



Inequality of Dowry and Gifts from the Perspective of Munakahat Jurisprudence (Study of Bride-to-be in Jepalo Village, Gunungwungkal Subdistrict, Pati Regency)

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Abstract

This study aims to determine the inequality of dowry and gifts according to the study of fiqh munakahat in Jepalo Village, Gunungwungkal Subdistrict, Pati Regency. This research is a field research conducted using a sociological juridical approach (empiric/non-doctrinal/socio legal) through a series of interview processes, observation and documentation as data collection techniques, the next stage to test the validity of the data that has been presented in the form of a narrative the author uses extended observation and triangulation techniques While data analysis uses the Miles and Huberman analysis model which includes data reduction, data presentation, and conclusion drawing. The study of dowry fiqh munakahat case study in Jepalo Village, Gunungwungkal Subdistrict, Pati Regency, dowry is a mandatory gift from the bridegroom to the bride, dowry is not a condition or pillar of marriage but dowry must be held in akat in order to cause the contract to mix as husband and wife according to the views of the four madhhabs of Shafi'i, Hambali, Maliki, Hanafi. As for the dowry according to the four madhhabs, namely the hambali and maliki madhhabs standardize the dowry of 10 dirhams up to 1 dinar when converted or emitted in the current era of 2023 to 10 dirhams simplified 1 dirham when emitted to 1/4 gram of gold and the rupiah is IDR 280,000 × 10 = IDR 2,800,000, 1 dinar when emitted to 1 1/4 grams of gold and the rupiah is IDR 1,180,000. In Jepalo Village, the dowry is not so developed and inequality with gifts, there are still residents who give dowries in the range of Rp99,000-Rp100,000.

Keywords: fikih munakahat, dowry, inequality

Introduction

Many couples try to marry their lovers by aspiring to build a household that is sakinah, mawaddah, and warahmah in addition to connecting the relationship between families. This is in accordance with the content of Article 3 of the Compilation of Islamic Law explaining "the purpose of marriage is to create a family that is sakinah, mawaddah, and warrahmah"¹. The marriage process in Islam starting from the engagement stage to the reception is very concerned about each process, one of the interesting parts is the dowry, in Arabic the word dowry is referred to as Shadaq which is taken from the word

¹ MA-RI, "Kompilasi Hukum Islam," *Perpustakaan Mahkamah Agung RI*, 2011.



Shiddiqin ² which means right. Based on the Arabic language, it is called Shodaq taken from the word Shidq, called Shodaq to express the honesty and truthfulness of one's intention in marriage..³ The Hanafi school is of the opinion that the dowry is an obligatory reward that the married woman receives for sexual pleasure and its value is at least 10 dirhams ⁴, the Maliki school is of the opinion that the dowry is a gift that causes it to be permissible to have intercourse, this school also explains that the wife may refuse to have intercourse if the dowry has not been given even though she has previously had intercourse ⁵, the Shafi'i school is of the opinion that the dowry is an obligation of the man and there is no maximum and minimum limit in the amount of the dowry rate.⁶

وَأْتُوا النِّسَاءَ صَدُقَاتِهِنَّ نِحْلَةً ۚ فَإِنْ طِبَّن لَكُمْ عَنْ شَيْءٍ مِّنْهُ نَفْسًا فَكُلُوهُ هَنِيئًا مَّرِيئًا

Meaning: "Give the dowry to the women (whom you marry) as a willing gift. Then, if they give you part of it gladly, accept it and enjoy the gift gladly" (An-nisa: 4).

Related to dowry, the amount of dowry is often regulated unwritten in the customs of the community, one of which is in the area of Jepalo Village, Gunungwungkal Subdistrict, Pati Regency, the custom of dowry in the form of a set of prayer tools, this is not a necessity, the custom is still carried out from generation to generation, as it develops, The amount of dowry depends on the agreement between the organizers of both the male and female parties, whether it is a considerable amount of money or can be in the form of a set of high-value gold jewelry money or other valuable objects, the inequality between dowry and gifts is interesting to discuss the implementation in the

² Abd Kohar, "Kedudukan Dan Hikmah Mahar Dalam Perkawinan," *Syakhsiyyah: Jurnal Hukum Ekonomi Syariah*, 2022.

³ Firman Surya Putra, "Urgensi Dan Kedudukan Shodaq (Mahar) Dalam Pernikahan," *Jurnal An-Nahl*, 2021, <https://doi.org/10.54576/annahl.v8i2.33>.

⁴ Cumedda Cumedda, "BATAS MINIMAL MAHAR," *Mozaic : Islam Nusantara*, 2019, <https://doi.org/10.47776/mozaic.v5i2.142>.

⁵ Muhammad Iqbal, "KONSEP MAHAR DALAM PERSPEKTIF MAZHAB IMAM SYAFI'I," *AL-Mursalah : Jurnal Hukum Islam*, 2015.

⁶ Muhammad Iqbal.



time of giving it results in confusion in interpreting gifts and dowry in marriage. The opinion of Imam Syafi'i and Hambali is that there is no limit in determining the dowry, no matter how small the nominal dowry, the most important thing is the value and willingness of the woman so that a holy marriage can be carried out so that it is not delayed or canceled because of the small nominal dowry ⁷. In contrast to the opinion of Imam Malik who limited the dowry to a quarter of a dirham of gold or silver weighing three dirhams or with goods of comparable value ⁸. Once a woman came to Imam Malik and complained about the small amount of dowry that was not comparable to the prospective husband who was classified as a wealthy person, Imam Malik and Abu Hnafi then made the *ijtihad* to limit the dowry between 5, 10, and 40 dirhams to prevent men from taking women lightly only as entertainment. In the perspective of *fiqh*, the *fuqaha* differ in opinion, especially the *fuqaha* of the four *madhhabs* differ in opinion about the amount of dowry, but from the differences of each *fuqaha*, of course their thoughts direct the benefits of the application of dowry in Islamic law.⁹

Previously, a similar research on dowry perception was discussed by Zulaiifii, Uniiveirsiitas Islam Neigeirii Mataram, NTB, 2022. Title *Conteikstualiisatii Mahar Meinurut Peimiikiiran Ulama Eimpat Mazhab dan Reileivansiinya Diieira Konteimporeir*. The dowry is an obligatory consideration according to the majority of scholars, so that in marriage it is obligatory for a husband to give a dowry to his wife, However, the quality of the man and the woman is not implied by the way the dowry is given, because the dowry is not a symbol of selling, but as a sign of respect for the woman and a symbol of love and affection. The exact amount of the dowry is not specified in the text, so the scholars of the five *madhhabs* agree that there is no upper limit to the amount, while the community may decide on a lower limit. This journal focuses on analyzing the

⁷ Yuni Nur Saidah, "Tinjauan Hukum Islam Terhadap Pemberian Mahar Non Materi," *Isti`dal : Jurnal Studi Hukum Islam*, 2022, <https://doi.org/10.34001/ijshi.v9i1.3257>.

⁸ M.Winario, "Esensi Dan Standardisasi Mahar Perspektif Maqosid Syariah," *Jurnal Al Himayah*, 2020.

⁹ M.Winario, "Esensi Dan Standardisasi Mahar Perspektif Maqosid Syariah," *Jurnal Al Himayah* 4 (2020): 69-89.



relevance of dowry limits according to the four schools of thought in contemporary times, to understand the economic conditions of the Indonesian society that are improving and to realize the Sharia' law regarding the amount of dowry that is not too small and not too expensive and to realize the value of the dowry by following the empat mazhab which is adjusted to the economic conditions in the current era.¹⁰

Discussion

A. The Definition of Mahr

Mahr *مهر* etymologically means dowry. In terminology, dowry is an obligatory gift from the prospective husband to the prospective wife as the sincerity of the prospective husband's heart to create a sense of love for a wife to her prospective husband¹¹. In general, another word that is used for dowry in the Qur'an is "Ajr"¹² which means an award and gift given to the bride. In fact "Ajr" *اجر* is something that is given and cannot be lost. The word "Shadaqah" *صدقة* is also used in the Qur'an to emphasize giving or maintenance in family life¹³. The word "Faridhah" is used in the Qur'an, which literally means the obligatory maintenance or a portion that has been emphasized.¹⁴ Dowry is also an important element in marriage, which is an obligatory gift of the bridegroom in the form of money, goods or even services to the bride if she is pleased.¹⁵

¹⁰ Zulaifi, "Enkulturas Kontekstualisasi Mahar Menurut Pemikiran Ulama Empat Mazhab Dan Relevansinya Diera Kontemporer" (Universitas Islam Negeri Mataram, 2022).

¹¹ Mochamad Tholib Khoiril Waro, "MAKNA MAHAR DALAM ALQURAN (Kajian Historis-Antropologis)," *Jurnal At-Tibyan: Jurnal Ilmu Alquran Dan Tafsir*, 2019, <https://doi.org/10.32505/tibyan.v4i1.847>.

¹² Rian Erwin Hidayat, Moelki Fahmi Ardliansyah, and Musyaffa Amin Ash Shabah, "Mahar Perspektif Ulama Kontemporer (Studi Atas Pemikiran Muhammad Syahrur Dan Wahbah Az-Zuhaili)," *MASLAHAH (Jurnal Hukum Islam Dan Perbankan Syariah)*, 2022, <https://doi.org/10.33558/maslahah.v13i1.3513>.

¹³ Waro, "MAKNA MAHAR DALAM ALQURAN (Kajian Historis-Antropologis)."

¹⁴ Hidayat, Ardliansyah, and Ash Shabah, "Mahar Perspektif Ulama Kontemporer (Studi Atas Pemikiran Muhammad Syahrur Dan Wahbah Az-Zuhaili)."

¹⁵ Mahdalena Nasrun, "PENENTUAN NILAI MAHAR RASULULLAH SAW TERHADAP ISTRI-ISTRINYA," *Al-Mudharabah: Jurnal Ekonomi Dan Keuangan Syariah*, 2022, <https://doi.org/10.22373/al-mudharabah.v4i1.2018>.



B. Legal Basis of Dowry

It is obligatory for a man to give a dowry when he wants to propose to a woman, here is the legal basis for dowry:

Explained in the word of Allah SWT the recommendation of giving dowry as a willingness and sincerity of heart in Surah An-Nisa verse 4

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Meaning: "Give the dowry to the women (whom you marry) as a willing gift. Then, if they give you part of it gladly, accept it and enjoy it gladly" (An-nisa:4)

وَالْمُحْصَنَاتُ مِنَ النِّسَاءِ إِلَّا مَا مَلَكَتْ أَيْمَانُكُمْ ۚ كَتَبَ اللَّهُ عَلَيْكُمْ ۚ وَأَحِلَّ لَكُمْ مَّا وَرَاءَ
ذَلِكَمَ أَنْ تَبْتَغُوا بِأَمْوَالِكُمْ مُحْصِنِينَ غَيْرَ مُسْفِحِينَ ۚ فَمَا اسْتَمْتَعْتُمْ بِهِ مِنْهُنَّ
فَأْتُوهُنَّ أَجُورَهُنَّ فَرِيضَةً ۚ وَلَا جُنَاحَ عَلَيْكُمْ فِي مَا تَرَضَيْتُمْ بِهِ مِنْ بَعْدِ الْفَرِيضَةِ
إِنَّ اللَّهَ كَانَ عَلِيمًا حَكِيمًا

The Meaning : *It is also forbidden for you to marry married women, except for female slaves (prisoners of war) whom you possess as Allah has decreed for you. It is also forbidden for you to marry those who have husbands, except for female slaves (prisoners of war) whom you possess as a decree of Allah over you. For the pleasure you have derived from them, give them their dowry as an obligation. There is no sin on you in what you mutually agree upon after determining the obligation, for Allah is All-Knowing, All-Wise." (An-Nnisa:24)*

وَمَنْ لَّمْ يَسْتَطِعْ مِنْكُمْ طَوْلًا أَنْ يَنْكِحَ الْمُحْصَنَاتِ الْمُؤْمِنَاتِ فَمِنْ مَّا مَلَكَتْ أَيْمَانُكُمْ مِّنْ
فَتَايَتِكُمْ الْمُؤْمِنَاتِ وَاللَّهُ أَعْلَمُ بِأَيْمَانِكُمْ ۚ بَعْضُكُمْ مِّنْ بَعْضٍ فَاذْكُرُوهُنَّ بِأَذْنِ
أَهْلِهِنَّ وَأَتُوهُنَّ أَجُورَهُنَّ بِالْمَعْرُوفِ مُحْصَنَاتٍ غَيْرَ مُسْفِحَاتٍ وَلَا مُتَّخِذَاتِ



أَخْدَانٍ ۖ فَإِذَا أَحْصِينَ فَإِنْ آتَيْنَ بِفَاحِشَةٍ فَعَلَيْهِنَّ نِصْفُ مَا عَلَى الْمُحْصَنَاتِ مِنَ
الْعَذَابِ ۗ ذَلِكَ لِمَنْ خَشِيَ الْعَنَتَ مِنْكُمْ ۗ وَأَنْ تَصْبِرُوا خَيْرٌ لَكُمْ ۗ وَاللَّهُ غَفُورٌ رَحِيمٌ

□

The Meaning : *“Whoever among you does not have the means to marry a believing free woman (may marry) a believing woman from among the slaves you own. Allah knows better about your faith. Some of you are part of others (descended from Adam and Eve). Therefore, marry them with the permission of their masters, and give them their dowries in an appropriate manner, if they maintain chastity, are not adulterers, and are not women who take other men as their pets. If they are married and commit an abominable act (adultery), the punishment for them is half that of free women. That (the permissibility of marrying slaves) applies to those who fear hardship (in avoiding adultery) among you. Your patience is better for you. Allah is Oft-Forgiving, Most Merciful”.* (An-nnisa:25)

C. Value of Dowry

The majority of madhhabs agree that there is no limit on the amount of dowry, considering the economic capacity of a person, the fuqaha believe that the dowry is something that should be valued. In terms of munakahat fiqh, the fuqaha have different opinions, especially the fuqaha from the different madhhabs have different opinions on the range of dowry payments, but the different fuqaha have different opinions on the benefits of the application of dowry in Islamic law:

1. The opinions of the Shafi'i and Hambali Imams are that there is no limit to the amount of the dowry, no matter how small it is, the dowry must be of sufficient value and worth to the woman so that a holy marriage can take place so that it will not be delayed or canceled because of the small amount of the dowry.
2. Despite the opinion of the imam of Malik that the dowry should be limited to one gold diirham or three gold diirhams or an item of equal value, a woman came to



the imam of Malik and complained about the value of the dowry, which was not equal to that of her prospective husband who was considered well-off, Imam Malik and Abu Hanifah then deliberated on limiting the dowry to 5, 10, and 40 diirams to discourage men from considering a woman as a mere entertainment.¹⁶

To summarize these discussions, the opinions of the four madhhabs are presented in the following table, the criteria stated by the Imams (Imam Hanafi, Imam Malik, Imam Malik, and Imam Syafi'i) are presented in the following table:

Pendapat Empat Mazhab

No	Nama Imam Mazhab	Batasan Minimal	Emas / Nila Mata Uang Rupiah
1.	Imam Abu Hanifah	10 Dirham	One dirham is equal to $\frac{1}{4}$ gram of gold, if it is valued in rupiah money at this time it is around Rp. 280,000 x 10 = Rp2,800,000
2.	Imam Malik	$\frac{1}{4}$ Dinar of Gold or 3 Dirham of Silver (or the equivalent of three dirham / the equivalent of one of the two).	$\frac{1}{4}$ Gold Dinar = 1 $\frac{1}{4}$ Grams of gold. 1 Gram (Rp. 900,000) + $\frac{1}{4}$ Gram (280,000) = Rp1,180,000, Thus in Malik's view a man is obliged to give a dowry of at least Rp1,180,000
3.	Imam Syafi'i	There is no minimum limit	There is no minimum limit
4.	Imam Hambali	There is no minimum limit	There is no minimum limit

The basis of willingness and mutual consent (mutual ridho) is an important foundation or foundation in building a household that is sakinah mawaddah wa

¹⁶ Dian Ramadhan, "Pandangan Mazhab Hanafi Dan Maliki Terhadap Jumlah Kadar Mahar Pada Akad Nikah," *Jawi* vol 3, n0 (2020).



rahmah. If the male party is made difficult in marriage through the maskawin requirements which must be limited in number and determined, then this will cause problems for the male party who cannot afford it. The size of the maskawin does not guarantee the happiness of a household, because there are many other factors that affect the integrity of the household.

D. Custom or *al-'urf*

Al-'urf is composed of three words 'aiin, ra', and fa' meaning keinal, starting from the word ma'riifah as the divinity is defined by ma'ruf which is defined as the custom and the word 'urf is a good custom from the divinity is a custom that is considered good and is recognized by the intellect. 'urf is a custom that is repeatedly practiced between one another in the form of general and specific speech and actions, 'urf becomes part of the life of the community to regulate the orderliness of the survival of life. Fuqaha agree on the use of 'urf as an alternative to sharia law, but in the intensity of the use of fuqaha there are differences of opinion as a basis for shara', Hanafiyah scholars rely on 'urf which prioritizes qiiyas khafii and general texts ('urf synthesizes general texts), Malikiyah scholars prefer 'urf over ahad hadeeth as a basis for determining the law, from the two scholars who use 'urf more in determining the law than the Shafi'iyah and Hambali scholars, the following are the types of 'urf from the perspective of its practice :

- a. 'Urf that looks at the object:
 - 1) 'urf *lafzi* is a daily simple speech in talking about something so that people understand it better..
 - 2) 'urf *amali* is the daily custom of the community when transacting, a simple custom that can be mutually agreed upon is called a good contract.
- b. 'Urf words or deeds:
 - 1) 'urf *amm* is a habit that has been popularized outside the community.



- 2) 'urf khas is a custom that only applies in a particular region and not everyone knows about it.
- c. 'urf is accepted or rejected by the custom.:
 - 1) 'urf *ash-shahih* is a good habit that is repeatedly practiced, and this habit is in line with the text that brings about the public good..
 - 2) 'urf *al-fasidah* is a custom that leads to entertainment, this custom causes a lot of harm so that it cannot be used as an obstacle to the Shari'ah.¹⁷

The people of Deisa Jepalo who use dowry in the form of intimacy if viewed from the type of 'urf then it is included in 'urf *amalii* or 'urf in terms of its object, The dowry has become a customary custom, but if we look at it in terms of its validity, the dowry is considered 'urf *as-shahih* because the item used does not contradict the Shara' law, The definition of dowry in Jepalo Village falls into the category of 'urf *'amm*, which is a custom that has been repeated in a particular location and period of time, Aside from the benefits gained from the dowry custom, there is still a 'urf *fasiid* that deviates from the Shara' as many couples try to make the dowry as much as possible because of the long-term benefits of the dowry and the obligation to pay the dowry is forgotten.

E. Community Perceptions of Dowries and Gifts in Jepalo Village

In Islam, the dowry is not the 'price' of a woman being married, as marriage is not the sale of a woman. As a tangible manifestation of the masculinity of the man who acts to marry the woman of his dreams, this is also proof that Islam greatly values women. The low nominal dowry given at the time of the wedding to the peireimpuan bride in Deisa Jepalo is not directly proportional to the custom of holding a wedding ceremony with the high cost of other costs in the wedding, which

¹⁷ A B M Fitri, "Tinjauan Kehujjahan 'Urf Terhadap Mahar Pernikahan Perspektif Madzahib Al-Arba'Ah," *Usratuna: Jurnal Hukum Keluarga Islam* 5, no. 1 (2021): 19-44.



actually does not have an implied relationship with the marriage contract as much as the high cost of the wedding cake, sound system and so on, which is an important concern because it can have implications for the confusion in the understanding of the dowry..

The researcher in the observation of the implication of dowry restriction in Desa Jepalo used the view of a Sociologist, namely Mrs. Iirzum Fariihah, S.Ag., M.Sii. she said that the implication of dowry restriction at this time is :

“The lack of understanding of the law of dowry led the community to misunderstand the dowry that is in accordance with the munakahat law, this I revealed in accordance with the reisponden's understanding in the field, the custom in a series of wedding processes led the community to misunderstand, because what the respondents understood was what was usually done when holding a wedding ceremony or witnessing it. The lack of understanding of education and the habits of the environment make the community difficult to understand and apply the two meanings. The implication of the current dowry definition is influenced by two factors 1). Education, the underdevelopment of education in the village leads to underdeveloped dowry, this education factor can be seen from the village institutions and religious leaders in the village, many religious leaders in the village are more focused on the study of fiqh of worship such as prayer, fasting, zakat, waqf, without realizing that the study of fiqh of munakahat also has a significant impact on the continuity of the life order.. 2). The habit factor, society is now more interested in the habit factor in marriage, one of which is a wedding that uses a motorbike, car, one unit of household appliances refrigerator, rice cooker, washing machine, the second is holding a massive reception, this habit is considered important by the community because according to his understanding for self-recognition. It is this form of self-recognition that leads the community to focus on the custom of marriage without realizing that there are things that in the eyes of the law are more important than the dowry, the dowry in the view of the village community is only a symbol of marriage, This custom is a contradiction between the law of dowry and the customs that lead to misunderstandings or



consequences that are more common, such as underestimating women, joking during the wedding.”¹⁸

The views of the religious leaders in Jepalo Village, namely Mr. Asharii as well as the behavior of the village mudin and village officials, are not far from the point of view of the sociologist Mrs. Iirzum Fariihah, S.Ag., M.Sii. The factors of the perception of inequality in dowries and gifts during marriages in Jeipalo Village are two, namely education and customs..

“The dowry estimation in Jepalo Village in the past 5 years has changed from Rp50,000 to Rp100,000-Rp200,000 recently. The community is not aware of the change because of the factor of education, the majority of the religion is Islam but ordinary Islam, general Islam, so from the factor of education, the community is still beautiful so that the community carries out the wedding ceremony including the dowry according to what the community knows from previous practices.”¹⁹

F. Analysis of Community Perceptions of Dowries and Gifts in Jepalo Village

Al-'urf is composed of three words 'aiin, ra', and fa', meaning familiarity, starting from the word ma'riifah as inferred from the word 'riif' with ma'ruf as inferred from the word 'urf', and the word 'urf is a good custom from the inference that it is a custom that is considered good and accepted by the intellect. 'urf is a custom that is repeatedly practiced between one another in the form of general and specific speech and actions, 'urf becomes part of the life of the community to regulate the orderliness of the survival of life. Fuqaha agree on the use of 'urf as an alternative to sharia law, but in the intensity of the use of fuqaha there are differences of opinion as a basis for shara', Hanafiiyah scholars rely on 'urf which prioritizes qiiyas khafii and general texts ('urf synthesizes general texts), Maliikiiyah scholars prioritize 'urf over ahad hadeeth as a basis for determining the law, of which the two scholars use 'urf more in determining the law than the Shafi'iyah and Hambalii scholars.

¹⁸ M.Si Irzum Fariihah, S.Ag., wawancara oleh penulis, 26 Mei 2023, wawancara 10, transkrip.

¹⁹ Ashari, wawancara oleh penulis, 17 Mei 2023, wawancara 12, transkrip.



The people of Jepalo Village in the estimation of the dowry if viewed from the type of 'urf then it is included in 'urf amalii or 'urf in terms of its object, the dowry teirseibut meinjadii seibiiasaani yang biasa, However, if we look at it in terms of its validity, the dowry is considered 'urf as-shahiiah because the item used does not contradict the Shara' law, The existence of dowry in Deisa Jeipalo is categorized as 'urf 'amm, which is a custom that is repeated in a particular location and time that is currently in effect, Aside from the benefits derived from the custom of the dowry, there are still some invalid 'urfs that deviate from Shara' because many couples misinterpret the dowry, and people's knowledge overlaps between the dowry and the custom. Previously published by Abd. Basiit Miisbachul Fiitrii, STAl Darussalam, Nganjuk, 2021. The title of the review of the validity of 'Urf' on the dowry of marriage is Madzahiib Al-Arba'ah. Based on the types of 'Urf in terms of its objectivity, validity and scope, the use of dowry in marriage falls into the category of 'Urf 'amalii or customs in the form of actions, namely the customs of the community that are related to ordinary actions. This is because the use of dowry in a wedding is always carried out and has become a custom or culture of the community at the time of the wedding. If we look at it from the perspective of its validity, then the use of dowry in a marriage in any form is included in the 'urf ash-Shahiiah because it is in the form of an item or quality that is not contradicted by Shara'. If it is seen from the extent of its reach, then it uses the theory of 'Urf 'Amm, which is a custom that applies to a location, time, and situation, or a custom that applies widely in Jepalo Village, this tradition has been going on for a long time, and until now this tradition is still going on and is still being carried out by the community at large.²⁰

The dowry in Jepalo Village is known from the research above, it is necessary to elaborate on the reasons for the inequality of dowry and gifts at this time which

²⁰ Fitri, "Tinjauan Kehujjahan 'Urf Terhadap Mahar Pernikahan Perspektif Madzahib Al-Arba'Ah."



has been analyzed by researchers to find out the reasons for the occurrence of the first, from the educational factor, the lack of public knowledge about the law of dowry from the ignorance of individuals or because of religious leaders who only focus on the fiqh of worship. Secondly, from the factor of customs that grow in the community so that the community prefers to understand what is visible or tangible so that it causes misunderstanding between customs and the law of dowry in accordance with fiqh munakahat.

Javanese women according to the reispondein are nriman, so they do not feel it is appropriate to ask for a high dowry. This is in contrast to other societies in Aceh or outside Java, such as the Bugiis, who offer dowries as a form of appreciation and even pride to women in marriage. It is very natural that the dowry in these regions is very high. The other respondents, however, saw that the decrease in the nomiinal dowry in Javanese society was due to the increase in the economic level of the Javanese. This may have an effect, but if analyzed, it is not a dominant factor in communities where the ability to pay a nomiinal dowry is not high.

Interview by Mr. Mudin Ashari "Most of the people in this community are hereditary, their young people like to migrate, some migrate outside the region and even outside the country. Because Jepalo village is located on a hill so the majority of farmers are so many young people prefer to work outside their area, most of the people who go abroad are successful, they have succeeded in building a house, buying livestock such as cows."²¹

This view is mostly based on the existing understanding of values in the community, which believes that the dowry is only a form of marriage symbology, nothing more than that, let alone seen as a nomiinal for selling a woman. This understanding of the dowry is well understood by all parties, be it the guardian, the woman's judge or the husband's judge, and is in line with the concept in fiqh that upholds the right to determine the dowry on the part of the woman and her

²¹ Ashari, wawancara oleh penulis, 19 Mei 2013, wawancara 13, transkrip.



guardian. Asking for dowry in their view is a taboo because in their view, dowry is only a ceremonial aspect of marriage.

G. Analysis of Munakahat Jurisprudence on Dowry and Gifts in Jepalo Village

In Islam, the dowry is not the 'price' of a woman being married, because marriage is not the sale of a woman. As a tangible manifestation of the masculinity of the man who acts to marry the woman of his dreams, this is also proof that Islam greatly values women. The low nominal dowry given at the time of the wedding to the bride in Jeipalo Village is not directly proportional to the custom of organizing a wedding ceremony in conjunction with the high cost of other expenses in the wedding, which actually does not have an implicit connection with the marriage contract as much as the high cost of the wedding cake, sound system and so on, which can lead to implications of confusion in the understanding of the dowry.

The majority of madhhabs agree that there is no limit on the amount of dowry, considering the economic capacity of a person, the fuqaha believe that the dowry is something that should be valued. In terms of the fiqh of munakahat, the fuqaha have different opinions, especially the fuqaha from the different madhhabs have different opinions on the extent of the dowry, but the different fuqaha have different opinions on the benefits of the application of the dowry in Islamic law :

- a. The opinion of the Shafi'i and Hambali Imams is that there is no limitation in determining the dowry, no matter how small the dowry is, the dowry must be valuable and valuable to the woman so that a holy marriage can be held, so that it is not delayed or canceled because of the small dowry.
- b. Despite the opinion of the imam of Maliik who limited the dowry to a value of one dirham eimas or a value of three dirhams or an item of equal value, a woman came to the imam of Maliik and complained about the value of the dowry, which was not equal to the value of her husband's who was well-off, Imam Maliik and



Abu Haniifah then deliberated on limiting the dowry to 10 dirhams, ¼ dinar to discourage men from considering a woman as an entertainment.²²

In line with people's understanding of the position of the dowry in marriage, the majority of people consider the dowry as a condition of marriage which is more of a ritual nature, whereas in essence the fuqaha are of the opinion that the dowry is not a legal condition of marriage, rather it is a form of obligation and a consequence of the marriage contract that binds a man even if the woman is already married without a dowry.²³ This is a command of Allah, which is clearly stated in one of the verses of the Qur'an, namely Surah An-Nisa verse 4, that the husband is obliged to pay the dowry to his wife.

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

Meaning : *"Give the dowry to the woman (whom you marry) as a remuneration that is full of honor. Then, if she gives you a share of the dowry, accept it and enjoy the dowry with pleasure".(Q.S An-nisa :4)*

A nuptial contract without a dowry is actually valid, but even after the contract a husband still has to give a dowry to his wife, only Imam Maliik has set the dowry as a pillar in the marriage contract, the existence of which can determine the validity or otherwise of the marriage contract. Meanwhile, in the practice of dowry calculation in Jepalo Village in the past three years, there are still examples of dowry calculation of Rp99,000-Rp100,000 by couples T and S with the statement "When I registered my marriage at the KUA, I was immediately asked by the naib if I wanted to ask for a dowry of Rp200. 000 and then it was entered into the KUA's registration book." With the deimiikiian dowry, the dowry that was given was very low below the standard dowry minimum according to Imam Syafi'i and the minimum according

²² Ramadhan, "Pandangan Mazhab Hanafi Dan Maliki Terhadap Jumlah Kadar Mahar Pada Akad Nikah."

²³ Nazil Fahmi, "Tinjauan Perspektif Fikih Terhadap Pelaksanaan Mahar Dalam Pernikahan," *Familia: Jurnal Hukum Keluarga* 2, no. 1 (2021): 88-103, <https://doi.org/10.24239/v2i1.26>.



to Imam Abu Hanifah. The minimum dowry as discussed is a minimum of 1/4 of a dirham and a maximum of 10 dirhams.²⁴ If we look at the year of marriage at this time as it is known that 1/4 of a dirham is equal to 1 ¼ grams of gold which is denominated Rp1,180,000, 10 dirhams is simplified as 1 dirham is equal to ¼ grams of gold which is denominated as Rp280,000 x 10 = Rp2,800,000. The high value of the dowry paid at the time of the wedding is not directly proportional to the cost of other expenses incurred in the wedding, which in fact has no implicit link to the marriage contract. Previously, a narrative has also been made by Ahmad Izzuddin, State Islamic University Maulana Malik Ibrahim Malang, 2019. Title *Meinakar Mahar: A Study of the Santri Community in Karangbesukii Sukun Village, Malang City*. The study found that the price of eimas in the 1980s reached around Rp.11,500/gram, so that the ideal dowry amount in accordance with the Islamic law or according to other scholars is in the range of Rp. 50,000.00, -. The stagnation of dowry in the range of Rp.100,000.00 is also still the tradition of the community in 2018, even though looking at the price of eimas which is in the range of Rp.500,000.00, the necessity of paying dowry is in the range of Rp. 2,000,000.00 and above, not staying at the nominal of Rp. 100,000.00.-.²⁵

Di sisi lain, mahar yang dalam Islam telah ditetapkan sebagai hak prerogatif seorang wanita ataupun walinya, akan tetapi dalam proses pernikahan yang dilakukan oleh responden, nominal mahar tersebut ditentukan sendiri oleh calon suami oleh pasangan AL dan AS dengan persepsi "pada proses lamaran saya di tari mau minta mahar berapa, setelah saya menjawab ternyata dari pihak calon saya keberatan dan memberikan pilihan kalo mahar banyak tidak dapat bantuan uang belanja dari calon laki-laki, jadi saya minta mahar Rp200.000 agar acara pernikahan

²⁴ Ramadhan, "Pandangan Mazhab Hanafi Dan Maliki Terhadap Jumlah Kadar Mahar Pada Akad Nikah."

²⁵ Ahmad Izzuddin, "Menakar Mahar: Studi Tentang Masyarakat Santri Di Desa Karangbesuki Sukun, Kota Malang," *Sabda : Jurnal Kajian Kebudayaan* 14, no. 1 (2019): 42, <https://doi.org/10.14710/sabda.14.1.42-51>.



berjalan dengan lancar". Dalam konteks fiqh, pihak calon isterilah yang memiliki hak untuk menentukan besaran mahar yang akan dia terima, bukan calon suami. Dengan demikian si wanita dapat memberikan dan menentukan mahar yang dirasa akan membawa manfaat kepada dirinya sebagai individu ataupun isteri dan ibu untuk menunjang kebutuhan hidup ataupun gaya hidupnya sehari-hari.

The importance of the dowry is greatly influenced by the Javanese tradition, which does not see the dowry as something urgent in the marriage contract so that it is only a formality in the contract, MU and NU couple with their perception "in my opinion, the dowry is the agreement of the two of them and seeing the condition of my husband at that time, I did not want to burden my husband, so I asked for a dowry of Rp500. 000 which I think is enough". This is reflected in the respondents' answers to the question of determining the dowry at the time of the marriage contract. In utilizing the dowry, 70% of the respondents used it for their common needs such as kitchen spices, household utensils, while the other 30% used it for their own needs. There is a belief in the community that the dowry is a wealthy asset, so it is good to spend it on household needs. This belief is not derived from religious teachings, but more from the influence of the customs of the community. In the Qur'an, Allah swt forbids the husband from asking for a refund of the dowry that he has paid to the wife, but if the wife is willing to pay it, then there is no problem for the husband to enjoy it.. The fuqaha consider that the limitations of faithfulness must shine out from the heart of a person, not because of fear or coercion.

Conclusion

Following the pre-interview process, the researcher analyzes the perception of the dowry community in Jepalo Village from compiling theories of dowry and continuing the observation and interviewing among them young people, young couples in order to



find facts in the field, after going through a series of processes, the researcher can conclude as an answer to the problem formulation in this research, namely as follows :

1. Dowry is only symbolic in the continuity of marriage, the people of Jepalo Village pay more attention to custom than dowry, as for the community's perception of dowry in Jepalo Village due to 2 factors, namely:

a. Education

Starting from the ignorance of the law of dowry and ignorance, the lack of attention to the definition of dowry so that religious leaders are more focused on the fiikiih ibadah such as prayer, fasting, zakat, this will lead to the ambiguity of the law of dowry in the future.

b. Custom

The customs that have grown in the community so that the community finds it difficult to apply the law of dowry and customs in line with the law, rather than knowing the customs that have grown and become a foundation. Habits such as giving offerings when proposing, the habit of giving offerings at the reception, and holding a reception with great fanfare, these habits certainly require costs of up to Rp30,000,000 which is not essential in the continuity of the marriage contract..

2. The study of fikih munakahat on community perceptions of dowry in Jepalo Village in the next three years 2021-2023 still found the practice of giving a dowry worth IDR 99,000-Rp100. 000 The practice is based on several perceptions, including the bride's desire to get a dowry that is not in line with her heart's desire with the intention of making enough money for the wedding ceremony, lack of preparation in determining the dowry, dowry based on the agreement of the two, dowry determined by the bridegroom. This is not in line with the theory of fiikiih munakahat which recommends a dowry of $\frac{1}{4}$ dinar up to 10 diirham, the reason the fuqaha set the dowry in order to minimize the attitude of underestimating women, considering



women only as entertainment material, $\frac{1}{4}$ dinar is the same as gold $1 \frac{1}{4}$ gold rupiah is Rp1. 180,000 and 10 dirhams if multiplied or eimized the value is 1 dirham multiplied by $\frac{1}{4}$ gram IDR 280. 000 $\times 10 =$ Rp2,800,000, from an economic perspective there is really no problem because 70% of the people of Jepalo Village from a long time ago until now like to travel or look for money outside the region or outside the country, the people of Jepalo Village also have the habit of saving money by raising livestock or growing crops that can be harvested within 3 months to 6 months.

Bibliography

Ashari. No Title (2023).

Cumeda, Cumeda. "BATAS MINIMAL MAHAR." *Mozaic: Islam Nusantara*, 2019. <https://doi.org/10.47776/mozaic.v5i2.142>.

Fahmi, Nazil. "Tinjauan Perspektif Fikih Terhadap Pelaksanaan Mahar Dalam Pernikahan." *Familia: Jurnal Hukum Keluarga* 2, no. 1 (2021): 88–103. <https://doi.org/10.24239/.v2i1.26>.

Fitri, A B M. "Tinjauan Kehujjahan 'Urf Terhadap Mahar Pernikahan Perspektif Madzahib Al-Arba' Ah." *Ukratuna: Jurnal Hukum Keluarga Islam* 5, no. 1 (2021): 19–44.

Hidayat, Riyan Erwin, Moelki Fahmi Ardliansyah, and Musyaffa Amin Ash Shabah. "Mahar Perspektif Ulama Kontemporer (Studi Atas Pemikiran Muhammad Syahrur Dan Wahbah Az-Zuhaili)." *MASLAHAH (Jurnal Hukum Islam Dan Perbankan Syariah)*, 2022. <https://doi.org/10.33558/maslahah.v13i1.3513>.

Irzum Farihah, S.Ag., M.Si. No Title (n.d.).

Izzuddin, Ahmad. "Menakar Mahar: Studi Tentang Masyarakat Santri Di Desa Karangbesuki Sukun, Kota Malang." *Sabda: Jurnal Kajian Kebudayaan* 14, no. 1 (2019): 42. <https://doi.org/10.14710/sabda.14.1.42-51>.

Kohar, Abd. "Kedudukan Dan Hikmah Mahar Dalam Perkawinan." *Syakhsiyyah: Jurnal Hukum Ekonomi Syariah*, 2022.

M.Winario. "Esensi Dan Standardisasi Mahar Perspektif Maqosid Syariah." *Jurnal Al Himayah*, 2020.

— — —. "Esensi Dan Standardisasi Mahar Perspektif Maqosid Syariah." *Jurnal Al Himayah* 4 (2020): 69–89.



- MA-RI. "Kompilasi Hukum Islam." *Perpustakaan Mahkamah Agung RI*, 2011.
- Mahdalena Nasrun. "PENENTUAN NILAI MAHAR RASULULLAH SAW TERHADAP ISTRI-ISTRINYA." *Al-Mudharabah: Jurnal Ekonomi Dan Keuangan Syariah*, 2022. <https://doi.org/10.22373/al-mudharabah.v4i1.2018>.
- Muhammad Iqbal. "KONSEP MAHAR DALAM PERSPEKTIF MAZHAB IMAM SYAFI'I." *AL- Mursalah : Jurnal Hukum Islam*, 2015.
- Ramadhan, Dian. "Pandangan Mazhab Hanafi Dan Maliki Terhadap Jumlah Kadar Mahar Pada Akad Nikah." *Jawi* vol 3, n0 (2020).
- Saidah, Yuni Nur. "Tinjauan Hukum Islam Terhadap Pemberian Mahar Non Materi." *Isti'dal : Jurnal Studi Hukum Islam*, 2022. <https://doi.org/10.34001/ijshi.v9i1.3257>.
- Surya Putra, Firman. "Urgensi Dan Kedudukan Shodaq (Mahar) Dalam Pernikahan." *Jurnal An-Nahl*, 2021. <https://doi.org/10.54576/annahl.v8i2.33>.
- Waro, Mochamad Tholib Khoiril. "MAKNA MAHAR DALAM ALQURAN (Kajian Historis-Antropologis)." *Jurnal At-Tibyan: Jurnal Ilmu Alquran Dan Tafsir*, 2019. <https://doi.org/10.32505/tibyan.v4i1.847>.
- Zulaifi. "Enkulturasasi Kontekstualisasi Mahar Menurut Pemikiran Ulama Empat Mazhab Dan Relevansinya Diera Kontemporer." Universitas Islam Negeri Mataram, 2022.