

## WEDDING EXPENSES AND ITS CUSTOMARY APPLICATION AMONG MUSLIMS IN GOMBE METROPOLIS: AN ANALYSIS FROM THE MALIKI JURISTIC PERSPECTIVE<sup>1</sup>

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### Abstract

Islam has balanced the life of its adherents in order to simplify all aspects of *'Ibādah* (worship) and *mu'āmalat* (Interaction). Regulations are made in *mu'āmalat* based on the *maṣlahah* (interest) of the *'Ummah*. The acceptance as well as adherence to a certain customary practices where the *Sharī'ah* ruling remains silent is left to the discretion of the people. However, on the condition that an *'Urf* (custom) of any type should be for the good of the people. The *'Urf* of wedding expenses in Gombe metropolis causes hardship which leads to social problems in the society. Therefore, this paper argues that the *Urf* of wedding expenses among Hausa/Fulani Muslim community deviates from the essence of the *Sharī'ah*. The Prophet (SAW) has set-up an example of an ideal family life. Despite the various *da'wāh* activities in this community, this issue is yet to be properly addressed by the Muslim scholars to remedy the situation. This paper uses qualitative method with an in-depth interview with the informants. The result discloses the negative effects of wedding expenses on the family and the society in general. It therefore, recommend for scholars as well as the Muslim community to reconsider the situation and take the appropriate steps towards rectifying the problems.

**Keywords:** Custom, Gombe, *Maslahah*, Maliki Law, Hardship

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## Introduction

*Jahāz* (wedding gift) or trousseau is the amount of clothes, household linen, furniture and other belongings contributed for the bride by the parents when embarking on marriage. Providing trousseau to the daughter has been the custom of the Hausa/Fulani for some reasons and for quite a long time. However, this custom nowadays is leading into hardship upon the parents of the bride and causing some social problems in the society. The quintessence and purpose of the *Sharī'ah* would discourage or accept a custom in the interest of social order and advantage of the general public. This is determined by a clear vision of the direction and outcome of the custom in order to avoid public disorder. A permissible act may be discouraged or prohibited, if it will cause more harm than good, depending on the seriousness and probability of the benefit or harm, advantage and disadvantages, a custom can be assimilated or excluded from the ambit of Muslim law.<sup>1</sup> For that reason, it becomes essential to make it clear that the *Sharī'ah* is the criterion for judging cultural or customary practices not the other way round. As such, there is a distinction between customary or personal requirement on one hand, and the *Sharī'ah* or religious obligations on the other. Therefore, this paper outlines the basic features of Islamic rules on custom with the specific aim of addressing the problems of wedding trousseau in the context of Gombe Muslim community. This is to alert the Muslim populace about the consequences of the unguided '*Urf*' of wedding gift in the society.

## Implementation of Māliki concept of '*Urf*' in Northern Nigeria

Maliki law being the official *madh-hab* in Northern Nigeria accepts customs that are in accordance with the Islamic law. However, custom competes with Islamic law in many areas of family law, even though courts hold customary marriage gifts as part of the *mahr*. The Muslim jurists' decisions in the past and present are to serve the interest of the society. They solve specific problems peculiar to specific period, and circumstances, based on specific '*Urf*' peculiarly known to that community. Such decisions based on custom need not be always binding on other Muslim communities living under different socio-economic conditions. Unless they can serve the same purpose, render the same services designed for, regardless of socio-economic differences, the imposition of such decisions based on '*Urf*' will create more problems than solutions.<sup>2</sup>

A custom may be enforced in an Islamic court provided it is not contrary to Islamic law in letter or spirit.<sup>3</sup> Thus, Hausa /Fulani customs are

found in most of the family systems in Northern Nigeria and some are contrary to the teachings or doctrines of the Māliki law. For example the charity marriage where the bride is given out as a gift to the groom has no basis in Māliki law. Among the pre-requisites of a valid marriage include the wording of offer and acceptance,<sup>4</sup> which should be in accordance with the Islamic injunctions, besides the *Ṣadaq*,<sup>5</sup> witness,<sup>6</sup> *waliy* (guardian), and the absence of any legal impediments,<sup>7</sup> this kind of marriage does not fulfill all the requirements. Other related expenses in marriage is the case of *khul*<sup>8</sup> (is a type of divorce where the woman happens to be the one that requests for the dissolution of the marriage in the Islamic court of law for one unbearable reason or another which is genuinely justifiable under the *Sharīah*) and how the process of retrieving such from the bride's family in the Hausa/Fulani community contradicts the Maliki codes of law.

### **Changes in Time and Customs on a Fixed Ruling in Maliki Law**

The *Sharī'ah* of Islam is universal, dynamic, and flexible, bounded by stable bases and fixed parameters. Its universality comprises of all nations and ethnics. Its flexibility is in some of its rulings that can be reformed according to the changes in time, place, culture, and circumstances of the people. This occurs in situations whereby the initial rulings were enacted on the custom and practice of the past generations.<sup>9</sup> The stability of the *Sharī'ah* is in the fact that some of its rulings are fixed and cannot be altered or rendered ineffective. They are eternally valid and permanent, no consideration is given to their toughness by all means. The rulings from the Qur'ān and ḥadīth or deduced by analogy, based on the two primary sources are everlasting. An example where the ruling based on the primary sources is subjected to change is in the new circumstances like time, location, and custom as it occurred. These also indicate the changes in the circumstances not the law itself. An example is seeking permission to enter into private dwelling places at three different periods of time.<sup>10</sup> A Similar example in the *ḥadīth* which says:

It is the responsibility of the owners of properties to take care of them in the day time and the responsibility of the owners of the animals to retribute for what their animals destroy in the night.<sup>11</sup>

From the various arguments of the scholars, these rulings can only be met when the necessity and needs arise. This also affects the rulings based on *Urf* and personal *ijtihād*.<sup>12</sup> The principle of retention of pre-Islamic legal institutions under Islam is acknowledged; Abu Yusuf held that if there exists in a country an ancient custom which Islam has neither changed nor

abolished, and people complain to the Caliph that it causes them hardship, he is not entitled to change it. But Mālikī and al-Shafi’i held that he may change it even if it’s ancient. Meaning that, he ought to prohibit a similar circumstance even a lawful custom which has been introduced by Muslims,<sup>13</sup> because the essence of acceptance of the custom is for the *Maslahah* of the *Ummah*. Customary laws have no legal force if they are repugnant to the revealed law or to the law founded on *Ijma’*.<sup>14</sup>

In addition, the rules of *Fiqh* which are based on juristic opinion (*ra’y*) or on speculative analogy and *ijtihad* have often been formulated in the light of prevailing customs, it is permissible to depart from them if the *‘Urf* on which they were founded changes in the course of time. For instance, Luqman quoted al-Qarāfi as stating that:

*Kullu mā huwa fī sh-sharī’a yattabi’ al-’awā’id yataghayyar al-hukm fī-hi ‘inda taghayyar al-’ādailāmā yaqtaḍih al-mutajaddida).*

*Meaning:* Anything in the Sharī’ah attributed to customs, its ruling changes when the custom changes to a new one” (This is also in line with: *lāyunkartaghayyur al-’urfīyy aw al-ijtihādiyya bi-taghayyur al-azmān*) “The changing of rulings based on customs or personal opinion due to changes in times /circumstances cannot be denied.”<sup>15</sup>

The wisdom behind the rulings based on custom to be altered is the changes that occur as time passes. This brought about the needs of people to vary with passage of time. Thus, constructed and static rules inflict hardships and constrains to people, as in the case of customary imposition of wedding trousseau on the father of the bride, in some schools of law. Commonly, customary practices devoid of benefits and are associated with disadvantages or hardship are not considered as legal *‘Urf*. A custom which does not contravene the principle of *Sharī’ah* is valid and authoritative.

All customary matters in marriage that do not contradict Islam are based on good intention and piety, they are clearly epitomized in the legal maxim- “*al-umur bi maqāsidiha*” (Matters are determined according to their intentions).<sup>16</sup> Islam does not intervene in ordinary conventional matters such as marriage feast and arrangements so as not to bring hardship upon people. The only intervention is to lift hardships or block the path for devilish acts that is: protecting the Muslim *Ummah*.

### The Custom of Betrothal Gifts and Wedding Trousseau (*Jahāz*)

In any community, the persistence of a particular custom when critically observed will reveal its meaning and importance. The custom of betrothal is portrayed as the collection of certain items to be distributed among relatives and friends of the young lady, as a sign of engagement and involvement of a contract of agreement between the young man and the lady's parents. However, its significance was abused in Gombe metropolis as some parents misused the custom to satisfy their mundane needs and incur burden on the young man.

*Jahāz* (wedding gift) or trousseau is, as stated above, being one of the customary practices among different nations and cultures, Gombe metropolis is not an exception. However, there is nothing that obliges the father of bride to provide for her trousseaus from the principles of *Sharī'ah*.<sup>17</sup> Still, in most cases, brides bring such *Jahāz* to the matrimonial home.

The Provision of trousseau to the daughter during wedding was practiced in Hausa/Fulani because daughters were not allowed to inherit some other part of the family patrimony; reserved exclusively for sons. Thus, a father provides such items for the daughter as wedding gifts. This custom was practiced due to the types of estate left; landed properties.<sup>18</sup> An informant has proved this by saying:

...as part of the Hausa customs, after the dead of the husband, all landed property are not inherited by women. Just like the Arab *Jahiliyyah* period. The only difference is that here, she can be given certain items and denied others.<sup>19</sup>

Providing *Jahāz* was a practical boost to the bride in the new matrimony for economic support. Therefore, they tried to marry off their daughters with some few items as assets in case of life eventualities, which served as portion of inheritance by the father; as they can only get few things. Customary practices change with the passage of time, awareness and demand of the people. Awareness has brought about distribution of inheritance as ordained by Allah. Thus, the process of providing female daughters with decorative assets before marriage has changed with the demand of the time. In contemporary days, the gift is replaced by modern home appliances. In fact, this tradition is so important for families that they start to prepare for the items that will go with their daughter to her husband's house long before she gets to marrying age. It has become an important sign of prestige and pride. However, with the high cost of

modern appliances, families are having a hard time providing for such items. In return, this has become a source of stress for families and frustration of girls from families who cannot compete with emerging standards. The end result is reproach from the groom's family to the bride.

Now, the motive for the previous gift is different from the present. Formerly, it was mainly for the daughter's utilization and personal problems-solving in case of life eventualities. Nowadays, it has turned out to be providing for the husband to ease family life. The wisdom of the predecessors in sticking to the custom is now not clearly manifested. The bride's assets diminish with time, and when divorce occurs, she ends up losing most of the items. Hence, the essence of adopting the inherited custom is defeated.

### **The Relationship of the Custom and the *Ḥadith* on Fatima's (RA) Wedding Trousseau**

The provision of *Jahāz* in Islam is left to the discretion of the customary practices in the community as mentioned by the scholars. It is determined by the custom of the community as to whether it depends on the father of the bride or not. In practice, the giving of the *Jahāz* by the father is quite a moral obligation.<sup>20</sup> In such community where the provision of the suitable *Jahāz* is not obligatory, the father is entitled to spend the dower for the purchase of the *Jahāz*. He may sell a slave provided by the husband in order to provide the trousseau. However, there are two opinions as to whether he may sell the real property provided as dower,<sup>21</sup> and in such cases the father is acting on behalf of his daughter.<sup>22</sup>

Now, from the Prophetic family life, checking the marriage of Fatima being a daughter married out, the procedure adapted by the Prophet will serve as an example. The Prophet turned to Ali, saying: "Do you have something to stipulate as your wife's dowry?" He replied: "May my parents be your sacrifice, as you well know, my belongings consist of nothing more than my sword, armor, and a camel." The Prophet said: "That is right. Your sword is needed during battles with the enemies of Islam. And you must water your palm orchards with your camel, and also use it on journeys. Therefore, you may only stipulate your armor as your wife's dowry, and I give in my daughter Fatimah to you against this very armor. Ali sold the armor and brought the money; which amounted to about 500 Dirhams to the Prophet. The Prophet divided this money into three parts. One part he gave to Bilal to buy a nice scented perfume and the other two parts were put aside for buying clothes and household goods."<sup>23</sup>

From this hadith, it can be inferred that the husband is responsible for the trousseau of his wife. The household items bought and clothes with the money provided by Ali, means the duty of the groom to provide for his house. Had it been an obligation upon the father, the Prophet would not have imposed it on Ali. Providing gifts for a daughter on wedding day is considered by other scholars as a moral obligation on the father.<sup>24</sup> Moral obligation can take many dimensions not necessarily household items. Productive items are more essential as they help in many ways.

Commencement of a marriage life is like a new beginning. The bride is a queen on her wedding day. Therefore, the need to have new clothes and cosmetics for beautification to her husband is essential.<sup>25</sup> This signifies the readiness of the groom to take the responsibilities of the bride; practiced according to the ability of the groom and his family. Islam does not impose on a person more than he can bear.

Let a man of wealth spend from his wealth, and he whose provision is restricted - let him spend from what Allah has given him. Allah does not charge a soul except (according to) what He has given it. Allah will bring about, after hardship, ease.<sup>26</sup>

Even though this verse was revealed in respect of divorce and wife maintenance after divorce, it is emphasizing spending according to one's ability.

### **Islamic Rulings on Marriage Gifts**

The *Shari'ah* stipulated condition that the principles of customary practices of the parties involved in marriage should not contradict Islam.<sup>27</sup> Although there are divergent views from the jurists on betrothal gift,<sup>28</sup> some scholars of the Māliki School support the declaration of such gift particularly when made as part of customary requirements of marriage. As expressed below:

Whatever the man offers in addition to the dowry in form of gift before or during the solemnization of the marriage shall be treated as *Ṣadaq* and so is whatever is taken by custom of the people.<sup>29</sup>

Similarly, another Māliki group supported this view and added that such items serve as collateral gift which can no longer be recovered once given.<sup>30</sup> That makes the custom of paraphernalia gift binding. The same assertion is made by 'Abd al-Mumini in his article on the rulings by some

of the northern states to eliminate the said marriage custom, with even fines or penalties, but to no avail.<sup>31</sup> It has become part of the people's way of life, nonetheless, it needs some rectifications and alternative with genuine proofs from the Qur'ān and Sunnah to simplify life. Conversely, many Muslim scholars in Gombe metropolis buy these paraphernalia gift on getting married, and consequently, indicating the custom's acceptability. One of the respondents mentioned: "Even the scholars themselves buy the paraphernalia while getting married."<sup>32</sup>

### **The effects of 'Urf of Nuptial Expenses on the Muslim community in Gombe**

In all times, exorbitant dowry, trousseau and wedding ceremony are the three major difficulties facing many families in Gombe Metropolis and have shaken many homes to the point of separation. Disputes, quarrels, and sometimes fights occurred as a result of too much wedding expenses, and heavy cost in trousseaus,<sup>33</sup> while marriages are being unnecessarily delayed to secure enough resources. Thus, some negative effects of extensive marriage expenses are discussed below.

#### **Delaying of Marriage**

From the data collected, these customary gifts, especially paraphernalia and trousseau, have contributed toward delaying of marriages. The economic hardship in the country makes it difficult for a father who, for instance, has two or more daughters to marry off. He therefore needs to delay the marriage for him to fulfill his obligations towards his daughters who are ripe enough for marriage. For example, an informant lamented that:

...the person who marries is responsible for the shelter, bed, cushion chairs, all electronics and other household items to be utilized in the house. But the custom makes it that the bride's parents are responsible for that. A bride's father suffers much more than the husband. Suppose a person has two daughters to give out in marriage.....the same with the husband, he also wants to have a big bed, bag of rice and other things, kitchen full of utensils. These are foreign cultures. He spends less but expecting to have a furnished house.<sup>34</sup>



### Illicit Sexual Relations

The delay in marriages in most cases, if care is not taken, is accompanied by other vices in the society. Islam negates any form of sexual relation between man and woman outside marriage. That is why the Prophet has emphasized that anyone with the ability to get married should do so, and the Qur'ān commends helping the needy to marry.<sup>35</sup> The data shows the tendency of and actual cases of fornication among the unmarried youths.<sup>36</sup> Human nature tends to incline towards what it likes much. The delay in quenching the thirst and urge for the opposite sex, is bound to lead to vices in the society. This corroborates the view of Al-Ghazali that delay in marriage leads to sexual chaos.<sup>37</sup> The different types of family planning contraceptives give people an opportunity to satisfy their sexual urge without hindrance. One of the participants is convinced that: "They can be satisfied without getting married, even more now with the contraceptive." There is a tendency of unwanted pregnancies which result into induced abortions among the unmarried young girls.<sup>38</sup> One of the informants expressed concern over the matter, saying that:

It is the father whom they do not want him to know the situation. They will say that, she is possessed by *jinn*. After aborting, she takes some days to recover from the pains. We have several of such cases...<sup>39</sup>

This negative implication of fornication on the perpetrator leads to moral degradation and destruction of the society. Islam advocates chastity and encourages early marriage to purify the society and secure the moral life of the individual. The Prophet said:

O young people, whoever among you can marry, should marry, because it helps him lower his gaze and guards his modesty (i.e. his private part from committing illegal sexual relationship).<sup>40</sup>

### Unnecessary debts

The result shows a burden of needless debts to satisfy visitors, which at the end, becomes a burden on the groom. Commenting on this, Doi notes that, men with heavy debts on them fall victim of their creditors few months after the marriage. They often transfer this on the wives and develop hatred for them.<sup>41</sup> Incurring unnecessary debts to satisfy invitees, friends and relatives, and make show-off in weddings is not an obligation. Islam does not put a burden on a Muslim except what he can afford "Allah does not impose any burden on a soul except what it bears." The acts of feast in wedding or even the *walīma* (Banquet) recommended by the

Prophet is not compulsory for the incapable person, but people still incur debts.

### **Ill-feelings**

Burden is imposed upon people more than what they can bear, and they cannot say no because they also need something in return. This is the custom and so, in order to satisfy people, all means to satisfy the demand can be executed. The negative feelings that the bride's parents do not show mercy upon the groom before the marriage lead to maltreatment of the bride after the marriage.<sup>42</sup> In the long run, the man soon gets fed-up with the relationship and decides to get rid of the woman without giving a second thought.

### **Divorce**

The debts incurred to satisfy visitors and other non-essential expenses in marriage lead to ill-treatment of the bride. Instead of a stable matrimony, the reverse takes place. The bride also wants to enjoy a flamboyant life which the husband is not capable of, which at the end creates problems, which if care is not taken, divorce will take place. Evidence can be seen from the data collected:

...it contributes to deterioration of marriages. A girl of twenty-five years re-married more than four times. Why? This is over burdening of the self with flamboyant fake-life, embedded in poverty.<sup>43</sup>

At the same time, if the groom comes to realize that the bride had fornicated with someone else before the marriage, it leads to ill-feelings and eventually divorce takes place. The same view is shared by Al-Ghazali that many Muslim communities did not perceive the harm in extending the period of marriage in order for exorbitant dowry to be paid. The behaviour confirms that those who seek to protect the tradition are more influential in the society than those who pay attention to Islam and seek the pleasure of Allah. The angry groom divorces the bride to protect his reputation, not for the filthy acts in transgressing the limit set by Islam.<sup>44</sup>

### **The Gradual Adoption of non-Islamic Customs**

Unconsciously, the Indian custom of paying dower to the groom by the bride is penetrating into the Muslim matrimony. The only difference is, in the Indian custom it is by compulsion while in the

Muslims custom it is a voluntary subconscious submission. Gradually with the passage of time, if care is not taken, it may turn out to be compulsory.

Apart from their customs of marriage celebration, people are incorporating customs of other religions. The Prophet has categorically warned against imitating the people of the book, particularly, in the affairs that contradict the tenet of Islam.<sup>45</sup> For instance, the wedding cake that Muslims adopted from the Christian marriage originated from the church. It symbolizes Christian mode of taking of the bread and wine in their acts of worship. The cake is a 'monumental symbol' handed down through generations from the church. It was kept hidden for centuries by the reformation of the sixteenth century, as it was bread and wine; distributed to the mass gathering. Modification is done with the following comments: "To the present day in many parts of Christendom, those who consider themselves unfit to communicate eagerly partake of a special kind of cake or bun that is handed round."<sup>46</sup> It originated from the Catholic Church with modification and symbolic meaning – "as a church spire, the cake being like a church spire."<sup>47</sup> The Prophet has mentioned that: "Whoever imitates a people is one of them."<sup>48</sup> Imitation of the people of the book indicates the love for them, which reflects on the resemblance, as it comes with the feeling that their culture is better. This signifies ignorance of the injunctions of Islam. The phenomenon of blind imitation exhausts the groom and the bride. Many forbidden acts associated with extravagancy, lavishness, lewdness and so on are performed.<sup>49</sup> All of that calls for reconsideration.

### Recommendations

Based on the findings of this study, the following recommendations are apposite:

1. Marriage gifts and all its types can be retained as part and parcel of *Şadaq*, but should be minimized in accordance with the ability of the husband and the bride's parents.
2. The husband should be responsible for his household utensils as well as beddings, in tandem with the *Mujallāh* rule that the employer is responsible for his employee's maintenance, so as to avoid any delay in respect of a bride's parents' inability to buy avoidable gift items.
3. The number of boxes of clothes demanded should be within the groom's ability.

4. Although the Qur'an enjoins husband to be responsible for the economic needs of his wife, which in turn gives honour to the husband, life eventualities make it wise for parents to ensure their daughters acquire skills as sources of income.
5. Thinkers and reformers on the path of Islam, and Islamic organizations attending and conducting *walīma* feast should execute their duties diligently, with sincerity, and of good example shown regarding their own families.

### **Conclusion**

The custom of wedding expenses among Hausa-Fulani in Gombe beside the *Sadaq* is creating social problems in the society. This can be seen from the result of data collected in this paper that shows the delay in marriages which leads to illicit sexual relations, unnecessary debts, and divorce among other vices. In order to help curtail such issues, any customary practice that brings upheavals to the *Ummah* needs to be adjusted. Thus, this paper suggests that the trousseau by the parents of the bride should be like a back-up in case of life eventualities. Establishing and redirecting the trousseau for productivity rather than consumption helps the spouses in many ways. Therefore, the Hausa-Fulani Muslim community leaders and the scholars have a collective role to play in rescuing the *Ummah* from the implications of wedding expenses and its customary applications.

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