

## ARTIKEL 9

# Custom Sanctions for Sanctions on Same Marriage in Petalangan Malay Community Viewed from Islamic Law

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**Theme:**

*The Cross Culture, and Challenge of Sustainability*

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**Custom Sanctions for Sanctions on Same Marriage in Petalangan Malay Community Viewed from Islamic Law**

M.Rivaldo<sup>1</sup>, Desi Apriani<sup>2</sup>, Selvi Harvia Santri<sup>3</sup>, Rosyidi Hamzah<sup>4</sup>, Syafrinaldi<sup>5</sup>, Heni Susanti<sup>6</sup>, Irwanto<sup>7</sup>

<sup>1</sup>UIN Ar-Raniry, <sup>2</sup>UIN Ar-Raniry, <sup>3</sup>UIN Ar-Raniry, <sup>4</sup>UIN Ar-Raniry, <sup>5</sup>UIN Ar-Raniry, <sup>6</sup>UIN Ar-Raniry, <sup>7</sup>UIN Ar-Raniry

**Abstract:** Same-tribal marriage are common nowadays, because men and women live each other, however, this research focuses on the customary sanctions for same-ethnic marriages carried out by the Petalangan Malay indigenous people. Same-tribal marriage is often not ruled, but in customary law, same-tribal marriage will result in the consequences of customary law that applies in the Petalangan Malay indigenous people. Based on the background of the problem, the formulation of the problem raised is, what is the history of the prohibition of Same-ethnic Marriage in the Petalangan Malay Indigenous Community in the Pre-Islamic Indonesian Region. The research method is a sociological law which is research that goes directly to the field. This research was conducted in the Bina Widya District, Pekanbaru City, Pekanbaru Regency. From the results, it is known that historically the prohibition of same-ethnic marriage is due to tribal hostility that one person or one ethnic group is brother and sister. Therefore, if a person or group of people is prohibited from marrying, the prohibition is highly involved and if it is carried out, bad things will happen to the couple and they are afraid of sanctions.

**Keywords:** Same-tribal Marriage; Petalangan Malay; Indigenous People; Islamic Law

### 1. Introduction

Humans are social creatures who cannot live without others, because they need each other. Society is a form of shared life whose citizens live together for a long period of time to produce culture. Customary law communities are "social communities (kejawahan) humans feel united because they are bound by common ancestors and certain territories, have their own wealth led by someone or several people seen as having authority and influence, and have a value system as a guide to life and have no desire to separate themselves". For this reason, humans cannot live alone and are looking for a life partner to step into marriage. Marriage requires the way humans relate property and legality. Marriage is a necessity of life to channel sexual overflow which must be regulated by certain norms". Therefore, people think that marriage is a very sacred event in the sense that marriage follows the sunnah of the Apostle and is favored by Allah because it unites the souls of two people who love each other to be together forever in a bond of promise.

In certain societies, one form of customary rule in terms of marriage is often discussed in the indigenous community, the prohibition of tribal marriage which is a form of marriage, both parties come from the same tribe. In urban communities, such prohibitions are almost non-existent, but in rural communities they are still practiced. Customary marriage is a very important event in the life

## Custom Sanctions for Sanctions on Same Marriage in Petalangan Malay Community Viewed from Islamic Law

M.Rivaldo<sup>1</sup>, Desi Apriani<sup>2</sup>, Selvi Harvia Santri<sup>3</sup>, Rosyidi Hamzah<sup>4</sup>, Syafrinaldi<sup>5</sup>, Heni Susanti<sup>6</sup>, Irwanto<sup>7</sup>

<sup>1,2,3,4,5,6,7</sup>Universitas Islam Riau

[rivaldo@student.uir.ac.id](mailto:rivaldo@student.uir.ac.id), [desiapriani@law.uir.ac.id](mailto:desiapriani@law.uir.ac.id), [selviharviasantri@law.uir.ac.id](mailto:selviharviasantri@law.uir.ac.id), [rosyidihamzah@law.uir.ac.id](mailto:rosyidihamzah@law.uir.ac.id), [syafrinaldi@law.uir.ac.id](mailto:syafrinaldi@law.uir.ac.id), [henisusanti@law.uir.ac.id](mailto:henisusanti@law.uir.ac.id), [irwanto@law.uir.ac.id](mailto:irwanto@law.uir.ac.id)

**Abstract.** *Same-tribal marriages are common nowadays, because men and women love each other. However, this research focuses on the customary sanctions for same-ethnic marriages carried out by the Petalangan Malay indigenous people. Same-tribal marriage in Islam has no rules, but in customary law, same-tribal marriage will result in the consequences of customary law that applies in the Petalangan Malay indigenous people. Based on the background of the problem, the formulation of the problem raised is, what is the history of the Prohibition of Same-ethnic Marriage in the Petalangan Malay Indigenous Community in the Perbatinan Bunut Region. The research method is sociological law which is research that goes directly to the field. This research was conducted in the Balam Merah Spiritual Area, Pelalawan Regency. From this research, it is known that historically the prohibition on same-ethnic marriages for ninik mamak testifies that one person or one ethnic group is brother and sister. Therefore, if a person or group of people is prohibited from marrying, the prohibition is highly trusted and if it is carried out, bad things will happen to the couple and they are afraid of sanctions*

**Keywords:** *Same-tribal Marriage; Petalangan Malay; Indigenous People; Islamic law*

### 1. Introduction

Humans are social creatures who cannot live without others, because they need each other. Society is a form of shared life whose citizens live together for a long period of time to produce culture. Customary law communities are "Social communities (*Paguyuban*) humans feel united because they are bound by common ancestors and certain territories, have their own wealth led by someone or several people seen as having authority and influence, and have a value system as a guide to life and have no desire to separate themselves". For this reason, humans cannot live alone and are looking for a life partner to step into marriage." Marriage regulates the way humans relate properly and legally. Marriage is a necessity of life to channel sexual overflow which must be regulated by certain norms". Therefore, people think that marriage is a very sacred event in the sense that marriage follows the sunnah of the Apostle and is favored by Allah because it involves the souls of two people who love each other to be together forever in a bond of promise.

In certain societies, one form of customary rule in terms of marriage is often discussed in the indigenous community, the prohibition of tribal marriage which is a form of marriage, both parties come from the same tribe. In urban communities, such prohibitions are almost non-existent, but in rural communities they are still practiced. Customary marriage is a very important event in the life

of our society. It involves not only the bride and groom, but also the parents of both parties, their siblings and even their respective families.

The tradition or customs of marriage of the Malay *Petalangan* people in the *Balam Merah* border area, there are several differences in the implementation of marriage carried out in the stages of marriage implementation due to cultural diversity or culture. The values that are conceptualized as this tradition, because it is hereditary. *Petalangan* indigenous people are indigenous to Riau, this community is in *Pelalawan* district. This community is included in the proto-Malay or Old Malay who came 300-400 BC. *Petalangan* people are also called *Talang* people which means "Bamboo people". This name comes from the habit of their ancestors when they took river water using *Talang* reeds, so they were called "*Talang* People" so that over time they were named "*Petalangan* People".

The *Petalangan* Indigenous Community in the *Bunut* Borough adheres to the Matrilineal kinship system. Among the *Petalangan* Malay Indigenous people, Matrilineal is a system that regulates the flow of descent from the mother's side. Where if a problem occurs, the one who is responsible is the mother. The marriage process in the *Petalangan* Malay indigenous community in the *Balam Merah Perbatinan* Region still upholds tradition. Customary marriage is a bond between a man and a woman who live together with a communal nature with the aim of getting a successor so that the tribal life does not become extinct, and is preceded by a series of traditional ceremonies.

Customary Marriage in the *Bunut Perbatinan* Region of *Pelalawan* Regency still upholds customary regulations by not allowing its people to carry out tribal marriages in the custom. If you violate it, you will be sanctioned. Carrying out traditional marriages in the *Bunut Perbatinan* Region of *Pelalawan* Regency has an important role of *ninik mamak* who is an elder in every traditional event. In the *Petalangan* Malay Traditional Community, *Ninik Mamak* plays an important role in planning the marriage. The male party proposes to the female family, followed by negotiations between the *Ninik Mamak* of the male party and the female party. Then, the time and place of the wedding celebration are decided. According to the *Petalangan* Malay Traditional Community, marriage between members of the same *tribe* is prohibited. The recommended marriage is called *Pulang Ke Bako*. In *Pulang Ke Bako*, a son marries the daughter of the father's sister. The married man lives in his wife's parents' house. A man may marry his father's daughter, as they are from different tribes.

A marriage bond means not only that the husband and wife must help each other and complete the household life, but also that the parents, families, and relatives of both parties participate to support the happiness of their household life. To regulate the marriage system, among indigenous peoples there are unwritten rules of law. In each indigenous community, there are also differences in the principles and principles of marriage that apply.

An indigenous community whose kinship system draws its lineage from the mother is different from one whose kinship system draws its lineage from the father. The same applies to indigenous societies that draw their lineage from both father and mother. The efforts of indigenous peoples in achieving glory, marriage is not an easy thing because it must go through levels and follow rules that are

comparable to the environment of indigenous peoples with many variations. This is inseparable from the view that marriage is a matter that must be discussed between the families and relatives of both parties, and not just a private matter.

According to Article 2 of the Compilation of Islamic Law (KHI) "Marriage according to Islam is a very strong contract or *Miitsaqan Ghalizhan* to obey the commands of Allah and carrying it out is an act of worship". According to Islamic provisions, marriage can be carried out by a Muslim on the condition that there is no *Mahrom* and *Nasab* relationship between a man and a woman and the marriage has no element of coercion. Whereas in the Petalangan Malay Traditional Community, *Sesuku* marriage is not allowed, if married in one tribe, even though there is no *Mahrom* relationship between the two brides. According to local people's beliefs, if there is a tribal marriage, it will cause havoc if the man and woman marry in the same tribe, it is feared that something bad will happen, for the continuity of the husband and wife in the household process, as well as for the Petalangan Malay community.

*Sesuku* marriage is prohibited because the Petalangan Malay Customary community views *Sesuku* marriage as a marriage of one family or one breastfeeding, meaning that there is still a family relationship or blood relationship between one another. Basically, tribal marriage can be done and is legal according to Islamic law. However, what happens in the *Bunut Perbatinan* Area, if a tribal marriage is carried out, sanctions will be imposed in the form of a buffalo that is cut and rice, then eaten together with the people of the village, then the couple who marries *sesuku* will be ostracized from the village or may not participate in customary negotiations. What the couple did violated the rules that apply in the Petalangan Malay Customary Society in the *Bunut Perbatinan* Region.

The *Petalangan Malay* community in the *Bunut Perbatinan* Region adheres to Islam. In Islamic rules, there are no rules governing the prohibition of tribal marriage. Islam only prohibits marriages of consanguinity, and *senasab*. Meanwhile, the *Petalangan Malay* indigenous people still practice tribal marriage. Tribal marriage is something that often happens nowadays, because the man and the woman love each other. However, this research focuses on the Customary Sanctions for tribal marriages carried out by the *Petalangan Malay* indigenous people. The introduction contains the background, explains the phenomenon of the actual problem under study, contains references to literature and the results of previous related research that has been carried out by themselves or others (previous journals that are related), and explains the existence of the author's research in that context.

## 2. Method

This type of research is included in the class of empirical legal research, or it can also be said to be analytical sociological legal research. That is research that goes directly to the field. This research is survey research conducted in the Perbatinan Balam Merah Region of Pelalawan Regency regarding Customary Sanctions Against *Sesuku* Marriage in the Petalangan Malay Community in Review of Islamic Law (Case Study in the Perbatinan Balam Merah Region of Pelalawan



Regency). For data collection, the author uses the Interview technique. Interview is a method used by the author from the explanation of the community verbally and so that the data can be received properly. To get clearer data is by interviewing the indigenous people and traditional leaders concerned and making it a sample. In the Conclusion Research Method, the author uses the Deductive method. Deductive method is a way of analyzing from general conclusions or generalizations that are described to concrete examples or facts that explain these conclusions or generalizations.

### 3. Result and Discussion

Tribe is a reality of a certain group of people in a certain area that is characterized by the existence of habits and practices that only exist in the community itself such as customs, culture, and habits. Tribe according to Petalangan Malay custom is a group led by a *penghulu* or customary leader, who is chosen based on maternal lineage, or a grouping that is considered blood. According to custom, tribal marriage is not allowed, whether the prospective partner comes from the same or different tribal areas. Because *sesuku* means one unit, and the indigenous people assume that *sesuku* marriage is a family relationship or a close relationship.

Historically, the prohibition of tribal marriage in the Petalangan Malay Custom did not understand what tribal marriage was. The customary rules regarding tribal marriage have existed for a long time but the community did not care that there was a ban on tribal marriage. The prohibition of tribal marriage is due to the doom of the couple and expulsion from the customary community by the customary leader of each tribe. According to *Tombo*, the Petalangan people came from Johor by boat, and cleared the forest in their current settlement. They later became subjects of the Kampar Kingdom, and later Pelalawan. Under the rule of the Sultanate of Pelalawan, they were recognized for their forest rights (*Hutan Tanah Perbatinan Kurang Satu Tiga Puluh*), which was led by a customary chief, whose rules from time immemorial were known as *batin*. The Petalangan people sell forest products and deeds that are useful to the Sultanate of Pelalawan.

The *batin* originally played the role of a political leader, who headed a village (*perbatinan*). The head of all the *batin* of the Petalangan people is referred to as *monti ajo* (minister of the king), a title derived from his location in the Sultanate of Pelalawan. *Monti ojo* is elected by the *batin*. In the Indonesian administrative system, the head of the village, and the *batin* are merely symbolic positions. The Petalangan Malay community generally lives in a place called the *perbatinan* area. Within an area there are several types of tribes, each of which is led by a *penghulu*. The previous *penghulu* had made a rule that his people were not allowed to marry as tribesmen. The reason is so that the custom develops, if anyone violates it then various types of sanctions will be given. Each tribe is usually led by a *ninik mamak*. In ancient times the *ninik mamak* gathered in a place, and swore together with the witness of the Koran that *sekaum* or *sepesukuan* are brothers. Therefore, if *sekaum* or *sepesukuan* is prohibited from marrying and the oath will apply to all descendants. If anyone violates it, a predetermined punishment will be given. People who violate this *sasuku* marriage

are in the name of love and their soul mate. But the previous *ninik mamak* has sworn and if anyone violates, he will get his *mudorat* and lose his customary rights. Nowadays, many people violate the oath of the previous penghulu. Even though they know that there are severe sanctions for what they do.;

- a) Her life will have many problems,
- b) The child born will be deformed,
- c) Her life will be poor,
- d) Being excluded from her village,
- e) Damaging the good name of his people,
- f) His family will not be at peace,
- g) When he dies there is no customary rapture,
- h) Slaughtering a buffalo.

Couples who marry within their tribe will be ostracized by their tribe, not allowed to sit within their tribe and not accepted by other tribes in the region or area. In fact, their former seats will be washed by the community, illustrating how bad they are in the eyes of the community. Men who make mistakes lose the right to hold positions in the customary system. Meanwhile, women will lose the right to all tribal heirlooms. This does not only affect the offender but will affect his family and people. The tribe will not develop, the *ninik mamaknya* will get embarrassed and if there is a traditional event, he will not be allowed to participate in it.

Since time immemorial, the Petalangan Malay community has prohibited tribal marriage. The recommended marriage is going home to *bako*. The term *pulang ke bako* is a son marrying an uncle's daughter from the father's lineage. The married man lives in a house near his wife's parents. Although clan marriage is prohibited, the Petalangan people increasingly favor marrying within the same clan (endogamy). *Ninik-mamak* plays an important role in planning the marriage. The man's *ninik-mamak* proposes to the woman's family, which is followed by negotiations with the woman's *ninik-mamak*. They then decide on the time and place of the wedding celebration.

Tribes are formed to get a dividing line between one tribe and another, and in marital relations this tribe is very influential on couples who want to marry, because the main thing in question is which tribe the two couples come from, therefore the two *Ninik Mamak* swear that there are no pairs of both men and women to marry if they have the same tribe (Yulisa Nurahmi, 2013). Therefore, it is forbidden to marry in the same tribe because people of the same tribe are brothers / descendants, so that if there is a marriage with a descendant, it will bring shame to the family and disgrace borne by both parties, therefore Mr. Maulidin said that it is better to marry outside the tribe so that a broad kinship relationship is opened. The Petalangan Malay community says that one tribe is the same as *Sedao* (brother) who is prohibited from marrying. Siblings are not allowed to marry because they have a relationship based on the mother's lineage which is called a tribe. According to the results of interviews with couple A who married as tribesmen said that they were in love with each other.

They think that times are modern so that customary rules are no longer cared about. They also think that tribal marriage is not prohibited by religion, so

they ignore the tribal marriage. They are also ready to be sanctioned in the form of fines set by the customary leaders. According to the results of the interview with couple B who had a tribal marriage, they said that they already loved each other, they ignored and lacked understanding of the customary rules regarding tribal marriage in the Malay indigenous community of Petalangan, and the lack of the role of *Ninik Mamak* in the direction of the tribal marriage. According to the results of the interview with couple C who performed *sesuku* marriage, they said that sanctions against couples who performed *sesuku* marriage were still enforced, the impact that occurred on the children born to the couple experienced physical deficiencies. In the Petalangan Malay custom, tribal marriage is strictly prohibited, because it can break up their descendants, but the custom referred to here if they are in the same tribe with the same *Ninik Mamak* (Tribal Chief). In the Matrilineal system, usually if someone marries a tribe, the *Mamak* (Uncle) and *Ninik Mamak* will advise to cancel the marriage. In addition, tribal marriage is very close to other rules, such as problems will occur in the distribution of high heirlooms (hereditary property from ancestors) if someone marries *Sesuku*, and this Petalangan Malay custom tries to find the public good, because if someone marries a person who is still close to his bloodline, it will become the gossip of many people around him, because this is a big disgrace to the family. If someone violates this rule, the consequence is to be expelled from the village and out of the tribe and not included in traditional activities. This marriage is referred to as an exogamous marriage system (where a person must marry someone outside their tribe).

Tribal marriage is a very sensitive thing to discuss, while in Pelalawan Regency there are many customary areas, each of which also has its own characteristics of the marriage process without leaving Islamic teachings, as in the *Balam Merah* Perbatinan Region, including one of the areas in Pelalawan Regency which also still upholds exogamous marriage (marriage outside the tribe). In Pelalawan, especially in the Bunut Perbatinan Region, the customary leaders usually determine everything very carefully and strongly consider the benefits of the community, by looking at how the positive and negative impacts will be caused if the Petalangan Malay people marry tribesmen among their own group.

In the marriage system of the Petalangan community itself, the *Ninik mamak* of each tribe plays a key role in organizing the marriage of their children, exceeding the role of the parents of both parties. The *Ninik mamak* of the male side will propose to the female side's family and arrange a meeting with the *Ninik-mamak* of the female side. They also decide the time and place of the marriage ceremony. In addition, each *Ninik-mamak* plays an important role in running and implementing the customary and strict fine system in marriage customs". There are three stages in the marriage procession of the Petalangan people in Balam Merah, namely:

1. The pre-marriage or pre-marriage stage, which consists of *menyaum-nyaum*, *tando kocik*, *tando godang*, *camping*, *hanging*, *mengukui* or *cooking*, *berandam*, and *berinai*.



2. The stage of marriage which consists of a marriage contract, khatam Al-Qur'an, *mangante*, worship, patting fresh flour, eating rice face-to-face, and a ceremony in the aisle.
3. Stages after marriage or post-marriage, namely the newlyweds are prohibited from leaving the house for three consecutive days, and the groom after marriage will live in the bride's parents' house.

The reason for the prohibition of tribal marriage is because of the disasters caused by couples who marry tribally, so that the tribe develops. As well as the occurrence of tribal marriage in the past due to the lack of public understanding of customary law, especially adolescents due to parents not introducing customary law that applies in the area where they live. Most people say that the role of traditional leaders is needed so that customs are not violated casually by their children, there must be action by all customary elements, so that traditional leaders in various *Bunut* border areas often hold traditional counseling about marriage and its prohibitions, so that their children know and do not forget the customary rules.

The reason for the prohibition of tribal marriage is the confusion of genealogy or kinship relationships, such as difficulty in calling *semenda* when gathering with the husband/wife parties, and it is also difficult to determine who is the Bako and who is the Mamak of the child born, besides that the perpetrator of a tribal marriage and the child born from it cannot become the top of *adat* and cannot express his opinions in customary matters, so that his life is tossed around in *adat*. The community considers that the rules made by *adat* are a myth that will not happen. Whereas in this case it has been seen directly by the community that people who do *sasuku* marriage will be sanctioned in the form of being expelled from the community, but the community still ignores these regulations (Marlina Devi, 2017). The community also believes that suku marriage is no longer a prohibition for the local customary community and as time goes by, the community no longer follows *adat* because the community is only guided by the Qur'an and the regulations stipulated in Islamic law (Dani Swara Maik, 2016). The benefits of the customary rules of tribal marriage are:

1. Nieces and Nephews will have positive feelings.
2. The Offspring will have intelligent offspring.
3. The child will have additional relatives (family).
4. If the marriage is *sesuku*, then the kinship in the community does not develop or increase.
5. The child of the nephew will increase his status among his friends.
6. Not becoming the gossip of his friends.

Causes of tribal marriage:<sup>1</sup> (Melly Dwi Saputri, 2015)

1. Religious rules that do not prohibit
2. Religious rules that do not prohibit this cannot be used as an excuse, the community considers that it is not right, because custom is in accordance with religion, it is wrong if religious understanding is at odds with custom,

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<sup>1</sup> Melly Dwi Saputri, *Perkawinan Sesuku Di Desa Tanjung Kecamatan Koto Kampar Hulu Kabupaten Kampar*, Jurnal Vol.2 No.2 Oktober 2015

because custom only prohibits something that is not good for the good of the community itself, not forbidding tribal marriage. meaning that the customary rules that are made have benefits for the people who carry them out, the benefits are so that the community knows what the purpose of this custom is so that custom is not seen by people who break the rules.

3. Knowledge about customary rules is very lacking, causing tribal marriage. *Sesuku* marriage has several factors that cause changes in customs that are getting weaker in customary punishment.
4. The increase in tribal marriage is based on urban communities. The community considers that customary rules can affect the diverse mindset of the community, the community is not ready to experience change. The development of an increasingly modern and broad mindset of society, the lack of public interest in customs that consider hindering the development of the times, and the factor that causes the most change is the advancement of information in the customary area that provides changes to descendants and successors of customs.

Mr. Maulidin said that, if possible, they should not marry within the tribe, because marrying within the tribe is not allowed in the *adat*, but if they want to marry anyway, it is also called marrying outside the village. They are subject to fines if they marry as tribesmen, men cannot be brought to community gatherings such as negotiations about the children of the *kemenakan*, if women marry, they cannot be exaggerated, they are ostracized by the customary community. In knowing the custom besides *ninik mamak*, parents also have the right to play an important role in conveying to their children about Petalangan Malay Customs, parents must also advise their children, inform them about the tribal marriage.

#### 4. Conclusions

Historical Prohibition In ancient times the *ninik mamak* gathered in one place, and swore together with witnesses that *sekaum* or *sepesukuan* are brothers. Therefore, if the same sex or same tribe is forbidden to marry and the oath will apply to all descendants. If anyone violates it, a predetermined punishment will be given. Those who violate this *sasuku* marriage are in the name of love and their soul mate. But the previous *ninik mamak* has sworn and if anyone violates, he will get his *mudorat* and lose his customary rights. Tribal marriage is prohibited because it makes the tribe not develop. The cause of tribal marriage is because the couple is in love with each other so that they do not ignore the customary rules regarding tribal marriage, so that the violating couple will get sanctions from the customary leader in the form of buffalo and rice which are cooked and eaten together with the people of the village.

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