

Examining Social Harmony in Marriage Law: A Discussion on the Kawin Pantang Custom In Minangkabau

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Abstract: This study will discuss the phenomenon of the tradition of abstinence marriage between couples of Nagari Singkarak and Nagari Saniangbaka. The purpose of this study is to understand the background, community views and the impact of the tradition of abstinence marriage between children of Nagari Singkarak and Nagari Saniangbaka in the perspective of Islamic Law. This research is field research and the primary data sources are local scholars, perpetrators who violate the tradition of abstinence marriage and who cancel the marriage, Niniak mamak parties who violate the tradition of abstinence marriage, Nagari Customary Density (KAN), Wali Nagari Singkarak and Saniangbaka, family parties or parents who violate the prohibition of abstinence marriage and who cancel the marriage. With the interview technique, this study found the results, namely first, the background of the occurrence of abstinence marriage between the children of Nagari Singkarak and Nagari Saniangbaka is due to the oath of the ancestors who said that they had a brotherly relationship because of the oath set so that they could not marry. The community's views on the prohibition of this pantang marriage are divided into two, namely those who accept the rules of the prohibition of this pantang marriage because they believe in the absolute provisions of the ancestral oath that says they are brothers so that marriage is not allowed. While some other communities do not accept this ban on abstinence marriage because it contradicts Islamic law. The impact of this ban on pantang marriage is twofold; namely, the cancellation of marriage and the opportunity for siri marriages carried out by the community because they did not get permission from parents, niniak mamak and the village government. Seen from the Islamic law perspective, the prohibition of pantang marriage contains more mudharat than benefits, so that it can lead to prohibited actions.

Keywords: Marriage Law, Kawin Pantang, Minangkabau

Introduction

Minangkabau community adheres to exogamy and endogamy *kampung* (Tarigan et al., 2024). This means that people of the same tribe in one Nagari cannot marry. Same-tribe marriages are considered bad because they are incestuous (Masykuri, 2016). Nagari Singkarak and Nagari Saniangbaka have this marriage ban that occurs because of the oath of the ancestors of the two Nagari which does not allow children of Nagari Singkarak and Nagari Saniangbaka to marry because they have a relationship of kinship so they cannot marry. If this custom is violated, it will bring sanctions that have been determined and do not get permission from the niniak mamak, parents and Nagari government to officially marry at the Religious Affairs Office (KUA).

Indonesian Law Number 1 Year 1974 Article 2 concerning Marriage explains that marriage is valid, if it is carried out according to the laws of each religion. Meanwhile, in Nagari Singkarak and Nagari Saniangbaka, the community continues to perform marriages which are then called Kawin Pantang because they adhere to Islamic Law which does not prohibit marriage because of oaths taken by ancestors whose origins are unclear (Perkawinan, 1974). Furthermore, the Compilation of Islamic Law (KHI) in articles 39-44 explains that the prohibition of marriage is *mu'abad* and *ghairu mu'abad* (not forever) (Islam, 2001).

There are several studies on customary marriage prohibitions. Such as the *Misan* Marriage Ban Tradition (the couple is still one great-grandparent) in Kebumen (Fajar, 2022). Another is the customary tradition of prohibiting marriage between Wates Village and Undaan Lor Village, Undaan Kudus, which stems from conflicts and myths that if the marriage is carried out, it will bring economic difficulties, get calamities or get diseases until the death of family members (Nurona, 2021). The study of community perceptions is on the perception of the customary oath of prohibition of inter-gampong marriage (Maulida, 2022). Meanwhile, the study of customary marriage prohibitions in Islamic law is also studied in the Marriage Prohibition of Nglewan Village Residents with Bedingin Village Perspective of 'Urf (Nafiah, 2023) and Islamic Law Review of the Prohibition of One-Clan Marriage in Sibak Village (Sembera, 2022).

The study of "*Kawin Pantang*" has been conducted by several researchers. The research can be categorized into two trends: first, Legal Review of Marriage in the Indigenous Community of Kenagarian Singkarak (Dhea, 2020), The Prohibition of Nikah Sesuku in Minangkabau Viewed from Maqashid Shari'ah (Sari, 2018). Second, the Role of Datuak and Niniak Mamak in the Baralek Custom in Nagari Singkarak (Febriani, 2024). At least, based on these two trends, there has been no specific study that discusses the background and views of the community on the prohibition of Kawin Pantang and a study of the impact of the prohibition of Kawin Pantang. So further research is needed, because based on the two rules above, Kawin Pantang, which has been a customary rule for generations, contradicts the rules of Islamic law and the rules of Indonesian positive law.

Literature Review

Prohibited Marriage in Islamic law

Marriage prohibitions in Islamic law are outlined in the Qur'an and Hadith, classified into two types: *mu'abbad* (permanent) and *ghairu mu'abbad* (temporary) (Roslan & Mahmud, 2024). Permanent prohibitions arise due to lineage (*nasab*), milk kinship (*radha'ah*), and marital relations (*semenda*). Lineage-related prohibitions include close blood relatives such as parents, siblings, and children, while milk kinship refers to individuals breastfed by the same woman, creating a bond akin to blood ties. Marital relations prohibitions apply to relatives by marriage, such as a stepmother, stepdaughter, or mother-in-law. Temporary prohibitions, on the other hand, include marrying two sisters simultaneously, restrictions due to an existing marital bond, the prohibition following three divorces (*talaq tiga*) unless remarriage conditions are met, and barriers due to adultery until repentance occurs. Additionally, interfaith marriages are generally restricted (Nasir, 2022), except under specific conditions outlined in Islamic teachings (Palilati, 2022), such as a Muslim man marrying a woman from the People of the Book. These guidelines serve to uphold family harmony and adherence to Islamic principles (Puyu et al., 2023).

Prohibited Marriages in Minangkabau

In Minangkabau tradition, several types of marriages are strictly regulated to preserve social harmony and maintain the matrilineal system. *First*, ideal marriage is considered a marriage that aligns with customary values, as it serves to prevent household instability. The Minangkabau community is cautious about marriages outside their customary jurisdiction, particularly for men, to ensure the matrilineal lineage is preserved. Marrying outside the customary region may shift the husband's role away from the traditional norms of Minangkabau (Putri, 2022). *Second*, *semenda* marriage refers to a marriage

without the payment of a dowry by the man to the woman's family. In this type of marriage, the husband must reside with his wife's kinship group and assume the rights and responsibilities of his wife. *Third*, sumbang marriage is a marriage between close relatives that is prohibited by customary law. Such marriages can disrupt social harmony as they are seen as violating the values of mutual respect and communal honor. Sanctions for violating this prohibition are decided through customary deliberation (Febria et al., 2022). *Lastly*, *pantang* marriage refers to a marriage that is not prohibited by Islamic law but is strongly discouraged in Minangkabau custom. This type of marriage can disrupt the kinship system, particularly if it involves individuals with close blood ties within the matrilineal lineage, members of the same clan, or those from the same nagari, even without direct genealogical relationships. These rules reflect how Minangkabau customs safeguard social stability and the values of kinship within their community (Karim, 2021).

The Prohibition of *Kawin Pantang*

The prohibition of "*kawin pantang*," as part of tradition and customs in various communities, offers numerous social, cultural, and spiritual benefits. This prohibition helps maintain social harmony by preventing conflicts between families or groups that may arise from marriages deemed inappropriate or socially problematic. Furthermore, it plays a vital role in preserving cultural identity by upholding traditions as an integral part of the community's heritage. Within family contexts, the prohibition regulates kinship relationships and ensures clear lineage, while also reducing the risk of genetic issues by preventing marriages between close relatives. It also contributes to community welfare by maintaining social stability and avoiding conflicts that could result from unsuitable marriages. Family relations are preserved as the prohibition prevents tensions or divisions caused by marriages that violate customary laws. Lastly, the prohibition ensures adherence to customary regulations, which are considered essential for maintaining order and harmony within the community (Al Amin et al., 2023).

Method

This research adopts a qualitative approach, employing field research to uncover and describe various events. The data sources were obtained through interviews with the Kerapatan Adat Nagari (KAN), traditional elders (*niniak mamak*), the Wali Nagari of Singkarak, the Wali Nagari of Saniangbaka, the violators, the violators' families, and local religious leaders. Data collection techniques involved direct interviews with the informants. For data analysis, this study utilized the Miles & Huberman theory, which includes data reduction, data presentation, and conclusion drawing/verification stages.

Results and Discussion

Community Views and Impact of the Prohibition of *Kawin Pantang*

The prohibition of *Kawin Pantang* between the son of Nagari Singkarak and Nagari Saniangbaka is rooted in an ancestral oath declaring the two nagari as kin, thus prohibiting marriage between their members and imposing social sanctions on violators. According to traditional leaders such as Datuak Gindo Nan Gadang and Datuak Rajo Nan Sati, this prohibition has been a long-standing tradition based on the belief that the son of Singkarak and Saniangbaka are relatives. Community views on this prohibition are divided. Some accept it as an absolute customary rule, believing that violations could bring misfortune to the violator, although many of these events are considered coincidental. On the other hand, some reject the prohibition because it contradicts Islamic law, as emphasized by Ustad Yahya, who argued that there is no basis in the Qur'an or Hadith for banning inter-nagari marriages. This rejection is also grounded in the belief that adhering to ancestral oaths without clear justification can be classified as polytheistic. Therefore, the prohibition of *Kawin Pantang* reflects a tension between adherence to customary traditions and compliance with Islamic law within the communities of these two nagari.

The prohibition of *Kawin Pantang* between the son of Nagari Singkarak and Nagari Saniangbaka has significant impacts, one of which is hindering marriage ceremonies. Many couples, unaware of this rule,

had to cancel their wedding plans after being informed about the prohibition, as seen in a case where a couple discovered the rule only after involving their families in the preparations. This lack of awareness often leads to confusion and disappointment, and it is perceived as obstructing the religious act of marriage, potentially resulting in harmful consequences. Additionally, the prohibition has led to instances of unregistered (*nikah sirri*) marriages because couples who insisted on marrying did not receive consent from their parents, traditional elders (*niniak mamak*), or nagari authorities. This situation was highlighted by a *niniak mamak* who refused to sign marriage documents due to the couple's non-compliance with customary rules. Consequently, these marriages are not legally registered at the Office of Religious Affairs (KUA), and attempts to legitimize them through marriage validation (*isbat*) are impeded due to the absence of official documentation. While rooted in a strong cultural tradition, the prohibition of "kawin pantang" presents significant challenges for couples wishing to formalize their union.

Examining Social Harmony in Marriage Law: A Discussion on the *Kawin Pantang* Custom In Minangkabau

The community in Nagari Singkarak and Nagari Saniangbaka believes that the prohibition of Kawin Pantang must be adhered to in order to maintain social harmony and order. They view this prohibition as a sacred inheritance that must be preserved, with the belief that violating it is an abandonment of the ancestors' oath, which could lead to negative consequences for the community. However, some members of the community reject this prohibition, arguing that it contradicts the teachings of Islam, which they believe asserts that fate, including marriage, death, and sustenance, is determined by Allah (Koenig & Shohaib, 2014). Based on the research findings, the prohibition of *Kawin Pantang* between the son of Nagari Singkarak and Nagari Saniangbaka has existed since ancestral times and has become a long-standing tradition. This prohibition stems from an ancestral oath that considers the two Nagari as siblings, and thus, marriage between them is forbidden. The differing views on this prohibition have led to a variety of social consequences, requiring discussions and efforts to find a fair (Nabilah & Rizal, 2024) and wise solution that aligns with the principles of justice (Nabilah et al., 2024), public welfare, and individual rights in Islamic law (Elmahjub, 2021).

The prohibition of marriage between the children of Nagari Singkarak and Nagari Saniangbaka has serious consequences, one of which is the occurrence of secret marriages (*nikah sirri*). Couples who violate this prohibition are unable to obtain permission from their parents, uncles, or the village government to conduct a formal marriage, meaning their marriage is not registered with the Office of Religious Affairs (KUA). Although this prohibition does not contradict religious teachings, in Islam, prohibited marriages typically involve blood relations, breastfeeding relationships, or differing religions (Fortier, 2020). The *Kawin Pantang* prohibition contradicts Islamic law, which does not forbid marriage between people from different nagari, but it can harm the matrilineal kinship system and lead to conflicts between the two nagari (Parker, 2024). Additionally, other negative effects include blocking couples from marrying and potentially causing zina (fornication). While this prohibition has benefits, such as expanding social ties and maintaining social harmony, its negative impacts outweigh the benefits. Therefore, the author believes that the kawin pantang prohibition causes more harm than good, and in accordance with the principles of Islamic law, which emphasize public welfare and avoiding harm, this prohibition does not align with either Islamic law or the customary law in place.

Conclusion

The prohibition of *Kawin Pantang* between the children of Nagari Singkarak and Nagari Saniangbaka generates diverse perspectives and impacts within the community. From the background and societal viewpoints, opinions are divided into two groups. *First*, some people accept the prohibition as an ancestral oath that is absolute and must be adhered to. *Second*, others reject it, arguing that it contradicts Islamic law and is rooted in unclear oaths or myths, which are considered a form of polytheism. The impacts of this

prohibition are significant, such as the emergence of unregistered (nikah sirri) marriages due to couples being denied permission to marry by the niniak mamak or the Nagari Government. The prohibition also acts as a barrier for individuals who wish to marry but are hindered by customary rules. If the obligation to marry is delayed because of this prohibition, it raises concerns that it may lead to sinful actions. From the perspective of Islamic law, the prohibition of "kawin pantang" between the children of Nagari Singkarak and Nagari Saniangbaka brings more harm (mudharat) than benefit (maslahat), suggesting the need for its reassessment in the community's social practices.

References

- Al Amin, F., Syofiani, S., Rahmat, A., Novita, F., & Sandi, L. (2023). Larangan Pernikahan Sesuku di Minangkabau. *Jurnal Ilmiah Langue and Parole*, 7(1), 39–44. <https://doi.org/10.36057/jilp.v7i1.615>
- Dhea, T. (2020). *Tinjauan Hukum Terhadap Perkawinan Pada Masyarakat Adat Kenagarian Singkarak Kabupaten Solok Sumatera Barat*. Universitas Islam Riau. <https://repository.uir.ac.id/12075/>
- Elmahjub, E. (2021). Islamic Jurisprudence as an Ethical Discourse: An Enquiry into the Nature of Moral Reasoning in Islamic Legal Theory. *Oxford Journal of Law and Religion*, 10(1), 16–42. <https://doi.org/10.1093/ojlr/rwaa023>
- Fajar, N. H. (2022). *Tinjauan Hukum Islam terhadap Tradisi Larangan Perkawinan Misan (Studi Kasus di Desa Mangunharjo Kecamatan Adimulyo Kabupaten Kebumen)*. UIN Prof. KH Saifuddin Zuhri. https://eprints.uinsaizu.ac.id/14324/1/FAJAR_NURUL_HUDA_TINJAUAN_HUKUM_ISLAM_TERHADAP_TRADISI_LARANGAN_PERKAWINAN_MISAN_%28Studi_Kasus_di_Desa_Mangunharjo_Kecamatan_Adimulyo_Kabupaten_Kebumen%29.pdf
- Febria, R., Heryanti, R., & Sihotang, A. P. (2022). Kajian Hukum Perkawinan Adat Sesuku di Masyarakat Minangkabau. *Semarang Law Review (SLR)*, 3(1), 12. <https://doi.org/10.26623/slr.v3i1.4774>
- Febriani, P. (2024). *Peranan Datuak Dan Niniak Mamak Dalam Adat Baralek Di Nagari Singkarak Kecamatan X Koto Singkarak Kabupaten Solok*. UIN Ar-Raniry Fakultas Adab dan Humaniora. <https://repository.ar-raniry.ac.id/id/eprint/40081/>
- Fortier, C. (2020). Religious and non-Religious Issues of Medically Assisted Reproduction in France: Sexuality, Incest and Descent. *Reproductive Biomedicine & Society Online*, 11, 73–81. <https://doi.org/10.1016/j.rbms.2020.10.002>
- Islam, K. H. (2001). *Kompilasi Hukum Islam* (Issue 22).
- Karim, W. J. B. (2021). In *Body and Spirit: Redefining Gender Complementarity in Muslim Southeast Asia* (pp. 105–125). https://doi.org/10.1007/978-981-33-4568-3_4
- Koenig, H. G., & Shohaib, S. Al. (2014). Muslim Beliefs, Practices, and Values. In *Health and Well-Being in Islamic Societies* (pp. 27–41). Springer International Publishing. https://doi.org/10.1007/978-3-319-05873-3_2
- Masykuri, S. (2016). *Larangan Pernikahan Sesuku Pada Suku Melayudalam Perspektif Hukum Islam (Studi Kasus Di Kecamatan Perhentian Raja Kabupaten Kampar Provinsi Riau)*. IAIN Salatiga. <http://e-repository.perpus.uinsalatiga.ac.id/1048/>
- Maulida, N. (2022). *Persepsi Masyarakat Terhadap Sumpah Adat Larangan Perkawinan Antar Gampong (Studi Gampong Blangkuala dan Gampong Blangbladeh, Kecamatan Meukek, Kabupaten Aceh Selatan)*. UIN Ar-Raniry. <https://repository.ar-raniry.ac.id/id/eprint/21701/>
- Nabilah, W., Putri, D., & Rizal, D. (2024). Jasser Auda's System Approach in The Rules of Marriage Dispensation in Indonesia (Review of Maqashid Syariah). *The Indonesian Journal of Islamic Law and Civil Law*, 5(2), 265–281. <http://ejournal.iainutuban.ac.id/index.php/jaksya/article/view/873>
- Nabilah, W., & Rizal, D. (2024). Basic Analysis of the Exercise of Judicial Power (Integration of Islamic Law and Positive Law). *Jurnal Independent*, 12(1), 1–11.

- Nafiah, R. (2023). *Larangan Pernikahan Warga Desa Nglewan Dengan Desa Bedingin Kecamatan Sambit Kabupaten Ponorogo Perspektif Urf*. IAIN Ponorogo. <https://etheses.iainponorogo.ac.id/23400/>
- Nasir, M. A. (2022). Negotiating Muslim Interfaith Marriage in Indonesia: Integration and Conflict in Islamic Law. *Mazahib*, 21(2), 155–186. <https://doi.org/10.21093/mj.v21i2.5436>
- Nurona, A. (2021). *Tinjauan Hukum Islam Terhadap Adat Larangan Nikah Antara Desa Wates Dengan Desa Undaan Lor Undaan Kudus* [UIN Walisongo Semarang]. <https://eprints.walisongo.ac.id/id/eprint/19063/>
- Palilati, N. F. (2022). Review of Compilation of Islamic Law Against Interfaith Marriage Prohibition results in the registration of marriages. *Estudiante Law Journal*, 4(2), 600–611. <https://doi.org/10.33756/eslaj.v4i2.19012>
- Parker, L. (2024). *Matrifocal, Matrilineal, or Matriarchal? Cultural Resilience and Vulnerability Among the Matrilineal and Muslim Minangkabau in Indonesia* (pp. 3–41). https://doi.org/10.1007/978-3-031-51749-5_1
- Perkawinan, U.-U. (1974). UU Perkawinan Nomor 1 Tahun 1974. In *UU Perkawinan Nomor 1 Tahun 1974*. Menteri/Sekretaris Negara Republik Indonesia.
- Putri, K. A. (2022). *Larangan Perkawinan Sesuku dalam Adat Minangkabau di Nagari Koto Baru Kabupaten Dharmasraya* [Universitas Jambi]. <https://repository.unja.ac.id/38276/>
- Puyu, D. S., Umar, S. K., Hanis, H., Arifin, B., & Abili, M. (2023). Mansai in the Marriage Tradition of the Banggai Ethnic in Central Sulawesi, Indonesia: A Living Sunnah Perspective. *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam*, 7(3), 1352. <https://doi.org/10.22373/sjhk.v7i3.16510>
- Roslan, F. N. S., & Mahmud, H. (2024). Interpretation of Incest According To the Mazhab Syafil and the Laws of Brunei Darussalam. *Indonesian Journal of Islamic Jurisprudence, Economic and Legal Theory*, 2(4), 1783–1794. <https://doi.org/https://doi.org/10.62976/ijijel.v2i4.710>
- Sari, E. K. (2018). *Analisis Larangan Nikah Sesuku di Minangkabau Ditinjau dari Maqashid Syari'ah*. IAIN Curup. <https://e-theses.iaincurup.ac.id/521/>
- Sembera, R. (2022). *Tinjauan Hukum Islam Terhadap Larangan Nikah Satu Kaum di Desa Sibak Kecamatan Ipuh kabupaten Mukomuko*. UIN Fatmawati Sukarno Bengkulu. <http://repository.iainbengkulu.ac.id/9959/>
- Tarigan, A. A., Naldo, J., Hutagalung, S. A., & Bustami, M. R. (2024). Islam and Christianity at Rumah Gadang: The Household Characteristics of Minangnese Interfaith Marriage. *JURIS (Jurnal Ilmiah Syariah)*, 23(1), 27. <https://doi.org/10.31958/juris.v23i1.11926>