

The Historical Impact on the Valuation of Dowry (*Mahr*) Rate: Pre and Post-Colonial Eras in Johor

Muhammad Najib Abd Wakil
Corresponding Author

Syariah Department, Faculty of Islamic Studies, Universiti Kebangsaan Malaysia, Bandar Baru Bangi,
Selangor, Malaysia
Email: ajib.111.mn@gmail.com

Che Maryam Ahmad
Syariah Department, Faculty of Islamic Studies, Universiti Kebangsaan Malaysia, Bandar Baru Bangi,
Selangor, Malaysia
Email: chemaryam14@gmail.com

Abstract

In Malaysia, the amounts of dowry “mahr” are decided by respective state of Islamic authorities accordingly based on the provision by the Federal Constitution of Malaysia. Study has identified that Johor is among the states with the lowest rate of mahr fixed upon marriage. Hence, the objective of this study is to examine the history and transformation of mahr’s rate in Johor from pre-colonial, colonial and post-colonial era. This study employs a qualitative method by using content analysis, historical study, survey study and archival study. This study has also relied upon documents and interview to gain related information. The result of this study has found that the mahr’s rate in Johor was introduced and has not changed since almost a century ago. In fact, there have been some transitional periods of world currencies since that particular rate of mahr was introduced until today. Thus, this study found that the mahr’s rate which was based on the value of gold and silver previously was more beneficial for the people at that particular time as compared to the same rate used under today’s floating fiat currency. Current Mahr’s value of in today’s world is irrelevant as what Islam ruled and aimed from the regulation of mahr. The study suggests that the existing rate of mahr to be revalued in congruity with the current value of a catty of silver which is around RM 1392 as maximum rate and RM 70 as minimum rate according to previous opinion of mahr calculation that has been set in Johor.

Keywords: Islamic Family Law, Dowry, Johor, History, Colonisation.

Introduction

Johor is among the states with the lowest rates of mahr apart from Pahang (JAKIM, 2016). The rate is unchanged since almost a century ago. Research and historical study highlights found that, the rate of mahr at RM22.50 in Johor today is the rate that has been set up since Ahkam Syar’iyah Johor was

introduced in 1935. The rate is believed to kept prevailed and remained as an underlying rate of the mahr in the state of Johor. Article 308 Ahkam Syar’iyah Johor stated that no determination on the maximum amount of mahr but it is supererogatory to ensure its value is not less than

10 dirhams. Under article 309, it added that the value of the mahr for the whole country and the colonies of Johor must be equivalent to a catty of silver – that is at RM22.50, no more and can be less. Article 309 clearly shows that the rate of RM22.50 is the maximum value of the mahr which is based on the value of a catty of silver at the time (Abd Jalil, 2002a). Therefore, the use of the term Dirham currency and silver based value in Ahkam Syar'iyah has raised questions on currency and transaction systems that were used in the era. According to Salmy (2011), the year of 1931 to 1944 was the era of fiat currency while it is being introduced. However, the fiat money supply at that time was based on the savings or the state reserves of gold and silver and this is different from the fiat money system that has been practiced since 1971 until now.

The fiat money that has been used since 1971 until presently is in accordance with the floating currency pegged to the US Dollar. The fact is clearly concluded that since 1833, people have been using gold-based currency until 1973 (Sanep, 2009). The currency was pegged to the US dollar after the world financial crisis until today (Salmy, 2009). The study found that the value of the Malaysian ringgit in 1935 and its value today has a very significant differences. According Salmy, Sanep & Wan Najihah (2009), a pegged currency to the value of dollar is constantly changing depending on market speculation and inflation, while a gold-based currency is more stable and secure. This statement is supported by Hassanuddeen (2009) which argues currency based on world's major commodities such as gold, silver and oil is more equitable and stable. Thus the study found that the RM22.50 as the mahr that was introduced in the time where gold and silver based currency was used does not bear the same benefits and values if it is practiced now which presently uses the floating currency system despite the same value. The amount of RM22.50 as the mahr fixed value in the state of Johor does not seem to be a relevant value and it could draw negative perspective of various parties including non-Muslims.

This study employs qualitative method as it has a very close relation and could affect certain communities of people especially towards Johor citizens empirically. This phenomena study will

discuss on the underlying rate of mahr or dower that has been set in Johor since almost a century ago. There are several instruments used to gain and collect information to complete this study like document analysis, personal interview, historical study and content analysis.

Mahr in Islamic Family Law

Mahr can be understood as a valuable gift prepared by the groom to the bride for the purpose of marriage. According to al-Mu'tamad, the mahr is an award of property by the groom to her couple while their marriages took place (Utyah, 2007). According to Tahzib al-Lughah, mahr also means al-sodaq which means giving valuable things to her bride for the purpose of marriage (Al-Azhāriyy, 2007). According to Zaydān (1993), the mahr is defined as a mandatory gift in the form of property or benefits of the husband to his partner either because of marriage or sexual intercourse. Mahr is also referred to as saduq, nihlah, faridah, hibah, dan ajr in the Qur'an. However, the entire meaning of these terms are almost the same (Al-Jazīriyy, 2001).

The majority of scholars agreed that it is an obligation to award mahr in a marriage (Zaydān, 1993). Among them, argued, using verses from the Quran in Surah al-Nisa'

فَرِيضَةً أَجُورُهُنَّ فَأَتُوهُنَّ مِنْهُنَّ بِهِ اسْتَمْتَعْتُمْ فَمَا

(Al-Quran, Al Nisa': 24)

which means: "So for whatever you enjoy [of marriage] from them, give them their due compensation (mahr) as an obligation."

There are some scholars who consider giving mahr as an exchange or rewards for having intercourse between spouses (Al-Zuhayliyy, 1989). Mahr is a personal and individual right for a wife, and therefore Islam entitles the wife to deny responsibility and duty towards her husband as long as mahr had not been fulfilled (Al-Sābiq, 2000).

The scholars agreed that there is no restriction on the lowest and highest amount of mahr to be given by the husband to the wife (Ibn °Abd al-Bar, 2000). Shaykh al-Islam Ibn Taymiyyah (2005) states that anyone who has the ability and wealth and wanted to provide a valuable mahr to his wife,

then it is not prohibited in accordance with the word of Allah in Surah Al-Nisā'

إِخْدَاهُنَّ وَآتَيْتُمْ زَوْجَ مَكَانَ زَوْجِ اسْتِبْدَالٍ أَرَدْتُمْ وَإِنْ
مُيِّنًا وَإِنَّمَا بُهْتَانًا أَتَاخُذُونَهُ ۚ شَيْئًا مِنْهُ تَأْخُذُوا فَلَا قِبْطَارًا

(Al Quran, Al Nisa': 20)

in which Allah says, "But if you want to replace one wife with another and you have given one of them a great amount [in gifts] (mahr), do not take [back] from it anything. Would you take it in injustice and manifest sin?"

In this verse, Ibn al-Kathīr (2008) states that there are evidences proving the permissibility of awarding a big amount of mahr that can be understood through the word qintar which means a large amount of property. Al-Sibā'iyy (1999), stated that from this verse, it is a solid proof to convince people that a mahr should be given in a valuable form as it is a symbol of purity and highness of a marriage in Islam. Al-Kāssāniyy (1986) agreed with the previous opinion and believes that a mahr in Islam should be given in relevant or high value. Valuable mahr indirectly will ensure and maintain a good relation between a woman and her husband. A man for instance will think repeatedly to utter talaq and disrespect his wife as he already sacrificed materially in order to marry her by giving a valuable mahr.

However, Islamic scholars from four famous schools have different opinions on the minimum amount of dowry or mahr. Imam Malik and Imam Abu Hanifah are in the opinion that the minimum amount is based on nisāb or limit that permits hand amputation of a thief. The amount is 1/4 Dinar or 3 Dirhams according to Imam Malik and 10 Dirhams according to Imam Abu Hanifah. Caliph Umar r.a. said that the minimum amount of mahr is not limited by Islam (Mohd Som & Abdul Basir, 2006). Shafi'iyy scholars said that there is no fixed amount of mahr either minimum or maximum in a marriage (Al-Nawawiyy, 1980).

Generally, there are two types of mahr in matters of the determination of mahr by the groom to the spouse (Mohd Som & Abdul Basir, 2006). The first type is the mahr al-musamma. This type of mahr is the mahr agreed by the spouses either during or after the marriage.

The second type of mahr is mahr al-mithl namely the mahr that must be given to a wife which is not specified in the contract, or can also be understood as a value of gifts that must be given to the wife if the previous award of mahr is invalid from the point of Sharia. For example, the property used as mahr is illegal from the view point of Islam.

Therefore, this study will mainly focus on the study of the amount of mahr al-musamma which is the mahr agreed by the spouses either during or after the marriage. The legalization of mahr aims to establish the right to property upon women, in which shows that mahr is a productive and valuable property or assets to women (Sābiq, 1977). According to Shamim (2007), the mahr is not merely an obligatory gift to the wife, but it is seen as providing a valuable and potential socio-economic security for women as basically mahr must be something worthy and of value. According to Abdul Ghani (2004), mahr is a gift symbolizing the sign of appreciation and recognition to women apart pleasing the married women. This opinion is supported by Siti Nor Ahasah (2012) which argued that according to the Islamic law, mahr is an obligation of the husband with the intention to improve the social status of women and to show that Islam recognizes them.

In reality, the public is more concerned with the amount of hantaran or the wedding gift far ahead and in line with current economic developments. The amount of hantaran has exceeded a reasonable rate compared to the amount of mahr especially for some states on which the mahr is fixed by the Islamic Religious Departments respectively. Even though it is not prohibited, but the amount of mahr should be revalued as it is considered prerogative right of a woman while hantaran is just a gift and is not an absolute right for the women, in which it usually used for wedding expenses. Obviously, hantaran could not be more beneficial to a woman than mahr as required by Islam through clear provisions (Raihanah, Khairun & Raihana, 2009).

The Pre-Colonial Era in Johor

Before the intervention of British, administration law in Johor is derived from Undang-undang Johor (Johor Laws). According to Abu Bakar Abdullah (1986), he stated that the law applied in Johor is taken directly from Undang-undang Melaka (Malacca laws). Ahmad Ibrahim (1965) stated that

Undang-undang Johor has been established since 1523 AD. It contains provisions covering the areas of criminal, family, financial transactions, evidences and case trial (Zaini, 2004). However, the application of Law Johor is then believed to have been abandoned and afterwards Undang-undang Tubuh Johor was enacted on 14 April 1895 during the reign of Sultan Abu Bakar.

Considering that Undang-undang Johor merely inherited from the provisions of Hukum Kanun Melaka, the contents of Hukum Kanun Melaka are directly referred. The study found that marriage law contained in Hukum Kanun Melaka did not cover matters related to mahr and its rate. Muhammad Yusoff (1992), there are only four clauses in Undang-undang Melaka or Hukum Kanun Melaka touching on marriage or munakahat namely in clauses 25, 26, 27 and 28 according to the order of Hukum Kanun Melaka. The clauses were given the title “the law of women”, “the law of witnesses in marriage”, and “the law of talaq and khiyar” (Muhammad Yusoff, 1992). No findings in the Hukum Kanun Melaka that touched the issue of mahr and its rate. Therefore, the study concludes that there is no provision concerning mahr and its rate in Undang-undang Johor. The law was published in the Jawi script and was declared by Sultan Abu Bakar.

In 1911, the first Constitution in Malaya has been introduced by Johor on which the legislation merely focuses on structuring and administrating the state that maintained the privileges of the religion of Islam and the Malay (Abd Jalil Borham, 2002b). That particular constitution was named as Majallah Ahkam Johor. No discovery found through this legislation that touches on marriage matters. Majallah Ahkam Johor was introduced during the reign of Sultan Ibrahim, this legislation is not derived from Undang-undang Melaka, but it referred to Majallah al-Ahkam al-Adliyyah enacted by the Ottoman Empire in Turkey around 1869 AD. According to Abd Jalil Borham (2002c), the legislation has been used as the basic referral for the earliest Islamic Muamalat System in Malaysia before the coming of British. Therefore, it can be concluded that in the pre-colonial era in Johor, in 1914, there is no finding to show any provision regarding mahr and its rate in Johor at the particular time. As a conclusion, there are numbers of written laws that have been

found, such as Undang-undang Johor, Undang-undang Tubuh Kerajaan Johor and Majallah Ahkam Johor. No provision governing matters related to marriage or specifically touching on mahr.

The Colonial Era in Johor

Johor also went through phases of governance under the influence and intervention of British started in 1855-1934 (Hanif & Izziah, 2011). According to Abdul Kadir (1996), Johor at that time was prescribed as the Unfederated Malay States include Kelantan, Terengganu, Perlis and Johor. At the beginning of the era of British colonial rule in Johor, legislative sources were obtained from the government of Riau and followed by the drafting of Undang-undang Johor under the administration of Sultan Abu Bakar. Although theoretically the British did not interfere with the administration of Islamic affairs in the states, but in reality the presence of the British as an advisor to the Malay rulers in certain extent already interfere with the administration and management of Islam in the Unfederated Malay States. For example, each of the enactment of the Islamic administration that was introduced at that time is subject to the approval of the British advisors who were appointed prior to the implementation. Law writing was introduced later in Unfederated Malay States compared to Straits Settlements and the Federated Malay States. The early writing of enactment in Unfederated Malay States mainly focused on the law of marriage and divorce. However, both scope of law has been enforced according to the English legal system. Noteworthy that the laws enacted in Unfederated Malay State is strongly influenced by the previous enactments that have been implemented in the Straits Settlements and the Federated Malay States. Generally, these enactments were introduced after 1909 when the British began controlling Unfederated Malay States (Ahmad Ibrahim & Ahilemah Joned, 1985).

The earliest enactment that can be traced after the British intervention in the state of Johor is the law on waqf which was enacted around 1911 that was known as the Waqf Enactment 1911. Based on the positive reception from the people of Johor on the provisions of the Waqf Enactment 1911 that was introduced by the English, the Muslim Marriage

and Divorce Registration Enactment (Enakmen Pendaftaran Perkahwinan dan Perceraian Orang-orang Islam) 1914 was introduced. This enactment was introduced to enact laws relating to the registration of marriages and divorces that have been implemented in the Straits Settlements and the Federated Malay States. The law was known as "The Muhammadan Marriage and Divorce Registration Enactment No.15 of 1914". This Enactment has been through several changes such as in 1935, which has been named as the "Mohammedan Marriage and Divorce Registration (Amendment) Enactment, No 11 of 1935 and the last amendment made was in 1950. Accordingly, through this enactment, it can be traced that the rate of mahr has been specified in Johor at that time as amounting not less than 10 Dirham and not more than 500 Dirham as in the provisions of the Muhammadan Law in most other states (Ahmad Ibrahim, 1965). No specific amount of mahr stated in the provision, however the total number can be estimated between 10 Dirhams to 500 Dirhams. This is supported by other laws enacted by the British such as Enakmen Kesalahan Orang-orang Islam 1919, Enakmen Memutuskan Masalah Orang-orang Islam 1919, Enakmen Mahkamah 1920, Enakmen Bait al-Mal 1934 and other laws not relating to marriage (Abd Jalil 2002c).

In 1935, Johor has compiled a code of law of marriage, which discusses in details about marriage, divorce and other related matters and was recorded in Ahkam Syar'iyah Johor (Abd Jalil, 2002a). It was in the same year, Ahkam Syar'iyah Johor 1935 was introduced. The arrangement of the Ahkam Syar'iyah Johor has shown that the Government of Johor has overpassed the other Malay states in drafting a code of Islamic Family Law as the reference in the courts proceeding. Ahkam Syar'iyah Johor has been published in two constituents or volumes. The first constituent was issued in 1935 with an allocation of 468 maddah or articles, while the second constituent contains 460 clauses which was published in 1940.

The first constituent discusses on the laws of marriage and other related matters, while the second constituent concerned on polygamy and divorce and other related matters. The argumentation on mahr and matters relating thereto are set out in clause 30th until clause 36th.

The rate of mahr at the time can be seen stipulated under maddah or article 308 and 309 of the Ahkam Syar'iyah Johor. Under article 308, there is no stipulation on the maximum amount of mahr but it is supererogatory to ensure its value is not less than 10 Dirhams (Abd Jalil, 2002a). Under article 309, it added that the value of the mahr for the whole country and the colonies of Johor must be equivalent to a catty of silver – that is at RM22.50, no more and can be less. There seemed to be a conflict between article 308 and 309.

Article 308 states that no maximum amount for determining the mahr upon the husband in Johor but according to article 309, RM22.50 is the maximum amount for mahr where the wording is "not more (RM22.50) and can be less". Therefore, the study understand that the minimum value of mahr is not less than 10 dirhams and not more than a catty of silver equivalent to RM22.50 at that particular time. RM22.50 is the maximum value of the mahr at the time. Through article 308 as well, the study found that the stipulation of the minimum value of the mahr that is not less than 10 Dirhams is based on the opinion of the Hanafi School of Fiqh which has been stated in the previous discussion. These findings have strengthen the facts that some of the rulings stated in the Majallah Ahkam Syar'iyah Johor are based on the opinion of Hanafiyy School of Fiqh which was also applied in Majallah al-Ahkam al-Adliyyah. It has been stated before that Majallah al-Ahkam al-Adliyyah is the main source of the contents of Majallah Ahkam Syar'iyah Johor.

Japanese soldier has ruled Tanah Melayu in 1942 which resulted from World War II. The jurisdiction and power of court during Japanese colonization was bound and followed the English reign. Japanese colonial had also implemented Local Malaya Council to administer the Islamic matter and this power was given to the Malay Sultan in 1943. This shows that there was no changes in Islamic matter happened during Japanese colonial as what had been done by the English previously. (Ahmad Ibrahim, 1965)

After the Japanese soldier retreated from Tanah Melayu around 1945, the British re-administered the land and this time, the administration was governed by Malayan Union in April 1946. Few enactments were re-introduced to continue the

colonization of law in Johor. Among the enactment was, The Council of Religion Enactment No. 2 of 1949. The duty of Council of Religion is to help and advice the Sultan regarding to the matters that evolved around Islam.

From this discussion in the subtopic during the colonization in Johor, we can conclude that Johor had provided certain laws to discuss on the matrimonial matter in detailed and more practical. There were also few provisions relating to mahr and the rate which had already been stated in *Ahkam Syar'iyah Johor 1935* as provided in Article 308 and 309. It could be understood that the rate, RM 22.50 which has been stated as maximum rate and its minimum rate must not be lower than 10 Dirham at that time.

The Post-Colonial Era in Johor

According to Ahmad Mohamed Ibrahim (1997), the power of Syariah administration in Malaysia is provided under 9th Schedule of Federal Constitution since 1948. List II or State List of the 9th Schedule denotes that Syariah jurisdiction and administration was given to each and every state in Malaysia, and those states have their own discretions and independent, which they are not bound from the federal government's control. Johor has its own way for the determination and administration of Islamic matters. It is quite different from other states which had equipped with their own existing Administration of Islamic Law Enactments until early of 1979. Johor was seen to still applying the old enactments which exist in 20th century. Some of the provisions in the enactment are not relevant anymore to be enforced and applied in that state since the society has variably evolved (Abd Jalil, 2002c). The power of Kadi and Vice Kadi also has been limited and only focused to the family matter.

According to Abd Jalil (2002c), Administration of Islamic Law Enactment of Johor has been introduced as the sequence of this issue. This enactment was approved in Johor State Legislative Assembly in December 12th 1978 and agreed by Sultan Johor in December 31st 1979. The enactment was finally enforced after has been gazetted in February 1st 1979. The purpose of this enactment is to organize the administration of Islamic laws and syariah court in Johor and to amend the previous provisions which are not

relevant with the time stipulated. This enactment is divided into nine different parts according to their scopes. The fifth part in the enactment is related to the betrothal, marriage, divorce and ruju'. Section 117 of this enactment is named 'Mas Kahwin, Belanja dan Hantaran'. There are no particulars of amount or rate stated in the enactment. This section reads the procedure to pay the mahr, hantaran and the details that need to be ascertained and recorded by the Registrar. Under section 2 of the enactment which relates to the interpretation, maskahwin means the obligatory marriage-payment due to the wife at the time the marriage is solemnized. Hence, it is understood that there is no specific rate of mahr made by Johor under this enactment. This enactment has undergone several amendments which resulted to the change of name from 1989 Enactment to the Administration of Islamic Law (State of Johor) Enactment. In 2003, Johor has enacted new law which was named as Islamic Family Law (State of Johor) Enactment of 2003. The arrangement of this enactment was a bit different from the previous enactment. Provision concerning to mahr is stated under section 21. Mas kahwin or mahr is interpreted under this enactment as the obligatory marriage payment due under *Hukum Syarak* by the husband to the wife at the time the marriage is solemnized, whether in the form of money actually paid or acknowledged as a debt with or without security, or in the form of something that, according to *Hukum Syarak*, is capable of being valued in terms of money. Though section 21 has stated the matter relating to mahr, however this section is too general and there is lack of explanation regarding to the matter of mahr itself that need to be satisfied by the persons who are to be entered into the marriage. This section also provided the duties of Registrar to ascertain and record every mahr and hantaran in every marriage that is to be registered by him. Under section 59 of the same enactment, there is provision relating to the right of the women to mas kahwin or mahr shall not affect her if the dissolution of marriage occur (Abd Jalil, 2002c).

This study found that the rate of RM 22.50 is the minimum value of mahr assigned to couples in Johor. The groom is allowed to give mahr to his spouse more than RM22.50 and the sum will be recorded in marriage certificate letter. This rate is same in all districts in Johor (Mohd Khamsul,

2017). Therefore, this study concludes that the rate of RM 22.50 still becomes the underlying value of mahr since Ahkam Syar'iyah Johor was introduced around past century. Even though it was the 'maximum value of mahr' years ago, it had become the 'minimum value of mahr' in Johor nowadays. There is no other constituted rate that ever substituted the rate of RM 22.50 in Johor although most of other states had already increased their mahr rate. This issue may bring negative perception towards legislation of mahr in Islam.

Historical Impact of Currency on the value of Mahr

This study had discussed that the provision about the rate of mahr in Johor comes from article 308 and 309 in Ahkam Syar'iyah Johor. Based on article 308, there is no stipulation for maximum rate of mahr but it is supererogatory to ensure that the value should not be less than 10 Dirham (Abd Jalil, 2002a). Under article 309, it is stated that the rate of mahr in Johor and its colony must be as much as a catty of silver which is equivalent to RM 22.50, not more and may be less. Therefore, we could understand that the value of a catty of silver was RM 22.50 in that time, which was also regarded as maximum rate of mahr at that particular time. The weight for one catty of silver is 16 tahil which is equivalent to 600 gram (PRPM 2016). The term of Dirham had been in existence before the reign of Islam. The usage of Dirham is as the same as Dinar, in term of the stipulated time. Dirham is the money from silver while Dinar refers to money from gold (Sanep, 2009). Ahkam Syar'iyah Johor was the first law enacted by the government of Johor which relates to specific set of code on munakahat's law in that state, and had been introduced since November 13th 1935 (Abd Jalil, 2002a). Therefore, according to current price of a catty of silver, the value is approximately RM1392. Meanwhile, current value of 10 Dirham is around RM70. Hence, this study suggests the mahr rate in Johor should be revalued on which RM70 should be set as minimum rate of mahr and RM1392 as its highest limit. This suggestion was made base on Johor's early calculation of mahr as stated in Ahkam Syari'iyah Johor (1935).

The usage of paper money system took place temporarily from 1931 to 1944, which raised the issue of the substituted currency when Ahkam

Syar'iyah Johor had been authorized around 1935. The 14 years duration of the cash system (a temporary currency system) was known as 'panic' situation. This 'panic' situation happened when there was an economic instability or a big war. The cash system usually took place when there was an occurrence of great depression in economy. These are among the examples of 'panic' situations; Napoleon War, USA's Civil War, World War 1 (1914), The Second World War (1939-1945), Great Depression (1920's and 1930's), Vietnam War (1965-1970) and Global Economy Crisis (2009-2011). However, according to Salmy (2011) the cash system of that time (1931-1944) was different from today. The money at that time was pledged on gold and silver meanwhile money at this time is based on floating money system which pledged on the value of United States of America's Dollar.

However, the temporary cash system was only maintained until 1944 when delegations from communist countries made a conference to rebuild international financial system that create Bretton Woods system. According to Salmy Edawati et al (2009), Bretton Woods's system had been enforced from 1944 until 1971, for 27 years. This system still uses gold as basic packed value of currency and fixed exchange rate. In 1971, once again the currency system has changed to floating money system after United States of America facing deficit as a result of excessive dollar's printing which was more than the gold reserved. The floating money system has been used until today. The value of money in floating money system depends on the supply and demands of the currency. In Malaysia for example, the higher the demand of Ringgit Malaysia currency resulted from foreign investment, the higher the value of the currency. Likewise, the higher the supply of Ringgit Malaysia currency in the market, the lower the value of that currency (Hussin & Zanirahm, 2009).

The truth is, since 1833, human had used the gold-based currency until 1973 (Sanep, 2009). After that, the currency is packed on USA Dollars after the crisis in financial system existed from the moment it was introduced until today (Salmy, 2011). This study also found that there was a significant difference of the value of Ringgit Malaysia in 1935 and today. According to Salmy

et al (2009), the substituted currency to the value of Dollars is usually changes by following market's speculation and inflation rate while the currency based on gold is more stable and guaranteed. This statement is supported by Hassanuddeen (2009) that believes the currency based on the world's commodity like gold, silver and oil brings more justice and stability. Hence, this study found that the mahr's rate of RM22.50 in 1935 which was based on the value of gold and silver previously was more beneficial for the people at that particular time as compared to the same rate used under today's floating fiat currency.

Conclusion

After reviewing the history of the determination of the substituted value of mahr in Johor, there is no provision about mahr and its rate before colonization happened on the state. This study found that the substituted value of RM22.50 had been determined by the states since the past century. The determination of the substituted value of mahr as much as RM22.50 was recognized by Ahkam Syar'iyah Johor which was effective in 1935; the time of English's colonization in Johor. The rate of RM 22.50 is the same to ratio for the weight for a catty of silver on that time, which was also equivalent to Dirham currency. According to history, there was no provision about mahr in Johor before colonization era in the state. Johor had implemented Undang-Undang Johor in 1523, after the falling of Melaka to Portuguese. Undang-Undang Johor provided laws on family, but there was no proof showing the old law discussed about mahr and its rate.

During the era of colonization in Johor during 1914, British started to interfere with marriage issue by introducing Muhammadan Marriage and Divorce Registration Enactment No.15 of 1914. This enactment was also referred by other states that were under the colonization of British. Under this enactment, it was stated that the rate of mahr on that time was encouraged to be more than 10 Dirham and not more than 500 Dirham. Next, a specific legislation had been created to discuss on marriage issue, divorce and things that related to it. Several provisions on mahr and its rate had been stated by Ahkam Syar'iyah Johor 1935 as provided in article 308 and article 309. It is

understandable that the rate of RM 22.50 which is the value of a catty of silver is the maximum rate of mahr and the minimum rate is not less than 10 Dirham in that time. Dirham currency and the substituted value of silver in the determination of the rate of mahr was based on the development of world's currency on that time. The year of Ahkam Syar'iyah Johor was enacted in 1935, was the year when the fiat money system has been used temporarily, which took place in 1931 until 1944. The fiat money on that time was based on gold and silver, different from today's fiat money that based on USA Dollars currency, which is easily affected by speculation in financial market. As a result, there was a different in value and purchasing power between RM22.50 at the time they were based on gold or silver and today's RM 22.50 that based on US Dollar. Thus, the determination of value of mahr as much as RM 22.50 which is still in practice nowadays seems irrelevant and should be revised.

After Tanah Melayu and Johor had obtained their independence from British, the law on Islamic matters continued to develop and revise according to current situations and conditions. The power of Syariah administration is provided under 9th Schedule of Federal Constitution, List II stated that Syariah administration is under each state's power and those states are not bound to Federal Government. Johor, as example, had used the power provided by introducing Administration of Islamic Law of Johor in 1978. This enactment discussed on mahr in section 117 but this provision is general in nature, which it only explained on the registration procedure on the rate of mahr during the wedding ceremony. There were some amendments had been made to the enactment but there was none on the mahr. The enactment was finally repealed and had been substituted with Islamic Family Law (State of Johor) Enactment of 2003. However, there is still no provision about mahr in this enactment. There is only provision on mahr's registration procedure by marriage registrar in section 21 on this enactment.

Many other states had already make efforts to revise their rate on mahr. Legislation of mahr has its own role and purpose in Islam. There are many proofs in Islam that show it its supererogatory to give something valuable during wedding ceremony. This study reckoned the rate of RM

22.50 which equivalent to a catty of silver once upon a time should be reviewed on its suitability in modern era. RM 22.50 is valuable during previous period but not today. This rate may also give negative perception towards non-muslim on Islam. This study urges that the mahr rate of RM 22.50 which is still in practice nowadays should be revised to ensure it is valuable as what Islam prescribed and discussed before. Hopefully this study will give some effects and may become references for authority in Johor to revise on the

rate of mahr in that state. This effort may uphold the purpose of legislation of mahr in protecting women's right in marriage. The study also suggests that the existing rate of mahr to be revalued in congruity with the current value of a catty of silver which is around RM 1392 as maximum rate and RM 70 as minimum rate according to previous opinion of calculation that has been set through Ahkam Syar'iyah Johor 1935.

References

- Abdul Ghani Onn. (2004). Adat Perkahwinan Masyarakat Melayu Perlis: Mas Kahwin. *Jurnal Warisan Indera Kayangan*. (Bil XV1): 3.
- Abd Jalil Borham. (2002a). *Ahkam Syar'iyah Johor*. Johor: Universiti Teknologi Malaysia.
- Abd Jalil Borham. (2002b). *Majallah Ahkam Johor: Latar Belakang, Pelaksanaan dan Komentar*. Johor: Universiti Teknologi Malaysia.
- Abd Jalil Borham. (2002c). *Pentadbiran Undang-undang Islam Negeri Johor*. Johor: Universiti Teknologi Malaysia.
- Abdul Kadir Haji Muhammad. (1996). *Sejarah Penulisan Hukum Islam di Malaysia*. Selangor: Dewan Bahasa dan Pustaka.
- Abu Bakar Abdullah. (1986). *Ke Arah Pelaksanaan Undang-undang Islam di Malaysia: Masalah dan Penyelesaian*. Kuala Terengganu: Pustaka Damai.
- Administration of Islamic Law (State of Johor) Enactment of 1978.
- Administration of Islamic Law (State of Johor) Enactment of 2003.
- Ahmad Ibrahim dan Ahilemah Joned. (1985). *Sistem Undang-undang di Malaysia*. Kuala Lumpur: Dewan Bahasa dan Pustaka.
- Ahmad Ibrahim. (1999). *Undang-undang Keluarga Islam di Malaysia*. Kuala Lumpur: Malayan Law Journal.
- Ahmad Ibrahim. (1965). *Islamic Law in Malaysia*. Singapura: Malaysian Sociological Research Institute.
- Ahmad Mohamed Ibrahim. (1997). *Pentadbiran Undang-undang Islam di Malaysia*. Kuala Lumpur: Institut Kefahaman Islam Malaysia.
- Al-Azhāriyy, Abū Maṣṣūr Muhammad bin Ahmad. (2001). *Mu'jam Tahzīb al-Lughah*. 4. Beirut: Dār al-Ma'rifah.
- Al-Jaziriyy, Abd. Rahman. (2001). *Al-Fiqh 'ala al-Mazāhib al-Arba'ah*. 4. Beirut: Dār Ibn Hazm.
- Al-Kāssāniyy, °Alauddin Abu Bakr bin Maṣ'ud. (1986). *Kaheerah: Dār al-kutub al-'ilmiyyah*.
- Al-Nawawiyy, Yahya bin Sharaf. (1980). *Al Majmu' Sharh al-Muhadzab*. 2. Damsyik: Dar Al Fikr.
- Al-Sābiq, Sayyid. (2000). *Fiqh Al Sunnah*. 2. Egypt: Dar al Fath li al-'Ilam al-'Arabi.
- Al-Sibā'iy, Mustafā bin husniyy. (1999). *Al Mar'ah baina al Fiqh wa Al qānūn*. Beirut: Dar Al warq li al nashr wa al tauzi'.
- Al-Zuhayliyy, Wahbah. (1989). *Al-Fiqh al-Islāmiyy wa Adillatuhu*. Damshiq: Dar Al Fikr.
- Anwar Zainal Abidin. (2002). "Sejarah Penggunaan Mata Wang Dinar". *Jurnal Ulum Islamiyyah*, 1, No.1.
- Federal Constitution.
- Hanif Md Lateh @ Junid, Izziah Suryani Mat Resad @ Arshad & Ermy Azziaty Rozali. (2011). *Sejarah Perkembangan Undang-undang Islam di Johor*. Prosiding Nadwah Ulama Nusantara.
- Hasbi Haji Muh. Ali. (2013). *Mahar sebagai Satu Bentuk Jaminan Sosio-Ekonomi Wanita:Kajian di Tawau Sabah*. Disertasi Sarjana, Jabatan Fiqh dan Usul, Akademi Pengajian Islam Universiti Malaysia.
- Hassanuddeen A. Aziz. (2009). *Dinar Sebagai Mata Wang Mengatasi Krisis Ekonomi Global 2008*. Prosiding Seminar Antarabangsa Penjanaan Ekonomi Melalui Transaksi., 109-130.

- Hussin Salamon & Zanirah Mustafa. (2009). Perbandingan Ekonomi Kapitalisme dan Sosialisme. Prosiding Seminar Antarabangsa Penjanaan Ekonomi Melalui Transaksi, 133-147.
- Ibn Al-Kathīr, Isma`il Ibn `Umar. (2008). Tafsir. Terj M. Abd Ghoffar & Abu Ihsan al-Atsari. Bogor: Pustaka Imam Al-Syafie.
- Ibn `Abd al-Bar. (2000). Al Istizkār. Beirut: Dār al-Kutub al-`Ilmiyyah.
- Ibn Taimiyyah, Taqiyudin Ahmad bin Abd Halim. (2005). Majmū` al Fatāwā. 32. Mesir: Dār al-wafā`.
- Islamic Family Law (Federal Territory) Act of 1984.
- Islamic Family Law (State of Johor) Enactment of 2003.
- Jabatan Kemajuan Islam Malaysia. (2010). Data dan Maklumat Kekeluargaan /Sosial Masyarakat Islam di Malaysia (1st ed.). Putrajaya: JAKIM.
- Jabatan Kemajuan Islam Malaysia. (2016). Senarai Kadar Mas Kahwin di seluruh Malaysia.
- Kassim Thukiman. (2011). Sejarah Johor Dalam Pelbagai Perspektif. Johor Bahru: Penerbit UTM Press.
- Mohd Khamsul bin Mohamed Debuan. (2017, 9 March). Personal Interview.
- Mohd Som bin Sujimon & Abdul Basir bin Mohamad. (2006). Fikah Kekeluargaan. Selangor: Pusat Penyelidikan UIAM.
- Muhammad Yusoff Hashim. (1992). The Malay Sultanate of Malacca. Kuala Lumpur: Dewan Bahasa dan Pustaka.
- Pusat Rujukan Persuratan Melayu. (2016). PRPM@DBP Malaysia. Retrived December 12, 2016, from <http://prpm.dbp.gov.my/>.
- Raihanah Azahari, Khairun Najmi Saripudin, Raihana Abd Wahab. (2009). Hubungan di antara Faktor-faktor Demografi dengan Penentuan Kadar Hantaran: Kajian di Perlis, Pulau Pinang dan Perak. Jurnal Fiqh, 6.
- Salmy Edawati Yaacob, Sanep Ahmad & Wan Najihah. (2009). Kestabilan Mata Wang dalam Menangani Krisis Ekonomi: Ke Arah Penggunaan Dinar Emas. Prosiding Seminar Antarabangsa Penjanaan Ekonomi Melalui Transaksi, p. 373-388.
- Salmy Edawati Yaacob. (2009). Realiti Semasa Penggunaan Dinar Emas di Malaysia. Prosiding Seminar Antarabangsa Penjanaan Ekonomi Melalui Transaksi. p. 347-360.
- Salmy Edawati Yaacob. (2011). Dinar Emas dan Mekanisme Pelaksanaannya dalam Ekonomi Semasa. Tesis Dr. Fal, Fakulti Pengajian Islam, Universiti Kebangsaan Malaysia.
- Sanep Ahmad. (2009). Dinar Emas: Pilihan Penuh Dilemma. Prosiding Seminar Antarabangsa Penjanaan Ekonomi Melalui Transaksi. p. 53-66.
- Shamim Aleem. (2007). Prophet Muhammad(s) and His Family: A Sociological Perspective. Bloomington: IN AuthorHouse.
- Siti Nor Ahiasah binti Shafak Ahmad. (2012). Amalan Penetapan Kadar Mahar dalam Kalangan Masyarakat Islam di Daerah Klang, Selangor: Analisis Dari Perspektif Perundangan Islam. Tesis Sarjana. Jabatan Syariah dan Undang-undang, Universiti Malaya.
- Utyah, Jarji Shahin. (2007). Mu`jam al-Mu`tamad. Beirut: Dar al-Kitab al-Ilmiah
- Zaini Nasohah, Dr. (2004). Pentadbiran Undang-undang Islam di Malaysia Sebelum dan Menjelang Merdeka. Selangor: Utusan Publications & Distributors Sdn Bhd.
- Zaydān, `Abdul Karīm. (1993). Al-Mufasssal fī Ahkām al-Mar`ah wa al-bayt al-muslim fī al-shar`ah al-Islāmiyyah. 6. Beirut: Muassasah Al-Risālah.