

ANALYSIS OF DOWRY LAWS IN THE STATE OF SARAWAK, MALAYSIA, AND KHI INDONESIA

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Abstract: The dowry law in Islam is an obligation for the bridegroom who wants to marry his future wife. In chapter 30 of the compilation Islamic law in Indonesia explains that the prospective bridegroom must pay a dowry to the prospective woman with an agreed amount in both form and type. Malaysia also has the Islamic Family of the Sarawak State 2001 also governed the Maharashtra law. So, in solving a problem related to amount of money will be solved by the judge. This research uses the kind of library research. Primary data source: the rule of law review in Indonesia and Malaysia, secondary data source is obtained from various writings and books relevant to the focus. Results: in detail the substantive law in the KHI is set in Paragraphs 30 to 39 while the Order of the Islamic Family of the Sarawak State 2001 in Malaysia is set out in Sections 19, 56 and 57. They both have an equation in terms of transfers that discuss substantive law, one of the two most notable differences is about the determination of substantive which in Indonesia is not clearly defined in form and number while in the Sarawak State Malaysia is determined amount.

Keyword: Dowry Law, KHI, Ordinance.

Abstrak: Hukum mahar dalam *Islam* merupakan suatu kewajiban bagi mempelai pria yang hendak menikahi calon

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mempelai perempuan. diatur dalam Pasal 30 Kompilasi Hukum Islam di Indonesia menjelaskan bahwa calon mempelai pria wajib membayar sejumlah mahar kepada calon wanita dengan jumlah yang disepakati kedua belah pihak. Sebagai bagaian dari Negara dengan penduduk mayoritas muslim Malaysia juga memiliki Ordinan UU Keluarga Islam Negeri Sarawak 2001 yang juga turut mengatur ketentuan mengenai hukum mahar. Sehingga, dalam pemecahan suatu permasalahan yang berkaitan tentang jumlah mahar apabila tidak dapat diselesaikan oleh kedua belah pihak maka akan diselesaikan oleh hakim. Penelitian ini menggunakan jenis library research. Sumber data primer berupa peraturan perundangan tentang hukum mahar di Indonesia dan Malaysia, sumber sekunder didapat dari beragam tulisan dan buku yang relevan dengan fokus kajian. Hasil: secara rinci hukum mahar dalam kompilasi hukum Islam diatur dalam Pasal 30 sampai Pasal 39 sedangkan pada ordinan undang-undang keluarga Islam Negeri Sarawak 2001 di Malaysia termuat dalam Seksyen 19, Seksyen 56 dan Seksyen 57. Keduanya memiliki persamaan dalam hal perundangan yang membahas hukum mahar, salah satu perbedaan keduanya yang paling menonjol adalah tentang penentuan mahar yang mana di Indonesia mahar tidak ditentukan secara jelas bentuk dan jumlahnya sedangkan di Negeri Sarawak Malaysia ditentukan jumlahnya.

Kata Kunci: *Hukum* Mahar, KHI, Ordinan.

Introduction

The process of fostering a household to create a sakinah family is one of Rasulullah SAW's lessons that are still relevant for every family. Islam deems dowry status to be a requirement for a husband or man. This is believed to be a result of a sharia principle that states women are not required

to support their partners. When it comes to the dowry, the potential husband can only give it to the potential wife; he cannot assign it to or give it to anybody else, regardless of how close the recipient is to the potential wife. Other persons, including the husband himself, are not permitted to take and utilize the property unless the wife agrees to it.¹ Rasulullah SAW came to the conclusion that a potential wife was happy and had high expectations for a husband who offered her a dowry. In accordance with such interpretations, some theologian further extrapolate from the Hadith that the Prophet did not appreciate excessive dowry at the time.²

Dowry is further evidence that Islam respects women and does not discriminate against them. A man receives seriousness and responsibility through dowry, making him unwilling to wed a woman. A man needs to get prepared before he proposes to a woman. something valuable that can be presented to the bride when the contract is fulfilled. According to the theologian of the aforementioned school of thought, mahar is an obligation that a husband has to do toward his wife. A legitimate marriage contract and the

¹ Tihami dan Sohari Sahrani, *Fikih Munakahat: Kajian Fikih Nikah Lengkap* (Jakarta: Rajawali Press, 2014), 37.

² Putra Halomoan, "Penetapan Mahar terhadap Kelangsungan Pernikahan ditinjau menurut Hukum Islam", *Jurnal Ilmiah Syari'ah (JURIS)*, 14 (Juli, 2015), 108.

occurrence of legal sexual activity are what trigger the requirement to pay the dowry (not intercourse due to adultery).³

The community has benefited from the dowry law's implementation. (*al-masalih al-'ammah*) and in accordance with the rules that read, *al-maslahah al-'ammah muqaddamah min al-maslahah al-khassah*. This law basically conveys the idea that it is for the common welfare. (*al-masalih al-'ammah*) exceeds special advantages in prominence (*al-maslahah al-khassah*).⁴ A large majority of theologian have also agreed that dowry must be determined as a need for a legal marriage and that dowry is absolute. Even if the two sides come to an agreement, it cannot be removed.⁵ Consequently, the advantages that Islam seeks are as follows: Attract benefits, reject destructive behavior, be protective of others from potential harm, prevent anything from becoming a path to harm, and be flexible in responding to changes in the environment.⁶

³ Abdul Azis Dahlan, "Mahar", *Ensiklopedi Hukum Islam*, Jilid 3, (Jakarta: PT. Ichtiar Baru van Hoeve, 2003), 1042.

⁴ M. Noor Harisudin, "Urf Sebagai Sumber Hukum Islam (Fiqh Nusantara)", *Jurnal Al-Fikr*, 20 (2016), 71.

⁵ Ibn Rusd, *Bidayatul Mujtahid Wanihayatul Muqtasid* (Kairo: Dar Fajr Atturast, 2014), 547.

⁶ M.N. Harisudin, *Fikih Nusantara: Pancasila dan Sistem Hukum Nasional di Indonesia* (Tangerang: Pustaka Compass, 2019), 75-76.

According to a different viewpoint, a prospective husband is required to provide a dowry at the request or preference of the future bride. The husband has the right to use the dowry as good and legitimate property if the future wife is kind enough to return it to her husband when the amount of the dowry is specified. This viewpoint is drawn from verse 4 of Q.S. An-Nisa, which is Allah SWT's inspired utterance.

وَأْتُوا النِّسَاءَ بِصَدُقَاتِهِنَّ نِحْلَةً فَإِنْ طِبَّنَ لَكُمْ عَنْ شَيْءٍ مِنْهُ نَفْسًا فَكُلُوهُ هَنِيئًا مَرِيًّا

Meaning: With full readiness, give a mahar (dowry) to the woman you plan to marry as a present. If they happily offer you a portion of the dowry, then consume (accept) the present (as food) that is healthy and delectable..⁷

Generally the type of dowry that must be presented to the groom in a marriage is often something that can be traded legally.⁸ Islamic nations have modernized their various countries' family law systems in this era. The 20th century saw the start of this rebirth. The dowry law is one of the laws

⁷ Alquran, 4:4.

⁸ Abu Zakariya bin Syaifuddin Annawawi, *Minhajul Talibin Wa umdatul Muftin* (Surabaya: Darul Ilmi, 2009), 91.

impacted by the revision.⁹ Indonesia has developed a fresh innovation to modernize its laws. The recently developed normative constitutional rules took the shape of a legal codification that Indonesian authorities eventually called the Compilation of Islamic Law (KHI). Three distinct books make up the KHI book. Each of them talked about legal issues pertaining to marriage, inheritance, and waqf. While our neighboring country, namely Malaysia, regulates it through the Islamic Family Law Ordinance in this discussion is the State of Sarawak 2001. The dowry law's regulations were also amended by Malaysia. Therefore, a more thorough comparison of the dowry laws is required to determine what the dowry provisions are in the two nations.

Readers and authors can increase their knowledge of dowry law regulations, particularly in Indonesia and Malaysia, by comprehending each of the dowry law provisions of the two legal institutions. In addition, Indonesia and Malaysia are not very different from one another geographically or socioculturally. This may be both of Indonesia and Malaysia are still part of the Archipelago Region.¹⁰ A thesis titled "Comparison of Dowry Law in the Compilation of Islamic Law

⁹ Qodariah Barkah, "Kedudukan dan Jumlah Mahar di Negara Muslim", *Ahkam: Jurnal Ilmu Syariah*, 14 (Juli, 2014), 280.

¹⁰ M.N. Harisudin, *Fikih Nusantara: Pancasila dan Sistem Hukum Nasional di Indonesia* (Tangerang: Pustaka Compass, 2019), 17.

in Indonesia and the Sarawak State Islamic Family Law Ordinance 2001 in Malaysia" has been written by the researcher with the spirit in order to put the findings of this scientific study into practice.

The problem statement in this study is divided into two parts, there are: How is the dowry law in the compilation of Islamic law in Indonesia? and how does the dowry law compare in the compilation of Islamic law in Indonesia and the Sarawak state Islamic family law ordinance 2001 in Malaysia?

Research Method

This research uses a type of library research with a juridical-normative method. The State of Sarawak in Malaysia and Indonesia is the primary source of dowry laws and regulations, while other books and scientific articles with an interest in the study's topic serve as secondary sources.

Discussion

Compilation of Islamic Law in Indonesia

The government's involvement in the drafting of the KHI in Indonesia has finally solidified the position of the KHI as a legal order, which is based on Pancasila and the 1945

Constitution of the Republic of Indonesia which has been contained in the preamble to the Presidential Instruction as well as the general explanation that the position of the KHI here is that it is in the sub-system of Islamic law.¹¹ Dowry is an obligation of a groom that is imposed on himself, so he is not allowed to withhold or use even a little bit of the dowry except due to some syar'i reasons that Allah Subhanahuwata'ala said, namely divorcing before marrying her.¹² If the dowry has not been paid, either the husband files for divorce or the wife files for divorce, it is legal for the wife to file a separate lawsuit in the event of a divorce. The payment of the dowry may be deducted from the husband's inheritance before the inheritance is given to the heirs in the event of a death divorce while the dowry has not yet been paid in full.¹³

The Compilation of Islamic Law contains regulations governing the full conception and discussion of dowry (KHI). The Compilation of Islamic Law (KHI) is an overview of legal judgments that have been taken from a number of books written by fiqh scholars and quoted. These books are

¹¹ Cik Hasan Basri, *Peradilan Islam dalam Tatanan Masyarakat Indonesia* (Bandung: Rosdakarya, 1997), 42.

¹² Syafi'i, *Tafsir Ayat-ayat Ahkam* Imam Syafi'i, (Jakarta: Pustaka Azzam) 286.

¹³ Damis H., *Menguak Hak-hak Wanita* Cet. II, (Jakarta: Two Publisher), 1.

frequently used as references in religious courts and have been developed, processed, and compiled into one document. The Compilation of Islamic Law is this group's official name (KHI).¹⁴

The discussion on dowry in the Compilation of Islamic Law (KHI) is found in book 1 on marriage law chapter V on dowry. Here the researcher mentions the article and its analysis:

Chapter 30

The prospective groom is required to give the prospective bride a dowry, the amount, form, and nature of which are defined by consensual understanding.

The requirements outlined in chapter 30 regarding the bridegroom's dowry payment are very explicit. Islamic theological studies have discussed the law requiring the payment of dowries in a speculative manner, specifically in Surah An-Nisa verse 4 of the Qur'an. Rasulullah Sallallahu Alaihi Wasallam also stated in a hadith that the law requiring the payment of dowry is strengthened:

¹⁴ Dahlan, A.A., Ensiklopedi Hukum Islam Jilid 2 Cet.V, (Jakarta: Icjtiar Baru Van Hoeve),968.

عَنْ ابْنِ عَبَّاسٍ أَنَّ عَلِيًّا قَالَ (تَزَوَّجْتُ فَاطِمَةَ رَضِيَ اللَّهُ عَنْهَا، فَقُلْتُ: يَا رَسُولَ اللَّهِ ابْنِي - وَهُوَ الدُّخُولُ بِالزَّوْجَةِ، قَالَ: أَعْطَاهَا شَيْئًا، قُلْتُ: مَا عِنْدِي مِنْ شَيْءٍ، قَالَ فَأَيُّ دَرْعِكَ الْحَطِيمَةِ، قُلْتُ : هِيَ عِنْدِي. قَالَ فَأَعْطَاهَا إِيَّاهُ

From Ibn Abbas, he said; when Ali RA married Fatimah radhiyallahu'anha, Rasulullah SAW said to him: "Give her something." He said: "I don't have it.", He asked: "Where is your armor that is against the sword?" He said: It is at home", He replied: Use the armor as a dowry! (HR. Abu Dawid and Al-Nasa'i and the authenticator is Al-Hakim)¹⁵.

This hadith suggests that providing a dowry also includes elements of a bridegroom's responsibility as a sign of respect for the status of women in Islam. Because it must be done in order to fulfill. similar to what Ali did before proposing to Fatimah. Ali informed Rasulullah Sallalaihi wasallam that he was in need of something. But when the Apostle inquired about Ali's armor and Ali responded that it was in his home, Rasulullah impulsively gave Ali the order to make the armor a dowry for marrying Fatimah.

The second point in chapter 30 is then concerned with the quantity, structure, and nature of dowries. Article 1 Letter

¹⁵ Ahmad al-Asqalani, *Bulugul Maram min Adillat al-Ahkam* (Beirut: Dar Ahya al-Ulum, 1991), 429.

d, which discusses the definition of dowry in the Islamic legal code, supports this article. That is:

"A dowry is a gift given by the groom to the bride that is not prohibited by Islamic law, whether it takes the form of goods, money, or services."¹⁶

The amount of dowry is a manifestation of the quantity of the dowry itself, it is the sum that results in the comprehension of the amount of dowry, the amount of which is agreed upon by both parties in terms of its size, form, and nature. The criteria include dowry, which does not contravene or conflict with Islamic law. the sum that results in the comprehension of the dowry, the amount, form, and type of which are agreed upon by both parties. Even though giving a dowry is regarded as obligatory, if it is not mentioned in the procession, the marriage will still be accepted as valid because the dowry's position isn't one of the foundations of marriage.¹⁷

Theologians from the Shafi'i and Hambali sects concur that the Shari'a does not set a minimum dowry requirement for prospective husbands to give their future wives. This stems from their belief that dowry is an item with value or that can

¹⁶ Kementerian Agama RI, *Kompilasi Hukum Islam di Indonesia*, (Dirjen Bimbingan Masyarakat Islam, Direktorat Bina KUA dan Keluarga Sakinah, 2008), 3.

¹⁷ Zuhdi Muhdlor, *Memahami Hukum Perkawinan (Nikah, Talak, Cerai dan Rujuk)*, (Jakarta: Al-Bayan, 2000), 44.

be exchanged, and that the same rule does not apply when the roles are reversed. They base their case for this principle on the previously mentioned verse 24 of Q.S. An-Nisa.¹⁸

Any dowry given by the prospective groom to the prospective bride that is covered by the criteria and does not contravene or conflict with Islamic law must at the very least adhere to the following requirements:

1. All forms or types of dowry that have value are included in the category of valuable dowry. So, the dowry is invalid if it has no worthwhile value. However, it is not specified how much or how little the dowry should be. Even a small dowry with significant value is still referred to as a dowry legally.
2. It is forbidden to give dowry that is unclean and useless; dowry must be pure and beneficial. Giving money acquired through dishonest means, for instance, or giving khamr, pork, or other unclean items that serve no purpose and are against Islamic law are just a few examples.
3. Own property, meaning that the item to be used as a dowry is not a ghasab item or an item taken from another person without the owner's permission and intending to

¹⁸ Wahab al-Zuhaili, *Fiqh Islam*, (Jakarta: Gema Insani, 2011) , 257.

return it. Even though the dowry law of the ghasab is not valid, the adat is still valid.

4. Clear items are real and pervasive, so they are clear. Giving dowry in the form of ambiguous or unspecified goods, such as those whose location is unknown, is prohibited.¹⁹

Regarding the principle of determining the dowry, the Compilation of Islamic Law in Indonesia regulates it in chapter 31, as follows:

Chapter 31

The Islamic doctrine's support for simplicity and convenience serves as the foundation for determining the amount of dowry.

Based on the ease and simplicity of the dowry recommended by Islamic doctrine, the amount of the dowry is decided. The amount of dowry given by the prospective groom to the prospective bride is not specified in detail in Chapter 31 of the Compilation of Islamic Law. Because he doesn't want to burden or complicate the marriage with rules regarding determining the dowry, the groom benefits from

¹⁹ Abdurrahman Al-Jaziri, *Al-Fiqh 'ala Madzahib al-Arba'ah* Juz 4, (Beirut: Darul Fikr), 103.

the Compilation of Islamic Law's lack of a cap and benchmark for the amount of dowry.

Chapter 32

“The bride receives the dowry directly, and it has since become her property.”

The dowry must be given directly to the person who is entitled to receive it, namely the prospective bride, as it is a gift from the prospective groom to the prospective bride. The bride has the full right to accept any types of dowry at mutually agreed-upon rates. The future husband must provide it. It is absolutely forbidden for anyone to touch her property other than herself for pleasure.²⁰ If the dowry is not stated when the marriage contract takes place, then the obligation to give dowry must still be fulfilled by the man during the marriage period until the marriage is ended in the form of death or divorce.²¹

Chapter 33

- (1) Dowry is delivered in cash.
- (2) The delivery of the dowry may be suspended entirely or in part with the consent of the prospective bride. The debt owed by the prospective groom is the unpaid dowry.

²⁰ Sayyid Sabiq, *Fiqh Sunnah*, (Bandung: A-Ma'arif, 1999), 52.

²¹ Syarifuddin, *Garis-Garis Besar Fiqih*, Cet.II, (Jakarta: Predana Media), 95.

The dowry is delivered in cash or may be postponed with a number of notes, according to the two paragraphs of chapter 33 above. If the dowry is paid in cash at the time of the contract and has been accepted by the possible bride-to-be, the dowry is now entirely the bride's property. The second point concerns the suspension of the dowry payment, either entirely or partially, which can be affected at the request of the future bride. If there is an agreement in this matter then the payment of dowry can be postponed. Until the dowry that has not been handed over when the contract takes place, then the dowry becomes a debt for the husband, and it is obligatory for the husband to pay the debt.²²

Chapter 34

- (1) The obligation to give dowry is not a pillar of marriage
- (2) Failure to mention the type and amount of dowry at the time of the marriage contract does not cause the marriage to be cancelled. Likewise, in a state that is still in debt, it does not reduce the validity of the marriage

The two paragraphs in chapter 34 contain the meaning that the obligation to pay a dowry is not part of the pillars of

²² Harijah Damis, Konsep Mahar dalam Perspektif Fikih dan Perundang-undangan, dalam Jurnal Yudisial Vol 9, No. 1 (2016), 27.

marriage, for that the prospective groom who is required to pay the dowry to the prospective bride makes an agreement on the amount of dowry, the type of dowry and the form of dowry to be given. Because dowry is a requirement outside of the four pillars of marriage, the marriage cannot be dissolved if the dowry is mentioned incorrectly in the marriage contract.

The Compilation of Islamic Law makes it abundantly clear that dowry is not a basis of marriage. The dowry, on the other hand, is a required present from the groom to the bride. For this reason, chapter 34 paragraph 2 of the Compilation of Islamic Law explains that failure to mention the type, level, or amount of dowry in a marriage does not result in the marriage being annulled but rather provides an explanation.²³

Chapter 35

- (1) A husband who beats his wife qobla al dukhul is obliged to pay half the dowry specified in the marriage contract
- (2) If the husband who died qobla dukhul, the entire fixed dowry becomes the full right of his wife

²³ Rahmat Hakim, *Hukum Perkawinan Islam*, (Bandung: CV Pustaka Setia, 2000), 78.

(3) If the divorce occurs qobla dukhul but the amount of the dowry has not been determined, then the husband is obliged to pay the dowry mitsil.

A husband who refuses to marry his wife is in a condition known as qmbala dukhul (not yet related), and the husband is required to pay half of the specified amount or type of dowry. This is explained in detail in the dowry payment provisions stipulated in Chapter 35. This is supported by Allah Subhanahuwata'ala's declarations in Surah Al-Baqarah Verse 237:

وَإِنْ طَلَقْتُمُوهُنَّ مِنْ قَبْلِ أَنْ تَمْسُوهُنَّ وَقَدْ فَرَضْتُمْ لَهُنَّ فَرِيضَةً فَنِصْفُ مَا فَرَضْتُمْ
إِلَّا أَنْ يَعْفُوَا أَوْ يَعْفُوا الَّذِي بَيْنَهُمَا عَهْدُ النِّكَاحِ ۖ وَأَنْ تَعْفُوا أَقْرَبُ لِلتَّقْوَىٰ وَلَا تَنْسَوُ
الْفَضْلَ بَيْنَكُمْ ۚ إِنَّ اللَّهَ بِمَا تَعْمَلُونَ بَصِيرٌ

Meaning: If you divorce your wives before mixing with them, even though you have already decided on the dowry, you must pay half of it. If your wives do not forgive or are not forgiven by the person who holds the bond of marriage, however, forgiveness brings you closer to piety. Remember the importance of your

relationship as well. Allah indeed observes everything you do.²⁴

Second, the whole dowry decided upon based on the consent of the two becomes the full right of the wife in the event that a husband dies after the marriage takes place and is in a condition of qobla dukhul (not yet related). The dowry may only be used for the pleasure of the wife.

Third, if the amount of dowry has not been agreed upon but there is qabla dukhul (not related) in a divorce case. The husband must then pay the mitsil dowry. With due consideration for social status, beauty, and other factors, the mitsil dowry is a dowry that is comparable to the dowry received by the nearest family, some distance from the neighbors. According to a different viewpoint, paying a dowry that isn't fixed is appropriate and proper because it depends on the husband's ability.

Chapter 36

If the dowry is misplaced before being delivered, it may be replaced with objects of a like kind and value, with

²⁴ Depag RI, Al-Qur'an dan Terjemah, (Bandung: CV Penerbit J-ART), 39.

objects of equal value, or with money equal to the cost of the missing dowry item.

If the dowry that the bride and groom agreed upon and determined its existence has vanished, the provisions of Chapter 36 are quite clear. The groom is then required to replace the dowry with items, documents, and other types of dowry that are on par with or superior to the lost dowry. It should be noted that in this situation, if the dowry is lost before being given to the bride, it must be replaced. If the loss of the dowry occurs after the dowry handover procession which means that the dowry is already in the hands of the bride and has become her right, then the responsibility for the loss of the dowry is no longer the responsibility of the groom.

Chapter 37

The Religious Court is consulted if there is disagreement over the kind and amount of dowry that has been determined. The regulations contained in Chapter 37 are quite clear, differences and disputes in the determination of the type of content and the value of the dowry that do not meet a common ground, the resolution is submitted to the Religious Court.

Chapter 38

(1) If the dowry handed over contains defects, but the bridegroom-to-be is still willing to accept it unconditionally, then the handover of the dowry is considered settled.

(2) If the wife refuses to accept the dowry because she is disabled, the husband must replace it with another dowry that is not defective. As long as a replacement has not been submitted, the dowry is considered unpaid.

The discrepancy between the dowry and what was agreed upon is covered by the regulations in chapter 28. This discrepancy relates to the agreed-upon dowry between the bride and groom, namely a dowry that is good, good, has appropriate levels, and has value, but during the dowry transfer process, it was discovered to be a discrepancy in the form of a defect in the dowry. In this instance, the dowry is deemed valid and has been paid off if the wife is permitted to accept it happily and without any restrictions. On the other hand, the bride is also permitted to reject the dowry, forcing the groom to pay it in its place.

A. Sarawak State Islamic Family Law Ordinance 2001 in
Malaysia

Malaysia is one of the nations where Islam is practiced by the majority of the populace. This is the context for the creation of the Islamic Family Law Ordinance found in Chapter 43 of the Law of Sarawak, which is an ordinance to make provisions related to Islamic family law with regard to marriage, divorce, alimony, custody, and other related issues with family life.²⁵ What is meant by Islamic family law ordinance is all the rules to make provisions related to Islamic family law that regulate marriage. Ordinance is defined as a rule.

The discussion on the provision of dowry in the Islamic Family Law Ordinance of the State of Sarawak Malaysia in 2001 is contained in the following sections:

Section 19 Chapter 1

“Dowry should usually be paid by the man or his representative to the woman or his representative in front of the person who solemnized the marriage and at least two other witnesses.”²⁶

²⁵ Undang-Undang Sarawak Dewan Undangan Negeri Sarawak Malaysia Bab 43 Ordinan Undang-Undang Keluarga Islam 2001 Negeri Sarawak, 9.

²⁶ Dewan Undangan Negeri Sarawak Malaysia Bab 43 Ordinan Undang-Undang Keluarga Islam 2001 Negeri Sarawak Seksyen 19 Pasal 1, 23.

The rules and regulations on the giving of dowry set out in section 19 of chapter 1 explain that dowry or dowry should be given by the man directly to the woman or represented by a representative from the man to the woman's representative directly in front of who solemnized the marriage with the witness of at least two witnesses, so that the implementation of dowry cannot be done with less than two witnesses.

Islam obliges a man as a husband to give a dowry or dowry as a special gift based on sincerity and generosity as a gift (gift). This gift is a symbol or a sign of love and close household relationships that are built by both parties, namely as husband and wife.²⁷

Section 19 Chapter 2

“The registrar should determine and record each marriage to be registered by him:

- (a) Value and other details about dowry
- (b) Value and other details about any gifts
- (c) The value and other details of any part of the dowry or gift or both that has been promised but not explained at the time of the contract, and the date promised for the explanation

²⁷ Ahmad Mustafa Al-Maraghi, *Terjemah Tafsir Al-Maraghi*, vol IV, (Semarang: Toha Putra, 1993), 330.

(d) Details of any collateral given to clear the dowry or gift”.²⁸

As in section 19, chapter 2 explains that marriage registrars should determine and report each of the following:

- a) The value and other details about the dowry, that is to determine the value and other details about the dowry, the other details referred to in this article are related to the type of dowry that will be given, the amount of dowry that will be given, what the rate of dowry will be given and other dowry details.
- b) Value and other points about what gifts are, namely values and other details about grants (gifts), this gift is a gift other than dowry. Terms of giving outside the dowry depend on the ability and willingness of the bridegroom. There are various traditions of giving or gifts given by the groom to the bride. So that it is not enough to give the dowry as an obligation, but it is accompanied by a variety of other gifts in the form of clothes, food or other gifts in accordance with the traditions that exist in the bride and groom's environment. This is a symbol of the groom's

²⁸ Dewan Undangan Negeri Sarawak Malaysia Bab 43 Ordinan Undang-Undang Keluarga Islam 2001 Negeri Sarawak Seksyen 19 Pasal 1, 23.

appreciation for the bride who will be his life companion.²⁹

- c) The value and other details about any part of the dowry or gift or both that has been promised but not explained at the time of the contract, and the date promised for the explanation. That is, the value and other detailed information about the dowry or grant (gift) or both that have been promised by the groom and have been mutually agreed upon but not completed (payment) at the time the marriage contract is executed, then must be completed (payment) on the date has been agreed and promised for the solution.
- d) specifics of any security provided to pay the dowry or gift. This entails documenting, outlining, and reporting the specifics of the guarantee that will be provided to resolve (repay) a delayed grant or dowry payment. In order for the dowry and grant to be paid according to the agreed-upon timeline, the man must provide the woman with a guarantee that has value.

Section 56

"Mut'ah or giving consolation to women who are divorced without a good reason".³⁰

²⁹ Ahmad Mustafa Al-Maraghi, *Terjemah Tafsir Al-Maraghi*, vol IV..., 330.

Mut'ah means a gift, in the Sarawak Islamic Family Law Ordinance 2001 Section 56 it is explained that: a woman who is divorced for a valid reason (not clear). Mut'ah here means the giving of consolation, that is, giving from the man's side or the man's family as a form of consolation because of an inappropriate divorce. This inappropriate divorce is also done by the men. Mut'ah means as an object to have fun. As for the meaning of mut'ah in language, it is something (in the form of goods or money) given by the husband to his divorced wife to comfort her heart.³¹

Section 57

"The right to dowry etc., will not be affected".

Dowry is an obligation paid by the groom to the bride. After the dowry is given to the woman, no one has the right to use it, her relatives or guardians. The one who is allowed to use it is the bride herself. Dowry or dowry is

³⁰ Dewan Undangan Negeri Sarawak Malaysia *Bab 43 Ordinan Undang-Undang Keluarga Islam 2001 Negeri Sarawak Seksyen 56*, 48.

³¹ Harvien, "Pengertian Mut'ah" dalam <https://www.pta-banten.go.id/artikel-pengadilan/736-kewajiban-mut-ah-dan-nafkah-iddah-keadilan-bayang-bayang-semu#:~:text=Dan%20hendaklah%20mereka%20kamu%20beri,orang%20Dorang%20oyang%20berbuat%20kebaikan>. (diakses pada 22 Maret 2022).

the wife's right forever and cannot be claimed or taken back by the husband or the husband's family.

Due to their similarity as Muslim-majority nations, Indonesia and Malaysia have similar dowry laws that are determined by sources of law that are the Compilation of Islamic Law and the Sarawak State Islamic Family Law Ordinance, respectively. As a result, similar laws or articles have been created in both countries. However, due to cultural and national differences, there is still a difference between the two. The following authors present the similarities and differences in dowry law in KHI and Sarawak State Islamic Family Ordinances in tabular form to make them easier to understand.

No.	Islamic Law Compilation	Sarawak State Islamic Family Law Ordinance 2001 in Malaysia
1.	Obligation to pay dowry	Obligation to pay dowry by the man
2.	Dowry determination	Value and other details about what dowry is

3.	The giving of dowry	Given by the man or his representative to the woman or his representative
4.	Submission of dowry	Details of any collateral given to clear the dowry or gift
5.	Dowry is not a pillar of marriage	-
6.	Grounds for divorce against dowry payment	Mut'ah or the giving of consolation to women who are divorced without a good reason
7.	The missing dowry	-
8.	Dowry determination dispute	-
9.	Defective dowry	-

Conclusion

Comparison of Dowry Law in the Compilation of Islamic Law in Indonesia and the Sawawak State Muslim Family Law Ordinance 2001 in Malaysia as a whole The

Compilation of Islamic Law in Indonesia and the Sarawak State Islamic Family Law Ordinance 2001 in Malaysia both regulate the provisions of marriage, in the discussion This is more specific, which is to regulate the law of dowry in marriage. Nonetheless, there are more or less differences between the two, despite the fact that they adhere to some of the same aspects of Shari'a law in determining the dowry in marriage. We can look at the setting of these two sets of rules to determine the parallels and discrepancies between them.

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