

**THE *SEBAMBANGAN* TRADITIONAL MARRIAGE IN ‘*URF*
PERSPECTIVE**

(Study in Tebing Village, Melinting Sub-District, East Lampung District)

THESIS

By:

Dela Puspita

SIN: 18210173



ISLAMIC FAMILY LAW DEPARTMENT

SHARIA FACULTY

MAULANA MALIK IBRAHIM UNIVERSITY MALANG

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STATEMENT OF THE AUTENTICITY

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In the name of Allah,

With consciousness and responsibility toward the development of science, the
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THE SEBAMBANGAN TRADITIONAL MARRIAGE IN 'URF

PERSPECTIVE

(Study in Tebing Village, Melinting Sub-District, East Lampung District)

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Malang, 30 Desember 2021

Writer,



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APPROVAL SHEET

APPROVAL SHEET

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THE *SEBAMBANGAN* TRADITIONAL MARRIAGE IN 'URF

PERSPECTIVE

(Study in Tebing Village, Melinting Sub-District, East Lampung District)

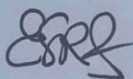
The supervisor stated that this thesis has met the scientific requirements to be
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**THE SEBAMBANGAN TRADITIONAL MARRIAGE IN ‘URF
PERSPECTIVE (Study in Tebing Village, Melinting Sub-District, East
Lampung District)**

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Malang, 13 Januari 2022

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MOTTO

حُذِ الْعَفْوَ وَأْمُرْ بِالْعُرْفِ وَأَعْرِضْ عَنِ الْجَاهِلِينَ

"Keep to forgiveness (O Muhammad), and enjoin kindness, and turn away from the ignorant." (Al-A'raf Verse: 199)

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From all the teaching, advice, guidance, and helps of service for us to finish this thesis, then with all humility the writer will expresses the gratitude which is unequaled to:

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3. Erik Sabti Rahmawati, M.A., M.Ag., as the head of Islamic Family Law Department of the Sharia Faculty of the State Islamic University Maulana Malik Ibrahim Malang.
4. Miftah Solehuddin S.HI., as a lecturer guardian researcher while studying at the Sharia Faculty of The State Islamic University of Maulana Malik Ibrahim Malang.

5. Miftahuddin Azmi, M.HI., as supervisor final assignment/thesis. The Researcher would like to thank for his guidance and motivation that have given during completing this thesis.
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8. My parent, especially my beloved father and my beloved mother that being a supporting system in my life, and who has guided me and prays for me in every time.
9. All of my family, especially my sister Intan Safitri and my little brother M. John Hendrawan that being a supporting system in my thesis.
10. All of my friends, especially to my comrades in arms the members of Islamic Family Law Department in International Class Program 2018 (ICP).
11. My Friends from the *Bani Supoj* Dormitory, as my comrades in arms and my consolation during the thesis, they are Nibrosul Millah (Millo), Fathin Aqidatuzzahro (Pathinah), Melinda Apriliyanti (Mamels), and Siti Hidayati Rosidha (cida).

With the completion of this thesis report, the author hope that knowledge we have gained during our studies can provide the benefits of life in the world and the hereafter. As a human who has never escaped fault, the researcher hopeful for the forgiveness, criticism and suggestion from all parties for future improvement efforts.

Malang, 30 Desember 2021
Author,

A handwritten signature in black ink, appearing to read 'Dela Puspita', with a stylized flourish at the end.

Dela Puspita

TRANSLITERATION GUIDENCE

A. Consonant

Arab	Latin	Arab	Latin
ا	A	ط	Th
ب	B	ظ	Zh
ت	T	ع	‘
ث	Ts	غ	Gh
ج	J	ف	F
ح	H	ق	Q
خ	Kh	ك	K
د	D	ل	L
ذ	Dz	م	M
ر	R	ن	N
ز	Z	و	W
س	S	هـ	H
ش	Sy	ء	‘
ص	Sh	ي	Y
ض	DI		

B. Vocal, long-pronounce and dipthong

Vocal *fathah* =a

Vocal *kasrah* =i

Vocal *dlomah* =u

Long-vocal (a) = Â	e.g.	â	قال	become	Qâla
Long-vocal (i) = Î	e.g.	î	قيل	become	Qîla
Long-vocal (u) = Û	e.g.	û	دون	become	Dûna
Diphthong (aw) = و	e.g.		قول	become	Qawlun
Diphthong (ay) = ي	e.g.		خير	become	Khayrun

C. Ta' marbuthah (ة)

Ta' marbûthah translited as “t” in the middle of word, but if Ta' marbûthah in the end of word, it translited as “h” e.g. الرسالة المدرسة become *alrisalat li al-mudarrisah*, or in the standing among two word that in the form of mudhaf and mudla ilaih, it transliterated as t and connected to the next word, e.g. الله يرحمة become *fi rahmatillâh*.

D. Auxiliary Verb and Lafadh al-Jalâlah

Auxiliary verb “al” (ال) written with lowercase form, expect if it located it the position and “al” in lafadh al-Jalâlah which located in the middle of two or being or become *idhafah*, it remove from writing.

a. Al-Imâm al-Bukhâriy said...

b. Al-Bukhâriy in muqaddimah of his book said

c. *Masyâ Allah kâna wa mâ lam yasya ‘ las yakun.*

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ABSTRAK

Puspita, Dela, 18210173, 2021. **TRADISI *SEBAMBANGAN* DALAM PERKAWINAN ADAT MENURUT PERSPEKTIF ‘URF (Studi di Desa Tebing, Kecamatan Melinting, Kabupaten Lampung Timur)**. Skripsi. Hukum Keluarga Islam, Fakultas Syariah, Univesitas Islam Negeri Maulana Malik Ibrahim Malang. Pembimbing : Miftahuddin Azmi, M.HI.

Kata Kunci: *Sebambangan*, Perkawinan, ‘Urf.

Sebambangan merupakan perkawinan dengan tradisi kawin lari, bujang (anak laki-laki) melarikan gadis (anak perempuan) kerumah orang tua atau kerabat dekatnya. Di desa Tebing, kecamatan Melinting, kabupaten Lampung Timur, masyarakat Lampung Pepadun masih sangat melestarikan pernikahan adat dengan sistem perkawinan *Sebambangan*, meskipun apabila di teliti lebih lanjut pada sistem *Sebambangan* ada praktik yang terlihat kurang sesuai dengan ketentuan hukum Islam, yaitu terkait tradisi membawa lari gadis ke rumah keluarga bujang tanpa seizin orang tua gadis, meski belum ada ikatan pernikahan diantara keduanya. Penelitian ini bertujuan untuk mengkaji serta mendeskripsikan bagaimana praktik tradisi *Sebambangan* dalam sistem perkawinan adat Lampung Pepadun di desa Tebing, kecamatan Melinting, kabupaten Lampung Timur dengan ditinjau dari prespektif ‘urf.

Penelitian ini adalah penelitian empiris atau biasa disebut dengan field research, dengan menggunakan pendekatan deskriptif kualitatif. Sebagian besar dari data primer dikumpulkan dari wawancara langsung dengan para informan dari masyarakat Lampung Pepadun di desa Tebing kecamatan Melinting, kabupaten Lampung Timur. Sedangkan data sekunder dikumpulkan dari literature-literature buku, makalah, dan artikel, yang memiliki relevansi dengan masalah yang akan diteliti, yaitu terkait tradisi *Sebambangan* adat lampung dan pembahasan tentang ‘urf. Kemudian data tersebut diedit, diklasifikasikan, diverifikasi, kemudian dianalisis.

Hasil penelitian ini menunjukkan bagaimana praktik *Sebambangan* dimulai dengan bujang membawa lari gadis dengan meninggalkan surat dan uang *Tangepik* sebagai pernyataan bahwa gadis sedang dalam proses *Sebambangan*. Kemudian dilanjutkan dengan proses *Ngatak Pengundur Senjata* dan *Bebalah Bawasan* dengan tujuan agar *Sebambangan* dapat diselesaikan dengan baik kearah perkawinan, baik melalui tahap *Ngakuk Maju* ataupun *Nyukak*. Tradisi *Sebambangan* termasuk dalam kategori ‘urf ‘aamali ketika ditinjau dari segi materi ‘urf, dan termasuk dalam kategori ‘urf lafdhi ketika ditinjau dari segi ruang lingkup ‘urf, kemudian jika ditinjau dari ‘urf dalam segi keabsahaannya menurut syariat *Sebambangan* termasuk dalam kategori ‘urf shahih, karena dalam praktiknya tidak bertentangan dengan syariat.

ABSTRACT

Puspita, Dela, 18210173, 2021. **THE *SEBAMBANGAN* TRADITIONAL MARRIAGE IN 'URF PERSPECTIVE (Study in Tebing Village, Melinting Sub-District, East Lampung District)**. Thesis. Islamic Family Law Departement, Sharia Faculty, Univesitas Islam Negeri Maulana Malik Ibrahim Malang. Advisor: Miftahuddin Azmi, M.HI.

Keywords: *Sebambangan*, *Marriage*, '*Urf*

Sebambangan is a marriage with the tradition of an elopement; a bachelor flees the girl to her parents' house or close relatives, based on the agreement of the girl and the bachelor. Most of Lampung Pepadun in the village of Tebing, Melinting sub-district, East Lampung district are Muslim. They are preserving traditional marriages with the *Sebambangan* marriage system. However, in the further examination of the *Sebambangan* system, some practices look less appropriate with the provisions of Islamic law, like taking girls to a single-family house even though there is no marriage bond. Based on these problems, the researcher conducted this study to describe the practice of *Sebambangan* tradition in the Lampung Pepadun traditional marriage system in Tebing village, Melinting sub-district, East Lampung district in terms of the perspective of '*urf*.

This research belongs to the type of empirical research, commonly referred to as field research, using a qualitative descriptive approach. The researcher was collected the primary data from direct interviews with informants from the Lampung Pepadun community in Tebing village, Melinting sub-district, East Lampung district. Besides, the secondary data was collected from literature books, papers, and articles relevant to the problem to be studied, namely related to the *Sebambangan* tradition of Lampung custom and discussion of '*urf*. Then the data is edited, classified, verified, and then analyzed.

This study shows that the practice of *Sebambangan* practice begins with the bachelor taking the girl away by leaving a letter and *Tangepik* money as a statement that the girl is in the *Sebambangan* process. Then proceed with the *Ngatak Pengundur Senjata* and *Bebalah Bawasan* with the aim that *Sebambangan* can be adequately resolved towards marriage, either through the *Ngakuk Maju* or *Nyukak* stages. The *Sebambangan* tradition is included in the category of '*urf* 'aamali when viewed from the point of view of the material '*urf*, and is included in the category of '*urf* lafdhi when viewed in terms of the scope of '*urf*, then if viewed from '*urf* in terms of its validity according to the sharia *Sebambangan* is included in the category of '*urf* Sahih, because in practice it does not contrary with the Islamic law.

الملخص

فسفتي، ديلي، ١٨٢١٠١٧٣، ٢٠٢١. استعراض العرف تجاه عملية سيامباغانج (Sebambangan) في الزواج التقليدي لامبونج (دراسة في قرية تيبينج، مقاطعة ميلينتينج، منطقة لامبونج الشرقية). المقالة. قسم الأحوال الشخصية، كلية الشريعة، الجامعة مولانا

مالك إبراهيم مالانج. المرشد : مفتاح الدين آزمي M.HI.

الكلمات المفتاحية : سيامباغانج، الزواج، العرف.

سيامباغانج هو الزواج مع تقليد الفرار، فكان الشاب يُهرب الفتاة إلى منزل والديه أو أقاربه، وهذا العمل على أساس اتفاق بينهما. في قرية تيبينج، مقاطعة ميلينتينج، منطقة لامبونج الشرقية، لا يزالون يحافظون بشدة على الزواج التقليدي مع نظام سيامباغانج. وعلى الرغم من ذلك أنه إذا أنعمنا النظر عند إجراء مزيد من الدراسة في نظام سيامباغانج، هناك عمليات تبدو أنها أقل ملائمة مع أحكام الشريعة الإسلامية، التي تتعلق بتقليد أخذ الفتاة إلى منزل الشاب أو أقاربه وإن لم يعقد النكاح بينهما. من حيث تلك المشكلة، أجرت الباحثة هذه الدراسة بهدف دراسة ووصفها عن كيفية إجراء عمليات سيامباغانج في نظام الزواج التقليدي لامبونج فافادون في قرية تيبينج، مقاطعة ميلينتينج، منطقة لامبونج الشرقية مع استعراض من منظور العرف. هذه الدراسة داخل إلى نوع البحث التجريبي أو يشار إليه عادة بالبحث الميداني، باستخدام منهج وصفي نوعي. تم جمع معظم البيانات الأولية من المقابلات المباشرة مع المخبرين من مجتمع لامبونج فافادون في قرية تيبينج. بينما يتم جمع البيانات الثانوية من الكتب والأوراق والمقالات الأدبية، التي فيها صلة وعلاقة بالمشكلة المراد في دراستها، وهي ما تتعلق بالعادة التقليدية سيامباغانج في لامبونج ومناقشة العرف. ثم يتم تحرير البيانات وتصنيفها والتحقق منها ثم تحليلها.

ومن نتائج هذه الدراسة، ظهرت كيف تبدأ عملية سيامباغانج أمامنا، فبدايتها كان الشاب يأخذ الفتاة لتهرب معه إلى منزل والديه أو أقاربه مع ترك الرسالة والمال سمي *Tangepik* لبيان أنّ الفتاة في عملية سيامباغانج. ثمّ تابع عملية عاتك *Bebalah* و *Ngatak Pengundur Senjata* على هدف إمكان حل سيامبانغان بشكل صحيح تجاه الزواج، إمّا من خلال مراحل *Bawasan* أو *Ngakuk Maju* أو *Nyukak*. فالعادة التقليدية سيامباغانج وفقا لتقييم الباحثة وذلك بعد إجراء عملية التحليلية بمنظور العرف، فرأت الباحثة أنها من العرف العمل، والعرف اللفظ، و العرف الصحيح، لأن في الواقع لا تتعارض مع الأحكام الشريعة.

CHAPTER I

INTRODUCTION

A. Research Background

Marriage is an inner and outer bond between two pairs of people. The band is born from an agreement between a man and a woman to combine household goals to create a *sakinah, mawaddah, warahmah* families.¹ Marriage also aims to give birth to offspring. Instinctively, everyone has a desire for wealth, likes the opposite sex, and has offspring. Therefore, Islam stipulates a stipulation that must be passed, namely marriage. It is the solution regarding human relations with their intuitive nature related to liking the opposite sex and having offspring. Besides, it makes humans not commit indecent acts contrary to the provisions of Islamic law. The word of Allah SWT in the Qur'an Surah Ar-Rum verse 21 states that:

وَمِنْ آيَاتِهِ أَنْ خَلَقَ لَكُمْ مِنْ أَنْفُسِكُمْ أَزْوَاجًا لِتَسْكُنُوا إِلَيْهَا وَجَعَلَ بَيْنَكُمْ مَوَدَّةً
وَرَحْمَةً إِنَّ فِي ذَلِكَ لَآيَاتٍ لِقَوْمٍ يَتَفَكَّرُونَ

"And among His signs (greatness) is that He created partners for you from your kind, so that you tend to and feel at ease with them, and He created between you love and compassion. Indeed, in that, there are signs (of Allah's greatness) for a people who think." (Ar-Rum:21)

¹ Pasal 3, kompilasi Hukum Islam.

Furthermore, Allah SWT says in Surah An-Nahl verse 72, as follows:

وَاللَّهُ جَعَلَ لَكُم مِّنْ أَنْفُسِكُمْ أَزْوَاجًا وَجَعَلَ لَكُم مِّنْ أَزْوَاجِكُمْ بَنِينَ وَحَفَدَةً وَرَزَقَكُمْ مِنَ
الطَّيِّبَاتِ أَفَبِالْبَاطِلِ يُؤْمِنُونَ وَبِنِعْمَتِ اللَّهِ هُمْ يَكْفُرُونَ

"And Allah made for you a partner (husband or wife) from your kind and made children and grandchildren for you from your spouse, and gave you sustenance from the good. Why do they believe in falsehood and deny Allah's favour?" (An-Nahl: 72)

In Islam, marriage is often called *mitsaqan ghalidzan*.² It is a firm contract to obey Allah's commands and an act of worship. Marriage is a form of *sunnatullah* for every human, both male and female. Besides, Islam itself has set the procedures of a marriage. It means that everything related to the marriage's problems is highly considered to maintain the sacredness of the marriage itself.

Moreover, Indonesia also provides provisions for marriage terms. In Indonesian law itself, every community has the right to marry, form a happy family, and carry on offspring with a legal marriage.³ A legal marriage is a marriage that follows religious and state laws. In terms of religion (Islam), a legal marriage is a marriage approved by the man, woman, and their families, in the presence of two witnesses and a female guardian. In-state law, marriage

² Zaitunah Subhan, *Al-Qur'an dan Perempuan Menuju Kesenjangan Gender Dalam Penafsiran*, (Jakarta: Prenadamedia Group, 2015), 139.

³ Pasal 28B, ayat (1), Undang-Undang tahun 1945

is legal based on the law of each religion and belief.⁴ It is related to the belief in customary law, where Indonesia has a variety of tribes, customs, and cultures. There are so many standard provisions that have long been grown and obeyed by the indigenous people themselves.

Generally, customary law in Indonesia explains that marriage means a civil engagement, a traditional engagement, and an engagement of kinship and neighborhood.⁵ The bond of marriage has consequences for civil relations, such as the rights and obligations of husband and wife, joint property, children's position, rights and obligations of parents, and the relationship of inheritance customs and kinship, kinship and neighborhood, concerning traditional and religious ceremonies. Besides, it regards the duty to obey religious orders and prohibitions, both in human relations with God (worship) and human relationships with fellow humans (*muamalah*) in social life so that they are safe in this world and the hereafter. Customary marriage law in Indonesia can take the form of "honest marriage", where the man applies to the woman.⁶ Moreover, the culture and rules that apply in a society cannot be separated from the influence of culture and the community's environment. The association of the local community is formed because it is influenced by the community's habits, beliefs, and religions.

One of the customary law provisions in the Lampung community, Lampung people are divided into two large familiar groups, namely the *Saibatin* and the

⁴ Pasal 2, ayat (1), Undang-Undang No. 1 tahun 1974 tentang Perkawinan

⁵ Wajadi Dramabrata dan Ardhi Wibowo, *Psikiatri Forensik*, (Jakarta: Buku Kedokteran EGC, 2003), 96.

⁶ Hilman Hadikusuma, *Hukum Perkawinan Indonesia*, (Bandung: Mandar Maju, 1990), hlm 8-9.

Pepadun.⁷ *Saibatin* is defined as the status that exists in custom to foster social harmony that binds brotherly relations. Meanwhile, the people of Lampung who have the *Pepadun* tradition are one of the Lampung community groups, marked by the opportunity to occupy the highest customary head, namely the clan balancer with the title of sultan. It usually applies to the eldest son, who can obtain by raising the name or *Cakak Pepadun*. Although the indigenous people of Lampung are divided into two groups, each group has different knick-knacks and traditions. For example, in the conventional marriage of Lampung Pepadun in the Lampung community, Melinting sub-district, East Lampung district, has several types of marriage systems, including the the *Sebambangan* marriage system.⁸ *Sebambangan* is a marriage with the tradition of an elopement; a bachelor flees the girl to his parents' house or close relatives, without permission of girl's parent.⁹ While, during the *Sebambangan* tradition the girl would resides in the bachelor family's residence, although there is not marriage bond between them.

In the Tebing village, Melinting sub-district, East Lampung district, the people are preserving the *Sebambangan* marriage system when they want to get married. However, in the further examination of the *Sebambangan* system, some practices look less appropriate with the provisions of Islamic law, like taking girls to a single-family house even though there is no marriage bond.

⁷ M. junus Melalatoa, *Ensiklopedi Suku Bangsa di Indonesia Jilid L-Z*, (Jakarta: CV Eka Putra, 1995), 466.

⁸ Hilman Handikusuma, *Masyarakat dan Adat Budaya Lampung*, (Bandung: Mandar Maju, 1989), 143.

⁹ Hilman Handikusuma, *Pengantar Ilmu Hukum adat Indonesia Edisi revisi*, (Bandung: Mandar Maju, 2014), 103.

Moreover, in the *Sebambangan* marriage system, the man takes away the woman to the man's residence without the permission of the woman's parents. Besides, she also resides in the man's home even though there is no marriage bond until the woman's family agrees on the stages of the marriage procession.

Based on the explanation above, the researcher is interested in analyzing the traditions related to the marriage practice of *Sebambangan* in the marriage procession of the Lampung indigenous people from the perspective of '*Urf*'.

B. Statement of Problem

Based on the background of the study, the researcher formulates the problem into two major questions as follows:

1. How is the practice of the *Sebambangan* traditional marriage of the Lampung traditional community in Tebing village, Melinting sub-district, East Lampung district?
2. How is '*urf*'s perspective of the *Sebambangan* traditional marriage practice in the Lampung traditional community?

C. Research Objectives

Based on the research questions, the objectives of the study are as follows.

1. To explain the process of the *Sebambangan* tradition in the marriage of the Lampung traditional community in Tebing village, Melinting sub-district, East Lampung district.

2. To analyze the *Sebambangan* practice of Lampung traditional marriage from the perspective of 'urf.

D. Significance of The Study

This research will give some significance. There are theoretically and practically. Those are explained as follows:

1. Theoretically

This research is expected to add knowledge and insights for developing Islamic family law studies, especially of *Sebambangan* traditional practice marriage in Lampung.

2. Practically

This research is expected to give additional references for the government, especially for regional institutions, and as a basic guideline. Besides, it is expected to help future researchers conduct a similar field of study, particularly in traditional marriage practice.

E. Operational Definition

In order to avoid misunderstanding about the terms research, the researcher defines key terms as follows:

1. Practice is the implementation or act of applying theory (beliefs) based on the Big Indonesian Dictionary.¹⁰

¹⁰ KBBI, diakses 28 september 2021, <https://kbbi.web.id/praktik>

2. *Sebambangan* is a cultural marriage ceremony with the tradition of an elopement; a man flees the woman to her relatives' house. It is based on the woman and man's agreement. Then, the woman tells her family by leaving a letter and also leaving money called *Tengepik*. The letter's contents stated that the woman apologized to her parents for leaving without permission to marry a man of her own feeling.¹¹ Then, the man and woman's family are consulted to complete the *Sebambangan* with the applicable customary procedures.
3. A tradition is a form of cultural ideas consisting of cultural values, norms, laws, and rules related to a system.

F. Stucture of Discussion

The outline of this research proposal consists of five main chapters. They are an introduction, review of related literature, research methodology, results and discussion, and conclusion.

Chapter I is Introduction. In the background of the study, the researcher discusses the need for a review of *Sebambangan* traditional marriage practice. Besides, there are two questions related to the topic. The objectives mention two objectives. Besides, some implications are expected as the study results are presented theoretically and practically in this chapter. The definition of key

¹¹ Hilman Handikusuma, *Pengantar Ilmu Hukum adat Indonesia Edisi revisi*, (Bandung: Mandar Maju, 2014), 103.

terms is practice, *Seimbangan*, and traditional. The final of chapter I is on the outline of the report as the summary from a chapter I until chapter V.

Chapter II is called a review of related literature. This chapter describes a literature review that is expected to support efforts to analyze to answer the problems that have been formulated. The sub-discussions in this chapter include previous research and a discussion of engagement, marriage and '*urf*'. The sub-discussion of engagement includes the definition, legal basis of engagement, and the terms of engagement. The sub-discussion of marriage includes the definition, terms and pillars of marriage and customary marriage. The sub-discussion of '*urf*' includes the meaning of '*urf*', the types of '*urf*', and the position of '*urf*' in establishing legal determination.

Chapter III is research method. This chapter discusses the research methods used by the researcher. They are type of research, research approach, data sources, technique of data sources collection, and data analysis.

Chapter IV is the results and discussion. This chapter discusses the research results obtained by the researcher to answer research questions. The results are discussed the '*urf*'s perspective of implementing the *Seimbangan* practice of traditions marriage in Lampung.

Chapter V is the conclusion and suggestion. This chapter discusses the conclusion in answering the research questions and suggestions related to this study on the '*urf*' perspective of the *Seimbangan* traditional marriage practice in Lampung.

CHAPTER II

LITERATURE REVIEW

A. Previous Research

In this section, the researcher will discuss the similarities and differences with previous research. The previous research serves as a differentiator and comparison with this research:

There are some previous researchs related to this study. The first previous research was written by Istiqomah (2018) entitled "*Praktik dan penyelesaian Adat Sebambangan Dalam Sistem Perkawinan Pada Masyarakat Lampung Saibatin (Pendekatan Etnografi Pada Masyarakat Negeri Ratu Ngambur Kecamatan Ngambur Kabupaten Pesisir Barat Lampung)*". This study discusses the process of practice and completion of *Sebambangan* in the marriage system of the Lampung Saibatin community in the Negeri Ratu Ngambur community, Ngambur District, Pesisir Barat Regency, Lampung. Following the traditional regulations of Lampung Saibatin.¹²

Khoirul (2020) conducted study entitled "*Proses Adat Sebambangan Marga Sekampung Libo di Desa Negara Batin Kecamatan Jabung Lampung Timur*".¹³ This study discusses implementing the *Sesambangan* custom in

¹² Istiqomah, "Praktik dan penyelesaian Adat Sebambangan Dalam Sistem Perkawinan Pada Masyarakat Lampung Saibatin (Pendekatan Etnografi Pada Masyarakat Negeri Ratu Ngambur Kecamatan Ngambur Kabupaten Pesisir Barat Lampung)", (Undergraduate thesis, Universitas Islam Negeri Syarif Hidayatullah Jakarta, 2020)

¹³ Nanang Khoirul, "Proses Adat Perkawinan Sebambangan Marga Sekampung Libo di Desa Negara Batin Kecamatan Jabung Lampung Timur" (Undergraduate thesis, Universitas Muhammadiyah Metro, 2020), <http://eprints.ummetro.ac.id/685/>

marriage to the people of the Sekampung Libo Clan in Negara Batin Village, Jabung District, East Lampung. The study results include the *Sebambangan* tradition in the Lampung Saibatin indigenous community in the inner country village seen in local customs under customary rules and not contradict the prevailing standard norms.

Moreover, Aprina, (2019) conducted study entitled “*Dinamika Sebambangan Suku Lampung Di Desa Matram Marga Ditinjau Dari Hukum Perkawinan di Indonesia*”.¹⁴ This study discusses case studies of problems that occur in the practice of *Sebambangan*, which does not follow the customary provisions that apply in Matram Marga Village in terms of marriage law in Indonesia. Based on the analysis of the results, it found that marriage law in Indonesia Number 1 of 1974 article 6 paragraph 1 regarding the legal requirements of a marriage must be based on the consent of the bride and groom. Besides, 17 paragraph 2, namely, the wedding cannot occur if one of the parties disagrees.

Table 2.1

Previous Research Table

No	Researcher Name	Research Title	Equality	Difference
1	Istiqomah, (Universitas Islam Negeri Syarif Hidayatullah Jakarta Thesis, 2018)	Praktik Dan Penyelesaian Adat <i>Sebambangan</i> Dalam Sistem Perkawinan Pada	Discussing about the tradition of <i>Sebambangan</i>	Researcher is focused on discussing the process of practice and completion of the

¹⁴ Widia Aprina, “Dinamika Sebambangan Suku Lampung Di Desa Matram Marga Ditinjau Dari Hukum Perkawinan di Indonesia” (Undergraduate thesis, Institut Agama Islam Negeri Metro, 2019), <https://repository.metrouniv.ac.id/id/eprint/787>

		Masyarakat Lampung Saibatin (Pendekatan Etnografi Pada Masyarakat Negeri Ratu Ngambur Kecamatan Ngambur Kabupaten Pesisir Barat Lampung)		<i>Sebambangan</i> tradition in the marriage ceremony of the Lampung Saibatin community at the Ratu Ngambur State Community, Ngambur District, Pesisir Barat Regency, Lampung.
2	Nanang Khoirul, (Muhammadiyah Metro University thesis, 2020)	Proses Adat <i>Sebambangan</i> Marga Sekampung Libo di Desa Negara Batin Kecamatan Jabung Lampung Timur	Discussing the <i>Sebambangan</i> tradition	The researcher focuses more on discussing implementing <i>Sesambangan</i> in marriage to the people of the Sekampung Libo clan in Negara Batin Village, Jabung District, East Lampung.
3	Widia Aprina, (IAIN Metro thesis, 2019)	Dinamika <i>Sebambangan</i> Suku Lampung Di Desa Matram Marga Ditinjau Dari Hukum Perkawinan di Indonesia	Discussing the <i>Sebambangan</i> tradition	The researcher is more focused on discussing the problems that occur in the practice of <i>Sebambangan</i> , which is not following the customary provisions in force in the village of Matram Marga in terms of marriage law in Indonesia.

B. Theoretical Framework

1. Engagement (*Khitbah*)

a. Definition of Engagement (*Khitbah*)

Linguistically, in the Lisanul Arabic dictionary stated that the word *Khitbah* comes from word *Khathaba* (خطب), *khithbatun* (خطبة). It means:¹⁵

طَلَبُ الْمَرْأَةِ أَنْ يَنْزَوَّجَهَا

"Request a woman to marry."

Etymology, engagement (*Khitbah*) is asking a woman to be wives for themselves and others.¹⁶ It is an effort towards an arranged marriage between a man and a woman.¹⁷

Wahbah Az-Zuhailly, in his book *Islamic Fiqh Wa Adillatuhu* defines engagement (*Khitbah*) as expressing the desire to marry a certain woman and informing the woman and her guardian.¹⁸

Sayyid Sabiq defines engagement (*Khitbah*) briefly as a request to hold a marriage by two people with a transparent intermediary. This

¹⁵ Ahmad Sarwat, *Ensiklopedia Fikih Indonesia: Pernikahan*, (Jakarta: PT Gramedia Pustaka Utama, 2019), 69.
https://www.google.co.id/books/edition/Ensiklopedi_Fikih_Indonesia_Pernikahan/hyuUDwAAQBAJ?hl=id&gbpv=1

¹⁶ Muhammad Zuhailly, *Fiqh Munakahat*, (Surabaya: CV. IMTIYAZ, 2013), 85.

¹⁷ Departemen Pendidikan dan Kebudayaan, *Kamus Besar Bahasa Indonesia* (Jakarta: Balai Pustaka, 1994), 556.

¹⁸ Abdul Hayyie al-Kattani, and friends, *Terjemahan Kitab Fiqih Islam Wa Adilatuhu Jilid 9*, (Depok: Gema Insani, 2020), 21.
https://www.google.co.id/books/edition/Fiqih_Islam_wa_Adilatuhu_Jilid_9/ZVU0EAAAQBAJ?hl=id&gbpv=1&dq=khitbah&pg=PA21&printsec=frontcover

engagement is a law of Allah SWT that has to do before holding a wedding so that the two brides and grooms know each other.¹⁹

Sa'id Talib Al-Hamdani defines *khitbah* as a request from a man to another person's daughter or a woman under someone's guardianship to be married as a prelude to marriage.²⁰

The compilation of *Hukum Islam* (KHI) Article 1, Chapter 1 letter a, gives the understanding that a proposal (*khitbah*) is an effort towards an arranged marriage between a man and a woman that can be done by people who want to find a partner but can also be done by the trustworthy intermediary.²¹

Based on those definitions, it concluded that engagement (*Khitbah*) is a process of request or statement to hold a marriage carried out by two people, between a man and a woman, either directly or indirectly or by guardianship. This sermon is done before the wedding ceremony takes place. It is one of the marriage procedures that man and woman to know each other. Besides, engagement is a way to know each other and learn the characters, morals, and tendencies.

b. The Legal Basis of Engagement

Engagement (*khitbah*) is the stage before marriage. It is justified by sharia intentionally that marriage is carried out based on the knowledge and awareness of each party.

¹⁹ Sayyid Sabiq, *Fiqhus Sunnah jilid 2*, (Beirut: Darul Fikri, 1998), 462.

²⁰ Sa'id Thalib al-Hamdani, *Risalah Nikah*, (Jakarta: Pustaka Amani, 2011), 31.

²¹ Pasal 1, Bab 1 huruf a, Kompilasi Hukum Islam

As for the basis of the Qur'anic texts about an engagement (*khitbah*):

وَلَا جُنَاحَ عَلَيْكُمْ فِيمَا عَرَّضْتُمْ بِهِ مِنْ خِطْبَةِ النِّسَاءِ أَوْ أَكْنَنْتُمْ فِي أَنْفُسِكُمْ ۖ
 عَلِمَ اللَّهُ أَنَّكُمْ سَتَذْكُرُونَهُنَّ وَلَكِنْ لَا تُؤَاعِدُوهُنَّ سِرًّا إِلَّا أَنْ تَقُولُوا قَوْلًا مَعْرُوفًا ۚ وَلَا
 تَعْزِمُوا عُقْدَةَ النِّكَاحِ حَتَّى يَبْلُغَ الْكِتَابُ أَجَلَهُ ۚ وَاعْلَمُوا أَنَّ اللَّهَ يَعْلَمُ مَا فِي
 أَنْفُسِكُمْ فَاحْذَرُوهُ ۚ وَاعْلَمُوا أَنَّ اللَّهَ غَفُورٌ حَلِيمٌ

"There is no sin on you if you hint a proposal of marriage or keep it concealed in your hearts. Allah knows that you will mention them, but do not make a secret promise with them, except that you may say something appropriate. Do not resolve a marriage contract until the prescribed time is reached. And know that Allah knows what is in your hearts, so be cautious of Him and know that Allah is All-Forgiving, Most Forbearing". (Al-Baqarah: 235)

This verse is a text about *khitbah* that explains how Islam recommends a man who wants to preach to a woman in the *iddah* period. Meanwhile, regarding the procession of the sermon, it is presented in the hadith narrated by Imam Ahmad, Abu Dawud, Hakim from Jabir bin Abdullah Radhiyallahu'anhu is as follows:

عَنْ جَابِرِ بْنِ عَبْدِ اللَّهِ أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ إِذَا خَطَبَ أَحَدُكُمْ
 الْمَرْأَةَ فَإِنْ اسْتَطَاعَ أَنْ يَنْظُرَ مِنْهَا إِلَى مَا يَدْعُوهُ إِلَى نِكَاحِهَا فَلْيَفْعَلْ. (رواه احمد
 و أبو داود و رجاله ثقة وصحيحه الحاكم)²²

*"From Jabir that the Prophet Sallallaahu 'Alaihi wa Sallam said:
 "If one of you proposes to a woman he will see the attractive part
 for marriage, he should do it." (History of Ahmad and Abu*

²² Al-Hafizh Ibnu Hajar al-Asqalani, *Terjema Kitab Bulughul Maram: Hadits Fikih dan Akhlak*, (t.tp.: Shahih, 2016), 304.

Dawud with reliable narrators. Sahih Hadith according to Hakim).

Generally, engagement is the path to marriage. However, marriage is not required always to pass or carry out an engagement before the wedding takes place. In which when a contract (*Akad*) occurs without being preceded by an engagement, then the law is valid, according to most scholars.

However, the Shafi'iyah perspective is that the law of engagement (*khitbah*) is *sunnah* or *mustahabb*. Because of legally marrying Aisha and Hafsa Radhiyallahuma, the Messenger of Allah—engaged them first.²³

Imam Ghazali stated that the law for proposing is a *sunnah*, but Imam an-Nawawi emphasized that the opinion in the Shafi'iyah Madhhab punishes the engagement as something permissible.²⁴

Ibn Rusd said that for most of the experts, the engagement was practised by the Messenger of Allah is not an obligation. Meanwhile, according to Imam Daud az-Zahiri, the law of engagement (*khitbah*) is obligatory. The difference in opinion between them is due to different perspectives about the sermon carried out by the Messenger of Allah, namely whether his actions indicate obligation or *sunnah*. Engagement

²³ Ahmad Sarwat, *Ensiklopedia Fikih Indonesia: Pernikahan*, (Jakarta: PT Gramedia Pustaka Utama, 2019), 70.
https://www.google.co.id/books/edition/Ensiklopedi_Fikih_Indonesia_Pernikahan/hyuUDwAAQBAJ?hl=id&gbpv=1

²⁴ An-Nawawiy, *Raudatut Taalibin wa 'Umdatul Muftian*, (Beirut: al-Maktabah al-Islamiy, 1991), 30.

is forbidden when a man engages a woman who has been divorced (*Thalaq Raj'i*) before the end of her *iddah* and a man's engagement with four wives.²⁵ People must worry that they will fall into adultery if they do not immediately engage and marry. In contrast, an engagement (*khitbah*) is considered permissible if the engaged woman is empty of marriage and there are no legal obstacles to apply.²⁶

c. Terms of an Engagement (*Khitbah*)

Two terms must be considered in carrying out the engagement: the *Lazimah* term and the *Muhtasinah* term.²⁷

1) The *Lazimah* Terms

The *Lazimah* Terms are conditions that must be met before the proposal is made. They are as follows:

- a) The woman being asked is not in a marriage bond with another man, even though her husband has long abandoned her.²⁸ The words Proposing to a woman who is far from being related to the man asking for her hand, in this case, Sayyidina 'Umar bin Khattab said that marriage between a man and a woman close to his blood relationship would weaken the body and spirit of his offspring. In this case,

²⁵ Ahmad Sarwat, *Ensiklopedia Fikih Indonesia: Pernikahan*, 73

²⁶ Al-Bukhariy Abu Abdillahi Ibni Ismail, *al-Jami' al-Shahih*, (Kairo: al Maktabah al-Salafiyah, 1980), 358.

²⁷ Agus Riyadi, *pengembangan masyarakat desa terpadu berbasis potensi local*, (pekalongan: PT Nasya Expanding Management, 2020), 204.
https://www.google.co.id/books/edition/PENGEMBANGAN_MASYARAKAT_DESA_TERPADU_BER/R0EKEAAAQBAJ?hl=id&gbpv=1&dq=syarat+khitbah&pg=PA204&printsec=frontcover

²⁸ Muhammad Ali as-Shabuni, *Pernikahan Dini*, (Kairo: Pustaka an-Naba, 2002), 57.

Sayyidina 'Umar bin Khattab said that marriage between a man and a woman who are close blood relations would weaken the body and spirit of their offspring.

b) The woman is not in another man's engagement

وَعَنْ عُمَرَ رَضِيَ اللَّهُ عَنْهُ قَالَ: قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ لَا يَخْطُبُ أَحَدُكُمْ عَلَى أَحَدِكُمْ عَلَى خِطْبَةِ أَخِيهِ حَتَّى يَتْرَكَ الْخَاطِبُ قَبْلَهُ أَوْ يُؤْذَنَ لَهُ الْخَاطِبُ. (رواه البخارى)

"Let no one of you ask for a hand (woman) who is asked by his brother so that the previous suitor leaves or has allowed it." (HR. Bukhari)

c) The woman is not in the *iddah* period. The experts agree on the prohibition of asking for or promising to marry clearly (*sarih*) to women in the *iddah* period, both *iddah* due to the husband's death and *iddah* due to *thalaq raj'i* and *ba'in*.²⁹ Allah SWT. said in the letter al-Baqarah verse 235:

وَلَا جُنَاحَ عَلَيْكُمْ فِيمَا عَرَّضْتُمْ بِهِ مِنْ خِطْبَةِ النِّسَاءِ أَوْ أَكْنَنْتُمْ فِي أَنْفُسِكُمْ

²⁹ Abdul Hayyie al-Kattani, and friends, *Terjemahan Kitab Fiqih Islam Wa Adilatuhu Jilid 9*, 26

“There is no sin on you if you hint a proposal of marriage or keep it concealed in your hearts.” (Al-Baqarah: 235)

According to the agreement of the Fiqh experts, if the death of her husband causes the *iddah*, then the engagement (*khitbah*) is permissible. The death is made husband-wife bond has ended. Therefore, the engagement (*khitbah*) in that situation will not hurt and harm the husband who has died.

However, the cause of the *iddah* is divorce (*thalaq*). It's *thalaq raj'i*. According to the Fiqh experts, the agreement (*khitbah*) is forbidden. It is because the person who divorced still has the right to refer back when *iddah*. Besides, the agreement (*khitbah*) during *iddah* of *thalaq raj'i* periods was the same as interfering with his rights because women at that time were still a wife or the same as that.

When the talaq is *ba'in sughra* (small) or *kubra* (large), it means that a woman engaging in this condition have two opinions:³⁰

- Hanafiyah experts forbid engaging women in talaq *ba'in* because in talaq *ba'in sugra* the husband still has the right to return to his wife with a new contract. In

³⁰ Abdul Hayyie al-Kattani, and friends, *Terjemahan Kitab Fiqih Islam Wa Adilatuhu Jilid 9*, 28.

talaq ba'in kubra, the prohibition is feared that the woman lies about the end of her *iddah*, and it could be the man who is engaging to the woman is the cause of the damage to the previous marriage.

- Jumhur Ulama believes that *khitbah* on women in *iddah* *talaq ba'in* is permissible, based on the generality of the letter al-Baqarah verse 235 that because of *talaq ba'in* the husband no longer has power over the wife because the marriage between them has broken up. Therefore, the existence of this satire engagement does not indicate a violation of the rights of a mentally disabled husband.

d) The woman is not a mahram. Mahram women are forbidden to be married forever, such as their mother, mother-in-law, sisters, aunts from father and mother, or temporarily banned, such as the wife's sister and someone else's wife.³¹

2) The *Muhtasinah* Terms

The *muhtasinah* term is the conditions recommended to a man who will engage with a woman and examine the woman he will commit. The conditions for *muhtasinah* include:

³¹ Muhammad Utsman Al-Khasyt, *Fikih Wanita Empat Madzhab*, (Bandung: Ahsan Publishing, 2010), 341.

https://www.google.co.id/books/edition/Fikih_Wanita/too4DwAAQBAJ?hl=id&gbpv=1

- a) The woman asking for an engagement should be equal to the man who engages—for example, the same level of knowledge, social status, wealth status.
 - b) The woman who will be engaging is a woman who has the nature of affection.
 - c) Knowing the womans' morals, physical conditions, manners and the one who is betrothed himself must know the man to whom he is proposing.
 - d) Proposing to a woman who is distantly related to the man who proposes. In this case, Sayyidina Umar bin Khattab said that marriage between a man and a woman close to blood relations would weaken the body and spirit of the offspring.
- d. Prohibition of *Khalwat* With Women Who Have Been Asked For

Khitbah is not marriage. It is just a promise to get married. Therefore the law of marriage does not apply even though it has carried out the sermon. For example, it is prohibition being alone with a woman, he has asked for. In this case, the woman is still a stranger to the engaged man unless their mahram accompanies both. The prohibition of seclusion with women who have been preached is listed in several hadiths of the Prophet SAW, including the hadith narrated by Imam Ahmad from Jabir, which reads:³²

³² Abdul Hayyie al-Kattani, dkk, *Terjemahan Kitab Fiqih Islam Wa Adilatuhu Jilid 9*, 30.

مَنْ كَانَ يُؤْمِنُ بِاللَّهِ وَالْيَوْمِ الْآخِرِ فَلَا يَخْلُوَنَّ بِامْرَأَةٍ لَيْسَ مَعَهَا ذُو مَحْرَمٍ مِنْهَا فَإِنَّ
ثَالِثَهَا الشَّيْطَانُ

“Whoever believes in Allah and the Last Day should never be alone with a woman who is not accompanied by her mahram. Because the third one is the devil.”

Then in the hadith narrated by Ahmad, Bukhari and Muslim from Amir bin Rabiah, which reads.:

لَا يَخْلُوَنَّ رَجُلٌ بِامْرَأَةٍ لَا تَحِلُّ لَهُ فَإِنَّ ثَالِثَهُمَا الشَّيْطَانُ إِلَّا مَحْرَمٌ³³

“A man should not be alone with someone who is not lawful for him. Because the third is inclusion. Unless accompanied by the mahram.”

لَا يَخْلُوَنَّ رَجُلٌ بِامْرَأَةٍ إِلَّا مَعَ ذِي مَحْرَمٍ (رواه البخاري)³⁴

“It is not permissible for a man to be alone himself with a woman (ajnabiyyah) unless accompanied by a mahram.” (H.R Bukhari)

Most of a preached person thinks that they already have a special bond that allows them to seclude and go alone with a non-mahram; this is feared to encourage both of them to do things that the Sharia prohibits. Basically, a couple who has preached has not revealed their true identity, as the saying goes, *"Kullu khatibin kaadzib"* (every

³³ Abdul Hayyie al-Kattani, dkk, *Terjemahan Kitab Fiqih Islam Wa Adilatuhu Jilid 9*, 35.

³⁴ Tim Pembukuan Mahad Al-Jamiah AL-Aly UIN Malang, *Syarah Fathal Qarib Diskursus Munakahah (Fikih Munakahah) Ulasan Lengkap Fathul Qarib*, (Malang: Mahad Al-Jamiah AL-Aly UIN Maulana Malik Ibrahim Malang, 2021), 48.

preacher is a liar).³⁵ Therefore, the intent and purpose in the hadith of the Prophet SAW above is to provide security, guarantee, and keep the two partners from falling into actions that are not permitted by law.

2. Marriage

a. Definition of Marriage

Marriage is a *sunatullah* for every creature, be it humans, plants, and animals. It can create a new generation for each type. As Allah said in verse An-Nahl: 72:

وَاللَّهُ جَعَلَ لَكُم مِّنْ أَنْفُسِكُمْ أَزْوَاجًا وَجَعَلَ لَكُم مِّنْ أَزْوَاجِكُمْ بَنِينَ وَحَفَدَةً وَرَزَقَكُمْ مِّنَ الطَّيِّبَاتِ أَفَبِالْبَاطِلِ يُؤْمِنُونَ وَبِنِعْمَتِ اللَّهِ هُمْ يَكْفُرُونَ

"And Allah made for you a partner (husband or wife) from your kind and made children and grandchildren for you from your spouse, and gave you sustenance from the good. Why do they believe in falsehood and deny Allah's favor?"

Linguistically, marriage is known as *al-jam'u* and *al-adhamu*, which means gathering. The meaning of marriage (*Zawaj*) can be interpreted as *'aqdu al-tazwij*, which means marriage contract. It can also be interpreted as *wath'u al-zaujah*, which means having sex with the wife. Rahmat Hakim also put forward a definition that is almost the same as the explanation above. The word marriage comes from the

³⁵ Abdul Hayyie al-Kattani, dkk, *Terjemahan Kitab Fiqih Islam Wa Adilatuhi Jilid 9*, 35

Arabic "*Nikaahun*", which is *masdar* or the origin of the word from the verb (*fil'madhi*) "*Nakaha*", with the synonym "*tazawwaja*" then translated into Indonesian as marriage. The word marriage is used because it has entered the Indonesian language.³⁶

Marriage is a sacred and straight contract between a man and a woman, which is the cause of the legal status of husband and wife, and it is permissible to have sexual relations. It is shown that marriage is a form of worship in which it contains the intent and purpose to hope for the pleasure of Allah SWT. Meanwhile, according to Marriage Law No. 1 of 1974, marriage is a physical and spiritual bond between the goals of a man and a woman as husband and wife to form a happy and eternal family (household) based on the One Godhead.

In his book *al-Ahwal al-Syakhsiyyah*, Muhammad Abu Zahrah defines marriage as a contract that causes legal consequences in the form of lawful intercourse between a man and a woman, helping each other and giving rise to rights and obligations between the two. Al-Malibar defines marriage as a contract that contains the permissibility of having intercourse using the word marriage or *tazwij*.³⁷

Muhammad Abu Ishrah provides a broader description of marriage. It is a contract that offers legal benefits of the permissibility

³⁶ H.M.A, Tihami, and friends, *Fiqh Munakahah Kajian Fiqh Lengkap*, (Jakarta: PT. Raja Grafindo Persada, 2009), 6

³⁷ Amir Nuruddin dan Azhari Akmal Tariagan, *Hukum Perdata Islam di Indonesia (Studi Kritis Perkembangan Hukum Islam dan Hukum Fikih, UU No 1/1974 sampai KHI)*, (Jakarta: Prenada Media, 2004), 39.

of having family relations (husband and wife) between men and women and providing mutual assistance and limiting rights for the owner and the fulfilment of obligations for each.³⁸

The Hanafi scholar defines that marriage as a contract that gives ownership rights to have fun intentionally. According to the sharia, it is lawful for a man to have fun with a woman who is not prohibited from marrying. The word "woman" does not include men and transvestites.³⁹

The explanation above concludes that marriage has a noble purpose: to create a family that is *sakinah, mawaddah, warahmah*, with other hopes of having offspring from the wedding.

b. Terms and Pillars of Marriage

The term is required to determine the validity of a job (worship), which is not included in the series of work (worship). Meanwhile, the pillars must exist to determine the validity of a job (worship) and something included in the series of work (worship).⁴⁰ It means that pillars of marriage are the main parts of a marriage contract; when the main part is not contained in the marriage contract, the marriage becomes invalid.⁴¹

³⁸ Abdul Rahman Al-Ghazaly, *Fikih Munakahat*, (Jakarta: Kencana, 2006), 9.

³⁹ Wahbah Az-Zuhaili, *Terjemah Fiqih Islam Wa adillatuhu*, (Jakarta: Gema Insani, 2007). 48.

⁴⁰ Abdul Rahman Al-Ghazali, *Fikih Munakahat*, 45

⁴¹ Ahmad Sarwat, *Ensiklopedia Fikih Indonesia: Pernikahan*, (Jakarta: PT Gramedia Pustaka Utama, 2019), 89.
https://www.google.co.id/books/edition/Ensiklopedi_Fikih_Indonesia_Pernikahan/hyuUDwAAQBAJ?hl=id&gbpv=1

Abdullah Al-Jaziri, in a book entitled *Fiqh 'Ala Madzahib Al-'Arba'ah* explains that the pillars of marriage include *Al-ijab* and *Al-qabul* if there are no both, then the marriage will not be valid. Sayyid Sabiq also straightens the opinion of the fuqaha; the pillars of marriage consist of two, namely *Al-ijab* and *Al-qabul*, while the others are included in the conditions.

The four experts had different opinions on the terms and pillars of marriage. According to Hanafiyah, the pillars of marriage are consent and acceptance, while guardians and witnesses are included in marriage. The Malikiyyah believes that there are three pillars of marriage, including guardians of marriage, husband and wife, and *shighah* or consent and acceptance, while witnesses are part of the terms of marriage. Besides, Hanabilah stated there are three pillars of marriage: husband and wife, witnesses, consent and acceptance, while the guardian of marriage is included in the terms of marriage. Then the last is the Shafi'iyah. This expert mentions the most number of pillars in marriage: consent and acceptance, husband and wife, two witnesses, and a guardian.⁴²

c. Traditional Marriage

According to customary law in Indonesia, marriage does not only mean a civil engagement but also is a customary engagement and, at the

⁴² Ahmad Sarwat, *Ensiklopedia Fikih Indonesia: Pernikahan*, 91-92

same time is a kinship and neighbourhood engagement.⁴³ It means that the occurrence of a marriage bond does not only have consequences for civil relations. Those are the rights and obligations of husband and wife, joint property, children's position, rights and obligations of parents, and involves relations with customs, inheritance, kinship, neighbourhood, and traditional and religious ceremonies. In customary agreement, marriage has legal consequences for the customary law that applies in the community concerned. The consequences of this law had existed since before the marriage occurred. For example, the relationship of "*rasan sanak*" (children, man and woman relationship) and "*rasan tuha*" (relationship between man's family and woman's family). According to local customary law, the rights and obligations of parents (including family members or relatives) arise when marriage bonds occur. It is the implementation of traditional ceremonies and subsequently fostering and maintaining harmony, integrity, and sustainability of children's lives—those bound by marriage.

Basically, in traditional marriages, there are several different systems or forms of customary marriage law. The difference in the legal structure of traditional marriage is more due to differences in the kinship system or kinship system adopted by each indigenous people in Indonesia. Indonesia has three kinds of kinship structures for

⁴³ Wahjadi Darmabrata dan Adhi Wibowo Nurhidayat, *Psikiatri Forensik*, 96. https://www.google.co.id/books/edition/Psikiatri_Forensik/pOkDFpwj8E4C?hl=id&gbpv=1

indigenous peoples, namely Patrilineal (according to your father's lineage), Matrilineal (according to your mother's lineage), and Parental (according to your mother's lineage).⁴⁴

1) Patrilineal Family Arrangement of Marriage

The patrilineal kinship system is a kinship system whose members draw their lineage only from the male or father side, continuously upwards because there is a belief that they come from a father.⁴⁵ Marriage in the family structure here is called honest marriage. It is a form of marriage carried out with "honest" payments. This payment are given by the man to the woman as found in the Gayo, Maluku, Batak, Nias, Lampung, Bali, Sumba, and Timor areas. By receiving honest money or goods by the woman, it means that after the marriage, the woman will transfer her position to the husband's kinship as long as she binds herself in the marriage or as applies in the Lampung and Batak areas for the rest of her life.⁴⁶

2) Matrilineal Family Arrangement of Marriage

The patrilineal kinship system is a system whose members draw their lineage only from the female or maternal side, continuously upwards because they believe they come from a

⁴⁴ Tholib Setiady, *Intisari Hukum adat Indonesia (Dalam Kajian Kepustakaan)*, (Bandung: Alfabeta, 2008), 230

⁴⁵ Sri Warjianti, *Ilmu Hukum Adat*, (Yogyakarta: Deepublish, 2012), 90. https://www.google.co.id/books/edition/Ilmu_Hukum_Adat/JvbkDwAAQBAJ?hl=id&gbpv=1

⁴⁶ Dewi Wulansari, *Hukum Adat Indonesia*, (Bandung: PT Refika Aditam, 2010), 52.

mother. Marriage in the Matrilineal family structure is known as Semendo Marriage (Semenda), a form of marriage that aims to continue or maintain the lineage from the mother's side.⁴⁷ This form of marriage is the opposite of honest marriage. In a Semenda marriage, the prospective groom and his relatives do not give honest money to the woman, even applying the custom of application from the woman to the man. This kind of marriage is found in the Minangkabau indigenous community. After the marriage occurs, the husband is under the authority of his wife's relatives, and his legal position depends on the dominant form of marriage.⁴⁸

3) Parental Family Arrangement of Marriage

The Bilateral/Parental Kinship System is a kinship system whose members draw their lineage through the father or mother line. The forms of marriage in the Parental (Bilateral) family structure include:⁴⁹

a) Free Marriage

In Javanese, Sundanese, Acehnese, Malay, Kalimantan, Sulawesi communities, and modern Indonesian people, free marriage is carried out. This marriage does not recognize the issue of Exogamy or Endogamy. People are free to marry

⁴⁷ Tholib Setiady, *Intisari Hukum adat Indonesia (Dalam Kajian Kepustakaan)*, 236.

⁴⁸ Dewi Wulansari, *Hukum Adat Indonesia*, 57-58.

⁴⁹ Tholib Setiady, *Intisari Hukum adat Indonesia (Dalam Kajian Kepustakaan)*, 243-245.

anyone, and the only obstacles are the provisions brought about by religious, moral principles. In the Parental (Bilateral) family structure, there is also a habit of giving the male party, but this gift does not mean honest money but is a wedding gift.

b) Mentas Marriage

Mentas marriage is a form of marriage in which the position of husband and wife is released from the responsibilities of parents or families from both parties to stand alone to build a happy and eternal household.

c) Elopement

Elopement can occur in an indigenous community, but the most common are Batak, Lampung, Balinese, Bugis, Makassar, and Maluku communities. Although elopement is a violation of tradition, there are rules to resolve this problem in these areas. Elopement is not a proper form of marriage. Instead, it is an application system because, in the event of an elopement, a simple, modest, or independent form of marriage can apply, depending on the circumstances and negotiations of both parties.⁵⁰ The elopement system is distinguished between "elopement together" and "forced elopement". Elopement together is the act of running to carry

⁵⁰ Dewi Wulansari, *Hukum Adat Indonesia*, 63.

out the marriage with the girl's consent (woman). Meanwhile, forced elopement is the act of escaping a woman/girl with a ruse to elope or doing it by force or violence, not with the girl's consent and not according to the rules of running around.⁵¹

3. 'Urf

a. Definition of 'Urf

'Urf comes from the word *'arafa*. It derives from *al-ma'ruf*, which means something known or known.⁵² The term *'urf* is an act or word where the soul feels calm because it is in line with logic and can be accepted by human nature.⁵³ According to Abu Sunnah, Abdullah bin Ahmad al-Nasafi in al-Mustafar *'urf* is the soul feels calm in doing it because it is in line with logic and can be accepted by human nature.⁵⁴ According to Wahbah Az-Zuhaili *'urf* is a human habit of doing actions continuously so that the act becomes popular among them or interprets a word with a special meaning even though the original meaning of the intended word is different.⁵⁵

⁵¹ Dewi Wulansari, *Hukum Adat Indonesia*, 63.

⁵² Abdul Mun'im Saleh, *Hubungan kerja Usul al-Fiqh dan al-Qawaid al-Fiqhiyah Sebagai Metode Hukum Islam*, (Yogyakarta: Nadi Pustaka, 2012), 43.

⁵³ Rijal Mumazziq Zionis, Posisi al-'Urf dalam Struktur Bangunan Hukum Islam. *Jurnal Falasifa*, Vol. 2 No. 2, Sekolah Tinggi Agama Islam al-Falah As-Sunniyyah (STAFAS), 2011, 132.

⁵⁴ Muhammad Tahmid Nur, Anita Marwing, dkk, *Realitas 'Urf Dalam Reaktualitas Pembaruan Hukum Islam di Indonesia*, (t.tp.: Duta Media Publishing, 2020), 18, https://www.google.co.id/books/edition/REALITAS_URF_DALAM_REAKTUALISASI_PEMB/ARU/zWb_DwAAQBAJ?hl=id&gbpv=1&dq=urf&printsec=frontcover

⁵⁵ Wahbah Az-Zuhaili, *Ushul al-Fiqh al-Islam*, Juz II, Cet. II, (Bayrut: Dar al-Fikr, 1986), 828

Muhammad al-Khudari Husain argues the definition of *'urf* is the custom of most people in words, deeds, or *tark* (leaving). Mustafa al-Zarqa argues that *'urf* is the custom of most people in words or deeds. Those explanations are almost identical explain how *'urf*, i.e., generally accepted or dominant. It has been repeated and widespread—describing its form in words and actions that come from a people's thoughts and efforts (efforts).⁵⁶

In Indonesian, the word *'urf* is often synonymous with customs. However, the experts discuss *'urf* is something that is accepted by human nature and common sense. Meanwhile, custom is defined as something that is done repeatedly without any rational relationship.⁵⁷ Based on the explanation above, it can be understood that *'urf* and custom are matters that have the same meaning. Therefore, customary law is a whole positive code, and it has been sanctioned. Besides, customary law is not codified, and it is a custom. This is under the rules of:

إِنَّمَا تَعْبَرُ الْعَادَةُ إِذَا طُرِدَتْ فَإِنَّا طَرَبْتُ فَلَا

"Customs are considered legal standards when they are generally accepted. If they deviate, they cannot be used as one of the legal standards".

⁵⁶ Muhammad Tahmid Nur, Anita Marwing, dkk, *Realitas 'Urf Dalam Reaktualitas Pembaruan Hukum Islam di Indonesia*, 20.

⁵⁷ Sucipto, 'Urf Sebagai Metode dan Sumber Penemuan Hukum Islam, *Asas*, no. 1(2015), 27.

b. Types of '*Urf*'

There are three types of '*urf*'. It can be seen in terms of the subject, scope of use, and legitimacy from a sharia point of view.

1) In terms of a subject, '*urf*' is divided into two:

- a) '*Urf Qauli*' or '*Urf Lafdhi*', namely the habits that apply in the use of words or speech. The tradition of a people in using a word whose meaning is different from its original meaning, but when the word is pronounced, they immediately understand it with the meaning that applies. For example, *Dabbah* word is used for every creeping on the earth. Besides, in Egypt *Dabbah* is interpreted as a donkey. In Iraq as an absolute word for Horse. Then on word *al-walad*, which, according to language, can be with boys and girls but based on '*urf*', it is understood as a boy.⁵⁸
- b) '*Urf 'Amali*', namely habits in the form of actions. It is the practice of buying and selling in society without saying contract buying and selling contracts. According to sharia, the agreement of buying and selling is one of the pillars. However, because it has become a habit in society to buy and sell without a contract and there are no unwanted things, sharia allows it.⁵⁹

⁵⁸ Muhammad Tahmid Nur, Anita Marwing, and friends, *Realitas 'Urf Dalam Reaktualitas Pembaruan Hukum Islam di Indonesia*, 27-28.

⁵⁹ Rusdaya Basri, *Ushul Fikih 1*, (t.tp.: IAIN Parepare Nusantara Press, t.t.), 125, https://www.google.co.id/books/edition/Ushul_fikih_1/8qLSDwAAQBAJ?hl=id&gbpv=0

2) In terms of scope, '*urf*' is divided into two:⁶⁰

a) '*Urf 'Aam*' is a habit that applies to all places, times, and circumstances. Such as *istishna'* (labour) contract, nodding as a sign of agreement and shaking his head as a sign of refusal, and other examples that humans do not deny.

b) '*Urf Khaas*' is a unique habit in a particular community or area. For example, the buyer returns things to the seller due to a defect. Suspension of payment for attorney services until the completion of the case in court.

3) In terms of legitimacy from the perspective of sharia, '*urf*' is divided into two:

a) '*Urf Sahih*', namely habits that apply to the society that does not contrary with the Qur'an and as-Sunnah, do not eliminate their problems and do not bring harm to them. Or, in other words, '*urf*' authentic is known to humans and does not contrary with sharia (Islamic law), nor does it justify what is haram and does not invalidate what is obligatory. Such as holding an engagement before carrying out the marriage contract is considered good and has become a habit in society and does not contrary with sharia (Islamic law).⁶¹

⁶⁰ Muhammad Tahmid Nur, Anita Marwing, and friends, *Realitas 'Urf Dalam Reaktualitas Pembaruan Hukum Islam di Indonesia*, 29.

⁶¹ Rusdaya Basri, *Ushul Fikih I*, (t.tp.: IAIN Parepare Nusantara Press, t.t.), 126.

b) *'Urf Fasid*, which is a habit that applies in society, but the practice is contrary to sharia and the basic rules in sharia, such as drinking intoxicating drinks, justifying usury, customs wasting wealth, and so on.⁶²

c. *'Urf's Rules*

In the application of *'urf*, it turns out that fiqh scholars have made many fiqhiyyah rules such as:

العَادَةُ مُحْكَمَةٌ⁶³

“Custom is authoritative”

كُلُّ إِسْمٍ لَيْسَ لَهُ حَدٌّ فِي اللَّعَةِ, وَلَا فِي الشَّرْعِ, فَالْمَرْجِعُ فِيهِ إِلَى الْعُرْفِ⁶⁴

“Every action that has no limits, both in language and in the , will be returned to him through custom or habit”.

كُلِّ مَا وَرَدَ بِهِ الشَّرْعُ مُطْلَقًا بِلا ضَابِطَ لَهُ مِنْهُ وَلَا مِنَ اللَّعَةِ يَرْجِعُ فِيهِ إِلَى الْعُرْفِ⁶⁵

“Everything is legally determined in the without any details, even in a language that is returned to the applicable 'Urf”

⁶² Sulfan Wandu, “Eksistensi ‘Urf dan Adat Kebiasaan Sebagai Dalil Fiqh”, *Samarah: Jurnal Hukum Keluarga dan Hukum Islam*, no. 1(2018): 188 <https://jurnal.ar-raniry.ac.id/index.php/samarah/article/view/3111/0>

⁶³ Ammi Nur Baits, *Pengantar Kaidah Fiqih Kubro*, (t.tp: Muamalah Publishing, t.t), 111. https://www.google.co.id/books/edition/Pengantar_Kaidah_Fiqih_Kubro/hHwmEAAAQBAJ?hl=id&gbpv=1&kptab=overview

⁶⁴ Muhammad Musthofa Az-Zahili, *Al-Qawaid Fiqhiyyah Wa Tathbiqatuha fi Madzahibu Al-Arba'ati*, (Dar Al-Fikr: Damaskus, 2006), 314.

⁶⁵ Abdul Kareem Zaydan, *Al-Wajiz Fi Ushulil Fiqh*, (Beirut: Muassasah Risalah, 1996), 252.

الْكِتَابُ كَالْخُطَابِ⁶⁶

“What is written equals what is said”

تَغْيِيرُ الْأَحْكَامِ بِتَغْيِيرِ الْأَزْمَنِ وَالْأَمَكِنَةِ⁶⁷

“Changes in law (based on 'Urf) are also due to changes in times and places.”

الْمَعْرُوفُ عُرْفًا كَالشُّرُوطِ شَرْطًا⁶⁸

“What is customary is deemed as if stipulated by agreement.”

إِسْتِعْمَالُ النَّاسِ حُجَّةٌ يَجِبُ الْعَمَلُ بِهَا⁶⁹

“Public usage is conclusive and action may be taken in accordance there with”

d. The Position of 'Urf in Establishing Legal Determination

Many laws are referred to as the 'Urf and innumerable customs. The function of the *Fiqhiyyah* rules is to summarize and bind various problems in a particular chapter/theme with a legal practice that can be referred. Thus, scholars formulate the basic rules of multiple issues referred to in 'urf, namely: *العادة محكمة* *al-'Adah Muhakkamah* (customs

⁶⁶ Muhammad Shidqi bin Ahmad bin Muhammad al-Bunnu, *al- Wajiz Fi Idhah Qawaid al-Fiqh al-Kuliyyat*, (Beirut: Muassasah al-Risalah, 1996), 301.

⁶⁷ Firman Arifandi, *Saat Tradisi Menjadi Dalil*, (Jakarta: Rumah Fiqih Publishing, 2018), 25.

⁶⁸ Muhammad Shidqi bin Ahmad bin Muhammad al-Bunnu, *al- Wajiz Fi Idhah Qawaid al-Fiqh al-Kuliyyat*, (Beirut: Muassasah al-Risalah, 1996), 306.

⁶⁹ Yusuf Al-Qaradhwai, *7 Kaidah Utama Fikih Muamalat*, (Jakarta Timur: Pustaka Al-Kautsar, 2014), 243.

can be the legal basis). This rule also summarizes the validity and position of *'urf* in legal determination.⁷⁰

As for the proof of *'urf* as a sharia argument, it is based on several statements, including the Word of Allah SWT in the letter *al-A'raf* verse 199:

الْعَفْوَ الْعُرْفِ أَعْرِضْ الْجَاهِلِينَ

"Be forgiving and tell people to do what is right, and don't care about stupid people".

Based on the verse above, Allah commands Muslims to do what is right. Whereas what is referred to as *ma'ruf* itself is what Muslims consider as goodness, done repeatedly, and does not contrary with true human nature, guided by the general principles of Islamic teachings.⁷¹

Then the words of the companions of the Prophet Muhammad: Abdullah bin Mas'ud:

مَا رَأَى الْمُسْلِمُونَ حَسَنًا فَهُوَ عِنْدَ اللَّهِ حَسَنٌ وَمَا رَأَى الْمُسْلِمُونَ سَيِّئًا فَهُوَ عِنْدَ اللَّهِ سَيِّئٌ

"Something that is considered good by the Muslims is good in the sight of Allah, and something that they judge as bad is bad in the sight of Allah".

⁷⁰ Muhammad Tahmid Nur, Anita Marwing, and friends, *Realitas 'Urf Dalam Reaktualitas Pembaruan Hukum Islam di Indonesia*, 32.

⁷¹ Sucipto, 'Urf Sebagai Metode dan Sumber Penemuan Hukum Islam, *Asas*, no. 1(2015), 29.

It means that both in terms of editorial and meaning show that good habits that apply in Muslim society are in line with the general guidance of Islamic Sharia that something good in the sight of Allah. Besides, things contrary to habits considered reasonable by the community will give birth to difficulties and narrowness in everyday life.

Hanafiyyah and Malikiyyah scholars formulate legal rules relating to *al-'urf*, among others, reads:

الثَّابِتُ بِالْمَعْرُوفِ ثَابِتٌ بِدَلِيلٍ شَرْعِيٍّ

"What applies based on 'urf (as) applies based on the sharia argument".

Al-Junaini argues that representing the views of the Shafi'i school about the position of *'urf* in his school, according to him:

يَجِبُ الْإِعْتِنَاءُ بِفَهْمِ الْعُرْفِ، وَلَيَعْلَمَ النَّاطِرُ أَنَّ كُلَّ حُكْمٍ يَتَلَقَّى عَنْ لَفْظٍ فِي تَعَامُلِ الْخَلْقِ، وَ لِلنَّاسِ فِي ذَلِكَ الْقَبِيلِ مِنَ التَّعَامُلِ عُرْفٌ فَلَنْ يَحِيطُ بِسُرِّ ذَلِكَ لِحُكْمٍ مَنْ لَمْ يَخْطُطْ بِمَجَارِي الْعُرْفِ، فَإِنَّ أَلْفَاظَ الْمُطْلَقَةِ فِي كُلِّ صُنْفٍ مِنَ الْمُعَامَلَةِ مَحْمُولَةٌ بَيْنَ أَهْلِهَا عَلَى الْعُرْفِ.

"Understanding 'urf is an obligation. Know that all laws relate to the known of the word in the interaction of beings. Humans have a certain 'urf that comes from their interactions, so that will not preserve the substance of law as long as it does not pay attention to the 'urf that applies because the absolute (general) word in

every muamalah means based on 'urf which applies to the perpetrator".⁷²

The experts who practice 'urf in understanding and the law determination set several requirements to accept 'urf, namely:⁷³

- 1) The customs or 'urf is beneficial and acceptable to common sense.
This requirement has become commonplace for authentic tradition or urf as a requirement for general acceptance.
- 2) The customs or 'urf generally applies evenly among people in the customary environment or the majority of its citizens.

إِنَّمَا تُعْتَبَرُ الْعَادَةُ إِذَا طَرَدَتْ فَإِنْ لَمْ يَطْرُدْ فَلَا

"Indeed, the customs that are taken into account are those that apply in general. If it's messed up, it won't count."

'Urf, used as a basis for the determination of the law, already exists at that time; not the 'urf that appears later. It means that 'urf must have existed before the enactment of the law. If the 'urf comes after, then it is not taken into account.

- 3) Customs do not contradict and neglect existing sharia arguments or contradict certain principles.

It has been explained that 'urf is one method to determine the law about the traditions/customs of the people that exist in a specific area.

Habits or traditions that exist in the community are varied and differ

⁷² Muhammad Tahmid Nur, Anita Marwing, and friends, *Realitas 'Urf Dalam Reaktualitas Pembaruan Hukum Islam di Indonesia*, 59.

⁷³ Amir Syarifuddin, *Ushul Fiqh*, (Jakarta: Kencana Prenada Media Group, 2011), 400.

from one region to another. Traditions that develop in society are usually not written and do not have a legal basis from texts. This '*urf*' analysis method will later explain these traditions, including good traditions or bad ones for the life of a cultured society, because not all traditions in society are good traditions. Some traditions contain a lot of *maslahah*, but some traditions have a lot of *mafsadah*.

CHAPTER III

RESEARCH METHOD

This chapter presents an outline of the research method. This research method deals with some main areas of type of research, research approach, research location, research source, data collection, and data analysis. This is intended to provide information about how research is conducted.

A. Type of Research

The type of this research was empirical research (field research), namely research conducted in the field. In this study, the researcher conducted direct interviews with traditional leaders as parties who understand the *Sebambangan* traditions in Lampung traditional marriages and conducted direct interviews with several Lampung indigenous people who carry out the tradition, in Tebing Village, Melinting sub-district, East Lampung district.

B. Research Approach

This proposal is a qualitative research approach. It is a research procedure that produces descriptive data. Descriptive research is stated by the respondent verbally, non-verbally, and in real action.⁷⁴ There are some techniques in collecting qualitative data, namely, interviews and documentation. By those data collection techniques, the researchers can get accurate and authentic data

⁷⁴ Soejorno Soekanto, *Pengantar Penelitian Hukum*, (Jakarta: UI Prees, 1986), 32.

because researchers meet directly and deal with informants when conducting interviews. Furthermore, the researcher records and describes everything related to the object under study.

C. Research Location

The research location is the place/location that will be used as the research subject. The researcher took Tebing Village, Melinting sub-district, East Lampung district as the research location in this study. This village is still very close to traditional Lampung traditions, especially the *Sebambangan* traditions.

D. Data Source

The data sources in this study are grouped into two, namely primary data sources and secondary data sources.

a. Primary data sources

Primary data sources are the data obtained directly from the research object. This data source is the first data source where data is generated. In this case, the researcher investigated the behavior (law) of traditional leaders and indigenous peoples in Tebing village, Melinting sub-district, East Lampung district.

Table 3.1

Table of interviewee

No	Name	Description
1	Mr. SE	The tradition leader of Tebing village
2	Mr. SB	<i>Punyimbang</i> (Traditional elder of Tebing village)
3	Mr. JH	Public Figure
4	Mrs. SM	The resident who carry out <i>Sebambangan</i> tradition
5	Mrs. IR	The resident who carry out <i>Sebambangan</i> tradition

b. Secondary data sources

In this research, secondary data sources have used the sources from books, papers, and articles relevant to the problem to be studied, namely the *Sebambangan* traditions of Lampung.

Secondary data sources in the form of books are ushulul fiqh books, such as the book *Fiqhu Sunnah* by Sayyid Sabiq, *Translation of the Book of Fiqh Islam Wa Adilatuhu Jilid 9* by Wahbah Az-Zuhaili by Abdul Hayyie al-Kattani et al, and the book *Fiqh Munakahah Kajian Fiqih Lengkap* by HMA Tihami and friends.

E. Technique of Data Sources Collection

In collecting the data, the researcher used some steps, including:

c. Interview

It is a conversation with a specific purpose. The conversation was carried out by two parties: the interviewer who proposed the interview and the interviewee who answered the question.

In the interview process, the researcher uses semi-structural interviews, namely by asking questions that have been prepared. The questions will be asked flexibly and do not deviate from the stated purpose of the interview. The purpose of semi-structural interviews is to explore more open issues, where the interviewee is asked to provide opinions and information.

d. Documentation

It is a way to collect data through written heritage, especially in the form of archives, and includes books on opinions, theories, propositions, or laws related to research problems. The researcher used small notes, recordings, and photos during the interview process in collecting data with documentation.

F. Data Analysis

After all the data has been collected, the researcher will then analyze the data from the research. The researcher will analyze the data with descriptive

analysis techniques. It means that the researcher tries to describe the data that has been collected and solves the problem by analyzing and reviewing the data carefully without deleting and eliminating the original data so that the researcher produces valid results. Data analysis will be carried out in several ways, as follows:

e. Editing

Editing is the process of re-examining records, files, information collected by data seekers. Researcher recheck the data both in the form of primary data and secondary data that are directly related to people's perceptions of the *Sebambangan* tradition. This stage aims to correct less precise sentences and add or reduce redundant words so that the sentences become relevant.

f. Classification

Researcher classifies the data obtained into a particular model. The data will be sorted into parts with similarities based on the data obtained during interviews with informants. Classification of the data obtained aims to facilitate the reading and checking of data in case of errors in writing.

g. Verification

Verification is checking back from the data collected to determine whether the validity of the data is valid and as expected by the researcher. In the verification stage, the researcher can examine the

data, and regarding the validity, it starts from the respondent, whether the respondent is included as expected or not.

Researchers re-examined the data obtained, such as checking the adequacy of references and triangulation. Researchers triangulated by cross-checking the data obtained from several informants to prove the truth of the data collected.

h. Data analysis

In this case, the researcher will regulate the systematics of interview materials, interprets them and produces new thoughts, opinions and theories of ideas. Besides, the researcher analyzed and linked the data based on the results finding using a theoretical study listed in the literature review. It will produce a new thought or opinion.

i. Conclusion

The conclusion is the last step in research. It is the conclusion of the results based on the research question that had been formulated in the introduction. In this case, the researcher summarized the results of the data analysis.

CHAPTER IV

DISCUSSION OF RESEARCH FINDING

A. Overview of Tebing Village, Melinting Sub-District, East Lampung District

a. Geography Position of Tebing Village, Melinting Sub-District, East Lampung District

Tebing Village is one of the villages located in Melinting sub-district, East Lampung district, which has an area of 2000 ha. Tebing Village consists of 8 hamlets, 27 Rt, with a distance of ± 75 km to the district's direction.

Historically, the village of Tebing has been divided into three regions as expansion villages, including:

- 1) Sumberhadi Village (Las Tuho Kedatuan, the former cliff dwellers)
- 2) Bandar Negri Village (Sadayan Lawet, as the residents used to call it)
- 3) Sido Makmur Village (Lebung Gajah, as the Tebing residents used to call it)

Based on the sources in Tebing village, the current boundaries of Tebing village, Melinting sub-district, East Lampung district are:

- a) In the west, it is bordered by Sumberhadi Village and Wana Village
- b) In the east, it is bordered by Sidomakmur Village
- c) In the south, it is bordered by Nibung Village
- d) In the north, it is bordered by Tanjung Aji Village

b. Resident

Based on the monthly village report in semester 1 of 2020, the population of the cliff village was 3414 people spread over eight hamlets, consisting of 1,711 mens and 1,703 womens.

Table 4.1

No	Hamlet	Total Population		Total
		Male	Female	
1	Hamlet I	254	241	495
2	Hamlet II	196	201	397
3	Hamlet III	200	189	389
4	Hamlet IV	245	224	469
5	Hamlet V	255	271	526
6	Hamlet VI	261	246	507
7	Hamlet VII	138	160	298
8	Hamlet VIII	162	171	333
Total		1711	1703	3414

The largest population is hamlet V with 526 inhabitants, and the lowest number is hamlet VII with 298 inhabitants.

c. Education

Tebing villagers by education level:

Table 4.2

No	Level Of Education	Male	Female	Total
1	Elementary School	195	179	374
2	Middle School	179	219	398
3	High School	140	183	323
3	Certificate	3	2	5
4	Associate Degree	10	3	13
5	Bachelor Degree	27	20	47
6	Master	0	1	1
7	Postgraduate	0	0	-

d. Economy

Based on the kinds of occupation, the residents of Tebing village who work in each field of employment can be seen in the following table:

Table 4.3

No	Type of Occupation	Total
1	Farmer	1400
2	Farm Worker	461
3	Government Employee	29
4	Home Industry Craftsmen	12
5	Culinary Trader	46
6	Breeder	142
7	Mechanic	5
8	Private Midwife	4
9	Not yet/Not Working	650
Total		2749

B. The Practice of The Sebambangan Traditional Marriage in Tebing Village, Melinting Sub-District, East Lampung District

Sesambangan was an effort to get to the level of marriage. It began by taking the girl away from her house to the bachelor's house or the house of a bachelor's relative without the permission of the girl's parents. Sembambangan is carried out by mutual consent or agreement between the bachelor and the girl so that when the bachelor and the girl run to marry, it is called "*Sebambangan*".

According to Mr. SB explanation as Punyimbang in Tebing village, *Sebambangan* was not the only traditional marriage system owned by the people of Lampung Pepadun in Tebing village, Melinting sub-district.

Besides, several conventional marriage systems that can be used by the Lampung indigenous people of Tebing village, such as *Tapak Tuho* and *Ibal Serbau*. In this case, the people of Tebing village can freely choose which marriage system they will use when their wedding is held.

“Some indigenous people of Lampung, Tebing village, do not use the Sebambangan marriage system when they get married. In Tebing village, there are several traditional marriage systems, such as the Tapak Tuho system. The marriage system uses arranged marriages by people who know, but the children who are matched do not know. Besides, the Ibal Serbau marriage system is an honest marriage or one that begins with an engagement. So, when they want to get married, the Lampung indigenous people are free to choose which system they will use in their wedding procession. Besides, some indigenous people of Lampung in Tebing village still use Sebambangan system in marriage. This tradition is very closely related to the habits of Lampung people in Tebing village because the Lampung indigenous people own all marriage systems. It has been passed down from generation to generation since the time of our ancestors, so its existence is maintained in the Lampung traditional community in Tebing village.”⁷⁵

According to Mr. SE explanation, the background of *Sebambangan* system was in ancient times; most women were prohibited from dating by their parents. This prohibition occurred because sometimes parents did not like a man who had relationships with their daughter. Therefore, the man and women establish relationships secretly, not to be known by the woman's parents. When they were ready to get married, they would usually choose to do *Sebambangan* to approve their marriage. Besides, the *Sebambangan* tradition also occurs because a Lampung traditional woman could be liked by two men or even more in ancient times. The men fought each other to

⁷⁵ Mr. SB, Interview, (Tebing, 13 November 2021)

get the woman he liked by stealing his attention, sometimes even fighting. However, a man who is capable and serious about having a relationship to the level of marriage will invite women to marry in the *Sebambangan* way so that other men who like the woman do not know and do not cause a fight between them.

*“The first, most of the parents did not agree if their daughter was dating. There are varieties of parent's reasons, such as maybe the parents did not like the Bachelor or the Bachelor's family background, or perhaps because the girl's parents already had their candidate to marry—his son. However, when a bachelor and girl like each other. They would do anything that hinders their relationship. It would be resisted, such as secretly dating. If they were ready to get married, they would also get married by running away or being taken away. The Bachelor took the girl away to his parents' house or relatives; maybe their relationship was approved and continued to the level of marriage. Besides, in the past, a girl could be liked by two to five bachelors, sometimes even one girl could also be accompanied by five bachelors in Lampung at one time. The Bachelor thought that the girl who had not married is free to be liked or spoiled by anyone. In this case, the men fight over each other to get a woman they like. Besides, sometimes the bachelors can fight each other over the girl. Now for the brave Bachelor and already has the capital to marry, he will invite the girl to marry by running to win the competition and avoid fighting. Therefore, the term of *Sebambangan* in the Tebing village community is often referred to as *Mesukum* (larian), and customary law also provides solutions or procedures for resolving *Sebambangan* or *mesukum* with traditional procedures. Therefore, this *Sebambangan* or *mesukum* can be resolved peacefully and kinship.”*⁷⁶

In the opinion of Mr. JH as a community leader in Tebing village, he said about the *Sebambangan* as follows:

“Sebambangan is a tradition carried out before the wedding, where a bachelor takes the girl he likes to the bachelor's parents house or the house of a single relative. Sebambangan was done with the girl's permission because both of them like each other. In this case, the girl gone from her house to the bachelor's house or relatives of the

⁷⁶ Mr. SE, Interview, (Tebing, 12 November 2021)

*bachelor was not known by the girl's parents because she did not ask permission before leaving the house. Besides, in the Tebing Sebambangan village community, it is called Mesukum (elopement)."*⁷⁷

In this case, when a man took a girl away from his house with the girl's consent to carry out the marriage process through the *Sebambangan* system, this in Lampung custom is called "*Nakat*." On the other hand, if a man took a girl away by the force of his free will without the girl's consent, this activity is referred to as "*Ditekep*." In essence, these actions were violations of young people's customs, but they can be resolved peacefully with the applicable customary law procedures.

Mr. SB explained the initial *Sebambangan* process as follows:

*"The Sebambangan practice began when the bachelor took the girl away to his parent's house or a relative of the bachelor. The girl's parents did not know the girl's departure because she did not ask permission before leaving the house, but before the girl left the house, she had written a letter and prepared the money she would leave in her room; this is commonly called "Tangepik". This letter contains the girl's apology to her parents for leaving the house without parental permission to do Sebambangan to marry the bachelor she likes. In the letter, the girl also includes the bachelor's name and the address of the bachelor's relative that she would go and stay while Sebambangan is carried out. Meanwhile, Tangepik money was money given by the bachelor to the girl to be left at the girl's house along with the Tangepik letter."*⁷⁸

Tangepik means a relic. It was an object as a sign of a girl's departure for a husband. The relics were a letter and some money left by the girl when she left her house to go to her beloved bachelor to carry out *Sebambangan*. *Tangepik* money is also often known as "*Sipat* money" by the Lampung

⁷⁷ Mr. JH, Interview, (Tebing, 14 November 2021)

⁷⁸ Mr. SB, Interview, (Tebing, 13 November 2021)

indigenous people in Tebing village. In this case, there was no set minimum amount of *Tangepik* money because *Tangepik* money was free. Therefore, there were no special provisions regarding how much money would be left, as explained by Mrs IR:

*"The amount of Sipat money is free; there are no special provisions on minimal the girl will leave at her house because the provisions for the amount of Sipat money depend on the ability of the bachelor and based on an agreement between the girl and the bachelor."*⁷⁹

According to customary law, the girl's departure to the bachelor's residence must be from her own house, not from another place. Then, the girl would be picked up by the bachelor, and his female relative at the location agreed to them. As explained by Mr. JH in the interview:

*"After leaving Tangepik, the girl will leave the house quietly. Besides, the girl does not allow or say anything to her parents. Therefore, his departure is no one knew that he was going to do Sebambangan. After leaving the house, the girl will be picked up by the bachelor and his single sister; it may be the younger sister, older sister, or bachelor aunt who also picks up the girl; when picking up the girl, he is not alone. Then the girl is brought to the bachelor's house or the bachelor's brother's house."*⁸⁰

When the girl arrives at the bachelor's residence, the parents must immediately report this to Punyimbang (Traditional elder). Then the *Punyimbang* would directly carry out a deliberative deliberation to appoint

⁷⁹ Mrs. IR, Interview, (Tebing, 16 November 2021)

⁸⁰ Mr. JH, Interview, (Tebing, 14 November 2021)

an envoy (*Pembarep*) who would convey the blame to the girl; this is called "*Ngatak Pengundur Senjata*".

*"When the girl arrives at the bachelor's house or the bachelor's relative, the bachelor's parents will report to the Punyimbang (traditional elders) that their son has done Sebambangan with one of the girls. After knowing, Punyimbang from the male side will ask the girl if she wants to do Sebambangan with the bachelor, what kind of jewelry she wears. Then the Punyimbang will record all the items and jewelry brought by the girl when carrying out the Sebambangan to be reported to the girl's side. After that, the Punyimbang will consult to determine the Pengarep "envoy" to visit the girl's side by bringing the Dau Fund or customary funds as much as 25 thousand rupiahs. The Dau Fund was handed over to the girl's Punyimbang to notify that his subordinates are doing Sebambangan; this is called "Ngatak Pengundur Senjata". After that, the girl's Punyimbang will tell the girl's family that her daughter has done Sebambangan, and now she has been handled by the traditional leader of the bachelor. If the girl's family accepts the occurrence of Sebambangan, then the next process is Bebalah or Bawasan."*⁸¹

Pengundur Senjata or *Tali Pengundur* is known as *Ngattak Salah*. It was an act carried out by a bachelor's relative who runs away from a girl by sending an envoy with Dau funds and conveying it to the head of adat (*punyimbang*) on the girl's side. *Ngattak* (delivery) this weapon must be done within 1x24 hours inside the city or 3x24 hours outside the city after the girl is in the hands of a single relative. The girl's customary head must accept the revocation of arms and immediately notify the girl's family and relatives that their daughter was already in the hands of the traditional leader of the bachelor party.

⁸¹ Mrs. SM, Interview, (Tebing, 17 November 2021)

Bebalah or *Bawasan* is sends several *Punyimbang* people and relatives from the bachelor's side to come to the girl's family. When the news was received that the girl was willing to accept the bachelor party, immediately sent an envoy of the traditional elders of the bachelor party to express an apology and request negotiations to reach an agreement between the two parties *Sebambangan* can be adequately resolved towards marriage. In these negotiations, the girl's family submitted the conditions of the request. For example, the girl's family asked *Dau Balak* fund (Honest Money) or the bachelor's family asked to reduce fines and other customary costs.

Suppose the bachelor's family has approved the terms of the request from the girl's side. In that case, the *Sebambangan* process continues at the "*Ngakuk Maju*" stage, directly carrying out the wedding procession. However, suppose the bachelor party has not fulfilled the girl's request as the conditions submitted. In that case, the *Sebambangan* can still be continued by tying the girl first or called "*Nyukak*," i.e., fiancé, as explained by Mr. SB:

"The settlement of Sebambangan can be done in two ways, depending on the agreement between the two families. The two families will negotiate first regarding the terms of the fees proposed by the girl's family. If the man agrees to the terms of the fees proposed by the girl's family, then Sebambangan will continue in the marriage process or can be called "Ngakuk Maju", Ngakuk means taking, forward means female. However, when the bachelor's family has not agreed to the costs proposed by girl's family. It will enter to Nyukak stage. Nyukak is the marriage suspended by binding or fiancéing first with the girl. In this case, the girl will be returned to her family. It concludes that the marriage will take place when the

bachelor's family has able to accept the terms of the wedding expenses proposed by the girl's family."⁸²

C. Analysis of 'Urf's Perspective to The Practice of Sebambangan in Lampung Traditional Marriages

Based on the data obtained by the researcher explanation above, *Sebambangan* is an activity carried out before marriage between a man and a woman. The *Sebambangan* aimed as a request that both of them be approved to carry out marriage. The *Sebambangan* tradition had been passed down from hereditary and has been continuous since the time of their ancestors. Therefore, the practice of *Sebambangan* had become a common tradition among the Lampung traditional community in Tebing village, Melinting sub-district, East Lampung district. In practice, the *Sebambangan* tradition was a custom maintained and regulated in Lampung customary law. The practice of the *Sebambangan* tradition is allowed by applicable customary law.

In Islam, efforts to apply for marriage are called by *khitbah*. *Khitbah* is a process of request or statement to hold a marriage carried out by two people, between a man and a woman, either directly or indirectly, or with guardianship. *Khitbah* is carried out before the wedding ceremony takes place.⁸³

⁸² Mr. SB, Interview, (Tebing, 13 November 2021)

⁸³ Sayyid Sabiq, *Fiqhus Sunnah jilid 2*, (Beirut: Darul Fikri, 1998), 462.

Considering the definition and purpose of *Sebambangan*, *Sebambangan* had the same goals as *Khitbah*, namely both to apply for marriage. It applied to the indigenous people of Lampung as a tradition that had been embraced from hereditary. Therefore, the researcher would like to use '*urf*' as a theoretical review of *Sebambangan*'s practice by linking it to the *Khitbah* concepts presented in the theoretical framework in Chapter II.

'*Urf*' has three types and divisions, namely '*urf*' in terms of material, the scope of use, and in terms of its legitimacy from a sharia point of view. The viewed from the material, '*urf*' is divided into two, namely '*urf lafdhi*' and '*urf amali*'.⁸⁴

'*Urf Lafdhi*' was a habit that applies in the use of words or speech. '*Urf lafdhi*' was the habit of a person using a word whose meaning was different from the original meaning, but when the word is pronounced, they immediately understand it with the meaning that applied in its place. Example word *Dabbah* is used for everyone who creeps on the earth, but in Egypt, *Dabbah* is interpreted as a donkey and in Iraq as an absolute word for Horse. In contrast, '*urf 'amali*' is a habit in the form of action, as is the custom of buying and selling in society without saying the contract, buying and selling contracts. In fact, according to the sharia, contract buying and selling are one of the pillars of buying and selling. Society had become a habit of buying and selling without a contract, and undesirable things do not happen; the sharia allows it. After knowing each definition of '*urf*'s division

⁸⁴ Satria Effendi, *Ushul Fiqh*, (t.tp.: Prenada Media, 2017), 124-128

according to the material aspect, *Sebambangan* tradition can be categorized as '*urf*' *amali* because *Sebambangan* is an activity carried out by people who want to carry out a marriage between the two.

The scope view is based on '*urf*', namely '*urf*' *aam* and '*urf*' *khaas*. *Sebambangan* is included in the category of '*urf*' *khaas*, because the scope of the *Sebambangan* tradition is in line with the definition held by '*urf*' *khaas*, which was a special habit at a time, circumstances, communities, or certain areas. Such as having *halal bi halal* is done by Indonesian Muslims who are Muslim at the end of every Eid prayer. At the same time, other Islamic countries are not accustomed to it.⁸⁵ Likewise, *Sebambangan* is an activity or tradition that only applies to the indigenous people of Lampung Pepadun and does not generally apply to other indigenous peoples.

The validity of '*urf*' according to the sharia perspective, namely '*urf*' *sahih* and '*urf*' *fasid*, the researcher would like to review the *Sebambangan* tradition using the '*urf*' rules that have been established. It means that *Sebambangan* included in the category of '*urf*' *sahih* or '*urf*' *fasid*. Present a theoretical study that is then linked to the concepts of *khitbah* in Islam.

Previously in the theoretical study, the researcher had included several '*urf*' rules that might be related to this *Sebambangan* custom; among these rules are:

⁸⁵ Rusdaya Basri, *Ushul Fiqih 1*, (Parepare: IAIN Parepare Nusantara Press, t.t.), 127.

1. العَادَةُ مُحْكَمَةٌ⁸⁶
2. كُلُّ إِسْمٍ لَيْسَ لَهُ حَدٌّ فِي اللُّغَةِ, وَلَا فِي الشَّرْعِ, فَالْمَرْجِعُ فِيهِ إِلَى الْعُرْفِ⁸⁷
3. كُلُّ مَا وَرَدَ بِهِ الشَّرْعُ مُطْلَقًا بِلاَ ضَابِطٍ لَهُ مِنْهُ وَلَا مِنَ اللُّغَةِ يَرْجِعُ فِيهِ إِلَى الْعُرْفِ⁸⁸
4. الْكِتَابُ كَالْخِطَابِ⁸⁹
5. تَغْيِيرُ الْأَحْكَامِ بِتَغْيِيرِ الْأُزْمَنِ وَالْأَمْكَنِ⁹⁰
6. الْمَعْرُوفُ عُرْفًا كَالشُّرُوطِ شَرْطًا⁹¹
7. اسْتِعْمَالُ النَّاسِ حُجَّةٌ يَحِبُّ الْعَمَلُ بِهَا⁹²

The seven rules above are the rules that the researcher used to review the practice of *Sembambangan* according to the results of the researcher's interviews with resource persons. Therefore, it can answer the formulation of the problem. Researchers would examine one by one of the seven rules above according to what happened in implementing *Sebambangan*.

⁸⁶ Ammi Nur Baits, *Pengantar Kaidah Fiqih Kubro*, (t.tp: Muamalah Publishing, t.t), 111. https://www.google.co.id/books/edition/Pengantar_Kaidah_Fiqih_Kubro/hHwmEAAAQBAJ?hl=id&gbpv=1&kptab=overview

⁸⁷ Muhammad Musthofa Az-Zahili, *Al-Qawaid Fiqhiyyah Wa Tathbiqatuha fi Madzahibu Al-Arba'ati*, (Dar Al-Fikr: Damaskus, 2006), 314.

⁸⁸ Abdul Kareem Zaydan, *Al-Wajiz Fi Ushulil Fiqh*, (Beirut: Muassasah Risalah, !996), 252.

⁸⁹ Muhammad Shidqi bin Ahmad bin Muhammad al-Bunnu, *al- Wajiz Fi Idhah Qawaid al-Fiqh al-Kuliyyat*, (Beirut: Muassasah al-Risalah, 1996), 301.

⁹⁰ Firman Arifandi, *Saat Tradisi Menjadi Dalil*, 24.

⁹¹ Muhammad Shidqi bin Ahmad bin Muhammad al-Bunnu, *al- Wajiz Fi Idhah Qawaid al-Fiqh al-Kuliyyat*, (Beirut: Muassasah al-Risalah, 1996), 306.

⁹² Yusuf Al-Qaradhwai, *7 Kaidah Utama Fikih Muamalat*, (Jakarta Timur: Pustaka Al-Kautsar, 2014), 243.

The first rule is:

الْعَادَةُ مُحْكَمَةٌ⁹³

“*Custom is authoritative*”

According to Shidqi in a journal written by Ramdan Fawzi, the fuqaha provide limitations related to traditions or customs that can get sharia legitimacy are customs that do not have sharia limits (*qayyid syar'i*) or language restrictions (*qayyid lughawi*). It means that if the *sharia* provided general provisions, then the limits are left to customary regulations. For example, in the term *muqaranah 'urfiyyah* or aligning intentions in *takbiratul ihram*, namely the effort to present the form of prayer in the heart globally (*isthidhar al-'urfi*) when *takbiratul ihram* is carried out. The nash or validity rules provided a definite limit regarding the "simultaneous" between the beginning to the end, the middle to the end of *takbiratul ihram*. The *Nash* does not provide a limitation; the assessment of "simultaneous" intention and *takbiratul ihram* is left to the general practice between intentions in all Takbir; some Takbir can be the beginning of the end of Takbir.⁹⁴

⁹³ Ammi Nur Baits, *Pengantar Kaidah Fiqih Kubro*, (t.tp: Muamalah Publishing, t.t), 111. https://www.google.co.id/books/edition/Pengantar_Kaidah_Fiqih_Kubro/hHwmEAAAQBAJ?hl=id&gbpv=1&kptab=overview

⁹⁴ Ramdan Fawzi, “Aplikasi Kaidah Fikih العادة محكمة Dalam Bidang Muamalah”, *Amwaluna: Jurnal Ekonomi dan Keuangan Syariah*, no. 1(2018), 150.

The *Sebambangan* tradition is ascribed to the concept of *Khitbah*, when viewed with the rules of *الْعَادَةُ مُحْكَمَةٌ*, the legal basis on which it is based in the Qur'an Surah Al-Baqarah verse 235

وَلَا جُنَاحَ عَلَيْكُمْ فِيمَا عَرَّضْتُمْ بِهِ مِنْ خِطْبَةِ النِّسَاءِ أَوْ أَكْنَنْتُمْ فِي أَنْفُسِكُمْ ۚ عَلِمَ اللَّهُ أَنَّكُمْ سَتَذْكُرُوهُنَّ وَلَكِنْ لَا تُوَاعِدُوهُنَّ سِرًّا إِلَّا أَنْ تَقُولُوا قَوْلًا مَعْرُوفًا ۚ وَلَا تَعْزِمُوا عُقْدَةَ النِّكَاحِ حَتَّى يَبْلُغَ الْكِتَابُ أَجَلَهُ ۚ وَاعْلَمُوا أَنَّ اللَّهَ يَعْلَمُ مَا فِي أَنْفُسِكُمْ فَاحْذَرُوهُ ۚ وَاعْلَمُوا أَنَّ اللَّهَ غَفُورٌ حَلِيمٌ

"There is no sin on you if you hint a proposal of marriage or keep it concealed in your hearts. Allah knows that you will make mention of them, but do not make a secret promise with them, except that you may say something appropriate. Do not resolve a marriage contract until the prescribed time is reached. Allah knows what is in your hearts, so be cautious of Him and know that Allah is All-Forgiving, Most Forbearing." (Al-Baqarah:235)

Buya Hamka in Al-Azhar's commentary, it explained that the theme of this verse is "Heart Affected by Women in Iddah". According to Buya Hamka's interpretation, there was no prohibition for a man to keep his love for a widow who is still in the *iddah* of her husband's death or a woman who had been divorced by *talaq ba'in*. This verse has been regulated how to convey a man's feelings of love. It is permissible for him to convey a love for a woman in the *iddah* period with satire. After a woman *iddah* is over, the man can openly express his feeling, which is considered innocent.⁹⁵

⁹⁵ Isnadul Hamdi, "Ta'aruf Dan Khitbah Sebelum Perkawinan", *Jurnal Ilmiah Syari'ah*, no.1(2017), 49.

Buya Hamka's interpretation above can be concluded that this verse explained a proposal for a man intoxicated with romance to a woman undergoing her *iddah* period and does not specifically explain how to carry out a sermon. As for the , it provided restrictions so as not to *khitbah* women who are mahram and also women who are in the proposal of others, as the hadith narrated by Bukhari which reads:

وَعَنْ عُمَرَ رَضِيَ اللَّهُ عَنْهُ قَالَ: قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ لَا يَخْطُبُ أَحَدُكُمْ عَلَى أَحَدِكُمْ عَلَى خِطْبَةِ أَخِيهِ حَتَّى يَتْرَكَ الْخَاطِبُ قَبْلَهُ أَوْ يُأْذَنَ لَهُ الْخَاطِبُ.
(رواه البخارى)⁹⁶

"Let no one of you ask for a hand (woman) who is asked by his brother so that the previous suitor leaves or has allowed it."
(Narrated by Bukhari)

Based on the opinions above, *nash* does not provide limitations regarding how to carry out the sermon. The procedure for carrying out the sermon is left to the customary law that exists in the community. Therefore, in the researcher's opinion, the practice was acceptable when the effort to apply marriage using the Sebambangan tradition when viewed with this rule.

The opinion is also confirmed in the second and third rules:

⁹⁶ Ahmad Sarwat, *Ensiklopedia Fikih Indonesia 8: Pernikahan*, 73.

كُلُّ إِسْمٍ لَيْسَ لَهُ حَدٌّ فِي اللُّغَةِ، وَلَا فِي الشَّرْعِ، فَالْمَرْجِعُ فِيهِ إِلَى الْعُرْفِ⁹⁷

“Every action that has no limits, both in language and in the Sharia, will be returned to him through custom or habit”.

كُلُّ مَا وَرَدَ بِهِ الشَّرْعُ مُطْلَقًا بِلا ضَابِطَ لَهُ مِنْهُ وَلَا مِنَ اللُّغَةِ يَرْجِعُ فِيهِ إِلَى الْعُرْفِ⁹⁸

“Everything is legally determined in the sharia without any details, even a language that is returned to the applicable 'urf.”

The purpose of the second rule is that Allah sent down the *Sharia* regarding the *halal* and *haram* of something in the Arabic nash. Some of the words and sentences already have signs of regional language. However, some words are returned to humans based on their customs and habits, such as buying, selling, and marriage. It does not have definite boundaries in the *Sharia* because of differences in human nature that are influenced by customs at a time and place, then customs and habits are used.⁹⁹

The third rule of *fiqh*, scholars interpret *'urf* as a habit carried out by many people (groups) and arises from the creative-imaginative nature of humans in building cultural values.¹⁰⁰ An example of this rule is using the rupiah currency in daily transactions for people living in Indonesia. In the *Sharia*, there are no provisions that require transactions in certain currencies,

⁹⁷ Muhammad Musthtofa Az-Zahili, *Al-Qawaid Fiqhiyyah Wa Tathbiqatuha fi Madzahibu Al-Arba'ati*, (Dar Al-Fikr: Damaskus, 2006), 314.

⁹⁸ Abdul Kareem Zaydan, *Al-Wajiiz Fi Ushulil Fiqh*, (Beirut: Muassasah Risalah, 1996), 252.

⁹⁹ Muhammad Musthtofa Az-Zahili, *Al-Qawaid Fiqhiyyah Wa Tathbiqatuha fi Madzahibu Al-Arba'ati*, 314.

¹⁰⁰ Mukhtar Yahya dan Fatchur Rahman, *Dasar-Dasar Pembinaan Hukum Fiqh Ialami*, (Bandung: PT Raja Grafindo Persada, 2002), 157.

but because in Indonesia, transactions using rupiah have become a habit for Indonesian citizens, this is allowed. However, the currency used depends on the parties' agreement when people do not use rupiah as a transaction tool.¹⁰¹

The fourth rule reads:

الْكِتَابُ كَالْخِطَابِ¹⁰²

"What is written equals what is said."

The meaning of this rule is everything that is written, like what is spoken orally. The purpose of this utterance is the words spoken orally and the words written in writing.¹⁰³ For example, the Honesty Canteen says "All Rp. 1000" then all those who buy can pay the specified amount, even though no one speaks any words.¹⁰⁴

The الْكِتَابُ كَالْخِطَابِ rule is quite relevant when it related to the *Sebambangan* tradition. Based on the method carried out in the *Sebambangan* tradition, which leaves a letter when the girl who performs *Sebambangan* leaves the house as an apology and a statement that the girl wants to perform *Sebambangan* with a bachelor. Mr SB stated this in an interview:

¹⁰¹ Dahlan Tamrin, *kaidah-Kaidah Hukum Islam*, (Malang: UIN Maliki Press, 2010), 244.

¹⁰² Muhammad Shidqi bin Ahmad bin Muhammad al-Bunnu, *al- Wajiz Fi Idhah Qawaid al-Fiqh al-Kuliyyat*, (Beirut: Muassasah al-Risalah, 1996), 301.

¹⁰³ Muhammad Shidqi bin Ahmad bin Muhammad al-Bunnu, *al- Wajiz Fi Idhah Qawaid al-Fiqh al-Kuliyyat*, 301

¹⁰⁴ Ammi Nur Baits, *Pengantar Kaidah Fiqih Kubro*, (t.tp: Muamalah Publishing, t.t), 120. https://www.google.co.id/books/edition/Pengantar_Kaidah_Fiqih_Kubro/hHwmEAAAQBAJ?hl=id&gbpv=1&kptab=overview

"The Sebambangan practice begins when the bachelor takes the girl away to his parent's house or a relative of the bachelor. The girl's parents did not know the girl's departure because she did not ask permission before leaving the house, but before the girl left the house, she had written a letter and prepared the money she would leave in her room; this is commonly called "Tangepik". This letter contains the girl's apology to her parents for leaving the house without parental permission to do Sebambangan to marry the bachelor she likes. In the letter, the girl also includes the bachelor's name and the address of the bachelor's relative that she will go to in the letter. Order to stay while Sebambangan is carried out. Meanwhile, Tangepik money is money given by the bachelor to the girl to be left at the girl's house along with the Tangepik letter."

Considering the statement above, the researcher argued that the Sebambangan tradition was in line with the كَاتِبُ كَالْخَطَابِ rule because the meaning of this rule was writing can represent a word or message conveyed by someone. As well as a Tangepik letter left containing a notification that they are carrying out the Sebambangan tradition—the same as speaking directly.

Fifth rule:

تَغْيِيرُ الْأَحْكَامِ بِتَغْيِيرِ الْأَزْمَنِ وَالْأَمْكِنةِ¹⁰⁵

"Changes in law (based on 'Urf) are also due to changes in times and places."

The purpose of this rule was the fiqh laws that were previously formed based on good customs would change when the customs changed.¹⁰⁶

¹⁰⁵ Firman Arifandi, Saat Tradisi Menjadi Dalil, 24.

¹⁰⁶ Satria Effendi, *Ushul Fiqh*, (t.tp.: Prenada Media, 2017), 144.

Ahmad Sarwat, in his book *Ensiklopedia Fikih Indonesia 8: Pernikahan* explains the process of the sermon to reach an agreement from two parties, at least the process of the flow of a sermon consists of three main things, namely submission of sermons, exchange of information, answers to sermons and other matters related to the cancellation of the sermon if needed,¹⁰⁷ while the procedure for the sermon process follows how the customs of each community are following the time and place. Therefore, the practice of *Sebambangan* is an effort to apply marriage to the Lampung traditional community in Tebing village, Melinting sub-district was following this rule. When the *khitbah* procedure is not explicitly regulated in the sharia (Islamic law), every indigenous community is given the authority to regulate the practice following the customary law in force in each region. The regulated procedure does not contrary with the nash and rules of Islamic law.

Sixth rule:

الْمَعْرُوفُ عُرْفًا كَالشُّرُوطِ شَرْطًا¹⁰⁸

“What is customary is deemed as if stipulated by the agreement.”

The purpose of this rule was that customs in muamalah have binding power, such as a condition that is made, even though it is not explicitly

¹⁰⁷ Ahmad Sarwat, *Ensiklopedia Fikih Indonesia 8: Pernikahan*, 76.

¹⁰⁸ Muhammad Shidqi bin Ahmad bin Muhammad al-Bunnu, *al- Wajiz Fi Idhah Qawaid al-Fiqh al-Kuliyyat*, (Beirut: Muassasah al-Risalah, 1996), 306.

stated.¹⁰⁹ For example, if people work together to build an orphanage, then based on custom, the people who work together are not paid, so they do not demand payment. It is different from carpenters and painters who are paid, and when he came and worked, the house is being built. He must pay his wages like the others even though he does not require anything because of the habit of carpenters and carpenters painting; when he works, he gets paid.¹¹⁰

Sebambangan is a tradition that had become a habit of the indigenous people of Lampung Pepadun, especially in Tebing village. People who get married are not required to use the *Sebambangan* tradition as a procession to get married. As stated by Mr. SB in the interview process:

" Some of indigenous people of Lampung, Tebing village, when they get married use the Sebambangan marriage system, because in Tebing village there are several traditional marriage systems, such as the Tapak Tuho system. Tapak Tuho is the marriage system using arranged marriages by people who know, but the children who matched do not know. Then the Ibal Serbau marriage system is an honest marriage or one that begins with an engagement. So when they want to get married, the Lampung indigenous people are free to choose which system they will use in their wedding procession."

Based on that statements, it was the freedom to choose the marriage system for the Lampung indigenous people in Tebing village. *Sembambangan* tradition is not included in the custom, which was a mandatory requirement in carrying out the wedding procession, even though *Sebambangan* had become a tradition passed from generation to generation.

¹⁰⁹ Ahmad Jazuli, *Kaidah-Kaidah Fikih*, (Jakarta: Prenada Media, 2019), 86.

¹¹⁰ Ahmad Jazuli, *Kaidah-Kaidah Fikih*, (Jakarta: Prenada Media, 2019), 86.

Seventh rule:

إِسْتِعْمَالُ النَّاسِ حُجَّةٌ يَجِبُ الْعَمَلُ بِهَا¹¹¹

“Anything that done by the community is *Hujjah* that should they do.”

It concluded that a custom in the community became a guide, in which the community obeys it.¹¹² In other words, *hujjah* is a legal right when applied in one country. It does not become evidence. Contrary to the opinion of the Shaykh Balakh, they view it as evidence in the country. It means that when it was classified as a special '*urf*', which a special law applied. Therefore, the use that does not contrary with the sharia and *Nash* (Islamic law), the fiqh experts consider it is *hujjah*.¹¹³

Sebambangan was a tradition that belongs to a special '*urf*' ('*urf khaas*'). The practice of *Sebambangan* only applied to the indigenous people of Lampung Pepadun, especially in the village of Tebing. Although *Sembambangan* is not included in the mandatory requirements for the procession of marriage, someone who wants to use the *Sebambangan* system in carrying out his marriage is also allowed. It is because customary law has regulated how to settle the *Sebambangan* tradition in a peaceful and familial manner. Besides, *Sebambangan* also does not contradict and neglect existing sharia arguments or contradict certain principles.

¹¹¹ Yusuf Al-Qaradhawi, 7 *Kaidah Utama Fikih Muamalat*, (Jakarta Timur: Pustaka Al-Kautsar, 2014), 243.

¹¹² Ahmad Jazuli, *Kaidah-Kaidah Fikih*, 85.

¹¹³ Yusuf Al-Qardhawi, 7 *Kaidah Utama Fikih Muamalat*, 243.

Considering the explanations above, the researcher concluded that *Sembambangan* could be categorized as a valid *'urf* (*'urf Shahih*). In this case, the *Sebambangan* procession does not contrary with the Sharia (Islamic law), especially when the bachelor took the girl away from her parents' house to carry out the *Sebambangan*; the girl left money and a Tangepik letter as an apology for leaving without direct parental permission and a statement that the two of them would carry out the *Sebambangan*. Then when the bachelor picks up the girl to take the bachelor family home, he doesn't pick her up alone but with the bachelor family. Mr. JH stated:

"After leaving Tangepik, the girl will leave the house quietly, and the girl does not allow or say anything to her parents. So that his departure, no one knew that he was going to do Sebambangan. After leaving the house, the girl will be picked up by the bachelor and the single sister, it may be the younger sister, older sister, or bachelor aunt who also picks up the girl. Therefore, when picking up time the single girl not alone. The girl is brought to the bachelor's house or the bachelor's brother's house.

Then when living in the bachelor's residence, the girl is guarded by the bachelor's family and given special regulations according to customary law; this is done to maintain the girl's self-esteem and dignity so that the girl and the bachelor are not allowed to live alone in the same house but with single parents and families. The *Sebambangan* procession in the explanation above is certainly in line with the hadith of the Prophet SAW regarding the prohibition of *khalwat*, which reads:

لَا يَخْلُوَنَّ رَجُلٌ بِامْرَأَةٍ إِلَّا لَأَمَّ مَعَهُ ذِي مَحْرَمٍ (رواه البخاري)¹¹⁴

¹¹⁴ Tim Penerjemah Ma'had Al-Jami'ah Al-Aly UIN Malang, Syarah Fathal Qarib Diskursus Munakahah (Fiqih Munakahah) Ulasan Lengkap Fathal Qarib, 48.

“It is not permissible for a man to seclude himself with a woman (ajnabiyyah) unless accompanied by a mahram.” (H.R Bukhari)

Khalwat is prohibition applies if there is no accompanying mahram. If there are other people from his mahram, such as his father, brother or, uncle, it is not forbidden to gather in one place as explained in the hadith above.¹¹⁵ It means that the process of carrying out *Sebambangan* by taking the girl to a bachelor's family house is not classified as *Khalwat* because when picking up a girl to be taken away, the bachelor is not alone, but with his family.

In this case, marriage using the Sembambangan tradition is a form of elopement contained in the Matrilineal family structure. This tradition is a form of local wisdom by giving freedom for men and women to choose a potential life partner according to their wishes without ignoring the provisions of Islamic law. According to Hanafi's marriage, which allows a woman to carry out marriage without a guardian with the stipulation that women have reached adulthood. In the book of Fathul Qadir, it is said:¹¹⁶

¹¹⁵ Tim Penerjemah Ma'had Al-Jami'ah Al-Aly UIN Malang, Syarah Fathal Qarib Diskursus Munakahah (Fiqh Munakahah) Ulasan Lengkap Fathal Qarib, 48.

¹¹⁶ Firman Arifandi, Nikah Tanpa Wali: Dari Madzhab Hanafi Hingga Implementasinya Dalam UU Pernikahan Di Pakistan, *Rumah Fiqih Indonesia*, Feb 1, 2017, <https://rumahfiqih.com/fikrah-503-nikah-tanpa-wali-dari-madzhah-hanafi-hingga-implementasinya-dalam-uu-pernikahan-di-pakistan.html>

الْوَلَايَةُ فِي النِّكَاحِ نَوْعَانِ: وَلَايَةُ نَذْبٍ وَاسْتِحَابٍ وَهُوَ وَلَايَةُ الْعَاقِلَةِ بِكَرٍّ كَانَتْ أَوْ
ثَيِّبًا، وَ وَلَايَةُ إِجْبَارٍ وَهُوَ الْوَلَايَةُ عَلَى الصَّغِيرَةِ بِكَرٍّ كَانَتْ أَوْ ثَيِّبًا، وَ كَذَا الْكَبِيرَةُ
الْمَعْتُوهَةُ وَ الْمَرْقُوقَةُ.

“There are two types of guardianship in marriage: the mandub and Mustahab types, namely the guardianship of women who are mature, intelligent, whether they are virgins or widows. And guardianship required is over women who are still tiny (not yet mature), whether virgins or widows and adult women who are crazy and slaves.”

Even in another narration, Imam Hasan As-Syaibani from Hanafiah said that it is permissible if the woman and the man are compatible, if it is not compatible then it is not permissible for a woman to marry without her guardian

Marriage with the Sebambangan tradition in the Lampung Pepadun indigenous community even though it is included in the form of elopement, but in the implementation of the marriage contract it is still carried out with a guardian, this is because the majority of the Lampung indigenous people in the cliff village are people who adhere to the Syafi'I school which makes the guardian as mandatory pillars of marriage.

CHAPTER V

CLOSING

A. Conclusion

Based on the results of the discussion, the researcher provides the conclusions as follows:

1. The practice of the *Sebambangan* Tradition in a traditional Lampung marriage in Tebing village, Melinting sub-district, East Lampung district began with running activities by leaving *Tangepik* letters and money in the woman's room, was continued with the *Ngatak Pengundur Senjata*. Suppose the girl's family accepts the occurrence of *Sebambangan* in the *Ngatak Pengundur Senjata*. In that case, the following process is *Bebalah* or *Bawasan*, namely negotiations to reach an agreement between the two parties and so that *Sebambangan* can be adequately resolved towards marriage. Suppose the terms of the request from the girl in the *Bebalah* or *Bawasan* process have been approved by the man's family, the *Sebambangan* process continues at the "*Ngakuk Maju*" stage, directly carrying out the wedding procession. However, suppose the man party has not been able to fulfill the request from the woman's side as the conditions submitted. In that case, *Sebambangan* can continue by tying the girl first or can be called "*Nyukak*" (engagement).

2. The *Sembambangan* tradition is included in the category of '*urf*' *'aamali* when viewed from the point of view of the material '*urf*', and is included in the category of '*urf*' *lafdhi* when viewed in terms of the scope of '*urf*', then if viewed from '*urf*' in terms of its validity according to the Islamic law *Sebambangan* is included in the category of '*urf*' *Sahih*, because in practice it does not contrary with the Islamic law.

B. Suggestion

Based on the conclusion above, the researcher proposes some suggestions that are expected to be applied in the future:

1. The researcher hopes that when the indigenous people of Lampung carry out the *Sebambangan* tradition, it will remain in the corridor of Islamic law, with other hopes that blessings, comfort, and happiness will always shade marriages that use the *Sebambangan* tradition in the future.
2. The researcher hopes that further researcher can be done on the *Sebambangan* tradition, which may be viewed from the perspective of anthropology, sociology, or other matters, or conducts other research on the Lampung traditional marriage system that has not been discussed in this study.

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APPENDIXES



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Judul Skripsi : THE *SEBAMBANGAN* TRADITIONAL MARRIAGE IN 'URF PERSPECTIVE (Study in Tebing Village, Melinting District, East Lampung Regency)

No	Hari/Tanggal	Materi Konsultasi	Paraf
1.	Senin, 02 November 2021	Konsultasi BAB I	<i>Ammy</i>
2.	Senin, 08 November 2021	ACC BAB I	<i>Ammy</i>
3.	Selasa, 09 November 2021	Konsultasi BAB II	<i>Ammy</i>
4.	Selasa, 16 November 2021	ACC BAB II	<i>Ammy</i>
5.	Sabtu, 20 November 2021	Konsultasi BAB III	<i>Ammy</i>
6.	Senin, 22 November 2021	ACC BAB III	<i>Ammy</i>
7.	Kamis, 25 November 2021	Konsultasi BAB IV	<i>Ammy</i>
8.	Minggu, 28 November 2021	ACC BAB IV	<i>Ammy</i>
9.	Minggu, 28 November 2021	Konsultasi Abstrak	<i>Ammy</i>
10.	Senin, 06 Desember 2021	ACC Abstrak dan ACC Skripsi	<i>Ammy</i>

Malang, 06 Desember 2021
Mengetahui
a.n Dekan
Ketua Jurusan Hukum Keluarga Islam

Erik Sabti Rahmawati, MA, M.Ag
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Interview with Mr. SB



Interview with Mr. SE



Interview with Mr. JH




Interview with Mrs. SM



Interview with Mrs. IR

CURRICULUM VITAE

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Formal Education

No	Institute	Address	Since
1.	Nursery School PGRI	Sido Makmur Village, Melinting Sub-District, East Lampung District	2003-2005
2.	Islamic Elementary School Sirojul Munir Al-Ihsan	Sido Makmur Village, Melinting Sub-District, East Lampung District	2005-2011
3.	Islamic Middle School Al-Madinah	Karyatani Village, Labuhan Maringgai Sub-District, East Lampung District	2011-2014
4.	Islamic High School Al-Madinah	Karyatani Village, Labuhan Maringgai Sub-District, East Lampung District	2014-2017

Non Formal Education

No	Institute	Address	Since
1.	Madinah Islamic Boarding School	Karyatani Village, Labuhan Maringgai Sub-District, East Lampung District	2011-2017
2.	Ma'had Sunan Ampel Al-Aly	Jl. Gajayana No.50 Malang	2018-2019