

Dynamics of Mahar in Marriage: A Philosophical and Sociological Approach in Islamic Family Law

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Abstract

Dowry is a fundamental element in Islamic marriage that has legal, social and philosophical significance. In Islamic law, dowry is an obligation that must be given by the husband to the wife as a form of respect and proof of commitment in marriage. The dowry also serves as a financial protection for women, especially in societies where men are the main breadwinners. From a sociological perspective, dowry reflects social status, gender relations, and cultural norms that develop in society. However, in some cases, the size of the dowry can become an economic burden for the prospective husband and hinder the marriage. From a philosophical perspective, the dowry reflects respect for women's dignity and moral responsibility in marriage. The dowry is not a medium of exchange in the marriage contract, but a manifestation of justice, balance, and respect for rights and obligations in the household. The ideal dowry concept must consider the principles of justice and welfare for both parties, without being an instrument of exploitation or domination. This research uses a qualitative approach with a literature study method to understand the role and meaning of dowry in legal, social and philosophical contexts. The results show that dowry has complex social and moral dimensions, which need to be understood in the context of the culture and dynamics of modern society. Therefore, a more flexible understanding of dowry is needed so that it remains relevant to the times, without losing its essential values in Islam. Legal regulations and social norms related to dowry should be based on the principle of balance, so that marriage can take place with values that support justice, harmony and prosperity for both parties.

Key Word: Dowry, Marriage, Sociology, Philosophy, Islamic Law

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INTRODUCTION

According to Islamic Law, marriage is an inner and outer bond between a man and a woman to live together in a household and to produce offspring, which is carried out according to the provisions of Islamic law (Hamid, 1987). The purpose of marriage is to form a harmonious family, full of love, so that the formation of a sakinah, mawaddah, and warahmah family (Mukhtar, 1993). In Chapter 1 of Law No.1 of 1974, it is stated that marriage is a physical and mental bond between a man and a woman as husband and wife with the aim of forming a happy and lasting family (household) based on the Almighty God.

The Qur'an and Hadith do not explain in detail the minimum limit for a person to get married. Meanwhile, in Islamic Law, the scholars of the madhhabs argue that the limit for a person to get married is that he must be of sound mind and baligh (Mughaniyah, 2003). According to Imam Shafi'i and Imam Hambali, a man who has reached the age of 15 years indicates that he has reached puberty. However, according to Imam Maliki and Imam Hanafi, the age of puberty for men is 18 years old. Meanwhile, in Positive Law, Law Number 1 Year 1974 on Marriage Article 6 paragraph 2 states that "To enter into marriage a person who has not reached the age of 21 years must obtain parental consent." Furthermore, based on the results of the Nuansa Aulia editorial on the Compilation of Islamic Law in Article 7

Paragraph 1, it states that "Marriage is only permitted if the male party has reached the age of 19 years and the female party has reached the age of 16 years." Then, Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 Article 1 Paragraph 1 states that "Marriage is only permitted if the man and woman have reached the age of 19 years."

In the modern social context, the age of marriage debate is growing, especially in relation to child welfare and socioeconomic impacts. Research by UNICEF (2020) shows that early marriage often contributes to educational disconnection, increased risk of domestic violence, and increased maternal and child mortality. Data from WHO (2021) also shows that girls who marry before the age of 18 are more likely to experience complications during pregnancy and childbirth compared to those who marry after the age of 20. Therefore, legal policies regarding the age of marriage are often revised to align with child rights and family welfare standards.

In addition, in the Islamic tradition, the *Mahar* is one of the important conditions in the marriage contract. *Mahar* is not only material, but also has symbolic value that contains spiritual, social and economic elements. Along with the times, the concept of *Mahar* often experiences a shift in meaning. In the modern social context, *Mahar* is sometimes seen as a means of competing for wealth and even as a measure of social status. This phenomenon certainly raises questions about the true essence of *Mahar*, especially in the face of social and economic pressures. A study by Jones and Asfari (2018) shows that in some communities, exorbitant dowries can become an economic burden that inhibits marriage, leading to increased rates of late marriage or even the inability of individuals to marry at all.

From a sociological perspective, marriage is not only a religious institution, but also has broad social and economic dimensions. Marriage is often a symbol of social status that involves different cultural norms in each society (Giddens, 2020). Bourdieu (1990) in the concept of *habitus* also explains that marriage practices are influenced by social structures and capital owned by individuals, both in economic, social and cultural forms. *Mahar* is no longer only determined by religious provisions, but in this modern era is influenced by social norms that develop in society. This underlines the importance of an in-depth analysis of the role of *Mahar* in shaping the dynamics of marriage, both from a legal perspective and from the aspect of prevailing social values. It is therefore important to understand *Mahar* not only normatively, but also philosophically and sociologically.

RESEARCH METHODS

The approach used in this research is a qualitative approach. Qualitative research methods are research used to describe and analyse phenomena, events, social activities, attitudes, beliefs, perceptions and thoughts of people individually and in groups (Ghony et al., 2012). Meanwhile, the type of research used is library research. What is meant by library study is a series of activities related to library data collection methods, reading and recording and processing into research materials (Zed M., 2008).

The type of data used in this research is secondary data with data collection techniques through literature review from relevant sources such as books, journals, mass media, and the internet. The data analysis technique used in this research is qualitative analysis to process and analyse the collected data into data that is systematic, regular, structured, and has meaning.

RESULTS AND DISCUSSION

Interpreting *Mahar*

The word *mahr* comes from the Arabic *al-mahr*, *jama'nya al muhur* which means *masawin*. In the Big Indonesian Dictionary, the word *mahara* is defined as a mandatory gift in the form of money or goods from the bridegroom to the bride when the marriage contract is carried out. Meanwhile, in terms of *Mahar* is a gift that must be given by the prospective bridegroom to the prospective bride as a form of sincerity and love. According to Islamic jurists, there are other words used besides the word *mahr*, such as *shadaqah*, *nihilah* and *faridhah* that refer to the concept of *mahr*. The jurists prefer to use the word *shidaq* in their works. However, the word "Mahar" or "mascawin" is more commonly used in Indonesia. According to Imam Shaf'i, *Mahar* is something that is obligatory as one of the conditions

for the validity of marriage, which must be given by a prospective husband to a prospective wife to be able to control all of her limbs. Meanwhile, according to Imam Maliki, the *Mahar* is a pillar of marriage, so the law is obligatory. According to Imam Hanafi, *Mahar* is something that is obtained by a woman as a result of a marriage contract or intercourse (Syarifudin, 2006).

In ancient times (*jahiliyah*), there was a difference in the meaning of *Mahar* and *shadaq*, the difference in the time of delivery and its implications. *Mahar* is a gift given because of the desire to tie the knot, which results in a woman separating from her parents, because she is taken by her husband. Meanwhile, *shadaq* is a gift from the prospective husband to the prospective wife to come first to propose and the prospective wife remains at her parents' house and does not come with her husband. However, after Islam came, both words have the same meaning, namely the gift of the prospective husband to the prospective wife, as a symbol of love between the two, as well as the prospective wife by accepting the *masawin* has expressed agreement to be with her husband for life.

In the sociological context, the *Mahar* has more meaning than just a material symbol in marriage. The *Mahar* reflects the husband's responsibility towards his wife, shows his sincerity and commitment to the marriage, and is a form of respect for the wife's family. It also serves as financial protection for women, especially in traditions that emphasise economic and family stability.

Philosophically, the *Mahar* has a deep meaning in marriage. The *Mahar* is regarded as an acknowledgement of a woman's value and honour, not as a "price" but rather a tribute to the commitment of marriage. In Islamic philosophy, the *Mahar* also reflects the moral and material responsibilities of a husband to his wife, emphasising that marriage is also a relationship that values the physical and financial well-being of the wife. The *Mahar* also reflects a sense of justice and protection of women's rights in marriage. So it can be concluded that *Mahar* is a gift from a prospective husband to a prospective wife as a symbol of a husband's willingness to bring his wife into a new life, giving *Mahar* can be in the form of money, objects, or services, the point of which must have value and useful benefits.

Legal Basis for *Mahar*

The legal basis is expressed in several Qur'anic texts and Prophetic Hadith. Some of the texts relating to the legal basis of *Mahar* are contained in Surah An-Nisa' verse 4 which means "Give the *Mahar* to the woman you marry as a gift with full willingness (*Nihla*). The meaning of *nihla* in the verse is giving and willingness without seeking a substitute. In the Islamic view, the *Mahar* is not a price or compensation that a man owes to a woman, but rather a proof of love and respect. With the *Mahar*, Islam has raised the status of women because the *Mahar* is a sign of respect. If there is a divorce, the *Mahar* remains the right of the wife and the husband has no right to take it back.

While one of the hadiths of the Prophet Muhammad Saw narrated by Ibn Abbas ra. He said: when Ali married Fatimah, the Apostle said to him: give Fatimah something. Ali replied: I do not have anything, he asked: where is your besti hutamiyah clothes? (HR. Abu Dawud and Nasa'I judged shahih by Al-Hakim). By referring to the Qur'an and the Prophet's Hadith, it is clear that Islam has determined that the provision of *Mahar* is obligatory for the husband in carrying out marriage. If there is no *Mahar* in marriage, then logically it is very easy for a man to leave his partner and look for another. Thus, the presence of *Mahar* causes the husband and wife's household to run with love and be responsible for the integrity of the family.

According to the Compilation of Islamic Law (KHI), the *Mahar* is neither a pillar nor a condition of marriage, because there is no article that explicitly states this. Article 34 states that "the obligation to provide mahr is not a pillar of marriage (Hasan M., 2011). Meanwhile, some fuqaha say that the *mahr* is a pillar of the marriage contract and some state that it is a condition for the validity of marriage, because of this, the position of the *mahr* is mandatory in marriage. However, KHI does not place the *mahr* as a pillar or condition of marriage.

Position of *Mahar*

The *Mahar* is a way of making the wife happy and willing to accept her husband's

authority over her. It strengthens the relationship and fosters affection and love. As an effort to pay attention to and respect the position of women, namely giving them the right to hold their affairs. Mahar can be seen from two sides, qualification and classification. From the qualification side, it is divided into two, namely Mahar which comes from concrete objects such as dinars, dirhams or gold, bags, clothes, cars and Mahar in the form of services such as teaching reading the Qur'an and so on, divided into two, namely Mahar Musammah and Mahar Mitsil.

Mahar musammah is a Mahar that is clear and stipulated in the form and amount of the contract. It is agreed by both parties, namely the groom and the bride, which is mentioned in the wording of the contract, the scholars agree that there is no maximum amount in the Mahar (Muhammad A. A., 2014). For example, both parties agree that the Mahar is a certain amount of money, jewellery or goods. This type of Mahar is then divided into two, namely: The first is the muajjal musamma Mahar, which is the Mahar that is immediately given to the bride. Prompt payment of the Mahar is a Sunnah in Islam. For example, cash or jewellery that is immediately handed over when the contract takes place. Second, the mahr musamma ghairu mu'ajjal, which is a Mahar that has been determined in form and amount, but the payment is deferred (Nugroho, 2014). For example, payment of the Mahar is made after a certain time or in instalments.

Mahar mitsil is a Mahar decided for a woman who marries without mentioning the Mahar in the contract, the size of the Mahar is equal to the Mahar of a woman who when married from her father's family such as siblings and the father's only sister (Wahab A., 2017). For example, the Mahar is equivalent to the Mahar of the bride's brother or family. According to the Shafi'iyyah scholars, the mitsil Mahar is to look at several families of women ashabah women to find similarities in the size of the Mahar. What needs to be considered when looking for a mithil Mahar is their status towards the woman, the same characteristics as her and the closest to her. As for the women of the woman's family in an orderly manner, if they are not found in the women of the ashabah.

The mahr mitsil is obligatory in a number of cases, such as when the husband does not mention the mahr at all or the amount at the time of the marriage contract, when the husband mentions the mahr musamma and the mahr does not meet the conditions specified or the mahr is defective, such as with alcohol, when the husband mentions the mahr musamma, but then the husband and wife disagree about the amount or nature of the mahr and it cannot be realised (Syarifudin A, 2006).

Mahar in Philosophical and Sociological Perspective

In a social context, Mahar is often seen as an indicator of social status. The higher the Mahar, the higher the social status of the bride and her family. From a philosophical perspective, Mahar has a deeper meaning than just a material gift in marriage. It is a symbol of the value of marriage itself, the relationship between individuals, and the moral and social responsibilities inherent in it.

Mahar as a Form of Recognition of Women's Dignity

In Islamic philosophy, Mahar is not just a form of transaction, but a recognition of the dignity and value of women in the institution of marriage. This is in line with moral philosophy thinking that emphasises respect for the individual and recognition of his or her rights (Wahab, 2017). In Immanuel Kant's view, for example, the individual should not be treated as a mere tool, but as an end in itself. Mahr in Islam reflects this principle by emphasising that the woman has the right to the gift without interference from other parties.

Mahar as a Symbol of Commitment and Responsibility

From an existentialist perspective, Mahar can be seen as an expression of freedom and responsibility. Jean-Paul Sartre argues that each individual is responsible for his or her choices and commitments. In marriage, the Mahar serves as concrete evidence of the husband's commitment to his marriage, showing that marriage is not only an emotional relationship, but also contains social and material responsibilities (Hasan, 2011).

Mahar and the Concept of Justice in Marriage

The philosophy of justice developed by John Rawls emphasises the principle of fair distribution in society. In the context of Mahar, justice does not mean that everyone gets the

same amount of Mahar, but rather that it is given in accordance with the needs and social conditions of each couple (Syarifudin, 2006). Islam emphasises that Mahar should not be a burden for the prospective husband and should be given willingly, reflecting the balance between rights and obligations in marriage.

Mahar in the Perspective of Islamic Ethics

In Islamic ethics, a Mahar reflects ihsan (kindness) and ta'awun (mutual assistance). Mahar is not only a formal obligation, but also shows generosity and love. This value is in line with the Aristotelian ethical concept that emphasises virtue as the main element in moral life (Muhammad, 2014). A husband who gives Mahar with sincerity reflects noble character and an attitude of responsibility in marriage.

In the sociological context, Mahar has a broader dimension than just a material symbol in marriage. Mahar is not only a representation of a husband's commitment to his wife, but also reflects the social structure of society, cultural values, and norms governing gender relations.

Mahar as a Symbol of Social Status

In many societies, the amount and type of Mahar given is often an indicator of the social status of the bride's family. A high Mahar may reflect the higher social status and prestige of the family, while a more modest Mahar signifies economic deprivation (Hasan, 2011). This reflects the theory of social stratification where marriage is not just a personal institution, but also part of the class system in society.

Mahar in the Perspective of Gender Relations

From a gender perspective, the Mahar can be understood as a form of respect for women, but it can also be criticised as part of the patriarchal system. In some cultures, the Mahar is considered as compensation for a woman's status "moving" from her family of origin into the husband's family (Syarifudin, 2006). In societies where patriarchal values are still strong, dowries can sometimes be used as a means of control over women in the household. However, in the Islamic view, the Mahar is more interpreted as a form of respect and financial protection for women, not as a means of subordination.

Mahar and Women's Welfare

One of the social functions of the Mahar is as an economic protection for women, especially in societies where men are the main breadwinners. Mahar can provide economic security for women in the event of divorce or death of the husband (Muhammad, 2014). This is in accordance with the theory of structural functionalism which emphasises that every element in society has a certain function to maintain social balance.

Mahar as a Representation of Cultural Values

In customary societies, the form and amount of Mahar are often influenced by prevailing norms and traditions. In some parts of Indonesia, such as in the Bugis-Makassar tradition, the Mahar or uang panai reflects the social status of the woman's family and becomes a means of social negotiation in marriage (Nugroho, 2014). This suggests that the Mahar is not only an element of Islamic law, but also part of a social construction rooted in local community traditions.

CONCLUSIONS AND RECOMMENDATIONS

CONCLUSIONS

Dowry in Islam is not just a requirement in marriage, but also has a deep meaning in legal, social and philosophical aspects. Legally, the dowry is the right of the wife that cannot be reclaimed by the husband and is proof of commitment in marriage. From a sociological perspective, the dowry can be a symbol of social status, gender relations, and economic protection for women in a society that still emphasises the role of men as the main breadwinners. From a philosophical perspective, the dowry represents respect for women, the husband's moral responsibility, and the balance of justice in the marriage relationship.

In the modern context, the understanding of dowry needs to be adjusted to social and economic developments. The dowry should not be a burden for the man or used as a means

of social status competition. On the contrary, the essence of dowry should still prioritise the values of respect, commitment and balance in the household.

RECOMMENDATIONS

To ensure that the concept of dowry remains in line with Islamic values and relevant to social developments, there is a need for wider education on the essence of dowry in society. The understanding that dowry is not a medium of exchange or a price for women, but a symbol of respect and commitment in marriage, needs to be instilled through religious and social education. In addition, legal policies related to dowry must be more flexible by considering social and economic aspects, so that it does not burden prospective husbands or become a means of prestige in society.

The government, academics and religious leaders need to play an active role in advocating for a more balanced understanding of dowry so that it does not become an obstacle in forming a harmonious family. Further research is also needed to understand how dowry practices in various cultures affect the dynamics of marriage in the modern era. Thus, more inclusive and fair regulations can be formulated to ensure that dowry remains a symbol of love, responsibility and justice in married life.

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