



A Comparative Study of the Afghani's Traditional Marriage and Islamic Jurisprudence

DR. BARAKATULLAH TAYEB

Professor of Islamic Law, Nangarhar University, Afghanistan

Abstract: Marriages are extremely expensive affairs in Afghanistan, with extreme prices for wedding halls, wasteful meals and usually a bride price. The bride price is the money paid by the groom's family for the bride to her family. It is a challenged tradition that is viewed as having no basis in Islamic law and does not seem in the new draft marriage law. High bride prices can lead to debt for grooms and their families and early marriage to unsuitable men for the daughters of poor men; fathers of many daughters, however, may benefit from the practice.

Note: I distributed questionnaires in most provinces and I wrote the traditions of marriage according to their answers. I do my survey about the wedding costs, their problems on wedding, survey about the expensive of marriages and also about wasteful of meals.

Keyword: Marriage, Tradition, Customs, Wedding, Mahr.

Introduction: In Afghanistan, marriages are extremely expensive events that last over several months. A marriage starts with the proposal, the first time parents are deciding to marry their son. They are asking their son, whom he would like to propose? This is exactly according to Islam narrates. To be more specific, here I want to explore the marriage of Prophet Muhammad's (Peace be upon him) daughter, Fatimah (*Radeyallāhu 'Anhā*) and how Ali (*Radeyallāhu 'Anhu*) and Fatima (RA) are married, as an example.

Ali (RA) and Fatimah (RA) marriage was one of the greatest marriages ever on the planet. Despite the fact that he (PBUH) is Allah's (SWT) last messenger, he kept it very simple.

When the holy prophet accepted the proposal of Hazrat Ali for Bibi Fatima, he turned to Ali saying: "Do you have something to pay your wife's *Mahr* (dowry)?" He replied: "May my parents be your sacrifice. As you well know, my belongings consist of nothing more than my armor, camel and a sword." The prophet (PBUH) said: "That is right. You need your sword during battles with the enemies of Islam and you must irrigate your palm orchards with your camel and also use it on journeys. Therefore, I will marry my daughter, Fatima (RA), to you for this

armor, as *Mahr*, but you may only stipulate your armor as your wife's *Mahr*.”¹

Holy Prophet (PBUH) ordered to sell Ali (RA)'s armor and bring the money to him, which amounted to around five hundred Dirhams. Prophet (PBUH) divided the money into three parts. Two-thirds of it was set aside for buying the home appliances and clothes for the ceremony, and the last third, to buy a nice fragranced perfume. Holy Prophet (PBUH) asked Ali (RA) to arrange the *Mahr*.²

Today in Afghanistan, as parents decide to marry their son, first they will look for a girl who matches their desires and family beliefs, something most of the families are very conscious about, and then they will decide to go for a proposal or *khastgari*. The proposal will not likely be accepted by the daughter's family in the first move, but it would continue to approximately five times or so, normally. And every time the parents of the girl are taking time to seek advice from close relatives. Mostly they will consult with uncles and aunts of the daughter. According to Islam narrates, it is mandatory for parents to consult with their daughter and take her permission; however, seeking advice from other relative is recommended, but not mandatory as the verse of Qur'an says: [who (conduct) their affairs by mutual consultation].³

After a few days, the parents of the girl will announce their decision to the boy's parents whether they have accepted or rejected the proposal. After a few days, if the proposal is accepted, the boy's parents with some elders go to the girl's home which usually takes place at the house of the bride-to-be. The girl's

family will prepare food. According to the Afghan tradition, they are mostly going for lunch, but in some areas, they will go for breakfast. Islam accepts the custom, but with some conditions:

1. *Custom should be all-embracing or dominant*

For the reliability of '*urf*' in Islamic law, it must be all-embracing or dominant, that is, all the matters or most of them should proceed accordingly. However, when the all-embracing character or dominance is missing, they cannot be relied on.⁴

2. *Custom must be established at the time of legislation or deals*

In legislation, settlement of matters, and interpretation of words and phrases, custom is trusted; but here a condition is stipulated that when these activities take place, custom must be in use. Moreover, in use, it must be reliable, authentic and trustworthy for the matter which is to be decided in the light of custom. No such custom is reliable as comes into being after legislation, settlement of matters and interpretation of texts.⁵

3. *Custom must not disagree with sharī'a texts*

Another condition for the validity of legal customs is that they are reliable only when they do not disagree with *sharī'a* texts. If they are put into practice, they must not suspend the injunction of the absolute texts. In legislation, *sharī'a* texts weigh far heavier than habits, customs and usages, because usages might be based on falsehood. Islamic injunctions and divine texts have been granted to people in order that they might live by them, and venerate them in the real sense of the word, so to adopt

¹ Ihqaqul-haq vol. 10 pg. 358

² Ihqaqul-haq vol. 10 pg. 363.

³ Holy Quran, Surah Ash-Shura, Verse 38

⁴ Al-Vajeez fi Osul-ul-fiqa, Pg262.

⁵ Al-Vajeez fi Osul-ul-fiqa, Pg262.

customs and habits which dispute *sharī'a* is strictly proscribed.⁶

The draft marriage law and Islamic law provide limited instructions regarding the size of the *mahr* or the timing of the payment; this is left to families to decide.

The Complex Social and Financial Effects of the Bride Price

The bride price is a huge burden on the groom and his family, but it is also a vital source of income for the family of the bride, in particular, poorer ones. If a father only has daughters and no sons, he will often rely on the bride *mahr* as a source of income, as he cannot rely on the income a son would bring. When a daughter is married, she moves to her husband's household and has less contact with her parents and very little opportunity to support them. The bride price is considered to be the daughter's contribution to the economy and wealth of her parents' household.

As a result of the high prices for weddings, hundreds of young men have been forced to go to Iran, Pakistan, or the Gulf countries to find work, often under precarious conditions, where they have to struggle with a thousand and one misery, trying to earn enough money to pay for their wedding and the bride price. This also affects many young women who are not able to get married and have to stay at their parents' houses for longer than usual while their future husbands are working abroad to earn the bride price.

⁶ Al-Vajeez fi Osul-ul-fiqah, Pg263, Qawaeed-ul-Ahkam, ibn Az Abdul Salaam, vol. 2, Pg 178.

⁷ This is a piece of decorated cloth that signifies the arrival of the new member in the family.

⁸ This is a tray filled with sweets and toffees, decorated with flowers.

Elders will start the real negotiations about the wedding and to decide and finalize the amount of price. The negotiations about the actual wedding and its costs, including food and catering, clothes for the bride's relatives and payment for the imam, who drafts the marriage contract and performs the ceremony, can be quite quick. After the agreement, the bride's family will bring the sweet, Dismal⁷, and Khimcha⁸, and elders will eat the sweets immediately, and spread the sweets of Khimcha to all those who are present.

It is a contested tradition that does not seem to have foundation in Islamic law, and the new draft on marriage law is also silent.

According to recent statistics from some provinces of Afghanistan, there are differences in the amount of the bride's price, according to their traditions. The amount is often based on family credentials, education, skills, age, beauty and the reputation of the girl, as well as recent bride prices within the community. E.g. Maidan Wardak: (5,900 to 11,800 US dollars); Nangarhar: (1450 to 7,245 US dollars)⁹. Loya Paktia (Khost, Paktia and Paktika): (14,500 to 17,390 US dollars) Farah: (11,800 US dollars to 21,733 US dollars); Faryab: (10,000 to 20,000 US dollars. Ghazni (6000 to 10000 us dollars); Logar (5000 to 11300 us dollars); Kandahar and Helmand: (14,590 to 43,468 US dollars).¹⁰

Bride price is famous as *Walwar* in Pashto speaking areas and *Toyana* in Dari-speaking areas. It is an Afghan tradition with no foundation in Islamic

⁹ Not all communities in Nangarhar have a tradition of asking for a bride price.

¹⁰ Survey of Mahr by Nidaye Haq organization, 12 December, 2019.

law and does not feature in the draft marriage law. According to the draft marriage law and the civil law, the only payment that can be requested by the bride's family is the Islamic dowry (*mahr*), which should remain the property of the bride for the duration of her marriage.

Engagement Ceremony

Following the price and wedding costs agreement, they will hold an engagement ceremony that they will invite their relatives, friends, and friends of their son. The party follows by *Khina* (henna) night. At the party, the bride will wear a traditional Afghani clothe that is white, and the groom will wear *piran-tumban* or pants, shirt, and Lungy (headgear). The groom's sisters and the bride's sisters, and close friends will wear traditional Afghani clothe. The groom's family will prepare the henna and will take it to the bride's home accompanied by their relatives.

It is an argued tradition that is viewed as having no basis in Islamic law and is not articulated in the new draft marriage law.

Other Pre-Wedding Ceremonies

According to Afghan customs, there are some pre-wedding events that need to be performed. Those are:

1) Iftari, during the month of Ramadan, grooms family will take some food and gifts to the bride's family.

2) Eidi, which is two special days in a year according to the Islamic calendar, in both Eids, they

will exchange some gifts and clothes for the bride and groom.

3) Barati, that is a special night according to the Islamic calendar, the families would exchange some gifts, sweets, and clothes to the bride and groom; and,

4) Nawrozi, which is the New Hejira calendar celebration, groom's family will take some food, clothes, gifts, and fruits to the brides' home.

It is a contested tradition that does not seem to have foundation in Islamic law, and the new draft on marriage law is also silent. Islam rejects this tradition because of some reasons:

First, false traditions and customs that are followed by people, encourage some behaviors, waste lots of physical, mental and social capital and finally lead to Israf. The consequences of Israf are different and this behavior has malty demonical effects on human's life. There are a lot of in the holy Quran that order for prohibiting from wasting of different kinds of resources or having some behaviors like Israf. For example in one of chapters we see the sentence "God does not like the wasters"¹¹ Or as another example it is mentioned that "God does not guide who is a waster"¹².

Second, false traditions and customs that are followed by people, encourage the young generation to do wrong act and it will expand the immorality. Those who are have not the ability to marriage they will downhearted to marriage because they couldn't perform the tradition's consumption and girls will not marry with them because of the economic problems and their fathers also will reject their proposals.

¹¹ (Holy Quran, Al-Aaraf, verse 31)

¹² (Holy Quran, Al-Ghafer, verse 34)

The Wedding Ceremony

After several months or several years, the families decide to hold a wedding ceremony. Accordingly, after they fixed the ceremony date, the groom's family will book a wedding hall for their guests and guests of their new relatives from the bride's family, where both families will invite more than a thousand persons. In the cities, usually, the groom's family book a hall, but in villages traditionally people take the wedding party in their homes. The party starts at 8:00 AM. Some elders from the groom side and some elders from the bride side get in line in the front entry of the Hall. They greet the guests and welcome them to the Hall. After the lunch and in some areas after dinner, *mullah* (Islamic scholar) comes to the stage and recites some verses of the Holy Quran. In front of all the guests, *mullah* asks from the groom and bride, that do you agree with this Nikah? This is part of religious rituals in Islam after which they will be officially announced wedded. The bride will bring home appliances that they would need for their future life. Traditionally, these are supplied with the *mahr*.

Post-Wedding Events

There are some other traditions and practices common before, during, and after a wedding which could be considered a big burden on the groom. Again these practices and traditions are different in every region. For example, in most of the Pashtun-dominated parts of Nangarhar province, the groom agrees to provide additional goods during bride price negotiations. These goods can include flour, rice, firewood, cooking oil, clothing, and cattle to be slaughtered and served to guests on the wedding day, money to pay the imam and cooks for the wedding.

These costs vary, based on the number of wedding participants and the size of the bride's family. In most of the central and northern provinces practices are different. For instance, in Balkh province, the groom is expected to purchase jewelry, pay the wedding hall costs, and hold a pre-marriage party also make a big invitation after the wedding which is called Takht Jami.

Conclusion

Wedding costs and especially bride price are deeply rooted customs in Afghan society, and bride price, in particular, has important economic consequences for the families of the bride and the groom. Efforts to regulate bride price through legislation or national policies have tended to remain poorly implemented, or when implemented, contested. The most notorious efforts to regulate bride prices were adopted during the Taraki government and contributed to the downfall of that government. Local initiatives seem to have been more successful in their implementation, which may not be surprising as they, when successful, are local solutions developed to solve what is perceived as a local problem. However, as noted above, local solutions have also had unintended negative consequences. A possible conclusion of this is that national initiatives to reduce bride price and wedding costs need to be well anchored within local decision-making structures and local realities.

Source:

1. Holy Quran.
2. Ihqaaul-Haq,
3. 1 Al-Vajeez fi Osul-ul-fiqa, abdul Kareem Zidan, 2009.
4. Qawaeed-ul-Ahkam, ibn Az abdul Salaam, 1992.
5. Usul-ul-fiqa, Wahaba Zuhiali, 2001.

6. Nedaye-Haq organization, report 2019, title wedding costs.
7. Report of human right, Afghanistan, 2018, Afghan wedding problems.
8. Marriage law of Afghanistan.

