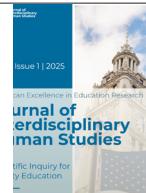




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## LEGAL AND SOCIAL SIGNIFICANCE OF MAHR IN FAMILY FORMATION

**Abstract.** This article examines one of the fundamental components of family formation in Islam, focusing on the legal framework governing marriage. Drawing primarily on Qur'anic provisions, the study analyzes the conditions under which a marital union is considered legally valid within Islamic law. By exploring the normative requirements established by the Qur'an, the paper highlights the principles that regulate the formation of marriage and ensure its legitimacy, thereby situating nikah within the broader structure of Islamic family law.

**Keywords:** Mahr, dowry, tradition, hadith, divorce, relation, marriage certificate, cultural norms.

## INTRODUCTION

Islam places significant emphasis on family life, regarding it as the cornerstone of a stable and ethical society. Islamic teachings clearly define the roles and responsibilities of family members, thereby ensuring the preservation, care, and continuity of the family unit.

Marriage extends far beyond a formal union, rather it represents a partnership grounded in mutual support, responsibility, and care. Through this relationship, spouses are encouraged to grow together both spiritually and personally. Moreover, marriage carries a broader social dimension, as it emphasizes contributing positively to the community.

In this way, marriage serves as a strong foundation that fosters individual development while promoting collective well-being.

Marital union can be academically defined as a socially and legally recognized institution that establishes a formal union between individuals, typically characterized by mutual rights, responsibilities, and obligations. It functions as a framework for emotional, economic, and social cooperation, often serving purposes such as companionship, family formation, social stability, and the regulation of kinship and inheritance within a society.

The Qur'an occupies a foundational role in shaping marital relationships in Islam by offering comprehensive guidance on spousal conduct. It delineates the reciprocal rights and obligations of husbands and wives, underscoring principles of affection, compassion, and justice. The validity of an Islamic marriage is contingent upon the fulfillment of specific legal conditions, foremost among which is the obligation of mahr, recognized in Islamic jurisprudence as a mandatory marital entitlement of the bride.

The notion of mahr in pre-Islamic times was shaped by prevailing tribal customs and socio-economic structures, differing significantly from its later formulation within Islamic legal and ethical frameworks. One notable example of mahr in the pre-Islamic period is reflected in the marriage of the Prophet Muhammad (peace be upon him) to Khadeejah bint Khuwaylid. Historical accounts indicate that her mahr consisted of twenty camels, illustrating the customary practice of dowry provision during that period. Indeed, the practice of dowry has been observed across numerous civilizations and tribal societies since antiquity, functioning as a widely recognized socio-cultural institution in early marital systems.

## METHODOLOGY

In contemporary Muslim societies, the practice of mahr is adapted in accordance with prevailing cultural customs, economic circumstances, and legal frameworks. However, its fundamental Islamic principle remains unchanged. Mahr is recognized as an exclusive right of the woman, conferred upon her by her husband, and constitutes her independent personal property.

Mahr constitutes a compulsory legal requirement in all Muslim marriages rather than a voluntary gift. Although the terms "dowry" and "bride price" are sometimes used as translations for mahr, such equivalences are conceptually inaccurate. Islam does not

recognize the institution of dowry, which traditionally refers to property, money, or goods brought by the woman into the marriage, typically provided by her family. Likewise, the term bride price denotes payments made by the groom or his family to the bride's parents, rather than to the bride herself. In contrast, Islamic law stipulates that mahr is paid directly to the woman, and any assets offered by her family may only be accepted by the husband after the mahr has been duly fulfilled.

The English term “dower” most closely approximates the Islamic concept of mahr, as it denotes a payment made by the husband or his family to the wife, traditionally intended to provide financial security, particularly in the event of the husband's death. Nevertheless, mahr differs from dower in two fundamental respects. First, mahr is a legally mandatory component of all Islamic marriages, whereas dower was historically discretionary. Second, mahr must be stipulated at the time of marriage – whether paid immediately or deferred – while dower typically becomes payable only upon the husband's death.

From an anthropological perspective, mahr may also be categorized as a form of bridewealth, generally defined as transfers from the groom's kin to the bride's kin. However, Islamic law departs from this model in that mahr is paid directly to the bride rather than to her parents or family. As the bride's exclusive legal property, mahr serves to establish her financial autonomy, often ensuring independence not only from her natal family but also from her husband, who holds no legal entitlement to it.

## MAIN SECTION

The word mahr is not used in the Qur'an. However, the term mahr is equated with the Qur'anic words like ajr (reward), sadaqah (marriage gift), faridah (legal obligation), as they are interchangeably used by scholars of four schools of law. Mahr is considered to be a gift, the Qur'anic concept of mahr is not purely a gift, as a gift is given freely without expectation of anything in return and is not gifted as an exchange for something else. Instead, mahr involves a mutual exchange of something between two parties in the contract of marriage. Therefore, it appears to be more of an effect of a marriage contract.

The Qur'an elevates the legal and social status of women by explicitly commanding men, in multiple verses, to provide mahr upon marriage. Within the Hanafi school of Islamic jurisprudence, the payment of mahr is classified as wajib (legally obligatory). The underlying objective of mahr is to ensure that a wife, even if she possesses no

independent wealth at the time of marriage, enters the marital relationship with property or funds that are exclusively her own. While she may voluntarily choose to allocate this wealth toward her husband's business, household expenses, or other needs, such use is neither its intended purpose nor may it be imposed upon her through coercion.

According to "Hidayah", the minimum amount of mahr is set at ten dirhams. However, a well-known ḥadīth recorded in Sahih al-Bukhārī emphasizes that neither the size nor the material value of mahr is determinative. As narrated by Sahl ibn Sa‘d (r.a.), the Prophet Muḥammad (peace be upon him) permitted mahr to consist of even an iron ring, underscoring the symbolic and contractual nature of the obligation rather than its monetary magnitude. Furthermore, "Hidayah" states that if the amount of mahr is not specified at the time of concluding the nikah, the wife retains the right to claim no less than ten dirhams. In cases where mahr is omitted altogether or explicitly denied by the groom, the wife is entitled to mahr al-mithl – an amount equivalent to that received by women of comparable status within her family – or an amount determined by the judge in accordance with her social circumstances.

To secure the fulfillment of her mahr, a wife may lawfully refuse cohabitation, marital relations, or obedience to her husband, without forfeiting her entitlement to maintenance (nafaqah). Moreover, should the husband die before the payment of mahr, the wife's right to inheritance remains unaffected. Some juristic opinions found in secondary literature suggest that mahr must consist exclusively of real estate; however, this view lacks authoritative support. A comparative analysis of classical Hanafi texts such as "Hidayah", "Majma al-Maqsud", and "Mukhtasar" demonstrates that any property possessing definable value, quantity, and legal utility – thus qualifying as an object of civil transactions – may constitute valid mahr. Accordingly, land, houses, slaves, money, and tangible goods are permissible. By contrast, items prohibited under Shari‘a, non-existent property, and personal services rendered by the husband are not valid forms of mahr.

Since the mahr is not considered as the main requirement of nikah, but it is an obligation caused by nikah settlement. Therefore, according to Hanafi school of jurisprudence, even if a mahr is not fixed during the of nikah settlement the marriage is considered legal, automatically mahri-mithl (the amount of mahr which is considered an average in a particular area) becomes an obligation. Though according to other madhabs, for instance the Shafi‘iy madhab nikah is not legal unless the amount of mahr is settled.

### Cases of Full, Half, and non-Entitlement of the Mahr:

The wife is not entitled to any of the mahr if the separation takes place before intercourse due to a cause on the bride's part.

She is entitled to half of the mahr if the separation takes place before intercourse due to a cause on the husband's part.

She is entitled for full mahr in either of the following cases:

Death of either spouses.

After intercourse or private seclusion between them.

In Islamic jurisprudence, mahr is commonly categorized into several types based on the timing of payment and the manner of its determination (Haydarov, n.d.):

**Mahr Musamma:** It is a specified mahr, i.e., to say that the amount of mahr is defined in the contract of marriage.

**Mahr al-mithl:** It is like a mahr, in which the amount is unspecified. In such cases, the husband offers the bride-wealth to his wife suitable according to her wealth, the social status of her family, and her qualifications. Mahr al-mithl is applicable in all the circumstances when the exact amount of bride-wealth is not stipulated.

**Mahr al- mu‘ajjal:** The verbal meaning in this context of the word mu‘ajjal is to hasten. Therefore, the word mu‘ajjal means that which is executed promptly or preceded in priority in terms of time. Prompt mahr is due for payment to the bride immediately after marriage or whenever she demands it. **Deferred (mu‘ajjal):** There is a difference here from the above, and in this context, the verbal meaning of the word mu‘ajjal is to delay or postpone. And here, the term mu‘ajjal means that which is delayed or deferred. Deferred mahr becomes due at the dissolution of marriage either through divorce or death. While fixing the amount of mahr, it is usually divided into two parts as prompt and deferred, so that it becomes easier to distinguish between the two.

**Mahr mu‘akhar,** is a deferred and promised amount, payable at any agreed upon date following the consummation of the marriage. Often the deferred amount is larger than the amount paid at marriage. In theory, the deferred amount is supposed to provide the wife with a means of support, and is associated with the death or divorce of the husband, however this is a more traditional rather than Islamic stance on the matter.

**Mahr al-muqaddam,** the muqaddam should be viewed as importantly as the initial mahr payment as it is an obligation to be fulfilled by the husband and is considered debt if it is not given to the wife within the timeframe agreed upon between the couple. The

mahr in any Islamic marriage contract is a fundamental religious right of the wife, and the husband may not reduce the mahr. Even upon the husband's death, the deferred mahr is paid from his estate before all other debts, because it is a religious requirement. There is no limitation in the type of Mahr – it can be any type of property; such as gold, silver, real estate, currency, domestic appliances, carpets, dishes, cars, clothes, and any other thing that can be owned. However, it is in the good interests of the woman that, if feasible, she sets her Mahr to be real estate, gold, silver, and such. The true owner of Mahr, regardless of the type of property, is the wife. No one has the right to use or take possession of her property without her consent; even her father, mother, or husband. The profits of a woman's properties also belong to herself. The contract of Mahr is one such means. In order to prove his affection, honour his wife, and attain her heart, he bestows upon her a gift called Mahr. A newly married bride needs a means of livelihood – home, food, clothes, etc, It might be that one reason for the divine legislation of Mahr is to foster in women a reasonable amount of security and ease as regards such livelihoods. The Quran also expresses Mahr in this manner, as it is called sodaqotihinna and introduces it as a Nihlah, which means gift or endowment. This is one of the advantages and philosophies for the legislation of Mahr.

Likewise, where a wife voluntarily and unequivocally agrees to a reduction of the mahr, such reduction is legally valid. If she fully waives her entitlement to the mahr, the obligation is thereby extinguished, and she retains no subsequent right to claim it. However, if the husband induces the waiver or reduction through coercion, undue pressure, or fear, the purported remission is deemed invalid. In such circumstances, the mahr remains a binding legal obligation (wajib) upon the husband and must be fulfilled in full. The following can be given as a mahr (Tashkulov, J., Yusupova, N., Bekmirzayev, I., Sarsenbayev, A., & Masaidov, S. n.d.).

- Gold, silver or any kind of valuable jewellery
- Halal animals like a horse, sheep, camel, elephant or any other animal was stipulated as mahr.
- Lands, or a house or an apartment.
- Money

Nikah is regarded in Islamic thought as a significant divine blessing ordained by Allah subhanahu wa ta'ala. It is understood to serve as a foundational institution through which

both worldly affairs and matters of the Hereafter are regulated and harmonized. Islamic scholarship emphasizes the manifold wisdom and benefits inherent in marriage, including the preservation of moral integrity and the safeguarding of individuals from sinful conduct. Through marriage, emotional stability is fostered, personal desires are regulated within lawful boundaries, and individuals are protected from unethical intentions and moral deviation. Above all, nikah is viewed as a source of comprehensive benefit and spiritual reward, reinforcing its central role within the ethical and social framework of Islam. As Allah subhanahu wa ta'ala mentions in Qur'an:

Marry those among you who are single, or the virtuous ones among yourselves, male or female: if they are in poverty, Allah will give them means out of His grace: for Allah encompasses all, and he knows all things (Nur:32).

## CONCLUSION

Mahr (dower) constitutes one of the essential components of the Islamic marital contract (nikah), without which the marriage is considered incomplete in its legal and ethical framework. The Qur'an and the Sunnah comprehensively outline the rights and responsibilities of all members of society, including the distinct yet complementary roles of men and women within marriage. In this regard, the obligation of paying mahr is unequivocally established in Islamic law.

The Qur'an explicitly designates mahr as a mandatory obligation (faridah) upon believing men, commanding them to give it willingly and graciously to their wives. This obligation underscores the dignity, financial security, and autonomy accorded to women in Islam. Furthermore, Prophetic traditions (ahadith) emphasize the central importance of mahr, indicating that it should be specified and, ideally, paid at the time of the nikah or immediately thereafter.

Numerous narrations demonstrate that when a man expressed his intention to marry or informed the Prophet Muḥammad (peace be upon him) of having contracted a marriage, the Prophet would inquire about the mahr he had given or intended to give his wife. This practice highlights the indispensable role of mahr in validating the marital contract and ensuring justice for the wife.

Although Islamic jurisprudence allows a wife to voluntarily remit or forgo her mahr, this remains her exclusive right and cannot be imposed upon her. Notably, the

Prophet Muḥammad (peace be upon him) himself paid mahr to all of his wives, thereby establishing this practice as a confirmed Sunnah. Adhering to this Sunnah not only fulfills a legal obligation but also carries spiritual merit and serves as an ethical model for Muslim marriages.

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