

DOWRY FUNCTION IN PERSPECTIVE OF *MUBADALAH*

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ABSTRACT

Dowry is a gift from a husband to his wife which is done at the time of the marriage contract. Dowry is something that is not included in the conditions and pillars of marriage, but it must exist. Meanwhile, *mubadalah* is an approach used to understand the verses in the Qur'an which are general in form but at first glance, they seem to be biased towards one gender, or specifically for men where women are not addressed, and specifically women and men have not been addressed. so that the main message of the text can then be applied to the two sexes. This paper aims to examine the function of dowry using a young perspective which will use the literature study method, with data sources from all literature discussing dowry and *mubadalah*. The analysis will be carried out using qualitative methods with deductive thinking. In the discussion, it is known that dowry in the perspective of *mubadalah* is a provision that is set to strengthen the position of women. So it can be concluded that the dowry is actually to uphold the honor of women, so that the higher the appropriateness of the dowry given voluntarily, it can be considered as an indicator that the husband is committed and can prove his promise of sincerity.

Keywords: *Dowry, Mubadalah, Level of Appropriateness*

A. INTRODUCTION

The existence of a dowry is one of the Islamic values that shows respect and concern for women (Nurjanah et al., 2021). The position of the dowry is very important so that it is not only a symbol or just a formality. In relation to the amount of dowry, the Qur'an uses a very flexible term, namely *ma'ruf* (Qs. an-Nisa: 25). The word of *ma'ruf* can be interpreted as appropriate, as appropriate or as possible. The interesting problem is that in practice, the amount of dowry is smaller than the number of gift items delivered before the marriage contract. The word of dowry comes from the Arabic language, namely *al-mahr*, plural *almuhur* or *al-muhurah* (Maki, 2021; Saputri, 2018; Yunus, 1990). According to language, the word of *al-mahr*, means *alshadaq* which in Indonesian is more commonly known as "dowry", as a gift from a prospective husband to a prospective wife that must be present when the marriage contract is

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held between the two to build a life together as husband and wife (Nuruddin and Tarigan, 2006).

Interestingly, the Qur'an in explaining dowry does not use the word of *al-mahr* which is exactly the same explicitly as the editor of the word dowry. The Qur'an uses the word of *alshadaq* in explaining the meaning of dowry as one of Islamic law in family law. The meaning of the word of *alshadaq* is then used as the basis for the provision of mandatory giving of husband to wife or in other sentences, namely dowry. This is based on the Quran Surah An-Nisa verse 4 which:

وَأَتُوا النِّسَاءَ صَدُقَاتِهِنَّ نِحْلَةً فَإِن طِبْنَ لَكُمْ عَن شَيْءٍ مِّنْهُ نَفْسًا فَكُلُوهُ هَنِيئًا مَّرِيئًا ﴿٤﴾

Means: *And give the women (on marriage) their dower as a free gift; but if they, of their own good pleasure, remit any part of it to you, Take it and enjoy it with right good cheer.*

Based on the verse above, the dowry is prescribed by Allah SWT to elevate the status of women and explain that this marriage contract has a high position. Therefore, Allah obliges it to men not to women, because he is more capable of trying. Dowry in all its forms is the cause of the husband not rushing to divorce his wife because the consequences of the dowry are such as the surrender of the dowry which is terminated, the submission of the dowry to the woman he marries after that and also as a guarantee for the woman when divorced (Azzam & Hawwas, 2011). The dowry in this verse is described as a man's love commitment given to a woman willingly and joyfully. The two conditions (voluntary and loving) contained in the Qur'an indicate that the dowry as a mandatory gift of a man should not burden him or become a barrier for someone to carry out marriage. The message given in that verse to all of us, especially to prospective husbands and marriage guardians who sometimes take a dowry from the rights of women under their guardianship, unless the dowry is given by a woman to her marriage guardian or to her husband, then there is nothing wrong with accepting and using it as a pleasant and delicate gift (Maki, 2021; Subhan, 2017).

The word of *alshadaq* or in the discussion of the above verse uses the word *shaduqaatihinna* as the equivalent of the word of dowry which means giving. Furthermore, the word of *nikhlah*, which means full of willingness, emphasizes the meaning of the word of *shadaq* as another word for dowry. As the meaning of dowry, which is a willing gift from the husband to the wife, which contains affection, love and appreciation for the wife (Basri, 2018; Mutawali & Murtadha, 2020; Ni`mah, 2018).

Quraisy Shihab (2002) in *Tafsir Al-Misbah* explains that the dowry is named by this verse (*shaduqat*) the plural form of (*shaduqab*), which is taken from a root meaning "truth."

Using the word truth in interpreting dowry because the dowry was preceded by a promise, then the gift is proof of the truth of the promise. It can also be said that the dowry is not only a symbol that proves the truth and sincerity of the husband to marry and bear the needs of his wife's life, but more than that (Hidayatulloh, 2020; Ikrom, 2015; Subhan, 2017), *alshadaq* as the equivalent of the word of dowry gives the meaning of dowry as a symbol of the promise not to reveal the secrets of domestic life, especially the deepest secrets that are not disclosed by a woman except to her husband.

The payment of the dowry should be something that has value even if it may be small or even very valuable. It is known that the urgency of requiring a dowry is to show the importance of position, as well as to respect and honor women. It also provides evidence for fostering a noble married life with him and gives good intentions for the purpose of good intercourse, and the continuation of the marriage. With the dowry, a woman can prepare all the marriage instruments consisting of clothes and a living (Al-Zuhaili, 2007).

B. METHOD

This study uses a qualitative approach with library research type, research studies which data sources are obtained from the library room such as books, books, magazines, and other sources that have relevance to this research study. While the approach to be used is a normative theological approach, an approach in which religious norms or rules are the main references (Faisal et al., 2021). Sources of data in this study consisted of documentary data in the form of documents related to the dowry function of the *mubadalah* perspective. The analysis used is content analysis. This study aims to describe and draw valid conclusions and can be re-examined. The content analysis procedure used consists of four steps: data procurement, data reduction, inference, and data analysis.

The data analysis method used in this research is qualitative data analysis. After the data is analyzed, then the data is presented descriptively, the depiction of the research data in real terms and as it is without adding and subtracting the data. The description is in accordance with the study and research problems. This is done with the aim of being able to draw conclusions from the results of the discussion for the problems in this study. Conclusions are drawn using deductive thinking, the method of analyzing data using a general method. Then the nature of the general data is taken to draw conclusions that are more specific (Hanif & Susanto, 2020; Sutrisno, 2012).

C. DISCUSSION

I. Dowry As Proof of Promise

Based on understanding of QS. An-Nisa verse 4, It explains the dowry with the word of *shaduqat*. So that use of the word *shaduqat* which means truth (Ali, 2016; Ja'far, 2017; Ni`mah, 2018), can be interpreted that the dowry is proof of the truth of the promise from a husband to his wife (Gani & Hayati, 2017; Waro, 2019). The promise of marriage is not only in the form of words at the beginning of the intention to propose to the prospective wife, but is also strengthened by presenting a dowry property during the marriage contract. In this case, the word dowry which completely uses the sentence *shaduqaatihinna nihlah* gives the meaning of a sincere gift (Hidayatulloh, 2020). Ali bin Abi Talib from Ibn Abbas who was quoted by interpretation of Ibn Kathir explained that the word means that the dowry is a gift of necessity and the condition is willing when giving the dowry property. That willingness means that this gift is an obligation that must be fulfilled by the husband to his wife (Fitri, 2018; Habib & Ramadhania, 2020).

Giving dowry in marriage can not be separated from the tradition of proposal marriage in pre-Islamic Arab society. At that time, a man who wanted to propose to a woman had to go through a man who became his guardian or his own daughter, and the man concerned gave a dowry to the guardian, and then married her (Barkah, 2014; Sabiq, 2002). This fact has implications for the ownership status of the dowry which is considered to be the property of the guardian, not the wife (the woman to be married) (Nasution, 2004). In response to this condition, Islam emphasizes the existence of a dowry which is the absolute right of the bride, not the right of the parents of the bride (Ismail, 2003; Karim & Nurhadi, 2020).

Another opportunity, Quraish Shihab, is of the view that naming the dowry with the name mentioned above is reinforced by the word *nihlah* (Winario, 2020; Zuhri, 2018). This word means a sincere gift without expecting anything in return. *Nihlah* can also mean religion, a view of life, so that the dowry that is given is proof of the truth and sincerity of the husband, which he gave without expecting anything in return, even because he was encouraged by religious guidance or his outlook on life..

One of the arguments for the dowry to be prescribed is also in the hadith of the Prophet Muhammad Saw :

عَنْ سَهْلِ بْنِ سَعْدٍ أَنَّ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ إِذْ جَاءَتْهُ امْرَأَةٌ وَ قَالَتْ: يَا رَسُولَ اللَّهِ، إِنِّي قَدْ وَهَبْتُ نَفْسِي لَكَ، فَقَامَتْ قِيَامًا طَوِيلًا. فَقَالَ رَجُلٌ فَقَالَ: يَا رَسُولَ اللَّهِ، زَوَّجْنِيهَا إِنْ لَمْ يَكُنْ لَكَ فِيهَا حَاجَةٌ. فَقَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: قِيَامًا طَوِيلًا.

هَلْ عِنْدَكَ مِنْ شَيْءٍ تُصَدِّقُهَا إِيَّاهُ؟ فَقَالَ: مَا عِنْدِي إِلَّا إِزَارِي هَذَا. فَقَالَ النَّبِيُّ ص. إِنَّ أُعْطِيَتْهَا إِزَارَكَ
جَلَسَتْ لَا إِزَارَ لَكَ، فَالْتَمَسَ شَيْئًا. فَقَالَ: مَا أَجِدُ شَيْئًا. فَقَالَ: اإِلْتَمَسَ وَلَوْ خَاتَمًا مِنْ حَدِيدٍ. فَالْتَمَسَ
فَلَمْ يَجِدْ شَيْئًا. فَقَالَ لَهُ النَّبِيُّ ص: هَلْ مَعَكَ مِنَ الْقُرْآنِ شَيْءٌ؟ قَالَ: نَعَمْ. سُورَةُ كَذَا وَ سُورَةُ كَذَا لِسُورِ
يُسَمِّيَهَا. فَقَالَ لَهُ النَّبِيُّ ص: فَذُ رَوِّجْتُكَهَا بِمَا مَعَكَ مِنَ الْقُرْآنِ. (رواه احمد و البخارى و مسلم).

Meaning: "From Sahl bin Sa'ad that the Prophet Saw once visited a woman and said, "O Messenger of Allah, I have surrendered myself to you." Then the woman stood for a long time. Then a man stood up and said, "O Messenger of Allah, marry me if you are not interested in her" Then the Prophet asked, "Do you have anything that you can use as a dowry for her?". He replied, "I have nothing but these clothes". Then the Prophet said, "If you give her your clothes, you don't wear them anymore. Then look for something else." Then the man said, "I didn't get anything else". Then the Prophet Saw said, "Seek, even if the ring is made of iron". Then the man looked for it, but he couldn't find it. Then the Prophet Saw asked him, "Do you have memorized verses of the Qur'an?". He replied, "Yes. This chapter and that chapter. He mentioned the names of the chapters, then the Prophet SAW said to him, "Indeed I have married you to her with what you have from the Qur'an" (H.R. Ahmad, Bukhari dan Muslim). (Al-Bukhari, 2003; Muslim, tt.).

The above hadith is also a strong argument for the obligation of the prospective husband to prepare a dowry at the time of marriage. The word of dowry in the hadith also uses the word of *shadaq* as the previous explanation, a gift that is proof of a husband's promise. In marriage there must be a dowry, based on his saying, "Do you have anything that you will give her as a dowry?" (Al-Bukhari, 2003). The scholars agree that it is not permissible for Prophet Muhammad Saw to have sex with a woman who surrenders herself to him without a dowry, except for a slave woman.

In addition, this hadith shows the obligation of dowry even if it is something small. Likewise, there is no information from the Prophet that he left a dowry in a marriage. If the dowry was not obligatory, the Prophet would have left it even once in his life which indicated that it was not obligatory. However, he never left it, this shows how important the obligation to give a dowry to wife is (Azzam & Hawwas, 2011). Meanwhile, the dowry can be submitted immediately or paid at a future time or as agreed by both parties. Islam directs that the dowry should be light, not burdensome for the man (Mahfud, 2011).

2. The Social Function of Dowry in Perspective of *Mubadalah*

Dowry requires further interpretation and understanding, in order to reveal the nature of the dowry as a form of appreciation for the husband towards his wife. A deeper

understanding can be obtained, one of which is by studying and further interpreting the correlated Al-Qur'an Surah an-Nisa verses 1-4, in order to obtain a comprehensive understanding of the dowry. In the Qur'an Surah an-Nisa verse 1 Allah SWT said:

يٰۤاَيُّهَا النَّاسُ اتَّقُوا رَبَّكُمُ الَّذِي خَلَقَكُمْ مِنْ نَفْسٍ وَّاحِدَةٍ وَخَلَقَ مِنْهَا زَوْجَهَا وَبَثَّ مِنْهُمَا رِجَالًا كَثِيرًا وَنِسَاءً ۗ وَاتَّقُوا اللَّهَ الَّذِي تَسَاءَلُونَ بِهِ ۖ وَالْأَرْحَامَ ۗ إِنَّ اللَّهَ كَانَ عَلَيْكُمْ رَقِيبًا ﴿١﴾

Meaning: “O mankind! reverence your Guardian-Lord, who created you from a single person, created, of like nature, His mate, and from them twain scattered (like seeds) countless men and women;- reverence Allah, through whom ye demand your mutual (rights), and (reverence) the wombs (That bore you): for Allah ever watches over you”

Based on the content of the verse, there are several important points that need to be observed carefully; this verse talks about the creation of men and women from the same source. It implies the philosophy of equality between the people of Adam and Eve. As stated above, the Qur'an chapter an-Nisa verse 1 is a prelude to ushering in the birth of unity and integrity in society, as well as helping and loving each other because all humans come from one lineage. There is no difference between men and women, small and large, religious or non-religious. All men and women are required to create peace and security in society, and to respect each other's human rights. Furthermore, in verse 2 Allah SWT says:

وَأَتُوا الَّتِي تَمَىٰ أَمْوَالَهُمْ ۖ وَلَا تَتَّبِعُوا الْخَيْبَ بِالطَّيِّبِ ۖ وَلَا تَأْكُلُوا أَمْوَالَهُمْ إِلَىٰ أَمْوَالِكُمْ ۗ إِنَّهُ كَانَ حُوبًا كَبِيرًا ﴿٢﴾

Meaning: “To orphans restore their property (When they reach their age), nor substitute (your) worthless things for (their) good ones; and devour not their substance (by mixing it up) with your won. For this is indeed a great sin”

In this verse there is an order for Muslims to give the property of orphans which are their inheritance rights, and not to abuse or disturb them for the sake of the guardian. The commandment at the beginning reminds the need to be pious to Allah SWT and maintain good relations. Then the second verse and the following verses talk about whose rights must be preserved in order to fear Allah SWT and maintain the womb relationship. Of course the main ones are the weakest, and the weakest are the immature children whose fathers have died, namely orphans. That's why the first to be reminded is about them.

Al-Qur'an chapter an-Nisa verse 3 reads:

وَإِنْ خِفْتُمْ أَلَّا تُقْسِطُوا فِي الْيَتَامَىٰ فَانكِحُوا مَا طَابَ لَكُمْ مِنَ النِّسَاءِ مَثْنَىٰ وَثُلَاثَ
وَرُبْعَ فَإِنْ خِفْتُمْ أَلَّا تَعْدِلُوا فَوَاحِدَةً أَوْ مَا مَلَكَتْ أَيْمَانُكُمْ ذَٰلِكَ أَدْنَىٰ أَلَّا تَعُولُوا ﴿٤﴾

Meaning: “If ye fear that ye shall not be able to deal justly with the orphans, Marry women of your choice, Two or three or four; but if ye fear that ye shall not be able to deal justly (with them), then only one, or (a captive) that your right hands possess, that will be more suitable, to prevent you from doing injustice”

Al-Qur'an chapter an-Nisa verse 3 is a warning from Allah SWT for men who are worried that they will not be able to treat orphans fairly, so the alternative is to marry a woman who besides having orphans or even one wife. Obviously what is meant is a warning to avoid injustice in the form of controlling the property of orphans and unfair actions.

So far, it appears that these verses place more emphasis on the philosophy of justice for the weak, including orphans. Al-Qur'an chapter an-Nisa verse 4 commands to give a dowry to a woman who is married as a gift willingly. It should be noted that the phenomenon of men marrying orphaned girls without a dowry was given to them in the early Islamic era.

In relation to the Qur'an, surah an-Nisa verses 1-4, it can be clearly understood that the direction of its teachings is to uphold justice between women and men. In another discussion is the philosophy of *mubadalah*. As is known, the perspective of *mubadalah* that is developed in social life is in terms of partnership and cooperation, both at home and in wider public life. This method offers a meaning to emphasize the principle of partnership and cooperation between men and women in a verse, hadith, and other legal texts (Mustaqim, 2015).

The laws came to provide benefit to mankind in the world. Thus, if there is a text of a new but explicit legal decision that only favors the interests of one gender, for example men, then the meaning must be removed, if the text is still implicit, for the benefit of women. Likewise, if it is only explicit for women, then it must be issued for men.

The working method of *mubadalah* is to reveal the main message of a text, either in a general form but can be of one gender, or specifically for men where women are not addressed, as well as specifically for women and men who have not been addressed so that the main message of the text can then be applied to two genders. Both genders, with the *mubadalah* method, are addressed by the text and become the subject of discussion in it.

This method of interpreting *mubadalah* is based on three basic premises as follows:

- a. That Islam exists for both men and women, so the texts must also target both
- b. That the principle of the relationship between the two is cooperation and mutuality, not hegemony and power
- c. That Islamic texts are open to reinterpretation in order to allow the two previous premises to be reflected in each interpretation (Kodir, 2019).

The method of interpreting *mubadalah* is the process of finding the main idea of the text that is read in harmony with Islamic principles that are universal and applicable to all people, both men and women. In relation to dowry, reading *mubadalah* will find that the payment of dowry is not only a voluntary obligatory gift from husband to wife in the sense of being willing to give but it also gives the meaning of giving up the woman to determine the appropriate level of dowry for herself.

As, according to most Islamic law scholars, the dowry is a symbol of respect for women's dignity and a form of husband's love for his wife. Furthermore, contemporary thinking reveals that dowry is also an asset that can encourage women to be financially strong. Not only contributing to strengthening the bonds of love and affection in the household, but also strengthening the economy for family life. So the prospective wife who determines the high dowry rate is also something that should be respected by the prospective husband as respect for women with full willingness and intention because of the teachings of Islam. This understanding will further stem the negative stigma against women who dare to take the attitude of determining the level of dowry not at the minimum limit, but using an appropriate limit for their honor.

The provisions in Islam, women have gained glory and were awarded wisdom by stipulating a dowry in marriage. In addition, it is also a sign of the legalization of affection between the bride and groom who will get married. Therefore, for men, volunteerism and a sincere vow to glorify women must be prioritized in the form of giving a dowry to his wife.

Dowry is in the form of property assets which can then be used by the wife to support her household life in the future. On the other hand, even if the dowry is in the form of a benefit to teach the Qur'an or which is not a material property, it does not matter, but it is only announced to men who have absolutely nothing. Giving a dowry in the form of memorization or a set of prayer tools in a situation that the man still has other assets on the grounds of syar'i

is actually not worth it. In other languages, dowry in the form of memorizing the holy verses of the Koran is allowed but is not the main choice in giving dowry, as long as men can still give a dowry in the form of tangible assets.

At this point, we can grasp the logical reason that the dowry must have its characteristics. When the dowry to be given is not an object which conditions or criteria are clear, then the ambiguity will have a negative impact on the usefulness of the dowry. The clarity of the dowry before the marriage contract becomes very reasonable to be considered. No goods (property) which physical condition and shape are not clear. Giving an object whose type and condition is not clear has the effect of making the dowry status invalid.

The recitation of *mubadalah* against the dowry once again strengthens the position of women who are highly respected in Islamic teachings, so that the beginning of family life also begins with upholding the honor of women by giving the dowry. The more women receive a dowry at an appropriate rate, the more men succeed in providing proof of the promise of sincerity for this willing gift.

The reasons for considering the minimum level of dowry given by men to women are, of course, refuted by careful research from the reading of *mubadalah* on dowry. Apart from that, there are also pious women who deliberately make it easier for their future husbands by determining the level of dowry that is not high. However, that will not change the necessity of her future husband to try as much as possible to provide a dowry that is appropriate for the honor of his future wife.

In the perspective of *mubadalah*, dowry is not only a mandatory gift for a prospective husband who proves a promise, but also becomes a provision that requires a prospective husband to give his best wealth to his prospective wife as a form of upholding the honor of women. The position of women in determining the dowry should not only be received, but also their right should be guaranteed to decide how much dowry to give.

Exploring the reading of *mubadalah* on the dowry will indirectly introduce a critique of the patriarchal culture that has been applied to society in determining the level of the dowry. It doesn't even stop there, the negative stigmatization culture towards women that determines the high dowry rate will also slowly be eroded by this understanding of *mubadalah*.

The practice of determining the dowry that is in line with the reading of *mubadalah* is to provide an open space for prospective wives to dare to take preventive economic steps in the

family by determining the appropriate dowry level, not just a minimum limit. On the other hand, prospective husbands and their families should provide moral and material support to allow the prospective wife to determine the level of dowry with the most appropriate limit.

However, not many people are aware of the importance of understanding the social function of dowry as a respect for women, which ideally has an impact on guaranteeing women's rights to get an appropriate level of dowry. For the author, this awareness must start from the academic community through scientific studies, only then broadcasting can be carried out to the wider community.

D. CONCLUSION

The results of this study indicate that the existence of a dowry in Islamic law has a sociological function: changing and improving the position of women in human civilization. The form of change offered is a form of fundamental change, starting from the initial process of forming a family. Therefore, the dowry in Islamic Shari'ah is referred to as "*shaduqaatihinna nihlah*", a mandatory gift that is given willingly by the prospective husband to the prospective wife. In perspective of *mubadalah*, dowry is then not only interpreted as a simple sentence or as a practice of giving from a husband to his wife alone, but also as a gift that is full of sincerity as well as appreciation to women. So in the *mubadalah*'s perspective, the form of appreciation for the prospective husband is not only by being willing to give a dowry, but also being willing if his future wife determines the level of dowry for marriage without referring to the minimum limit of the dowry. Even the prospective husband must also ensure that his family supports morally and materially for the assurance of the prospective wife to determine the dowry level within the appropriate limits as he respects the woman his prospective wife. So far, the patriarchal culture in determining the level of dowry and the negative stigmatization of women in determining the high level of dowry should not happen again.

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