom, Islam, Marriage, Prohibition, Village,

I. INTRODUCTION

In Arabic, the word *nikah* means *adh-dhammu* (union) and *at-tadakhul* (mutual entry). In *shar'i* terms, *nikah* is defined as a contract between a man and a woman for the purpose of making sexual relations lawful. In essence, *nikah* refers to the contract itself, while sexual intercourse is its figurative meaning. Marriage is a decree of Allah SWT in this world. Apart from humans, other creatures such as animals and plants also experience the process of marriage or mating. Natural scientists claim that most living things are created in pairs. For example, drinking water is composed of two elements, namely oxygen and hydrogen, and in electricity there are positive and negative poles, and many other examples (Sari & Rambe, 2024)

In Tafsir Al-Misbah, Quraish Shihab says that the creation of humans in pairs is one proof of the greatness and oneness of Allah. The main purpose of marriage is to achieve tranquility (*sakinah* or *litaskunū*), which is a

condition of peace after humans previously experienced instability. Through the bond of marriage, a person will gain inner and outer peace. The presence of a life partner can bring a sense of serenity, which previously might have been replaced by anxiety of mind and inner turmoil in humans (Sari & Rambe, 2024).

In order to achieve the purpose of marriage, before entering into marriage, Islam recommends a selection process with whom one may or may not marry. This selection process is intended so that no sharia provisions are violated. In Islam, the term *mahram* is known, which means a person who is forbidden to marry (Sari & Rambe, 2024).

The causes of a woman's *mahram* status include blood relationship, marriage, and breastfeeding. Islam clearly states the nature and importance of marriage so that it is necessary to regulate who can be married. In Indonesia, the provisions of *mahram* are also mentioned in the applicable regulations, namely the law on marriage and the Compilation of Islamic Law. A Muslim must select who he can marry and who he cannot marry before the marriage is carried out. In Islamic marriage law this is known as the principle of selectivity (Erwansyah & Ananda, 2024).

Although Islam has provided restrictions, there are still many groups of people or tribes in Indonesia that limit marriage relationships outside the provisions of Islamic law, such as the prohibition of marriage in one clan in the Batak tribal community or the prohibition of tribal marriage in the Minangkabau tribal community. People who are Muslims should apply the concept of *eleutrogamy*, namely that a man who will marry can only marry or not marry according to the limits set by Islamic law or the provisions of the applicable legislation, not required or prohibited to marry women outside or within the family or tribe (Randa, 2024).

One of the groups of people who provide restrictions outside of Islamic law is the community in the Bandar Mas jorong of Cubadak nagari, Pasaman district. There is a tradition of prohibiting marriage relationships for reasons outside the provisions of shari'a. A man is prohibited from marrying a woman who is still in the same village as the man. Marriage between residents in the same village is very taboo and has never been done by the community in the jorong. This custom has been passed down from ancient ancestors to the present. In terms of religion, all the people in the jorong are Muslim. The community does not violate the existing provisions in Islamic law but adds additional legal provisions in addition to the Islamic law.

The case in Bandar Mas jorong, if summarized into one term, is the same as the term exogamy. Exogamy refers to a marriage rule that prohibits a man from marrying a woman from the same clan or kinship group. Therefore, he is required to choose a partner from outside his patrilineal clan (Randa, 2024).

If in some tribes, it is forbidden to marry for reasons of clan, then in the Bandar Mas jorong, it is forbidden to marry for reasons of one village. Because of this, the author is interested in researching the above case through a journal with the title "Prohibition of Marriage in One Village in the Perspective of Customary Law and Islamic Law.

II. METHODS

This research uses a qualitative approach that aims to understand the prohibition of marriage among residents of one village in the Jorong Bandar Mas community, as well as the consequences that arise if the rule is violated. The qualitative approach itself is an investigative method that emphasizes the collection of information about knowledge, concepts, characteristics, events, symbols, and descriptions of a phenomenon. This research is conducted in depth and thoroughly through various methods, with an analytical and holistic approach and logical communication. In general, the purpose of qualitative research is to obtain a deep understanding of a particular phenomenon or question through systematic procedures (Rosita Manalu, 2017). Data collection methods include searching, selecting, and collecting relevant references. After that, the collected references were read and studied thoroughly to collect data and information about the prohibition of marriage in one village in the Bandar Mas jorong community.

III. RESULTS AND DISCUSSION

A. Prohibition of marriage in the same village

The people of Jorong Bandar Mas are mostly of Mandailing ethnicity, whose origins come from the Mandailing Natal district. The language used remains Mandailing, which has been influenced by Minangkabau language. Although the people of Jorong Bandar Mas are of Mandailing ethnicity, the customs used are Minangkabau customs. By custom, the Bandar Mas jorong area is the customary territory of the Minangkabau tribe. The motto or saying embedded in the Bandar Mas community today is "*adaik Minangkabau dijunjung tinggi, adaik Mandailing jan dilupoan*," which means Minangkabau customs are upheld, and Mandailing customs should not be forgotten.

The people in Jorong Bandar Mas live in groups in the form of villages. There are 7 villages in jorong Bandar Mas. A village consists of several families who live in a certain area in Jorong Bandar Mas. Each village has its own *ninik mamak* as the customary leader of each village. A *ninik mamak* is a man who is considered wise and capable and has a clear view among his people. In

Minangkabau custom, a *ninik mamak* is also a *penghulu*, who is the leader of his tribe (Yustim et al., 2022).

Traditionally, the community in the village in Bandar Mas jorong adheres to the *sumando* system. *Sumando*, in Minangkabau terms, means that if a man and woman get married, the man lives in the woman's family home. The system is different from the Mandailing custom where the woman lives in the male family's house. This is part of the matrilineal system that is maintained in each village in the Bandar Mas jorong. In the matrilineal system, a son or daughter is descended from the mother. Fathers cannot include their children in their tribe as is the case in the patrilineal system. So that a child in Minangkabau will follow his mother's tribe. (Nurdin, 2022) In jorong Bandar Mas, a child's village follows his mother's village.

Although the entire community of Bandar Mas jorong is Muslim, marriages that are only based on shara' law are still considered kawin gantung or unfinished. Marriage must also be in accordance with customary law or not contradictory to adat, including the prohibition of marriage between men and women who come from the same village. (A. L. Sari, 2019). The origin of the prohibition of marriage between men and women from the same village is due to the matrilineal system used. Almost similar to the Minangkabau tribe, which prohibits tribal marriage. The people in one village have similar origins, namely the same ancestors if drawn from the mother's lineage. The analogy is seen from the matrilineal system that a mother who is the ancestor of the people of a village gives birth to offspring who have the same tribe as her offspring, even though in reality they do not have a tribe like the Minangkabau tribe.

The people of Bandar Mas Jorong also have clans like the Mandailing tribe. The majority clans are the Nasution and Lubis clans. Even though they have clans, because they adhere to the matrilineal system, marriage within the same clan is not a problem for the people of Bandar Mas jorong. Until now, no one has dared to violate this prohibition. The community in Bandar Mas jorong still upholds the rules that have been applied since long ago.

B. Prohibition of marriage in the same village from the perspective of adat

In Minangkabau society, a nagari is a customary law community unit based on a geographical or territorial area. Within a nagari, the community structure consists of tribes, paruik, and jurai. The tribes in Minangkabau are very diverse, including the Bodi, Caniago, Koto, and Piliang tribes. In the context of Minangkabau custom, the term sasuku or sesuku refers to all descendants of an ancestor traced through the maternal line. The descendants of a *niniek* (grandmother) are what is referred to as a tribal group or a tribe (Al Amin et al., 2023).

This tribal group is led by a tribal *penghulu*. Each tribe in Minangkabau society is divided into several *paruik* or *kaum*. Each paruik consists of a number of *jurai*, which is a group that is a combination of several families that have a lineage from a mother and her children, both male

and female, based on a matrilineal kinship system. Therefore, a husband or father is not considered a member of the kaum or paruik in the home of his wife or children. He remains part of the family in his original home, namely his mother's family (Al Amin et al., 2023).

Based on this information, the village in Jorong Bandar Mas, according to the author, is *sasuku* in Minangkabau terms. Therefore, the prohibition of marriage in one village is interpreted as a prohibition of *sasuku* marriage. In other terms, it is also called *sapayuang* mating (Rahmadiyah et al., 2024). The prohibition of surname marriage is not known in jorong Bandar Mas because the custom used is Minangkabau custom, not Mandailing custom, even though it comes from the Mandailing tribe.

Minangkabau society adheres to an exogamy system, in which a person must marry outside his or her matrilineal group. Those who come from the same tribe in one nagari are considered to have a kinship relationship like brothers (Al Amin et al., 2023). In the Bandar Mas jorong community, the notion of being brothers is also the same as the Minangkabau custom.

Tribal marriage is not seen in terms of *halal* or *haram*, but rather a marriage built on moral values and *raso jo pareso* (feelings with feelings of tolerance) and is an agreement or oath that lasts for generations from ancestors. (Yunarti, 2025) Akhmal Sultan Pamuncak says there are reasons why such marriages are prohibited, including

1. Marriage between people of the same tribe is considered taboo and forbidden because they are still bound by kinship.
2. It is feared that the offspring of people who marry into the same tribe will give birth to deformed offspring because the husband and wife are too closely related.
3. Since ancient times, people have assumed that if the elders forbid something, then it is something that should not be done, including the tribal marriage (Maulida, 2022)

Of the three reasons above, the factor that is in accordance with the conditions of the people of Jorong Bandar Mas is the reason for brotherhood. The people in one village consider all people who live in that village as brothers. In addition, this tradition has occurred since a long time ago, so it is a custom that should not be violated. Meanwhile, the reason for fearing that the child born will be disabled has never been expressed by the people of Bandar Mas jorong.

In the views and thoughts of the Minangkabau community, marriage between children and nephews, known as *pulang ka bako* or *pulang ka mamak*, is considered an ideal form of marriage. The term *pulang ka bako* refers to marriage with a paternal niece, while *pulang ka mamak* means marrying the son of the mother's brother (Dewi & Nizam, 2023).

A tribal or village marriage in the Bandar Mas jorong community's version is a pantang marriage. Kawin pantang in Minangkabau custom can be understood as a marriage that is prohibited by custom or a marriage that

cannot be performed or held based on the values agreed upon in custom. If this marriage is still carried out, the perpetrators will receive customary sanctions, and their actions are considered to bring shame to both families (Ronanda et al., 2023).

If marriages within the same tribe or village are violated, then there are implications that will occur, namely: first, it narrows relationships. Tribal marriage is considered to have no effect on the development of relationships between people. Second, it creates unqualified offspring. Thirdly, because of the racism factor caused by tribal marriage, it can interfere with the psychological development of the child who is born. Fourth, customary rights are lost. Couples from the same tribe or village who marry will be ostracized by the community (Irzak Yuliardy Nugroho et al., 2022).

Based on Minangkabau custom, marriages that can damage the customary structure are categorized as forbidden marriages. For those who violate or carry out forbidden marriages, they will be subject to sanctions decided by custom. If a prohibited marriage occurs in one nagari, it can cause problems in the nagari and will be sanctioned. The sanctions in question are in the form of

1. The marriage is annulled.
2. Expelled from his village,
3. Ostracized in the social circles of his village,
4. Fines (Setiawan et al., 2023).

This punishment applies not only to the couple, but also to the extended family. Therefore, marrying in the same tribe will cause havoc in the household. (Rahmadiyah et al., 2024)

If a tribal marriage also occurs in the Bandar Mas jorong even though no one has done it, then the alternative solutions include:

1. Moving away from the perpetrator's village
2. Paying a fine and conducting a traditional ceremony to move the village
3. Leave the village.

This is in accordance with several incidents that have occurred in other areas in Minangkabau (Febria et al., 2022).

C. Prohibition of Marriage in The Same Village from The Perspective of Islamic Law

The philosophy of life of the Bandar Mas jorong community as a community group that adheres to Minangkabau customs is *adat basandi syara', syara' basandi kitabullah*. This means that the laws established by shara' and adat must be in line. If Islamic law conflicts with customary law, then religious law must take precedence. This means that religious law must ultimately be the starting point. (Aaron Adhirajasa, 2024)

In Islamic teachings, women who cannot be married are called *mahram*. In language, the term *mahram* comes from the word *haram*, which means forbidden or not allowed. The word *haram* implies something that is forbidden to do. In the dictionary al-Mu'jam al-Wasīṭ, *maḥram* is explained as *ḥul-ḥurmah*, which is a woman who is forbidden to marry (Zuhri, 2024) In terms of terms, according to Abdul Barr Rahimahullah, a *mahram* is a man

whom a woman cannot marry for certain reasons, such as blood relationship (*nasab*)—for example, father and brother—or marriage relationship, such as husband, father-in-law, and son of husband (stepson). In addition, the relationship of breastfeeding can also be a cause of prohibition, such as breastfeeding brothers or children, as well as other causes (Arisman, 2018).

The scholars classify *mahram* into two, namely *mahram* that are eternal (forever) or *mahram al-mu'abbad* and *mahram* that are not eternal (temporary) or *mahram al-mu'aqqat* or *gairu mu'abbad*.

4. *Mahram al-Mu'abbad*

Mahram that is eternal, or *mahram al-mu'abbad*, is a marriage that is forbidden to occur forever despite whatever happens between the two (man and woman). *Mahram al-mu'abbad* is caused by three things, namely *nasab*, marriage, and breastfeeding:

a. *Nasab* (Descendant) Relationship:

1. The line of descent upwards from the mother's side, such as mothers, grandmothers, and so on, either through male or female lines.
2. The line of descent downwards from daughters, granddaughters, and so on, is also from both lines.
3. Sisters, whether mother, father, or siblings.
4. A niece of a brother, regardless of whether they are brothers, fathers, or mothers.
5. Niece of a sister, whether biological, paternal, or maternal.
6. Paternal aunts, including the father's sister, the father's aunt, and the grandfather's aunt, whether full, half, or full.
7. Maternal aunts, i.e., mother's sisters, mother's aunts, and grandmother's aunts, of all types of sibling relationships.

b. Marriage Relationship:

1. Stepmother (father's wife), step-grandmother (grandfather's wife), and similar relationships upwards.
2. Daughter-in-law (son's wife), grandson's wife, and downward relationship.
3. Daughter-in-law (wife's mother), wife's grandmother, and upward relationship.
4. Stepdaughters and stepgranddaughters of stepchildren.

c. Dairy Relationship:

1. Breastfeeding mother and maternal grandmother.
2. Daughter of a breastfeeding mother, i.e., a sister by dint of breastfeeding.
3. The breastfeeding mother's sister is considered a breastfeeding aunt.
4. Niece or nephew of a maternal relative.
5. Grandmother on the mother's side of the mother-in-law's mother.
6. The sister-in-law of a breastfeeding mother is also considered a breastfeeding aunt.
7. Stepchildren of the mother, as paternal half-siblings.

8. Another wife of the husband of the breastfeeding mother, namely the wife of the breastfeeding father.

9. The wife of a breastfeeding child cannot be married by the husband of the breastfeeding mother because she is considered a daughter-in-law.

10. It is forbidden for a breastfeeding mother's husband to marry a breastfeeding daughter, as she is considered his own child. This also applies to the husband's brother (considered an uncle) and the husband's father (considered a grandfather).

5. *Mahram al-Mu'aqqat / Gairu Mu'abbad*

Mahram that is not eternal, or *mahram al-mu'aqqat*, is a marriage that is temporarily forbidden under certain conditions. If there is a change in conditions, then the law may change. Zuhri (2024) stated that the woman may be married to, among others,

- a. Married women. It is forbidden to marry her unless she is widowed and her *'iddah* is completed.
- b. Sister/sister-in-law. It is forbidden to marry them at the same time unless they are divorced.
- c. A wife who has been divorced. It is forbidden for the husband to marry her (*rujuk*) unless the wife has married another man, then divorced, and her *iddah* period is over.
- d. Wife's aunt. It is *haram* to marry a woman at the same time as her aunt or niece.
- e. The fifth woman. A man may not marry a fifth woman if he has already married four women, unless one of the four dies or is divorced.
- f. A woman who is in *ihram* until she completes her *ihram*.
- g. Women who are in *iddah*, either *iddah* of death or *iddah* of divorce.
- h. Non-Muslim women who are not ahl al-book or polytheist women.
- i. An adulteress unless she repents

Based on the above provisions in Islam, there is no prohibition on marrying a sister from the mother's side or from the same tribe or village. The issue of marriage in one village only in some parts is not in line with Islamic law. Customary law prohibits some of what Islamic law permits. Same-tribe marriage in matrilineal customs can be concluded solely because of *'urf*, or custom, because there is no prohibition in the Qur'an or hadith (Arisman, 2018).

If you look at the scope of the prohibition of tribal marriage in matrilineal customary law, it is part of a special custom (*al-'urf al khās*) that is not universally applicable. On the other hand, there are now also differences of opinion between traditional leaders and religious leaders. If we look at the validity or not, tribal marriage in matrilineal customs is included in the category of *al-'urf al-fāsid*, which normatively does not comply with *nāsh* and basic provisions in Islamic law (*syara'*). The conditions of *'urf* are also not met in tribal marriage so that it can be used as a source of legal determination (Arisman, 2018).

Considering that the prohibition of tribal marriage is not explicitly stated in the nash, then to determine the permissibility of 'urf or not, it can be seen in terms of *mashlahah* and *mudharat* with consideration of *maqasid al-syari'ah*. Tribal marriage can be included in the *hajjiyyat* category, not included in the *daruriyyat* category, because it is only needed by people who adhere to the matrilineal system in order to achieve prosperity in the household. The presence or absence of a ban on tribal marriage has no effect on the integrity of social life. Based on this, tribal marriage is permissible (*mubah*). There is no provision forbidding tribal marriage in matrilineal custom, but only forbidding it. Forbidding and prohibiting are two different things. Marrying a woman of the same tribe, if done, is *halal*, but the matrilineal community does not carry it out because of several things or considerations in the custom (Arisman, 2018).

There is also an opinion that states that the prohibition of marriages in the same tribe or one village in the custom in the Bandar Mas jorong in ushul fiqh is *sad al-dzari'ah*, such customs in order to close the possibility of inbreeding or as a form of prudence. Even though the reason is as above, this cannot be justified because the concept of *sad al-dzari'ah* cannot be used as a reference, especially in Islam, marriage between children and grandchildren and their descendants, which, in Islamic concepts, are valid and allowed by Islam (Irzak Yuliardy Nugroho et al., 2022).

Regarding the prohibition of marriage in the same village, a common ground can be found between the two. Customary law can be considered to reinforce Islamic law. The reason for this is given below:

a. *Atsar Sahabat* (Dewi & Nizam, 2023)

The reference that recommends marriage with distant relatives comes from Umar Bin Khattab in the book *Gharibul Hadith* narrated by Ibrahim Al-Harbi. Umar Bin Khattab said to the family of Sa'ibi: Marry someone else (not close family); do not weaken your descendants. Umar's words mean that your descendants will become weak if you marry a close relative. If you do not want your descendants to be weak, then marry a distant relative.

b. *Fuqaha* (Dewi & Nizam, 2023)

Imam Ghazali says in *Ihya 'Ulumuddin* that children will become weak if they marry close relatives, so he recommends not marrying close relatives. There is a fiqh rule that says, "*Avoiding mudarat/danger (mafsadah)* is better than taking good." If it is related to the issue of marriage, then the ushul fiqh rule advises not to marry close relatives. Thus, marriages in the same tribe or village do not all have negative impacts, such as not getting offspring or having disabled children. Not all who are in the same village or tribe are blood relatives, but to avoid unwanted things, it is necessary to anticipate such as the rules that suggest to avoid it as above (Setiawan et al., 2023)

Although the custom in the Bandar Mas jorong prohibits marriage in the same village, the marriage can be canceled and the marriage that has been carried out in the same village is still considered valid. This indicates that

sekampung marriage is not included in the haram category. Because if a marriage is forbidden then the marriage must be canceled. Because haram means sinful if done and rewarded if abandoned. In accordance with Minangkabau custom, sekampung marriage is not good to do. (Nurchaliza, 2020)

The prohibition of marrying someone from the same village or tribe, apart from being regulated in customary law and Islamic teachings, is also stated in Indonesian national law. This rule is regulated in Law Number 1 of 1974 concerning Marriage. Article 8 states that "Marriage is prohibited between two people who, according to the teachings of their religion or other applicable regulations, are not allowed to marry" (Indonesia, 1974). It can be understood that state law accommodates customary law that imposes a ban on marriage in one village that applies in Bandar Mas jorong Cubadak nagari.

IV. CONCLUSION

The origin of the prohibition of marriage between men and women from the same village is due to the matrilineal system used. Almost similar to the Minangkabau tribe that prohibits tribal marriage. The people in one village have similar origins, namely the same ancestors if drawn from the mother's lineage. The prohibition of marriage in one village is interpreted as a prohibition of tribal marriage. In Islam, there is no prohibition on marrying a sister from the mother's side or *sasuku* or one village. Tribal marriage in matrilineal customs can be concluded solely because of 'urf, or custom, because there is no prohibition in the Qur'an or hadith. Regarding the prohibition of marriage in the same village, a common ground can be found between the two. Customary law can be considered to strengthen Islamic law.

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