

JEULAME IN MARRIAGE IN BANDA ACEH: Looking for a Common Thread between Culture and Sharia

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Abstract: The high price of *jeulame* or dowry in wedding tradition in Banda Aceh results in general assumption between societies that it contradicts the basic purpose of sharia. This article tries to investigate the agreement between traditional rules and sharia principles in terms of wedding regulations in Banda Aceh through several formulations of research problems: first, how is the determination of *jeulame* in Banda Aceh?; second, how is the application of *jeulame* in Banda Aceh?; third, what the common thread between traditional rules and sharia principles in terms of *jeulame's* amount in marriage? This is field research. The interview is conducted towards some religious leaders, traditional figures, experts, and some inhabitants who are married couples. This research concludes that the amount of *jeulame* in Banda Aceh ranges between 6 and 20 *manyam* of gold. The amount of *jeulame* depends on the education, family, and social backgrounds of women. Although there are several disagreements, this research reveals that the agreement between traditional rules and sharia in terms of marriage regulations is centered on three choosable levels (low, medium, high) in which each family of two subjects (man and woman) can choose one of them without being burdened. Therefore, there is no contradiction between traditional rules and sharia principles.

Keywords: *Jeulame*, Marriage, Banda Aceh, Traditional Law, Sharia

Abstrak: Tingginya kadar *jeulame* atau mahar dalam pernikahan di Banda Aceh telah menimbulkan asumsi di tengah masyarakat bahwa hal tersebut bertolak belakang dengan syariat. Tulisan ini akan mencari titik temu antara ketetapan hukum adat dan syariat dalam pemberian *jeulame* dalam pernikahan di Kota Banda Aceh dengan rumusan, *pertama*, bagaimana penetapan *jeulame* di Kota Banda Aceh?; *kedua*, bagaimana bentuk *jeulame* di Kota Banda Aceh?; *ketiga*, bagaimana titik temu antara hukum adat dan syariat dalam penetapan kadar

jeulame dalam perkawinan? Tulisan ini merupakan kajian lapangan. Wawancara dilakukan kepada tokoh agama, pemangku adat, pemerhati, tokoh masyarakat dan 10 pasangan suami isteri. Tulisan ini menyimpulkan bahwa kadar *jeulame* di Kota Banda Aceh berkisar antara 6 manyam hingga 20 manyam emas. Kadar ini sangat ditentukan oleh latar belakang calon isteri seperti pendidikan, keluarga dan status sosial. Walaupun terjadi silang pendapat antara perspektif adat dan syariat, tulisan ini menunjukkan bahwa titik temu antara kedua hukum tersebut berada pada tiga opsi penetapan *jeulame* (rendah, sedang dan tinggi) dimana pihak mempelai laki-laki dan perempuan berhak menentukan ketiga opsi tersebut sehingga substansi adat dan syariat tidak bertentangan.

Kata Kunci: *Jeulame*, Pernikahan, Banda Aceh, Hukum Adat, Syariat.

Introduction

In Islam, dowry constitutes a husband's obligation to provide his wife with a certain amount or kind of goods during the marriage contract. Although it does not constitute one of the pillars in marriage, dowry is counted as husband's first giving to his wife. This research becomes attractive not only in terms of its sacredness but also in terms of its unseparated cultural nuance. This is because in Aceh, giving *jeulame* is something essential that must be applied in a wedding tradition. The amount of *jeulame* is measured using gold or the equivalent price. Additionally, there is a tendency to follow the precedence of the *jeulame* received by siblings of the prospective wife. As for the oldest daughter, *jeulame* is measured following one received by her closest relatives. Besides, the social status of the future wife will also influence the amount of *jeulame*. In general, it stands from 3 to 25 *manyam*¹ of 24 carat gold.

It is undeniable that the price standard of dowry in Aceh that is one of the highest in Indonesia would spark continuing debates between Aceh religious leaders and traditional figures. The tradition suggests that the amount of *jeulame* must be based on the social status of women's family, while Islam

tends to prefer easiness and simplicity. This problem leads to a general assumption among people that the enactment of *jeulame* in Aceh contradicts the sharia principles. They try to question about Aceh's sacred motto that says *adat ngon hukom lagee zat ngon sifeuet* (the relation between tradition and religion is similar with the relation between essence and attribute)². This is the point where this research finds its relevance. It will investigate the agreements between traditional rules and sharia principles in *jeulame* application in Banda Aceh. Therefore this research offers three main formulations: first, how is the determination of *jeulame* in Banda Aceh?; second, how is the application of *jeulame* in Banda Aceh?; third, what are the agreements between traditional rules and sharia principles in terms of *jeulame's* amount in marriage?

There have been a lot of studies regarding dowry in general.³ Also, in terms of local

¹ *Manyam* is a measure of gold used by Aceh society in which one *manyam* is equivalent to 3,30 grams of gold.

² Muhammad Husein, "Adat Aceh", *Daerah Kebudayaan Provinsi Daerah Istimewa Aceh*, 1970, 1.

³ For example, Masyhuri Rifa'i, "Wawasan Hadis Nabi Muhammad saw. tentang Mahar (Suatu Kajian Maudu'i)" (State Islamic University of Alauddin Makassar, 2016); Noryamin Aini, "Tradisi Mahar di Ranah Lokalitas Umat Islam: Mahar dan Struktur Sosial di Masyarakat Muslim Indonesia," *AHKAM: Jurnal Ilmu Syariah* 17, no. 1 (2014); Sandias Utami, "Rekonseptualisasi Kadar Mahar Berbasis Kesederhanaan Dan Kemudahan: Studi Pasal 31 Inpres No 1 Tahun 1991 Tentang

culture, many scholars have conducted researches from different perspectives and scopes. Nurul Hakim reveals that the price of dowry in Aceh places the second highest in Indonesia after Sulawesi.⁴ Bambang Husni suggests that the wedding ceremony in Melayu Jambi society is conducted following both the local tradition and sharia.⁵ Another unique aspect to be investigated is that there is a special combination between *uang panaik* and dowry in Bugis-Makassar society. As Nurul's and Handar Subhandi Bachtiar investigation, *uang panaik* becomes another compulsory in Bugis society to be given besides the dowry.⁶

Not only in Indonesia, Malaysia's local communities also recognize such kind of additional payment besides dowry.⁷ Muhammad Shobirin, in his research comparing dowry tradition in Indonesia and Malaysia, conveys that similarities and differences of dowry tradition between these two countries depend on the national laws of dowry which refer to local traditional rules and a particu-

lar *madhhab*.⁸ Moreover, Raihanah Azahari in her research entitled *Pengaruh Budaya Dalam Penentuan Kadar Mahar*⁹ and *Hubungan di Antara Faktor Demografi Dan Penetapan Kadar Hantaran: Kajian di Perlis, Kedah, Pulau Pinang dan Perak*¹⁰ concluded that two forms of giving, dowry and *uang hantaran*, are based on sharia principles as well as *resam* in Melayu marriage tradition. In contrast, Nora Abdul Hak argues that the amount of dowry in some regions in Malaysia is not relevant with recent society's financial situation so that it must be reconsidered.

The previous literature review shows a gap in the study of *jeulame* practiced among the Banda Aceh community, both from the perspective of its application, which follows the local custom and the provision of sharia on it. Accordingly, this research will try to find an integrative understanding of *jeulame* between traditional rules and sharia principles.

It is field research in which the data are compiled through documentation and interviews. The interlocutors come from different backgrounds such as religious leaders, traditional figures, married couples, the staff of religious Affairs offices, lecturers and doctors. The interview will use *purposive sampling* method. By using this method, the interviewees chosen as study respondents are only those who have specific features.¹¹ The

Kompilasi Hukum Islam" (State Islamic University of Maulana Malik Ibrahim, 2015).

⁴ Nurul Hakim, "Studi Normatif Tentang Eksistensi Mahar Perkawinan Di Aceh," *Kumpulan Jurnal Dosen Universitas Muhammadiyah Sumatera Utara*, no. 1 (2017): 482-490.

⁵ Bambang Husni Nugroho, "Konvergensi Adat Dan Syarak Dalam Tata Upacara Pernikahan Masyarakat Melayu Jambi," *Al-Risalah* 17, no. 2 (2018).

⁶ Nurul Miqat and Handar Subhandi Bakhtiar, "Harmonization of Uang Panaik as Customary Term in Bugis-Makassar Ethnic Group and Dowry in Indonesian Marriage System," *JL Pol'y & Globalization* 67 (2017): 41-46.

⁷ Ishaq El-Mubarak and Ahamad Faosiy Ogunbad, "Late Marriage in Islam: Malaysia as a Case Study," *International Journal of Innovative Knowledge Concepts* 5, no. 7 (2017): 11-20; Attila Ambrus, Erica Field, and Maximo Torero, "Muslim Family Law, Prenuptial Agreements, and the Emergence of Dowry in Bangladesh," *Quarterly Journal of Economics* 125, no. 3 (2010): 1349-97; Mary K Shenk, "Dowry and Public Policy in Contemporary India," *Human Nature* 18, no. 3 (2007): 242-63.

⁸ Muhammad Shobirin, "Studi Komparasi Penerapan Mahar Di Indonesia Dan Malaysia" (State Islamic University of Maulana Malik Ibrahim, 2013).

⁹ Raihanah Azahari, "Pengaruh Budaya Dalam Penentuan Kadar Mahar Dalam Hukum Islam Dan Budaya Tempatan," ed. Mohd Salleh Haji Md @ Haji Ahmad (Kuala Lumpur: Departement of Fiqh dan Ushul, Akademi Pengajian Islam, Universiti Malaya, 2006), p. 316.

¹⁰ Raihanah Azahari, Khairun Najmi Saripudin, and Raihana Abd Wahab, "Hubungan Di Antara Faktor Demografi Dengan Penentuan Kadar Hantaran: Kajian Di Perlis, Kedah, Pulau Pinang Dan Perak," *Jurnal Fiqh* 6 (2009): 107-24.

¹¹ Cua Yan Piaw, *Kaedah Penyelidikan* (Kuala Lumpur: McGraw-Hill, 2011), p. 226.

main purpose of this sampling is to get detailed information about the problems in question,¹² which is followed by a descriptive analysis.

This research is divided into two parts. The first part explores the provision of dowry in Islam. I will start with the elaboration on the legal status of dowry stipulated by the Qur'an and hadiths, followed by the intellectual discourse of dowry amongst classical jurists and its application in some Muslim countries. The second part serves the explanation about *jeulame* in Banda Aceh. In this section I will describe the standard amount of *jeulame*, the form and price of *jeulame* given by a man to his future wife, the couples' perception about *jeulame*, and the alignment between traditional rules and sharia principles.

The Provision of Dowry in Islam

1. Status of Law

The dowry (*mahr*) is a compulsory giving provided by a prospective husband to his prospective wife, which is intendedly mentioned in the marriage contract as a sign of agreement between the two parties (man and woman) to live together as a husband and a wife.¹³ The obligation of dowry is mentioned in Q.S. al-Nisa' (4): 4, which says that husbands are the ones who have the responsibility to pay the dowry. A few exegetes suggest that this obligation is addressed towards the guardian of the women (*wālī*); nevertheless, in another verse, such as in Q.S. al-Nisa' (4): 24, the Qur'an states that the obligation is addressed to prospective husband, instead. This verse reveals that a man has a responsibility to give dowry to his future wife as a

compulsory giving and wife's right.¹⁴ Additionally, this verse also conveys that the husband must provide dowry in order to authorize marriage and intercourse.

The dowry (*mahr*) is also known as *saduqah*, which means the symbol of honesty and sincerity from a man. The intended meaning of the word *hunna* in this verse is that the dowry itself must be wholly given to the wife, not to her parents, as the dowry becomes such a form of homage from a man to his future wife.¹⁵ Also, the dowry is the gift from a man to his future wife, from which she has the full right upon it, unlike the similar payment practiced during the *jahiliyyah* society.

The term of *mahr* was broadly known since the age of *jahiliyyah*. In that time, women were prohibited from having and managing dowry. Instead of to the prospective wife, a man provided dowry to her father, grandfather, male siblings, or male brothers under whose guardian the woman had lived. This was mainly because *jahiliyyah* society regarded dowry as a wage from a man for a person who had sincerely looked after the woman.¹⁶ Thus, a woman was regarded as a "merchandise," and the dowry itself was regarded as "the price." The price of *mahr* symbolized the pride of women's family, their offspring, and their social status.

The presence of Islam has led a degree of liberation for women, in which they can now fully own and manage their dowry. The obligation of dowry is not regarded as a trade for women's beauty or sexual intercourse, but rather as a symbol of loyalty and seriousness of a man to marry a woman. Also, it

¹² Michael Quinn Patton, *Qualitative Research & Evaluation Methods: Integrating Theory and Practice* (Sage Publications, 2014), p. 230.

¹³ 'Abd al-Rahmān Al-Jāziri, *Al-Fiqh 'alā Madhāhib Al-Arba'ah*, Vol. 4 (Cairo, n.d.).

¹⁴ Al-Qurtūbī, *Al-Jāmi' l-Ahkām Al-Qur'ān* (Cairo: Dār al-Kātib al-'Arābiyyah, 1967), p. 24.

¹⁵ Muṣṭafā al-Sibā'i, *Sharḥ Qānūn Al-Aḥwāl Al-Shakhsīyyah*, Vol. 1 (Bairūt: Maktabah al-Islāmi, 1997), p. 180.

¹⁶ Al-Sayyid Sābiq, *Fiqh al-Sunnah*, Vol. 2 (Cairo: Dār Al-Fatḥ Li Al-'lām Al-'Arabī, 1998), p. 218.

symbolizes women's honor, the form of agreement, and the compulsory gift from a man for his future wife.

Besides to the Qur'an, the obligation of dowry also refers to some hadiths, one of which is a hadith narrated by al-Nasa'i saying that the men who have already have طَوْلٍ are recommended to marry.¹⁷ The intended meaning of the words نَأْ طَوْلٍ in this hadith is to give dowry and living.¹⁸ Other hadith narrated by 'Abdullah Bin 'Amir Bin Rabi'ah reports about a woman who acquired to be given a pair of slippers as the dowry.¹⁹ This information clearly indicated that the dowry (*mahr*) is an obligation in marriage. Another source of dowry obligation (besides the Qur'an and hadith) was *ijmā'*. All muslim scholars ('*ulamā'*) have agreed that the men have the responsibility to pay the dowry.²⁰ Despite its compulsion, giving the dowry does not represent one of the pillars of marriage laws in Islam. It must exist, although the amount is not mentioned in the marriage contract. In other words, although the dowry is not given when the marriage contract is held, the validity of that marriage stands, and that dowry will be regarded as a debt that must be paid later. Additionally, if a husband forgets or gets difficulty paying the dowry until he dies, the obligation will be automatically transferred to his heirs, or it could be taken from his treasures.²¹

Some scholars ('*ulamā'*) suggest that if the amount of dowry was not mentioned or determined during the marriage contract,

¹⁷ Hadith narrated by al-Nasa'i. See Jalāluddīn al-Miṣrī al-Suyūṭī, *Sunan Al-Nasā'i Bi Sharh Al-Suyūṭī* (Cairo: Dār al-Ḥadīth, 1999), p. 366.

¹⁸ Ibid., p. 366.

¹⁹ Hadith Narrated by Tirmidhi, *Abwab al-Nikah*, Book *Ma Ja'a fi Muhur al-Nisa'*, no. Hadith 1113. See Abu 'Isa Muhammad Ibn 'Isa al-Tirmidhi, *Jami' al-Tirmidhi*, dalam *Mawṣu'at al-Hadith*, p. 1759.

²⁰ Wahbah al Zuhaili, *Al-Fiqh Al-Islāmī Wa Adillatuhu* (Damaskus: Dar al-Fikr, 1985), p. 253.

²¹ 'Abd al-Rahmān Tāj, *Al-Sharī'ah Al-Islāmiyyah Fi Al-Aḥwāl Al-Shakhsiyyah*, 2nd ed., 1956, 135.

and the dowry has not been given until the husband dies, the amount of dowry to be paid is called *mahr mithil*. *Mahr mithil* is a kind of dowry in which the amount is equated with the amount of the dowry of the wife's family of her father's offspring, such as her male siblings or her half brothers.²² The hadith above clearly states that, in sharia perspective, it is the wife who has the full right to manage the dowry. The husband is not allowed to force his wife to spend the dowry on his interest, even the household needs. The amount or type of dowry depends on wife's request. A father does not have any right to allow his daughter's marriage to use a certain amount of dowry without his daughter's agreement. This regulation contains a hidden message that the dowry is a symbol of woman's magnificence. Also, it is a symbol of man's willingness to live with a woman as a couple in the family as well as a collateral of transferring father's responsibility in supporting the life of his daughter to the one who will become his son-in-law.²³

2. The Form and Minimum Amount of Dowry in *Fiqh* Perspective

Islam does not determine the form, type, or amount of dowry that the husband must provide. Every object or service that have price or benefit can be dowry as long as the man is capable of giving it to his prospective wife.²⁴ The prophet Muhammad peace be upon him. once freed a woman called Safiyyah Binti Huyay Ibn Akhtab RA from being a prisoner of war, and then put this manumission as the dowry upon his

²² Ibid.

²³ Muṣṭafā al-Sibā'i, *Sharḥ Qānūn Al-Aḥwāl Al-Shakhsiyyah*, p. 180.

²⁴ Al-Māwardī, *Al-Hāwī Al-Kabīr*, 1st ed. (Bairūt: Dār al-Kutūb al-'Ilmiyyah, 1994), 403. See also Muṣṭafā Sa'id al-Khin, *Athar Al-Ikhtilāf Fi Al-Qawā'id Al-Uṣūliyyah Fi Ikhtilāf Al-Fuqahā*, 7th ed. (Bairūt: Al-Risālah, 1998), p. 598.

marriage to her.²⁵ Another hadith reports that the prophet Muhammad peace be upon him. suggested Ali Bin Abi Thalib to give his armor to Fatimah as dowry.²⁶ This information indicates that dowry can be provided either as a property or a service. The property that is used as a dowry should have a value avowed by sharia.²⁷ The notion of value represents an essential feature of dowry because it means more than the amount, type, or size of the dowry. Consequently, every object that does not have a value such as animal wastes, insects, or wine can not be used as the dowry. Nevertheless, attributes of dowry such as type, amount, and the feature should be mentioned²⁸ during the marriage contract in order to prevent any deception. Additionally, the dowry must be a tangible object that can be handed over to the wife.²⁹ For example, the flying birds can not be used as dowry because there is no guarantee that the wife would actually receive it.

Some scholars from Shafi'i and Hanbali schools (*madhhab*) allow a husband to give a widely recognized merit as a dowry. The merit in this context should be a certain service—with a clear time restriction—that worthy of wage or payment, as the teaching of the Qur'an, sewing clothes, building a house for the wife, or becoming a personal servant to her for a particular period. All of these services could be a dowry, for it has a definite value.³⁰ In contrast, the scholars from Hanafi schools (*madhhab*) only permits

the benefits coming from actual treasures (*māl*) as dowries, such as the cost obtained from renting properties or animal husbandry. According to Hanafi's scholars, any service that stands upon the non-material treasure, such teaching the Qur'an, cannot be provided as dowry—they consider it having no material value, not to mention that the teaching of the Qur'an is essentially worship unworthy of payment.³¹ Based on this information, it is clear that the dowry can be in any form as long as it offers benefits for the wife, such as gold, silver, money, home, garden, field, animal, cloth, or other measurable objects.³²

Dowry is a concept recognized long in history during the earlier prophets and their societies before the coming of the prophet Muhammad peace be upon him. as informed by the Qur'an in QS. al-Qasas (28): 27. This verse conveys the way the prophet Shu'aib asked prophet Musa to marry her daughter, requesting him to give a dowry in the form of his service as his cattle herder for eight years. The prophet Musa, however, extended it until ten years, and these two additional years were finally regarded as the dowry for his wife. This story indicates that giving dowry in the form of services and actual treasure are both acceptable. Also, a husband is recommended to add more than the amount his wife has asked for. In contrast, if the amount given is less than what she has determined, the marriage contract becomes null.³³

There is a consensus among jurists that there is no maximum limit of dowry. Nevertheless, the minimum limit of dowry is subject to debates that stand on the inexistence of any clear statement (*naṣṣ*) explicitly indicating the minimum amount of

²⁵ Hadith narrated by al-Bukhari, Kitab al-Nikah: Book Man Ja'ala 'Itq al-Amah Sadaqaha, no. Hadith 5086 see al-Bukhari, Sahih al-Bukhari, in al-Shaykh, *Mausu'ah al-Hadith*, p. 440.

²⁶ Hadith narrated by Abu Dawud, Kitab al-Nikah, Book fi al-Rajul Yadkhulu bi Imra'atihi Qabla an-Yanqidaha Shay'an, no. Hadith 2126. See Abu Dawud, Sunan Abu Dawud, in *Mausu'ah al-Hadith*, p. 1379.

²⁷ Al-Māwardī, *Al-Hāwī Al-Kabīr*, p. 598.

²⁸ Ibid.

²⁹ Ibid.

³⁰ Ibid.

³¹ Ibid.

³² Tāj, *Al-Sharī'ah Al-Islāmiyyah Fī Al-Aḥwāl Al-Shakhsiyyah*, p. 127.

³³ Muḥammad Khuḍari Bik, *Al-Fiḥ Al-Muyassar Fī Al-Mu'āmalah* (Bairūt: Dār al-Fikr, n.d.), p. 126.

dowry.³⁴ In Hanafi *madhhab*, the minimum price of a dowry is no less than ten dirhams, and this amount must be equal with the common amount used by the society where the marriage contract is held.³⁵ Thus, any object which values as high as ten dirhams or above could be used as the dowry.³⁶ This provision is based on a hadith reported by Jabir, who said that none of the items which are less than 10 dirhams can be used as a dowry.³⁷ Meanwhile, the scholars of Maliki school (*madhhab*) clearly state that the minimum price of a dowry is no less than one-fourth of a dinar³⁸ or three dirhams, which basically equals the amount of minimum fine the thief must pay for.³⁹ Unlike Hanafi and Maliki scholars, the scholars from Shafi'i and Maliki schools agree that there is no minimum amount of a dowry. They said that everything could be used as a dowry as long as it has values or prices such as fees, services, or even an iron ring.⁴⁰ They base their opinion on a hadith reporting that the prophet Muhammad peace be upon him, once commanded one of his companions to look for any item that could be used as the dowry in order to marry someone he loved, even if it is just an iron ring.⁴¹

For Shafi'ite school, it is suggested that the amount of dowry must not exceed 500 dirhams and less than ten dirhams.⁴² Uncertainty with regards to the minimum amount of dowry comes from the fact that the word *mahr* is mentioned in a general sense in Q.S. al-Nisa' (4): 24. The phrase *bi amwalikum* in this verse covers all kinds and measures of treasure. This general statement is the basic argument for some scholars in Shafi'i's school in their preference for the inexistence of minimum limit of dowry.⁴³ From this verse, scholars from Shafi'i and Hanbali schools conclude that dowry should be something with value and price, while the amount of it is up to the agreement between the prospective husband-wife.

At this point, we can see that the amount of dowry, either as an actual treasure or a benefit/service worthy of the price, falls to the personal decision of the respective parties; there is no such thing as the minimum amount of dowry. The only fundamental features to consider is that the dowry should have a value, and is within the range of the husband's capability. Thus, according to sharia perspective, these two features should be considered to determine the amount of dowry. It also symbolizes that dowry, as the symbol of love and compassion, is the right of the wife, either the type, size, or amount of it is mentioned during the marriage contract or not.

³⁴ Tāj, *Al-Sharī'ah Al-Islāmiyyah Fī Al-Aḥwāl Al-Shakhsīyyah*, p. 123.

³⁵ Ibn 'Ābidīn, *Hāshiah Rad Al-Mukhtār* (Cairo: Shirkah Maktabah wa Maṭbā'ah, 1966), 100-101. See also Shams al-Dīn al-Sarakhsī, *Al-Mabsūt* (Bairūt: Dār al-Ma'rūfah, 1989), p. 64.

³⁶ *Ibid.*, p. 64.

³⁷ Hadith narrated by al-Tirmizi, Book al-Nikah, Chapter Ma Ja'a fi Muhur al-Nisa', no. Hadith 1113. Al-Tirmizi said that this Hadith is *da'if*.

³⁸ Dinar is a gold coin weighing 22 carrats (4.25 grams) while dirham is a silver coin weighing 22 carrats (2.975 grams).

³⁹ Ibn 'Ābidīn, *Hāshiah Rad Al-Mukhtār*, p. 100-101.

⁴⁰ Muḥammad al-Sharbinī, *Mughnī Al-Muḥtāj*, 3rd ed. (Cairo: Muṣṭafā al-Bāb al-Halabī wa Awlādūh, 1958), p. 22.

⁴¹ Hadith narrated by Abu Daud, Book al-Nikah, Chapter fi al-Tazwij 'ala al-'Amal Yu'mal, no. Hadith 2111. Abu Daud said that this Hadith is *sahih*.

⁴² Abū al-Qāsim 'Abd al-Karīm Ibn Muḥammad al-Rafī'ī al-Qazwīnī, *Al-'Azīz Sharḥ Al-Wajīz Al-Ma'rūf Bi Sharḥ Al-Kabīr*, ed. 'Alī Muḥammad Mu'awwaḍ dan 'Ādil Aḥmad 'Abd Al-Maujūd, Vol 8 (Bairūt: Dār al-Kutūb al-'Ilmiyyah, 1997), p. 231-233.

⁴³ Abū 'Abd Allāh Muḥammad al-Qurtūbī, *Al-Jāmi' Li Aḥkām Al-Qur'ān*, ed. Muḥammad Ibrāhīm al-Ḥanāwī dan Mahmūd Ḥamīd 'Uthmān, Vol 4 (Cairo: Dār al-Ḥadīth, 2002), p. 26.

3. Provisions of Dowry in Muslim Countries

Several Muslim countries have determined the maximum amount of dowry. The goal behind this is to prevent any demands that are incompatible with what sharia suggests. Pakistan, for example, maintains that the value of dowry should not exceed 500 Rupees. In addition, civil servants are not permitted to receive any gift related to their job during their weddings or that of their children. Any gift received during and in the context of marriage solely belongs to the wife. The value of dowry and all costs allocated for the wedding ceremony should not exceed 2.500 Rupees. After the wedding, the fathers of the wives, or their guardians, have to report to the marriage registrar the amount of money they have spent for the wedding. Anyone who breaks the rules would be imprisoned for the maximum of 6 months.⁴⁴

In Bangladesh, Law Number 35 of 1980, which was then amended with the Ordinance Number 64 of 1984 articles 3 and 4 stipulate that the maximum permitted price for a dowry is not higher than 500 takta. Whoever tries to break this law will be jailed for one year or will be commanded to pay a fine for about 5000 takta, or both of them.⁴⁵

In Malaysia, all regulations related to marriage and dowry must refer to The Law of Islamic Family and the local tradition of *resam*. Consequently, there are two kinds of gifts in Melayu tradition regarding marriage, namely *mahr* (dowry) and *hantaran*.⁴⁶ *Hantaran* is a gift from a man to his future

wife that is given when marriage contract is held, either in the form of money or items.⁴⁷ In Melayu tradition, *hantaran* is aimed to reduce the burden of the woman's family in preparing the wedding. However, *hantaran* is not a compulsory gift, and both sides are free to determine the amount or price. According to government's law, there is no minimum amount of *hantaran* which differs from the dowry one.

These two gifts are conducted differently in every region across Malaysia. In some regions in East Coast Peninsula such as Kelantan and Trengganu, people prefer to combine the amount of both gifts. In other words, the total of price will be mentioned as the dowry (*mahr*) although a half of them is originally intended to be *hantaran*. However, people in some other regions choose to separate *mahr* from *hantaran*. A variety of laws for each region in Malaysia make differences in implementing the amount of dowry.⁴⁸ The determination of the value of dowry follows the social status of woman's father. For example, the amount of money required for Sultan's daughter in Selangor is not less than RM 2,500, Raja Muda's daughter is RM 2,000, Sultan's granddaughter is RM 2,000, relative's daughter is RM 1,000, King's granddaughter is RM 550, other King's granddaughter is RM 300, official's daughter is RM 300, official's granddaughter is RM 200, and ordinary people's daughter is RM 80.⁴⁹ This stratification and hierarchy is never considered a problem for Malay people, as it constitutes only the rough estimation of the dowry instead of an absolute regulation. This

⁴⁴ Tahir Mahmood, *Personal Law in Islamic Countries: (history, Text and Comparative Analysis)*. (Academy of Law and Religion, 1987), p. 190-191.

⁴⁵ Ibid., p. 195.

⁴⁶ Azahari, Saripudin, and Abd Wahab, "Hubungan Di Antara Faktor Demografi Dengan Penentuan Kadar Hantaran: Kajian Di Perlis, Kedah, Pulau Pinang Dan Perak," 107-108.

⁴⁷ Mahmood Zuhdi bin Hj Abdul Majid and Raihanah Hj Azahari, *Undang-Undang Keluarga Islam: Konsep Dan Perlaksanaannya Di Malaysia* (Karya Abazie, 1989), p. 111.

⁴⁸ John L. Esposito & Natana J. De-Long-Bas, "Women in Muslim Family Law" (New York: Syracuse University Press, 2001), p. 95.

⁴⁹ Jabatan Kemajuan Islam Malaysia, "Kadar Mas Kahwin Negeri-Negeri" (Jabatan Kemajuan Islam Malaysia, 2016).

regulation is aimed to prevent people from providing very little amount of dowry, and at the same time to prevent them from being burdened by the high standard of dowry.

The Indonesian government determine neither the minimum nor the maximum limit of dowry. The detailed stipulation on dowry is served exclusively in *Kompilasi Hukum Islam*⁵⁰ Book V Article 30-38 as the followings:⁵¹

Article 30: It is the responsibility of men to give dowry to his future wife by which the amount can be agreed upon by the two sides.

Article 31: The basic emphasis on determining the amount of dowry is simplicity and easiness as guided by Islam.

Article 32: the dowry must be directly given to the wife, and since that time, she has the full right to utilize it.

Article 33: 1. It must be in the form of direct resignation. 2. Postponing the resignation of dowry, either whole or a half of it, is only permitted when there is permission from the wife. Thus, it will be the husband's debt towards his wife while the dowry is postponed.

Article 34: 1. The obligation of giving a dowry is not a pillar in marriage laws. 2. To neglect mentioning the amount or

price of a dowry during the marriage contract will not break the validity of the marriage. Also, the marriage will not be invalid while the resignation of the dowry is postponed.

Article 35: 1. A husband who divorces his wife before sexual intercourse is only obligated to give a half of the dowry. 2. If a husband has died before sexual intercourse, the whole part of the dowry will be completely given to his wife. 3. If a divorce happens before sexual intercourse, and the amount of the dowry had not been determined yet, the husband must pay for the *mahr mithil*.

Article 36: If the dowry is lost before being given to the wife, the husband is allowed to look for another item with the same pattern, form, price, or value as the dowry which was promised before.

Article 37: If there is a disagreement between two sides about the amount of dowry, the settlement must be entrusted to Religious Courts.

Article 38: 1. If there is defection in the dowry, the resignation can be regarded valid as long as the wife accepts it. 2. If the wife does not accept the dowry because of its defection, the husband has to look for another one which fulfill the wife's request. So long as the replaced item is not given, the dowry will still be considered unpaid.⁵²

It is clear that The Compilation of Islamic Law (*Kompilasi Hukum Islam*, KHI) does not require any form or amount of the dowry provided by a husband. It only mentions that it is the right of both parties to compromise the amount and the form of dowry. Only it requires that the devotion of the dowry must be based on the principle of simplicity. To conclude, it can be said that this law is different from the law in Pakistan,

⁵⁰ *Kompilasi Hukum Islam* (KHI) is current source of family laws replacing Islamic family laws before (Laws of Marriage 1974). KHI is used by Religious Courts and other related Government Offices as the guideline to deal with some problems such as marriage, inheritance, and giving (*wakaf*) in Indonesia. This commandment is conducted under the Instruction of the President of Indonesia Number 1 Year 1991 and the Decision of Ministry of Religious Affairs Number 154 Year 1991. See Taufiq, *Pelaksanaan Undang-Undang Keluarga Islam: Pengalaman Indonesia* (Kuala Lumpur: Institut Kefahaman Islam Malaysia, 2000), p. 311.

⁵¹ Muhammad Amin Suma, *Hukum Keluarga Islam Di Dunia Islam* (Raja Grafindo Persada, 2004), pp. 293-294.

⁵² *Ibid.*, p. 294.

Bangladesh, and Malaysia as mentioned before.

***Jeulame* in Banda Aceh**

This section serves the elaboration on the views of several figures with regards to the amount and form of *jeulame* as well as asking for their opinion about whether it is important to determine the amount of *jeulame*. Practically, the information compiled from those figures would become the guideline of *jeulame* resignation in Banda Aceh. The following is the analysis upon the result of research:

1. The Determination of *Jeulame* Amount

These are some results of interviews with some related figures in Banda Aceh with regards to the amount of *jeulame*. According to Zainal Abidin Alawi⁵³, it is not important to determine the amount of *jeulame*. The government, he continues, should not try to establish such a limitation because it will possibly hamper someone's willingness to carry out marriage. He argues that the ones who want to hold marriage should have been well prepared either from owing money, saving money, or mortgaging a garden. Meanwhile, Muslim Ibrahim⁵⁴ suggests that the government should not regulate the amount of *jeulame*. It is up to the two sides (prospective husband and wife) to determine it. Establishing the amount of dowry is not relevant to the message from prophet Muhammad peace be upon him., who admonished Umar Bin al-Khattab while he was trying to determine the amount of

dowry. Saifullah⁵⁵ suggests that the amount of *jeulame* must be the responsibility of the *wali* (the guardian) of the two sides. He argues that if the couple themselves determine the amount of *jeulame*, it will possibly disappear. *Jeulame* is considered as an obligation rather than a pillar. Meanwhile, Jalaluddin⁵⁶ states that the amount of *jeulame* is equated to the amount of *jeulame* that the woman's other family members provided for their respective marriages, even though the government does not regulate it in a specific law. Jalaluddin argues that equalling the amount of *jeulame* for all regions is not a wise decision since each society has a different culture and environment. Munawar Khalil⁵⁷ argues that in Aceh society's view, *jeulame* is an unwritten agreement (law) that the people should follow. Therefore, it is not important to mention it in any written form. Sanusi Husein⁵⁸, Basri M. Yahya⁵⁹ and Anwar⁶⁰ also argue that it is not essential to determine the amount of *jeulame* since it is the right of the prospective marriage parties to decide based on their ability. The government does not have any right to intervene since the families can independently manage the *jeulame* themselves.

⁵³ Interview with Zainal Abidin Alawi, a Professor in Faculty of Syariah UIN Ar-Raniry, 3 January 2016 in Banda Aceh.

⁵⁴ Interview with Muslim Ibrahim, the Head of Majelis Permusyawaratan Ulama Aceh (Ulama Consultative Assembly), 12 January 2016 in Banda Aceh.

⁵⁵ Interview with Saifullah, the head of Religious Affairs Office Reg. Banda Raya Banda Aceh, 4 January 2016 in Banda Aceh.

⁵⁶ Interview with Jalaluddin, an employee of Religious Affairs Office Aceh, 28 January 2016 in Banda Aceh.

⁵⁷ Interview with Munawar Khalil, a judge in Mahkamah Syar'iyah (Asy'ariyyah Courts) of Banda Aceh City, 15 February 2016 in Banda Aceh.

⁵⁸ Interview with Sanusi Husein, the head of Majelis Adat Aceh (Aceh Tradition Assembly) of Banda Aceh City, 18 February 2016 in Banda Aceh.

⁵⁹ Interview with Basri M Yahya, Imam Gampong Punge Jurong Banda Aceh, 24 February 2016 in Banda Aceh.

⁶⁰ Interview with Anwar, a doctor in Hospital of Ibu dan Anak Banda Aceh, 4 January 2016, in Banda Aceh.

These interviews reveal that that *jeulame* is a requirement for the validity of a marriage, while its amount is not determined by sharia; the essential principle is that it should be a valuable good. They also view that the government should not intervene with the reasonable amount of *jeulame* because each region has its standard and guidance.

2. The Form and The Amount of *Jeulame* in Banda Aceh

This section provides an analysis of the question of the amount of *jeulame* in Banda Aceh city. According to Zainal Abidin Alawi, the amount of *jeulame* that a man should provide must be adjusted to the social status of the woman's family. The amount of *jeulame* for upper middle-class society is about *sibungkai* (16 *manyam*⁶¹ of gold) or more. This amount is obtained for merchants' daughter or government officials' daughter. There is no required amount of *hantaran* in Aceh, and it is equated to the amount of *jeulame*. Commonly, *hantaran* will be given in the form of clothes, shoes, cosmetics, fruits, cake, etc. According to a hadith from the prophet Muhammad peace be upon him, a *jeulame* can be in the form of iron ring that has value or merit. Furthermore, Zainal Abidin Alawi stated that *jeulame* in Aceh is counted by using the standard of gold in which the minimum amount is no less than three *manyam* of gold. The standard amount of *jeulame* for the lower middle classes is around three, five, or seven *manyam* of gold. In Aceh, *manyam* is the only standard used instead of grams. One *manyam* is equivalent to 3.3 grams of gold. Commonly, the amount of *jeulame* is not such a big problem for the one who does love his

future wife because he will exert big efforts to realize it. Also, if the parents of a woman already loved someone to be their son-in-law, they will not require a large amount of *jeulame*. However, if the parents do not like a man to be their son-in-law, they will raise the amount of *jeulame* in order to hamper him, so he can not marry their daughter.

Muslim Ibrahim argues that the ideal amount paid by people in Banda Aceh is fifteen *manyam* of gold. Meanwhile, Saifullah said that the form of *jeulame* includes payment for the cost of the wedding ceremony in the woman's house. Along the time his career as a *penghulu*, Saifullah conveys, the highest price of *jeulame* he has ever found was fifty *manyam*, and that happened only two times. The first case was because the man was able to pay for it, while the other one was because the woman wanted to reject the man's proposal. Interestingly, for the second case, it turned out that the man was able to provide *jeulame* higher than requested (52 *manyam*). The common amount of *jeulame* Aceh people provide ranges between ten to twenty *manyam*, while the least amount is usually about six *manyam*. In Aceh, the amount of *jeulame* is equated to the amount of *mahr mithil*. Saifullah said that the amount of *jeulame* in Aceh is not too much since it includes other demands.

Jalaluddin argues that the standard amount of *jeulame* in Banda Aceh ranges between eight to ten *manyam* of gold. In fact, that amount is not as high as what the woman's family should prepare since they have to provide all room wedding ornaments and festivities. This is the main reason why the price of *jeulame* is high in Aceh. Munawar Khalil states that people in Aceh commonly assume that *jeulame* costs a fortune since it is served in the form of gold that a husband can keep with him as a debt to his wife, and he would return it as soon as family's economy improves. At a glance, it

⁶¹ Most people in Aceh provide *jeulame* in the form of gold. *Manyam* is the term used for measuring the amount of *jeulame*. One *manyam* is equivalent to 3.3 grams of gold. The current price of one *manyam* in 11/3/2020 is Rp. 2,500,000.

seems that the price is very high, but that is not necessarily the case. That is because, after marriage, the woman's family will provide another gift in the form of a plot of land. This indicates that the amount the woman's family should prepare is even higher than the amount of *jeulame* itself. In fact, in societies of some regions in which the common price of *jeulame* is low, a husband is required to provide additional cost for room wedding ornaments and other necessary wedding costs.

According to Sanusi Husein, *jeulame* in Aceh must be in the form of gold. The common price ranges from ten to twelve *manyam*, while the highest one is about sixteen *manyam* (one *bungkai*). He also said that the price that is less than ten *manyam* is rarely found. One of the basic purposes of requiring high price of *jeulame* in Aceh is to ensure that every couple has been preparing their financial support to build a family so that divorce cases due to the economic reason could be prevented. Meanwhile, the minimum price of dowry in Banda Aceh is about eight *manyam* of gold. The decision of the amount of the *jeulame* takes place during the proposal of marriage. It is intended to know the seriousness and loyalty of a man for the intended marriage. However, there are also cases in which a man provides only one or two *manyam* of *jeulame* to prevent unilateral marriage cancellation. That is because if the man cancels the marriage after holding the marriage proposal, the given *jeulame* remains with the women as it already became her possession. In contrast, the cancellation comes from the woman's party, twice amount as the original *jeulame* must be paid to the man.

Basri M Yahya explains that the usual amount of *jeulame* people give in Banda Aceh ranges from ten to fifteen *manyam* of gold. He believes that the amount which is less than ten *manyam* or higher than fifteen *manyam* is rare. *Jeulame* in Banda Aceh can

not be regarded high since it is also allocated for some other demands such as wedding costs in the woman's house (*preh lintoe*). Again, he claims that ten to fifteen *manyam* of *jeulame* is considered the best in Banda Aceh.

In general, we found that, except for wealthy families who could afford more, the common amount of *jeulame* people provide in Banda Aceh ranges between ten to fifteen *manyam* of gold. Opinions about the amount of *jeulame* depend on each respondent's education level and social status. In fact, the mentioned standard amount of *jeulame* has continuously been implemented for decades. The decision of *jeulame* is intended for fulfilling the demands of the wedding party in the woman's house as well as the necessary pieces of furniture such as wardrobe and nuptial bed. However, in some areas where the amount of dowry is rather low, a man can prepare their rest of the money (*peng hangeh*) for wedding purposes, which is held in the woman's house. They also argue that it is unnecessary to equalize the amount of *jeulame* since it depends on the woman's interest. The reason why *jeulame* is served in the form of gold is its durability and the stable cost.

3. The Perception of Marriage Couple

This section is generally intended to know the actual opinion among ten marriage couples⁶² about the amounts and the forms of *jeulame* that was provided by the husband to the wives during their marriage. The following table shows their answers:

⁶² Respondent 1, Respondent 2, Respondent 3 dan Respondent 10, were interviewed in 20 February 2016. Respondent 4 was 18 Februari 2016. Respondent 5 dan Respondent 6 were interviewed in 8 March 2016. Respondent 7, Respondent 8 dan Respondent 9 were interviewed in 4 March 2016 di Banda Aceh.

Table: 1

<i>Jeulame</i>		Total
Form	Amount	
Gold	20 <i>manyam</i> ⁶³	1 person
	16 <i>manyam</i>	1 person
	15 <i>manyam</i>	5 persons
	12 <i>manyam</i>	1 person
	10 <i>manyam</i>	1 person
	6 <i>manyam</i>	1 person

This data inform that all respondents provided their wives gold as the *jeulame* during their respective marriages, while the amount for each ranges from six to twenty *manyam*. All *jeulame* is served in the form of gold so they will be durable and the price would not fluctuate. I also found that most of interviewees agree that the amount of *jeulame* they provided are normal and must be followed as it has been practiced culturally.

However, there are some groups of people who think that this amount is too high. In fact, this amount depends on the social status of men. From previous given information, it can be said that the amount of *jeulame* indicates the seriousness of both sides to conduct marriage.

4. Finding Common Thread between Tradition and Sharia

It is widely known that Islam came first to Indonesia through Aceh. The coming of Islam has influenced many aspects of people's life in Aceh, such as their mindset, attitude, and behavior. All of these aspects must be adjusted to the principles of sharia. Also, they adjust their religious practices to

the traditional rules. This can be clearly seen in the socio-cultural life of Aceh society that has been influenced by Islam. Consequently, it is impossible to separate Islam and the culture of Aceh. This is reflected in a motto held by the Aceh community, which goes: "*adat ngon hukom lagee zat ngon sifeuet*" (the relation between tradition and religion is similar to the relation between essence and attribute). This motto indicates that Aceh society believes religion and tradition are a unity. In other words, all traditions must be based on Islamic laws. Therefore, if a particular tradition contradicts Islamic laws, it can be said that it is not the original culture of Aceh. Our respondents (such as Zainal Abidin Alawi⁶⁴ and Muslim Ibrahim⁶⁵) agree that the common amount and form of dowry in Aceh is based on the agreement between two sides (husband and wife) which basically combines both sharia and tradition. Moreover, there is another possibility of providing the dowry, which is in the form of benefits or services, as mentioned in some fiqh schools.⁶⁶

All regions have their own traditions, and dowry is one of them. Some researches found that the amount of dowry in Aceh is more than any other province in Indonesia. In general, the amount of dowry people in Aceh provide ranges from three to 25 *manyam* of gold. However, not only is that amount intended for the dowry, but it is also used for other necessary costs of the wedding in the woman's house. The main purpose of providing a high amount of dowry is that it will be the symbol of honour from a man to the woman he wants to marry. It is also aimed for saving purpose as

⁶³ Most people in Aceh provide *jeulame* in the form of gold. *Manyam* is the term used for measuring the amount of *jeulame*. One *manyam* is equivalent to 3.3 grams of gold. The current price of one *manyam* in 11/3/2020 is Rp. 2,500,000.

⁶⁴ Interview with Zainal Abidin Alawi, a Professor in Faculty of Syariah UIN Ar-Raniry, 3 January 2016 in Banda Aceh.

⁶⁵ Interview with Muslim Ibrahim, the Head of Majelis Permusyawaratan Ulama Aceh (Ulama Consultative Assembly), 12 January 2016 in Banda Aceh.

⁶⁶ Al-Mawardi, *al-Hawi*, p. 598.

long as there is permission from the wife. Based on this, it is undeniable that the tradition of requiring a high amount of dowry in Banda Aceh does not contradict sharia principles because one of its functions is to cover the wedding needs.

Islamic law allows tradition to be used as the benchmark of law as long as that tradition does not contradict what sharia sets. This is reflected in one of the principles in *uṣūl al-fiqh: al-'adālah muḥakkamah* (the tradition can be used as the law).⁶⁷ Basically, the determination of the amount of *jeulame* is not an obligation. There are three levels of the amount of *jeulame*: low, medium, and high. The most important thing is that the amount must be agreed by the two sides (man and woman). Also, the amount of *jeulame* depends on social status, financial capability, physical situation, education and offspring of the woman. Some traditional leaders argue that the determination of *jeulame* is not intended to burden the men. It is actually a logical consequence of being a married couple as mentioned in Q.S. al-Nisa' (4): 4, which means the strong bond.

Some people think that the widely practiced *jeulame* is too high and expensive, so it results in difficulties. This is because they do not understand the way *jeulame* is utilized. This kind of problem must be noted by society in Aceh so they can require a more appropriate amount of *jeulame* that can be easily undertaken by all men who want to get married. In my opinion, the best amount of *jeulame* is not higher than ten *manyam*, except if there are certain families who are able to provide higher.

Conclusion

This research concludes that: first, the determination of *jeulame* amount in Aceh is a combination of tradition and sharia. This correlation places in the way both sides (man and woman) make an agreement to determine the amount of *jeulame*. This determination refers to the principle of willingness instead of compulsion; second, gold is the common form of *jeulame*. Based on my investigation, the normal amount of *jeulame* in Banda Aceh ranges between six to twenty *manyam* of gold. This amount is considered culturally reasonable and must be obeyed by society; third, the common thread between tradition and sharia places in the options offered by tradition laws. This is in line with sharia principle as it is based on choices which the two sides can freely choose.

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⁶⁷ Zayn al-Dīn ibn Ibrāhīm bin Nujaym, *Al-Ashbāh Wa Al-Nazāir "alā Madhhab Abī Ḥanīfah Ibn Nu'mān* (Bairūt: Dār al-Kutūb al-'Ilmiyyah, n.d.), p. 79.

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