

Identification of Dowry (Mahr) in Islam

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Abstract

This research aims to define dowry literally and idiomatically in Islam, the proof of dowry in the light of the Holy Quran and Hadiths of the Prophet Muhammad (Peace Be upon Him), as well as shed light with proofs on types of dowries, suitable dowry, deferred dowry, and prompt dowry. In the same order, the research discussed the opinions of the Islamic jurists and the reasons for the fall of the dowry, as well as the definition of solitude. This means that solitude is no emotional or physical obstacle for the wife or husband. Also, some of the articles related to dowry mentioned in the civil law of Afghanistan have been cited in this research. Alongside the types of women's periods, such as the period of a pregnant woman, the period of a non-pregnant woman, and a woman who does not have a menstrual illness, other related issues have been mentioned in detail.

Keywords: *Identification of Dowry, Commandment of Dowry in Sharia, types of Dowries, Amount of Dowry*

Introduction

إن الحمد لله نحمده، ونستعينه، ونستغفره، ونعوذ بالله من شرور أنفسنا ومن سيئات أعمالنا، من يهده الله فلا مضل له، ومن يضلل فلا هادي له، وأشهد أن لا إله إلا الله وحده لا شريك له، وأشهد أن محمدا عبده ورسوله.

Praise be to Allah; we praise Him, and we seek forgiveness and refuge with Allah from the evils of ourselves and the bad deeds of ourselves. He misleads him, and who misleads, there is no guide for him, and I bear witness that there is no God but Allah, alone, without a partner, and I bear witness that Muhammad is His servant and messenger.

امابعد : قال تعالى: « وَأَتُوا النِّسَاءَ صَدُقَاتِهِنَّ نِحْلَةً فَإِنْ طِبَّنَ لَكُمْ عَنْ شَيْءٍ مِنْهُ نَفْسًا فَكُلُوهُ هَنِيئًا مَرِيئًا ». (سورة النساء: 4)

Translation: And then, the Almighty Allah (SWT) said, And give dowries to women according to their happiness, so if they (women) are satisfied with you by forgiveness, then eat something from this dowry of your own soul, while it is tasty, legal (halal), and harmless (Surah Al-Nisa: 4).

Literary identification of Dowry:

Scholars have mentioned different names for Dowry like: (Al-Mahr, Wal-Nihlah, Wal-Fareedah, Wal-Ajr, Wal-Ghalika, and Aqr). As per literal meaning, dowry means granting and forgiveness. المهر صدق المرأة Translation: Dowry is a woman's gift. In Arabic its plural is Mahura, such as: Ba'al and Ba'ula, and Fahal and Fahula, as it is said: Wa Muhrat al-Mar-ata Mahra, Ai Attitha Al-Mahr. Also (Amhartah) means to give in a way with forgiveness. Dowry is mentioned by seven (7) names in the Holy Quran, which are mentioned below:

1: In the meaning of (al-Sadaq)

2: In the meaning of (Al-Nahlah) as Almighty Allah said: (النساء: ٤) « وَأَتُوا النِّسَاءَ صَدُقَاتِهِنَّ نِحْلَةً »

Translation: Give dowries to women in their manner with forgiveness. (Al-Nisa': 4)

3: In the meaning of (wages), as Allah Almighty said: (النساء: ٢٥) « وَأَتَوْهُنَّ أَجُورَهُنَّ »

Translation: Give the women their dowries. (Al-Nisa':

4: In the (البقرة: ٢٣٧) « وَوَقَدْ فَرَضْنَا لَهُنَّ فَرِيضَةً »

meaning of the obligation

Translation: And you have decreed a dowry for them. (Al-Baqarah: 237)

5- By means of dowry, as the Messenger of Allah (peace and blessings of Allah be upon him) said: «فإن لمسها فلها المهر بما استحل» Translation: If he touches a woman, there will be dowry for that woman.

6- In the meaning of (Al-Aliqa). Translation: Give it to the Alaiq. It was said to him, O Messenger of Allah, what do you mean by the Alaiq? The Messenger of Allah (peace and blessings of Allah be upon him) said to him: It is something that your family is satisfied with.

7- In the meaning of (Aqr), as it appears in the hadith, (عقر نساها- Aqr) (Dowry of women) Nisaaha).

These are the meanings of dowry (Mehr), which are mentioned in the Holy Quran and hadiths.

The Definition of Dowry in Sharia

المهر (هو اسم لمال يسمى في عقد النكاح)

Translation: Dowry is the name of property that is identified during the agreement of wedlock.

Idiomatic definition of Dowry:

Dowry is that kind of possession or wealth which becomes obligatory on husband by the occurrence of Biza (بضع) at the agreement of wedlock. Some scholars of Hanafi sect defined Dowry by such way:

“Or Dowry is that Property through which a woman is deserved by having wedlock or copulation with her.”

Imam Malik says: A Dowry is a piece of property that is given to women in exchange of profiting her.

Types of dowries

There are different types of dowries. Sometimes the dowry is fixed and sometimes unfixed. And the other division is based on payment such as Dowry Deferred and Dowry Prompt. The third division is based on its quantity that is half or the entire. This means if the husband pays all the dowry at once, and if he pays half of it before and half of it afterwards, but it is recommended to determine the amount of dowry to end the dispute, in the same order giving dowry before penetration can be also okay in order to the women take all the necessary

things for herself. The reason is the blessed prophetic Hadith of the messenger of Allah (peace and blessings of Allah be upon him):

(سأل علي رضي الله عنه رسول صلى الله عليه وسلم ان يدخل بفاطمته قال له صلى الله عليه وسلم: اعطها شيا فقال: ما عندي من شيء قال: فاین در عك الحطميته؟

قال علي هي عندي ، فقال صلى الله عليه وسلم فاعطها اياه) النسائي ج (ص ١٦)

Translation: Mohammad (Peace be upon him) requested Ali to meet and deliver Fatima (May Allah be pleased with her) her dowry, but he gainsays of Goods. Then messenger of Allah (PBUH) reminded him - where your *Khutmia* sword is? So, Ali gives that to Fatima (May Allah be pleased with her). Based on this hadith, we can say that, before being intimate paying dowry is recommended (Mustahab).

At dowry, postponing is allowable if a person is destitute based on their agreement because dowry is the same obligatory religious issue and it is a debt. As he cannot pay by time, so he is debtor and resort any time for fulfillment but immediate action is recommended (Mustahab).

The obligatory evidence and existence of dowry in the light of Holy Quran is available as follows:

Allah (SWT) says in (Sura Al Nesa verse number, 4):

واتو النساء صدقاتهن نحلته فان طبن لكم عن شيء منه نفسا فكلوه هنيا مريا (سورته النساء : ايت ٤)

Translation: Give dowries to your wives delightedly. If such wives show satisfaction with you by forgiving something from the amount of the dowry you have given to them, take and enjoy it with right and good cheer. This verse is from the Holy Quran which denotes proof of dowry. On the same way the interpretation of this verse is written in *Tafseer Rawau ul Bayan*.

In this verse, Allah (SWT) orders the males to give dowries of women as way of forgiveness & by happiness. It is not a reason to cast favors on them. There are many other verses like this, one in which husbands are commanded to pay dowries to their wives.

(فما استمتعتم به منهن فاتوهن اجورهن فريضته ولا جناح عليكم فيما تراضيتن به من بعد الفريضته ان الله كان عليما
النساء ايت ٢٤) حكيماً

And [also prohibited to you are all] married women except those your right hands possess. [This is] the decree of Allah upon you. And lawful to you are [all others] beyond these, [provided] that you seek them [in marriage] with [gifts from] your property, desiring chastity, not unlawful sexual intercourse. So for whatever you enjoy [of marriage] from them, give them their due compensation as an obligation. And there is no blame upon you for what you mutually agree to beyond the obligation. Indeed, Allah is ever knowing and Wise. (4:24)

(و من لم يستطع منكم طولا ان ينكح المحصنات المومنات فمن ما ملكت ايمنكم من فتياتكم المومنات والله اعلم بايمانكم بعضهم من بعض فانكوهن باذن اهلن واتوهن اجورهن بالمعروف محصنات غير مسافحات ولا متخذات اخدان) النساء ايت ٢٥)

Translation: And those of you who cannot afford to marry free, believing women (muhsanat), then marry such believing women whom your right hands possess. Allah knows all about your faith. All of you belong to one another.

Proof of Dowry According to Prophetic Hadiths

عن انس بن مالك - رضي الله عنه : ان رسول الله صلى الله عليه وسلم اعتق صبيغته وجعل عتقها صداقها (العدة العمدته
في احاديث ج ٣ . Vol . ٣) (ص ١٣٠٠)

Translation: Narrated from Hazrat Anis: Hazrat Mohammad (SAW) released Safia (Radii ullah) & appointed dowry, releasing her.

Also, there is another Hadith that ordered on the submission of dowry.

عن سهل بن سعد ان انبي صلى عليه وسلم - قال لرجل تزوج ولو بخاتم من حديد التوضيح لشرح الجامع الصحيح ج
Vol ٢٤ (ص ٤٧٣)

Translation: Narrated from sahal, son of saad (Radiiullah) that Rasoul (SAW) told a man: Get married even with an Iron Ring.

عن سهل بن سعد قال : جاءت امراته الى رسول الله صلى عليه وسلم فقالت انى وهبت من نفسي فقامت طويلا ، فقال زوجينها ان لم تكن لك بها حاجته ، فقال صلى عليه وسلم هل عندك من شيء تصدقها ؟ قال ما عندي الا ازارى فقال ان اعطيتها اياه جلست لا ازارلك فالتمس شيئا ، فقال ما اجد شيئا فقال التمس ولو كان خاتما من حديد ، فلم يجد فقال : امعك من القران شيء ؟ قال نعم سورته كذا السور سماها ، فقال : زوجناكها بما معك من القران (لادلته الرضيته لمنن الدر البهيته في المسائل الفقهيته ص ١٣٢).

Translation: Narrated by Sahal, son of Saad: A woman came to the Messenger of Allah (peace and blessings of Allah be upon him) and said, I offer my soul to you. Then she stopped for a long time, and then said, "I want to marry him if you do not have any objection." Then, the messenger of Allah (peace and blessings of Allah be upon him) told the man, do you have anything from the dowry? He said, "Just wimple." Mohammad (saw) told him that if you give her this wimple, she will not be able to use it. Ask, even if it is based on an iron ring. Nothing has seemed in your surroundings. Then he said to him, Is there anything else without Wimple to give her? He said, No, nothing." Then the Messenger of Allah (peace and blessings of Allah be upon him) told him (شيء) Do you have anything from the Holy Quran? He said yes, I have a few verses, and the messenger of Allah (peace and blessings of Allah be upon him) told him to show them to him in the dowry.

Conditions of Dowry

Here are three conditions to know which things are acceptable for women to be given by their husbands as dowry.

The first condition is that the dowry will be given something that is permissible to sell, as well as permissible to take possession of it, no matter it is the part of the exact thing or its cash (cost).

The second condition of dowry is the one that the dowry must be specified.

The third condition of dowry is that there will be no deception and there will be such a thing that the husband will surrender the related thing.

By association of jurists, it is the woman's job to dispose of her dowry at any time and her disposal is valid because it is the woman's right to give or denote the dowry. As she can dispose of her other property the same is applicable in case of her dowry.

Is dowry the condition for wedlock or not?

The Hanafies (may Allah have mercy on them) state that dowry is for the allowance of wedlock. If a person is without dowry or thinks like that, I ignore it, and the wife agrees with him on renunciation. In this case, their marriage is valid and solemnized, but the husband is required to pay the dowry.

The Ahnaf present the following verse as ٢٤ : النساء (و احل لكم ما وراء ذلكم ان تبتغوا بالموالكم) النساء : ايت ٢٤
a reason for it:

Translation: You are allowed to marry with every woman except those women whom you are prohibited from.

Imam Shahfi says: marriage without dowry is valid and dowry is not a condition for marriage.

Amount of dowry

Dowry is a measure and amount of wealth, but the minimum amount of dowry must be ten dirham & no limit for much gauge of dowry.

عن جابر بن عبدالله قال قال رسول الله صلى الله عليه وسلم (لا تنكحو النساء الا الاكفاء ولا يرجزوهن الا الاولياء ولا مهر دون عشرته دراهم) السنن الكبرى ج ٢ . Vol . (ص ١٣٣).

Translation: Narrated from Jabir son of Abdullah that messenger of Allah (PBUH) said: Don't marry women unless you are equal with them, in the same way, women do not give it in marriage, but their guardians will give it and there is no dowry except ten Dirham. It is clear from the Hadith that the minimum amount of dowry is 10 Dirham and there is no limit for the maximum amount of dowry. Also, Scholars write in the interpretation of this verse:

(ففي هذا الحديث دلالة ظاهرة على ما ذهب اليه الحنفية اذ فيه تصريح بان لا مهر دون عشر دراهم).

Translation: The Hadith clearly indicates that the minimum amount of dowry according to all Ahnaf (may Allah have mercy on them) is ten Dirham.

Causes for the Collapse of Dowry

The jurists have mentioned the reasons for the loss of the dowry in the following manner: according to Hanfi scholars the dowry is removed from the husband with four things.

The first reason: when there is separation between husband and wife before marriage or getting joined (Khulwat), as well as separation before divorce, in this case all the dowry is forfeited, no matter, if such separation is from the husband's side or wife's side. An example of this is when a woman becomes an apostate or denies Islam, and her husband remains a Muslim, or the wife annuls the marriage on the basis of her husband's faults based on inequality, they are not equal among themselves. Because the separation without divorce is the declination of wedding, in this case, the entire dowry is collapsed.

The second reason: Before penetration or after penetration, when the dowry is cancelled by wife (Khula), a man performs Khula with his wife on the dowry, and then the entire dowry is lost. If it is not done, then it is lost from the husband, and if the dowry is seized, then the wife has to return the dowry to her husband.

The third reason for declination of dowry: Waivers of dowry- when a wife is generous and gives her husband the dowry. In fact, the dowry is the husband's responsibility, just like a debt that is obligatory to pay. So, in this case, if the wife recompenses or ignores about her dowry to her husband, then the whole dowry is forfeited.

The fourth reason: when a wife gives her husband the whole dowry, in this case, the dowry is again forfeited. When the wife is dedicating it as a favor, from another side the husband also accepts her such favor or granting,

When a person dies before the settlement of the dowry and penetration

In this issue the scholars have different opinions. When a person dies before marriage and the determination of dowry, is there any dowry for this woman or not?

عن ابن مسعود رضي الله عنه ، انه سئل عن رجل تزوج امراته ولم يفرض لها صداقا ، ولم يدخل بها مات ، فقال ابن مسعود : لها مثل صداق نساءها ، لا وكس ولا شطط وعليها العدة الميراث ، فقام معقل بن سنان الاشجعي فقال :

قضى رسول الله صلى الله عليه وسلم في بروع بنت واشق، امراته منا، مثل الذي قضيت، ففرح بها ابن مسعود وهو حديث (صحيح) (صحيح فقه السننه وادلته ج ٣ . Vol . ١٧٠ ص)

Translation: Ibn Mas'ud (may God be pleased with him) was asked that when a person marries a woman and does not determine her dowry, or has not penetrated with her, until the person concerned After his death, Ibn Mas'ud (may God be pleased with him) said: For this woman, the dowry is equal, and there will be no reduction. There is also a limited period for her, and she also has the inheritance. Messenger of Allah (peace be upon him) had also made the same decision about Barda Bint Washiq, who was one of our women. Hearing this, Abdullah Ibn Masoud (may God be pleased with him) was very happy. (Sahih Fiqh Sunnah and Adalah, Vol. 3, p. 170). So, from the mentioned narration, it is known that, according to Abdullah Ibn Masoud (may God be pleased with him), there are three things: dowry, inheritance, and a limited period of time for the related woman. The second saying is that of Ibn Umar (may God be pleased with him). He says: When a person dies before the dowry of determination and penetration, there is no dowry for him. Ali quotes (may Allah be pleased with him) also: «عن مالك عن نافع أن ابنة عبد الله بن عمر وأمها بنت زيد بن الخطاب كانت (تحت ابن) لعبيد الله بن عمر فمات، ولم يدخل بها، ولم يسم لها صداقا، فابتعت أمها صداقا، فقال ابن عمر رضي الله عنهما: " ليس لها صداق، ولو كان لها صداق لم نمنعكموه، ولم نظلمها فأبت أن تقبل ذلك، فجعلوا بينهم زيد بن ثابت، ففرض أن لا صداق لها، ولها الميراث. و عن علي رضي الله عنه في الرجل يتزوج المرأة، ثم يموت، ولم يدخل بها ولم يفرض لها صداقا: " إن لها الميراث وعليها العدة، ولا صداق لها». (شرح مشكل الآثار ٣٥٤ ج ١٣ . ص ١٣٠) On the Translation: The daughter of Abdullah ibn Umar (may Allah be pleased with him) was married to Obaidullah (may Allah be pleased with him), and when Obaidullah (may Allah be pleased with him) died before the marriage and the settlement of the dowry, her mother asked for her dowry. Ibn Umar (may Allah be pleased with him) said to him: There is no dowry for her, but it is an inheritance, so if there was a dowry for it, then we will never forbid this dowry from you, and we will not oppress you. Ali (may Allah be pleased with him) also said: When a person marries a woman and she dies before intercourse and dowry, there is no dowry for this woman, only inheritance and a specific period of time. From the narrations of Ibn Umar and Ali (may God be pleased with them), it is known that there is no dowry for the woman, but there is an inheritance and a period of time. The conflicting argument in the related issue is that of Ali (may God be pleased with him), in the sense that the dowry is only a substitute for the woman, so here the woman has remained intact and safe; on this basis, there is no dowry for such a woman, and the hadith of Maaqal Ibn Sunan He replies that there is anxiety in this hadith because this hadith was narrated once (on Ma'qil bin Sinan) and sometimes (on Ma'qil bin Yasar) and sometimes (aan Ashja'a la yusma). Al-Waqdi has made this hadith weak because this hadith is about the people of Madinah, while the scholars of Madinah do not know the related hadith. Ali (may God be pleased with him) narrated these events in the same order: « بَأَنَّ مَعْقِلَ بْنَ سِنَانَ أَعْرَابِيٌّ بَوَّالٌ عَلَى عَقْبَيْهِ». (ج ٥ . ص ٧٣)

Translation: Ali (may God be pleased with him) says: Muaqal bin Sinan is a suburbanite, and he is doing an auction on his heels. Scholars respond to these sayings in the following way: In the hadith, disagreement about the lack of knowledge does not indicate weakness when the narrator is impartial, just as anxiety does not cause criticism because it is between the companions in the related hadith and Muqal bin Sinan's interpretation of the hadith. So, from these two explanations, it is known that for the woman whose husband dies before the entry and determination of the dowry, the dowry will be based on absolute narration.

Civil Law Command

Article (98) of the Civil Code, regarding the woman whose husband has been died before the penetration and specifying her dowry states (second chapter, 98 article): "if one of the spouses dies, even such death takes place before penetration or correct joining, then in this case, the entire dowry is required".

Dowry of Married Women before Divorce

A woman who is divorced before intercourse and the dowry is fixed for her is half the dowry for her, and when a woman is divorced after intercourse, it is full dowry for her, and if the dowry is not fixed then she will be a divorced woman. It is not free from two situations, either the divorce was given before the marriage or the divorce was given after the marriage. If the divorce is before penetration, then there is (Mutaa), and if it was after penetration, then there is Dowry Masal for the woman.

The reason for the first word of divorce is this verse of the Holy Qur'an, which Allah Almighty has said:

« وَإِنْ طَلَّقْتُمُوهُنَّ مِنْ قَبْلِ أَنْ تَمْسُوهُنَّ وَقَدْ فَرَضْتُمْ لَهُنَّ فَرِيضَةً فَيَصِفْ مَا فَرَضْتُمْ ». (البقرة: ٢٣٧)

Translation: And if you divorce them (i.e. the women) from the women related to touching them before, then in fact, the specified dowry is prescribed for them after, meaning that half of the prescribed dowry is required on you. Therefore, it is clear from the above-mentioned verse, that a woman, who is divorced before intercourse, still has half the dowry for herself. (Al-Baqarah: 237).

Conclusion

Dowry (Mahr) is the pre-requisite for marriage (NIKAH) in the Quran. MAHR is obligatory because it is called FAREEDAH in the Quran, which means it is the obligation of Muslim men to pay money to their wives cheerfully. Muhammad (SAW), the Prophet of Islam, was also known to have encouraged keeping dower moderate, simple, and easy. According to the Prophet (SAW), "the best of dowers is the simplest. (Al-Hakim and Al-Bayhaqi). According to the preceding statement, there are numerous wisdoms on the sanctioning of dowry itself. Among them is the display of female honor as a symbol of virtue and status in Islam. It is also a sign of a man's determination to build a relationship with a woman.

Dowry, in our opinion, will result in feelings of contentment for all parties involved, including the wife and their respective families. This is the most significant distinction between the *aqad* for marriage in Islam and other religions. This explanation, hopefully, will increase the love, mawaddah, and rahmah between husband and wife, leading to Jannat. We conclude with a prayer to Allah SWT: "Our Lord, grant us comfort in our eyes from among our wives and offspring, and make us an example for the righteous."

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