

## MAHAR ESSENCE SHARIA MAQASHID'S AS A PERSPECTIVE

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### Abstract

This research explores the significance of the dowry command within Islam, tracing its origins to the Quran and its recognition as a privilege granted by God to women. The study underscores the non-interference principle, asserting that external parties should not meddle in this privilege designated for prospective wives. Furthermore, the research highlights the distinct nature of dowry – not a payment for the bride or a parental gift, but an integral requirement for husband-wife relationships. The dowry's role in establishing reciprocal connections and a foundation of affection is emphasized, along with the associated husband's leadership status. Approaching the topic from the perspective of Maqshid Syar'iah, the research situates dowry within munakahat fiqh, aligning it with maqshid at-tabi'iyah. This alignment is supported by Imam Syathibi's perspective, which regards maqshid at-taba'iyah as a pursuit that encompasses human desires, inclinations, and qualities.

**Keywords:** Mahar, Maqashid Sharia.

### A. Introduction

The sole method of satiating one's sexual cravings that is permitted in Islam is marriage, which is one of the religious orders governed by Islamic law. From this vantage point, a person who marries simultaneously has a desire to both follow religious laws (shari'a) and satisfy his biological cravings, which by their very nature must be controlled<sup>1</sup>.

A man and a woman can enter into a contract or commitment to live together and navigate the family ark as husband and wife. A marriage contract is used to carry out this agreement and binds the legitimacy of marriage in accordance with Islamic law. Since the prospective wives and husbands have entered into a legal arrangement through a marriage contract, each has a right and must uphold their individual

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<sup>1</sup>Ahmad Atabik and Koridatul Mudhiiah, "Pernikahan Dan Hikmahnya Perspektif Hukum Islam," *Yudisia* 5, no. 2 (2014): 293–294.

commitments. That privilege a man grants his prospective bride is an effort to advance women in Islam<sup>2</sup>.

The dowry, which is a prerequisite for a legal marriage in Islam, is one of the fascinating aspects of marriage. Dowry may take the shape of cash, goods, or other services with a mutually agreed-upon value. In order to establish a feeling of love and devotion between husband and wife, it is customary for prospective husbands to give their future wives dowries as a sign of their sincerity<sup>3</sup>.

One of the key tenets of Islam is mahr, which grants women their legal entitlements upon marriage in the form of a dowry or dowry. Both parties must agree on the amount of this dowry, which must be given truly as evidence of the husband's devotion to his bride. The dowry must be paid by the husband to his wife at the time of the marriage contract, either in cash or as a debt with a predetermined payment schedule, according to the consensus of the fiqh experts. It is important to consider mahr at the moment of marriage. Mahr is offered by the future husband as a token of gratitude to his future wife and as well as a show of love<sup>4</sup>.

Each region has an aspect called mahr that is closely tied to adat. For instance, the Bugis tribe has the phrases "Sompa" or dowry and "uang panai", where the better the status, education, occupation, and beauty, the higher the Uang Panai. The phrase "japuik money" or "bajapuik," which means "to pick up," is used in the Pariaman tradition, which is practiced in West Sumatra. Unusually, women give japuik money to men instead of the other way around. The men's social status, level of education, line of work, and position are also taken into consideration when determining the bajapuik award's size.

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<sup>2</sup>Jamaluddin dan Nanda Amalia, *Buku Ajar Hukum Perkawinan* (Aceh: Unimal Press, 2016), 70.

<sup>3</sup>Apriyanti Apriyanti, "Historiografi Mahr Dalam Pernikahan," *An Nisa'a Jurnal Kajian Gender dan Anak* 12, no. 2 (2017): 163–178, <http://jurnal.radenfatah.ac.id/index.php/annisa/article/view/1787>.

<sup>4</sup>Harijah Damis, "Konsep Mahr Dalam Perspektif Fikih Dan Perundang-Undangan," *Jurnal Yudisial* Vol. 9, no. 1 (2016): 24–25, <http://jurnal.komisiyudisial.go.id/index.php/jy/article/download/29/27>.

A "jojo" tradition, which refers to an agreement regarding the amount of money to be provided by the man to the woman and is typically tens of millions of rupiah, exists in South Sumatra. Depending on social rank, many things can be given as jojo, including food, cakes, clothing, and home goods.

The term "mayam" denotes respect for women in Aceh and is of equal or higher significance. The range for the mayam offered is 3 to 30, with 1 mayam equal to Rp 2,000,000. The caliber of the prospective bride also influences the size of the mayam.

According to the woman's request, the term "honest" in South Kalimantan can cost anywhere between Rp 5,000,000 and Rp 20,000,000. In terms of the dowry, the custom of the society actually sets a limit on how much should be given. A set of prayer equipment may be requested as part of the dowry in some regions, though this is not compulsory. This tradition is still practiced today, and the quantity of the dowry is decided upon by the organizers; it may take the shape of a significant sum of money or other priceless items, such as gold jewelry. The dowry award concept is based on a specific maqashid, which mandates that dowry be in the form established by the place of domicile, and is used in nations like Saudi Arabia, Egypt, and many provinces of Indonesia. This is being done in order to accomplish a few objectives in creating a sharia-compliant order, in order to facilitate a review from a maqasid-sharia standpoint.

## **B. Discussion**

### **1. Defenition of Dowry (Mahar)**

The word "*Mahar*" comes from Arabic which includes an abstract or masdar noun, namely "mahran" or a verb, namely fi'il from "mahara-yamharu, maharan". then, it was standardized with the mufrad noun, namely al-mahr, and now it has been Indonesianized with the same word, namely mahar or because of the custom of paying dowry with mas, dowry is identified with dowry.

*Mahar* in language means smart, proficient, because by getting married and paying a dowry, in essence a man is seen as smart and proficient in matters of

household affairs, good at dividing time, money, and attention to the family. Mahar is known as shaduqah, which is the same word as shidqu which means sincerity. This is a sign that what is given is proof of the husband's sincerity to marry

Other Arabic words for dowry are mentioned by Wahbah Zuhaili in the book *Al-Fiqh Al-Islami wa Adillatuhu*. Among them are: When a man gives a woman a dowry or dowry, it is referred to as a *saddaq*. As a prerequisite for a legal marriage, the male is required to provide the lady a dowry, which is referred to as his "obligation" in the Arabic word for "obligation," *Faridah*. A dowry is referred to as a "gift" or "sign of affection" given by a man to a woman and is called a "*nihlah*" in Arabic.

The dowry paid by the man in exchange for the sacrifice the woman makes in marriage is referred to as a "*ajrun*," which means "reward" in Arabic. '*Uqrun*: dowry is referred to as a debt owed by the guy and implies "debt". *Alaiqun*: refers to the dowry given by a man to a woman as a sign that he has taken responsibility for meeting the needs of the woman after marriage. *Taulun*: means "profit" and refers to the dowry given by men as an investment or profit for the future together. Meanwhile, Imam Ibn Hajar al-Asqalani, in the book *Fath al-Bari*, also stated that the term dowry in Arabic has many variations and other terms that differ in meaning.:

الصداق له ثمانية اسماء منظومة في قوله : صداق, و مهر, نهلة, وفريضة حباء و اجر ثم عقر,  
وعلا ئق

Meaning:

Mahar has eight names which are called (poetry) in his words: *Sadaq*, *mahar*, *nihlah*, *faridhah*, *hiba'*, *iqru 'alaiq*<sup>5</sup>.

Imam Taqiyuddin Abu Bakar defines dowry or dowry as the gift of specific assets or values given by a man to a woman at the time of marriage or during sexual activity in his book *Kifayah Al-Akhyar*. In Islam, mahar is a crucial step in the marriage process and is regarded as a woman's right that the man is obligated to

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<sup>5</sup>Muhammad bin Ismail al-Kanlani, *Subul al-Salam* (Semarang: Toha Putra Semarang, t., th), 147

uphold. As a mark of a man's gratitude and regard for the woman he will marry, the dowry also has a symbolic importance in Islam<sup>6</sup>.

In texts of Islamic law, the term "shidaq" is frequently used to allude to dowry. In Indonesia, the terms "dowry" and "dowry" are more frequently used. Although there are variations in how the phrases are used, there is no real distinction between the two terms' conceptions and meanings. These two terms allude to both women's rights in marriage as well as the possessions or worth that men offer to women at the time of marriage as a symbol of their love and respect<sup>7</sup>.

Ibn Qayyim asserts that dowry and shidaq serve the same purpose as gifts of real estate or money made by the bridegroom to the bride during a marriage. The distinction is in how the term is used. While the term shidaq can be used in a wider range of contexts, such as the payment of zakat or shadaqah sunnah, the term mahar is uniquely used in the context of marriage.<sup>8</sup>

The names mahar and shidaq, however, can be used interchangeably and have the same meaning in the context of marriage in a number of different countries or areas. Differences in the cultures or customs of each country or region may also be to blame for this.

## 2. Legal Basis for Dowry

One of the requirements for a legitimate marriage in Islam is mahar, which has a solid legal foundation. According to the Al-Qur'an, dowry is a privilege that men must grant to women as a sign of respect and to safeguard their marital rights. Allah has provided clarification on dowries according to Ibn Rushd, the Nash al-Qur'an, Sunnah, and Ijma provide as the foundation for this responsibility. Even academics believed that offering dowry is improper and should not be a requirement for a legal marriage. The following will be explained in more detail:

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<sup>6</sup>Imam Taqiyyuddin Abu Bakar Ibn Muhammad Al-Hussaini, *Kifayah Al- Akhyar*, Juz 2, (Beirut: Dar Al-Kutub al-Ilmiah, tth), 60.

<sup>7</sup> Abd Kohar, "Kedudukan Dan Hikmah Mahar Dalam Perkawinan," *Asas: Jurnal Politik, Hukum dan Ekonomi Islam* 8, no. 2 (2016): 42–50, <http://ejournal.radenintan.ac.id/index.php/asas/article/view/1245/985>.

<sup>8</sup> Ibid.

a. Theorem *Nash*

1) Quran in an-Nisa' (4) : 4

وَأْتُوا النِّسَاءَ صَدُقَاتِهِنَّ نِحْلَةً ۚ فَإِنْ طِبْنَ لَكُمْ عَنْ شَيْءٍ مِّنْهُ نَفْسًا فَكُلُوهُ هَنِيئًا مَّرِيًّا

Translated:

"Give a dowry (dowry) to the woman (whom you marry) as a gift willingly," the translation reads. If they happily offer you a portion of the dowry, then consume (accept) that present (as food) since it is delectable and healthy".<sup>9</sup>

According to Ibn Abi Hatim's explanation of Abu Salih's Asbab al-Nuzul verse 4 of letter An-Nisa, a man marries his daughter, but his parents keep the dowry instead of giving it to the bride. According to history, this measure is incredibly unfair and harms women's rights.<sup>10</sup>

2) Quran in An-nisa: (4) : 24

فَاتُوهُنَّ أَجُورَهُنَّ فَرِيضَةً

Translated:

Give them their dowry (perfectly), as an obligation.

Islam forbids a man from consuming or requesting a dowry that has been provided to his wife. According to the verse 20 of the letter An-Nisa, Allah SWT clearly forbids the husband from eating or even asking for the dowry that has been paid to his wife back, even if the husband desires to replace his wife with a different person. This demonstrates that the husband is not permitted to accept or seek for the dowry without the approval and knowledge of his wife because it has a very important and sacred significance in Islam.

b. Al-Sunnah

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<sup>9</sup> Ibid.

<sup>10</sup> Imam Jalaluddin al-Mahalli & Imam Jalaluddin as-Suyuti, *Tafsir Jalalain*, Terj. Bahrun Abu Bakar (Bandung: Sinar Baru Algesindo, 2010), 396.

Several hadith verses can be utilized to support a shari'a argument about the significance of giving a bride a dowry. A good dowry is the easiest to obtain, according to a hadith, among others.

وَعَنْ عُثْبَةَ بْنِ عَامِرٍ - رَضِيَ اللَّهُ عَنْهُ - قَالَ: قَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: «خَيْرُ الصَّدَاقِ أَيْسَرُهُ» أَخْرَجَهُ أَبُو دَاوُدَ،

وَعَنْ عُثْبَةَ بْنِ عَامِرٍ - رَضِيَ اللَّهُ عَنْهُ - قَالَ: قَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: «خَيْرُ الصَّدَاقِ أَيْسَرُهُ» أَيُّ أَسْهَلُهُ عَلَى الرَّجُلِ (أَخْرَجَهُ أَبُو دَاوُدَ، وَصَحَّحَهُ الْحَاكِمُ) فِيهِ دَلَالَةٌ عَلَى اسْتِحْبَابِ تَخْفِيفِ الْمَهْرِ، وَأَنَّ غَيْرَ الْأَيْسَرِ عَلَى خِلَافِ ذَلِكَ، وَإِنْ كَانَ جَائِزًا كَمَا أَشَارَتْ إِلَيْهِ الْآيَةُ الْكَرِيمَةُ فِي قَوْلِهِ {وَأَتَيْتُمْ إِحْدَاهُنَّ قِنطَارًا}

#### Hadith about material dowry

2729 - عَنْ عَامِرِ بْنِ رَبِيعَةَ: «أَنَّ امْرَأَةً مِنْ بَنِي فَرَازَةَ تَزَوَّجَتْ عَلَى نَعْلَيْنِ، فَقَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: أَرْضَيْتِ مِنْ نَفْسِكَ وَمَالِكَ بِنَعْلَيْنِ؟ قَالَتْ: نَعَمْ، فَأَجَازَهُ». رَوَاهُ أَحْمَدُ وَابْنُ مَاجَةَ وَالتِّرْمِذِيُّ وَصَحَّحَهُ).

2730 - (وَعَنْ جَابِرِ بْنِ عَبْدِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ: «لَوْ أَنَّ رَجُلًا أَعْطَى امْرَأَةً صَدَاقًا مِائَةً يَدِيهِ طَعَامًا كَانَتْ لَهُ حَلَالًا» رَوَاهُ أَحْمَدُ وَأَبُو دَاوُدَ بِمَعْنَاهُ).

2731 - (وَعَنْ أَنَسِ: «أَنَّ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - رَأَى عَلَى عَبْدِ الرَّحْمَنِ بْنِ عَوْفٍ أَثَرِ صُفْرَةٍ، فَقَالَ: مَا هَذَا؟ قَالَ: تَزَوَّجْتُ امْرَأَةً عَلَى وَزْنِ نَوَاةٍ مِنْ ذَهَبٍ، قَالَ: بَارَكَ اللَّهُ لَكَ، أَوْلِمَ وَلَوْ بِشَاةٍ» رَوَاهُ الْجَمَاعَةُ وَلَمْ يَذْكُرْ فِيهِ أَبُو دَاوُدَ: بَارَكَ اللَّهُ لَكَ)

#### Hadith about dowry in the form of services by teaching the Quran

عَنْ سَهْلِ بْنِ سَعْدِ السَّاعِدِيِّ - رَضِيَ اللَّهُ عَنْهُ - «أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - جَاءَتْهُ امْرَأَةٌ فَقَالَتْ: إِنِّي وَهَبْتُ نَفْسِي لَكَ: فَقَامَتْ طَوِيلًا فَقَالَ رَجُلٌ يَا رَسُولَ اللَّهِ، زَوَّجْنِيهَا، إِنْ لَمْ يَكُنْ لَكَ بِهَا حَاجَةٌ فَقَالَ هَلْ عِنْدَكَ مِنْ شَيْءٍ تُصَدِّقُهَا؟ فَقَالَ: مَا عِنْدِي إِلَّا إِزَارِي هَذَا. فَقَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - إِزَارَكَ إِنْ أَعْطَيْتَهَا جَلَسَتْ وَلَا إِزَارَ لَكَ فَالْتَمَسَ شَيْئًا قَالَ: مَا أَجِدُ قَالَ: الْتَمَسَ وَلَوْ خَاتَمًا مِنْ حَدِيدٍ فَالْتَمَسَ، فَلَمْ يَجِدْ شَيْئًا فَقَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - هَلْ مَعَكَ شَيْءٌ مِنَ الْقُرْآنِ؟ قَالَ: نَعَمْ فَقَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: زَوَّجْنِيهَا بِمَا مَعَكَ مِنَ الْقُرْآنِ.»

### 3. Dowry conditions

The dowry is subject to the following criteria.

- a. Dowry needs to be expensive. There is no restriction on the amount of dowry that may be given, but worthless dowry is ineligible. Dowry is defined as a little payment that is nevertheless legal.
- b. Dowry gifts need to be revered and helpful. Giving wine, pork, or blood is prohibited since it is forbidden and useless in Islam.
- c. The donated object cannot be the product of a ghasab, which is when someone takes something from someone else without their consent with the intention of giving it back later. Giving dowry in the form of ghasab-sourced commodities is prohibited, but the contract is still enforceable.
- d. Items provided as dowry must be transparent regarding their state and origin.<sup>11</sup>.

There is no set standard for the quantity of Mahar that must be donated in Islam. Mahar should be modified, though, to account for the potential husband's skills. As a result, everything of value—whether it takes the shape of goods, advantages, or services—can be utilized as dower. However, the value of the dowry should be harmonized with the social and economic standing and necessities of the intended wife<sup>12</sup>.

When considering dowries, Muslims should put spiritual and moral qualities ahead of material ones. Mahar is a sign of respect and gratitude for women as life partners in marriage, not of wealth or social standing. To avoid burdening the groom, the dowry should be offered gently. On the other hand, because she recognizes that dowry is a show of respect and not just a wedding perk, the prospective bride shouldn't complicate or enforce the desired shape or size of dowry.

Islam views marriage as more than just a union of two people; it also serves as the cornerstone for the establishment of a happy, prosperous family. Therefore, dowry and dowry must be viewed as a tool to create a happy household rather than a burden or a cause of discord.

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<sup>11</sup>Kohar, "Kedudukan Dan Hikmah Mahar Dalam Perkawinan."

<sup>12</sup>Imam Taqiyuddin Abu Bakar Ibn Muhammad Al-Hussaini, *Kifayah Al- Akhyar*, 415



Islam emphasizes the value of simplicity and practicality in this situation while discussing dowries or dowries in marriage. This is based on the teachings of the Prophet Muhammad SAW, who said that the marriage with the lowest dowry is the most auspicious marriage. Additionally, a kind-hearted woman is one who facilitates her marriage affairs, has high moral standards, and has a low dowry.

Thus, expensive and excessive dowry or dowry is not recommended in Islam because it can complicate marital relations and can even cause difficulties in establishing a husband and wife relationship. Therefore, Islam recommends that the dowry or dowry be given in a reasonable amount and according to ability, so that it does not cause burdens and difficulties for the prospective groom. a cheap dowry is to show the generosity of the woman, it does not mean that it lowers her self-esteem. From 'Aisha ra. He said that Rasulullah SAW said:

“Verily, the marriage with the greatest blessing is the one with the cheapest dowry. And he also said: A kind-hearted woman is one who has a generous dowry, facilitates her marriage affairs and has good morals. While women who are wretched are expensive dowries, difficult marriages and bad morals. (Narrated by Ahmad)<sup>13</sup> .

#### **4. Dowry distribution**

Scholars have agreed that paying the dowry is obligatory in Islam. As for the types of dowries, they can be divided into two, namely: Mahar Musamma and Mahar Mitsil.

##### **a. Maher Musamma**

Mahar musamma is a dowry that has been clearly stipulated in the shighat of the contract, both in form and amount. There are two types of musamma dowry, i.e:

- 1) Mahar Musamma Mu'ajjal, or the dowry paid by the prospective husband straight to his future wife. In Islam, paying the dowry as quickly as feasible is regarded as a good deed.

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<sup>13</sup>Sayyid Sabiq, alih bahasa Drs Moh. Thalib, 58-59.

- 2) Mahar Musamma Ghair Mu'ajjal, which is dowry whose form and quantity have been established but whose payment has been deferred until a future date.

The academics concur that dowry payment becomes required if dukhul (intercourse) takes place. If there has been a dukhul, the payment of the dowry becomes due; otherwise, it falls under the heading of obligations and receivables. The wife's heirs are not required to pay the unpaid dowry, however, if she gives it up after her husband has passed away. But if the woman refuses to forfeit her dowry, the heirs are obligated to deduct it from her inheritance. It is required to pay half of the dowry sum indicated in the contract if the divorce occurs before dukhul and the form and quantity have been set.

وَإِنْ طَلَّقْتُمُوهُنَّ مِنْ قَبْلِ أَنْ تَمْسُوهُنَّ وَقَدْ فَرَضْتُمْ لَهُنَّ فَرِيضَةً فَنِصْفُ مَا فَرَضْتُمْ إِلَّا أَنْ يَعْفُونَ أَوْ  
يَعْفُوا الَّذِي بِيَدِهِ عَقْدَةُ الزَّكَاحِ وَأَنْ تَعْفُوا أَقْرَبُ لِلتَّقْوَىٰ وَلَا تَنْسُوا الْفَضْلَ بَيْنَكُمْ إِنَّ اللَّهَ بِمَا  
تَعْمَلُونَ بَصِيرٌ (٢٣٧)

Translated:

‘If you divorce your wives before you mix with them, when in fact you have determined the dowry, then pay half of the dowry that you have determined, unless your wives forgive or are forgiven by the person holding the dowry. marriage bond, and your forgiveness is closer to piety. And do not forget the priority among you. Verily, Allah is Seeing of what you do<sup>14</sup>.

b. Dowry of *Mitsil*

Mahar Mitsil is a dowry that is not specified in the marriage contract and is instead determined by the customs of the wife's family. If a husband divorces his wife before they combine and fix the dowry, he is not required to pay it. However, the husband is required to offer mut'ah (gifts) to his wife in accordance with his means, as it is a good deed for both those who can afford it and those who are in need.

The third possibility is that choosing to pay the dowry for the mitsil is viewed as a decision that is fairer and more sensible because it is tailored to the husband's financial situation and the amount that the wife's family typically receives.

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<sup>14</sup>al-Quran, 2:237

### 5. Limitation in Dowry

Islam has no specific limitations on Mahar size. This inadvertently grants the prospective bride and groom flexibility over the Mahar's worth. No matter how much or how little, Makawin is returned to the humans in the form of products or money, depending on how good it is. Because humans are more aware of better practices and are more concerned with their own interests in worldly concerns, it might be modified to meet the local customs. So, syara' does not determine the Maha's size<sup>15</sup>.

According to Madzhab Syafi'i's ulama, anything has a nilai for using it to buy something is capable of being classified as a maskawin. In fact, anything with a nilai, whether it be a benda, a use, or a jasa, can be used as a maskawin<sup>16</sup>.

According to the hadith related by Amir bin Rabi'ah, a woman from Bani Fazarah wed a bridegroom wearing sandals. The Prophet then stated to the bride:

أرضيت من نفسك وما لك بنعلين , قالت : نعم فأجازته (رواه ابن ماجة والترمذي)

#### Meaning

"Are you prepared to pay yourself a dowry? what sandals are those? "Yes, I'm willing," the woman said in response. Thus, Rasulullah SAW approved of the union.<sup>17</sup>

Regarding this Hadith, there is debate among the Fuqaha' as to whether or not a pair of sandals with a value of ten dirhams can be given as dowry. The words of Rasulullah SAW, "Give a dowry!" are a reliable indicator of a dowry's worth, to which one of the friends enquired, "What is the dowry?" Allah's Messenger responded, "Something that his family approves of."<sup>18</sup> The Prophet SAW urged ladies to make things easier and easier for themselves, which may provide additional information about Mahar. The best woman is the most attractive physically and requires the least amount of dowry, according to the Prophet of Allah<sup>19</sup>.

From this hadith, it is clear that the Prophet did not specify the precise amount of the payment; rather, the bride's and her family's willingness was what mattered most. The dowry rate was thus not precisely determined by the ulama either. When the dowry is

<sup>15</sup>Fatihuddin Abul Yasin, *Risalah Hukum Nikah* (Surabaya: Terbit Terang, 2005), 58.

<sup>16</sup>Imam Taqiyuddin Abu Bakar al-Husaini, *Kifayah al-Akhyar*, 415.

<sup>17</sup>*Ibid.*

<sup>18</sup>*Ibid*

<sup>19</sup>Abdul Qadir Djaelani, *Keluarga Sakinah* (Surabaya: Bina Ilmu, 1995), 92.

studied using the Qiyas theory, it becomes clear that it will not have specific requirements because it is a payment for benefits received from the wife and cannot be calculated like wages<sup>20</sup>.

Therefore, there is disagreement among the academicians regarding the nominal size of the dowry. The minimal Mahar limit set by Hanafiyah Scholars is 10 silver dirhams. According to this school of thought, a dowry that is less than this size is deemed insufficient and as a result, the prospective husband is required to pay Mitsil's dowry (a dowry that is typical in size in society), taking into account that this size is the minimum size limit for stolen property that necessitates a hadd penalty against the thief.

The Malikiyah proposal, which equals the least amount of stolen property required for a limited sentence, is likewise the same. The Ulama Syafi'iyah and Hanabilah, however, do not provide a minimal threshold. Every valuable thing has the potential to become Mahar.

Another viewpoint contends that Mahar shouldn't be a burdensome and that both parties had previously been approved by measure<sup>21</sup>.

Some even assert that the Mahar of the Prophet Muhammad SAW's daughters and wives, which is 500 Dirhams, is the upper limit for what is considered Sunnah. While Mahar Rasulullah for Umm Habibah, approximately 400 Dinars, cannot be used as a standard, it is important to keep in mind that this was a gift given to King Najasyi in honor of the rulers of mankind at the time.

This implies that the amount of the dowry, whether large or small, is not set by Islamic law but rather depends on the husband's ability and the wife's willingness. The spouse must, however, be able to pay it, and if he is still in debt after its existence has been shown, otherwise, if he is still in debt after its existence has been established, the obligation owed to him must be paid in full. Later, on Qiyamat Day, you'll be held accountable if you don't pay.<sup>22</sup>

## 6. Maqashid syariah's Perspective od Dowry

### a. Definition

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<sup>20</sup>*Ibid*

<sup>21</sup>Fitri, "Eksistensi Mahar Pernikahan Dalam Islam."

<sup>22</sup>*Ibid.*

Maqashid al-Syari'ah linguistically consists of two words namely maqashid (مقاصد) and syari'ah (شريعة). Maqâshid means gap or purpose, the plural form of maqâshid is maqshad which comes from syllables which means to wish or intend. Maqash قصد means things desired and intended<sup>23</sup>.

Furthermore shari'ah in language means الماء الذي تحدر المواضع means the road to the water source, which can also be interpreted as the road to the main source of life<sup>24</sup>.

Wahbah al-Zuhaili defines maqashid syari'ah as the meanings and goals that shari'ah has kept in tact in all of its laws, or at least the majority of its laws, as well as the hidden meanings that shari'ah has inserted into each of its laws.<sup>25</sup>

Wahbah al-Zuhaili defines maqashid syari'ah as the meanings and goals that shari'ah has kept in tact in all of its laws, or at least the majority of its laws, as well as the hidden meanings that shari'ah has inserted into each of its laws<sup>26</sup>.

Maqashid Asy-Syariah experts define Maqashid Ash-Syariah with

أَنْ تُوَضَّعَ الشَّرَائِعُ إِنَّمَا لِمَصَالِحِ الْعِبَادِ فِي الْعَاجِلِ وَالْآجِلِ مَعًا

Meaning:

The sole goal of sharia in establishing syari'at regulations is to actualize humanity's benefit, both in this world and the hereafter.<sup>27</sup>

It is impossible to analyze the maqasid asy-shariah theory without also discussing maslahah. The goal of Allah SWT establishing a sharia is ma'laah for everyone, which is known as maqashid asy-shari'ah. In order to deliver malaah to His servants, maqasid asy-shari'ah, the ultimate objective of the law, manifests itself as masalaha. Therefore, there is a strong connection and tie between these two terms.

<sup>23</sup>Ibnu Mandzur, *Lisaan Al-Arab*, Jilid I ( Kairo: Darul Ma'arif). tt, 3642.

<sup>24</sup>Ahmad Warson Munawwir, *Al-Munawwir Kamus Arab-Indonesia*, 14<sup>th</sup> ed. (Surabaya: Penerbit Pustaka Progressif, 1997). 712.

<sup>25</sup>Abd al-Wahab Khallaf, *Ilmu Ushul Al-Fiqh*, (Kairo: Maktabah al-Da'wah al-Islamiyah, 1968. 1017.

<sup>26</sup>Djamil, Faturrahman, *Filsafat Hukum Islam*, Jakarta: Logos Wacana Ilmu, 1997, 125.

<sup>27</sup>Al-Allamah al-Muhaqqiq Abi Ishaq Ibrahim bin Musa bin Muhammad al-Lahmy alSyathibi (w. 790 H), *al-Muwafaqat, Kitab al-Maqashid*, Jilid 2, (al-Mamlakah al-Arabiyah alSu`udiyah: Dar Ibn Affan, 1417 H/1997 M), 9.

The Arabic phrase *shalah-yaslahu to shulha* or *maslahatun*, which implies something that provides goodness and benefits, is where the word *maslahah* originates. *Mafsadah*, which implies harm and ugliness, is the antithesis or its adversary. *Maslahah* and advantage share the same etymological roots and are equivalent in meaning and pronunciation. *Maslahah* also refers to compensation or a position with compensation.

b. Legal basis

The legal basis for *Maqâshid Syarîah* is found in Q.S al-Ankabut (29); 64 which translates as “And the life of this world is not but joking and playing. And verily the Hereafter is the real life, if they only knew. (Q.S. Al-Ankabut [29]: 64)

c. *Maqshid Syariah* distribution

This classification is crucial because it will help a legal practitioner identify *maqashid* and apply it to the process of legal *istinbath* using the *al-maqashidi* approach. Many *maqashid* scholars have divided or classified *maqashid* according to various different points of view. One of the barometers or metrics used to divide *Maqshid alSyrah* is categorized as follows:

- 1) Looking at things subjectively
- 2) The viewpoint of originality
- 3) Regarding Universality
- 4) With regard to urgency

In terms of subjectivity, *maqashid al-syari'ah* is divided into two types, i.e.<sup>28</sup>:

- a) *Maqahsid As-Syari'* (Allah and His Messenger), for instance: The initial motivations behind *syari'at*, the motivations behind comprehending *syari'at*, the motivations behind enforcing *syari'at*, and the motivations behind including servants in the purview of law.
- b) *Maqashid Al-Mukallaf* (servant), which refers to the intention behind the servant's beliefs, words, and deeds.

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<sup>28</sup>Nuruddin Bin Mukhtar al Khadimi, *Ilmu al Maqashid al Syari'ah*, (Riyadh; Maktabah al 'Abikan, 2001). 71.

Maqashid al syari'ah is classified into two categories based on originality, i.e.<sup>29</sup>:

- a) Al-Maqashid Al-Ashliyah: goals that do not pay attention to the interests of the servants, (no consideration of human desires, tendencies and characteristics), such as the goal of obedience in the obligation of zakat.
- b) Al-Maqashid At-Tabai'yah: a goal that pays attention to human desires, tendencies and traits. Such as the goal of meeting the needs of the poor in zakat worship.

In terms of the universality of maqashid al syari'ah, it is divided into two types, i.e.<sup>30</sup>:

- a) Al-Maqashid Al-Ashliyah: objectives that don't take the needs of the slaves into account (don't take into account human desires, proclivities, and features), such as the objective of compliance in the zakat obligation.
- b) Al-Maqashid At-Tabai'yah: a purpose that considers the aspirations, propensities, and characteristics of people. For instance, the zakat worship's objective of addressing the needs of the impoverished.

The three forms of maqashid syari'ah are classified according to their degree of urgency:

- a) Dharuriyat: A benefit that is required by all people and, if not provided for, could have grave consequences.
- b) Hajiyat: the pursuit of comfort and convenience in daily life.
- c) Tahsiniyat: objectives centered on good manners, moral excellence, the beauty of interpersonal relationships, and cultural beauty.

The maqashid scholars' ijtihad resulted in the barometers of subjectivity, originality, universality, and urgency. Abu Ishak As-Syatibi added the terms Juz'iyah (partial) and Kulliyah (universal) related to the barometer of universality, and Ibnu

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<sup>29</sup>*Ibid.*

<sup>30</sup>*Ibid.*

Asyur added the perspective of validity, dividing maqashid al syari' ah into Qathiyah (certain) and Dzanniyah (supposition)<sup>31</sup>.

If dowry is considered from the perspective of Maqshid Syar'ah, it is included in munakahat fiqh, making it a part of Maqashid at-Tabi'iyah. Maqshid at-taba'iyah, according to Imam Syathibi, is a purpose that considers the aspirations, propensities, and traits of people. This is due to Allah's wisdom, who is all-knowing and desires that everything in this world—spiritual and material—take place in consideration of human needs and continue to be to their advantage.

In terms of marriage law, such as istimta' desires, maqasid taba'iyah is a goal that comes after the primary objective of maintaining offspring. Allah created humans with this purpose as their nature, acting as a motivator for them to attain maqshad al Ashli (the primary goal)<sup>32</sup>.

Al-Syatibi identifies five items that fit into this category. The dharuriyah affairs are all that is required for human life, and if they are not attained, the laws of life would be destroyed, confusion will break forth, and corruption will grow. The five points of the Dharuriyah affairs are as follows: Religion, Soul, Mind, Hereditary Wealth, and Intelligence

Sharia maqasid When it comes to protecting women's honor, hifzu al-irdhi (dowry) is a component of marriage. While scholars who demand a certain nominal dowry or dowry as a ransom for a woman's soul (hifzhu al-Irdhi, essentially protecting her honor) fall within the dharuriyat category. Conversely, when scholars accept dowries or other forms of non-material compensation, they fall under the hajiyat category (i.e., have the legal right to do so).

### **C. Conclusion**

Islam recognizes the Koran as the source of the dowry command, and it is a privilege that God has granted to women to receive dowry from their husbands. Since it is the prospective wife's privilege, other parties shouldn't meddle.

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<sup>31</sup>*Ibid.*

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



Giving a lady a dowry does not constitute paying for her or receiving a gift from her parents. One of the requirements for a husband and wife relationship, along with reciprocal connection and a foundation of affection by giving leadership status to the husband in married life, is the dowry stipulation.

If considered from the Maqshid Sya'rah division, dowry is included in munakahat fiqh, making it a part of maqshid at-tabi'iyah. According to Imam Syathibi, maqshid at-taba'iyah is an aim that takes into account human desires, proclivities, and qualities.

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