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Kafa'ah as a Tool of Social Legitimacy in Marriage: An Empirical Analysis of *Maslahah* and Discrimination in Banda Aceh City

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Abstract: This study aims at examining kafa'ah as a tool of social legitimacy in marriage by investigating the tension between its intended role in maintaining *maslahah* (public welfare) and its potential to generate discrimination in the marriage practices of Banda Aceh. Historically, kafa'ah was formulated in classical fiqh (Islamic jurisprudence) to promote marital harmony. In the contemporary context, however, it has shifted into a mechanism of social selection, which leads to the rejection of marriages based on nasab (lineage), economic status, educational background, and social standing, including within particular communities such as *sayyid–syarifah* families and families imposing high dowry expectations. This study employs a socio-legal approach by integrating a review of classical and contemporary Islamic legal literature, an analysis of Islamic family law regulations, and empirical data obtained by means of interviews with individuals who experienced discriminatory marriage practices, religious leaders, and legal scholars. Findings indicate that the expansion of the criteria of kafa'ah beyond religious commitment and moral character is a socio-historical construction rather than normative of principles of Islamic law. Thus, its practice often reinforces social stratification and perpetuates the marginalization of certain people and groups. The study concludes that kafa'ah should be reconstructed as a flexible social consideration, not as a legal condition that limits the right to marry. Hence, this will be in line with the principles of maslahah, justice, and the objectives of Islamic family law in building a sakinah (peaceful and harmonious) family.

Keywords: Kafa'ah, maslahah, discrimination, Islamic family law, Banda Aceh.

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Abstrak: *Penelitian ini mengkaji kafa'ah sebagai alat legitimasi sosial dalam perkawinan dengan melihat ketegangan antara tujuan menjaga maslahah dan potensi diskriminasi yang muncul dalam praktik masyarakat Kota Banda Aceh. Secara historis, kafa'ah dirumuskan dalam fikih klasik untuk menjaga keharmonisan keluarga. Namun, dalam konteks modern, konsep ini sering bergeser menjadi mekanisme seleksi sosial yang menimbulkan penolakan pernikahan berbasis nasab, ekonomi, pendidikan, maupun status sosial, termasuk dalam komunitas tertentu seperti sayyid-syarifah dan keluarga dengan tuntutan mahar tinggi. Penelitian ini menggunakan pendekatan sosio-legal dengan memadukan kajian literatur fikih, analisis regulasi hukum keluarga Islam, dan data empiris hasil wawancara dengan korban diskriminasi, tokoh agama, serta akademisi. Temuan menunjukkan bahwa perluasan kriteria kafa'ah di luar aspek agama dan akhlak lebih dipengaruhi oleh konstruksi sosial-historis ketimbang pertimbangan normatif syariat, sehingga praktiknya kerap memperkuat hierarki sosial dan menciptakan eksklusi terhadap individu atau kelompok tertentu. Penelitian ini menyimpulkan bahwa kafa'ah perlu direkonstruksi sebagai pertimbangan sosial yang bersifat fleksibel dan tidak boleh dijadikan dasar pembatasan hak menikah, agar tetap selaras dengan prinsip maslahah, keadilan, serta tujuan hukum keluarga Islam dalam mewujudkan keluarga sakinah.*
Kata kunci: *Kafa'ah, maslahah, diskriminasi, hukum keluarga Islam, Banda Aceh.*

Introduction

Marriage is a sacred covenant (*mitsaqan ghalizhan*), which is intended to build a lawful, harmonious, and blessed family life. Marriage gives rise to the family as the smallest social unit, where happiness, tranquility, and prosperity are expected to emerge.[1] The Qur'an affirms this principle in the following verse: "*And of His signs is that He created for you from yourselves mates that you may find tranquility in them; and He placed between you affection and mercy. Indeed, in that are signs for a people who give thought."* (Surah Ar-Rūm [30:21]).[2]

This verse means that the purpose of marriage is not only to unite two people, but also to attain *sakinah* (tranquility), *mawaddah* (affection), and *rahmah* (compassion), as the basis of a happy and stable family. Furthermore, marriage is not only a personal relation but also a social institution. This becomes a framework that allows the husband and wife to respect and protect each other, share their rights and responsibilities, as well as fulfill their roles in the society.[3]

[1] Abdul Wahid and M. Halilurrahman, "Keluarga Institusi Awal Dalam Membentuk Masyarakat Berperadaban," *CENDEKIA : Jurnal Studi Keislaman* 5, no. 1 (2019), p. 103.

[2] Qs Ar-Rum Ayat 21.

[3] Burhan Manjo et al., "Komparasi Konsep Kafaah Perspektif Fiqih Empat Mazhab Dan Kompilasi Hukum Islam dalam Perkawinan Jurnal Hukum Keluarga Islam" 1, no. 2 (2023), p. 44–57.

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The term *munakahat* (marriage), linguistically, refers to a reciprocal relationship between two or more parties. It means that marriage, by its very nature, is not an individual act, but a social and religious bond which is equally a matter of concern for both spouses.[4] Thus, the fundamental meaning of marriage should not be understood only in terms of formal considerations of *kafa'ah* (compatibility), but also mainly in light of its ultimate objective, i.e., to establish harmony and promote *maslahah* (public welfare), in ways that remain relevant to the realities of modern life.

Marriage is regarded as a union that fosters *sakinah*, *mawaddah*, and *rahmah*, making the realization of *maslahah* a central objective.[5] To build a healthy and enduring family, a number of factors should be taken into consideration, one of the most significant being the selection of a suitable spouse. This issue is highly important since it is closely related to the sustainability and stability of the marital relationship between husband and wife. *Kafa'ah* is a concept which was originated in the social environment of Iraq, particularly in Kufa, the city where Imam Abu Hanifah lived. Its emergence was highly related to the cosmopolitan nature of Iraqi society, which was influenced by rapid urbanization and the interaction of varied ethnic groups, including marriages between Arabs and newly converted non-Arab Muslims. In these circumstances, *kafa'ah* was seen as a practical mechanism for preventing large disparities in marital unions.[6] Hence, this concept should not be understood in a rigid manner or as a fixed legal standard, but it is to be reinterpreted in light of contemporary social realities so that it continues to serve its main purpose, which is, to promote the welfare, harmony, and stability of the family in the context of modern society.

Kafa'ah is not considered an essential *rukn* (pillar) of marriage in Islamic family law, but it is seen as an important principle of compatibility and balance between prospective spouses. The main focus of *kafa'ah* is compatibility in the matters of religion, moral character, and religious devotion, rather than wealth, social status, or lineage. This is because putting emphasis on the latter might create forms of social stratification that contradict the Islamic principles. Classical *fuqaha'* (Muslim jurists) are of the view that *kafa'ah* is a right belonging to the prospective bride and her *wali* (guardian), thus giving them the authority to object to a marriage if the prospective husband is deemed incompatible.[7] However, Article 61 of the Indonesian Compilation of Islamic Law (*Kompilasi Hukum*

[4] Nailul Hidayah Ar-Rafani, "*Konsep Kafaah Dalam Pernikahan (Studi Pemikiran Mazhab Hanafi)*," 2008, p. 8.

[5] Nirwan Nazaruddin, "Sakinah, Mawaddah Wa Rahmah Sebagai Tujuan Pernikahan: Tinjauan Dalil Dan Perbandingannya Dengan Tujuan Lainnya Berdasarkan Hadits Shahih," *Jurnal Asy-Syukriyyah* 21, no. 02 (2020), p. 165.

[6] Musafak, "Konsep Kafa'ah Dalam Pernikahan Studi Pemikiran Mazhab Hanafi," 2013, p. 29.

[7] Ali Muhtarom, "Problematika Konsep Kafaah Dalam Fiqih (Kritik Dan Reinterpretasi)," *Jurnal Hukum Islam* 16 (2018), p. 16.

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Islam/KHI) stipulates that incompatibility may serve as grounds for annulment only when it concerns religious differences, rather than socio-economic factors.[8]

The principles of balance and equality in marriage essentially begin even before the marriage itself through the concept of *kafā'ah*, in which it pinpoints the significance of equality as the foundation for building an ideal family.[9] This *kafa'ah* notion is meant to encourage harmony but is often interpreted narrowly in practice, which causes a number of problems, especially if it is used to prohibit or restrict marriages because of differences in social status, ethnic origin, or economic background. The same phenomenon can be seen in the specific marriage practices of equal status in Banda Aceh, where specific standards of compatibility still impact the family's decisions. For example, in the *Sayyid–Syarifah* community, preserving the nobility of *nasab* (lineage) is of great importance, as it forms part of cultural identity and is widely honored. However, when this concept is applied rigidly, it may limit individuals' choice of spouses. In a similar vein, the tradition of imposing high *mahr* (dowry) in some communities can also create serious barriers for prospective couples with limited financial means.[10]

The principle of *maṣlaḥah* is the core objective of *maqāṣid al-sharī'ah* and should be the basis of legal reasoning in the Islamic law. However, studies that explicitly relate *kafa'ah* with the principle of *maṣlaḥah* are still limited.[11] From this point of view, the application of *kafa'ah* needs to be critically evaluated so that it continues to respect local traditions without making any injustice, discrimination, or restriction toward an individual's right to marry.

In light of this, this present study seeks to fill this gap by offering a new perspective on the concept of *kafa'ah*. Rather than only presenting the classical doctrine or describing customary practices, this study examines *kafa'ah* from two

[8] Article 61 of the Compilation of Islamic Law (Kompilasi Hukum Islam/KHI).

[9] Anwar Hafidzi Nor Ipansyah, et al., "Determination Of Sekufu In the Kitabun Nikah Al-Banjari," *Syariah: Jurnal Hukum Dan Pemikiran* 21, no. 1 (2021), p. 125–33.

[10] Rustam Dahar et al., "Kesetaran Laki-Laki Dan Perempuan Dalam Hukum Keluarga Islam" 8, no. April (2013), p. 363. Rajin Sitepu Rajin, "Political Dowry: Reasons for Restriction, Law Enforcement, And Preventions," *SYARIAH : Jurnal Hukum Dan Pemikiran* 22, no. 1 (2022), p. 123–36. Adriana Mustafa and Arwini Bahram, "Relasi Gender Dalam Pernikahan Keturunan Sayyid Di Desa Cikoang Kabupaten Takalar; Studi Kasus Perbandingan Hukum Islam Dan Hukum Adat," *Mazahibuna*, 2020, p. 241–54.

[11] Zulkarnain, Habib Iman Nurdin Sholeh, and Ahmad Zaenul Muttaqin, "Local Wisdom in Sebambangan Traditional Marriage Practices: A Maqāṣid Sharī'ah Perspective," *Ijtihad : Jurnal Wacana Hukum Islam Dan Kemanusiaan* 24, no. 1 (2024), p. 119–37. Nur Saniah, Nawir Yuslem, and Hasan Matsum, "Analysis of Maqāshid Sharī'a on Substitute Heir in Compilation of Islamic Law (KHI)," *Al-'Adalah* 20, no. 1 (2023), p. 35. Qodariyah Barkah and Andriyani Andriyani, "Maqashid Al-Syari'ah Concept Of Kafa'ah In Marriage," *Nurani: Jurnal Kajian Syari'ah Dan Masyarakat* 20, no. 1 (2020), p. 107–16. Azni Azni et al., "Pseudo-Maṣlaḥah and Epistemological Failure in Marriage Dispensation at Indonesian Religious Courts," *Jurnal Ilmiah Peuradeun* 13, no. 2 (2025), p. 1399–1420.

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contrasting perspectives: on the one hand, as an instrument for achieving *maṣlaḥah*; and on the other, as a potential source of social discrimination. This approach becomes highly relevant when viewed in relation to the realities of Banda Aceh, since the concept of *kafa'ah* intersects with social hierarchy, considerations of *nasab*, and the practice of imposing high *mahr.* This analytical framework not only critiques the relevance of *kafa'ah* in light of modern society, but also offers a more inclusive and contextual understanding of the concept of *kafa'ah* which is more in line with the changing dynamics of contemporary Islamic family law.

Ali Muhtarom has criticized the limitations of the classical understanding of *kafa'ah* and advocated for a more contextual reinterpretation of the concept.[12] Other empirical studies have similarly found that the implementation of *kafa'ah* in certain communities continues to generate discrimination against couples who marry outside established lineage boundaries.[13] Building upon these findings, the present study focuses on a critical Islamic legal analysis of *kafa'ah* (or *sekufu* in Indonesian) by evaluating it from two complementary perspectives: first, as an instrument for realizing *maṣlaḥah*; and second, as a potential source of discrimination that conflicts with the Islamic principle of equality.

The study offers three main aspects of novelty. Firstly, it argues that *kafa'ah* should not be understood as a classical *fiqh* doctrine, but as a socio-legal phenomenon that needs to be critically examined in the light of contemporary social change. Secondly, it combines the analysis of *maṣlaḥah* with the issue of discrimination, an area which has not been the focus of previous studies. Thirdly, it contributes to the development of Islamic family law through a reinterpretation of *kafa'ah* that is more responsive to the principles of justice and equality and contemporary social dynamics. Thus, this study is expected to contribute theoretically to the literature of Islamic law, and practically to the reformulation of Islamic family law policies and practices so that they will be more responsive to the challenges of contemporary society while still based on their normative bases.

This study employs a qualitative field research approach to explore how the concept of *kafa'ah* functions as a mechanism of social legitimacy in marriage practices in Banda Aceh. The researchers conducted direct field observations of *kafa'ah* (*sekufu*) practices and carried out in-depth interviews with relevant stakeholders to examine both the dimensions of *maṣlaḥah* and the forms of discrimination that emerge in their implementation. These empirical findings

[12] Muhtarom, "Problematika Konsep Kafaah Dalam Fiqih (Kritik Dan Reinterpretasi)."

[13] Dzakiyyatul Ilmi Sirait and Mustapa Khamal Rokan, "Konsep Kafa'ah Pernikahan Dikalangan Komunitas Said/Syarifah (Studi Komunitas Said/Syarifah Di Kota Medan, Sumatera Utara)," *AL-MANHAJ: Jurnal Hukum Dan Pranata Sosial Islam* 5, no. 2 (2023), p. 1215–20.

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constitute the primary source of data for analyzing the relevance and social implications of applying *kafa'ah* within the community.[14]

The study poses three main research questions. First, how is the concept of *kafa'ah* formulated in classical *fiqh*, and to what extent is it intended to safeguard *maṣlaḥah* within the institution of marriage? Second, how does the practice of *kafa'ah* in the contemporary social context, especially in Banda Aceh, work as a mechanism of social legitimacy that might produce forms of discrimination based on economic status, cultural background, or lineage? Third, how can an Islamic legal critique of the implementation of *kafa'ah* be formulated by considering the principle of *maṣlaḥah* and its normative relevance to the evolving dynamics of marriage in the modern era?

Definition and Concept of *Kafa'ah* in Classical *Fiqh* Literature

Linguistically, *al-kafa'ah* (الكفاءة) means equality, equivalence, or compatibility (المساواة والمماثلة). In *fiqh* terminology, classical *ulama* (Muslim jurists) define it as the compatibility or balance between a husband and wife in specific aspects, with the objective of preventing dishonor, social stigma, or marital conflict (المماثلة بين الزوجين دفعًا للعار في أمور مخصوص).[15] One of the *hadith* (prophetic traditions) that serves as the basis for the discussion of *kafa'ah* in Islam is the narration of Abu Hurairah:

عَنْ أبي هريرة رضي الله عنه، عن النبي صلى الله عليه وسلم قال: «تُنْكَحُ الْمَرْأَةُ لأَرْبَعٍ: لمالها، ولحسبها، ولجمالها، ولدينها، فاظفر بذات الدين تربت يداك» (رواه البخاري ومسلم)

> Translation: "A woman is married for four reasons: her wealth, her lineage, her beauty, and her religion. Therefore, choose the one who is devoted to her religion, and you will prosper." (Narrated by al-Bukhari and Muslim)

The Qur'an also emphasizes that human dignity is determined not by lineage, ethnicity, or social status, but by piety. Allah states in Surah Al-Hujurat verse 13:

يَا أَيُّهَا النَّاسُ إِنَّا خَلَقْنَاكُمْ مِنْ ذَكَرٍ وَأُنْثَىٰ وَجَعَلْنَاكُمْ شُعُوبًا وَقَبَائِلَ لِتَعَارَفُوا ۚ إِنَّ أَكْرَمَكُمْ عِندَ اللَّهِ أَتْقَاكُمْ ۚ إِنَّ اللَّهَ عَلِيمٌ خَبِيرٌ

> Translation: "O mankind, indeed We have created you from male and female and made you peoples and tribes that you may know one another. Indeed, the most noble of you in the sight of Allāh is the most righteous of you. Indeed, Allāh is Knowing and Aware."[16] (49:13)

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[14] Sulistyowati Irianto and Shidarta, "Legal Research Methods: Constellations and Reflections," *Yayasan Obor Indonesia* 2 (2011), p. 1.

[15] Iffah Muzammil, "Fiqh Munakahat (Hukum Pernikahan Dalam Islam)," *Journal of Chemical Information and Modeling* 53, no. 9 (2019), p. 63.

[16] Rusdaya Basri, *Fiqh Munakahat 4 Mazhab Dan Kebijakan Pemerintah*, 2019, p. 67.

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Ibn Manẓūr defines *kafā'ah* as *al-musāwah* (equality or balance). This term, when applied to marriage, refers to the compatibility or equality of social status, religion and lineage between a prospective husband and wife. The term *kafā'ah* in Islamic legal terminology refers to the social, moral and economic compatibility that makes it possible to establish a harmonious household. By having this is believed to increase marital satisfaction and reduce the probability of marital failure. Although *kafā'ah* is not regarded as a *sharṭ ṣiḥḥah* (legal requirement) for the validity of marriage, it is recognized as a right of the woman and her *walī*. Significant inequality between spouses is considered capable of creating serious marital problems that may ultimately lead to divorce.[17]

There is a difference of opinion among the *ulama* on the position of *kafa'ah* in marriage. The majority of Muslim scholars (*jumhur al-'ulama'*), including the Maliki school, Shafi'i school, the *Ahl al-Ra'y* (Hanafi school), and one narration from Ahmad ibn Hanbal, are of the opinion that *kafā'ah* is not a condition of marriage. It is rather a recommended virtue, and thus, a marriage between a man and a woman who are not *kufu'* (socially compatible) remains valid. In contrast, some *ulama*, including another narration from Imam Ahmad, maintain that *kafā'ah* constitutes a condition for the validity of marriage, which means that a marriage between a man and a woman who are not *kufu'* is invalid.

With respect to the criteria used to determine *kafā'ah*, the *ulama* also differ in opinion, as comprehensively explained by Abd al-Rahman al-Jaziri. According to the Hanafi school, the criteria of *kafā'ah* include *nasab* (lineage or ethnicity), Islam (i.e., having many Muslim relatives within one's family lineage), *ḥirfah* (occupation or profession), personal freedom, *diyānah* (the quality of one's religious commitment in Islam), and wealth. According to the Maliki school, the only criteria of *kafā'ah* are *diyānah* and freedom from physical defects. According to the Shafi'i school, the criteria consist of lineage or ethnicity, religious commitment, personal freedom, and occupation or profession. Meanwhile, the Hanbali school considers the criteria of *kafā'ah* to be religious commitment, occupation or profession, wealth, personal freedom, and lineage or ethnicity.[18]

Nevertheless, the *ulama* unanimously regard *dīn* or *diyānah*, which means the level of one's religious commitment and piety is a criterion of *kafā'ah*. Indeed, according to the Maliki school, this is the only criterion that may be used to determine *kafā'ah*. This consensus is based on the verse of the Qur'an mentioned above, as well as Surah As-Sajdah (32:18): "*Then is one who was a believer like one who was defiantly disobedient? They are not equal*".

The differences of opinion among the ulama regarding *kafā'ah* are rooted in several fundamental considerations. Some *ulama* who regard it as a condition

[17] Theadora Rahmawati, *Fiqh Munakahat 1 (Dari Proses Menuju Pernikahan Hingga Hak Dan Kewajiban Suami Istri)*, *Duta Media Publishing*, 2021, p. 43.

[18] Syarifah Gustiawati and Novia Lestari, "Aktualisasi Konsep Kafa'ah Dalam Membangun Keharmonisan Rumah Tangga," *Mizan: Journal of Islamic Law* 4, no. 1 (2018).

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for the validity of marriage argue that compatibility between spouses helps to preserve marital harmony, protects family honor, and is consistent with the general principles of the Qur'an and the Sunnah, i.e., emphasizing balance and compatibility in marriage. On the other hand, others who reject *kafā'ah* as a condition for the validity of marriage maintain that there is no explicit *naṣṣ* (textual evidence) establishing it as such, while the essential pillars and legal requirements of marriage have already been clearly prescribed in Islamic law. Further, they also reinforce the Islamic principle of equality, which regards *taqwā* (piety) as the primary criterion, as well as the purpose of marriage, which is to build a *sakinah* (peaceful and harmonious) family rather than to preserve social status.[19]

The concept of *kafā'ah* was already known in the Arab society before Islam. During the pre-Islamic period (*jāhiliyyah*), *nasab* was the main consideration to measure the compatibility (*kufu'*) of prospective spouses. A marriage was considered ideal when the couple was equal in terms of race, tribe, and social status. If the father was of non-Arab descent and the mother was Arab, the child was referred to as *mudarra*. Conversely, if the mother was non-Arab, the child was known as *hajīn*. Children classified as *hajīn* were even denied inheritance rights. The advent of Islam brought a fundamental change to this perspective. Islam accorded equal respect to the people of *hajīn* descent by stating that lineage was traced through the father. Hence, they also had equal rights, including the right to inherit. In a broader sense, Islam established a universal religion that abolished discrimination based on tribe, race and social status. The Qur'an mentions that all human beings are equal before Allah and that only *taqwā* separates the one from the other.[20]

The concept of *kafā'ah* in marriage is thus to promote justice and equality between spouses.[21] *Kafā'ah* also reflects the understanding that the husband bears the primary responsibilities within the family, serving as the *imām* (leader) of the household, while the wife follows as his *ma'mūm* (partner). To properly fulfill these respective rights and obligations, prospective spouses must first understand the scope of their rights and responsibilities. Thus, the application of *kafā'ah* in marriage provides benefits for both parties. Further, the social standing of a wife

[19] Al-Nawawi Yahya ibn Sharaf, *Al-Majmu Sharh Al-Muhadhdhab*, 1997.

[20] Siti Jahroh, "Reinterpretasi Prinsip Kafā'Ah Sebagai Nilai Dasar Dalam Pola Relasi Suami Istri," *Al-Ahwal: Jurnal Hukum Keluarga Islam* 5, no. 2 (2016), p. 63.

[21] Zuliza Mohd Kusrin et al., "Muslim in Malaysia Understanding in Regards to the Concept of Compatibility (Kafa'ah) in Islamic Marriage," *El-Usrah: Jurnal Hukum Keluarga* 7, no. 2 (2024), p. 648. Albirra Trisna et al., "The Changing Meaning of Kafa'ah under the Influence of Social Change," *El-Usrah: Jurnal Hukum Keluarga* 9, no. 1 (2026), p. 346–69. Eka Suriansyah and Rahmini Rahmini, "Konsep Kafa'ah Menurut Sayyid Usman," *El-Mashlahah* 7, no. 2 (2019).

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is regarded as rising or declining in proportion to the social standing of her husband.[22]

The Practice of Applying *Kafā'ah* in Modern Society

In Islam, the provisions concerning marriage are set forth in the Qur'an, such as the pillars and requisites of marriage, prohibited marriages, those who are permitted to be married, and various guidelines for choosing a suitable spouse. There are also many traditions and customary practices which are observed in the practice of marriage by some communities with the aim of building harmony and social cohesion within the communities.[23]

Taqwā is the main criterion of *kafā'ah*, according to the Qur'an, as stated in Sūrah al-Ḥujurāt verse 13. However, in the course of time, modern society has come to view economic status, *nasab*, and educational achievement as the main measures of compatibility in marriage. In the complex social conditions and increasing demands of modern life, these considerations often have a direct impact on the sustainability of marital relationships. Hence, many young men and women today find it difficult to marry if they do not meet the prevailing social, economic, or educational standards that are deemed desirable, which is often further complicated by the high expectations on the *mahr*.

The concept of *kafā'ah* in marriage is deeply ingrained in the *sayyid* and *sharīfah* communities, since their parents and elders educate them to maintain the lineage of the descendants of the Prophet Muhammad (peace be upon him) by marrying someone who is *sekufu'*. Therefore, a *sayyid* or *sharīfah* who marries a non-*sayyid* or non-*sharīfah* is considered to have effectively disassociated himself or herself from the family, a decision that can have serious social repercussions. This was confirmed by a *Sharīfah*, Syarifah Fauziah Assegaf, who married a non-*sayyid* (*'ajam*) named Samsul Hadi. She stated that the social sanctions imposed by members of the *sayyid* and *sharīfah* communities are indeed a reality.[24]

The interview findings also revealed that discriminatory practices against those who marry non-*sayyid* or non-*sharīfah* individuals still happen. This discrimination is mainly manifested in parental disapproval or rejection, which results in couples who marry outside the *sayyid–sharīfah* lineage often being denied full acceptance within their families and the wider community. These conditions not only exert a psychological pressure on the couples concerned, but

[22] Iim, *Konsep Kafa'ah Dalam Perkawinan (Pemahaman Guru Madrasah Aliyah Negeri Rejang Lebong)*, vol. 5, 2022, 41.

[23] Siti Dian Natasya Solin et al., "Batak Customary Marriage: A Study of the Prohibition of Same-Clan Marriage and Its Relevance in the Contemporary Era," *El-Usrah* 7, no. 1 (2024), p. 71. Al-Sarakhsy, *Al-Mabsuth,* (Mesir: Al-Sa'adat, n.d.). Mursyid Djawas and Sri Astuti A. Samad, "Conflict, Traditional, and Family Resistance: The Pattern of Dispute Resolution in Acehnese Community According to Islamic Law," *Samarah*, 2020.

[24] Sirait and Rokan, "Konsep Kafa'ah Pernikahan Dikalangan Komunitas Said/Syarifah (Studi Komunitas Said/Syarifah Di Kota Medan, Sumatera Utara)."

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also have the potential to violate the fundamental right of individuals to choose their own life partners, as guaranteed by the principles of Islamic law and international human rights instruments.[25]

Maqāṣid al-sharī'ah considers *ḥifẓ al-nasab* (the preservation of lineage) as one of the fundamental objectives of Islamic law.[26] Within this framework, a community may adopt internal norms that encourage marriage within a specific tribe or social group so as to ensure the continuity of its lineage. However, if these norms are rigidly followed, there will be problems and social discrimination against people who marry outside their community.[27] Such practices often have adverse consequences, not only for the married couple who are perceived to have violated tradition but also for the sustainability of their social lives, since they often experience exclusion or rejection within their families and communities.

Islamic law affirms that both men and women have the right to choose their spouses, and that the validity of a marriage depends on the fulfillment of its *arkān* (legal pillars) and *shurūṭ* (conditions), rather than on compatibility in terms of social status or lineage. Hence, the application of *kafā'ah* should be understood flexibly in light of the principle of *maṣlaḥah*, rather than as an exclusive instrument that restricts an individual's right to marry.

The interview with gender expert Angga Hendi Prabowo illustrates that the problem of gender equality in the practice of *kafā'ah* is an evolving concept, as its realization depends on the access and distribution of various forms of capital, e.g., financial capital, social capital, human capital, and information capital. In terms of gender, the question is not only that of formal equality, but rather that of agency, i.e., the ability of individuals to make choices, act and determine their own lives in the face of the social, cultural and economic constraints. The tension between agency and these constraints often affects marital decision-making, since marriage itself is a social institution with a structural tendency to restrict women's autonomy. While Islam allows for negotiation in the practice of *ta'āruf*, the continued existence of unequal gender power relations can still lead to discrimination, especially when one party has access to different types of capital, thereby diminishing the other party's position in the decision-making process. In the context of Banda Aceh society, the reason that prospective spouses are considered "not *sekufu*" is often based on disparities

[25] Interview with Syarifah Akrimna Alaydrus, a member of the Sayyid/Sharifah community, Wednesday, September 24, 2025.

[26] Ismail Ismail et al., "Legal Age Equality in Marriage According to Indonesian Positive Law in the Studies of Gender and Maqāṣid Al-Sharia," *De Jure: Jurnal Hukum Dan Syar'iah* 15, no. 1 (J2023), p. 67–81. Edy Setyawan et al., "Legal Age for Marriage: SDGs and Maslahah Perspectives in Legal Policy Change in Indonesia," *Al-Manahij: Jurnal Kajian Hukum Islam*, 2023, p. 183–98

[27] Muslim Zainuddin et al., "Protection of Women and Children in the Perspective of Legal Pluralism: A Study in Aceh and West Nusa Tenggara," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam Hukum Islam* 8, no. 3 (2024), p. 1948–73.

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in financial resources or social status, which then become a form of social justification for rejecting a marriage, even though such a marriage is valid under Islamic law. Therefore, *kafā'ah* is often not resorted to as a tool of *maṣlaḥah*, but rather as a way of reproducing social hierarchy, perpetuating gender inequality and creating opportunities for discrimination against those who are deemed to be lacking comparable forms of capital.[28]

From the viewpoint of human rights, restricting marriage on the basis of lineage or social status violates every individual's fundamental right to establish a family. International instruments such as Article 16 of the Universal Declaration of Human Rights (1948) stipulate that men and women of full age have the equal right to marry and to found a family without limitation based on race, nationality or religion.[29]

This principle is in line with the *maqāṣid al-sharī'ah* which considers marriage as a means to preserve lineage (*ḥifẓ al-nasab*) and protect human dignity, and not as a tool to strengthen social divisions. The strict application of *kafā'ah* can cause social problems and also contradict with universal humanitarian values.

Theodor Son describes that discrimination is unequal treatment of individuals or groups based on particular categorical characteristics or distinctive attributes, such as race, ethnicity, religion, or membership in particular social classes. The term is generally used to describe actions by a dominant majority toward a weaker minority, and such conduct may be regarded as morally unjustifiable and undemocratic.[30]

There are several basic requirements for the validity of a marriage, as stated in Law Number 1 of 1974 on Marriage as amended by Law Number 16 of 2019. Firstly, the marriage must be solemnized in accordance with the religious law and beliefs of the prospective spouses (Article 2(1)). Secondly, the marriage must be based on the mutual consent of both parties (Article 6(1)). Thirdly, the prospective husband and wife must have attained the minimum age of 19 years (Article 7(1)). Fourthly, the marriage must not violate any of the legal prohibitions prescribed by the law, including prohibitions arising from blood relationship, affinity, *raḍā'ah* (fosterage), or other prohibitions as stipulated in Article 8.[31]

It should be emphasized that Indonesian Marriage Law neither recognizes nor regulates the concept of *kafā'ah* (equality in terms of lineage, social status, or economic standing) as a condition for the validity of marriage. The concept of

[28] Interview with Angga Hendi Prabowo, Consultant at SMARTS Research Center Thailand and Associate Strategy Director at Omnicom Media Group Indonesia, Wednesday, November 12, 2025.

[29] International Law Making, "Deklarasi Universal Hak-Hak Asasi Manusia," *Indonesian Journal of International Law*, no. III (2006), p. 3.

[30] Fulthoni et al., *Memahami Diskriminasi : Buku Saku Untuk Kebebasan Beragama*, *ISSN 2502-3632 (Online) ISSN 2356-0304 (Paper), Jurnal Online Internasional & Nasional Vol. 7 No.1, Januari – Juni 2019, Universitas 17 Agustus 1945 Jakarta*, 2023, p. 03.

[31] Law No. 1 of 1974 concerning Marriage

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kafā'ah exists only within the corpus of classical *fiqh*, whereas Indonesian positive law places greater emphasis on compliance with religious law, mutual consent, the minimum legal age for marriage, and the absence of legal impediments to marriage.[32] Thus, it may be concluded that the Indonesian legal framework governing marriage prioritizes legal certainty and the protection of the rights of prospective spouses, rather than considerations of social compatibility as recognized in the classical literature of *fiqh*.

Critique of the Practice of *Sekufu'* from the Perspective of Islamic Law

From the perspective of *maqāṣid al-sharīʿah*, every ruling of Islamic law should aim to achieve *maṣlaḥah* (public welfare) and prevent *mafsadah* (harm).[33] *Maqāṣid al-sharī'ah* aims at the protection of five essential values including religion (*ḥifẓ al-dīn*), life (*ḥifẓ al-nafs*), intellect (*ḥifẓ al-'aql*), lineage (*ḥifẓ al-nasl*), and property (*ḥifẓ al-māl*). When *kafā'ah* is understood solely in terms of religious commitment and moral character, it is in line with the aims of *maqāṣid al-sharī'ah*, since it helps to promote family stability and the quality of future generations (*ḥifẓ al-nasl*). Yet, when *kafā'ah* is extended to include social status, wealth, or profession, it may lead to discrimination and hinder marriages that are lawful under Islamic law. This approach may ultimately do more harm than good, including *zinā* (adultery) or social fragmentation. Thus, any application of *kafā'ah* that may cause harm should be rejected because it is against the objectives of *maqāṣid al-sharī'ah* which emphasize *taysīr* (facilitation), justice, and the promotion of *maṣlaḥah*.

The concept of *kafā'ah* in *fiqh* has long been the subject of debate among the *ulama*.[34] Fundamentally, *kafā'ah* is intended to preserve marital harmony by ensuring compatibility between prospective spouses. However, in the development of *fiqh* thought, the criteria of *kafā'ah* came to extend beyond religious commitment and moral character to include wealth, lineage, social status, personal freedom, and even occupation. Historically, the expansion of the criteria was largely influenced by the social conditions that prevailed in Arab

[32] Theresia Dyah Wirastri and Stijn Cornelis Van Huis, "The State of Indonesia's Marriage Law: 50 Years of Statutory and Judicial Reforms," *AHKAM : Jurnal Ilmu Syariah* 24, no. 2 (2024), p. 215–32. Nadhilah Filzah, "Perlindungan Dan Kemanfaatan Hukum Terhadap Putusan Itsbat Nikah Di Mahkamah Syar'iyyah Bireun (Analisis Putusan Perkara No. 82/Pdt.P/2019/Ms-Br)," *El-Usrah* 4, no. 1 (2021).

[33] Said Rizal et al., "Beyond Religious Validity: Evaluating Wali Muhakkam Through Legal Pluralism and Maqasid Al- Shari'ah in East Aceh," *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan* 26, no. 1 (2026), p. 144–59.

[34] Syukron Mahbub Syukron Mahbub, "Manakar Kafâ`Ah Dalam Praktik Perkawinan Kyai Di Madura," *Al-Ihkam: Jurnal Hukum & Pranata Sosial* 6, no. 2 (2013), p. 228–55. Fatimah Zuhrah et al., "Tradition Beyond Formal Fiqh: Ethnic Perspectives on Negotiating Kafāʾah in Marriage within the Aceh Singkil Community," *Journal of Islamic Law* 6, no. 2 (2025), p. 155–76.

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society, which gave more importance to lineage and social status. Hence, *kafā'ah* has often been used as a tool of discrimination where people may not be allowed to marry simply because of their social status or their lineage.

In principle, however, Islamic law has never regarded wealth or social status as the measure of a person's dignity or worth. Rather, the foremost criterion is *taqwā*, as affirmed in the Qur'an Sūrah al-Hujurāt (49:13).

يَا أَيُّهَا النَّاسُ إِنَّا خَلَقْنَاكُمْ مِنْ ذَكَرٍ وَأُنْثَىٰ وَجَعَلْنَاكُمْ شُعُوبًا وَقَبَائِلَ لِتَعَارَفُوا ۚ إِنَّ أَكْرَمَكُمْ عِنْدَ اللَّهِ أَتْقَاكُمْ ۚ إِنَّ اللَّهَ عَلِيمٌ خَبِيرٌ

> Translation: *"*O mankind, indeed We have created you from male and female and made you peoples and tribes that you may know one another. Indeed, the most noble of you in the sight of Allāh is the most righteous of you. Indeed, Allāh is Knowing and Aware."[35]

For this reason, a number of contemporary *ulama* argue that the criteria of *kafā'ah* beyond the religious dimension are relative and contextual, and therefore cannot serve as absolute grounds for invalidating or rejecting a marriage. A reinterpretation of the concept of *kafā'ah* is thus necessary so that it is more consistent with the egalitarian spirit of Islam and the objectives of the *sharī'ah* in promoting *maṣlaḥah*. Hence, *kafā'ah* should be regarded merely as a social consideration rather than a legal requirement for the validity of marriage, so that it no longer functions as a discriminatory mechanism that restricts an individual's right to marry.

Religion should therefore become the primary basis for choosing a life partner. A person who sincerely practices the teachings of his or her religion is more likely to establish harmony within the household. Religious teachings also regulate proper ethics and conduct in interpersonal relationships, including the respective rights and obligations of husbands and wives, as stated in a hadith below:

إِذَا جَاءَكُمْ مَنْ تَرْضَوْنَ دِيْنَهُ وَخُلُقَهُ فَزَوِّجُوْهُ إِلَّا تَفْعَلُوْا تَكُنْ فِتْنَةٌ فِي الْأَرْضِ وَفَسَادٌ عَرِيْضٌ (رواه الترمذي)

> Translation: "If there comes to you a man whose religion and character please you, then marry him (to your daughter). If you do not do so, there will be turmoil (fitnah) and widespread corruption on the earth*."* (Narrated by Al-Tirmidhi)

The hadith embodies a general principle that reflects *Sunnatullāh* (the divine order) in human life. The fundamental principle underlying *maṣlaḥah* and serving as the foundation of the family is the existence of *tawāzun* (balance) and *musāwah* (equality) between husband and wife in terms of piety and moral character. When such balance is absent, marital harmony becomes difficult to

[35] Muhtarom, "Problematika Konsep Kafaah Dalam Fiqih (Kritik Dan Reinterpretasi)."

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achieve, as each spouse tends to prioritize his or her own interests and patterns of behavior.[36]

The emphasis on economic status, lineage or educational achievement as the main criteria for *kafā'ah* in contemporary society has been criticized from the perspective of Islamic law for a number of reasons, as follows. Firstly, overemphasis on socio-economic status can distort the true aim of the *sharī'ah*. The goal of the *sharī'ah* is to create a *sakinah* family and to achieve *maṣlaḥah*, not the preservation of prestige and social hierarchy. Secondly, if the rigid criterion of *kafā'ah* is applied, it may lead to discrimination against the poor and the elevation of material wealth as the standard of human nobility, despite the Qur'anic assertion that *taqwā* is the ultimate standard of human nobility. Thirdly, the application of high social standards has practical consequences such as delaying marriage, raising demands for mahr, and creating social problems, e.g., divorce or family conflict, since marriage is based mainly on material considerations.

The interview findings with Fauziati, a judge of the Religious Court, indicate that *kafā'ah* is the equality or compatibility between prospective spouses in various aspects, such as religion, social status, economic condition, education, and culture. She described that, "*kafā'ah* is indeed an important consideration in promoting a more harmonious marital life and reducing the likelihood of conflict. However, in Islam, the most important consideration is religion and good moral character." She further emphasized that *kafā'ah* is not a legal requirement for the validity of marriage, but merely a consideration intended to promote the *maṣlaḥah* of the household.

Regarding the annulment of marriage on the grounds that the spouses are not *sekufu'*, she stated that such cases are extremely rare and cannot be granted arbitrarily. "In practice, an application for annulment may only be considered when it involves fundamental matters, such as the prospective husband having seriously deficient moral character, coming from an environment that may jeopardize the family's honor, or concealing his religious status. Differences in economic condition or social status alone are not sufficient grounds for annulling a marriage," she emphasized.[37]

From a legal viewpoint, the claim that *kafā'ah* constitutes a condition for the validity of marriage is also subject to criticism, since there is no *qaṭ'ī naṣṣ* (explicit and definitive textual evidence) establishing it as either a *rukn* (pillar) or a *sharṭ* (legal requirement) of marriage. For this reason, many *ulama* regard *kafā'ah* as a matter for the guardian's consideration (the right of *khiyār*) or as a

[36] Nurmasni Wulandari, "Urgensitas Kafa'ah Dalam Membentuk Rumah Tangga Sakinah Perspektif Maqasid Syari'ah," in *Gastronomía Ecuatoriana y Turismo Local.*, vol. 1, 1967, p. 61.

[37] Interview with Fauziati, Judge (Deputy Judge of the Cikarang Religious Court) and former Deputy of the Banda Aceh Sharia Court.

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flexible principle intended to promote *maṣlaḥah*. This critique encourages a more contextual interpretation of *kafā'ah*, viewing it as a means of preventing harm (*maḍarrah*) in specific circumstances, e.g., a clear difference in religion, while rejecting its rigid application in ways that obstruct the broader social objectives of the *sharī'ah*.

As a normative recommendation, contemporary *fiqh* should concern with two principal considerations. First, priority should be made to religious commitment and moral character when choosing a spouse. Second, social policies and educational initiatives should be developed to lessen the economic pressure related to marriage, e.g., campaigns promoting modest *mahr*, programs for youth economic empowerment, and mediation by guardians (*awliyā'*) that prioritizes the *maṣlaḥah* of the family. These kinds of approaches will preserve the integrity of the *fiqh* tradition while still responding to contemporary socio-economic realities, without compromising the principles of justice and the objectives of the *sharī'ah.*

Conclusion

The concept of *kafā'ah* (*sekufu'*/compatibility) in marriage is essentially aimed to promote *maṣlaḥah* by developing marital harmony and preserving lineage (*ḥifẓ al-nasl*), with religious commitment and moral character being the main criteria. The expansion of the criteria of *kafā'ah* to include lineage, social status, economic standing, and occupation is largely a result of certain socio-historical conditions and is therefore relative in nature. Thus, these factors should not be regarded as legal requirements for the validity of marriage. The rigid application of *kafā'ah* in the modern era has the potential to give rise to discrimination and is inconsistent with the Islamic principles of equality as well as internationally recognized human rights. From the point of view of the *maqāṣid al-sharī'ah, kafā'ah* should be regarded as a social consideration rather than a legal instrument to limit the right of an individual to marry. Thus, the Islamic legal criticism of the *sekufu'* practice today ought to aim at restoring its original purpose of promoting *maṣlaḥah*, rejecting discriminatory practices, and reinterpreting the concept of *kafā'ah* so that it becomes more inclusive, adaptive, and responsive to contemporary challenges. This study therefore points to the importance of developing Islamic family law that is just, egalitarian, and able to realize families characterized by *sakinah*, *mawaddah*, and *raḥmah*.

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Interviews

Interview with Angga Hendi Prabowo, Consultant at SMARTS Research Center Thailand and Associate Strategy Director at Omnicom Media Group Indonesia, Wednesday, November 12, 2025.

Interview with Fauziati, Judge (Deputy Judge of the Cikarang Religious Court) and former Deputy of the Banda Aceh Sharia Court.

Interview with Syarifah Akrimna Alaydrus, a member of the *Sayyid/Sharifah* community, Wednesday, September 24, 2025.