Mahr as a Form of Economic Security: 
A Preliminary Study

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Abstract

This article discusses the practice of mahr, as a symbol of property ownership among Muslims in Malaysia. Islamic law requires that when they marry, the bridegroom give his bride mahr or a form of dower. The practice of mahr has not been complicated by prescribed forms or amounts required but should be exercised according to the society’s socio-cultural context. Empirical data are presented to examine whether the practice of mahr provides Malaysian Muslim women with economic security after the death of a husband or termination of marriage by divorce. This article concludes that 60.3% of women in Malaysia receive mahr between RM 22.50 and RM 350 and that this amount is not sufficient to provide economic security.

Keywords

Islamic law – property rights – women's rights – mahr – economic security

1 Introduction

Islamic law prescribes that when they marry, the bridegroom gives his bride mahr, which is distinct from an inheritance. In principal, mahr, as a symbol of property ownership for women, should serve as a form of savings that can be used for a woman's own benefit, to build a family or to provide subsistence so

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that she does not become “economically helpless” after the death of her hus-
band or on the termination of her marriage by divorce. Al-Mutiʿi1 states that
mahr is a gift from the husband to express his joy or gratitude to his wife in
building a new life with him. Moreover, Singh2 states that: “The major object of
the dower is to provide the wife for her subsistence after the dissolution of her
marriage so that she may not become helpless after the death of the husband
or termination of marriage by divorce”. According to Korson,3 dower largely
functions as a form of insurance to provide a degree of economic security for
the wife should the couple separate or either party seek divorce. Rida4 states
that, in the case of divorce:

[…] the ṣadaq (mahr) offers the woman a clearly defined property or
amount of money that she could rely upon in the event of a divorce, with-
out the need for any further negotiations. Whereas some rich women
tend to settle for a symbolic ṣadaq, many women view as a security net in
case of the husband’s death or divorce.

2 Origins of Mahr

Mahr is a specific right mentioned in the Qurʾān and Ḥadith. The Holy Qurʾān
4:3 stipulates: “And give women their mahr freely and if they are good, enough
to remit any of it of their own free will, then enjoy it with a good conscience”.
The Ḥadith5 also mentions that the Prophet’s custom was to bestow 50 Dirhams
(RM 52,500) on each of his wives, with the exception of Umm Habībah (from
Abyssinia) on whom he bestowed 4,000 Dirhams. (RM 420,000).6

Under Islamic law, a marriage is a contract which almost always provides a
clause to an agreed-upon mahr. It is an “effect” of the contract and a compul-
sory settlement payable by the husband to the wife, which becomes the wife’s
absolute property. Under no conditions may a Muslim renege on his promise

3 J. Henry Korson, ‘Dower and Social Class in an Urban Muslim Community’, Journal of
4 Muhammad Rashid Rida, Ḥuqūq an-Nisaʿ fī l-İslām (Beirut: Maktab al-İlsmi, 1975).
5 Hadith narrated by Ibn Majah, Abwab al-Nikah, Bab Sadaq al-Nisa’, Hadith No. 1890. See Ibn
Majah in al-Syakh, Mawsūʿah al-Hadīth al-Syarīf, 2590.
and take back mahr. The Qur’ān protects the rights of women, stating: “and give the women [on marriage] their mahr as a free gift” (Q4:4).

According to the Shāfīʿī and Ḥanafī schools of thought, a marriage without the stipulation of mahr is valid. However, if mahr is not stipulated or if the amount is very low, then the woman is entitled to a proper dower (mahr al-miṯl). Even if the marriage contract states that no mahr is to be paid, a proper mahr is still payable, which depends upon the husband’s means and status of the wife’s family. The mahr agreed upon as part of a marriage contract is called “specified mahr”, or mahr al-musamma. Specified mahr is commonly settled at the time of the marriage and may be divided into two parts: “prompt mahr” (mahr al-muʿajjal) and “deferred mahr” (mahr al-muʾajjal). A prompt mahr is payable to the wife immediately after marriage or at any time upon her demand. The deferred mahr is payable to the wife at the end of a specified period or upon a specified event. If the marriage is dissolved by divorce or the death of either party, deferred mahr is payable immediately.

3 Form and Amount of Mahr

Money is not the sole form of mahr. Any type of property the value of which can be measured in monetary terms, and is not prohibited by Islam, may be used for mahr. Except for the provisions referred to by the Ḥanafīs and Mālikīs, no minimum or maximum amount for a specified mahr is fixed. The Ḥanafīs fix the minimum amount at 10 Dirhams (1 dirham = RM 105), whereas the Mālikīs set it at 3 Dirhams (315 RM). The amount of mahr also depends upon consideration of the financial circumstances of the husband and wife, the position of the wife’s family, her intellectual attainments or personal attractions, qualifications, and so forth.

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10 The Dirham and Dinar were used as the official Islamic currency beginning with the second Caliphate, 634-644 CE. The Islamic Dinar is the weight of gold equivalent to 4.3 grams, whereas the Islamic Dirham is the weight of silver equivalent to 3.0 grams.
Literature Review

*Mahr* under Islamic law has been adequately discussed by a number of writers, but the bulk of the work has concentrated more on debates discussing the *ḥukm*, or legal rulings on *mahr*, or its history before and after the advent of Islam. In addition, writers such as Tugby, Syed Alwi, Amran, and Raihanah discuss the practice of *mahr* from the perspective of *ʿādat* (customs) and socio-cultural context, as well as descriptions on how *mahr* is practiced in a particular society. Some writings have discussed the provisions of *mahr* in Islamic family law in particular countries, or focused on the applications of *mahr* in particular countries.


in specific countries. Other writings express *mahr* from a feminist point of view. However, Mehdi and Qaisi have analysed the effectiveness of laws with regard to *mahr*. There have also been empirical studies on *mahr* from the anthropological perspective. I. Doi and Esposito have written on *mahr* as economic rights for women, and how it can be an important element in the marriage contract for a woman to protect her rights.

As such, this article is important in that it attempts to identify whether *mahr* provides Muslim women with economic security after a husband's death or upon termination of marriage through divorce. Hopefully this article will also contribute to the enrichment of literature on women's rights in Islam in South East Asia and, in particular, Malaysia.

5 *Mahr*: A Malaysian Practice

Malaysia, which includes West Malaysia (also known as Peninsular Malaysia) and East Malaysia, is located in Southeast Asia. Peninsular Malaysia consists

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of 12 states; East Malaysia has 2 states. Besides being governed by *Hukum Syarak* (Islamic law) enforced through the Enactment of Islamic Family Law, the Malay Muslim community in Malaysia is also influenced by local customs. These two regulatory bodies have produced two types of marriage payments expressed in monetary terms: *mahr*/dower and *hantaran*/gifts. The practice of these two payments differs among the states in Malaysia and is shaped into a unique concept depending on the local customs. This article will only discuss the practice of *mahr* among the Muslim community in Malaysia.

*Mahr* is a compulsory settlement payable by the husband to the wife, to whom it belongs exclusively. *Mahr* is usually given in the form of money and is typically paid promptly in full. All the states in Malaysia, through the Islamic Religious Department issue guidelines or regulations for the amount of *mahr* that should be practiced by the Malay Muslim community. The amount is stipulated based on the current value of gold. This amount ranges between RM 22.50 and RM 100, corresponding to approximately USD 7 and USD 27, respectively.\(^{24}\) Some states also distinguish between the amount of *mahr* for virgins and that for widows.\(^{25}\) Although these amounts are only guidelines, and compliance is not enforced, the community at large typically complies with these policies in the practice of *mahr*. Pressure from within the community leads individuals to stipulate a low amount of *mahr* in a ritualistic manner under the assumption that the guidelines are consistent with the prophetic Hadith; “The best of marriage is that which is made easiest” (*Aʿẓamu n-nikāḥ barakah aysaruhunna maʿīnah*).\(^{26}\)

However, some Muslim communities, such as those in Perlis, Kedah, Kelantan, and Terengganu, do not follow these guidelines. Therefore, the amount of *mahr* is determined through discussion between the fathers of the bride and groom. However, the two practices do not reveal any significant differences in the amount of *mahr* given.

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\(^{24}\) These guidelines were created over 35 years ago, and there have been many recommendations from the Muslim community to review them. Suggestions have been given but only the government of Selangor in 2009 reviewed the guidelines and stipulated *mahr* in the amount of RM 300. This guideline was enforced in January 2010.

\(^{25}\) Such as in Sabah (*mahr* for widows is RM 80 and *mahr* for virgins is RM 100) and Federal Territory of Kuala Lumpur (*mahr* for widows is RM 40 and for virgins is RM 80).

Methodology and Empirical Data

Empirical data were collected based on surveys conducted in 2009. Respondents were randomly selected among those who were married in West and East Malaysia. From the 2,000 questionnaires distributed, only 1,669 were selected for analysis: 574 (34.4%) men and 1,095 (65.6%) women. Among these respondents, 1,615 (96.7%) are married, 8 (0.5%) are widowers and 46 (2.8%) are widows. The data was analysed using SPSS Version 12.0.

7 Mahr as a Form of Economic Security: a Discussion

To determine whether mahr is a form of economic security for Muslim women in Malaysia, several factors should be considered: (a) the method of payment; (b) the amount of mahr, and (c) the use of mahr.

7.1 Method of Payment

According to the Malaysian practice, all mahr is “prompt”, and it is paid immediately when the marriage contract (‘aqd) is concluded. In a society that practices “deferred” mahr, that is payable at any time after marriage or in case of separation or divorce, a wife’s security will be influenced by whether her husband is able to divorced her arbitrarily. This is because the mahr was pre-determined at a relatively high amount. A husband would need to think carefully before divorcing his wife because he would then have to pay all the deferred mahr upon divorce. Therefore, deferred mahr would be considered an economic security. However, one must ask whether, in the context of Malaysian Muslim society, it provides any form of security for women. Is the amount of mahr, which is between RM25 and RM100, sufficient and is it paid promptly?

7.2 Amount of Mahr

Table 1 shows the frequencies and percentage of the amount of mahr received by women in the 14 Malaysian states. A total of 628 (37.6%) women received mahr in the amount stipulated by the Islamic Religious Department of the 14 states which is ca. RM 25-100, whereas 379 (22.7%) received <RM 1,000 mahr. (On average, the mahr received by women in this latter category is <RM 350.) The data show that the number or percentage of women who received <RM 350 mahr is higher than in the other categories of women.
Despite receiving mahr at a low rate, the study showed a high awareness of investment among women because the data show that 594 women stated that they invested all their mahr in an institution of their choice (See Table 2), whereas 489 among the respondents used mahr to buy gold jewellery which was worn during the wedding ceremony. The latter may also be seen as a good form of investment. If an unexpected event occurs, such as the husband's death, or upon divorce, the jewellery can be sold to provide for the wife and her children. Thus, both choices will help provide for the wife in such a way that it keeps her from becoming destitute. Financial security in the form of gold is considered prudent, because gold does not usually depreciate in

<table>
<thead>
<tr>
<th>Amount of Mahr</th>
<th>Frequencies</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>&lt;RM 1000</td>
<td>379</td>
<td>22.7</td>
</tr>
<tr>
<td>RM 1000-2000</td>
<td>190</td>
<td>11.4</td>
</tr>
<tr>
<td>RM 2001-3000</td>
<td>124</td>
<td>7.4</td>
</tr>
<tr>
<td>RM 3001-4000</td>
<td>80</td>
<td>4.8</td>
</tr>
<tr>
<td>RM 4001-5000</td>
<td>94</td>
<td>5.6</td>
</tr>
<tr>
<td>RM 5001-6000</td>
<td>73</td>
<td>4.4</td>
</tr>
<tr>
<td>RM 6001-7000</td>
<td>41</td>
<td>2.5</td>
</tr>
<tr>
<td>RM 7001-8000</td>
<td>26</td>
<td>1.6</td>
</tr>
<tr>
<td>RM 8001-9000</td>
<td>17</td>
<td>1.0</td>
</tr>
<tr>
<td>RM 9000-10000</td>
<td>10</td>
<td>0.6</td>
</tr>
<tr>
<td>&gt;RM 10000</td>
<td>6</td>
<td>0.4</td>
</tr>
<tr>
<td>RM 25-100 stipulated by the Islamic Religious Department of 14 states</td>
<td>628</td>
<td>37.6</td>
</tr>
</tbody>
</table>

A total of 628 (37.6%) women received the amount (RM 25-100) of mahr stipulated by the Department of Islamic States.

* Kedah, Perlis, P. Pinang, Perak, Selangor, Federal Territory of Kuala Lumpur, Malacca, Negeri Sembilan, Pahang, Terengganu, Kelantan, Johor, Sabah and Sarawak
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Mahr as a Form of Economic Security

However, 373 of the respondents spent mahr to cover their wedding expenses while 64 respondents relinquished their entire mahr or a portion thereof in favour of their husband. Thus, such women have been put in a highly vulnerable financial position and have lost a good measure of their God-given independence.

8 Does Mahr Provide Economic Security for Malaysian Women?

It is highly doubtful that mahr provides economic security because 37.6% of women in this study only received mahr in the amount (RM 25-100) stipulated by the State Islamic Religious Department, and 22.7% of the respondents received <RM 350 (see Table 1). This low amount is impractical for either investment or purchase of jewellery. Although 35.6% of respondents stated that they invested their mahr and 29.3% of them purchased gold jewellery, such a low sum would yield relatively low returns, and only a small quantity of gold can be purchased with such an amount of money. Given the current price of gold, a woman cannot even buy 1 gram of gold with RM 100! Furthermore, 22.3% of the respondents used their mahr for wedding ceremonies, which would not provide them with any long-term benefits or economic security. Although 37.7% of the respondents received between RM 1,000 and 8,000 mahr (see Table 1),

Table 2 The use of Mahr

<table>
<thead>
<tr>
<th>Usage</th>
<th>Frequencies</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Investment and savings</td>
<td>594</td>
<td>35.6</td>
</tr>
<tr>
<td>Gold jewellery</td>
<td>489</td>
<td>29.3</td>
</tr>
<tr>
<td>Expenditure on wedding ceremony</td>
<td>373</td>
<td>22.3</td>
</tr>
<tr>
<td>Tanazul al-Haq*</td>
<td>64</td>
<td>3.8</td>
</tr>
<tr>
<td>Lending to others</td>
<td>82</td>
<td>4.9</td>
</tr>
<tr>
<td>Other</td>
<td>68</td>
<td>4.1</td>
</tr>
</tbody>
</table>

* Relinquishing the entire mahr, or any portion thereof, in favour of the husband.

this percentage appears to be very low when compared with the percentage (60.3%) of women who received <RM 100-350 mahr.

9 Conclusions

Malaysian women are in need of a paradigm shift. Islam does not deny that a husband is responsible for supporting his wife and children, both during the marriage and after a divorce, but these are not the only two possible outcomes. Unforeseen circumstances, such as the death of a husband who does not leave his wife any property or financial support. Even if a wife receives maintenance (for the waiting period) after a divorce, such payments only last 3 months. If any mahr (in terms of cash or gold jewellery) is kept or invested, the wife can use it to support herself financially while attempting to obtain employment. Women need to be aware of the possible outcomes so that they are equipped to save mahr or invest it in a venture as security against unforeseen circumstances. They should not spend freely without consideration for their future needs or unforeseen situations.

In addition, women (especially those who abide by the guidelines and assume that women who receive a low sum of mahr are blessed) should know that the guidelines are not requirements. They are simply guidelines. Women may ask for a higher amount of mahr, and such requests are absolutely within their rights. No one can take mahr from a woman unless she gives it voluntarily. Allah says: “and give the women [upon marriage] free [bridal] gifts graciously” (Q4:4, an-Nisā’ [The Women]), a direction that should be prudently observed because Allah does not specify the amount. In addition, the prophetic Ḥadīth, “The lower the mahr the greater the blessing”, should be read in conjunction with two other prophetic Ḥadiths: “The best of mahr is the simplest or most affordable;”29 and “The best of marriage is that which is made easiest”.30 It is easier for bridegrooms earning RM 1000 to provide RM 100-500 mahr, or those earning RM 10,000 to provide RM 1,000-5,000 mahr. Thus, women should not consider themselves “less blessed” if they expect a larger mahr. The intent behind mahr is to give women the right to property: will a mahr of RM 22.50-350 provide her with such rights? The answer is painfully obvious.

29 Ḥadīth narrated by al-Hakim and al-Bayhaqi, Sahiḥ al-Jami’, 327.
30 Supra note 25 at 4.