



Mahar Services (Dowry Non Material) According To Mazhab Imam Hanafi And Mazhab Imam Syafi'i

Nurhadi

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Abstract: *The research aims to find out the opinion of Imam Abu Hanifah and the Imam of Shafi'i and the similarities in the differences in determining the Non-Material Mahar Law (services). This type of research is literature. The primary data sources are the books of the two priests, as well as the source of the secondary books of jurisprudence and books relating to research. Data was analyzed using descriptive, deductive, inductive, and comparative methods. The result: Disagreements between the two priests of the school were due to differences in law enforcement. Hanafi Imam in determining the status of the Mahar Non Material Law (services) uses the surah al-Nisâ '24, al-Baihaqi hadith and he put forward qiyas, namely limiting the dowry to at least ten dirhams, and dowry in the form of Qur'anic teaching to candidates unauthorized wife. Reserve Imam Shafi'i using the surah al-Nisâ '24 and al-Bukhari's hadith, which does not limit the lowest dowry, such as sewing clothes or teaching the Qur'ân to his wife and any benefits that are owned and lawful in price and having the value of simplicity at the dowry is preferred, he looked at the sunnah, that it is not excessive if it is legitimately used as a dowry, looking at z'habir verses and hadith.*

Keywords: Mahar, Services, Dowry, Non Material

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PRELIMINARY

Islam is a religion of fitrah and the religion of Allah which always wants prosperity on earth. Indeed, Islam forbids being single forever and encouraging marriage to anyone who has been able to. In the hadith also explained that marriage helps obedience to Allah Almighty. and His pleasure and guarding himself from sinning because of the sinfulness he has committed.¹ Besides the word of Allah about the obligation to marry in the hadith also stated by the Prophet Muhammad:

يَا مَعْشَرَ الشَّبَابِ مَنْ اسْتَطَاعَ مِنْكُمُ الْبَاءَةَ فَلْيَتَزَوَّجْ فَإِنَّهُ أَعْيُنٌ لِلْبَصَرِ وَحَصْنٌ لِلْفَرْجِ وَمَنْ لَمْ يَسْتَطِعْ فَعَلَيْهِ بِالصَّوْمِ فَإِنَّهُ لَهُ وَجَاءٌ.

Meaning: "O young men who among you are able to get married then you should get married soon because actually marriage is keeping a view, and affirming the maintenance of the genitals, and whoever is not able then fast, because the shield is for him (HR. Ibn Majah).²

Women have passed a period where they were placed in a position that was inappropriate, disproportionate and very heartbreaking, no protection for them, their rights were destroyed, their will was seized, their souls were shackled, even then they were in a very low position and despicable.³

After going through various kinds of savagery and bitter treatment of all time, the light of Islam emerged that put women in a fair position. To protect their honor, Islam gives women's rights perfectly without being reduced. Islam also provides women's rights that must be fulfilled by husbands as husbands also have rights that must be fulfilled by their wives. Among the rights of the wife are dowry or dowry: namely "a special ownership given to women as an expression to appreciate it, and as a symbol to glorify and delight him".⁴

Mahar in etymology, meaning dowry. In terms of terminology, mahar is a mandatory gift from a prospective husband to a prospective wife as the sincerity of a prospective husband to create a love for a wife to her future husband or a gift that is required for a prospective husband to his future wife, both in the form and service liberate it and teach something useful.⁵

Islam is very concerned and respects the position of a woman by giving her rights, namely the right to receive dowry or dowry. Mahar is only given by prospective husbands to prospective wives, not to

¹Futihatul Aini, *Ayat Al-Qur'an as Mahar in Marriage (Study of Ma'anil Hadits)* (Semarang: Ushuluddin Faculty of Walisongo State Islamic Institute, 2016), 1.

²Abu Abdillah Muhammad bin Yazid Al-Qazwini, *Sunan Ibn Majah, I* (Semarang, Toha Putra, t.th), 592.

³Aini, *Ayat Al-Qur'an as Mahar in Marriage....*, 1.

⁴Salih bin Ghanim Al-Sadlan, *Regarding Marriage, Terj. Abu Ahmad Zaenal Abidin Syamsuddin* (Jakarta: Darul Haq, 2012), 4.

⁵Abdurrahman Ghazali, *Fiqh Munakahat* (Jakarta: Prenada Media, 2013), 84.

other women or anyone even though very close to him. Other people should not touch especially using it, even with their own husband except with the pleasure and willingness of the wife.⁶

Obligatory recommendations for giving dowry as governed by Allah swt:

وَأَتُوا النِّسَاءَ صَدُقَاتِهِنَّ نِحْلَةً

Meaning: "Give a dowry or (dowry) to a woman (whom you marry) as a gift full of willingness". (QS Al-Nisâ ' : 04).⁷

The scholars agreed that the school agreed that dowry is not one of the pillars of the contract or the pillars of marriage, as is the case in buying and selling, but is one of the consequences of the existence of a contract. The contract is valid and may be carried out without mentioning the dowry.⁸

Mahar is an obligation for men, not women, in harmony with the principles of Shari'a that a woman is not obliged to pay at all, either as a mother, a daughter, or a wife. Indeed, what is charged to provide livelihood is men, both in the form of dowry and livelihood, and the others, because men are better able to try to find sustenance. While the work of a woman is to prepare a house, take care of children, and give birth to offspring. This is a burden that is not easy and not light if he is charged to give a dowry and is obliged to try to get it, then he is forced to bear a new burden and his pride can be insulted in an effort to achieve this.⁹

Mahar is not a pillar nor is it a requirement in marriage. In the terms of marriage it has been explained that the real dowry even though it is an obligation in the contract, but it is not a harmony, and also not one of the conditions of marriage. Indeed, it is one of the effects caused by the marriage contract.¹⁰

The jurists agree that there is no highest limit for dowry because it is not mentioned in the Shari'a which shows the highest limits, as the Word of Allah swt surah al-Nisâ verse 20:

Meaning: *And if you want to replace your wife with another wife, while you have given someone among them a lot of wealth, then do not take back from him the slightest item. will you take it back with a false accusation and with (bear) real sin?.*¹¹

Women have been reminded of this verse. Where is Umar bin Khatab r.a. want to set the limit of dowry, then the prohibition of dowry is more than four hundred dirhams. He delivered a sermon to

⁶Sohari Tahami Sahrani, *Munakahat Fiqh* (Jakarta: Rajawali Press, 2010), 37.

⁷Ministry of Religion of the Republic of Indonesia, *Al-Qur'an and Translation* (Semarang: Toha Putra, 2015), 120

⁸Muhammad Jawad Mughniyah, *Fiqh of Five Schools, Happens*. Afif Muhammad (Jakarta: PT Lentera Basritama, 2011), 36.

⁹Mughniyah, *Fiqh of Five Schools*...., 37.

¹⁰Wahbah Al-Zuhaili, *Islamic Fiqh Wa Adillatuhu, Vol. 9* (Jakarta: Gema Insani, 2011), 232.

¹¹RI Ministry of Religion, *Al-Qur'an and Translation*...., 119

humans on this matter, he said, do not give a high standard of female dowry, so really if he is glorified in the world or the end, then the person most entitled to get it from you is the Messenger of Allah. he has never set a dowry for his wives or daughters who exceed twelve uqiyah means silver, then whoever gets more than four hundred dowry, he should give the excess to baitul mal.¹²

As for the lowest standard for dowry, the jurists differed on this issue, according to Abu Hanifah, the lowest standard of dowry is ten dirhams. . According to the Maliki Imam the standard of low dowry is a quarter dinar or three dirhams of pure silver which does not contain any falsehood. Whereas according to Imam Shafi'i and Hambali the limit of the lowest legitimate dowry of dowry is not determined by something, because it is valid if the dowry is a little or a lot of assets. The limits are all that are valid for sale or that have a legitimate value to become dowry. And those that have no value, they cannot be used as dowry, as long as they do not reach a limit that cannot be assessed.¹³

Then further on the issue of dowry services, there are differences in views by the two scholars of the Abu Hanifah school and Imam Shafi'i such as teaching the Qur'an the religious laws, and the work as dowry that will be given to the prospective bridegroom to the prospective bride.¹⁴

Imam Abu Hanifah said:

وَأَنَّ تَزْوِجَ حَرَامٍ عَلَى خَدَمَتِهِ لَهَا سَنَةٌ أَوْ عَلَى تَعْلِيمِ الْقُرْآنِ صَحِّ التَّكْوِينِ وَهِيَ مَهْرُ الْمَثَلِ، وَقَالَ مُحَمَّدٌ: لَهَا قِيَمَةٌ خَدَمَتِهِ سَنَةٌ وَإِنْ تَزَّجَ عَبْدٌ امْرَأَةً بِإِذْنِ مَوْلَاهُ عَلَى خَدَمَتِهِ لَهَا سَنَةٌ جَازَ وَهِيَ الْخِدْمَةُ.

Meaning: "Saying that an independent person is married to a dowry will serve a one-year wife or teach him the Qur'an, then for his wife is a merry-mate. Muhammad said: for this wife is the price of service. If a slave is married to the permission of his master with the dowry of serving his wife for one year, then it is permissible and for the wife to get the service of the husband ".¹⁵

Whereas Imam Shafi'i has another opinion:

قَالَ الشَّافِعِيُّ: يَجُوزُ أَنْ تَنْكِحَهُ عَلَى أَنْ يُخِيطَ لَهَا ثَوْبًا أَوْ يُبْنَى لَهَا دَارًا أَوْ يَخْدُمَهَا شَهْرًا أَوْ يَعْمَلُ لَهَا عَمَلًا مَا كَانَ أَوْ يَعْلَمُهَا قُرْآنَ مُسَمًّى عَبْدًا وَمَا أَشْبَهَ هَذَا.

Meaning: Arguing may be that the woman married a man to sew him clothes or build for him a house or serve a month or he did for him any action or he taught the Qur'an mentioned or he taught the woman a slave and similar to this.¹⁶

¹² Al-Zuhaili, *Islamic Fiqh*....., 234.

¹³ Al-Zuhaili, *Islamic Fiqh*....., 235-236.

¹⁴Syarifuddin, *Non-Material Mahar Law (Services) (Comparative Study of Imam Abu Hanifah and Imam Shafi'i)* (UIN Suska Riau Thesis, 2017), 7.

¹⁵Kamaluddin bin Al-Humam Al-Hanafi, *Syarh Fathul Al-Qadir Juz 3* (Beirut Lebanon: Darl Al-Kutub al-Ilmiyah, t.th), 326.

¹⁶Abi Abdus Muhammad bin Idris Ash-Shafi'i, *Al-Umm* (Bairut Lebanon: Dar al-Fikr, t.th), 64.

From the above background and the opinions expressed by the two Imam of the School, the formulation of the problem is how the Istinbath of the Non-Material Mahar Law (Services) Perspective of Imam Abu Hanifah and Imam Shafi'i (comparative study) ?

RESEARCH METHODS.

This research is library research by examining books and writings related to the Non-Material Mahar Law (Services) Study of the perspective of Imam Abu Hanifah and Imam Shafi'i namely comparative studies.¹⁷

Sources of data in this study come from literature material that has to do with the problem of this research, namely: 1). Material of Primary Law, data obtained directly from the book by Imam Abu Hanifah or his students Imam Kamaluddin namely the book of Syarh Fathul Al-Qadir and Imam Shafi'i, namely the book Al-Umm. 2). Secondary Legal Materials, are data taken from the books related in this study namely Islamic Fiqh Wa Adillatuhu written by Wahbah az-Zuhaili, Sunnah Fiqh written by Sayyid Sabiq and Bidayatul Mujtahid written by Ibn Rusdy. 3). Tertiary Legal Materials, data taken as additions that provide understanding and understanding of other legal materials such as, Dictionaries, Syarah hadith, Constitution and Encyclopedia.¹⁸

The data collection method in this study are: 1). Collecting all primary books and secondary books that are related to the problem of this study. 2). After all the collected books are then reviewed and recorded all the material that has to do with research. 3). Furthermore, it is classified into sections that are in accordance with this study.¹⁹

The data that has been collected through the step by step data above is then analyzed using content analysis techniques (content analysis), namely studying the messages that exist in various literatures starting from vocabulary, sentence patterns and background situations.²⁰

¹⁷Syarifuddin, *Non Material....*, 33.

¹⁸Syarifuddin, *Non Material....*, 33.

¹⁹Syarifuddin, *Non Material....*, 33.

²⁰Syarifuddin, *Non Material....*, 33.

DISCUSSION AND RESULTS

1. Opinion of Imam Abu Hanifah about Mahar in the form of Services (Non Material).

In the book of Sharah Fathur Qodir according to Imam Kamaluddin bin al-Human al-Hanafi said:

وَأِنْ تَزَوَّجَ حُرًّا امْرَأَةً عَلَى خِدْمَتِهِ لَهَا سَنَةً أَوْ عَلَى تَعْلِيمِ الْقُرْآنِ صَحَّ النِّكَاحُ وَهِيَ مَهْرُ الْمِثْلِ، وَقَالَ مُحَمَّدٌ: لَهَا قِيَمَةُ خِدْمَتِهِ سَنَةً
وَأِنْ تَزَوَّجَ عَبْدًا امْرَأَةً بِإِذْنِ مَوْلَاهُ عَلَى خِدْمَتِهِ لَهَا سَنَةً جَازَ وَهِيَ الْحِذْمَةُ

Meaning: *Saying that an independent person is married to a dowry will serve a one-year wife or teach him the Qur'ân then for his wife is a medical dowry. Muhammad said: for this wife is the price of service. If a slave is married to the permission of his master with the dowry of serving his wife for one year, then it is permissible and for the wife to get the service of the husband.*²¹

From the opinion stated above, it can be understood that if a person is free to marry a dowry to serve his wife for one year or teach the Qur'ân, then for his wife is a merit marsh. Furthermore Imam Hanafi said that teaching as a dowry in marriage was a facade or was damaged and had to be replaced with a military dowry, as mentioned below:

وَأَبُو بَكْرٍ حَنِيفَةَ أَنَّ الْمَوْجِبَ أَلَّا صَلَّى مَهْرُ الْمِثْلِ إِذْ هُوَ أَلَّا عَدَلَ، وَالْعَدُولُ عَنْهُ عِنْدَ صِحَّةِ التَّسْمِيَةِ وَقَدْ فَسَدَتْ لِمَكَانِ
الْجِهَالَةِ.

Meaning: *According to Abu Hanifah, Actually the original is obliged to be a Muslim mahr because the military dowry is the fairest, and even if there is a transfer choosing not to use the military law it is permissible when they have chosen mahar musamma, according to Abu Hanifah it is invalid or damaged because not clear.*²²

The proposition used in teaching the Qur'ân as a dowry is replaced with a Muslim dowry:

Meaning: And (also forbidden you marry) a woman who is married, except for the slaves you have (Allah has decreed that law) as His provision for you. and it is lawful for you other than that (ie) seeking wives with your wealth to marry not to commit adultery. Then the wives whom you have enjoyed (campuri) among them, give them their dowry (perfectly), as an obligation; and there is no reason for you to give up one another, after determining the dowry. Lo! Allah is Knowledgeable, Wise. (QS. Al-Nisâ': 24).²³

²¹Kamaluddin bin Al-humam Al-hanafi, *Syarh Fathul Al-Qadir*....., 326.

²²Kamaluddin bin Al-humam Al-hanafi, *Syarh Fathul Al-Qadir*....., 339.

²³RI Ministry of Religion, *Al-Qur'an and Translation*..., 120.

From his opinions and verses, it was understood that according to Imam Hanafi if a man applied for a parable with a dowry to teach Al-Qur'ân to his wife, the dowry was invalid or damaged and must be replaced with a military dowry. Then the hadith which is the handle of Imam Hanafi is:

عَنْ عَامِرِ بْنِ رَبِيعَةَ أَنَّ امْرَأَةً مِنْ بَنِي فَزَارَةَ تَزَوَّجَتْ عَلَى نَعْلَيْنِ فَقَالَ رَسُولُ اللَّهِ ص.م: أَرْضَيْتِ مِنْ نَفْسِكَ وَ مَالِكَ بِنَعْلَيْنِ؟ قَالَتْ: نَعَمْ. فَأَجَازَهُ. (رواه احمد و ابن ماجه و الترمذى و صححه).

Meaning: From ir Amir bin Rabi'ah, that in fact there was once a woman from Banu Fazarah who was married to a dowry pair of sandals, then the Messenger of Allah asked, "Do you forgive yourself and your possessions with a dowry pair of sandals?". He replied, "Yes". Then the Messenger of Allah allowed him. (HR. Ahmad, Ibn Majah and Tirmidhi, and Tirmidhi endorsed it)

عَنْ جَابِرِ رَضِيَ اللهُ عَنْهُ أَنَّ رَسُولَ اللَّهِ ص قَالَ: لَوْ أَنَّ رَجُلًا أَعْطَى امْرَأَةً صَدَقًا مِائَةَ يَدِيهِ طَعَامًا كَانَتْ لَهُ حَلَالًا. (رواه احمد و ابو داود بمعناه).

Meaning: From Jabir ra, that the Messenger of Allah said, "If a man gives a dowry in the form of food full of two treads, then leave the woman to him. (HR. Ahmad and Abu Dawud narrated the same thing as that)

عَنْ أَنَسِ رَضِيَ اللهُ عَنْهُ أَنَّ النَّبِيَّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ رَأَى عَلَى عَبْدِ الرَّحْمَنِ بْنِ عَوْفٍ اثْرَ صُفْرَةٍ. فَقَالَ: مَا هَذَا؟ قَالَ: تَزَوَّجْتُ امْرَأَةً عَلَى وَزْنِ نَوَاطِءِ مِنْ ذَهَبٍ. قَالَ: بَارَكَ اللهُ لَكَ، أَوْلِمُ وَلَوْ بِشَاةٍ. (رواه الجماعة الا ابا داود).

Meaning: From Anas, that actually the Prophet saw a yellow-yellow mark on Abdurrahman bin Auf, then he asked, "What is this?". Abdurrahman replied, "I just married a woman with a gold (dowry) as heavy as date seeds." The Holy Prophet said, "May Allah bless you, organize even though only with a goat. (HR. Jamaah except Abu Dawud)

عَنْ عَائِشَةَ رَضِيَ اللهُ عَنْهَا أَنَّ رَسُولَ اللَّهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ: إِنَّ أَعْظَمَ النِّكَاحِ بَرَكَتًا أَيْسَرُهُ مَثُونَةً. (رواه احمد).

Meaning: From Aisyah ra, that the Messenger of Allah truly said, "Marriage is the greatest blessing which is the lightest dowry. (HR. Ahmad)

عَنْ أَبِي سَلَمَةَ قَالَ: سَأَلْتُ عَائِشَةَ: كَمْ كَانَ صَدَاقُ رَسُولِ اللَّهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ؟ قَالَتْ: كَانَ صَدَاقَهُ لِأَزْوَاجِهِ اثْنَتَيْ عَشْرَةَ أُوقِيَةً وَ نَشَأًا. قَالَتْ: أَتَدْرِي مَا النَّشَأُ؟ قُلْتُ: لَا. قَالَتْ: نِصْفُ أُوقِيَةٍ. فَتِلْكَ خَمْسُمِائَةِ دِرْهَمٍ. (رواه الجماعة الا البخارى و الترمذى).

Meaning: From Abu Salamah, he said: I once asked Aisha, "What is the dowry of the Messenger of Allah". He replied, "His Mahar to his wives is twelve uqiyah (1 (one) Uqiyah equal to 40 dirhams) more than one nasy". Ayesha asked, "Do you know what nasy is?" I replied, "No". Ayesha said, "Half uqiyah, so all are equal to five hundred dirhams. (HR. Congregations except Bukhari and Tirmidhi)

عَنْ أَبِي الْعَجْفَاءِ قَالَ: سَمِعْتُ عُمَرَ يَقُولُ: لَا تَغْلُوا صُدُقَ النِّسَاءِ وَإِنَّمَا لَوْ كَانَتْ مَكْرُومَةً فِي الدُّنْيَا أَوْ تَقْوَى فِي الْآخِرَةِ، كَانَ أَوْلَاكُمْ بِهَا النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ. مَا أَصْدَقَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ مِنْ نِسَائِهِ وَلَا أَصْدَقَتْ امْرَأَةٌ مِنْ بَنَاتِهِ أَكْثَرَ مِنْ ثِنْتَيْ عَشْرَةَ أُوقِيَةً. (رواه الخمسة و صححه الترمذی).

Meaning: From Abu 'Ajfaa', he said: I once heard Umar say, "Do not exaggerate in giving dowry to a woman, even though she is a glorified person in the world or someone who is cared for in the hereafter. The most important (in respect of women) among you is the Prophet. Though not the Messenger of Allah gave a dowry to anyone from his wives and neither did his daughters be given a dowry of more than twelve uqiyah. (HR. Khamsah and endorsed by Tirmidhi)

عَنْ عُرْوَةَ عَنْ أُمِّ حَبِيبَةَ أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ تَزَوَّجَهَا وَهِيَ بَارِضٌ أَحْبَشَةٌ زَوَّجَهَا النَّجَاشِيَّ وَ أَمَهَرَهَا أَرْبَعَةَ آلَافٍ وَ جَهَّزَهَا مِنْ عِنْدِهِ وَ بَعَثَ بِهَا مَعَ شُرْحَبِيلِ بْنِ حَسَنَةَ وَ لَمْ يَبْعَثْ إِلَيْهَا رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ مِنْ شَيْءٍ وَ كَانَ مَهْرُ نِسَائِهِ أَرْبَعِمِائَةَ دِرْهَمٍ. (رواه احمد و النسائي).

Meaning: From wah Urwah from Umm Habibah, actually the Messenger of Allah (peace be upon him) married him while he was in Habasyah married by Najasyi (king Habasyah) and he gave a four thousand dowry (dirham) which he prepared himself. He sent it through Syurahbil bin Hasnah. And the Messenger of Allah did not send anything to him (other than the dowry), while the dowry for his wives (the others) was four hundred dirhams. (HR. Ahmad and Nasai)

عَنِ ابْنِ عَبَّاسٍ رَضِيَ اللَّهُ عَنْهُمَا قَالَ: لَمَّا تَزَوَّجَ عَلِيٌّ فَاطِمَةَ قَالَ لَهُ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: مَا عِنْدِي شَيْءٌ. قَالَ: أَيْنَ دِرْعَاكَ أَحْطَمِيَّةٌ؟ (رواه ابو داود و النسائي).

Meaning: From Ibn Abbas, he said: When Ali married Fatima, the Messenger of Allah said to Ali, "Give him something!". Ali replied, "I have nothing". The Messenger of Allah asked, "Where is your armor from Huthamiyah?" (HR. Abu Dawud and Nasai)

وَ فِي رِوَايَةٍ أَنَّ عَلِيًّا رَضِيَ اللَّهُ عَنْهُ لَمَّا تَزَوَّجَ فَاطِمَةَ أَرَادَ أَنْ يَدْخُلَ بِهَا فَمَنَعَهُ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ حَتَّى يُعْطِيَهَا شَيْئًا. فَقَالَ: يَا رَسُولَ اللَّهِ، لَيْسَ لِي شَيْءٌ. فَقَالَ لَهُ: أَعْطَاهَا دِرْعَاكَ أَحْطَمِيَّةً، فَأَعْطَاهَا دِرْعَاهُ، ثُمَّ دَخَلَ بِهَا. (رواه ابو داود).

Meaning: And in another narration (said): That in fact Ali after marrying Fatima, when he wanted to live with him then the Messenger of Allah prevented him so that 'Ali gave him something. Then Ali said, "O Messenger of Allah, I have nothing". Then the Messenger of Allah said to him, "Give your armor from Huthamiyah to him!". So Ali gave the armor to Fatima, then she was at home with Fatima. (HR. Abu Dawud)

عَنْ جَابِرِ بْنِ عَبْدِ اللَّهِ عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ: قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ لَا يَنْكِحُ النِّسَاءَ إِلَّا كُفُوءًا وَلَا يُزَوِّجُهُنَّ إِلَّا الْأَوْلِيَاءَ وَلَا مَهْرٌ دُونَ عَشْرَةِ دَرَاهِمٍ. (رواه البيهقي).

Meaning: From Abdullah jabir, that the Messenger of Allah said, do not marry women except sekufu 'and do not marry women except their guardians, and there is no dowry that is less than ten dirhams. (Narrated by Al-Baihaqi).²⁴

²⁴Ahmad Bin al-Husayn ibn Ali ibn Musa Abu Bakr Al-Baihaqi, *Sunan al-Baihaqi al-Kubra Juz VII* (Mecca al-Mukarramah: Maktabah Dar al-Baz, 1994), 240.

The hadith above is the one that holds the Hanafi Imam's grip that the lowest dowry in marriage is ten dirhams and cannot be less than that, if it is not then their marriage is broken.²⁵

2. Imam Syafi'i's opinion about Mahar in the form of Services (Non Material).

Whereas Imam Shafi'i has another opinion:

قَالَ الشَّافِعِيُّ: يَجُوزُ أَنْ تُنكِحَهُ عَلَى أَنْ يُخِيطَ لَهَا ثَوْبًا أَوْ يُبْنِيَ لَهَا دَارًا أَوْ يُخْدِمَهُ أَشْهُرًا أَوْ يَعْمَلَ لَهَا عَمَلًا مَا كَانَ أَوْ يَعْلَمُهُ إِفْرَانَ مُسَمًّى عَبْدًا أَوْ مَا أَشْبَهَ هَذَا.

Meaning: *Arguing may be that the woman married a man to sew him clothes or build for him a house or serve a month or he did for him any action or he taught the Qur'an mentioned or he taught the woman a slave and similar to this.*²⁶

From the opinion of Imam Syafi'i it is understood that he allowed the dowry to sew clothes, build a house, serve a month, or teach the Qur'an to his wife, who is a dowry of services. According to Imam Shafi'i, every benefit that is owned by halal prices and has the value of simplicity at the dowry he likes more.²⁷

The argument used by Imam Shafi'i concerning the dowry is the word of Allah Almighty which reads:

Meaning: *And (also forbidden you marry) a woman who is married, except the slaves that you have (282) (Allah has decreed that law) as His decree upon you. and it is lawful for you other than that (ie) seeking wives with your wealth to marry not to commit adultery. Then the wives whom you have enjoyed (campuri) among them, give them their dowry (perfectly), as an obligation; and there is no reason for you to give up one another, after determining the dowry. Allah is All-Knowing, Wise. (QS. Al-Nisâ ': 24).*²⁸

From the above verse it can be understood that the wives you have enjoyed are told to give to them dowry perfectly as an obligation. Then the hadith used as the foundation of Imam Shafi'i:

أَنَّ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ: أَدُّوا لِلْعَلَا ثِقَ قَيْلٍ وَمَا لِلْعَلَا ثِقَ يَا رَسُولَ اللَّهِ قَالَ مَا تَرْضَى بِهِ إِلَّا هَلُونَ. (رواه ابوداو والطبراني).

Meaning: *Indeed the Messenger of Allah said: "Pay by you" alaiq "(another term for dowry). Is "alaiq" Ya Rasulallah? The Prophet answered: something that was touched by a woman's family. (Narrated by Abu Dawud and Tabrani).*²⁹

²⁵Syarifuddin, *Non Material*...., 53.

²⁶Abi Abdus Muhammad bin Idris Ash-Syafi'i, *Al-Umm*...., 64.

²⁷Syarifuddin, *Non Material*...., 55.

²⁸RI Ministry of Religion, *Al-Qur'an and Translation*...., 120.

²⁹Muhammad al-Syaukani, *Nailu Authar cet.1* (Egypt: Syirkah Maktabah al-Baby al-Halay wa Auladuhu, 1961), 166.

عَنْ سَهْلِ بْنِ سَعْدٍ أَنَّ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ جَاءَتْهُ امْرَأَةٌ وَقَالَتْ: يَا رَسُولَ اللَّهِ، إِنِّي قَدْ وَهَبْتُ نَفْسِي لَكَ، فَقَامَتْ قِيَامًا طَوِيلًا. فَقَالَ رَجُلٌ فَقَالَ: يَا رَسُولَ اللَّهِ، زَوِّجْنِيهِ إِنْ لَمْ يَكُنْ لَكَ فِيهَا حَاجَةٌ. فَقَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: هَلْ عِنْدَكَ مِنْ شَيْءٍ تُصَدِّقُهَا بِهَا؟ فَقَالَ: مَا عِنْدِي إِلَّا إِزَارِي هَذَا. فَقَالَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: إِنْ أَعْطَيْتَهَا إِزَارَكَ جَلَسَتْ لَا إِزَارَ لَكَ، فَالْتَمَسَ شَيْئًا. فَقَالَ: مَا أَحَدٌ شَيْئًا. فَقَالَ: ائْتِمِسْ وَلَوْ خَاتَمًا مِنْ حَدِيدٍ. فَالْتَمَسَ فَلَمْ يَجِدْ شَيْئًا. فَقَالَ لَهُ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: هَلْ مَعَكَ مِنَ الْقُرْآنِ شَيْءٌ؟ قَالَ: نَعَمْ. سُورَةُ كَذَا وَ سُورَةُ كَذَا لِسُورٍ يُسَمِّيهِمَا. فَقَالَ لَهُ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: قَدْ زَوَّجْتُكَهَا بِمَا مَعَكَ مِنَ الْقُرْآنِ. (رواه احمد و البخارى و مسلم).

Meaning: From Sahl bin Sa'ad that the Prophet had actually been visited by a woman and said, "O Messenger of Allah, actually I surrendered myself to you". Then the woman stood for a long time. Then stand up a man and say, "O Messenger of God, marry me with him if you yourself are not interested in him". Then the Messenger of Allah asked, "Do you have something that you can use as a dowry for him?" He replied, "I have nothing but these clothes". Then the Prophet said, "If you give your clothes to him, you will not dress anymore. Then look for something else. Then the man said, "I did not get anything else". Then the Prophet SAW said, "Look for, even though it is an iron ring". Then the man searched, but he did not get it. Then the Prophet asked him, "Do you have memorized the verses of the the Qur'an?" He replied, "Yes. This letter and this letter ". He mentioned the names of the letters, then the Prophet said to him, "Really I have married you to what you have from the Qur'an. (HR. Ahmad, Bukhari and Muslim)

و فِي رِوَايَةِ مُسْلِمٍ: قَالَ: ائْتَمِسْ، لَقَدْ زَوَّجْتُكَهَا فَعَلِمَهَا مِنَ الْقُرْآنِ.

Meaning: And in another incident by Muslims: The Prophet said, "Go, really I have married you to him, then teach him with the Qur'an (HR Muslim).

From the opinion and the filed argument by Imam Syafi', it can be understood that the Syafi'iyah religion said that the dowry of benefits is legal. According to them, anything that can be a price in buying and selling can also be a dowry, if it is legitimate something of agricultural land for a certain period of time, so it is also legitimate to make that benefit a dowry. Every activity that is paid for such as teaching the Qur'an, jurisprudence, etc., or teaching skills such as weaving, sewing, or sewing clothes, or building a house, or serving the parrot, even though he is free, is all valid to become dowry, such as it is legitimate to be a sale price.³⁰

3. Imam Abu Hanifah's Istibath Law Method of Mahar Non Material.

In determining the services or non-material dowry which is the main foundation of Imam Abu Hanifah is the word of Allah Almighty which reads:

Meaning: And (also forbidden you marry) a woman who is married, except the slaves that you belong to (Allah has decreed that law) as His provision for you. and it is lawful for you other than that (ie) seeking wives with your wealth to marry not to commit adultery. Then the wives whom you have enjoyed (campuri) among them, give them their dowry (perfectly), as an

³⁰Syarifuddin, Non Material..., 70.

*obligation; and there is no reason for you to give up one another, after determining the dowry. Lo! Allah is Knowledgeable, Wise. (QS. al-Nisâ ': 24).*³¹

Based on the above paragraph that the Hanafi school gives the terms of dowry is any property that has a price, which is known to be able to be surrendered. Then it is valid if the dowry is in the form of gold or silver, whether in the form of money or jewelry, and the like, in the form of cash and cash. legitimate circumstances as money or financial documents, whether in the form of doses or scales, whether in the form of animals or buildings, or selling goods, such as clothing and other.³²

It is also valid if he is in the form of personal benefits or goods that can be exchanged with money such as staying at home, farming, riding vehicles and the like. Whereas marriage by teaching the wife all the contents of the Qur'ân, or in part, or part of the religious law in the form of lawful and haram cases, then according to Hanafi fuqaha is invalid.³³

Then the second foundation of the Hanafi Imam is a hadith which reads:

عَنْ جَابِرِ بْنِ عَبْدِ اللَّهِ عَنْهُ قَالَ، قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ لَا يُنْكَحُ النِّسَاءَ إِلَّا كُفُؤًا وَلَا يُزَوَّجُهُنَّ إِلَّا الْأَوْلِيَاءَ وَلَا مَهْرًا دُونَ عَشْرَةِ دَرَاهِمٍ. (رواه البيهقي).

Meaning: *From Abdullah jabir, that the Messenger of Allah said, do not marry women except sekufu 'and do not marry women except their guardians, and there is no dowry that is less than ten dirhams. (Narrated by Al-Baihaqi).*³⁴

From the above hadith it is clear that the Hanafi school limits the lowest size of dowry, which is ten dirhams, and if the property used as a dowry in marriage does not reach the amount as mentioned above, the marriage is invalid. Unauthorized wife is made into dowry.³⁵

The Hanafi School gives the lowest standard of ten dirhams, this is deemed to be the size of theft, which makes the thief's hand cut, according to them, theft is carried out in one dinar or ten dirhams, to show the position of women, value of importance.³⁶

As the Hadith of the Prophet:

حَدَّثَنَا عَبْدُ الْأَعْلَى، عَنْ مُحَمَّدِ بْنِ إِسْحَاقَ، قَالَ: حَدَّثَنِي أَيُّوبُ بْنُ مُوسَى، عَنْ عَطَاءٍ، عَنْ ابْنِ عَبَّاسٍ: لَا يَقْطَعُ السَّارِقُ فِي دُونَ ثَمَنِ الْمَجْنَنِّ، وَثَمَنِ الْمَجْنَنِّ. (رواه المسلم).

³¹RI Ministry of Religion, *Al-Qur'an and Translation*...., 120.

³²Syarifuddin, *Non Material*...., 71.

³³ Al-Zuhaili, *Islamic Fiqh*...., 238.

³⁴Ahmad Bin al-Husayn ibn Ali ibn Musa Abu Bakr Al-Baihaqi, *Sunan al-Baihaqiy al-Kubra*...., 240.

³⁵Syarifuddin, *Non Material*...., 73.

³⁶Wahbah Al-Zuhaili, *Islamic Fiqh*...., 235.

Meaning: *Divorce Abdu al- 'Ala from Muhammad bin Ishaq, said: recounts Ayyub bin Musa from "Atha 'from Ibnu Abbas: No' there is a hand cut off the thief whose level is less than the price of the shield, while the shield price is 10 dirhams. (Narrated by Muslim).*³⁷

This is the basis of the Hanafi school in establishing the law of dowry, which equates the amount of dowry that men must give to prospective wives, which they want to marry not less than ten dirhams, as if a stealer if he stole someone's goods in ten dirhams, the stealer will be charged hand cut sentence.³⁸

4. The Istinbath Method of the Shafi'i Imam's Law of Mahar in the form of Non Material.

As with the other priests in this case Imam Shafi'i also made the Qur'ân the most important source in his school to establish a law.

Meaning: *And (also forbidden you marry) a woman who is married, except for the slaves you have (Allah has decreed that law) as His provision for you. and it is lawful for you other than that (ie) seeking wives with your wealth to marry not to commit adultery. Then the wives whom you have enjoyed (campuri) among them, give them their dowry (perfectly), as an obligation; and there is no reason for you to give it to one another, after determining the dowry, Allah is All-Knowing, Wise. (QS. al-Nisâ: 24).*³⁹

Imam Shafi'i also uses the same Qur'anic proposition as Imam Abu Hanifah in determining the law of dowry in marriage which as the above verse explains that the obligation for the person who remarries to attain to give dowry.⁴⁰

The hadith used by Imam Shafi'i's argument regarding the dowry of services are:

عَنْ سَهْدِ بْنِ سَعْدِ السَّاعِدِيِّ قَالَ: جَاءَتْ امْرَأَةً إِلَى رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَقَالَتْ: يَا رَسُولَ اللَّهِ جِئْتُ لِأَهَبَ لَكَ نَفْسِي قَالَ: فَتَنَظَّرَ إِلَيْهَا رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَصَعَّدَا لِنَظَرِ فِيهَا وَصَوَّبَهُ ثُمَّ طَأَّ طَأَّ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ رَأْسَهُ فَلَمَّا رَأَتْ الْمَرْأَةُ أَنَّهُ لَمْ يَقْبَضْ فِيهَا شَيْئًا جَلَسَتْ فَقَامَ رَجُلٌ مِنْ أَصْحَابِهِ فَقَالَ يَا رَسُولَ اللَّهِ إِنَّ لَمْ يَكُنْ لَكَ بِهَا حَاجَةٌ فَزَوِّجْنِيهَا فَقَالَ وَهَلْ عِنْدَكَ مِنْ شَيْءٍ؟ فَقَالَ: لَا وَاللَّهِ يَا رَسُولَ اللَّهِ فَقَالَ: أَذْهَبَ إِلَى أَهْلِكَ فَانْظُرْ هَلْ تَجِدُ شَيْئًا فَذْهَبَ ثُمَّ رَجَعَ فَقَالَ: لَا وَاللَّهِ مَا وَجَدْتُ شَيْئًا فَقَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَنْظُرْ وَلَوْ خَا تَمًّا مِنْ حَيْدٍ فَذْهَبَ ثُمَّ رَجَعَ فَقَالَ: لَا وَاللَّهِ يَا رَسُولَ اللَّهِ وَلَا خَا تَمًّا مِنْ حَيْدٍ. وَلَكِنْ هَذَا إِزَارِي قَالَ سَهْلٌ مَا لَهُ رَدَاءٌ فَلَهَا نَصْفُهُ فَقَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: مَا تَصْنَعُ يَا زَارِكُ إِنَّ لِبِسْتَهُ لَمْ يَكُنْ عَلَيْهَا مِنْهُ شَيْءٌ وَإِنْ لِبِسْتَهُ لَمْ يَكُنْ عَلَيْكَ مِنْهُ شَيْءٌ فَجَلَسَ الرَّجُلُ حَتَّى إِذَا طَالَ مَجْلِسُهُ قَامَ فَرَأَهُ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ مُؤَلِّيًا فَأَمَرَهُ فَدَعَى فَلَمَّا جَاءَ قَالَ: مَاذَا مَعَكَ مِنَ الْقُرْآنِ؟ قَالَ: مَعِيَ سُورَةٌ كَذَا وَسُورَةٌ كَذَا عَدَدٌ هَذَا فَقَالَ: تَقْرَأُ هُنَّ عَنْ ظَهْرِ قَلْبِكَ؟ قَالَ: نَعَمْ قَالَ أَذْهَبَ فَقَدْ مَلَكَتْهَا بِمَا مَعَكَ مِنَ الْقُرْآنِ. (رواه البخاري).

Meaning: *Received from Sahl bin Sa'ad as-sa'idi ra. he said, "There is a woman dating to the Prophet. by saying, "O Messenger of Allah! I came to surrender myself to the master (to be made a wife). "The apostle looked at the woman carefully, then he bent his head. When the woman realized that the Apostle was not interested in her, she sat down. Then one of his friends stood up and said, "O*

³⁷Al-Bukhari, *Shahih al-Bukhari, cet 1.* (Cairo: Darr al-Sya'ab, 1987), 199.

³⁸Syarifuddin, *Non Material....*, 73.

³⁹RI Ministry of Religion, *Al-Qur'an and Translation....*, 120.

⁴⁰Syarifuddin, *Non Material....*, 74.

Messenger of Allah! If you don't need it, marry him with me. "The Apostle betanya," do you have anything? "Said the man," By Allah, there is nothing, Prophet. "The Apostle said," Go to your relatives! Hopefully you will get nothing. "Then the man left. After returning, he said, For God's sake, nothing. "The Messenger of Allah said. "Look for an iron ring though! "The person left, then returned. He said," By Allah, Rasulullah, there is no iron installment. But I have a sarong that I use this. (According to Sa'ad, he has no cloth other than the one used). The woman may take a part of it. "Rasul said. "What can you do with your sarong. If you use it, of course he is not dressed, and if he wears it, you are not dressed. "Then the person sat down. He thought for a long time. Then he left. When the Apostle saw him leaving, he told him to be called back. After he arrived, he asked, "Do you memorize the Qur'an?" "The person replied," I memorized this and that letter. "He then mentioned the names of several letters in the Qur'an. The Apostle asked again, "can you read it outside your head?" "Yes," replied the man, "Go, I marry this woman with the Qur'an that you memorized it. (Narrated by Bukhari).⁴¹

The Syafi'iyah Ulama stipulates that the benefits of dowry are legal. The rule according to them is that in accordance with something that can be a price in buying and selling can be a dowry, if it is legitimate to buy a house in the form of utilizing agricultural land for a certain time, then it is also legitimate as a dowry. Every activity that is paid for such as teaching the Qur'ân, jurisprudence, etc., or teaching skills such as weaving, sewing, or sewing clothes, or building a house, or serving a woman, even though she is free, is all legitimate to become a dowry as legitimate as buying and selling.⁴²

5. The two Imams' Similarities and Differences about Service Quality (Non-material).

Mahar is an obligation that must be borne by every prospective husband who will marry a future wife as a sign of agreement and willingness to live together as husband and wife.⁴³ In general, the dowry is in the form of material in the form of money or other valuables. The Islamic law allows the dowry in the form of a service to do something, even though it is only a verse from the Qur'ân which is memorized by the bridegroom.⁴⁴

This is like the dowry of Prophet Moses when marrying his daughter Prophet Syu'aib in the form of grazing goats for eight years or when the Prophet Muhammad married Sofiyah with a dowry to free a person with dowry in the form of memorizing the Qur'ân. Based on the explanation above, the writer can explain the location of the difference between the two Imam Mazhab in determining the law of services or non-marriages.⁴⁵

⁴¹Al-Bukhari, *Hadith Shahih, cet 1* (Surabaya: Gitamedia Press, 2016), 736-737.

⁴²Syarifuddin, *Non Material....*, 75.

⁴³Mustafa Kamal Pasha, *Islamic Jurisprudence* (Jogjakarya: Citra Karsa Mandiri, 2016), 274.

⁴⁴Syarifuddin, *Non Material....*, 76.

⁴⁵Syarifuddin, *Non Material....*, 76.

Imam Abu Hanifah or his student Imam Kamaluddin bin al-Human does not allow dowry in the form of services, because according to the dowry school in the form of services does not include assets that may take wages from him, so it is not legal to be a dowry, teaching the Qur'ân as dowry is a facade (broken) but he is obliged to pay the white dowry.⁴⁶ In this case Imam Abu Hanifah is based on the Qur'ân surah al-Nisâ' 'verse 24, and the hadith on which Imam Abu Hanifa is based is:

عن جابر بن عبد الله عنه قال، قال رسول الله صلى الله عليه وسلم لا ينكح النساء إلا كفوًا ولا يزوجهن إلا الأولياء ولا مهرًا دون عشرة دراهم. (رواه البيهقي).

Meaning: *From Abdullah jabir, that the Messenger of Allah said, do not marry women except sekufu 'and do not marry women except their guardians, and there is no dowry that is less than ten dirhams. (HR. Al-Baihaqi).*

Suppose this hadith is authentic, it can eliminate disputes, because this hadith requires hadith Sahl bin Sa'ad to apply specifically. But Jabir's hadith is dha'if according to the hadith expert, because it is narrated by, according to them, Mubasasyir bin Ubaid from Al-Hajjaj bin Artha'ah from Ath-Thabrani from Jabir, while Musabasyir and Al-hajjaj both dhaif, and Ath-Thabrani also did not meet Jabir, because it was not possible to say, this hadith contradicts the hadith of Sahl bin Saad.⁴⁷

Then rather than that Imam Hanafi argued that the lowest number of dowels that were given by the bridegroom to the bride was ten dirhams, based on the hadith:

حَدَّثَنَا عَبْدُ الْأَعْلَى، عَنْ مُحَمَّدِ بْنِ إِسْحَاقَ، قَالَ: حَدَّثَنِي أَيُّوبُ بْنُ مُوسَى، عَنْ عُنَيْطَةَ، عَنِ ابْنِ عَبَّاسٍ: لَا يَقْطَعُ السَّارِقُ فَيْدُ وَنِثَانِ الْمِجَنِّ، وَتَمَنُّ الْمِجَنِّ. (رواه المسلم).

Meaning: *Divorce Abdu al-'Ala from Muhammad bin Ishaq, said: recounts Ayyub bin Musa from "Atha 'from Ibnu Abbas: No' there is a hand cut off the thief whose level is less than the price of the shield, while the shield price is 10 dirhams. (Narrated by Muslim).*

Qiyas that they use for that, namely they say, members of the body that are considered lawful with property, it must be guessed which law of origin cuts hands. The weakness of this qiyas is that in terms of considering lawfulness in both, it is said to be with the same feeling, namely the cutting of the hand is not intercourse. And also, cutting the hand is considered lawful in terms of punishment, pain and loss of limbs.⁴⁸

While fuck it considers halal in terms of enjoyment and affection, this is a weak qiyas (resemblance), because with it branch punishment and the law of origin have one resemblance, not in words, even

⁴⁶Kamaluddin bin Al-humam Al-hanafi, *Syarh Fathul Al-Qadir*....,326.

⁴⁷Ibnu Rusyd, *Bidayatul Mujtahid*, vol 2 (Jakarta: Reader Azzam, 2017), 38.

⁴⁸Syarifuddin, *Non Material*...., 77.

meanings. And because the law is only in the original law in terms of similarity. And all of this is not in this qiyas. In addition, it also includes similarities that Lafazh did not explain. This includes the type of qiyas that was rejected according to the researchers, but they did not use this qiyas to establish restrictions that were comparable to the understanding of hadith Sahl bin Sa'ad. So this qiyas is very weak, only they use it to determine the size of the restrictions.⁴⁹

Imam Syafi'i allows the dowry in the form of services or benefits that can be legitimately made into dowry, such as the presence of dowry sewing clothes, building a house, serving a month, or teaching the Qur'an to his wife, who is a service dowry. According to Imam Syafi'i, every benefit that is owned and lawful in price and has the value of simplicity at the dowry is preferred, he views the sunnah, that there is no excess in the dowry. Proposal used by Imam Shafi'i surah al-Nisâ' verse 24 and the hadith of the Messenger of Allah as follows:

عَنْ سَهْدِ بْنِ سَعْدِ السَّاعِدِيِّ قَالَ: جَاءَتِ امْرَأَةٌ إِلَى رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَقَالَتْ: يَا رَسُولَ اللَّهِ جِئْتُ لِأَهَبَ لَكَ نَفْسِي قَالَ: فَتَنَظَّرَ إِلَيْهَا رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَصَعَّدَا لِنَظَرٍ فِيهَا وَصَوَّبَهُ ثُمَّ طَأَّ طَأَّ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ رَأْسَهُ فَلَمَّا رَأَتْ الْمَرْأَةُ أَنَّهُ لَمْ يَفْضِ فِيهَا شَيْئًا جَلَسَتْ فَقَامَ رَجُلٌ مِنْ أَصْحَابِهِ فَقَالَ يَا رَسُولَ اللَّهِ إِنَّ لَمْ يَكُنْ لَكَ بِهَا حَاجَةٌ فَزَوِّجْنِيهَا فَقَالَ وَهَلْ عِنْدَكَ مِنْ شَيْءٍ؟ فَقَالَ: لَا وَاللَّهِ يَا رَسُولَ اللَّهِ فَقَالَ: اذْهَبِي إِلَى أَهْلِكَ فَإِنَّهُنَّ نَظُرٌ هَلْ تَجِدِينَ شَيْئًا فَذَهَبَتْ ثُمَّ رَجَعَتْ فَقَالَ: لَا وَاللَّهِ مَا وَجَدْتُ شَيْئًا فَقَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَنْظُرِي وَلَوْ حَا تَمَّ مِنْ حَيْدٍ فَذَهَبَتْ ثُمَّ رَجَعَتْ فَقَالَ: لَا وَاللَّهِ يَا رَسُولَ اللَّهِ وَلَا حَا تَمَّ مِنْ حَيْدٍ. وَلَكِنْ هَذَا إِزَارِي قَالَ سَهْلٌ مَا لَهُ رِدَاءٌ فَلَهَا نِصْفُهُ فَقَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: مَا تَصْنَعِينَ يَا زَارِكُ إِنْ لَبِسْتَهُ لَمْ يَكُنْ عَلَيْهَا مِنْهُ شَيْءٌ وَإِنْ لَبِسْتَهُ لَمْ يَكُنْ عَلَيْكَ مِنْهُ شَيْءٌ فَجَلَسَ الرَّجُلُ حَتَّى إِذَا طَالَ مَجْلِسُهُ قَامَ فَرَأَهُ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ مُؤَلِّيًا فَأَمَرَهُ فَدُعِيَ فَلَمَّا جَاءَ قَالَ: مَاذَا مَعَكَ مِنَ الْقُرْآنِ؟ قَالَ: مَعِيَ سُورَةُ كَذَا وَسُورَةُ كَذَا عَدَدٌ دَهَا فَقَالَ: تَقْرَأُهُنَّ عَنْ ظَهْرِ قَلْبِكَ؟ قَالَ: نَعَمْ قَالَ: اذْهَبِي فَقَدْ مَلَكَتْكِهَا بِمَا مَعَكَ مِنَ الْقُرْآنِ. (رواه البخاري).

Meaning: Received from Sahl bin Sa'ad as-sa'idi ra. he said, "There was a woman who came to the Prophet. by saying, "O Messenger of Allah! I came to surrender myself to the master (to be made a wife). "The apostle looked at the woman carefully, then he bent his head. When the woman realized that the Apostle was not interested in her, she sat down. Then one of his friends stood up and said, "O Messenger of Allah! If you don't need it, marry him with me. "The Apostle asked, "Do you have anything? "The man replied, "By Allah, there is nothing about the Prophet. "The Apostle said, "Go to your relatives! Hopefully you will get nothing. "Then the man left. After returning, he said, For God's sake, nothing. "The Messenger of Allah said. "Look for an iron ring though! "The person left, then returned too. He said, "By Allah, Rasulullah, there is no iron ring. But I have a sarong that I use this. (According to Sa'ad, he has no cloth other than the one used). The woman may take a part of it. "Rasul said. "What can you do with your sarong. If you use it, of course he is not dressed, and if he wears it, you are not dressed. "Then the person sat down. He thought for a long time. Then he left. When the Apostle saw him leaving, he told him to be called back. After he arrived, he asked, "Do you memorize the Qur'an? "The person replied, "I memorized this and that letter. "He then mentioned the names of several letters in the Qur'an The Apostle asked again, "can you read it outside your head?" "Yes," replied the man, "Go, I marry this woman with the Qur'an that you memorized it. (Narrated by Bukhari).

⁴⁹Ibnu Rusyd, *Bidayatul Mujtahid*...., 37.

They said, the Prophet said "Look for a ring even though a ring made of iron" as a proposition that there is no minimum limit, because if there is a limit, then he certainly explained, because it should not delay the explanation of the time needed. Taking such a proposition is clear as we see it, although qiyas is used as a guideline by the ulama (Hanafiyah), saying there is a limitation, it is not accepted by muqadimah, that is because it is formed on the basis of two muqadimah.⁵⁰

First: that dowry is a service. Second, that the worship was determined. In the second muqadimah there is a dispute for the ulama who is handling it. That is because in the Shari'a there is an unspecified worship, even the obligatory one is to do only a minimum of what is called the worship. Also, the dowry is not purely a resemblance to worship, except that the scholars who strengthen this qiyas exceed the understanding of the hadith which is due to the possibility of the hadith specifically for that person, based on the Prophet's words, "I have indeed married you with suras the Qur'ân that you memorized. And this is different from the legal basis. Although in some histories it is explained that he said, "Rise up, then teach him. After stating that he had memorized the Qur'ân then he rose by the Qur'ân. Then there was marriage with wages, but after they (the scholars) looked for the basis that they revealed the size of the dowry to him, then did not find something more similar than nishab cuts hands even though both are far away.⁵¹

According to the author in this case Imam Shafi'i stipulated that the law was more adhered to the zahir instructions and understood according to the provisions of the Arabic language. Stick to text material. However, it does not mean that Ash-Shafi'i continues to follow the zahir walaupun zahir who accepts the opposite. Mazhah Syafi'i, is "adhering to the Shara law" with matters that have remained and continue to apply, not linked to suspicions or conjectures.⁵²

Then according to the writer Imam Shafi'i in establishing services or non-dowry services he wants to make it easy for men who want to marry a non-material dowry or in the form of services or benefits, by not giving difficult conditions namely work or anything that can hired or brought good benefits for the wife, it is legitimate to be used as dowry, such as teaching the Qur'ân, entering Islam, freeing slaves, or teaching other religious sciences can bring many benefits. Disarming brings a lot of mafaat, getting married with a dowry brings its own reward to a husband or wife, which is far more noble than the assets worth millions of rupiah. This will be felt for those who understand and understand the benefits of the dowry. If measured by material, the value cannot be matched, which is important for both parties on a voluntary basis, so it is okay to give material dowry in the form of assets or non-material dowry.⁵³

⁵⁰Syarifuddin, *Non Material....*,78.

⁵¹Ibnu Rusyd, *Bidayatul Mujtahid....*, 35-36.

⁵²Syarifuddin, *Non Material....*, 78.

⁵³Syarifuddin, *Non Material....*, 79.

The first equation exists between the two Imams of the School, Imam Abu Hanifah and Imam Shafi'i alike making the Qur'ân as the main basis in adhering to a law against this and other problems, in the case that they both use the Qur'ân surah al-Nisâ' verse 24, which gives dowry is an obligation to the prospective bride.⁵⁴

Secondly, Imam Abu Hanifah and Imam Shafi'i made the Sunnah of the Prophet Muhammad (peace be upon him), as the second foundation in establishing a law which if the arguments they sought were not found in the the Qur'ân, but sometimes they used hadiths from different lines.⁵⁵

Third, Imam Abu Hanifah and Imam Shafi'i give a picture of a law not to complicate humanity, basically they are just to make it easier for humans to choose which one is suitable and applicable in our lives.⁵⁶

The relationship of giving dowry in the form of services in a marriage contract with the current context. Article 1 sub d Compilation of Islamic Law (KHI) states that dowry is a gift from a prospective bridegroom to a bride, whether in the form of goods, money or services that do not conflict with Islamic law.⁵⁷ Article 30 states that, "Prospective grooms must pay dowry to prospective brides whose number, shape and type are agreed upon by both parties."⁵⁸

The legal line article 30 KHI above shows that the prospective bridegroom is obliged to submit a number of dowry to the prospective bride, however, the amount. The form, and type, are arranged according to the agreement between the bridegroom and the bride. This means the provisions of the legal lines in the Qur'an and Hadith regarding the maximum number and the minimum amount of dowry from the prospective bridegroom to the prospective bride has no provisions. Therefore, it was left to both parties regarding the agreed amount of dowry so that the issue of dowry in marriage between one tribe and another in a Muslim community is different, but in principle it is beneficial for the bride.⁵⁹

From the verses and traditions above, it shows that giving dowry to the woman who is married is an obligation according to the Hanafi and Syafii schools. As for the magnitude of the dowry there are no definite provisions. And dowry can be given in cash or suspended.⁶⁰

⁵⁴Syarifuddin, *Non Material....*, 79.

⁵⁵Syarifuddin, *Non Material....*, 80.

⁵⁶Syarifuddin, *Non Material....*, 80.

⁵⁷Abdurahman, *Compilation of Islamic Law in Indonesia* (Jakarta: Pressindo Academy, 2012), 113.

⁵⁸ Abdurahman, *Compilation of Islamic Law....*, 120.

⁵⁹Zainuddin Ali, *Civil Islamic Law in Indonesia* (Jakarta: Sinar Grafika, 2016), 24.

⁶⁰Anoname, there is no stipulation on the amount of dowry, wibesite online [\[hadits.blogspot.co.id/2016/06/hadits-tentang-tidak-adanya-ketaturan.html\]\(http://hadits.blogspot.co.id/2016/06/hadits-tentang-tidak-adanya-ketaturan.html\). Accessed on July 22, 2018 at 11.00](http://kamus-</p></div><div data-bbox=)

CONCLUSION

The conclusions of this study are: 1). The opinion of Imam Abu Hanifah does not allow service dowry (read or teach verses of the Qur'ân) because it does not include property and is not valid, but he is obliged to pay the lowest price of Mitsil and mahr is ten dirhams, this is according to the Qur'ân surah al-Nisâ' verse 24, the hadith of the Prophet (pbuh), the history of BaihaqI and in this case, more mengipe method qiyas, mengqiyaskan the size of the dowry with pieces, ie if someone steals up to ten dirhams then the hand will be cut off (HR Muslim). 2). Imam Shafi'i allows dowry in the form of services such as teaching the Qur'ân jurisprudence, religious knowledge, teaching halal haram what services or benefits can be legitimately paid for as dowry. Imam Syafi'i used the Qur'ân and verse 24 and the hadith of Al-Bukhari about the permissibility of the memorization of the Qur'ân, stipulating the law to hold on to the instructions of the text and to understand it according to the provisions of the Arabic language. 3). The first friendship, between the two Imams of the School, Imam Abu Hanifah and Imam Shafi'i both made the Qur'an as the main basis in setting a law on this issue, using the Qur'ân surah al-Nisâ ' verse 24, where giving dowry is an obligation to the prospective bride. Secondly, Imam Abu Hanifah and Imam Shafi'i made the Sunnah of the Prophet (peace be upon him), the second foundation in establishing a law, but sometimes they used hadiths from different paths. Third, Imam Abu Hanifah and Imam Shafi'i provide a picture of a law not to complicate humanity, on the basis of only making it easier to choose which one is appropriate and applicable in our lives. In the Qur'ân and Haidts regarding the maximum number and minimum amount of dowry from the prospective male mate to the prospective bride there is no provision. Therefore, it was left to both parties regarding the agreed amount of dowry so that the issue of dowry in marriage between one tribe and another in a Muslim community is different, but in principle it is beneficial for the bride.

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