

Reconstructing the Concept of Mahar through the *Mubādalāh* Framework from a Gender Justice Perspective: Implications for Contemporary Islamic Family Law Reform

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Abstract: This article examines *mahar* practices in contemporary marriage as a form of structural gender injustice embedded within Islamic family law. Extreme *mahar* practices whether involving excessively low or excessively high amounts not only deviate from the normative objectives of *sharī'a* but also restrict women's access to marriage, weaken their bargaining position and negotiating capacity, and perpetuate discriminatory and unjust practices within spousal relations. In this context, *mahar* frequently functions as a symbolic instrument of power relations that positions women in a subordinate role, rather than recognizing them as equal subjects within the marital contract. This study aims to identify the underlying roots of gender injustice in *mahar* practices and to formulate a conceptual reconstruction grounded in justice and reciprocity through the perspective of *mubādalāh*. The research employs a qualitative normative library-based methodology, utilizing content, comparative, and contextual analyses. Primary sources include the Qur'an, *ḥadīth*, classical *fiqh* texts of the four Sunni schools, the Compilation of Islamic Law, and the Marriage Law, while secondary sources consist of scholarly books and peer-reviewed journal articles. The findings indicate that *mahar* in classical *fiqh* is inherently flexible and intended to honor and dignify women. A *mubādalāh*-based *mahar* model reconceptualizes *mahar* as a symbol of reciprocity and partnership, and demonstrates potential as an instrument for Islamic family law reform aimed at preventing structural injustice and promoting family welfare through gender-responsive policies. This article therefore recommends the adoption of more gender-responsive state policies through the strengthening of family law regulations and the standardization of premarital education.

Keywords: *Mahar*, Gender Justice, *Mubādalāh*, Islamic Family Law, Legal Reform.

Introduction

In contemporary marital practices, *mahar* has increasingly undergone a shift in meaning from a symbol of honor to an economic instrument that reproduces gender injustice (Azahari & Ali, 2015). Numerous socio-legal studies demonstrate that excessively high *mahar* functions as a mechanism of social selection that restricts access to marriage, particularly among lower- and middle-income groups, while disproportionately affecting women through social stigma, familial pressure, and the

weakening of their bargaining position in marital negotiations (Multazam, 2020). From a comparative perspective, economic practices within marriage including dowry have likewise been shown to correlate with heightened female vulnerability to domestic violence and unequal power relations (Rawal & Singh, 2014).

Conversely, the phenomenon of extremely low or merely symbolic *mahar*, which is often publicized as a marker of piety or simplicity (Okumuş, 2025), may generate symbolic violence through the normalization of women's devaluation and the obscuring of the normative objectives of *mahar* itself (Khalid, 2020). Taken together, these findings underscore that *mahar* is not socially neutral; rather, it operates within power-laden structures that may produce structured gender injustice when detached from a framework of justice and reciprocity (Christaki et al., 2023).

Normatively, Islamic law positions *mahar* as a woman's right and a symbol of honor, rather than as a price or compensation for the marital relationship (Ilmiati, 2025). Classical *fiqh* literature affirms the flexibility of *mahar* in both form and value, emphasizing its primary purpose of dignifying women and realizing the *maqāṣid al-sharī'ah*, namely justice, public welfare, and the protection of human dignity (al-Zuhaylī, 2010). This principle resonates with the *qirā'ah mubādalāh* approach, which foregrounds reciprocal relations and equal partnership between men and women as moral and legal subjects (Kodir, 2019).

Nevertheless, a number of normative studies indicate that when these values are not operationalized within family law practices and state policies, religious norms may instead function as cultural legitimation for women's subordination (Intan, 2014). Consequently, the reconceptualization of *mahar* requires an integrated approach that combines normative *fiqh*, the relational justice perspective of *mubādalāh*, and gender-responsive public policy, so that *mahar* may be restored to its ethical function as a symbol of reciprocity, commitment, and justice within marriage (Friantoro, 2021).

Empirical phenomena observed in certain regions further reveal practices in which *mahar* is provided in manifestly inappropriate forms or quantities, giving rise to perceptions of trivialization even ridicule of Islamic legal principles, as though the obligation were treated frivolously, despite the fact that *mahar* constitutes an essential element of marriage (Raman, 2024). In some communities, *mahar* has been reduced to items of negligible value, such as flip-flops, a glass of water, or a nominal sum of money, practices that raise serious normative and ethical concerns regarding the dignity and purpose of *mahar* in Islamic marriage (Khalid, 2020).

In some cases, *mahar* is set at an excessively high level, thereby becoming a significant source of difficulty for certain parties. Examples include demands for IDR 500,000,000, hundreds of hectares of land, or comparable assets. Consequently, one of the most frequently reported concerns within society particularly among men prior to the solemnization of marriage is the issue of *mahar*. Owing to the high demands imposed by the prospective bride's family, marriages are often postponed and, in some instances, ultimately cancelled. In addition, the amount of *mahar* is sometimes determined by the perceived social status and educational attainment of the woman to be married (Spencer, 2011). The higher a woman's level of education, the greater the *mahar* commonly demanded from the prospective groom (Multazam, 2020).

This condition has generated a range of negative social consequences, including increased risks of extramarital relations, sexual harassment, lifelong celibacy, and other forms of moral disorder within society. Such outcomes pose a serious threat to social cohesion and the long-term well-being of a nation. Accordingly, there is an urgent need for a discursive re-examination of *mahar*-related practices that have recently gained public attention and gone viral in local communities. This article seeks to elucidate the

authentic concept and meaning of *mahar* as envisioned by Islamic law, drawing upon the interpretations of scholars from the four Sunni schools of *fiqh* and situating them within contemporary social realities. Through this approach, the study aims to formulate a concept of *mahar* that is socially applicable across different strata of society while preventing confusion in the determination of *mahar* values by providing a credible and normatively grounded reference (Musarrofa et al., 2024).

Empirically, extreme *mahar* practices have exhibited clear and recurring patterns of gender injustice across diverse social contexts. Socio-legal studies in Indonesia indicate that the imposition of excessively high *mahar* frequently constitutes a barrier to marriage for both women and men, particularly among lower- and middle-income groups. Multazam's (2020) study in North Lombok demonstrates that high *mahar* demands and customary marriage costs lead to delays and even cancellations of marriage, with disproportionately adverse social consequences borne by women, including social stigma, familial pressure, and constrained bargaining power in marital negotiations. Conversely, practices involving extremely low *mahar*, such as symbolic forms popularized through media virality, often provoke symbolic harassment against women and normalize the devaluation of their dignity, as documented by Khalid (2020). These variations underscore that *mahar* is not socially neutral but rather operates within power-laden structures with discriminatory potential.

In a broader context, comparative research in South and Southeast Asia similarly reveals that economic practices within marriage including *mahar* and dowry are strongly correlated with symbolic violence and structural injustice against women. Rawal and Singh (2014) emphasize that economic demands in marriage contribute to the erosion of women's positions within the household and increase their vulnerability to domestic violence.

In Indonesia, Salmah Intan (2014) demonstrates that gender-insensitive family law practices tend to reproduce women's subordination through the legitimization of cultural and religious norms (Naz & Jahangir, 2024). Collectively, these findings reinforce the central argument of this article that *mahar*-related injustice is not merely an individual issue or a matter of local custom, but rather a manifestation of structured gender injustice sustained by social practices, biased religious interpretations, and the absence of state policy interventions grounded in gender justice (Nawaz, 2025).

Drawing on the multiple *mahar*-related problems marked by unequal power relations and discriminatory practices, the *mubādalāh* perspective offers a theoretically and ethically relevant framework for both conceptual and practical correction. *Mubādalāh* theory positions men and women as equal relational subjects; accordingly, all legal provisions including *mahar* must be interpreted and operationalized on the basis of reciprocity, partnership, and substantive justice, rather than hierarchy or symbolic domination (Kodir, 2019).

Within the context of *mahar*, *mubādalāh* serves to shift its meaning from an instrument of social prestige, economic control, or the legitimization of women's subordination into a symbol of mutual commitment and shared responsibility in building a family. The relevance of *mubādalāh* lies in its capacity to bridge the normative values of religious texts with contemporary social realities, enabling *mahar* to be understood not as a unilateral burden or a measure of women's worth, but as the outcome of a just agreement that takes into account capacity, public benefit (*maṣlaḥah*), and the dignity of both parties. Accordingly, *mubādalāh* functions not only as a critical tool for interrogating discriminatory *mahar* practices, but also as an applicable reconstructive proposal for formulating ethical guidelines, family law

practices, and public policies oriented toward preventing structured gender injustice in marriage.

This article adopts a clear and deliberate position within the literature on *mahar* and gender injustice by bridging textual-*fiqh* analysis with socio-structural implications. Previous studies have extensively documented the problematic economic dimensions of marriage. Multazam (2020) demonstrates that high *mahar* demands and customary marriage costs result in delayed or cancelled marriages, with women bearing a disproportionate share of the social burden. Rawal and Singh (2014) further establish a correlation between dowry practices and increased domestic violence as well as women's vulnerability, illustrating how economic demands within marriage reinforce unequal power relations. Meanwhile, Salmah Intan (2014) elucidates how legally and culturally legitimized norms contribute to the reproduction of women's subordination in both domestic and public spheres. At the conceptual level, Nastangin and Huda (2022) advance a *mubādalāh* perspective on family relations and women's careers, providing an important ethical foundation for relationally egalitarian readings. Moreover, the concept of *qirā'ah mubādalāh* developed by Faqihuddin Abdul Kodir offers a progressive interpretive framework for engaging religious texts through a reciprocal and gender-just lens.

Nevertheless, existing studies reveal significant limitations. Empirical research tends to remain confined to mapping the socio-economic impacts of *mahar* or dowry within localized contexts, without systematically linking these findings to comparative *fiqh* analysis or national family law policy. Conversely, normative and theoretical works including *mubādalāh*-based interpretations largely operate at the level of ethical discourse and gender justice advocacy, yet have not been translated into operational policy recommendations or institutionalized within state regulation. Consequently, a clear research gap persists, namely the absence of a synthesized approach that integrates *fiqh* recontextualization, gender-just interpretive frameworks, and a concrete public policy agenda.

This article addresses the identified gap by offering a key novelty in the form of a holistic synthesis that integrates comparative *fiqh* analysis (the four Sunni schools and the Compilation of Islamic Law/KHI), empirical evidence of *mahar*-related injustice, and the *mubādalāh* perspective as the basis for conceptual reconstruction. A further contribution lies in its assertion that extreme *mahar* practices whether excessively high or excessively low constitute a form of structured gender injustice that cannot be adequately resolved through individual awareness or cultural ethics alone, but rather necessitates state intervention. On this basis, the article formulates applied policy recommendations, including the standardization of premarital education, the development of gender-just guidelines for determining *mahar*, and the integration of *mubādalāh* principles into family law regulation. Through this approach, the article not only complements existing scholarship but also extends its contribution into the domain of gender-justice oriented public policy within Islamic family law. The primary objective of this study is to reveal and articulate the recontextualization of the *mahar* concept in contemporary Islamic marriage.

Method

This study employs a qualitative method with a library research design to reconstruct the concept of *mahar* in contemporary Islamic marital practices from a gender justice perspective. A qualitative approach is adopted because the focus of the inquiry lies in normative, interpretive, and contextual analyses of religious texts, classical *fiqh*, and family law regulations, with the aim of understanding the meaning,

function, and social implications of *mahar* within spousal relations. This method is utilized to examine issues of injustice and discriminatory practices in the determination of *mahar*, as well as to formulate alternative conceptual frameworks that are more equitable and responsive to modern social dynamics.

The research approach combines normative-qualitative analysis, comparative *fiqh*, socio legal analysis, and *mubādalah*-based interpretation. The comparative *fiqh* approach is applied to examine the views of scholars from the four Sunni schools regarding the concept, forms, and limits of *mahar*, with the objective of identifying normative flexibility and spaces for *ijtihad* that allow for recontextualization.

The socio-legal approach is employed to relate *fiqh* norms and Islamic family law in Indonesia particularly the Compilation of Islamic Law (KHI) and Law No. 1 of 1974 on Marriage to evolving *mahar* practices in contemporary society. Meanwhile, the *mubādalah* interpretive approach serves as the primary analytical framework for rereading normative texts reciprocally, in order to assess the extent to which the concept of *mahar* reflects principles of reciprocity, partnership, and gender justice in marital relations.

The data sources consist of both primary and secondary materials. Primary data include Qur'anic verses and *ḥadīth* directly related to *mahar*, classical *fiqh* texts from the Hanafi, Maliki, Shafi'i, and Hanbali schools, as well as relevant national legislation, particularly the Compilation of Islamic Law (KHI) and Law No. 1 of 1974 on Marriage. Secondary data comprise academic books, national and international peer-reviewed journal articles, dissertations and theses, and prior studies addressing *mahar*, Islamic family law, gender, and the *mubādalah* approach. Data sources were selected purposively based on thematic relevance, scholarly authority, and their contribution to the analysis of gender injustice in marital practices.

Data collection was conducted through documentary study by systematically tracing, cataloguing, and examining written sources. The researcher identified Qur'anic verses and *ḥadīth* forming the normative basis of *mahar*, analyzed scholarly opinions in classical *fiqh* texts, and reviewed Islamic family law regulations in Indonesia. In addition, journal articles and empirical studies were collected and examined to obtain a comprehensive picture of *mahar* practices and their social impacts on gender relations. These documents were selected due to their direct relevance to the research objective, namely understanding the interrelationship between legal norms, social practices, and the construction of gender injustice.

Data analysis was carried out using a qualitative-interpretive strategy through several integrated stages. First, content analysis was employed to identify key concepts, textual evidences, and arguments related to *mahar* in normative texts and academic literature. Second, comparative analysis was applied to examine differences and convergences among the four schools of *fiqh* as well as between *fiqh* norms and positive law in Indonesia, in order to identify opportunities for reconstruction. Third, contextual analysis was used to relate textual findings to contemporary social realities, particularly *mahar* practices with discriminatory potential. Fourth, all findings were reanalyzed through the *mubādalah* perspective to formulate a reconstructed concept of *mahar* that foregrounds reciprocity, gender justice, and *maṣlaḥah*. This multi-layered analytical process was conducted systematically to ensure coherence between the normative framework, analytical findings, and the research objectives.

Findings/Results

The Concept of *Mahar* According to the Sunni Schools of Law

Wahbah al-Zuhaylī defines *mahar* as property that must be provided by the husband and to which the wife is entitled by virtue of a valid marriage contract. Although the four Sunni schools of law (*madhāhib*) articulate *mahar* using different formulations, they converge on a shared underlying purpose. Within the Shāfi‘ī school, *mahar* is defined as an obligation that arises due to marriage or sexual consummation. The mandatory nature of *mahar* signifies Islam’s recognition of women’s dignity and social position, while also indicating the husband’s good faith and commitment within the marital relationship (al-Zuhaylī, 2010).

Mahar constitutes a legal obligation imposed upon men to provide a benefit to women, rather than the reverse. This norm is consistent with Islamic principles, which do not place the financial responsibility for family maintenance upon women whether as mothers, daughters, or wives. Instead, the obligation of *nafaqah* (financial support) rests with men, on the presumption that they bear primary responsibility for economic provision within the household (al-Zuhaylī, 2010).

Islamic law does not prescribe a maximum limit for *mahar*; accordingly, jurists are in agreement that no upper threshold exists. Nevertheless, it is recommended (*mustahabb*) that *mahar* be moderated and not set at an excessive level. The underlying rationale for discouraging exorbitant *mahar* lies in facilitating marriage, particularly for young people, so that they are not deterred from marriage due to financial incapacity or the inability to meet excessive *mahar* demands.

With respect to the minimum amount of *mahar*, juristic opinions diverge. The Ḥanafī school maintains that the minimum *mahar* corresponds to the value that would trigger the ḥadd punishment for theft, namely ten dirhams or one dīnār. The Mālikī school sets the minimum at one-quarter of a dīnār or three dirhams. By contrast, both the Shāfi‘ī and Ḥanbalī schools hold that there is no prescribed minimum for *mahar* (al-Dimashqī, 2017).

The meanings of *mahar* as articulated by the four schools may be summarized as follows. Ḥanafī jurists define *mahar* as property that becomes the wife’s right upon the conclusion of the marriage contract or upon consummation (*dukhūl*). Mālikī scholars describe *mahar* as something provided to the wife whether property or otherwise as compensation for *istimtā’* (marital enjoyment) or sexual relations. Shāfi‘ī jurists define *mahar* as an obligation upon the husband to provide property or services to his wife due to the marriage contract, sexual intercourse (*waṭ’*), or as compensation for the violation of a woman’s honor through coercion (rape). Ḥanbalī jurists understand *mahar* as consideration in marriage, whether stipulated in the contract or imposed subsequently by mutual consent or judicial decision, as well as compensation in situations resembling marriage, such as *waṭ’ shubha* (intercourse based on mistaken belief) or forced intercourse.

These definitions reveal that the Ḥanafī school tends to restrict *mahar* to material property, whereas the Mālikī, Shāfi‘ī, and Ḥanbalī schools adopt a broader conception that does not limit *mahar* to material assets alone. Instead, they permit non-material forms of *mahar*, including services or benefits, such as teaching the Qur’an or providing other forms of recognized value.

This broader understanding is supported by the Qur’anic narrative concerning Prophet Moses (peace be upon him), who worked as a shepherd for eight years as *mahar* for his marriage to a woman, as recounted in Sūrat al-Qaṣaṣ (28:27) (Syarifuddin, 2009). The verse states: “He said, ‘Indeed, I wish to marry you to one of

these two daughters of mine on the condition that you serve me for eight years; and if you complete ten, that will be from you as a favor.”

Accordingly, two principal positions emerge regarding the concept of *mahar*. The first, represented by the Ḥanafī school, confines *mahar* to material property. The second, endorsed by the majority of jurists (*jumhūr al-‘ulamā’*), advances a more expansive conception of *mahar*, allowing it to take the form of both material assets and services, thereby affirming its flexibility within Islamic marriage.

Divergent Scholarly Opinions on the Determination of *Mahar* Value

The generality of the evidences found in the normative texts both the Qur’an and the *ḥadīth* has given rise to ongoing scholarly debate regarding the precise determination of *mahar*. In general terms, *mahar* is understood as something whose existence is ascertainable, whether material or non-material, whose type and characteristics are clearly defined, and which is lawful, valuable, and beneficial. Owing to the absence of explicit textual prescriptions concerning the exact amount of *mahar*, jurists have reached consensus that no maximum limit exists. However, they have differed significantly with regard to whether a minimum threshold should be stipulated. These differences are outlined below.

The Ḥanafī school maintains that the minimum valid *mahar* is ten dirhams. This standard is established through *qiyās* (analogical reasoning) with the legal threshold (*niṣāb*) for theft that entails the ḥadd punishment of hand amputation. According to Ḥanafī jurists, theft involving one *dīnār* equivalent to approximately 4.25 grams of gold or ten dirhams equivalent to approximately 29.75 grams of pure silver constitutes the threshold at which the punishment is enforced, and this measure is analogically applied to the minimum *mahar* as a form of equity in recognizing a woman’s entitlement.

The underlying rationale for this analogy is that both rulings involve the legal authorization to derive benefit from the human body in exchange for property: amputation as a sanction for theft of property meeting the *niṣāb*, and sexual relations legitimized through marriage in exchange for *mahar*. Nevertheless, this analogy has been widely criticized and regarded as weak by the majority of scholars, given the fundamental dissimilarity between punitive sanctions and marital relations.

The Mālikī school holds that the minimum *mahar* should be set at one-quarter of a *dīnār*, equivalent to three dirhams (approximately 8.9 grams of pure silver). Alternatively, *mahar* may consist of lawful, pure objects free from impurity whose value is equivalent to this amount. Such objects may include goods, livestock, buildings, or parcels of land acquired through lawful means and possessing recognized benefit under Islamic law. Items deemed frivolous, unlawful, or lacking legitimate utility such as musical instruments or trivial objects are excluded. Furthermore, the *mahar* must be deliverable to the wife, with its amount, type, and form clearly specified.

By contrast, the Shāfi‘ī and Ḥanbalī schools share the position that no minimum limit for *mahar* exists. According to these schools, the validity of *mahar* is not determined by whether its value is small or large. Rather, *mahar* may consist of anything that is legally permissible to be exchanged or that holds recognized value. Items lacking measurable or exchangeable value cannot qualify as *mahar*. At the same time, it is considered *makrūh* (discouraged) to leave *mahar* unspecified at the time of contract conclusion, as this may lead to disputes in the future if its amount, type, or form has not been clearly determined. To avoid juristic disagreement (*khilāf*), some scholars recommend that a husband should not set *mahar* below ten dirhams, thereby steering clear of contentious opinions.

The divergence of scholarly views on the determination of *mahar* may be attributed to two principal factors. First, there is ambiguity regarding whether the marriage contract functions as an exchange-based agreement grounded in mutual consent similar to commercial transactions, regardless of whether the compensation is small or large or as an act of worship (*ibādah*) governed by predefined normative parameters. From one perspective, *mahar* enables a man to lawfully enjoy marital benefits from a woman on a permanent basis, which resembles a form of compensation. From another perspective, the prohibition against nullifying *mahar* by agreement suggests that marriage carries characteristics of ritual obligation rather than mere exchange.

Second, there exists a tension between analogical reasoning (*qiyās*) that calls for a minimum limitation on *mahar* and the apparent meaning of certain *ḥadīth* that do not require such a limitation. The *qiyās*-based argument emphasizes that marriage is an act of worship, and that acts of worship typically possess defined parameters. In contrast, the *ḥadīth* of Sahl ibn Sa'd widely recognized as authentic suggests the absence of a minimum threshold. The Prophet Muḥammad (peace be upon him) stated: "Seek something, even if only an iron ring." This narration indicates permissibility of even the simplest forms of *mahar*, thereby challenging attempts to impose rigid minimum limits.

Accordingly, the *qiyās* invoked by some jurists to mandate a minimum *mahar* has been contested. This debate reflects a broader jurisprudential tension: while *mahar* is often framed as part of a religious obligation, Islamic law also recognizes acts of worship whose performance is valid upon fulfilling only the minimal criteria necessary to constitute the act itself (Rusyd, 2016). This duality accounts for the persistent and nuanced disagreement among jurists regarding the determination of *mahar* value.

A Concept of *Mahar* Relevant to the Juristic Thought of the Sunni Schools

Mahar is recognized as one of women's rights, as reflected in Law No. 1 of 1974 on Marriage in Indonesia. This law stipulates in general terms that a marriage is considered valid if conducted in accordance with the religious law of the respective parties. Matters related to *mahar*, as an integral aspect of marriage, fall under the jurisdiction of the Religious Courts.

The legal regulation of *mahar* is further articulated in the Compilation of Islamic Law (*Kompilasi Hukum Islam-KHI*), particularly in Articles 30 and 34. Article 30 provides that the prospective groom is obliged to pay *mahar* to the prospective bride, with the amount, form, and type determined by mutual agreement between the parties. Article 34 states that the obligation to deliver *mahar* does not constitute a pillar (*rukun*) of marriage; therefore, the omission of the type or amount of *mahar* at the time of the marriage contract does not invalidate the marriage. Similarly, a marriage remains valid even if the *mahar* has not yet been paid in full and remains a debt to be settled after the contract.

Article 30 thus indicates that the prospective groom is required to pay *mahar* as agreed upon by both parties, encompassing its amount, type, and form. Given that the majority of Indonesian Muslims adhere to the Shāfi'ī school which does not prescribe a minimum or maximum limit for *mahar* Indonesian scholars have emphasized the importance of a mutually agreed *mahar* arrangement between the bride and groom to ensure fairness and conformity with local customs.

Article 34 further affirms that *mahar* constitutes a mandatory obligation of the prospective husband, while not serving as a constitutive element of marriage. Consequently, failure to pay *mahar* at the time of the contract does not affect the validity of the marriage, provided that the obligation remains enforceable thereafter.

The permissibility of deferring *mahar* payment is also consistent with the Shāfiʿī position, which allows *mahar* to be treated as a debt.

When assessed in relation to the socio-economic conditions of Indonesian society, the Shāfiʿī school's position on *mahar* appears more relevant than that of the Mālikī school. This relevance stems from the fact that Shāfiʿī legal doctrines align more closely with the cultural context and socio-economic realities of Indonesia, where a significant portion of the population belongs to lower and middle-income groups.

This position is further reinforced by the largest Islamic organization in Indonesia, *Nahdlatul Ulama*, which traditionally follows the Shāfiʿī school. The Shāfiʿī approach aims to facilitate the fulfillment of *mahar* obligations by prospective grooms and to avoid unnecessary impediments to marriage. In comparison with other schools, the Shāfiʿī perspective thus appears more applicable, as it accommodates economic capacity while continuing to uphold the dignity and status of women within marriage.

Analysis/Discussion

Reconstructing the Contemporary Concept of *Mahar* through the *Mubādalah* Approach

Mahar refers to a tradition or practice found in various cultures in which the groom provides a gift or contribution to the bride or her family as part of the marriage process. Although *mahar* carries historical and cultural significance in many societies, it has also been the subject of substantial criticism. In response to these critiques, the recontextualization of *mahar* in the contemporary era may be undertaken through the lens of *fiqh mubādalah*.

Mubādalah, or reciprocity, denotes a relational principle that ought to characterize the relationship between husband and wife, emphasizing partnership (*partnership*) rather than hierarchy (Abdul Kodir, n.d.). Linguistically, *mubādalah* derives from Arabic roots meaning to replace, to change, or to exchange (Yunus, 2010). Conceptually, it refers to mutual exchange and cooperation between two parties entailing reciprocal substitution, transformation, and interaction. In English, *mubādalah* is commonly rendered as *reciprocity* or *reciprocation* (Baalbaki, 1995). Lexically, “reciprocal” denotes mutual exchange or mutual response (Pusat Bahasa, 2008). As a theoretical framework, *mubādalah* has been developed to articulate a model of relational ethics grounded in cooperation, reciprocity, partnership, and mutual responsibility (Abdul Kodir, n.d., p. 29).

In this study, *mubādalah* is applied specifically to the spousal relationship, particularly in relation to preserving family dignity and protecting domestic privacy in the public sphere. The *mubādalah* framework is thus well suited to the ethical foundations of family life, as it affirms men and women as equal subjects within marital relations (Nastangin & Huda, 2022).

The interpretive foundation of *mubādalah* is rooted in Qurʾānic verses and Prophetic traditions that emphasize justice, mutual assistance in acts of goodness, the prevention of harm, and the ethical injunction to love one's fellow human beings as oneself. These textual foundations indicate that men and women occupy an equal moral position, including in matters of economic responsibility, where spousal roles may be shared and negotiated (Lastri, n.d.). Income-generating work, therefore, should be viewed as an alternative role that may be distributed through mutual agreement between husband and wife, allowing for an equitable division of responsibilities based on cooperation rather than rigid gender norms (Intan, 2014). Through such cooperation, household financial needs can be fulfilled without neglecting domestic responsibilities.

The Qur'an affirms that believing men and women who perform righteous deeds including safeguarding the dignity of family life are equally promised divine reward (Qur'an 4:124). Both men and women are explicitly praised for their virtues and are assured forgiveness and great reward from God (Qur'an 33:35) (Mustaqim, 2008, p. 4). This affirms that men and women stand as equals before God, rather than one serving merely as a complement to the other (Mernissi & Hassan, 1995, p. 61).

One salient illustration of this relational principle concerns the institution of *mahar*. *Mahar* constitutes a mandatory gift that the prospective husband must provide to the prospective wife as a manifestation of sincerity and commitment in establishing a family. The practice of *mahar* predates Islam and was already present in pre-Islamic (*jāhiliyyah*) society. At that time, *mahar* was typically transferred to the bride's guardian such as her father or male relatives functioning analogously to a commercial transaction and framed as compensation for having raised and protected the woman. With the advent of Islam, the institution of *mahar* was retained but fundamentally reoriented in its conceptual and ethical meaning.

Under Islamic law, *mahar* is allocated directly to the bride, thereby recognizing her proprietary rights. This stands in contrast to practices in countries such as India, where dowry is customarily paid by the bride's family to the groom's family. Such practices have frequently resulted in mistreatment of women when dowry expectations are deemed insufficient, undermining women's dignity and lowering their familial status within the community. In these contexts, women often derive no personal benefit from the dowry provided (Rawal & Singh, 2014, p. 95).

Islam, by contrast, embodies principles of protection and respect for women. By granting women exclusive ownership over *mahar*, Islamic law transforms women from objects of transaction into legal subjects actively participating in the marital contract. This represents a distinctive right conferred upon women by divine mandate. As stated in Qur'an 4:24: "...So for the benefit you have received from them, give them their bridal due as an obligation..."

The verse employs the term *ujr* (plural: *ajr*), which denotes reward, compensation, or remuneration. Similar terminology appears elsewhere in the Qur'an to signify lawful compensation for benefit received. Within this specific normative context, *ujr* refers to *mahar* as a mandatory obligation linked to marital relations. While the husband is positioned as the giver of *mahar* and the woman as its recipient, the woman simultaneously remains a full contractual subject with agency and autonomy, including the right to determine the amount of *mahar* she requests. She is thus an active participant in the mutual benefits derived from marriage.

Regarding the minimum amount of *mahar*, classical jurists have differed in their opinions. Some maintain that it should be calibrated according to economic capacity, social context, and local custom. A Prophetic tradition states: "*The best of women are those who are beautiful in appearance and who make their mahar easy.*" (Reported by Ibn Hibbān).

Despite this normative guidance, many contemporary societies continue to assume that the size of *mahar* reflects a woman's social status. A high *mahar* is often perceived as elevating a woman's prestige. Such assumptions require critical reassessment through the reciprocal lens of *qirā'ah mubādalāh*, which situates men and women as fully human subjects engaged in cooperation rather than domination or symbolic hierarchy.

Since *mahar* constitutes an obligation upon the husband and the Prophetic tradition encourages moderation, a *mubādalāh*-based interpretation suggests that *mahar* should serve to strengthen marital relations rather than function as a

mechanism of control or domination. The right to propose the amount of *mahar* rests with the prospective wife and must be exercised freely, without coercion from any party.

Accordingly, the simplest, most affordable, and most accessible *mahar* may be regarded as the most virtuous and blessed, provided that it is mutually accepted by both parties. However, this evaluation should not be understood rigidly. When a higher *mahar* does not impose undue burden upon the groom and is mutually agreed upon, it may likewise be considered blessed. From the *mubādalah* perspective, the central concern lies in mutual commitment and the assurance of benefit and goodness for both spouses. This aligns with the ethical maxim of promoting benefit and preventing harm within marriage, fostering mutual respect, cooperation, and support, without privileging or marginalizing either party, so that marriage may truly become a source of shared well-being and happiness.

Reforming Islamic Family Law: The Direction and Implications of a *Mubādalah*-Based *Mahar* Model

Effective reform of Islamic family law must begin with the recognition that contemporary *mahar* practices frequently undergo functional distortion, thereby producing forms of structural gender injustice. Empirical field research and postgraduate thesis studies in Indonesia demonstrate that excessive *mahar* demands and customary marriage costs contribute to delayed or cancelled marriages while simultaneously burdening women through social stigma and the weakening of their bargaining position (Multazam, 2020).

At the theoretical level, comparative *fiqh* analyses reveal considerable flexibility in the concept of *mahar* across the four Sunni schools of law, thereby opening space for *ijtihad* and contextual reinterpretation. Nevertheless, social practices reinforced by tradition and status-based pressures often diverge from the normative objectives of the Shari'ah (al-Zuhayli, 2010). Consequently, proposed reforms must address the socio-cultural and institutional roots that enable discriminatory practices to persist (Salmah Intan, 2014; Khalid, 2020).

The implementation of a *mubādalah*-based *mahar* model offers both a pragmatic and normative direction for reform by shifting the meaning of *mahar* from an instrument of prestige or control into a symbol of reciprocity and shared commitment. Theoretically, *mubādalah* emphasizes values of reciprocity and partnership that align with the *maqāṣid al-shari'ah* namely, public welfare (*maṣlaḥah*) and justice thereby positioning religious texts as foundations for social transformation rather than as justifications for subordination (Kodir, 2019; Nastangin & Huda, 2022). This conceptualization allows *mahar* to be operationalized as the outcome of a fair agreement that considers economic capacity, the protection of dignity, and social consequences, rather than as a numerical figure or status symbol that disproportionately impoverishes one party (al-Zuhayli, 2010; Mernissi & Hassan, 1995).

From a policy and institutional perspective, the principle of *mubādalah* must be translated into concrete regulatory instruments. These include: non-numerical national guidelines for determining *mahar* based on criteria of capacity and public benefit; the integration of *mubādalah*-based modules into premarital education programs; standardized *mahar* documentation formats within religious courts that record mutual agreements and justifications of financial capacity; and gender-sensitive mediation mechanisms in family law disputes (Compilation of Islamic Law; Law No. 1/1974). Socio-legal experience indicates that, in the absence of clear guidelines and adequate mediation capacity, *mahar*-related litigation tends to reproduce patriarchal status quo arrangements. Institutional reform, therefore, is essential to ensure that

mubādalah values are meaningfully implemented (Analysis of the Compilation of Islamic Law; Husaini, n.d.; Setyowati, 2020).

The implementation of this model carries significant implications for transforming the legal culture of society. The internalization of reciprocal principles in *mahar* practices can strengthen women's bargaining power, reduce disproportionate economic burdens, and promote more egalitarian marital negotiations (Zai & Sadat, 2023). Empirical evidence from comparative studies on dowry and *mahar* demonstrates a strong correlation between economic pressure in marriage and women's vulnerability to violence and subordination.

Accordingly, regulatory and educational reforms that frame *mahar* as a product of reciprocal agreement have the potential to reduce structured gender injustice (Rawal & Singh, 2014; Multazam, 2020). Nevertheless, the effectiveness of such reforms depends on implementation strategies including pilot programs, evaluation mechanisms, and scalability as well as coordination among religious authorities, religious courts, government institutions, and civil society organizations (Zai, 2023).

In conclusion, the reform trajectory of Islamic family law marked by the adoption of a *mubādalah*-based *mahar* model is both normative-theoretical and practical in nature. It synthesizes the flexibility of classical *fiqh*, progressive interpretation, and public policy to restore *mahar* to its ethical function as a symbol of respect, reciprocity, and shared responsibility, while simultaneously mitigating discriminatory practices in contemporary marriage.

Practical recommendations include: (1) the formulation of National Gender-Responsive *Mahar* Guidelines by the Ministry of Religious Affairs in collaboration with academics and civil society organizations; (2) the integration of *mubādalah* modules into premarital education programs; (3) pilot projects within selected religious court jurisdictions to test documentation and mediation formats; and (4) applied action research to evaluate the socio-economic impacts of these reforms (Nastangin & Huda, 2022; Husaini, n.d.; Law No. 1/1974).

Conclusion

This study affirms that *mahar* practices in contemporary marriage have undergone a distortion of meaning that generates structural gender injustice. Extreme *mahar* whether excessively high or unduly low no longer functions as a symbol of respect and commitment but instead operates as an instrument of power relations that restrict women's access to marriage, weaken their bargaining position, and reproduce discriminatory practices within spousal relationships. These findings demonstrate that *mahar* cannot be understood merely as an individual choice or a cultural tradition; rather, it constitutes part of a broader socio-legal structure that shapes and sustains gender inequality. Through comparative *fiqh* analysis of the four Sunni schools of law and Islamic family law in Indonesia, this study shows that, normatively, the concept of *mahar* is flexible, lacks a fixed nominal limit, and is fundamentally intended to honor women as legal subjects. Accordingly, *mahar* practices that burden or demean women lack strong legitimacy within the Islamic legal tradition. The principal originality of this research lies in its synthesis of these normative findings with the *mubādalah* perspective as a framework of relational justice. The *mubādalah* approach reconstructs *mahar* as a symbol of reciprocity, partnership, and mutual responsibility, thereby correcting gender-biased interpretations of religious texts and challenging the normalization of unequal power relations in marriage.

By positioning men and women as equal subjects within the marital contract, this study contributes to the development of Islamic legal discourse that is more contextual, equitable, and responsive to contemporary social dynamics. Based on these

conclusions, the study recommends strengthening gender-responsive state policies in Islamic family law, including the standardization of premarital education materials emphasizing *mahar* as a symbol of reciprocity and justice, the formulation of *mahar* determination guidelines oriented toward public welfare and mutual capacity, and the institutionalization of *mubādalah* principles within family law regulation and practice. Academically, further research is encouraged to examine the implementation of the *mubādalah* approach within religious court practice and social dynamics, thereby expanding both theoretical and empirical contributions to the development of gender-just Islamic law.

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