



The Dynamics of *Kafa'ah Nasab* and the Identity of Sharifah Women: An Examination of Sayyid Utsman's Perspectives within the Context of Gender Equality

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Abstract

This research examines the concept of equality of status (*kafâ'ah nasab*) in marriage, particularly within the family community of habaib descendants (sayyid and sharifah). The study is approached through the lens of Sayyid Utsman bin Yahya's thoughts and is contextualised within the framework of gender equality studies. Within the habaib tradition, marriages between a sharifah and a non-sayyid man are frequently rejected on the grounds of perceived deficiencies in lineage, and such unions are often deemed to contravene social and religious norms. Sayyid Uthman, a prominent scholar of the Dutch East Indies colonial period, underscored the invalidity of such marriages in several of his works, which subsequently became significant references in the social structure of the habaib community. However, from a gender equality standpoint, this practice raises issues of discrimination against women and reinforces a patriarchal system rooted in lineage. This research employs a qualitative approach, utilising literature review methods and interviews with Rabithah Alawiyah. The findings indicate that, in practice, *kafâ'ah nasab* has evolved into a mechanism of social control that restricts women's autonomy in selecting a life partner and perpetuates inequality in gender relations. Consequently, a reinterpretation of this concept is necessary to align it with Islamic sociology and the principles of justice inherent in Islam.

Keywords: *Kafâ'ah*; Gender Equality; Marriage; Sayyid Utsman; Sharifah.

Abstrak

Penelitian ini membahas konsep *kafâ'ah nasab* atau kesetaraan status dalam pernikahan, khususnya dalam konteks komunitas keluarga keturunan habaib (sayyid dan sharifah), yang dianalisis melalui perspektif pemikiran Sayyid Utsman bin Yahya serta ditinjau dalam bingkai kajian kesetaraan gender. Dalam tradisi habaib, pernikahan antara seorang sharifah dan seorang pria non-sayyid sering ditolak atas dasar ketidaksefuan nasab, dan bahkan dianggap melanggar norma sosial dan religius. Sayyid Utsman, sebagai salah satu ulama terkemuka pada masa kolonial Hindia Belanda, menegaskan ketidaksahan pernikahan tersebut dalam beberapa karyanya, yang kemudian menjadi rujukan penting dalam struktur sosial habaib. Namun, dari perspektif kesetaraan gender, praktik ini menimbulkan problematika diskriminasi terhadap perempuan dan memperkuat sistem patriarkal berbasis garis keturunan. Penelitian ini menggunakan pendekatan kualitatif dengan metode studi pustaka dan wawancara dengan pihak Rabithah Alawiyah. Hasil penelitian menunjukkan bahwa *kafâ'ah nasab* dalam praktiknya telah berubah menjadi mekanisme kontrol sosial yang membatasi kebebasan perempuan dalam menentukan pasangan hidup, serta menimbulkan ketimpangan dalam relasi gender. Oleh karena itu, diperlukan reinterpretasi terhadap konsep tersebut agar selaras dengan sosiologi Islam dan prinsip keadilan dalam Islam.

Kata Kunci: *Kafâ'ah*; Kesetaraan Gender; Pernikahan; Sayyid Utsman; Sharifah.



Introduction

In the context of fiqh terminology, *kafâ'ah* refers to the concept of equivalence in moral character, social position, social status, and wealth when an individual seeks to enter into marriage¹. Scholars of fiqh frequently offer diverse interpretations of the meaning of *kafâ'ah* across various schools of thought. While such differences are to be expected and should not pose significant issues, in practice, these variations are often utilised as impediments². For example, in numerous cases involving prohibitions on marriage among families descended from *habaib*, *kafâ'ah* is commonly cited as a criterion for assessing the validity of a marriage³.

In more academic terms, *kafâ'ah* can be understood as balance, equality, and compatibility when a woman considers marriage⁴. This research aims to explore the concept of *kafâ'ah nasab* in marriage among *habaib* families through the lens of gender equality, with the objective of advocating for women's rights in selecting their prospective partners, thereby promoting the establishment of a harmonious household.

Kafâ'ah is frequently utilised as a benchmark when a family of descendants contemplates marriage, particularly within the context of lineage. Others may interpret *kafâ'ah* in terms of wealth and education. Consequently, the misapplication of the term *kafâ'ah* may result in a new interpretation that deviates from its foundational teachings, which do not discriminate based on race, ethnicity, or nationality⁵.

One of the ongoing issues today is the prohibition against marriage between a *habaib* daughter (Sharifah) and a man who is not a descendant of a *habib* (Sayyid), as exemplified by a case in Pambusuang Village, Balanipa District, Polewali Mandar Regency. This prohibition arises from perceived inequalities between a female family originating from a noble lineage and a male family from a common background. The consequences for a Sharifah marrying a non-Sayyid include social ostracism and being regarded as deceased by the extended family of the Sharifah⁶.

Previous studies on *kafâ'ah nasab* in the *habaib* community have generally focused on social legitimacy and classical fiqh legal provisions without addressing the implications of gender equality. Research conducted by Ibrohim Muchlis and Aba Fahmi Roby has adhered to traditional norms without critically examining the discriminatory effects on Sharifah

¹ Anwar Hafidzi, Rusdiyah Rusdiyah, and Nurdin Nurdin, "Arranged Marriage: Adjusting Kafa'ah Can Reduce Trafficking of Women," *Al-Istinbath: Jurnal Hukum Islam* 5, no. 2 (November 30, 2020): 177, <https://doi.org/10.29240/jhi.v5i2.1991>.

² Siti Jahroh, "Reinterpretasi Prinsip Kafa'ah Sebagai Nilai Dasar Pola Relasi Suami Istri," *Al-Ahwal: Jurnal Hukum Keluarga Islam* 5, no. 2 (September 26, 2016): 57–92, <https://doi.org/10.14421/ahwal.2012.05203>.

³ Fika Yuliana and Irwan, "Kafa'ah In The Contemporary Rabithah Alawiyah Community: The Perspective Of The Indonesian Ulema Council Of Asahan Regency," *Al-Mawarid Jurnal Syariah Dan Hukum (JSYH)* 7, no. 1 (February 20, 2025): 1–22, <https://doi.org/10.20885/mawarid.vol7.iss1.art1>.

⁴ Muhamad Amrozi and Sofian Syaiful Rizal, "Implementasi Konsep Kafa'ah Terhadap Ketahanan Keluarga," *USRAH: Jurnal Hukum Keluarga Islam* 6, no. 1 (January 15, 2025): 52–70, <https://doi.org/10.46773/usrah.v6i1.1779>.

⁵ Hasanah Sadiqin, Syafruddin Syam, and Imam Yazid, "Concept of Kafâ'Ah in Marriage and Its Implementation among the Alawiyin Community in the Medan City, Indonesia," *Jurnal Ilmiah Mizani: Wacana Hukum, Ekonomi Dan Keagamaan* 11, no. 1 (April 30, 2024): 18, <https://doi.org/10.29300/mzn.v11i1.3444>.

⁶ Muhammad Ridwan and Hamzah Hasan, "Perkawinan Sekufu Wanita Syarifah Dengan Laki-Laki Biasa Di Desa Pambusuang Kabupaten Polewali Mandar," *Shautuna: Jurnal Ilmiah Mahasiswa Perbandingan Mazhab Dan Hukum* 2, no. 1 (January 31, 2021): 176–5, <https://doi.org/10.24252/shautuna.v2i1.16837>.

women⁷. Furthermore, prior studies have not thoroughly analysed the views of Sayyid Utsman bin Yahya from a contextual hermeneutic perspective or linked them to the principles of justice in maqashid sharia. Thus, this research introduces novelty by critically analysing the concept of *kafâ'ah nasab* in Sayyid Utsman's thinking, deconstructing his fatwa methodology, which reconciles two views across different schools of thought, and situating the practice of *kafâ'ah* within the framework of gender equality and social change. The normative-sociological approach employed strengthens the argument for a reinterpretation of the concept of *kafâ'ah nasab* to align with the values of justice and the protection of women's individual rights in the context of contemporary Muslim society.

Sayyid Utsman bin Yahya asserted that marriage between a Sharifah and a non-Sayyid is invalid and haram. This invalidation is based on the premise that such a union would disrupt the bloodline or lineage of the Prophet, may God bless him and grant him peace. This evaluation is predicated on the social jealousy that may arise among their respective families, potentially fracturing the line of descent⁸. Most of Sayyid Utsman's statements are derived from several hadiths and two foundational texts, *Bughyah al-Mustarsyidîn* and *Tarsyîh al-Mustarsyidîn bi Tausyîh Fath al-Mu'în*⁹. These texts serve as the basis for his opinions regarding the concept of *kafâ'ah* in marriage.

In summary, the thoughts presented by Sayyid Utsman regarding the concept of *kafâ'ah* in Islam, particularly in the context of marriage among habaib descendants, warrant attention. Sayyid Utsman maintained a significant relationship with the Indonesian populace, notably the people of Batavia. During the colonial era, he was appointed as the mufti of Batavia¹⁰. The emphasis on *kafâ'ah* related to lineage is increasingly perceived as an inadequate determinant for marriage in the pursuit of a harmonious family, as it infringes upon human rights—particularly by imposing restrictions on women, especially Sharifah, regarding their ability to marry non-Sayyid men¹¹. Thus, this research endeavours to elucidate Sayyid Uthman's thoughts on *kafâ'ah nasab* through the marriage practices of Sharifah within the habaib families, analysed through the lens of gender equality.

Method

This research employs a qualitative descriptive method, incorporating both normative and sociological approaches. The normative approach is utilised to examine Sayyid Uthman bin Yahya's perspectives on the concept of *kafâ'ah nasab* in marriage, as derived from classical fiqh texts. Fatwa analysis is conducted to explore the content and associated legal arguments surrounding Sayyid Uthman's views on *kafâ'ah nasab*, while fatwa methodology analysis is employed to investigate the approaches and legal sources utilised. Concurrently, a sociological

⁷ Ibrahim Muchlis, "Pernikahan Perempuan Klan Ba'alwi (Syarifah) Dengan Pria Non Klan Ba'alwi Di Desa Galis Kecamatan Galis Kabupaten Bangkalan Madura Dalam Perspektif Fikh Dan Sosiologi," *Al-Ibrah: Jurnal Pendidikan Dan Keilmuan Islam* 9, no. 2 (December 30, 2024): 106–24, <https://doi.org/10.61815/alibrah.v9i2.413>.

⁸ Muhammad Khusna Amal and Nawirah Ali Hajaj, "Pernikahan Nasbiyah Sayyid Dan Syarifah (Studi Living Hadits Di Kampung Arab, Kademangan, Bondowoso)," *Al-Manar: Jurnal Kajian Alquran Dan Hadis* 7, no. 1 (November 4, 2021): 53–68, <https://doi.org/10.35719/amn.v7i1.5>.

⁹ Eka Suriansyah and Rahmini Rahmini, "Konsep Kafa'ah Menurut Sayyid Utsman," *El-Mashlahah* 7, no. 2 (July 25, 2019): 35–51, <https://doi.org/10.23971/el-mas.v7i2.1426>.

¹⁰ Mohammad mas' usdi, "Islam, Kolonialisme, Dan Zaman Modern Di Hindia Belanda : Biografi Sayid Usman (1822-1914)," *Afkaruna* 14, no. 2 (2018), <https://doi.org/10.18196/AIJIS.2018.0090.262-266>.

¹¹ Lelyana Rozaqul Karim and Ali Kadarisman, "Reaktualisasi dan Relevansi Konsep Kafa'ah Perspektif Generasi Muda Ormas Keagamaan (Studi di PC IPNU-IPPNU Kab. Kediri dan PC IMM Kediri Raya)," *Sakina: Journal of Family Studies* 6, no. 3 (June 24, 2022): 1–12, <https://doi.org/10.18860/jfs.v6i3.1974>.

approach is adopted to examine the realities of sharifah marriage practices among habaib families, alongside a gender equality analysis to evaluate the relevance of these views and practices in relation to the principles of justice within contemporary Islamic law. The data sources consist of primary data, including Sayyid Uthman's written work entitled *al-Qawânîn asy-Syar'iyah*, as well as the outcomes of written interviews with figures from Rabithah Alawiyah and pertinent scholarly journals. Data were analysed using a critical hermeneutic approach to comprehend the contextual meaning of the texts and to assess their relevance to the principles of justice in contemporary Islamic society.

Sayyid Uthman and the concept of *kafâ'ah* in his scholarship

Sayyid Utsman bin Yahya was born on 1 December 1822 AD in Batavia to Sayyid Abdullah and Aminah, both of whom were descendants of the Prophet Muhammad. From a young age, he was raised by his grandfather, Abdurrahman al-Misri, a cleric renowned for his expertise in astronomy and jurisprudence, who provided him with foundational knowledge in religious and Islamic sciences. At the age of 19, Sayyid Utsman undertook a six-year period of study in Mecca, during which he learned from esteemed scholars, including Ahmad bin Zaini Dahlan. He subsequently continued his education in Hadramaut for 15 years and also visited various Islamic countries, including Egypt and Türkiye. Due to his dedication and perseverance, Sayyid Utsman emerged as a leading scholar in the archipelago, serving as the Mufti of Batavia and authoring more than 40 works, including *al-Qawânîn asy-Syar'iyah*¹².

Following his studies and visits to various Middle Eastern countries, Sayyid Utsman returned to Batavia in 1862. He commenced his religious career as a Qur'an teacher, despite initially expressing reluctance due to feelings of inadequacy. Subsequently, he became a permanent instructor at the Pekojan Mosque and the Kampung Besar Pasar Senen Mosque, succeeding the previous ulama. Over time, Sayyid Utsman began to write and publish his works using lithography technology, aiming to disseminate his knowledge to the public and officials¹³.

Snouck Hurgronje, a Dutch orientalist, praised Sayyid Utsman's works and recommended him for the position of Honorary Advisor to the Dutch East Indies Government for Arab Affairs, a role he was appointed to in April 1891. Despite his significant contributions, his close association with the Netherlands drew criticism from certain circles¹⁴. He was also awarded the Dutch Lion Medal in 1899. Sayyid Utsman passed away on 18 January 1914 at the age of 92 and was interred in Tanah Abang, with thousands of mourners in attendance.

Most of Sayyid Utsman's writings are composed in two primary languages, Arabic and Malay, facilitating comprehension among the public. Nearly all of his works were published through his lithography printing press in Betawi, enabling their distribution across various islands, including Sumatra, Kalimantan, and Madura.

Before discussing the concept of *kafâ'ah*, it is pertinent to provide a brief definition. The terms sayyid and sharif refer to male descendants whose lineage is connected to the Messenger

¹² Muhammad Noupal, "Menelusuri Karya Intelektual Sayyid Usmanbin Yahya Dalam Bidang Fikih," *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 11, no. 1 (June 1, 2011): 61, <https://doi.org/10.18326/ijtihad.v11i1.61-80>.

¹³ Jajat Burhanudin, "Islam Dan Kolonialisme: Sayyid Usman Dan Islam Di Indonesia Masa Penjajahan," *Studia Islamika* 22, no. 1 (April 9, 2015): 185–208, <https://doi.org/10.15408/sdi.v1i1.1391>.

¹⁴ Idan Dandi, "Sayyid Usman Dan Pandangan Kontroversialnya Tentang Pemerintah Kolonial Belanda," *Jurnal Tamaddun: Jurnal Sejarah Dan Kebudayaan Islam* 5, no. 2 (November 30, 2017), <https://doi.org/10.24235/tamaddun.v5i2.2120>.

of God¹⁵. In contrast, the term Sharifah is designated for female descendants linked to the Messenger of God. In contemporary contexts, the titles sayyid or sharif may also be referred to as habib, which translates to 'beloved' and has the plural form habaib¹⁶.

In the book *al-Qawânîn asy-Syar'iiyyah*, Sayyid Utsman elucidates that the concept of *kafâ'ah* encompasses meanings beyond its religious implications, including considerations of lineage and occupation. For instance, if a descendant from a distinguished family (Syarifah) were to marry an individual of ordinary status, the marriage may be deemed invalid due to concerns that it could diminish her social standing among her familial peers¹⁷.

According to the Rabithah Alawiyah, the principle of *kafâ'ah nasab* is a significant factor in marriages within the habaib community. This perspective is grounded in the teachings of the Qur'an and Sunnah, emphasising the importance of prioritising collective values over individual desires. Additionally, Rabithah Alawiyah posits that this perspective represents a form of ijtihad, acknowledging that there exist differing opinions among Muslims. Thus, it is anticipated that this matter will not become a source of contention among the wider Muslim community¹⁸.

The book *al-Qawânîn asy-Syar'iiyyah* serves as a reference for judges and religious leaders in making decisions. Moreover, it provides a foundational basis for jurisprudence drawn from respected fiqh texts, particularly among scholars of the Shafi'i school¹⁹. Issues related to *kafâ'ah* in the book *al-Qawânîn asy-Syar'iiyyah* discussed in article 19 with the title "Subject *kafâ'ah* that is, the ranks in husband and wife".

"From this point forward, it is prohibited for a man to marry a woman of higher social rank than himself. Furthermore, this prohibition extends to considerations of race or occupation, unless the woman voluntarily relinquishes her rank with the consent of her close guardian. In the case of a sharifah, no individual outside the sayyid lineage is permitted to marry her, regardless of her own wishes or those of her close guardian. This restriction is in place to preserve the dignity and sentiments of the sayyid community, descendants of the *ahlu bayt* of the Messenger of Allah, peace and blessings be upon him, and is deemed a significant source of discord among them. Consequently, numerous scholars from the *ahlu bayt* an-Nabi, may God bless him and grant him peace, have maintained that such requirements are unnecessary"²⁰.

In addition to this, another text referenced by Sayyid Uthman in the formulation of his thoughts is the book entitled *Bughyah al-Mustarsyidîn*, which also addresses the issue of prohibiting marriage between individuals of *Sharifah* status, who are descended from the habaib lineage, and non-male *sayyid* individuals.

¹⁵ Dewan Redaksi Ensiklopedia Islam, "Dewan Redaksi Ensiklopedia IslamM Ensiklopedi Islam, Artikel 'Saripah,'" in *Ensiklopedia Islam* (Jakarta: PT. Ichtiar Baru van Hoeve, 1887), Hlm 38.

¹⁶ Aziz Miftahus Surur, "Status Sosial Kemasyarakatan Habaib Dalam Perspektif Hadis Nabi Dan Hukum Syariah," *Jurnal Al-Tatwir* 10, no. 2 (October 1, 2023): 147–56, <https://doi.org/10.35719/4y6xxa57>.

¹⁷ "Utsman Bin Yahya, *Al-Qawânîn Asy-Syar'iiyyah Li Ahl al-Majâlis AlHukmiyyah Wa al-Iftâ'iiyyah*, h. 65," n.d.

¹⁸ Dhorif Musyafa, "Sekertaris Satu Departemen Tarbiyah Wa Dakwah DPP Rabithah Alawiyah. (Studi Pada Lembaga Rabithah Alawiyah)."

¹⁹ T. Wildan T. Wildan, "Islamic Law Thought," *Al-Qadha : Jurnal Hukum Islam Dan Perundang-Undangan* 9, no. 2 (December 13, 2022): 408–25, <https://doi.org/10.32505/qadha.v9i2.4985>.

²⁰ "Utsman Bin Yahya, *Al-Qawânîn Asy-Syar'iiyyah Li Ahl al-Majâlis AlHukmiyyah Wa al-Iftâ'iiyyah*, h. 99-101."

"That no one should be permitted to marry a sharifah to another sharifah, even with the consent of the sharifah and her guardian, is a principle grounded in the belief that every sayid has a claim to that lineage. The proximity or distance of an individual to that sharifah is deemed irrelevant. When an Arab, who was a sayyid, married a sharifah in the land of Makkah, all sayyids in Makkah, along with scholars from the region, rallied to elucidate the implications of this marriage, a similar response was observed in other countries as well. Numerous texts were authored by scholars from the sayyid community to articulate the reasons against such unions, as well as to explicate the nature of the marriage itself. The collective concern for the preservation of this noble lineage, which they believe should not be tarnished, persists despite the affirmation of the marriage's validity by certain jurists. For the scholars of the *ahlu al-Bait* community, they possess *ijtihad* and *ikhtiyar* concerning matters of sharia, a nuance that is not typically recognised by other jurists."²¹

In addition to the book *Bughyaht al-Mustarsyidîn*, which was cited as a reference by Sayyid Utsman in his analysis, another supporting argument employed by Sayyid Utsman is the Hadith of the Prophet Muhammad (SAW), including:

مَا بَالُ أَقْوَامٍ يُؤْذُونَنِي فِي نَسَبِي وَدَوِي رَحِمِي؟ إِنَّا الْحَاقِدِينَ عَلَى مَنْ آذَى نَسَبِي

What is the condition of those individuals within my lineage and extended family who have caused me harm? It is evident that we hold resentment towards those who are heirs to my descendants and relatives. It can be asserted that any individual who inflicts pain upon me has, in effect, inflicted pain upon Allah Ta'ala. (HR. Thabrani and Baihaqi).

إِنَّ اللَّهَ قَدْ أَغْضَبَ عَلَى مَنْ آذَانِي فِي عَتَرَتِي

God is profoundly displeased with those who have caused harm to me in relation to my family (HR. Abu Said al-Hudri).

إِنَّ اللَّهَ يَغْضَبُ لِعْظَبِكَ وَيَرْضَى لِرِضَاكَ

Indeed, Allah's disposition is influenced by human emotions; He is displeased by your anger and pleased by your satisfaction (HR. Abu Said al-Hudri).

Another work by Sayyid Utsman addresses the issues of *kafâ'ah*, specifically the prohibition of marriage between a Sharifah, who is a descendant of the Habaib lineage, and a non-male Sayyid. This work is titled "*The Book of Family Hadith*" and was completed around 1886 AD. The text draws upon references from Shafi'i scholars. Notably, this book predates the publication of *al-Qawânîn asy-Syar'iyah*, which was released in 1887. In the latter year, Sayyid Utsman published a similar work entitled "*Treatise containing Family Hadith*", transmitted from hadith books that are lazy²².

²¹ "Abdurrahman Bin Muhammad Bin Husain Bin 'Umar Al-Masyhûr Bâ'alawi, *Bughyah al-Mustarsyidîn*, (Beirut: Dâr al-Fikr, 1414 H/1994 M), h.343," n.d.

²² Nico J.G. Kaptein, "Islam, Kolonialisme Dan Zaman Modern Hindia-Belanda (Biografi Sayyid Ustman," in *Sejarah* (Leiden: Koninklijke Brill NV, 2014), hlm 63.

The Book of Family Hadith consists of eleven chapters, all of which examine the family of the *ahlul Bayt* and the love associated with this family. The discussion concerning the prohibition of marriage between a Sharifah and a non-sayyid man is located in the eleventh chapter. In this chapter, Sayyid Utsman bin Yahya articulates his views on the prohibition of marriage between a Sharifah and a non-male sayyid.

"Shahdan represents not only the temptation that afflicts the hearts of Sayyidatuna Fathimah and her entire family, but also the distress caused by an individual outside of her lineage, specifically from the Bani Sayyid race 'Alawi, who has entered into matrimony with a Sharifah from the same tribe. Consequently, the individual who orchestrates this marriage, as well as the one who facilitates it, contribute to the pain experienced by Sayyidatuna Fathimah and the descendants of the Prophet. Therefore, let every individual who inflicts such harm be subject to the seven evils that will be elucidated at the conclusion of this treatise"²³.

The argument used by Sayyid Utsman to strengthen his statement is related *kafa'ah* in his book entitled *al-Qawânîn as-Syar'iyyah* namely the hadith of the Prophet Muhammad SAW which was narrated by Abu Hurairah RA that the Prophet

عَنْ أَبِي هُرَيْرَةَ رَضِيَ اللَّهُ عَنْهُ قَالَ: أَتَتْ سَبْعَةً بِنْتُ أَبِي هَبٍ رَضِيَ اللَّهُ عَنْهَا إِلَى النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَقَالَتْ: يَا رَسُولَ اللَّهِ، إِنَّ النَّاسَ يَقُولُونَ لِي: أَنْتِ ابْنَةُ حَطَبِ النَّارِ. فَقَامَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ غَضَبًا ثُمَّ قَالَ: «مَا بَالُ أَقْوَامٍ يُؤْذُونَ قَرَابَتِي، مَنْ آذَى قَرَابَتِي فَقَدْ آذَانِي، وَمَنْ آذَانِي فَقَدْ آذَى اللَّهَ

"Abu Hurairah (RA) narrated that Sabî'ah binti Abu Lahab (RA) approached the Prophet Muhammad (SAW) and expressed her distress, stating: "O Messenger of Allah, people say to me that I am the daughter of the wood of hell." The Messenger of Allah then stood up, visibly angered, and declared: "There is no fortune for a people who criticise my relatives. To criticise my relatives is to criticise me, and to criticise me is to criticise Allah" (HR. Abu Hurairah).

This hadith elucidates the treatment experienced by Sabî'ah, the cousin of the Prophet Muhammad, who had embraced Islam and expressed his distress regarding the insults directed at him due to his parentage as the son of Abu Lahab and Umm Jamil. Such reproach was profoundly hurtful not only to Sabî'ah but also to the Prophet Muhammad. In response to this criticism, the Prophet asserted that the transgressions of parents should not be transferred to their children. Allah SWT honours each of His servants through the medium of religion, and no individual should face derision on account of their parents' actions that contravene religious principles.

Consequently, the aforementioned hadith cited by Sayyid Uthman bears no relevance to the determination of the criteria for *kafa'ah* regarding the prohibition of marriage between a Sharifah and indigenous men, as there exists no intrinsic relationship between the two parties. Furthermore, the hadith underscores the notion that an individual's honour does not stem from their lineage but rather from their religious adherence. A person connected by lineage to

²³ Sayyid Utsman Bin Yahya, "Kitab Hadist Keluarga," 1886.

the Prophet does not inherently possess honour unless it is accompanied by a commitment to religious principles as the paramount factor.

The discourse surrounding the criteria for *kafâ'ah* within the Shafi'i school of thought, as articulated by al-Imam an-Nawawi, posits that, according to Imam Shafi'i, no hadith has been identified that designates lineage as the primary criterion for *kafâ'ah* in matrimonial contexts²⁴.

An analysis of Sayyid Utsman bin Yahya's fatwa and perspectives on *kafâ'ah* in marriage within the Habaib descendants' family

In general, the fatwa issued by Sayyid Utsman regarding the criteria of *kafâ'ah* tends to align with the opinion expressed by Imam Hanbali, who stated that *kafâ'ah* in terms of lineage is a legal requirement for marriage. This is noteworthy given that Sayyid Utsman himself adheres to the views of Imam Syafi'i²⁵. In his book *al-Umm*, Imam Syafi'i clarifies that a marriage based on a lack of equality between the two partners cannot be deemed haram; rather, it only presents a deficiency for the woman and her guardian²⁶.

A fiqh scholar from the Shafi'i tradition, Imam an-Nawawi, in his work entitled *Raudhah ath-Thâlibîn*, posits that the stipulations of *kafâ'ah* in marriage are fundamentally a right for the woman and her guardian, be it an individual guardian or a member of the woman's family. Consequently, if a woman and her guardian consent to a marriage with a man who does not possess the same equal as her, then the marriage is considered valid, and no party has the authority to obstruct it²⁷.

Ash-Shaikh al-Khatîb ash-Syarbînî, while elucidating the work of Imam an-Nawawi titled *Minhâj re-Thâlibîn*, asserts that the issue of *kafâ'ah* aims to prevent defects or disgrace from affecting either party. Furthermore, *kafâ'ah* in marriage is not a legal prerequisite and cannot be invoked as a rationale for obstructing or annulling a marriage. It is a right for the woman and her guardian's family; if both parties agree and there are no disagreements, for instance, with men who do not belong to the sayyid or sharif families, the marriage is deemed valid. In support of his argument, Ashy-Shaykh al-Khatîb ash-Syarbînî references Imam Syafi'i's assertion in *al-Umm* that the Prophet Muhammad SAW married his daughters to men who were not of equal standing²⁸.

Scholars from the Shafi'i school of thought concur on the permissibility of marriage between a Sharifah woman and men who do not belong to the sayyid or sharif class, provided that there is mutual agreement among the woman, her guardian, and her family²⁹. Thus, the position expressed by Sayyid Utsman regarding *kafâ'ah* and lineage in marriage among the families of the habaib tends to align with the views of the Hanbali Imam, which are perceived as better suited to their objectives, namely the prevention of defects or disgrace and the preservation of lineage in marriage. This reasoning is grounded in religious principles and customs prevalent in Arab society. Moreover, within the Hanbali School, the approval of

²⁴ "An-Nawawi, al-Majmû' Syarh al-Muhadzdzab Li Asy-Syîrâzî, (Jeddah: Maktabah al-Irsyâd, T.Th), Jilid 17, h.281," n.d.

²⁵ "Alwi Bin Ahmad As-Saqqâf, Tarsyîh al-Mustafîdîn Bi Tausyîh Fath al-Mu'în, (Mesir: Dâr Ihyâ' al-Kutub al-'Arabiyyah, T.Th), h.316," n.d.

²⁶ "Muhammad Bin Idrîs Asy-Syâfi'i, al-Umm, (T.Tp: Dâr al-Wafâ", 2001 M/1422 H), Cet. Ke-1, Juz.6, h.40," n.d.

²⁷ "An-Nawawi, Raudhah Ath-Thâlibîn, (Beirut: Dâr Ibn Hazam, 2002 M/1423 H), Cet.Ke-1, h.1196-1197," n.d.

²⁸ "Muhammad Bin Al-Khatîb Asy-Syarbînî, Mughnî al-Muhtâj Ilâ Ma'rifah Ma'ânî Alfâzh al-Minhâj, (Beirut: Dâr al-Ma'rifah, 1997), Jilid 3, h.219," n.d.

²⁹ Dina Ameliana and Sheila Fakhria, "Kafa'âh Sebagai Barometer Pernikahan Menurut Madzhab Syafii," *Legitima : Jurnal Hukum Keluarga Islam* 4, no. 2 (June 27, 2022): 136–53, <https://doi.org/10.33367/legitima.v4i2.2565>.

extended family is deemed essential, creating potential obstacles to marriage if a lack of equality is perceived between the parties involved³⁰.

Furthermore, Sayyid Utsman articulates that a Sharifah lineage originating from the Bani 'Alawi descent holds the highest status, as it is directly connected to the Prophet Muhammad SAW. According to ar-Ramli, every child born from Fatimah Az-Zahra's womb is not classified under Bani Hashim due to the unique nature of the Prophet Muhammad SAW and his descendants, whose lineage is directly linked to him, and this consideration extends to the matter of *kafâ'ah* in marriage³¹.

Regarding the esteemed lineage of the Prophet, Imam Ghazali once argued that the lineage connected to the Prophet Muhammad SAW possesses the highest level of superiority, unmatched by other lineages. Additionally, according to Imam Ghazali, the honour of a person's lineage can be derived from three factors: first, a direct connection to the Prophet Muhammad SAW, which is unparalleled; second, a connection to the ulama, who are considered the heirs of the prophets through their knowledge; and finally, a connection to virtuous individuals, who are experts in piety and moral excellence³².

Through the explanations provided by Imam Ghazali concerning the honour of one's lineage; this study affirm that his assertions are valid. However, this does not imply that every individual possessing such lineage will inherently be noble, as other intermediaries, such as divine guidance from Allah SWT and the influence of a teacher, play crucial roles in shaping their character.

Therefore, we often find someone who has a noble lineage, but their words or actions do not exemplify this noble lineage. As Allah has explained in his word QS al-Hujarat 49(13):

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

"O mankind, indeed We created you from a male and a female and made you into nations and tribes so that you may know each other. Indeed, the most honorable among you in the sight of Allah are the most pious among you. Indeed, Allah is All-Knowing and All-Knowing" (Qs. Al-Hujarat: 13).

A Syrian exegete, Ash-Shabuni, interpreted the verse by quoting Sheikh Zadih. He posited that one of the advantages of human diversity, such as distinctions among nations and tribes, lies in the ability to recognise one another's lineage and adhere to a lineage that originates from one's father. Furthermore, individuals are required to respect every difference stemming from their lineage, thereby preventing conflict. In a separate analysis, Ash-Shabuni elucidates that the meaning of the verse "*innâ akramakum 'indallâhi atqâkum*" signifies that an individual's glory derives from their faith and devotion, rather than from their ancestry³³.

³⁰ Muhammad Jufri, "Kafa'ah Dalam Relasi Suami Istri Sesama Santri Untuk Mewujudkan Keluarga Sakinah," *Al-Hukmi: Jurnal Hukum Ekonomi Syariah Dan Keluarga Islam* 5, no. 2 (January 28, 2025): 27–36, <https://doi.org/10.35316/alhukmi.v5i2.6694>.

³¹ "Ar-Ramli, Nihâyah al-Muhtâj Ilâ Syarh al-Minhâj, (Beirut: Dâr al-Kutub al-'Ilmiyyah, 2003 M/1424 H), Cet. Ke-3, Juz. 6, H. 257," n.d.

³² "Al-Ghazâlî, al-Wajîz, (Beirut: Dâr al-Arqam Bin Abî al-Arqam, 1997 M/1418 H), Cet. Ke-1, Juz 2, h. 14," n.d.

³³ "Muhammad 'Ali Ash-Shâbûni, Shafwah at-Tafâsîr, (Beirut: Dâr al-Qur'ân al-Karîm, 1981 M/1402 H), Cet. Ke-4, Jilid 3, h. 237," n.d.

Another argument presented by Sayyid Utsman pertains to the issue of *kafâ'ah* lineage in marriage. He asserts that marrying a Sharifah woman to men outside the sayyid or sharif lineage constitutes a behaviour that could demean the entire Bani 'Alawi descendants, who are directly linked to the Prophet Muhammad (SAW). This perspective is grounded in the religious and customary assessments prevalent within the Arab community, particularly among the families descended from the Prophet Muhammad (SAW). Moreover, this practice is deemed to cause emotional distress to the Prophet and his descendants, including Fatimah az-Zahra, and could potentially invoke the wrath of Allah (SWT)³⁴.

This article contends that Sayyid Utsman's findings significantly diverge from the lived reality of the Prophet Muhammad, who himself married a woman from within his family, such as Zaid bin Harithah's marriage to his uncle's daughter, Zainab binti Jahsy al-Asadiyah. This marriage serves as evidence of the presence of lineage differences within marital unions. Additionally, while the existence of disparities among individuals in terms of lineage, social status, and wealth is a the universal laws of God, such differences may be considered, particularly in the context of marriages between a sharifah and a non-sayyid. However, these factors should not serve as determinants for the legality of a marriage nor as grounds for prohibiting such unions³⁵.

An examination of the fatwa methodology of Sayyid Utsman bin Yahya concerning *kafa'ah* in marriage

The methodology employed by Sayyid Utsman in issuing a fatwa concerning the establishment of law, particularly with regard to the concept of *kafâ'ah nasab* in marriage, adheres to the opinions of two scholars he references: Sayyid 'Abdurrahman bin Muhammad al-Masyhûr 'Alawites and Sayyid 'Alwi bin Ahmad as-Saqqâf³⁶. This is elaborated upon in the fourth and seventh chapters of his book, which discuss the principles and foundations of issuing fatwas³⁷. Consequently, it can be inferred that Sayyid Utsman does not position himself as a mufti, but rather as a follower, or one who follows established authorities.

Moreover, an examination of Sayyid Utsman's methodology reveals an inclination towards patching together (*talfiq*), which he employs in addressing the issue of *kafâ'ah* lineage in marriages among families of descent, specifically between a Sharifah individual and a man who does not belong to the sayyid or sharif circle.

Through the approach adopted by Sayyid Utsman, it becomes evident that he engages in *talfiq*, a practice that involves synthesising opinions from two or more distinct schools of thought to resolve a conflicting issue of *furu'iyah*³⁸. In this instance, Sayyid Utsman amalgamates the perspectives of Imam Shafi'i and Imam Hanbali to address the *kafâ'ah* lineage issue in marriages among hereditary families.

His work, *al-Qawânîn asy-Syar'iyyah*, pertains to the technicalities involved in the fatwa issued by Sayyid Utsman regarding the *kafâ'ah* lineage question in marriages among

³⁴ "Utsman Bin Yahya, *Al-Qawânîn Asy-Syar'iyyah Li Ahl al-Majâlis AlHukmiyyah Wa al-Iftâ'iyyah*, h. 99."

³⁵ Mokhammad Samson Fajar and Faris Al Badr, "Kafâ'ah Contextualization in an Effort to Form Harmonious Family in the Modern Era: An Analysis Of Fazlur Rahman's Double Movement," *AL-'ADALAH* 17, no. 2 (February 7, 2021): 203–30, <https://doi.org/10.24042/adalah.v17i2.6568>.

³⁶ Suriansyah and Rahmini, "Konsep Kafa'ah Menurut Sayyid Utsman," *El-Mashlahah* 7, no. 2 (July 25, 2019): 35–51, <https://doi.org/10.23971/el-mas.v7i2.1426>.

³⁷ "Utsman Bin Yahya, *Al-Qawânîn Asy-Syar'iyyah Li Ahl al-Majâlis AlHukmiyyah Wa al-Iftâ'iyyah*, h. 99."

³⁸ Muhammad Firnanda, Rosalina Safitri, and Nayla Mufrida, "Talfiq Dan Madzhab : Menelaah Dinamika Talfiq Madzhab Dalam Kajian Ushul Fiqih," *Jurnal Pendidikan Islam* 2, no. 1 (November 1, 2024): 19, <https://doi.org/10.47134/pjpi.v2i1.1023>.

hereditary families. In this regard, Sayyid Utsman demonstrates a predisposition towards the opinions of Imam Hanbali, while eschewing the views of the school of thought to which he belongs, namely the Shafi'i School.

The rationale behind Sayyid Utsman's preference for Imam Hanbali's opinion is based on the assertion that, according to Imam Hanbali, the nobility of a person's lineage ranks second in importance after religious commitment. In addition, the approval of both close and distant relatives is deemed a significant factor that must be secured; failure to obtain familial approval greatly increases the likelihood of marital failure³⁹.

Thus, from an Islamic sociological perspective, we can comprehend the significance of establishing criteria for *kafâ'ah* lineage in marriages among families descended from habaib as a longstanding custom or tradition (*'Urf*) within the Arab community, predating the advent of Islam. Consequently, particularly for the *'Alawiyin*, it is acceptable to adhere to this custom by maintaining the *kafâ'ah* lineage standard in marriages within their families.

The concept of *kafâ'ah* Sayyid Utsman in relation to gender equality

Islam perceives gender equality as a framework for equitable interactions between men and women in all facets of life, including the decision-making process regarding prospective marital partners. The legal foundation for gender equality rests on the principle that all humans are equal in the eyes of Allah, not with standing differences in gender, race, or social standing⁴⁰. This concept is articulated in the Qur'an, specifically in Surah Al-Hujarat 49(13), which asserts that Allah does not distinguish between individuals.

The evolving notion of gender equality within society, particularly among Muslim communities, signifies the right to equal freedoms for both men and women, devoid of distinctions. In this context, it exemplifies the autonomy of a sharifah in selecting her prospective husband, free from familial constraints, provided that the man possesses sound religious and moral knowledge.

According to Rabithah Alawiyah, an Islamic organisation that brings together Indonesian citizens who have a lineage to the Prophet Muhammad SAW, it is emphasised that

"Marriage between a sharifah and a non-sayyid man is not an attempt to restrain or casteise life in society and is not a violation of gender equality, but aims to create harmony within a household between one family and another; apart from that it has another aim to protect women and their families from negative stigma in society"⁴¹.

The practice of *kafâ'ah nasab* among sharifahs often constrains their ability to select prospective marriage partners. Internal pressures frequently overshadow essential criteria that should be prioritised in establishing a household, such as religious understanding and

³⁹ Nurul Fattah, "HUKUM PERNIKAHAN SYARIFAH DENGAN LAKI-LAKI NONSAYYID: Perspektif Jam'iyah Rabithah Alawiyah Yogyakarta," *Al-Ahwal: Jurnal Hukum Keluarga Islam* 6, no. 2 (February 5, 2021): 129–44, <https://doi.org/10.14421/ahwal.2013.06202>.

⁴⁰ Najmah Sayuti, "Al-Kafa'ah Fi Al-Nikah," *Kafa'ah: Journal of Gender Studies* 5, no. 2 (November 18, 2015): 179, <https://doi.org/10.15548/jk.v5i2.107>.

⁴¹ Dhorif Musyafa, "Sekertaris Satu Departemen Tarbiyah Wa Dakwah DPP Rabithah Alawiyah. (Studi Pada Lembaga Rabithah Alawiyah)."

compatibility between partners⁴². Emphasising these aspects can significantly contribute to the formation of a harmonious domestic environment.

Furthermore, an analysis of interview data indicates that a sharifah is more likely to achieve harmony in her household if she marries a sayyid. This observation, however, contrasts with findings from a study conducted by Ragoan et al., which suggests that sharifahs often prefer partners from non-sayyid backgrounds. This preference is attributed to traumatic experiences within their families, particularly instances where a sayyid father had two wives and displayed mistreatment towards his non-sayyid spouse⁴³. Consequently, if such beliefs persist in contemporary society, they may prove to be irrelevant, as an individual's character is not determined by their lineage but rather by their daily conduct and attitudes.

Rabithah Alawiyah also explained that a sharifah's refusal to marry a non-sayyid is a form of gender injustice, as articulated in the following words:

" *Kafâ'ah* is a right that belongs to the woman and her guardian; in this case, the source gave the example of a sharifah having the right to refuse a proposal from a non-sayyid if the man has an infectious disease such as leprosy, even though the man has a good understanding of religion"⁴⁴.

According to researchers, the comparison is not entirely valid, as it involves an individual with physical deficiencies who possesses a sound understanding of religion. In contrast, the prohibition on marriage between a sharifah and a non-sayyid pertains to an individual's lineage. Furthermore, the aforementioned comparison has its own justifiable aspects with differing implications; linking health as a criterion for rejection is a clear priority within Islamic law, whereas utilising lineage as a basis for rejection represents a limitation on the rights of women to choose their partners.

In the contemporary era, the prohibition against marriage between a sharifah and a non-sayyid man is frequently disregarded by some sharifahs and their guardians. The complexities of community life, which is increasingly viewed as pluralistic and built upon social relations grounded in family values, have become more pronounced. According to Rabithah Alawiyah, in a recent interview, he expressed his views on how the concept of *kafâ'ah nasab* operates within the context of modern and pluralistic societies.

"The practice of *kafâ'ah nasab* is part of one of the Islamic shari'a and will never disappear despite the development of the times"⁴⁵.

Based on the findings from the aforementioned interview, it can be concluded that the concept of *kafâ'ah nasab* in marriage among the habaib families remains relevant, regardless of changing times. Nevertheless, there are some habaib who adopt a more liberal perspective and

⁴² Andi Anisa Faradilah et al., "Kafa'ah Dalam Perkawinan: Perspektif Hukum Islam," *Qadauna: Jurnal Ilmiah Mahasiswa Hukum Keluarga Islam* 3, no. 3 (August 27, 2022): 535–48, <https://doi.org/10.24252/qadauna.v3i3.27125>.

⁴³ Syarifah Ragoan, Vinaya Untoro, and Diana Rita Ari, "Gambaran Kepuasan Pernikahan Pada Wanita Keturunan Arab Yang Melakukan Pernikahan Dengan Etnis Lain," *Jurnal Psikologi Ulayat* 4, no. 2 (June 16, 2020): 107–21, <https://doi.org/10.24854/jpu56>.

⁴⁴ Dhorif Musyafa, "Sekertaris Satu Departemen Tarbiyah Wa Dakwah DPP Rabithah Alawiyah. (Studi Pada Lembaga Rabithah Alawiyah)."

⁴⁵ Dhorif Musyafa. "Sekertaris Satu Departemen Tarbiyah Wa Dakwah DPP Rabithah Alawiyah. (Studi Pada Lembaga Rabithah Alawiyah)."

do not impose *kafa'ah nasab* on their daughters when they seek to marry. This is evident in the *habaib* community in Patokan Kraksaan Probolinggo, where marriages between a *sharifah* and a non-sayyid man are accepted, grounded in the belief that a harmonious family is established through mutual love between partners⁴⁶.

The legal framework concerning *kafâ'ah* is not explicitly delineated. However, marriage regulations are articulated in Law Number 1 of 1974, wherein *kafâ'ah* assumes a significant role in the establishment of a loving and harmonious family unit. For instance, Law Number 1, Article 1 of 1974 states⁴⁷:

"Marriage is a bond between a man and a woman as husband and wife, with the aim of forming a happy and permanent family (household) based on the One God."

Through the aforementioned explanation, *kafâ'ah* plays a significant role in achieving the objectives of marriage. The concept of *kafâ'ah* in marriage is essential to prevent disputes that could jeopardise the integrity of the household. Collaboration between husband and wife can proceed smoothly, fostering a harmonious environment. Furthermore, the legal framework implies that every prospective husband or wife, provided they are compatible, is obliged to enter into marriage without impediments, except for differences in religious beliefs. This aims to establish a harmonious household and prevent all forms of conflict that may lead to divorce⁴⁸.

The legal consequences are applicable when marriage is entered into under duress, as this can constitute a violation of Human Rights, particularly infringing upon the freedom of women to choose their potential partners. A marriage will be considered valid and acceptable as long as both parties share the same beliefs, even if there are differences in lineage, social status, and education.

This study makes a substantial contribution to the academic discourse surrounding Islamic family law, particularly in elucidating the concept of *kafâ'ah nasab* as articulated by Sayyid Utsman bin Yahya. Through a comprehensive analysis of his fatwas and their implications for gender equality in marriage, this research offers a critical perspective on the intersection of traditional Islamic jurisprudence and contemporary gender studies. It provides a novel viewpoint on how classical legal concepts may be reinterpreted in light of modern social dynamics, thereby enriching both academic discussions and practical applications in the field of Islamic law. Furthermore, this study serves as a valuable reference for future scholars interested in exploring the evolving interpretations of Islamic legal principles within the context of contemporary societal norms.

Conclusion

The concept of *kafâ'ah nasab*, adhered to by the *habaib* community in marriages, particularly those involving *sharifah* women, constitutes a significant aspect of a longstanding

⁴⁶ Masruroh Masruroh, "Pernikahan Syarifah Dengan Non-Sayyid Di Patokan Kraksaan Probolinggo Perspektif Imam Malik Dan Imam Syafi'i," *AL-HUKAMA* 4, no. 1 (June 1, 2014): 85–124, <https://doi.org/10.15642/al-hukama.2014.4.1.83-121>.

⁴⁷ "Undang-Undang Republik Indonesia Nomor 1 Tahun 1974 Tentang Pernikahan," n.d.

⁴⁸ Asrizal Saiin, "Relevansi Kafa'ah Terhadap Keharmonisan Rumah Tangga Perspektif Normatif Dan Yuridis," *Al-Ahwal: Jurnal Hukum Keluarga Islam* 8, no. 1 (June 14, 2015): 63–74, <https://doi.org/10.14421/ahwal.2015.08105>.

legacy of social and religious traditions. Sayyid Utsman bin Yahya, a prominent scholar of his era, played a pivotal role in this regard. His views have been perpetuated across generations within the habaib community as a social norm that is nearly non-negotiable. An analysis of Sayyid Utsman bin Yahya's fatwa and his methodological approach reveals a *talfiq* attitude, which involves the synthesis of the opinions of Imam Syafi'i and Imam Hanbali while firmly upholding the principle of *kafa'ah* in marriage, particularly among descendants of the habaib, with the aim of preserving the purity of *nasab* and social honour.

However, within the framework of Islamic sociology and from the perspective of gender equality, the practice of *kafa'ah nasab* presents significant challenges. It not only perpetuates the patriarchal system but also restricts women's autonomy in selecting their life partners, even when such partners possess religious integrity and commendable morals. This norm has evolved into a form of social control that constrains, rather than protects, the sharifah's right to freedom.

The analysis indicates that the practice of *kafa'ah nasab* does not fully embody the primary objectives of Islamic law, namely maqashid sharia, particularly the principle of justice (*al-'adl*) and the safeguarding of individual rights. Consequently, a reinterpretation of classical thought, including the fatwa of Sayyid Utsman, is imperative to ensure it is more contextual and equitable, thereby creating space for equality for Muslim women in marriage without disregarding the values of *nasab* in a proportional manner.

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