



## DOWRY AMOUNT IN ACEH-INDONESIA AND SELANGOR-MALAYSIA: BETWEEN STATE REGULATIONS AND CUSTOMS

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**Abstrak:** Penelitian ini membahas praktik pemberian mahar dalam perkawinan masyarakat Aceh, Indonesia dan Selangor, Malaysia. Studi ini mengkaji ketentuan kadar mahar dalam perundang-undangan Indonesia dan Malaysia serta penerapannya di tengah masyarakat. Sumber data dalam penelitian hukum empiris ini adalah wawancara dan studi dokumen. Data-data tersebut kemudian diolah menggunakan teori realisme hukum dan teori *'urf*. Temuan dalam penelitian ini menjelaskan bahwa ketentuan kadar mahar dalam perundang-undangan Indonesia berdasarkan asas kesederhanaan dan kemudahan. Namun, dalam praktiknya aturan adat Aceh menjadi pilihan masyarakat dalam menentukan dan menetapkan kadar mahar. Penetapan kadar mahar di Aceh ditentukan oleh pihak keluarga perempuan yaitu mahar *mitsl*, yang diberikan dalam bentuk emas dengan sebutan *mayam*. Berbeda dengan kadar mahar Negeri Selangor yang ditentukan oleh Pemerintah Kerajaan Negeri dengan kadar minimum RM 300.00 yang merupakan kesatuan antara mahar dan hantaran untuk gadis maupun janda. Kenyataannya di masyarakat terdapat beberapa orang Selangor yang masih menetapkan sendiri nilai hantaran yang harus diserahkan kepada pihak perempuan.

**Kata kunci:** kadar mahar; Majelis Adat Aceh (MAA); Jabatan Agama Islam Selangor (JAIS)

**Abstract:** This research aims to examine the practice of dowries in Aceh and Selangor, especially regarding their amount and implementation as stipulated in the Indonesian and Malaysian laws. Data in this study is collected through interviews and document studies. They are analyzed using legal realism and *'urf* theories. The results indicate that the dowry provisions in the Indonesian legislation are based on the principles of simplicity and easiness. However, the Acehnese people still choose their customary rules in determining the dowry amount (*mitsl*). In Aceh, dowry (amount) is determined by the bride's family and given in the form of gold measured in *mayam*. Meanwhile, the dowry amount for the Selangor State is determined by the State Government with a minimum amount of RM 300.00, which includes a dowry and gifts for maidens or widows. However, Selangor people are still likely to determine the gift amount for the bride without considering the existing regulations.

**Keywords:** dowry amount; Aceh Traditional Assembly (MAA); Selangor Islamic Religious Affairs (JAIS)

## Introduction

Dowries, regarded as conditional gifts from the groom to the bride, often lead to problems. These are most often related to the dowry amount determined based on the bride's social status. Moreover, the bride's families sometimes demand other gifts as companions to the dowry. The determination of the form and value of dowries has become a reality in many Muslim countries. To minimize the dowry-related problems, several Muslim countries such as Pakistan, Bangladesh, and India have stipulated special dowry regulations in their Family Law.

In Pakistan, dowries are regulated in the Dowry and Bridal Gifts (Restriction) Act of 1976, further amended by Ordinance No. 36 of 1980. The law explains three types of gifts in every marriage contract, namely: 1) bridal gifts (gifts that are agreed upon by parties) mean any property given by the groom to the prospective bride; 2) a dowry means a gift given to the groom's family by the bride's parents; 3) a present (gift) means a gift of any property given to the groom or bride in connection with the marriage. The law also stipulates that all gifts mentioned above must not exceed 5000 Rupees, and no dowry is given before and after six months of the marriage contract (Taufiqurohman et al., 2021:87).

Bangladesh has also stipulated the regulation of dowry in Act No. 35 of 1980, which was amended by Ordinance No. 64 of 1984. In the regulation, it is stated that the maximum amount of dowry is 500 Taka. Individuals who violate this regulation can be imprisoned to a maximum of one year or a fine to a maximum of 5000 Taka, or both. The party who demands dowry from the parents or guardian of the bride can be punished with a maximum imprisonment of one year or a maximum fine of 5000 Taka or both (Nasution, 2013:157).

Meanwhile, India has enacted the Dowry Prohibition Act in 1976, which was amended in 1980 with Ordinance No. 36. This is influenced by the Indian marriage traditions, which require the bride's family to pay a dowry to the groom. Women are a vulnerable group in their husband's families. If the dowry is deemed insufficient, they are threatened with persecution, torture, and even murder by the groom's family.

In Indonesia, dowry is regulated in Presidential Instruction No. 1 of 1991 concerning the Compilation of Islamic Law in Articles 30 to 38. The Articles state the following: 1) a groom is obliged to give a

dowry to the bride; 2). both parties agree upon the amount, form and type of the dowry; 3) the determination of the dowry is based on the principles of simplicity and easiness; 4) the dowry becomes the absolute right of the wife; 5) the submission of the dowry can be made in cash or deferred; 6) the dowry is not a pillar of marriage; 7) failure to mention the type and amount of dowry at the time of the marriage contract does not invalidate the marriage; 8) handing over a dowry in the event of a divorce, either divorced or widowed is regulated; 9) the settlement of dowry disputes is the authority of the Religious Courts; 10) deficiencies in dowry is mentioned. Regarding the dowry amount, the Compilation of Islamic Law (hereinafter referred to as CIL) does not determine the dowry amount given to the prospective bride. This is because the dowry is determined based on the principles of simplicity and easiness advocated by Islamic teachings, as stated in Article 31 (Hasan, 2011:148). However, several regions in Indonesia have determined the amount of dowry that must be submitted to the prospective bride, such as in Aceh, Pariaman, Bugis, Banjar, and Sasak.

Meanwhile, in Malaysia, the issue of dowry is fully regulated by the Sharia Court and the Ministry of Islamic Religious Affairs (hereinafter referred to as JAI) under the authority of the Sultan in each state (M. Atho' Muzhar, 2003:23). The amount of dowry throughout Malaysia varies according to each state's Ministry of Islamic Religious Affairs (JAI). In Government of Selangor Gazette, Administration of the Religion of Islam (State of Selangor) Enactment 2003, Fatwa under Section 47 states that the dowry amount for Selangor is up to RM 300.00 for single or widowed women. This stipulation has been enforced since January 1, 2010. Referring to this matter, the amount of dowry in the community of Selangor has been changed from RM 80.00 for single women and RM 40.00 for widowed women (Jaafar n.d.). This also applies in the State of Malacca. The Malacca Islamic Religious Affairs has set the dowry amount for the State of Malacca of RM 100.00 on June 1, 2016, which was previously amounted to RM 40.00.

In contrast, the state of Pahang and Johor have determined the dowry amount of RM 22.50, which has not changed since nearly a century after its determination. This amount is also found to be irrelevant today because, in the past, the currency still relied on gold and silver.

In contrast, today's currency is based on the value of the United States Dollar (Wakil and Ahmad, 2017:62).

The above description shows that the governments in various Muslim countries have made regulations covering a broad scope of dowries to prevent future disputes between the bride, groom, and their families. This research was conducted to evaluate the application of the dowry amount specified in the Indonesian and Malaysian laws and regulations among the people of Aceh and Selangor. Aceh and Selangor were chosen as the objects of this research because Aceh is the area with the highest dowry amount in Indonesia. Meanwhile, Selangor is the area with the highest dowry amount in Malaysia. This is socio-legal research, with data collected from document studies and interviews with the Chairperson of the Office of Religious Affairs (hereinafter referred to as KUA), the Chairperson of Aceh Traditional Assembly, the Chairperson of Aceh Ulama Consultative Assembly (MPU), the Chairperson of Selangor Islamic Religious Affairs (JAIS), the Chairperson of Selangor Mufti Affairs, and the people of Aceh and Selangor.

### **Determination of Dowry Amount in the Context of Socio-Legal Research**

The determination of dowry amount is a common issue often encountered in society. Scholars have carried out studies focusing on dowry practices. For example, Sandias Utami (2015:19) researched the reconceptualization of dowry amounts in Indonesia based on simplicity and easiness. Utami explained that in Article 31 of the Compilation of Islamic Law, the concept of dowry is based not only on the principles of simplicity and easiness but also on the principle of obedience. Therefore, the dowry can be determined according to the customs of the local community. Moreover, the research by Nurul Hakim (2014:40) regarding the practice of dowry in Pidie Regency, Aceh, found that the dowry in Aceh is regarded as a symbol of honor and prestige of the women's family. Of the 23 regencies/cities in Aceh, Pidie is the region with the highest dowry amount, with a range of 50-70 gold *mayam* (The Acehnese's way of measuring gold; one *mayam* is equal to 3.33 grams of gold). The higher dowry given by men will show the social status of women in society.

A. Gani and Ainun Hayati (2017:89) explained the dowry for women in Kampung Paya Village, North Kluet Sub-District, South Aceh Regency was set at three gold *mayam*. The determination of the dowry amount was based on the provisions of applicable customs because the dowry has been considered a law and norm since ancient times until the present time. Burhanuddin et al. (2017:117) added that the dowry among East Kluet, South Aceh Regency people, was set at two *mayam*. The rule states that the amount of dowry given cannot be reduced or increased.

In Malaysia, various studies evaluating dowry have also been carried out. Research by Zurita Mohd Yusoff (2008:51) found that the dowry in Malaysia is determined by the Islamic Religious Affairs (JAI) of each State and is bound by the authority of the Sultan. This indicates that the amount of dowry in each state in Malaysia is different, depending on the provisions of JAI in each State. Furthermore, in his research, Muhammad Shobirin (2013: 14) compared the application of dowry in Indonesia and Malaysia. In practice, the dowry in the two countries is always associated with customary law and *madhhab* (Islamic legal schools of thought) that have a significant role in forming and determining the dowry amount in each country.

The Indonesian government has made various efforts to minimize issues in marriage, including dowries, by stipulating special rules contained in Presidential Instruction No. 1 of 1991 concerning the Compilation of Islamic Law in Articles 30 to 38. Moreover, the Aceh Ulama Consultative Assembly (MPU) has also issued a fatwa No. 5 of 2016 concerning Dowry in the Perspective of *Fiqh* (Islamic jurisprudence) and the Customary Law of Aceh. As for Malaysia, special rules regarding dowries are mentioned in the enactment of the Decree No. 2 of 2003, the Islamic Family Law (State of Selangor) Enactment 2003, Article 21 and also Government of Selangor Gazette, the Administration of the Religion of Islam (State of Selangor) Enactment 2003, and Fatwa under Section 47.

This study is socio-legal or empirical legal research, evaluating and analyzing the application of law in society (Salim HS, 2017:21). The authors utilize two theories: '*urf*' and Legal Realism Theory. According to 'Abd al-Wahhāb Khalāf, '*urf*' is referred to something that many people have known and done, whether from words or deeds. It is also referred to as customs. According to Islamic jurists, no significant differences are found between '*urf*' (custom) and '*ādah*' (usage). Some ulama agree

that '*urf ṣaḥīḥ* (rightful custom) can be used as a basis for *ḥujjah* (proof) as long as it does not conflict with Islamic law (Abdul Wahhab Khallaf, 1978:89). In terms of etymology, the word '*urf*' means anything that contains values of goodness and is accepted by the intellect. In terminology, '*urf*' means the custom or knowledge of a given society and is integrated into their lives, either in the form of deeds or words (Zein, 2005:25). Allah says in the Qur'an (al-A'rāf :199): "*Take to forgiveness and ever forbear and enjoin (the doing of) good and turn away from (those who intentionally want to remain) ignorant.*" This verse explains that Allah orders Muslims to do *ma'rūf* (good deed). *Ma'rūf* is defined as a good deed that is done repeatedly and does not conflict with true human nature, guided by the general principles of Islamic teachings.

As for the theory of legal realism, according to Mahrus Ali (2017:213), it is a study of law as implemented regulations, rather than just some rules contained only in the legislation and never been implemented. Zulfadli Barus (2013:311) added that legal realism does not separate laws and facts. In legal realism, the law can be reduced as a social fact. In other words, the law is seen as a product of social interaction. Legal realism separates law and morals and is more concerned with social facts. Legal realism indicates a relationship with the real world, as it is now. According to Karl N. Llewellyn, a leading realist, the law is regarded as a means to achieve social ends, so the effect of the law is highly required to be known. Law and society are always involved in continuous changes. Although legal changes lag behind societal changes, the law must be continuously developed (Supriyanta, 2016:7).

The teachings of realism are more concerned with the temporary separation between *das sollen* and *das sein*. For the law to have a purpose, it should be noted that the values must be general and should not be influenced by the observer's intention. Realism is not based on positivistic legal concepts, namely the rules of realism which intend to describe what the court does. As stated by Karl N. Llewellyn, the characteristics of realism theory are as follows: 1) realism is a conception of law that is continuously changing and is considered a tool for social ends so that each part must be tested for its purpose and consequences. Realism includes conceptions of society that change faster than laws; 2) realism considers a separation between existing and ought to be laws for study purposes. Realism is based on the separation of *das sein* and *das sollen*; 3)

realism states that there is no law governing a case until the judge decides. The law stated in the books is still an estimate related to the judge's decision. Using the two sociological theories above, both the theory of *'urf* and the theory of legal realism in legal studies are considered essential to examine social phenomena encountered in society.

### **Provisions for Dowry Amount and its Practice in Aceh**

In Indonesia, the term dowry is known as *mahar* or *maskawin*. In Acehese customary law, the term dowry is often referred to by various names in various regions in Aceh. The Acehese people call dowry *jeunamee* (Habsatul Murniyati, 2020:225). The Aneuk Jamee people consider dowry in the term *jenamu* (Burhanuddin dan Ainun Hayati, 2017:174). The Tamiang people identify dowry as *mahar*, and the Alas people recognize dowry with *dafa*. According to people with a bilateral social system, dowry is considered a condition for the validity of marriage according to religious and customary provisions. Meanwhile, for people with a patrilineal social system, such as the Gayo and Alas people, dowry is identified as a condition of marriage. It is also defined as substitute property or payment for single women with the general term "*jujur*" (Cultural History Research Center, 1979:59).

In the Indonesian legislation, dowries are not regulated in Law No. 1 of 1974 concerning Marriage. Still, they are fully regulated in Presidential Instruction No. 1 of 1991 concerning the Compilation of Islamic Law (CIL), a summary of legal opinions derived from various books written by *fiqh* scholars commonly used as references in the Religious (Islamic) Courts. In other words, the CIL has become a consideration in deciding cases in the Indonesian Religious Courts. The objectives of the dowry regulation in the Compilation of Islamic Law are 1) to regulate the issue of dowry; 2) to establish legal certainty that the dowry is not a pillar of marriage; 3) to determine the ethics of dowry with the principles of simplicity and easiness, not based on the principles of economy, status, and prestige; and 4) to homogenize the juridical and ethical conception of dowry so that the same provisions and perceptions are developed among the public and law enforcers (Damis, 2016:19).

Marriage in the Acehese people is considered a series of personal and family matter-related activities. A marriage usually begins with an engagement. According to Mukhlis M, ADC Chairperson of the Aceh



Traditional Assembly, at the time of the engagement, an agreement is generally stipulated regarding the amount of *Jeunamee* (dowry/*mahr*), the amount of *Peng Angoh*<sup>2</sup>, the marriage schedule (marriage celebration) and sanction against violations that may happen in the future. The people who should attend the engagement are *seulangku*<sup>3</sup>, *keuchik*<sup>4</sup>, *tuha peut*<sup>5</sup>, *imeum meunasah*<sup>6</sup>, community leaders, and close relatives of both parties (Mukhlis M. ADC, November 19, 2018). According to Shaumiati, in the community of Lampulo village, Kuta Alam Sub-District, most of the agreements made by both parties at the time of the engagement are not stipulated in a written form heard by all parties present at the engagement. At present, the agreement would be better prepared in a written form to be used as authentic evidence (Shaumiati, November 22, 2018).

There are three types of customary sanctions given to the party that cancels the marriage. First, if either the prospective husband or wife dies before the marriage contract is carried out, the items that have been handed over must be returned to the prospective husband. Second, suppose the prospective husband renounces his promise not to continue the marriage; all the belongings and golds handed over at the engagement will become the property of the prospective wife. Third, if the prospective wife renounces her promise not to continue the marriage, then the woman must be able to pay double the cost of the goods she has received from the man (Yuliza, 2020:131).

According to Badruzzaman Ismail, Chairperson of the Aceh Traditional Assembly, the return of twice the value of the goods received by a woman is a consequence that she must accept if she cancels the marriage. In this matter, if the woman receives two *mayam* at the time of the engagement (*ba tanda*)<sup>7</sup>, she must return four *mayam*. The two *mayam* are the man's belongings, and two other *mayam* are considered fines because the woman cancels the marriage (*wan prestasi*). This provision has been implemented in almost every sub-district in Aceh (Badruzzaman Ismail, November 19, 2018).

In Acehese traditional marriages, customary rules are established to regulate the amount of dowry at the time of engagement and at the time of the marriage contract (Nurul Hakim, 2014:38). In some areas in Aceh Besar, the dowry handed over at the time of engagement is half of the amount determined. In contrast to the Pidie area, the dowry handed over is about two *mayam* as a sign, a pledge, a binding sign or

a symbol of the agreement for both parties that the woman has been proposed. The remaining dowry is subsequently submitted at the time of the marriage contract.

In theory, *urf* has defined a custom and is integrated with people's lives (Zein, 2005:25). In this case, the value of dowry in the Acehese tradition is determined by the marriage guardian of the female family. This tradition has been integrated with people's lives for generations. Consequently, it has grown and formed in a society considered to have value and must be obeyed. Cultures can control community life in an area, even though there are no written provisions or rules among the community. The violations of that culture will likely lead to harsh sanctions from the community, such as scorn and others. Therefore, it may be stated that legal culture is closely related to public legal awareness. The higher legal awareness of the community can create an excellent legal culture and change people's mindsets about law by far. In this case, legal culture is regarded as one factor determining law formation in a country (Judicial Commission of Indonesia, 2017:28).

According to Faisal Ali, Deputy Chairperson of the Aceh Ulama Consultative Assembly, the determination of the dowry in the Acehese custom is determined by the marriage guardian of the woman's family with the dowry amount measured in the *mithl* dowry. It means that the amount of the dowry follows what has been practiced by her family or predecessors. If the dowry of the predecessor amounts to ten *mayam*, then the next dowry for the next generation should amount to about ten *mayam*. After being determined by the woman, it is necessary to have a deliberation with the man's family by considering the ability of the prospective husband to provide the amount of dowry requested. However, suppose an only child plans to marry, parents tend to consider some essential matters possessed by the prospective wife, such as the level of intelligence or knowledge, obedience or religion, beauty or appearance, education, and the social status of the prospective wife and her family. The highest status assigned to this is ulama, government officials and wealthy families. Meanwhile, the lowest status is assigned to the poor community with indeterminate jobs (Faisal Ali, November 21, 2018).

In this case, the two families generally conduct negotiations to determine the dowry amount stated in the engagement ceremony and marriage contract. This negotiation can only be carried out before the

engagement ceremony is held. After all, when many parties have attended the engagement as witnesses, the amount of the dowry determined cannot be deducted from the applicable customary provisions because it is recognized as a disgrace to the family. The gold given can be in the form of jewelry, specifically rings, bracelets, and necklaces. Based on this, it can be concluded that the implementation of dowry provision to the Acehnese people needs to be based on the agreement of both parties. Although the woman's family initially determines it, the dowry is then agreed upon by the groom's family. This tradition has become a social and cultural agreement from generation to generation.

The determination of the dowry amount by the bride's family, which is further agreed upon by the groom's family, is in accordance with Presidential Instruction No. 1 of 1991 concerning the Compilation of Islamic Law Article 30, stating that the prospective groom is obliged to pay a dowry to the prospective bride with the agreed amount, form, type by both parties. Furthermore, Article 31 also confirms that the dowry should be determined based on the simplicity and easiness principles recommended by Islamic teachings. As stated in Articles 30-31 of the Compilation of Islamic Law, there are two guidelines and references in determining the form and type of dowry in Indonesia: first, the dowry is determined based on the agreement of both parties. Second, the dowry is determined based on the principles of simplicity and easiness (Hasan, 2011:148). This indicates that the form and amount of the dowry should not be a burden for the prospective husband and should not be improper so that the prospective wife does not feel harassed or belittled. This is in accordance with the principle written in the Qur'an Surah Al-Baqarah verse 286, which is not to burden someone beyond his ability (Mahmud Ibrahim, 2016:26). As referred to in Article 31 of the CIL, the simplicity and easiness in determining the dowry show that marriage in Islam is different from the other types of contract in civil law. Therefore, the marriage law contains the value of worship to Allah, which embodies the rights and obligations between the prospective groom and bride (Rofiq, 2015:85).

In addition, the Ulama Consultative Assembly (MPU), as a religious institution with authority to conduct studies related to religious issues in Aceh, has issued the Fatwa Number 5 of 2016 concerning dowry (*Mahr*) in the Perspective of Fiqh and the Customary Law of Aceh:

(1) Dowry is a compulsory property given by men because of marriage, *watha' shubhat* (unintended and unconscious intercourse) and/or rape; (2). The determination of the type, quality and amount of dowry for virgin women with a *mujbir* guardian is carried out by the *wali mujbir* (male guardian who can wed a woman without her permission); (3). Determination of the type, quality and amount of dowry for a virgin woman with a non-*mujbir* guardian is carried out by the woman herself; (4) The determination of the type, quality and amount of the dowry for a woman who is not a virgin is done by the woman herself; (5). *Mahr* belongs to women; (6). Men's presents by the time of the proposal are considered gifts; (7). Part of the dowry given before the marriage contract must be returned when the marriage fails; (8). A marriage contract without stating the dowry amount is still considered valid. (Aceh Ulama Consultative Assembly, 2016)

The fatwa of the Aceh Ulama Consultative Assembly (MPU) above implies that a dowry is considered an obligatory gift by a husband to a prospective wife, where the dowry's type, quality, and amount are determined by the guardian, especially for a virgin woman. In contrast, a widow undoubtedly determines the dowry herself. A dowry is the absolute right of the wife given before the marriage contract and must be returned if the marriage fails. The dowry given at the engagement is considered a gift, not a dowry. In the *tausiyah* (additional notes), it is stated that the groom should not use the *mushaf* (Quran) as a dowry (Analiansyah, 2018:246).

The Aceh Traditional Assembly (MAA)<sup>8</sup> did not issue an appeal or announcement to the public regarding the dowry. In this matter, a dowry is considered dynamic. There are no specific regulations determined by the regional government or the Aceh Traditional Assembly because 23 districts/cities in Aceh contribute to different traditions determining dowries (Mukhlis M. Interview, November 19, 2018). Some of the factors that cause the high value of Aceh's dowry are the personal quality of the prospective wife, in terms of religion, intelligence, obedience, beauty, and social position. Another factor that causes the high dowry in Acehnese custom is that women's families provide supplies or *peumulang* (after being separated) to newly married couples. In this case, the woman's family has prepared room essentials, even a house or a plot of rice field for the bride and groom, depending on the ability of the woman's parents. For instance, the amount of dowry given to a prospective wife is less than five *mayam*, so according to the customary law, *Linto Baro*<sup>9</sup> is not

entitled to a house from his in-laws. In a sense, after marriage, *linto baro* lives independently with his wife and does not depend on the economy of his in-laws. However, according to the custom, if the dowries exceed five *mayam*, but less than ten *mayam*, *linto baro* will receive a room (*sireweung rumoh*) from his in-laws. If the dowry exceeds ten *mayam* and even 16 *mayam* (*sebungkai*),<sup>10</sup> then *linto baro* will be provided with one house and will still obtain the business capital in the form of rice fields or oxen from his in-laws.

In addition, if the husband's status is as a guest at his wife's house, then the cost of living for a year or two with his wife will be borne by his in-laws. In this specific condition, *linto baro* has to buy meat and clothes when *meugang*<sup>11</sup> for his in-laws' house. Generally, after one to two years (getting the first child and the second child), a separation known as *pemeungkleh*<sup>12</sup> is carried out, while in Java, it is called *mencar*<sup>13</sup>, which is carried out with a special ceremony (Daud, 2014:77).

The amount of dowries in each region of Aceh is significantly different, following the determination of the woman's family, according to the ethnicity of each region. In Aceh, there are eight ethnicities or tribes with a diversity of cultures and arts, including traditional wedding cultures. For instance, the dowry in Central Aceh is classified as standard (neither too high nor too low). In Aceh Tamiang, the dowry is not high, but “delivery money” is used. For instance, the dowry only amounts to five *mayam*, but the woman's family determines the delivery money of Rp20 million to buy the room's essentials. Furthermore, there was a case where the dowry of up to 30 *mayam*, which is relatively high and determined by the woman's family, without any additional dowry.

Mukhlis M, ADC Chairperson of the Aceh Traditional Assembly, stated that the high dowries determined by women's families are considered normal. This is because marriage is considered a sacred vow taken seriously. Therefore, it is considered normal to prepare a marriage with careful preparation, hard effort, even with a high dowry. This is regarded as a dynamic that typically occurs in the Acehnese society and can motivate all couples who want to get married. Based on this, there is a proverb in the Acehnese language: *Na peng Na inong* “There is money, there is a wife”, which indicates that if an individual wants to get married, he must work and earn money to properly prepare for marriage (Mukhlis M., November 19, 2018).

However, the high amount of dowry in Aceh can cause several negative impacts, such as the increasing number of women entering old age and yet not married. The emergence of elopement cases (*kawin lari*), the number of adultery, and *khalwat*. These are caused by various factors, not solely because of the high dowry in Aceh. However, the more dominant cause is the absence of parental blessing to marry due to the inability of men to provide dowries.

In the practice of giving dowries in Aceh, Muhammad Iqbal, the administrator of the Office of Religious Affairs (KUA) in the Sub-District of Kuta Alam, said that the majority of Acehnese people give dowries of marriage in cash, specifically in the form of gold. However, it is permissible in Islam that the dowries are given later or made into debt. However, if the status of the dowry is considered a debt, then the man and his family will tend to be poorly criticized by the neighbors. Of the 240 couples who got married at the KUA of Kuta Alam Sub-District in 2018, from January to October, 95% of them gave dowries in the form of gold which was given in cash. This result is also found at the KUA of Baiturrahman Sub-District, that 90% of husbands grant a dowry in the form of gold, which was given in cash (Muhammad Iqbal, November 22, 2018). According to Saifullah, the Chairperson of the KUA in Baiturrahman Sub-District, not many dowries are other than gold, specifically, only one to two couples every month who get married at the KUA of Baiturrahman Sub-District giving a dowry other than gold (Interview, November 22, 2018). This shows that community compliance with customary law is considered very high. This is an indicator of the functioning of the law. According to Lawrence Meir Friedman(2009:18), the success of law enforcement highly depends on the legal system. The legal system comprises three main components: legal structure, legal substance, and legal culture. The three main components are indeed related. The structure is considered as a machine, and the substance is what the machine does and produces. Meanwhile, legal culture is the subject that decides to turn the machine on and off and decides how the machine is used.

In the days of the ancient Aceh kingdom, *jeunamee* for a single woman was given in the form of *Ringgit* and determined according to her level and position in society. For instance, for the daughter of the Sultan, the dowry amounted to 1,000 Ringgit; the dowry for the daughter of a Tuanku amounted to 500 Acehnese Ringgit (equivalent to

gold)l the dowry for the daughter of *ureueng ulee* (prominent people) in the royal family group, such as *cut*<sup>14</sup> and *meurah*<sup>15</sup>, *ulebalang*<sup>16</sup> amounted to 100 Acehnese Ringgit (4 gold packs); the dowry for the daughter of middle people, such as *Imeum*, *Keuchik*, *Teungku Meunasah* and others, was 50 Acehnese Ringgit (2 gold packs); and the dowry for the daughter of impoverished parents amounted to one or two *tabil* (weight measurement; 1 *tabil* equal to 37.8 gram). Meanwhile, the amount of *jeunamee* for widowed women was determined according to the agreement of both parties (Sufi & Wibowo, n.d.:41).

*Jeunamee* is the dowry in Acehnese traditional marriages symbolized in gold, measured in *mayam*. *Jeunamee* provides a significant meaning for Acehnese women because it is considered a dignity. Dowry (*mahr*) is also regarded as a symbol of honor and prestige for a woman's family. The higher the dowry given by men will show the social status of women in society (A. Gani & Ainun Hayati, 2017:174). Meanwhile, *mayam* refers to a gold measurement prevailing in the traditional Aceh dowry. If converted with grams, one *Mayam* is estimated to be worth 3.33 grams. This is included in *al-'urf al-lafzi*, considered a custom of the Acehnese people to use lafaz *mayam* in expressing the dowry given by the groom. Thus, this expression is used in mentioning the dowry amount at the time of the marriage contract. *Mayam* is 24-carat gold or 90% to 99% pure gold. In Rupiah, 1 gram of 24 carat gold is around Rp668,000. Therefore, one *mayam* amounts to Rp2,004,000 (November 2018). In addition, it is categorized as *al-'urf al-'amali* (customs related to particular practices), the Acehnese custom of setting gold as a dowry. According to Badruzzaman Ismail, the Chairperson of the Aceh Traditional Assembly, the determination of gold as a dowry is based on several reasons: the value of gold tends to be stable over time; gold is not easily affected by inflation of a country's currency; gold has a high value compared to other goods; the price of gold tends to rise according to changes in the Rupiah price against the US Dollar. This condition relates to using the *al-'adah muhakkamah* (customs and their values become a foundation for laws). These traditions or customs can be considered law. There is no Islamic law proposition that prohibits the custom of Acehnese society that tends to give marriage in the form of gold.

Regarding that matter, determining the actual amount of dowry does not require specific clarity of how much dowry should be given

to the bride. Thus, the stipulation of law not clearly explained in the Quran and Hadith must subsequently be based on customs. This is in accordance with the following rules:

*“An acknowledged custom is a behavior that generally occurs frequently and has been objectively verified by humans, and is not a behavior that is rarely carried out.”*

*“The law is a set of rules decided by certain practices or actions arising in some cases, not in regards with the custom which rarely happens.”*

Referring to the existing reality, the government has made several efforts to reduce problems related to dowries through the rules contained in Presidential Instruction No. 1 of 1991 concerning the Compilation of Islamic Law Articles 30 to 38; Fatwa of the Aceh Ulama Consultative Assembly No. 5 of 2016 concerning Dowry in the Perspective of Fiqh, Laws and Aceh Customs. However, the Acehnese customary rules are still considered the community's choice to determine the dowry amount in practice.

This means that state regulations and Ulama's fatwas regarding dowry provisions have not been able to change the pattern of society in determining dowries. This is due to the determination of the dowry from the woman's family and given in the form of gold has been considered a habit of the Acehnese people since ancient times. This tradition has become a social and cultural agreement from generation to generation.

The people of Aceh, as a society that holds tight religious values in social life, ideally determine the dowry based on easiness and blessing. The Prophet Muhammad advised Muslims to facilitate marriage and the dowry. The Prophet said: *“The best dowry is the easiest” (Abū Dawūd)*.

The hadith above explains that the blessings in women ease the issue of engagement and ease the issue of dowry (al-Syaukānī, 1993:201). In the book of *Fatḥ al-Bārī*, the ulama stated that the editorial of the hadith above does not indicate legal emphasis, which requires everyone to lower the dowry amount but only recommends that Muslims who intend to marry a Muslim woman should reduce the dowry amount. In this matter, this does not necessarily mean that a woman who raises the price of dowry is not pious. This is because the indicator of a woman's piety can not only be measured from the high and low dowry requested but from various factors, such as her worship activities, obedience, and recitations, etc.



The meaning of easiness in the hadith above is not related to the value of the cheapest dowry because the standard of easiness for each person in giving a dowry is different. For example, if the groom's monthly income is 50 million and the bride asks for a dowry of 30 million, this is easy for the groom. Therefore, the ease with which a person can give a dowry is measured from the financial ability of the prospective groom, from his profession, work and monthly income. In this regard, the average value of the dowry in Acehese society is 30 million. For someone with a monthly income of 5 million, 30 million is considered a very burdensome value.

### **Provisions for Dowry Amount and its Practice in Selangor**

In Malaysia, the dowry is regarded as '*mas kahwin*', the amount of which has been determined by the Ministry of Islamic Religious Affairs (JAI) of each state (Maxwell, 2017:80). In Islamic Family Law (State of Selangor) Enactment 2003, Section 2 on Interpretation, it is stated that the dowry is an obligatory gift given by the husband to the wife at the time of the marriage contract, either in the form of money or goods that are equivalent to money and given in cash or debt.

Regulations on the provision of dowry and delivery money in Selangor have been described in the Islamic Family Law (State of Selangor) Enactment 2003, Section 21 regarding *Mas Kahwin*, which states:

- 1). *Mas kahwin* should usually be paid by the man or his representative to the woman or her representative in front of the marriage officiant and at least two other witnesses; 2). The registrar of the marriage should determine and record: (a) the value and other points of the *mas kahwin*; (b) value and other items of *mas kahwin*; (c) the value and other points of *mas kahwin* or gift or both that have been promised but not explained during the marriage contract period, and the date promised for the explanation; and (d) items of guarantees provided to describe the dowry or gift. (Government of Selangor Gazette, 2003)

The article above indicates that the prospective husband or representative gives the dowry to the prospective wife or representative in front of the marriage officiant and two witnesses. In addition, the marriage registrar should record the data of the husband's gift to the wife, such as the amount of dowry and the amount of the gift, whether it is delivered or promised but not yet delivered at the time of the marriage contract, along with the date of delivery and information that can be used as a guarantee for delivering the dowry (Nasution, 2013:157).

This regulation aims to avoid fraud, mistreatment and problems after marriage is carried out (Yusoff, 2008:43).

As stated by Siti Mariam bint Saffi, the Ministry of Islamic Religious Affairs, Department of Family Law, Section of Marriage Document, Divorce and Referral in the Islamic Religious Office in Selangor, dowry amounts in Malaysia are set with the aim to guide the community in giving dowries. Besides that, this stipulation is used to guarantee women's rights to receive and obtain a dowry and give honor to them and provide socio-economic protection. With this social goal, the law is set as a tool to achieve that goal. Consequently, society does not arbitrarily place the dowry amount at the lowest amount, thereby degrading a woman's dignity and not putting the dowry amount at the maximum amount, which will burden the man to marry his prospective wife (Siti Mariam bint Saffi, November 14, 2018).

This indicates that the amount to be determined is the minimum amount as a guide for the bridegroom. Meanwhile, couples who get married in a state that does not submit to the minimum dowry guidelines are free to determine the amount of the dowry of marriage without any obstacles. The dowry amount stipulated by the Ministry of Islamic Religious Affairs in all states in Malaysia is only the minimum amount. In contrast, the maximum amount is not specified. For couples who marry in a state with minimum dowry guidelines, the bridegroom should not reduce the dowry that has been determined but may give the dowry more than stipulated. Suppose the maximum amount of high dowry value is determined. In that case, it will burden the groom and his family, which is undoubtedly contrary to the wisdom of marriage. These JAIS regulations are binding and must be followed by all people who live or want to get married in the state of Selangor. The following is a table of dowry amounts in Malaysia:

Table 1. Amount of Dowry in Malaysia 2018

<b>State</b>	<b>Widow, Value in RM</b>	<b>Single, Value in RM</b>
Johor	22.50	22.50
Melaka	100.00	100.00
Negeri Sembilan	100.00	200.00
Selangor	300.00	300.00
Kuala Lumpur	40.00	80.00
Perak	101.00	101.00

State	Widow, Value in RM	Single, Value in RM
Pulau Pinang	24.00	24.00
Kedah	No Provision	No Provision
Perlis	No Provision	No Provision
Pahang	22.50	22.50
Terengganu	No Provision	No Provision
Kelantan	No Provision	No Provision
Sabah	80.00	100.00
Sarawak	120.00	120.00
Labuan	80.00	80.00

Source: Islamic Religion Affairs in Selangor

Based on the table above, it is found that the dowry amount in each state in Malaysia is significantly different, and the state of Selangor ranks highest in determining the dowry. The difference in dowry amount is influenced by the development and progress of a state's economy. Thus, if the dowry amount is similar across all states in Malaysia, this can burden the community in a state with below-standard economic capacity (Maxwell, 2017:80).

If a fatwa has been proclaimed in Government Gazette, it should bind Muslims living in the state of Selangor. The local Muslims are obliged to follow the fatwa as a part of their religious teaching unless other stipulations in Islamic law say differently. Furthermore, only fatwa stipulated in the Government Gazette equals law, and it only applies to Muslims living in that territory (Nasohah, 2005:25). Administration of the Religion of Islam (State of Selangor) Enactment 2003, Part III-Inauguration of Mufti, Power in Religious Affairs, and Fatwas Related to National Interests, Section 49 regarding Fatwas proclaimed in the Government Gazette is binding, it states that:

- (1) If it is proclaimed in the Government Gazette, a fatwa should bind every Muslim living in the state of Selangor as their religious teaching, and they are obliged to follow the fatwa unless it is justified by the Islamic Law not to follow the fatwa in matters of personal practice.
- (2) Any fatwa should be adopted by all Courts in the State of Selangor regarding all the cases stated in it.

In Malaysia, Islamic law is manifested in two circumstances, particularly in the form of fatwas and written laws or *shari'a* (Islamic Law)

Enactments such as Islamic Family Enactments, Sharia Information Sharia Mal Enactment Procedures and Sharia Jenayah Procedures Enactments. Therefore, *shari'at*' law is under the legislative body's power so that the state body strengthens changes to fatwas and the provisions of Islamic law. All of the Enactments of the Islamic Religious Administration in the States of Malaysia stipulate that the party who has the right and responsibility to issue laws if needed is the Fatwa Institute of each state. The Fatwa Institute for each state consists of a *mufiti* (fatwa maker) and a shari'a authority. The fatwa to be issued by the State Islamic Religious Affairs should go through the Sharia Bureau with the *mufiti* as its successor. As for the *mufiti* inaugurated by the King or Sultan, except for the state of Malacca, the Guild Territory and Pinang Island, the mufti is inaugurated by those in Pertuan Agong or Pertua Negeri (Kasan, 2006:2).

The historical background for determining the dowry amount in Selangor was the birth of the Islamic Family Law in Selangor when the late Sultan Salahuddin Abdul Aziz Shah wanted a particular term regarding the dowry as a guideline for the general public to refer to all matters relating to dowry. Meanwhile, the Enactments of the Islamic Family Law in Selangor regarding the dowry or *mas kahwin* was made in 1984. In general, the Selangor Islamic Religious Affairs held special meetings with related parties, specifically the Selangor State Fatwa Assembly Department and the Sharia Court, and has determined that the *mas kahwin* amount for single women amounts to RM 80.00, and for widowed women amounts to RM 40.00. This provision has been enforced since 1968.

In Government of Selangor Gazette, Administration of the Religion of Islam (State of Selangor) Enactment 2003, Fatwa under Section 47 states that the dowry amount for the state of Selangor amounts to RM 300.00 (Three Hundred Malaysian Ringgit) for single or widowed women, this stipulation has been enforced since January 1, 2010. The RM 300.00 provision has been combined with the delivery money for the prospective groom who wants to marry a woman from Selangor. This means that the term delivery money is no longer valid because it has been certainly included in the dowry. The increase in the amount of dowry in the state of Selangor is considered an effort to raise the dignity of women at present (Othman, 2009:1).

The dowry amount of RM 300.00 was determined in 2009, exactly six months before its stipulation. The Islamic Religious Affairs has reviewed

the number of dowries in Selangor and held several activities, including holding a comparative seminar on the amount of *mas kahwin* throughout Malaysia, proclaiming the Selangor State Fatwa Authority, obtaining the approval of highly respected figure in the prosperous state of Selangor (Sultan of Selangor) and finally issuing a statement regarding the stipulation of the amount of dowry or *mas kahwin* by the Selangor State Law Advisor.

As stated by Adim Hidayat bin Mukim, the Ministry of Marriage Registration/Imam of Saujana Utama 2 Mosque, Sungai Buloh Selangor, that socialization to the public regarding the dowry amount of RM 300.00 has been carried out through religious lectures at mosques, Friday sermons and events held by JAIS. In addition, during the pre-marriage course, the community will also receive instructions from the marriage tutors regarding the amount of dowry that must be prepared in marriage. In addition, couples who want to get married in Selangor must prepare several application forms and submit them to the marriage applicant's assistant, such as nationality status, pre-marriage course certificate, HIV exam certificate, ascertaining documents, Statement of Truth from RMP/Police or MRC/military, and marriage status declaration (Adim Hidayat bin Mukim, November 13, 2018).

Adim Hidayat bin Mukim added that a woman's family generally determines the number of dowries. However, if the woman's family does not determine the amount of the dowry, then the man will apply the provisions of the Islamic Religious Affairs. Dowries may also be given in cash or in the form of debt. It can also be in money or property (Adim Hidayat bin Mukim, November 13, 2018). In a decision (1911) 12 FMSLR 61, *Janat lwn Khuda Baksh*, the Syar'iyah Court stated that the husband might only give goods as a dowry, with the wife's consent. If the consent is not obtained, the items given are only considered gifts, and consequently, the husband has not yet paid the dowry.

According to Syariffudin bin Mustafa, the people of Kuala Selangor, the majority of the people of Selangor give dowries in cash. It has become a trend of marriages in Malaysia to give dowries in the form of Ringgit money. In this specific issue, Ringgit money is considered a valuable and more effective symbol in terms of its use. However, the community does not reject or prohibit the prospective husband from giving a dowry in the form of the Qur'an, car, house, gold or other valuables. The most important thing is the value of the benefits and the agreement

of both parties (Syariffudin, November 13, 2018). This shows that the dowry amount regulation in Selangor is considered a law that has been implemented as mentioned in the Legal Realism Theory. The law is not just some legislation-related rules and has never been implemented (Mahrus Ali, 2017:219).

According to Abdul Halem Hapiz Bin Salihin, Chairperson of the Mufti Assistant-Chairperson of the Fatwa Division, the determination of the amount of dowry by the Selangor state government with a minimum dowry value of RM 300.00 does not bring any harm to the prospective groom and is considered capable of contributing to the benefit of the bride, because her right is undoubtedly guaranteed. The dowry amount stipulated by the Ministry of Islamic Religious Affairs in all states in Malaysia is only a minimum amount. In contrast, the maximum amount is not found to be any specific limit (Abdul Halem Hapiz Bin Salihin, November 15, 2018). In this case, individuals who violate or do not follow the rules set by Islamic Religious Affairs will not be subject to sanctions, both imprisonment and fines. This rule was made to guarantee the position of women by giving them a dowry and to guard the high amount of dowry demanded by the woman's family, thus burdening the man in preparing for marriage.

From 1978 to 2009, Yusoff (2008:43) stated that the dowry amount in the state of Selangor is determined according to the status of women in society. For instance, the dowry of the Sultan's daughter, who is still a virgin, is amounted to RM 2,500.00. The dowry of the Sultan's daughter, who is a widow, is amounted to RM 625.00. The dowry of the Raja Muda daughter or Sultan's daughter who has the title amounts to RM 2,000.00 for single women and RM 500.00 for widowed women. For the daughter of a relative, the dowry amounts to RM 1,000.00 for single women and RM 250.00 for widowed women. For the daughter of the King, who is still a virgin, the dowry amount amounts to RM 550.00, and for the widowed woman amounts to RM 137.50. For the King's daughter, who is not an heir and is still a virgin, the dowry stipulated RM 300.00 and RM 75.00 for a widowed daughter. The amount of the dowry for the grandchildren of the honorable person is stipulated in the amount of RM 200.00 for the single daughter and RM 50.00 for the widowed daughter. The dowry amounts to RM 80.00 for single women and RM 40.00 for widowed women for the local communities.

However, on January 1, 2010, the Government of the State of

Selangor had increased the dowry amount for the local community from RM 80.00 and RM 40.00 to RM 300.00 for girls and widows. The RM 300 provision has been combined with the delivery money for the prospective groom who wants to marry a woman from that state. Based on the theory of legal realism, this indicates that the law develops continuously in accordance with the times of the dynamics of society. The increasing dowry is influenced by the growth and development of economic progress in the Selangor community.

According to Karl N. Llewellyn, the characteristic of legal realism theory found in determining the dowry amount in Selangor is the separation between *das sollen* and *das sein*, or the separation between existing and ought to be laws. In this matter, the existing law determines the dowry amount in Selangor, and the law that should be is the determination of the dowry amount and gift amount. Syariffudin bin Mustafa, Kuala Selangor Community, explained that people currently prioritize and prepare for gifts (*hantaran*)<sup>17</sup> rather than dowries (Syariffudin, November 13, 2018). This is based on the Islamic Religious Affairs (JAI) rules for each state, which only determines the minimum level of dowry. The woman's family is not too concerned about the amount of dowry given by the groom. However, the main problem is determining the high gift value of the woman's family.

*Hantaran* can also determine a person's status. For instance, higher *hantaran* are given by the upper-middle class, and the lower-income class prepare lower gifts. This indicates that the role and potential of the gifts are considered broader than the role of the dowry. Thus, people are more prepared to provide tens of thousands of Ringgit cash to bring *hantaran* than the dowry (H. M. Ali, 2013:3). This can undoubtedly contribute to many young people getting married at old age. As Ibrahim (2017:62) stated, the age for men and women to be considered old are 35 and 30 years old, respectively. This phenomenon tends to cause couples who are about to get married to bear the burden of spending beyond their means. Thus, determining a high amount of dowries and cash transfers places a heavy burden on the groom before consenting to marry. It may take a considerable time for men to save money before establishing a household. One of the reasons for postponing a marriage is financial factors stemming from the problem of high marriage expenses. Social facts in the Selangor community regarding the amount of dowry are always associated with existing laws implemented by the local community. This is in accordance

with the Legal Realism theory, which does not separate law and facts (reductive thesis). For legal realism, the law can be reduced as a social fact, or in other words, the law is seen as a product of social interaction.

The people of Selangor always follows the Government's provisions regarding the dowry amount, even though the dowry amount in Selangor has increased to RM 300.00. Moreover, this stipulation is used to guarantee women's rights to receive and obtain a dowry and give honor to them and provide socio-economic protection. The actions and policies of the Selangor state government in determining the dowry amount are in accordance with the Islamic jurisprudence principles, which state, *"The affairs of the Imam concerning his people are judged by reference to maṣlahah (benefits)."*

The above rule explains that a government policy related to the rights of the people must be linked to the benefit of the people and is aimed at creating good. The government policy adopted by the leader or ruler must be in line with the public interest and not only aimed at the interests of one particular group. In determining the dowry amount, the author still finds various gaps in the problem, specifically related to the Selangor Islamic Religious Affairs (JAIS), which sets the Selangor dowry amount at RM 300.00, including dowry and gift. However, some Selangor people still practically determine the number of gifts handed over to women. This shows that the regulation of the dowry amount has not been adequately complied with and needs to be socialized intensively to the local community.

## Comparative Analysis of Dowry Practices in Aceh and Selangor

Table 2. The practices of dowries in Aceh and Selangor have several similarities

<b>Similarities</b>	
Definition of Dowry	An obligatory gift of any goods or property given by the prospective husband to the prospective wife at the time of the marriage contract
Ownership of Dowry	Absolute Rights of Wife
Amount of Dowry	The entitled party determines the amount and type of dowry. The parties who determine the dowry in Aceh and Selangor are different. However, the dowry is equally determined in both places.



<b>Similarities</b>	
Gift	The woman's family determines the gift
Legislation	Indonesia and Malaysia have determined regulations regarding the issue of dowry. In Indonesia, the dowry regulations are stated in Presidential Instruction No. 1 of 1991 concerning the Compilation of Islamic Law in Articles 30 to 38. Meanwhile, in Malaysia, the dowry regulations are stated in Enactment No. 2 of 2003, the Islamic Family Law (State of Selangor) Enactment 2003, Section 21 regarding <i>Mas Kahwin</i> and gift.
Criminal Sanctions for Violating Dowry Regulations	In the laws and regulations of Indonesia and Malaysia, there are no sanctions for individuals who violate or do not follow government rules. This is because the dowry rules determined by the government have been considered a guide for the community so that people do not arbitrarily set the dowry at the lowest amount—thereby lowering the dignity of women—or set the dowry amount at a high level, which further burdens men. This stipulation is used to maintain the common good, protect women's rights, and provide socio-economic protection.
Influence of Customary Law	Indonesia and Malaysia used customary law for the first time as a reference for social practices. The customary law can influence a person's religion and state actions.

Table 3. The *differences* in dowry practice in Aceh and Selangor

<b>Differences</b>		
	<b>Acch-Indonesia</b>	<b>Selangor-Malaysia</b>
The Party that Determines the Dowry	In the Acehnese custom, the amount of dowry is determined by the bride's family	In the state of Selangor, the dowry amount is determined by the woman's family or the Selangor Islamic Religious Affairs at RM 300. Referring to this matter, if the bride's family does not determine the dowry amount for marriage, the groom will follow the provisions of the Islamic Religious Affairs.
Form of Dowry	In Acehnese customs, the majority of the people give a dowry in the form of gold measured in <i>mayam</i> , and the Acehnese are very rarely found giving the dowry in the form of money or goods.	Meanwhile, the Selangor people provide a dowry in the form of Ringgit, in accordance with the provisions of the state government.

<b>Differences</b>		
	<b>Acch-Indonesia</b>	<b>Selangor-Malaysia</b>
Customary Sanctions in Giving Dowry	During the engagement ceremony, customary sanctions will be conveyed regarding the annulment of the marriage at a later date. If a man cancels the marriage, then half of the dowry that has been given at the time of the engagement cannot be returned. If the woman cancels the marriage, she must return half of the dowry given and replace it twice.	There are no customary sanctions regarding the annulment of marriages in the Selangor society.
Dowry Recording by Marriage Registrar	In Indonesia, marriage officers only record the dowry stated and given at the time of the marriage contract.	In Malaysia, the marriage officers record the marriage data of the bride and groom and several other matters, including 1). The amount of dowry 2). The number of gifts 3). The amount of dowry or gift, or both that is promised but not yet delivered at the time of the marriage contract, and the promised date of delivery 4). Information can be utilized as a guarantee to submit a dowry or gift.
Islamic Family Law Regarding Dowry	Presidential Instruction No. 1 of 1991 concerning the Compilation of Islamic Law (CIL) Articles 30 to 38 state: 1) The husband is obliged to give a dowry to the wife; 2) Both parties agree upon the amount, form and type of dowry; 3) Determination of dowry based on the principles of simplicity and easiness; 4) Dowry becomes the absolute right of the wife; 5) The submission of the dowry can be made in cash or deferred; 6). Dowries are not a pillar of marriage; 7). Failure to mention the type and amount of dowry at the marriage contract does not invalidate the marriage; 8). Rules for handing over a dowry in the event of a divorce, either divorced or widowed; 9). The settlement of dowry disputes is the authority of the Religious Courts; 10). Rules of dowry containing deficiencies. However, the Compilation of Islamic Law (CIL) does not determine the amount of dowry that must be given to the wife.	Islamic Family Law (State of Selangor) Enactment 2003 include 1) Section 2 on the interpretation of the meaning of <i>Mas Kahwin</i> (dowry); 2) Section 21 on <i>Mas Kahwin</i> and Gift; 3) Section 23 on Polygamy. The dowry regulation does not comprehensively regulate the status of the dowry, the mechanism for giving the dowry, and the rights of ownership of the dowry. However, the states of Malaysia determine the value or standard rate in giving a dowry to the bride.

<b>Differences</b>		
	<b>Aceh-Indonesia</b>	<b>Selangor-Malaysia</b>
Colonial Influence	During the colonial period, the Dutch gave full authority to Muslims to use Islam as a reference in worship and social activities such as marriage, divorce, inheritance, etc.	Britain incorporated its state ideology into Malaysian Law. Consequently, the ideology of Malaysian Law is based on the British ideology, namely Religion as the State, meaning Islam as the State religion. The state only provides general regulation, but the state will later provide the interpretation.
Influence of Customary Law	Customary law only applies to people in their customary territory and becomes a tradition in practicing their religious activities.	Customary law is referred to as a consideration in the formation of state law.

## **Conclusion**

To conclude, the religious and customary norms in the life of the Acehnese people cannot be separated. Indonesia has attempted to minimize the problem of dowries through the rules in Presidential Instruction No. 1 of 1991 concerning the Compilation of Islamic Law in Articles 30 to 38, Fatwa of the Aceh Ulama Consultative Assembly No. 5 of 2016 concerning Dowry in the Perspective of Fiqh, Law and Aceh Customs. However, the Acehnese customary rules are still the community's choice to determine the dowry amount. The dowry amount in Aceh is determined by the bride's family in the amount of the *mitbl* dowry and is given in the form of gold measured in *mayam*. This tradition has been integrated into the custom of the Acehnese people since ancient times and has become a social agreement inherited from generation to generation.

Meanwhile, the dowry amount for the State of Selangor is determined by the State Government with a minimum amount of RM 300.00, which has been combined with the delivery money for maidens and widows, as stated in Administration of the Religion of Islam (State of Selangor) Enactment 2003, the Fatwa under Section 47. The determination of the dowry amount aims to guarantee women's social status and rights and provide dignity and socio-economic protection. In practice, the Selangor community complies with the Government's

provisions regarding the dowry amount, even though it has significantly increased. However, the gap is still likely to be found in determining the amount of dowry. The people still insist on the amount of the gift that must be handed over to the bride, even though the regulation stipulates the dowry amount at RM 300.00 and includes the dowry and gift. This shows that the regulation of the dowry amount has not been adequately obeyed. In this case, the governments still need to socialize the regulation intensively to the local community.

## Endnote

- 1 *Jujur* is a gift in the form of money or goods given by the man to the woman's family to release the prospective bride from her parents' membership (Warjiyati, 2020:91).
- 2 *Peng Angoh* (*peng-Money, angoh-Delivery*) is an amount of money determined by the woman to be delivered by the man at the same time as the delivery of the dowry. This is conducted to help the bride to hold the marriage ceremony and to purchase the room essentials.
- 3 *Seulangke* is someone who represents the family to mediate the arranged marriage process and is considered capable of delivering speeches. *Seulangke* is in charge of finding a mate for an adult male child. If *Seulangke* has found the girl he is looking for, he will first confirm the girl's status. If the girl is not married or is not in a relationship with anyone, then he will convey his intention to propose to the girl.
- 4 *Keuchik* or *Geuchik* is the person who leads a village or also called the village head. This term is only used in Aceh Province, which adheres to the Aceh local government system.
- 5 *Tuha Peut* is a *gampong* (village) representative body consisting of elements of ulama, traditional leaders, community leaders, and smart people in the village concerned. The *gampong* executive body consists of *keuchik* and *teungku Imum meunasah* and the village apparatus.
- 6 *Imeum Meunasah* is a *Tengku* who is proficient in religious matters, and has the task of leading in activities related to the field of Islam
- 7 *Ba Tanda* is the engagement ceremony. If the application is accepted, the groom's family will return to conduct *peukong haba* (discussion), particularly to discuss the day of the marriage, and determine the amount of dowry (called *jeulamee*) that the bride asks for, and how many guests will be invited. The term *Ba Tanda* consists of two words, namely *Ba* which means 'to carry' and *Tanda* which means 'to carry a ring as a sign that the woman has been proposed'. See: <https://acehprov.go.id/berita/kategori/jelajah/upacara-adat-perkawinan-aceh>
- 8 Aceh Traditional Assembly (MAA) is an institution that is responsible for

- preserving and developing the customs, arts and culture in the province of Aceh. Aceh is a multi-cultural area, so it is known to have a richness/diversity of cultural treasures, arts and customs, as written in Qanun Aceh Number 8 of 2019 concerning the Aceh Traditional Assembly. See: [https://maa.acehprov.go.id/media/2021.04/Qanun\\_No\\_8\\_Thn\\_2019\\_Ttg\\_Majelis\\_Adat\\_Aceh.pdf](https://maa.acehprov.go.id/media/2021.04/Qanun_No_8_Thn_2019_Ttg_Majelis_Adat_Aceh.pdf)
- 9 *Linto baro*: the groom
  - 10 *Sebungkai* is a lump of gold, equivalent to 16 gold *mayam*
  - 11 *Meugang* is a tradition of cooking meat and enjoying it with family, relatives and orphans to celebrate certain special days in Aceh. This celebration is an important moment for family gathering. Usually, migrants or migrant workers will return to their hometowns before Ramadan or Eid al-Adha to gather on the day of meugang.
  - 12 *Pemeungkleh* is an official event attended by the village head or village elders, where the bride's guardian conveys that her daughter is "officially" separated (*peumeungkleh*) from her parents' family to live independently with her husband and socially form a new family.
  - 13 *Mencar* is a Javanese customary term, which indicates that the Javanese people who have grown up will leave their parents to form their own families. Sometimes, each child is given a plot of land, a yard with a house, several cows, to be used as the basis for their new life as husband and wife (Tutik 2015:299).
  - 14 *Cut* (old spelling: *Tjoet*, *Tjut*) is one of the nobility titles intended for women. This title was given to the daughter of a man (*Teuku*), who married a noblewoman. A daughter is given the name *Cut*, if her father has the title *Teuku*.
  - 15 *Meurah* is the title of kings in Aceh before the arrival of Islam. In the Gayo language, it is called *Merah*, similar to *Merah Silu*, who was the founder of the Samudera Pasai kingdom. Another example is the son of Sultan Iskandar Muda, who is known as *Meurah Pupok*. After the arrival of Islam, every king of Aceh changed his title to Sultan.
  - 16 *Uleebalang* is the head of government in the Aceh sultanate, who leads an area, namely a regency-level area in the current Indonesian government structure. *Uleebalang* office holders are called *Teuku* for men or *Cut* for women.
  - 17 Gift (*hantaran*) is a customary gift in the form of money or something given by a husband to his wife at the time of the marriage contract

## References

- Aceh, MPU. (2016). *Fatwa Majelis Permusyawaratan Ulama Aceh Nomor 5 Tahun 2016 Tentang Mahar Dalam Perspektif Fiqh, Undang-Undang Dan Adat Aceh*. <https://mpu.acehprov.go.id/uploads/Fatwa MPU No 5 Tahun 2016 tentang Mahar dalam perspektif Fiqh, Undang-undang dan Adat Aceh.pdf>.
- Al-Syawkānī, Muhammad 'Alī. (1993). *Aḥādīs al-Aḥkām Nayl al-Auṭār*. 6th ed. Dar al-hadith.

- Ali, Hasbi Muh. (2013). "Mahar Sebagai Satu Bentuk Jaminan Sosio-Ekonomi Wanita: Kajian Di Tawau, Sabah." Universiti Malaya Kuala Lumpur.
- Ali, Mahrus. (2017). "Pemetaan Tesis Dalam Aliran-Aliran Filsafat Hukum Dan Konsekuensi Metodologisnya." *Jurnal Hukum Ius Quia Iustum* 24(2): 213–31.
- Analiansyah, Muhammad Iqbal. (2018). "Pengembalian Tanda Pertunangan Karena Gagal Pernikahan (Analisis Fatwa Majelis Permusyawaratan Ulama Aceh Nomor 5 Tahun 2016 Tentang Mahar Dalam Perspektif Fiqh, Undang-Undang Dan Adat Aceh)." *El-Usrah: Jurnal Hukum Keluarga* 1(2): 246–60. <https://jurnal.ar-raniry.ac.id/index.php/usrah/article/view/7636>.
- Barus, Zulfadli. (2013). "Analisis Filosofis Tentang Peta Konseptual Penelitian Hukum Normatif dan Penelitian Sosiologis." *Dinamika Hukum* 13(2): 311–12.
- Burhanuddin, A. Gani, and Ainun Hayati Ainun Hayati. (2017). "Pembatasan Jumlah Mahar Melalui Keputusan Musyawarah Adat Kluet Timur." *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 1(1): 174.
- Damis, Harijah. (2016). "Dowry Through The Perspective of Fiqh And Statutory Regulations An Analysis of Court Decision Number 23 K/AG/2012." *Yudisial* 9(1): 19–35.
- Daud, Syamsuddin. (2014). *Adat Meukawen*. Aceh: Majelis Adat Aceh.
- Friedman, Lawrence M. (2009). *The Legal System-A Social Science Perspective*. Bandung: Nusamedia.
- Habsatul Murniyati, Teuku Kemal Fasha. (2020). "Tradisi Jeulamee Di Pasee Bagian Utara : Kajian Antropologi Budaya Di Kecamatan Dewantara." 4(2): 225–36.
- Hakim, Nurul. (2014). "Mengkaji Kembali Eksistensi Mahar Perkawinan Di Aceh Pidie Sebagai Upaya Menimalisasi Rendahnya Angka Perkawinan Pada Pasangan Usia Mapan (Rancangan Konsep Mahar: Sebuah Revitalisasi Syariat Islam dan Hukum Adat)." *Juridikti* 7(3): 38–49. <https://ejournal.iainlhokseumawe.ac.id/index.php/al-mabhats/article/view/807/534>.
- Hasan, Mustofa. (2011). *Pengantar Hukum Keluarga*. Bandung: Pustaka Setia.
- Husin, Syh Noorul Madinah Syed, Raihanah Hj Azahari, and Asmak Ab. Rahman. 2016. "Marriage Expenses among Muslim Community : A Literature Review." *Jurnal Fiqh* 13(13): 23–56.
- Ibrahim, Siti Zaleha. (2017). "Gejala Kahwin Lewat: Implikasinya Terhadap Maqasid Al-Syariah." In *Muzakarah Fiqh & International Fiqh Conference*, Shah Alam, 62.
- Indonesia, Komisi Yudisial Republik. (2017). *Etika Dan Budaya Hukum Dalam Peradilan*. Jakarta: Sekretariat Jenderal Komisi Yudisial Republik Indonesia.
- Jaafar, Ahmad Baei. "Dara Atau Janda, Mas Kahwin Tetap RM 300,." <http://ww1.utusan.com.my>.
- Kasan, Hasnan. (2006). "Prosedur Mengeluar Dan Menguatkuasa Fatwa Di Semenanjung Malaysia." *Jurnal undang-Undang dan Masyarakat* 10: 1–19.
- Kebudayaan, Pusat Penelitian Sejarah. 1979. *Adat Dan Upacara Perkawinan Daerah Istimewa Aceh*. Jakarta: Balai Pustaka.

- Khallāf, Abd al-Wahhāb. (1978). *Ilmu al-Uṣūl al-Fiqh*. Damaskus: Dar al-Qalam.
- M. Atho' Muzhar, Khairuddin Nasution. (2003). *Hukum Keluarga Di Dunia Islam Modern (Studi Perbandingan dan Keberlanjutan UU Modern Dari Kitab-Kitab Fiqih)*. Jakarta: Ciputat Press.
- Mahmud Ibrahim. (2016). *Mahar Dalam Prespektif Fiqh, Undang-Undang Dan Adat Aceh*. Aceh: Majelis Permusyawaratan Aceh.
- Maxwell, Sweet and. (2017). *Islamic Family Law in Malaysia*. Selangor: Thomson Reuters.
- Nasohah, Zaini. (2005). "Undang-Undang Penguatkuasaan Fatwa Di Malaysia." *Islamiyyat* 27(1): 25–43.
- Nasution, Khoirudin. (2013). *Hukum Perkawinan I Dilengkapi Perbandingan UU Negara Muslim Kontemporer*. Yogyakarta: Academia.
- Othman, Kemalia. (2009). "Mas Kahwin Selangor Dinaik Kepada RM300." *Mstar*: 1. <https://www.mstar.com.my/lokal/semasa/2009/12/10/mas-kahwin-selangor-dinaik-kepada-rm300>.
- Rofiq, Ahmad. (2015). *Hukum Perdata Islam di Indonesia*. Jakarta: PT RajaGrafindo Persada.
- Salim HS, Erlies Septiana Nurbani. (2017). *Penerapan Teori Hukum Pada Penelitian Tesis Dan Disertasi*. 5th ed. Jakarta: PT RajaGrafindo Persada.
- Shobirin, Muhammad. (2013). "Studi Komparasi Penerapan Mahar Di Indonesia Dan Malaysia." UIN Maulana Malik Ibrahim.
- Soelaiman, Darwis A. 2011. *Kompilasi Adat Aceh*. Banda Aceh: PUSMA.
- Sufi, Rusdi, and Agus Budi Wibowo. *Adat-Istiadat dan Upacara Perkawinan Pada Masyarakat Aceh*. Aceh: Majelis Adat Aceh.
- Supriyanta. (2016). *Realisme Hukum Dan Kritiknya Terhadap Positivisme Hukum*.
- Taufiqurohman, Nadzif Ali Asyari, Nisno bin Mohd Djahri, Rizki Pangestu, Muhammad Mutawali, Iqbal Subhan Nugraha, Abdul Aziz, M. Yusuf Siddik, Musyaffa Amin Ash Shabah, Fatroyah Ars Himsyah, Budi Juliandi, Eti Yusnita. 2021. *Pembaharuan Hukum Keluarga di Dunia Islam*. ed. Ali Mutakin. Bandung: Media Sains Indonesia.
- Tutik, Titik Triwulan.(2015). *Hukum Perdata Dalam Sistem Hukum Nasional*. Jakarta: Kencana. [https://books.google.co.id/s?id=8qRPDwAAQBAJ&pg=PA299&lpg=PA299&dq=mencar+jawa+adalah&source=bl&ots=8TwmKkdD0l&sig=ACfU3U2EAJ5pvoDYCpefxDevy4lrhwJO8w&chl=en&csa=X&out=put=html\\_text](https://books.google.co.id/s?id=8qRPDwAAQBAJ&pg=PA299&lpg=PA299&dq=mencar+jawa+adalah&source=bl&ots=8TwmKkdD0l&sig=ACfU3U2EAJ5pvoDYCpefxDevy4lrhwJO8w&chl=en&csa=X&out=put=html_text).
- Utami, Sandias. (2015). "Rekonseptualisasi Kadar Mahar Berbasis Kesederhanaan Dan Kemudahan (Studi Pasal 31 Inpres No. 1 Tahun 1991) Tentang Kompilasi Hukum Islam." UIN Maulana Malik Ibrahim.
- Wakil, Muhammad Najib Abd, and Che Maryam Ahmad. (2017). "A Dower in Pahang: A Current Appraisal." *Journal of Contemporary Islamic Law* 2(2): 61–73.

- Warjiyati, Sri. (2020). *Ilmu Hukum Adat*. Yogyakarta: Deepublish.
- Yuliza. (2020). "Adat Perkawinan Dalam Masyarakat Aceh." *Al-Mabhats, Jurnal Penelitian Sosial Agama* 5(1): 131–59. <https://ejurnal.iainlhokseumawe.ac.id/index.php/al-mabhats/article/view/807/534>.
- Yusoff, Zurita Mohd. (2008). "Amalan Pemberian Mas Kahwin Di Malaysia." *Jurnal Islam dan Masyarakat Kontemporari* 1: 43–57.
- Zein, Satria Effendi dan M. 2005. *Ushul Fiqih*. Jakarta: Kencana.

### ***Interview***

- Interview with Adim Hidayat bin Mukim, 2018.
- Interview with Abdul Halem Hapiz Bin Salihin, 2018.
- Interview with Badruzzaman Ismail, 2018.
- Interview with Faisal Ali, 2018.
- Interview with Mukhlis M, 2018.
- Interview with Muhammad Iqbal, 2018.
- Interview with Shaumiati, 2018.
- Interview with Saifullah, 2018.
- Interview with Syariffudin bin Mustafa, 2018.
- Interview with Siti Mariam bint Saffi, 2018.

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