


## ENDO GAMY IN ISLAMIC BOARDING SCHOOL CARETAKER FAMILY: A MASLAHAH POINT OF VIEW

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**Abstract:** Kyai and their family, as boarding school caretakers, become the leading role models in religious practice, including marriage. In Sumenep, Madura, some of these families practice endogamous marriage. This makes the assumption in society that the tradition of endogamous marriage continues to be preserved. This study aims to describe the endogamous marriage tradition in Boarding Schools in Sumenep from the perspective of *al-Tufi's Maslahah Theory*. The researcher uses empirical legal research and case studies as his approach. The results show that the existing tradition of endogamous marriage is carried out by arranged marriage and is intended to safeguard assets, maintain lineage (*nasab*), and sustain the boarding school. According to *al-Tufi's Maslahah theory*, the tradition has a beneficial value, although no *al-Quran* verses or *hadith* command endogamous marriage. The benefit is manifested in the goal for the continuity and development of education in the Islamic boarding school institution owned by the parents. However, there are negative impacts that need to be considered, such as hostility between families caused by unsuccessful matchmaking and the potential for abnormal or disabled children.

**Keywords:** Endogamous Marriage, Islamic Boarding School, *Maslahah al-Tufi*

**Abstrak:** Kyai dan keluarga pesantren menjadi panutan dalam praktik keagamaan, tak terkecuali perkawinan. Perkawinan antar keluarga pesantren yang terjadi di Sumenep, Madura, menimbulkan asumsi di dalam masyarakat bahwa tradisi perkawinan endogami terus dilestarikan. Penelitian ini bertujuan untuk menggambarkan fakta tradisi perkawinan endogami pada keluarga pesantren di Kota Sumenep dalam perspektif Masalah al-Tufi. Peneliti menggunakan jenis penelitian hukum empiris dan studi kasus sebagai pendekatannya. Hasil penelitian ini menunjukkan bahwa tradisi perkawinan endogami yang ada pada kalangan keluarga pesantren di Sumenep dilakukan dengan cara perjodohan yang bertujuan untuk menjaga harta, menjaga keturunan (nasab), dan menjaga keberlangsungan lembaga pesantren. Berdasarkan teori Masalah al-Tufi, tradisi perkawinan endogami tersebut memiliki nilai kemaslahatan, meskipun tidak ada dalil yang mewajibkan untuk melakukan perkawinan endogami. Nilai ini termanifestasi pada tujuan untuk menjaga keberlangsungan dan pengembangan pendidikan di lembaga pesantren yang dimiliki orangtuanya. Meski demikian, keluarga perlu mempertimbangkan dampak negatif yang mungkin muncul, seperti permusuhan di antara (dua) keluarga akibat perjodohan yang gagal dan adanya potensi lahirnya keturunan yang cacat.

**Kata-kata kunci:** Perkawinan Endogami; Pesantren; Masalah al-Tufi

## Introduction

Marriage is a physical and spiritual bond between a man and a woman who aims to create a happy family life in the name of Allah.<sup>1</sup> Marriage is also interpreted as a human bond as a couple to create a peaceful, happy, eternal, and relaxed household.<sup>2</sup> Islamic law has positioned marriage in a very noble frame as a form of the lasting bond between a husband and a wife based on affection and love to achieve the purpose of marriage.<sup>3</sup> The marriage goals include having children, preserving their lineage, and protecting themselves from sexually transmitted diseases.<sup>4</sup>

Achieving a *sakinah*<sup>5</sup> family as the primary goal of marriage is not as easy as mere words, but there are so many obstacles, problems, obstacles, and trials that will come and go. Marriage is not just uniting two human beings, but much more than that; marriage is an attempt to gather and establish two family units or even two cultural customs. The existing differences have great potential to cause problems in the family, which often end in divorce.<sup>6</sup> To minimise these differences, many families choose a partner from their relatives. This marriage is called the endogamy system.<sup>7</sup>

Marriage with the endogamy system is a form of marriage that encourages the prospective bride to choose a mate within the scope of her relatives. The Madurese

<sup>1</sup> "Undang-Undang No. 1 Tahun 1974 Tentang Perkawinan." (DPR RI, 1974), Pasal 1.

<sup>2</sup> Khoiruddin Nasution, *Hukum Perkawinan 1* (Yogyakarta: ACAdemIA+TAZZAVA, 2005), 11.

<sup>3</sup> D. Y. Wiyanto, *Hukum Keluarga Hak Dan Kedudukan Anak Luar Kawin "Pasca Keluarnya Putusan Mahkamah Konstitusi Tentang Uji Materiil UU Perkawinan,"* cet. Kedua (Jakarta: Prestasi Pustaka, 2012), 57.

<sup>4</sup> Wahbah Zuhaili, *Al-Fiqh al-Islamy Wa Adillauhu* (Beirut: Daar al-Fikr, 1997), 114.

<sup>5</sup> *Sakinah* is a family surrounded by feelings of comfort, calm, love and affection between husband and wife. Khoiruddin Nasution, *Hukum Perkawinan 1*, (Yogyakarta: ACAdemIA+TAZZAFA, 2004), 39. Sayyid Muhammad, *Fiqh Keluarga, Seni Berkeluarga Islami*, (Yogyakarta: Bina Media, 2005), 13.

<sup>6</sup> Moh. Idris Ramulyo, *Hukum Perkawinan Islam UU No. 1 Tahun 1974 Dan Kompilasi Hukum Islam* (Jakarta: Bumi Aksara, 2004), 12.

<sup>7</sup> Hazairin, *Hukum Kewarisan Bilateral Menurut al-Qur'an dan Hadis*, (Jakarta: Tintamas, 1982), 11-13. Sulaiman al-Mufarraj, *Bekal Pernikahan*, (Jakarta: Qisthi Press, 2003), 187.

community is one of the ethnic groups still vital in maintaining the endogamy marriage.<sup>8</sup> It is an agreement between relatives to strengthen kinship ties.

This tradition is also found among relatives of the Islamic Boarding School (*Pesantren*) caretaker<sup>9</sup> in Sumenep. Usually, the management of the Islamic boarding school will be continued by their descendants or kinship. In this case, the kinship factor is more decisive than the religious factor. Kinship is another condition that takes precedence in a marriage because they already know their parents, lineage and social status. In Islamic teaching, there is no difference in status and social class between humans; all are considered equal before Allah SWT. What makes the difference is the level of their piety.

The figure of a *kyai*,<sup>10</sup> as the leader of the *pesantren*, can be categorised as the main character who becomes the centre of role models (*uswatun hasanah*) for the community and sources of religious knowledge. They occupy substantial roles in conveying the concepts of spiritual teachings. The position and role of a *kyai* (and the *pesantren*'s family) is powerful, making Dhofir classify the *kyai*'s family as an essential and substantial element.<sup>11</sup>

## Methodology

This research carries the type of qualitative empirical legal research, which is a form of research that seeks to describe the law in a factual phenomenon or behaviour in the real world by examining how the law is implemented in society<sup>12</sup> and uses the case study approach by understanding an incident or problem and collecting various data from information sources, to get a solution to solve these problems. These two approaches allow researchers to find out more about the endogamous marriage tradition among the *pesantren* caretaker families in Sumenep and understand this reality from the results of interviews and direct observation.<sup>13</sup>

This study uses the al-Tufi theory of *maslahah* as its analytical tool. In the study of Islamic legal theory (*usl al-fiqh*), *maslahah* is identified with various attributes, namely principles (*al-asl, al-qa'idah, al-mabda'*), sources or law (*masdar, dalil*), doctrine (*al-dabit*), concept (*al-fikrah*), method (*al-tariqah*), and theory (*al-nazariyyah*).<sup>14</sup> Etymologically, *maslahah* can mean goodness, usefulness, appropriateness, feasibility, harmony, and propriety. The word *al-maslahah* is opposed to the word *al-mafsadah*, which means damage. Terminologically, *maslahah* has been given meaning by several *usl al-fiqh* scholars.<sup>15</sup> Al-Gazali (d. 505 H), for example, said that the genuine meaning of *maslahah* is

<sup>8</sup> Abd. Rahman Ghazali, *Fiqh Munakahat* (Jakarta: Prenada Media, 2003), 22.

<sup>9</sup> A. F. Rosyid, dkk, *The Existence and Management of Islamic Boarding Schools, International Journal of High Education Scientists (IJHES)*, 2 (2), 2021, 120.

<sup>10</sup> Soekamto, *Kepemimpinan Kyai dalam Pesantren*, (Jakarta: LP3ES, 1999), 19-21.

<sup>11</sup> Zamakhsyari Dhofer, *Tradisi Pesantren*, (Jakarta: LP3ES, 1985), 44.

<sup>12</sup> Nurul Qamar dkk, *Metode Penelitian Hukum (Legal Research Methods)*, (Makassar: CV. Social Politic Genius, 2017), 5.

<sup>13</sup> Jonaedi Efendi dan Johnny Ibrahim, *Metode Penelitian Hukum Normatif dan Empiris*, (Depok: Prenadamedia Group, 2018), 149.

<sup>14</sup> Husain Hamid Hissan, *Nazariyyat al-Maslahah fi al-Fiqh al-Islamiy*, (Beirut: Dar al-Nahdah al-'Arabiyyah, 1971); dan Muhammad Kamal al-Din Imam, *Nazariyyat al-Fiqh fi al-Islam: Madkhal Manhajiy*, (Beirut: al-Mu'assasah al-Jami'iyyah li al-Dirasat wa al-Nasyr wa al-Tauzi', 1418 H/1998 M).

<sup>15</sup> Ismâ'îl ibn Hammâd al-Jauhari, *al-Sihâh Tâj al-Lughah wa Sihâh al-'Arabiyyah*, (Beirut: Dâr al-'Ilm li al-Malâ'yîn, 1376 H/1956 M), Juz ke-1, hlm.383-384.

to attract/realise benefits or get rid of/avoid harm (*jalb manfa'ah* or *daf madarrah*); *syar'i*, is to maintain and realise the objectives of *syara'* in the form of preserving religion, soul, mind, lineage, and wealth.<sup>16</sup>

One theory that pays attention to the absolute benefit in matters of *muamalah* law, whether stated in al-Quran and al-Hadith or not, was put forward by Najamuddin al-Tufi. He justifies the use of *maslahah* to such an extent that it overrides the text.<sup>17</sup> *Maslahah* is considered the primary and dominant principle of Sharia. Therefore, *maslahah* has more power over all other methods, such as *ijma'*.<sup>18</sup> At-Tufi's *maslahah* is different from the majority of other scholars who emphasize that *maslahah* should obtain legitimacy from sharia.<sup>19</sup> Some accuse his thought of being the view of the Shiite, and it is considered dangerous to apply because a priori it has suggested the possibility of a conflict between the text and the benefit.<sup>20</sup> It is potential to wrongly use *maslahah* to legitimate their lusts under the pretext of benefit.<sup>21</sup>

Al-Tufi's view on *maslahah* stems from the hadith number 32 of the Arba'in Nawawi, which says "*la dharara wa la dhirara*," meaning "not to harm oneself and not to harm others". For al-Tufi, the Prophet's words have meaning to determine the benefits and negate harm. Because harm is damage, if the Sharia prohibits it, then the benefit must be maintained because they are two opposite things, like water and oil.

According to al-Tufi, there are nineteen kinds of Sharia sources of law: (1) al-Kitab, (2) as-Sunnah, (3) *Ijma'* al-Ummah, (4) *Ijma'* ahl al-Medina, (5) al-Qiyas, (6) The words of the companions of the Prophet, (7) *Masalih al-Mursalah*, (8) al-Istishab, (9) *al-Bara'ah al-Asliyyah*, (10) *al-'Awa'id*, (11) *Istiqra'*, (12) *Saddu az-Zara'i*, (13) *Istidlal*, (14) *al-Istihsan*, (15) *al-Akhzu bi al-Akhaffi* (taking the lighter one), (16) *al-'Ismah*, (17) *Ijma'* ahl al-Kufa, (18) *Ijma'* ahl al-'Itrah (family of the Prophet), (19) *Ijma'* al-Khulafa' al-Rashidin.<sup>22</sup>

Of the nineteen sources, the strongest are *Nash* (al-Quran and Hadith) and *ijma'*. But according to him, some of *Nash* and *Ijma'* contradict the *maslahah*. There is no argument when the two are in harmony with the *maslahah*, and the three of them become a source of law. On the other hand, if there are contradictions, *maslahah* should take precedence over *nash* and *ijma'*. The trick is to do *takhsis* or *tabyin* on the *nash* and *ijma'*, not restrict the validity of either of them.<sup>23</sup>

Furthermore, *Nash* and *ijma'* sometimes do not contain harm and *mafsadat*, or indeed have harm. If it does not contain any harm, both are equal to benefit. However, if it

<sup>16</sup> Qusthoniah, 'Al-Mashlahah Dalam Pandangan Najmuddin Al-Thufi', *Jurnal Syari'ah*, 2.2 (2013).

<sup>17</sup> Idaul Hasanah, 'Konsep Mashlahah Najamuddin Al-Tufi Dan Implementasinya', *Ulumuddin Journal of Islamic Legal Studies*, 7.1 (2011), 1.

<sup>18</sup> Ahmad Zaki Yamani, *Syari'at Islam yang Abadi Menjawab tantangan Masa Kini*, terj. Mahyuddin Syaf, (Bandung: Alma'arif, 1986), hlm. 51-52.

<sup>19</sup> Husayn Hamid Hasan, *Nazariyah al-Maslahah fi al-Fiqh al-Islami*, (Cairo: Dar al-Nahdah al-'Arabiyah, 1971), 529-568.

<sup>20</sup> Muhammad Abu Zahrah, *Ibn Hanbal wa Asaruhu Arauhu wa Fiqhuhu*, (Mesir: Dar al-Fikr al-Arabi, t.t.), hlm. 361. P. J. Bearman T.H. et.all (ed.), *The Encyclopaedia of Islam*, vol. X (Leiden: Brill, 2000), hlm. 588.

<sup>21</sup> Muhammad Khalid Masud, *Filsafat Hukum Islam: Studi tentang Hidup dan Pemikiran Abu Ishaq al-Syatibi*, terj. Ahsin Muhammad, (Bandung: Pustaka, 1996), hlm. 192.

<sup>22</sup> Nur A. Fadhil Lubis, *Hukum Islam dalam Kerangka Teori Fikih dan Tata Hukum Indonesia*, (Medan: Pustaka Widyasarana, 1995), hlm. 34-35.

<sup>23</sup> Moh.Usman, "Maslahah Mursalah Sebagai Metode Istinbat Hukum Persfektif Al-Thufi dan Al-Qaradhawi", *Jurnal Hukum Islam dan Pranata Sosial Islam*, Vol: 8, No:1 Mei 2020, 86.

contains overall harm, it includes the exception of the hadith of the Prophet, “*la dharara wa la dhirara*”, as contained in the *hadd*, *uqubat* and *jinayat* issues. On the other hand, if the understanding of harm is only partial, and there is a corroborating argument, one should act following the reinforcing argument. Suppose there is a specific argument that confirms it. In that case, it must be validated with the meaning of the hadith “*la dharara wa la dhirara*”, with the understanding of making a compromise between these arguments. For al-Tufi, even though the *maslahah* he is referring to belongs to the category of *mulgah* benefit, it can be used as a guide in determining the law; sometimes, it can or must take precedence over other legal arguments, including texts and *ijma'*, as prioritising the sunnah over the Qur'an by way of *bayan*.

In applying *maslahah*, al-Tufi classifies Islamic law into two: the law of worship and the law of muamalah. In terms of the law of worship, the application of *maslahah* is unnecessary because the mind can no longer reach the purpose and meaning of its application in detail. Because the issue of worship is only the right of Sharia. Anyone may not understand the true meaning of worship except for what they get from and are instructed by the Sharia.<sup>24</sup> Humans, as God's servants, are obligated only to carry out what has been ordered by their Lord. Meanwhile, in the case of muamalat law, *maslahah* is needed because its meaning and purpose can be reached by reason. The basis and guidance in this second category of law are *maslahah an-nas* (human benefit), whether they are stated in *Nash* and *ijma'* or not.<sup>25</sup>

Al-Tufi's view of *maslahah* seems to be based on the concept of *maqasid at-tasyri'* which emphasises that Islamic law is prescribed to realise and maintain the benefit of mankind. Scholars have recognised this concept, and because of that, they formulated a fairly popular rule, "Where there is a benefit, there is God's law."<sup>26</sup>

Based on the explanation of al-Tufi's theory of *Maslahah*, it is concluded that first, al-Tufi believes that *maslahah* is the goal of establishing Islamic law in the field of muamalah. If the application of *Nash* or *ijma'* is contrary to the benefit and cannot be compromised, then the benefit should be put forward over the *syara'* because the benefit/ *maslahah* is the goal while the Sharia is a means to achieve the goal. Therefore, the goal should take precedence over the means.

## Results and Discussion

### *Endogamy Marriage Traditions In Pesantren's Family In Sumenep*

Undoubtedly, marriage is the only way to build a family and have children, this is the nature of God which is included in the creation of man because life will not be sustainable except with the existence of continuous marriage from time to time.<sup>27</sup> In ethnology, marriage is classified into two systems based on the permissibility and prohibition of

<sup>24</sup> Hannani, Analysis of Najmuddin al Thufi's Concept of the Supremacy of Maslahah Against the Postulates of Islamic Law, DIKTUM: Jurnal Syariah dan Hukum, Volume 22 Nomor 1 Juni, 2022, 77.

<sup>25</sup> Masykur Rosyid, Anwar Hafidzi, “Paradigma dan Alienasi Konsep Maslahat Al-Thufi Sebagai Legalitas Sumber Syari'ah”, Jurnal Al-Banjari Vol. 29, No. 2, Juli-Desember 2020, 179.

<sup>26</sup> Muhammad Sa'id Ramdan al-Buti, *Dawabit al-Maslahah fi as-Syariah al-Islamiyah*, (Beirut: Mu'assasah ar-Risalah, 1977), hlm. 12.

<sup>27</sup> Thariq Ismail, *Nikah dan Sex Menurut Islam* (Jakarta: Akbar Media Eka Sarana, 2000), 6.

choosing a potential partner, namely the "endogamy" system and the "exogamous" system. These two systems are mostly found in indigenous peoples, with the "Eleutherogami" system applying to most indigenous peoples, especially those that are heavily influenced by Islamic law.<sup>28</sup>

Endogamous marriage is a form of marriage that only allows members of the community to marry or marry other members of their group.<sup>29</sup> Strictly speaking, this endogamous marriage is a marriage between relatives or marriages carried out between cousins, either from the father's side of the sibling (patrilineal) or from the mother's sibling (matrilineal).<sup>30</sup>

In another book, it is stated that endogamous marriage is a marriage system that requires marriage to a life partner of the same clan or prohibits a person from marrying someone from another clan. The relationship between relatives (class of relatives) has been widely discussed in the marriage law. Endogamous marriage is where a man or woman must look for a potential husband or wife within their relatives (tribe, clan, family) and is prohibited from looking outside their relatives.<sup>31</sup>

Based on research conducted at three *pesantrens* in Sumenep, namely Mathali'ul Anwar Pesantren, Aqidah Usymuni Pesantren, and Darurrahman Pesantren, it can be concluded that there are several factors behind endogamous marriages. The factors are concluded as follows: **First**, Spatial Orientation (regional). Madurese people tend to choose endogamous marriages because they believe that if the mate is outside the village, it can be said that the mate is far, both in the sense of distance and family relationships. So, endogamous marriage is one of the people's choices because they want their mate to be close, that they are still in the same village and have close family relationships.

The families of the *pesantren* in Sumenep consider regional orientation as a supporting factor for the continuity of the endogamous marriage.<sup>32</sup> A close location will help things get done quickly, especially family matters, including ease of access and mobility when there are family events involving many family members. With a close geographical location, the costs incurred are also very affordable. It will be different when the distance is far outside the area, of course, the energy and costs will expand.

**Second**, the descendant purity (*nasab*). Madurese people still adhere to the principle of *bibit* (bloodline), *bebet* (socioeconomic status), and *bobot* (personality and education) in choosing a future spouse. By marrying a relative, they already know their background, nature and character, and hopefully will give them good and healthy children.<sup>33</sup> It is clearer than marrying an outsider whose nature and character are uncertain. This is following Ridwan Halim's statement that one of the factors causing endogamous marriage is bloodline purity, so they reject the exogamous marriage system, which will always lead to mixed ancestry.<sup>34</sup> This is very important in the view of the *pesantren* family in Sumenep. By

<sup>28</sup> Hilman Adi Kusumo, *Hukum Perkawinan Adat dan Istiadat dan Upacara Adatnya* (Bandung: Citra Aditya Bakti, 2003), 67.

<sup>29</sup> Sudarsono, *Pokok-Pokok Hukum Islam* (Jakarta: Rineka Cipta, 1992), 611.

<sup>30</sup> Ridwan Halim, *Hukum Adat Dalam Tanya Jawab* (Jakarta: Ghalia Indonesia, 1987), 43.

<sup>31</sup> Miftah Farid, *150 Masalah Nikah dan Keluarga* (Jakarta: Gema Insani, 1999), 14.

<sup>32</sup> *Ibid*, 46.

<sup>33</sup> Zahry Hamid, *Pokok-Pokok Hukum Perkawinan Islam dan Undang-Undang Perkawinan Di Indonesia* (Yogyakarta: Bina Cipta, 1978), 2.

<sup>34</sup> Ridwan Halim., *Hukum Adat dalam Tanya Jawab* (Jakarta: Ghali Indonesia, 1987), 45.

keeping pure descendants, the continuity of the institution or boarding school management will be easier, clearer and stronger, and minimise conflicts over power struggles in the pesantren.

**Third**, Safeguard family property and power. This endogamous marriage may keep their inheritance in the family, to their children and siblings. They don't want their wealth to fall to someone outside their family. In accordance with Munawar's statement, that termed endogamous marriage with "*Donyo Orang Keliyo, Ngumpulke balung pisah*" (rather than moving family property into other people's hands, it is better with your relatives). As said by Ridwan Halimba one of the factors in society doing endogamous marriage is the property ownership. People who choose this endogamous marriage want the objects or assets they have to be controlled by their own families, without any interference from foreigners or people outside the family.<sup>35</sup>

In the Sumenep pesantren community, safeguarding assets is crucial for maintaining the institution's management. Performing endogamous marriage may strengthen family relations. This strong bond between families may avoid conflicts over property.

**Fourth**, the Matchmaking factor. For the Madurese, finding a mate would be better if it was within the scope of their region, and they passed the belief to their children and grandchildren. It is not surprising that there are arranged marriages cause many endogamous marriages. By looking for a mate in your sphere, there is a high probability that they come from your own family, leading to an endogamous marriage.

The matchmaking is carried out by the parents of both parties without being known by the matched children. They are afraid their children will find a mate in another village or outside Madura, so the parents take action by finding a mate for their child in their sphere. It is customary in Madura that children from childhood have been matched, and children do not understand the meaning of marriage.

**Fifth**, Projection of the Pesantren Successor. Another factor behind the *Pesantren family continuing to carry out the endogamy tradition is the projection of the successor to the management and development of the Pesantren* in the future. As caretakers of the pesantren, parents realise that one day they will pass away. For this reason, they try their best to prepare an heir to continue the struggle. This includes providing higher education to their children in other boarding schools or universities and making them ready to continue their parent's hard work. If no children are considered capable by their parents, the parents will look for a potential partner for their child, someone with the capacity to manage the boarding school.

Anyhow, there are negative impacts of endogamous marriages that occur in the Pesantrens in Sumenep, as follows: (1) The breakdown of kinship. It happens when an endogamous marriage ends in divorce and even conflict that causes discomfort between the families. (2) Impact of physical or mental disability on children. Several research results show that the results of endogamous marriages have a risk of producing offspring with physical disabilities caused by heredity and congenital factors from parents.<sup>36</sup> However, not all endogamous marriages produce offspring who are mentally weak or physically

<sup>35</sup> *Ibid.*, 45.

<sup>36</sup> Keesing, *Antropologi Budaya Suatu Perspektif Kontemporer*. Terjemahan Gunawan. (Jakarta: Erlangga, 1981), 15.

disabled, even the percentage is relatively small. This depends on the recessive gene each person has. If only one of them has a recessive gene, then it is likely that the offspring will be dominant or not defective.<sup>37</sup>

### **Maslahah Analysis**

Based on the explanation of the factors behind endogamous marriages in *Pesantrens* in Sumenep, the substance lies in one thing, namely the sustainability of *Pesantrens* management. Parents, as much as possible, prepare their children to continue their *pesantren* institutions. The struggle to establish *pesantren* is to build scientific Islamic institutions that benefit the community, spread knowledge and give opportunities for children to study Islamic teaching.

The purpose of this endogamous marriage is for the sake of the successor of the *pesantren* management. *Pesantrens* in the Sumenep area are *Pesantrens* that were pioneered and built by families, not on community self-help. So that the relay of power in managing the *pesantren* will fall to their children.<sup>38</sup>

The objective of endogamous marriage in the *pesantren* family above is in line with al-Tufi's thoughts about the benefit of *maslahah*. In Islam, the purpose of exogamous marriage is to increase brotherhood. At this point, a man may marry anyone according to the conditions of Islamic law. Does not require him to marry someone who is still in his kinship. While the purpose of endogamous marriage is to strengthen brotherhood. At this point, a man usually only marries women still in kinship.

Both endogamous and exogamous marriages have a good purpose, namely, the purpose of marriage is to form a happy family. All marriages have the goal of having a happy, full of peace, love, and affection (*sakinah, mawaddah warahmah*) household. However, the *pesantren* family in Sumenep adds another important goal, which is the continuity of their family's *pesantren* management.

In this case, the marriage of the *pesantren* family is not only focused on the happiness between husband and wife. The happiness of the bride and groom is important, but further than that, maintaining the *pesantren* is equally important. *Kyai* and *Bunyai* (the leader of the *pesantren* and his wife), as parents, will think about the fate of the *pesantren* in the future. Therefore, the tradition of endogamous marriage is carried out to continue the struggle and to develop *Pesantrens* properly.

Thus, it is unsurprising that *Kyai* and *Bunyai* are looking for a son-in-law who he thinks can continue their struggle. Although not all of their sons and daughters were married off to their relatives, there was always one of them married to a relative who also had a boarding school. For sons-in-law who are outside the *pesantren*'s family, usually *kyai* look for the best student (*santri*), or prospective in-laws who have good competence for the *pesantren*, such as student who know al-Quran by heart (*hafidz*), good in reading the Islamic traditional book (yellow book), and prominent academically.

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<sup>37</sup> Susan Elrod dan William Stansfield, *Schaum's Out Lines Genetika*, IV, (Jakarta: Penerbit Erlangga, 2006), 194-195.

<sup>38</sup> Pengertian Hukum Adat Pewkawinan dalam, Soepomo, *Bab Tentang Hukum Adat*. Cet.ke-2 (Jakarta: Pradya Paramita, 1977), 17. 5

These goals and expectations in the thought of al-Tufi's *mashlahah* are part of the benefit, even though there is no text or *Nash* that requires endogamous marriage. For al-Tufi, humans can determine the side of their respective benefits because the free mind determines the benefit and harm, especially in muamalah and tradition. To determine a benefit or harm, it is enough with reason. Al-Tufi's stance that reason alone, without having to go through revelation, can know good and bad became the first foundation in his thought pyramid.<sup>39</sup> However, al-Tufi limits the independence of reason in the fields of muamalah and customs, and he releases dependence on the instructions of *Nash*, *maslahah* or *mafsadat* in both fields. For al-Tufi, *mashlahah* is the strongest *syara'* argument. Therefore, if the *Nash* and *ijma'* conflict with the *maslahah*, the priority is the *maslahah* by making specialization (*takhsis*) and details (*bayan*) on the text.<sup>40</sup>

There are no Quranic verses nor Hadith for endogamous marriage, but the strongest argument is the benefit or *maslahah*. This benefit is the thought of the human mind. For the pesantren, the pillars of power and education of the pesantren are part of the benefit itself. So many ways are used to keep pesantren education running, including marrying off their sons and daughters with brothers and sisters who both have pesantren are part of the goal of benefit.

## Conclusion

The tradition of endogamous marriage still exists among Pesantrens in Sumenep. The influencing factors are regional orientation, safeguarding property, maintaining lineage (*nasab*), matchmaking, and maintaining the sustainability of Pesantrens. The negative impact that occurs is the emergence of hostility between (two) families, if there is no agreement on endogamous matchmaking and the potential for the birth of abnormal offspring (disabled). The al-Tufi theory of *maslahah* sees that the endogamous marriage tradition in Pesantrens has beneficial values, although there is no *Nash* that requires endogamous marriage. The value of this benefit is manifested in the goal for the sustainability and development of education in Pesantrens owned by parents or their extended family.

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<sup>39</sup> Yusuf al-Qaradawi, *Madkhal li Dirasat al-Syari'ah al-Islamiyyah*, (Kairo: Maktabah Wahbah, 1990), hlm. 62.

<sup>40</sup> Rusdaya Basri, 'Pandangan At-Tufi Dan Asy-Syatibi Tentang Maslahat (Studi Analisis Perbandingan)', DIKTUM: Jurnal Syariah Dan Hukum, 9.2 (2011), 186.

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