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Women's *adah* versus “women's law” : the contesting issue of *mahr* in Aden, Yemen

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NOTE DE L'AUTEUR

Fieldwork for this chapter was carried out in Aden in early 2001. I am grateful to the Centre français d'archéologie et de sciences sociales de San'â' and its director, Dr François Burgat, for facilitating my visit to Yemen. My sincere thanks go also to Sâlem Banafa, who assisted me in reading hand-written materials I collected in Aden.

- 1 There can hardly be a better place to study the issue of *mahr* (marriage payment) than Aden, the city that itself once acted as a dower. In the year 1068, Sayyida Arwa, a young woman raised in the royal house married her cousin al-Mukarram, the son of ʿAlī al-Sulayhī who was the Fatimid ruler of the Yemen. The bride was only 16 at the time of the wedding, but well-read and a skilful writer. The ruler bestowed on her as her *mahr* and her personal income and property the revenues of the prosperous port of Aden and its environs. In due course Mukarram became the new ruler, with Queen Arwa on his side. During his rule, it is said, Mukarram gave himself up to the pleasures of music and wine, and the affairs of the state fell into the queen's hands. Ten years later, Mukarram died and Arwa became the actual leader of the country – but not without a new marriage. The power to rule had been given to a kinsman whom she was forced to marry (Doe 1965:22 and Nagi, n.d.:66). Arwa lived more than eighty years and became one of the most beloved rulers of Yemen. Even today the main road of old Aden bears her name.
- 2 In earlier studies on the *mahr*, this payment to the bride that was agreed as part of her marriage settlement has been viewed either from the perspective of women's property (Moors, 1995), or as an expression of marriage regulation between social formations

ranging from kin groups to tribes (Mundy, 1995:131-138; Meneley, 1996:128-129; Dorsky, 1986:107). In this paper I will approach the issue of the *mahr* as a symbol of gender bargaining and a point at which individual, family and social interests meet and often collide.

- 3 In discussions about *mahr*, conflicting representations of gender roles and rights are apparent and reflect the contested nature of the question. This debate over gendered rights and duties manifests various worldviews on the one hand, and different interpretations of Islam and its law on the other. In concrete negotiations over *mahr* payments between two parties, different interests collide: the need of a young man to get married, the aspirations of a woman for a bright future, the financial concerns of the two families and, finally, considerations of social norms and idealised rules for bonding. Discussions over *mahr* bring to the fore arguments that have to do with morality, propriety and normative order. These are debates where customary norms, various interpretations of Islamic law and the enactments of statutory law collide.
- 4 In this paper I focus on the intersection of normativities as expressions of conflict between customary practices (marriage settlements) and prevailing legislation (marriage regulation). The approach is historical; during the last 50 years Aden has been ruled by three quite different regimes with varying approaches to Islamic and customary normativities. During these historical periods, hegemonic discourses have taken on board different kinds of public discussion on idealised, appropriate and contested ways of settling and regulating a marriage. In these discussions excessive spending in weddings might be contrasted to Muslim values of modesty, spirituality and abhorrence of greed. Another line of argument suggests that in *mahr*, women are inspected like camels in a market, where their "value" is measured and they are transformed into commodities. According to this thinking, the father of the bride "sells" his daughter to the highest bidder. These critical views on *mahr* are contrasted to perceptions of it as a customary right of the woman (which Islam guarantees) and a symbol of her desirability, characteristics that a woman can be proud of. From the man's perspective, the ability to pay a high dower manifests his potential and strength. It also shows that he is capable of gathering kinship assistance to raise the required amount among his lineage.
- 5 In these different lines of argument, the *mahr* is discussed in terms of rights, morality and propriety. This debate echoes the contested nature of Adeni social dynamics, where different concepts of normativity collide. As I have argued elsewhere, in this debate three main lines of argument come up.¹The local expressions for these three moral frameworks are "our customs and traditions", "our religion" and "our revolution". As the above brief characterisation of different discourses on *mahr* shows, the last line of argument is typical of the "customary" framework; the idea of excessive dowers as un-Islamic spending belongs to the second one; while the women-as-commodity theme is familiar to the "revolutionary" framework.

***Muhûr* in Aden**

- 6 Before we go into these discussions, it is appropriate to describe what *mahr* is in the Adeni context and how it differs from or resembles marriage payments in other parts of Yemen. In Adeni colloquial, *muhûr* is a woman's right and remains her property. Customarily the *mahr* belongs to her in full, and it is both unusual and socially

condemned if a father or another relative attempts to pocket it. In Aden, a groom and his family do not pay the bride's family any special share upon marriage, as it is customary in some other parts of Yemen. Classical schools of Islamic *fiqh* that are respected in Aden also agree that the duty to support the family lies entirely with the husband, and the wife is under no obligation to use her dower or any other property for the benefit of the family. According to these schools, upon divorce, the woman has to pay the *mahr* back to the husband if she instigates the divorce; otherwise the property remains her "security" for the bad days.

- 7 In different periods of time the way that the *mahr* is paid – whether the full amount is paid promptly upon signing the marriage contract (*‘aqd al-zawâj*), or a portion is deferred for payment in case of divorce or widowhood – has varied. In the last 50 years, the share paid immediately, called colloquially *mahr muqaddam*, and in official documents such as in marriage certificates and marriage records known as *mahr mu’ajjal*, has tended to be more popular than dividing the amount into two portions, immediate and deferred, or agreeing only on the deferred amount (officially, *mahr mu’ajjal*).²The amounts paid have varied in different periods according to the wealth of the families, but also with regard to other factors such as economic prospects,³and in accordance with particular views on marriage and larger ideological considerations that the family endorses, as outlined above. Also, the desirability of the bride, especially her beauty, might increase the amount demanded.⁴In close kin (*aqârib*) marriages, such as between first cousins (*bint ‘amm*, *bint khâl*), the amounts tend to be less. In Aden, people also consider such factors as the groom's income, the kind of housing he can arrange for the couple and his family's reputation as contributing factors in the negotiations over the *mahr*.
- 8 People with roots in the countryside or in North Yemen often require higher payments than Aden-born people, thereby following the custom that prevails in their place of origin. Marriage payments have always tended to be higher in the countryside than in Aden. During the People's Democratic Republic of Yemen (PDY, 1967-1990), the legal limits placed on the dower of 100 Yemeni dinars⁵contributed to equalising social differences. After the unification with North Yemen, marriage payments skyrocketed and started to follow amounts paid in some northern towns, such as Ta'izz and San'â'.
- 9 In Aden, *muhûr* is not the only marriage expense that the groom is responsible for. In the past, it was customary that the new husband gave a gift, a small amount of money, for the *subhiyya*, the tea party given by his mother after the wedding to female relatives and friends to introduce the new daughter-in-law. It has also been customary that upon agreement about the coming wedding, referred as an "engagement" (*khutba*), the groom has to bring presents and an agreed amount of money known as *daf'a*. This sum is often used for buying the bride furnishings and clothes (*kiswa*) that she will take with her into the marital home. The groom's duties also include the wedding party expenses, that is, two to three days of celebrating with a large number of guests, first in the two homes and with the last night in a public wedding club (*nâdî*) in the town. These expenses might include food and drink for the guests, a qat⁶party (*makhdara qât*) for the male relatives and friends,⁷and the fees for the music groups that entertain the guests for an evening either in the home or in a *makhdara*, a tent-like shelter erected in the street outside the home, and also on the last evening in a club. The rent of a wedding club for an evening varies according to the club's popularity and its furnishings. In 2001, *Alf layla wa layla*, a club in Shaykh ‘Uthman, a northern district of Aden, charged

60,000 rials, while the most popular club, *Laylati* in downtown Ma'alla, charged 160,000 rials.⁸ These amounts can be compared to *mahr* payments at the same period. It was quite usual that a young man who wanted to marry a virgin who was not from his kin (*aqârib*) had to raise some 200,000-300,000 rials (7,692-11,538 dinars) in order to get married. The bridal family's share of all the wedding expenses – the furnishings for a bedroom – represented a modest amount in contrast to the groom's duties. Before Yemen's independence, even this was the groom's burden.

- 10 Adenis look resentfully at the payments to the bride's family that the groom and his family have to provide, which are known as *shart*, *nuqûd* and *sadâq* in other parts of present-day Yemen. As Mundy describes the custom in Wâdî Dahr, north of San'â', the groom is obligated to pay three kinds of expenses: the costs of the festivities, a transfer of money to the wife's guardian (*shart*) and the endowment of the bride at marriage (*mahr*, *haqq al-fitsha*). Out of these, the *shart* is a major transfer that performs the role of mediating the relationship between the two houses whose children have got married. The greater the risks and alienation apparent in the bride's moving to a new household, the bigger the *shart* tends to be. The bridal endowments comprise not only the direct payment, often in the form of jewellery from the groom, but also the furnishings that she receives from her own family, which are purchased with money from the *shart*. *Haqq al-fitsha* is a small amount and refers to the right that the groom purchases from the bride to be able to see her unveiled (Mundy, 1995:131-132). Such a practice exists also in some parts of the southern rural areas both north and east of Aden. It is not practised in Aden, simply because the bridal couple more often than not know each other and meet during the engagement period. Outside Aden, particularly in some areas in the governorates of Abyân, Shabwa and Mahra, the bride and her mother demand a separate compensation from the groom for the *laylat al-dukhla*, that is, for the first sexual intercourse. This custom is called *haqq al-sabâh* in some places. Such customs are generally viewed in Aden as "backward" (*takhalluf*) and manifest the lesser culture of the "badu"⁹ in the minds of the townspeople.

Excessive *mahr* as repugnant to islam

- 11 In Aden, approaches to Islam have historically tended to polarise into two groups: those who view with tolerance the variety of popular expressions of religious worship, and those who support purification of the faith from "foreign" (and traditional) elements. Throughout the twentieth century the first form has tended to be stronger, while proponents of the latter have occasionally been very voluble. In February 1961, the popular Adeni newspaper *Fatât al-Jazîra* reported in "Our beautiful half!", the page devoted to female readers, about a public meeting organised by the Youth Section of the Aden Tennis Club (*nâdî al-tannis al-adanî*). In this open meeting the problems of Adeni young men in getting married were discussed. The article described how the debate was organised to reflect the problems they faced in customary marriage, where the groom was expected to amass a large sum of money before he even could consider marrying. The background to this lay in the economic boom that Aden, then the world's third busiest port, experienced in the early 1960s. With the growing economy, wedding expenses and the dowers requested also increased. In spite of the economic upswing, young men found difficulties in meeting these new demands. Another serious problem that affected young men who wanted to establish a family was the chronic

housing shortage in Aden. At the height of colonial rule, the city attracted thousands of migrants from neighbouring areas, all in need of accommodation. To make matters worse, the young brides-to-be pressed their fiancés to furnish a home separate from the latter's parents.

- 12 In view of the urgency of the problem, it is not surprising that the meeting attracted 60 young men keen to discuss these matters. At the beginning of the meeting, one young man introduced its theme. In the ensuing discussion, wedding expenses and the increased amounts of dower were identified as the main problems. One of the participants was Muhammad Bin Sâlim al-Bayhânî, an active debater, Islamic scholar and graduate from al-Azhar in Egypt. He acted as the Imam of the al-Asqalânî mosque in Crater, in downtown Aden, and, although partially blind, sat on the board of the Tennis Club youth section even though he was no longer young and hardly played any tennis. Al-Bayhânî was a well-known personality who promoted his ideas not only from the pulpit of his mosque or on other public occasions, but also in books he authored. Among these ideas was a call to a religious reform that would purify Islam from practices of idolatry (*wathaniyya*) and from worship of forces other than God (*shirk*). The British described him as a troublemaker while his opponents called him a Wahhabî. His presence in such a club illustrates the lively political climate in Aden, which was at that time a centre for clubs and societies of all kinds.
- 13 In addressing the meeting, al-Bayhânî suggested that the gathering should establish a committee to start troubleshooting the problems. He demanded that the *dafa*, the amount paid upon *khutba* ("engagement") should be limited to 3,000 shillings (150 dinars) and that the *mahr* written into the marriage contract should be limited to 1000 shillings (50 dinars).¹⁰ He also suggested that in case the wife initiated a divorce without a legal (*shar'î*) cause, she should pay back half of the *dafa*. With harsh criticism, he raised the problem of spending that was customary in Adeni wedding preparations. According to him, such excessive squandering turned weddings into feasts of licentious behaviour. He also proposed that *qât* parties should be banned and people discouraged from collecting money by such methods.
- 14 In addressing the housing problem, the learned *Shaykh* suggested that the state should take measures to ease the shortage. This last proposal did not satisfy all the participants and it was suggested that an endowment should be started to find solutions to the chronic lack of housing. The fund could also assist young men to solve their financial problems and to facilitate marriage. Finally, the *Shaykh* proposed that a limit should be put on how much a person who earns less than 500 shillings (25 dinars) a month should be expected to spend, and that at least he should not be required to organise a *qât makhdara*. In conclusion, the meeting decided to found a "Committee to facilitate marriage arrangements and for a happy family" (*lajnat tashîl al-zawâj wa is-âd al-'usar*), with members from the Club board. The committee was supposed to start negotiations with the authorities, religious scholars (*rijâl al-dîn*) and the press to obtain cooperation.¹¹
- 15 The above discussion is an example of how the prevailing marriage customs were debated in the early 1960s. Nevertheless, the criticism presented today is as vital as it was 40 years ago. Throughout the 1990s, the Islâh party, the leading "Islamic" party in the unified Yemen, organised group weddings, occasionally with dozens of couples participating, in order to reduce the expenses and provide a "real" Islamic occasion for a wedding. In these celebrations – which still continue – no music is played and no

wealth or fancy clothes are displayed. Instead, participants in strictly segregated parties for men and women engage in singing religious songs and in reading the Koran. Unlike other weddings, these occasions are not photographed or videotaped.¹²

- 16 The meeting described above expressed the sentiments of young men who, from a very practical point of view, saw marriage as a cost that was difficult to meet. On the other hand, it was a platform for *Shaykh* al-Bayhânî, one of the most outspoken men of religion at that time, to preach against the "bad customs" that, according to his understanding, people in Aden were engaged in. The talk of greed was directed not only against families – the fathers and mothers who negotiate the marriage deal for the daughter – but also at the young women themselves. Both the condemnation on grounds of religion and the practical views of the young men showed no sympathy for the security that the *mahr* provides for a woman.
- 17 In the early 1960s, women's participation in the labour force was very low, and since girls seldom went to school or learned a profession, marriage was their only future. In case the marriage failed, and if the woman had become alienated from her natal family (or all its earning members had died), the options to support herself and her children were few. She could either remarry, in which case she lost her children, or she could take up prostitution, a vocation that had a good market in a city full of immigrant workers and a colonial army of men whose families were absent.
- 18 Coming from two different spheres of interest, the views presented in the Tennis Club Youth Section meeting highlight the urgency felt in Aden even before independence about the need to reform the way marriage was arranged and to introduce tough regulations about it. This is important to remember when we look at the process of drafting a family code after independence. Bayhânî's suggestions, presented in the framework of Islam, to lower the dower to a nominal sum, were consistent with the measures to put legal limits on the dower that were enacted by the leftist government that took over after independence. In the 1974 Family Law, the *mahr* was limited to a symbolic amount of 100 Yemeni dinars (2,000 shillings), paid either immediately, or else deferred, or split into two. According to Adeni marriage records, 100 dinars was in the early 1970s the sum that a man with a good salary and a profession such as that of physician, teacher or state employee could easily afford to pay for a virgin bride. The amounts paid to a *thayyiba* (non-virgin) were considerably lower, such as the 7 dinars 50 fils paid in *mahr mu'ajjal* by a 55-year-old mechanic to a widowed woman aged 45 in September 1970.

***Qânûn al-mar'a* (women's law) emerges**

- 19 After independence, the leftist government wanted to introduce changes to the framework of family relations. One of the basic changes had to do with marriage payments. The new government's rhetoric in limiting the *mahr* by law was not based on the arguments presented in the Tennis Club meeting, even though there are similarities, in particular that the government wanted to make it easier to establish a family. A new law was drafted in 1971 and subjected to popular discussion. The process of amending the draft lasted three years, and during the public debate – as recalled later by some of the notaries in the drafting committee – women were more in favour of radical reform than men (Molyneux 1982, 9ff. 14).

- 20 The process of drafting the law involved some prominent *qâdîs* / Muslim judges – *ibid.*: 9, as well as people who were not in a position to be consulted on matters of *sharî'a* or had the authority to give legal opinions. Ghânem notes, in a critical tone, that the draft and its provisions were discussed by the ruling party, by mass organisations such as the Women's Union, and by the press, as well as with people who had legal qualifications but not necessarily knowledge of the Islamic *fiqh* (Ghânem, 1976:191)¹³. In addition, the draft was discussed in public meetings organised by the government with local authorities, over a period of four months in the main cities and throughout the countryside. It has been reported that during these meetings, members of the drafting committee were at pains to defend the law within the Islamic context, since it was a new and different interpretation of Islamic law and deviated from what was customary in many respects. As one member of the committee later recalled: "We researched the old books of *hadith* [tradition] to show that we had not created anything; everything is in Islam. We only gave vitamins to old ideas, [in order] to have them triumph."¹⁴
- 21 After independence, an essential part of the government's policies for promoting social change was directed towards the creation of a new type of family that would bring up citizens who would acquire "new ideas", based on economic, social and educational equality irrespective of race, ethnic origin, religious adherence, language, level of education or social status, in accordance with the 1970 Constitution.¹⁵ In this project, women were allotted a central role as mothers, who were considered to bear the main responsibility for the bringing up of children in the "new family". In addition to this role, women were persuaded to join the labour market to participate "alongside the man" in building the new society. They were encouraged to leave home and to take positions in public spheres previously held only by men. In part, this resulted from the need to have the contribution of women in building up a national economy in a former colony that had been heavily dependent on the foreign regime. The encouragement of women can also be seen as a measure to downplay sexual segregation, which was considered incompatible with new gender ideals where the woman's place was said to be "alongside the man", and where she was now described as the "sister" of every man and as representing "half the society" (*nisfal-mujtama'*).
- 22 It was claimed that the new familial ideology was based on gender equality, but in fact it built on the notion of complementarity of gender roles. This concept has roots both in Islam and in local custom, as the complementary roles of man and woman found in both contribute to the founding of a "happy family". In everyday life, the idiom of a happy family provides strong ground for individual self-presentation, gendered in line with roles that the family assigns to both sexes.
- 23 The idea that through the *mahr* the father "sells" his daughter to the "highest bidder" is presented in the preamble of the law:
- (...) whereas the family ties, in all their forms, were not subject to a unified system except the feudal relations which made of the noblest human ties a business practice and placed the fate of the Yemeni woman in the hand of the highest bidder.¹⁶
- 24 It is evident that the mere possibility of joining the labour market and earning her own income contributed to making the woman equal with the man in terms of choosing how to support herself. However, attitudes did not change at the same pace. Even today, marriage is considered an obligation for every woman. Although the law limited the payment of *mahr*, inheritance legislation was not modified accordingly, but followed

the classical *shar'î'a*. This is in conflict with the stipulation in the law that "expenses in respect of marriage and the conjugal home requirements shall be borne by both husband and wife according to their means" (Chapter IV, §17). Alongside this, the law laid down the duty of both the adult son and daughter to support their parents (Chapter IV, § 24).

"Women'slaw" versus women's custom

- 25 While the law set an explicit limit to the *mahr* (Chapter IV, § 19), on the *daf'a* it was rather vague:

"There may be exchanged during the period of engagement token gifts which shall neither form part of the '*Mahr*' (payment in consideration of marriage) nor be returned in case the engagement is revoked by either the betrothed or the fiancée." In regard to observance of the law, the same paragraph stated: "The authority concerned with the administration of this Law may determine such maximum value for such token gifts in accordance with the prevailing standard of living and may also determine anything which is not to be deemed as a token gift" (Chapter I, § 4).

- 26 Not surprisingly, after the enactment of the law in early 1974 the practice of paying more than 100 dinars in *mahr* continued. The usual method was to sign for 100 dinars in the marriage contract in front of the *qâdî* and to agree between the two families about payments that exceeded it. These payments were either money paid as immediate dower, or gold and other financial assets, or a considerable amount of *daf'a*. To start with, such negotiations between two families dealt with the value and number of gold items (*badla dahab*) the groom was to give to the bride. These usually comprised a wedding ring (*khâtîm*) and four bangles (*shawâliyya*). It is customary that if a woman gets more gold, it might be some *asâwir* (bracelets), a *shabka* (a ring attached with a golden net to a bracelet), a set of *wazagh* (ear rings), an *iqd* (necklace), or a *silsil* (chain-like necklace). If the groom is very wealthy a woman might bargain for a *hizâm*, a golden belt. In rare cases such as this the marriage deal becomes the talk of the town. Women in particular are conscious of the value of gold items and often visit the numerous goldsmith's shops near the vegetable market in Crater to compare prices and become familiar with new items.¹⁷This custom, together with that of displaying the gold in women's gatherings such as wedding parties, helps to make a distinction between people with different assets.
- 27 Other expenses that the two families negotiate between themselves and agree to verbally include expenses for the wedding party, furnishings to the bridal home and new cloths (*malâbis*) to the bride. All these costs, if paid by the groom and his family upon the *khutba* (engagement) are called *daf'a* (payment). For example, in a wedding that was celebrated in December 1987 between an official in a shipping company and his bride, a 21-year-old student who later graduated as an accountant and started to work in a kindergarten, the *daf'a* agreed between the families was as high as 15,000 shillings (7,500 dinars). This amount was all that the groom paid immediately, because no *mahr muqaddam* was paid. A deferred amount of 5,000 shillings (250 dinars) was agreed verbally between the families but not written into the *aqd*. The latter amount exceeded the limits set in the law. In the late 1980s, 7,500 dinars was a huge amount of money.¹⁸Living costs were stable at that time and rents very low, from two to five dinars a month. This couple each made some 60 to 70 dinars a month. The amount was used for organising a large wedding party lasting three days, to which were invited

relatives who were able to travel from the native villages of both the bride and the groom in al-Baydha, North Yemen, together with neighbours, friends and work colleagues. In addition, the bride received expensive gold items and many new clothes, and equipment was bought for a furnished bedroom in the groom's parental home. As this was a wedding between two branches of the same family, there were no problems in negotiating the deal. From the bride's side, it was her mother who did all the negotiating even though the father was also present.

- 28 Another way of getting around the enactments of the 1974 law was to verbally agree on a deferred amount that would be due if the husband divorced the wife or if he died. In the above case, if the bride refused to take any immediate dower but accepted a large quantity of furnishings and other presents, in the following marriage deal she would give up all immediate payments or presents whatsoever. This is a family where the father and the daughter had acquired "new ideas" and considered the *mahr* to be a token of women's commoditisation. The daughter, "Samîra", told me:

"A woman is not a commodity that can be bought and sold. If that were the case, then women's value would depend on the *mahr* amounts: with a boost in the payments women's value would increase. This is wrong."

- 29 Samîra had chosen her fiancé herself, a distant relative whom she already knew from her native village and who shared her political activism. For the wedding, which took place in 1981, her father carried out the negotiations with the other branch of the family. The families came originally from Ta'izz area in North Yemen, but had settled in Aden some time before. In line with his daughter's and his own convictions, the father agreed a marriage deal with no payments at all. After learning this, the bride's mother intervened and pushed forward adequate guarantees for her daughter's future. Thus a huge amount of 40,000 Northern Yemeni rials was verbally agreed between the two families as a deferred dower. The mother's intention was simply to make divorcing her daughter difficult for the son-in-law. The daughter did not agree on the necessity of such guarantees: first, she had her own income as she had a good job, and second, she had the law on her side, which, as she explained to me, made *talâq* or repudiation illegal. For the mother these facts made no difference; the only real guaranty for a woman could be achieved in the customary way, that is, by bargaining a good financial settlement for the woman.

Equalising possibilities, eradicating distinctions

- 30 By the end of 1980s, 100 dinars had become the rule among people of different social backgrounds, thus paving the way to more equitable social relations. In a typical marriage recorded in the Sîra district Marriage Records, in April 1982, a 29-year-old private in the army (born in North Yemen) married a 21-year-old *âzîba* (single woman) born in Crater and working in the office of the Aden governorate. The bride signed the contract with her own signature¹⁹ and, as had become now the custom, without the presence of a *walî* ("agent") or *wakîl* (custodian). The *mahr* was recorded as 50 dinars to be paid immediately and 50 dinars in deferred payment. In another union recorded on 4 January 1982, a 23-year-old policeman (*shurta*) married an 18-year-old illiterate (*ummiyya*) woman born in Abiân,²⁰ whose profession was given as "housewife" (*rabbat bayt*). This was the first marriage of the bride and the groom and no kinship relation existed between them. For both of the grooms, who represented professions on the

same low salary scale as workers and lorry drivers, the immediate *mahr* was bigger than their monthly salary, but it was still within their means. The way these entries were recorded reflects the changes in administration. Since 1975, local people were no longer classified as "Arabs", the word the British used in order to avoid recognising that North and South Yemen form one country of Yemenis. The new expression was "*Yamani/iyya*" (Yemeni masc./fem.) but if the person was born in the "northern part of the homeland", as North Yemen was officially called during that era, it was written "*fi-l-shimâl*" – in the North. Brides were no more classified as *bikr* or *thayyiba* (virgin and non-virgin) but as *âziba* (single), *mutallaqa* (divorced), or *armala* (widow). The same classifications were used in recording the civil status of the groom.

- 31 A new feature was that the *qâdî* who acted as the *ma'dhûn*, or marriage registrar, started to include a profession for the woman. By this time women had begun to join the labour market in large numbers, and it was no longer exceptional if a woman worked. If she had no particular profession, the *qâdî* inserted "housewife". By 1982, a new registration form had been issued. Its introduction was supervised by the UN Population Fund and reflected larger aims of population data-collecting. Items recorded in the form included social status prior to marriage; previous marriages and children born thereof; the nature of a possible kinship relation between the spouses; place of birth and present place of residence and profession. This form was in use until the country's unification, when a new, more restricted form was introduced by the government in San-â', the new capital.
- 32 By the late 1980s, a *mahr* of 100 dinars had also become the norm for marriages where the bride was no longer a virgin, a factor that had previously decreased the dower considerably. On 20 June 1982, a young Aden-born man of 20 years of age and with his own business (*qitâ-khâs*) entered his first marriage with a 22-year-old divorced woman, who was recorded as illiterate and a housewife. No kinship relationship existed between them. As in all marriages at the time, the *mahr* was recorded as 50 dinars in immediate payment and 50 dinars deferred. During the 1980s, the last decade of the PDRY, poorer sectors of society had caught up with the affluent strata in dower payments. It was evident that this fact did not please those who were accustomed to enjoying social superiority. Among affluent families who wanted to display their wealth upon marriage, the amount and quality of jewellery and other furnishings that the bride received, together with luxurious and pompous wedding celebrations, became ways of making a visible distinction between themselves and lower social categories. The new practice of leaving for a honeymoon after the wedding also reflected the "modern" customs introduced by the elite to Aden.

Token dower and "new ideas"

- 33 However, not all better-off people considered marriage as an opportunity to display their affluence. Already in the late colonial period it had become the custom among some families to pay only a token dower. "Bilqîs", a woman who had married in 1960, told me that she refused to take any *mahr muqaddam* because she was working. Her husband's sister had recommended her to him. The sister was a former classmate of Bilqîs's in the Aden Girls College, a secondary school in Khormaksar where they had both studied English. Upon the engagement, Bilqîs's father, a progressive man in her view, refused to take any large sums from his future son-in-law, as the young man was

highly educated and the father trusted that he would be able to take good care of his daughter. They agreed that the young man should bring 4,000 shillings (200 dinars²¹) as *dafa*, which the father later handed in full to Bilqîs. With this money she bought clothes and other furnishings. She did not want any gold except the wedding ring, because "I already had gold because I was working".²² She was 22 and earned a good salary as a teacher in a vocational institute.

- 34 Bilqîs also refused to take any immediate *mahr*, and the only amount recorded in the *caqd* was the deferred dower of 100 dinars. She explained to me that her father's behaviour in negotiating the marriage was exceptional, since, according to her, "most Yemenis want a lot of money, especially if they are from the *rîf* (countryside)". It is evident that the father was satisfied with less because the groom had a good job and a high salary, and could provide a separate fully furnished house for the couple, and after the wedding the groom bought even the bedroom furnishings for it. In this sense Bilqîs's marriage settlement resembles token dower practices in Palestine. According to Moors, agreeing to a token dower meant that the bride and her family expected the husband to bring presents to the bride instead. The bride's family exchanged the right to *mahr* for gifts that were expected to exceed in value a regular dower (Moors, 1995:106-113).
- 35 During the era of the PDRY, the custom of recording a token dower became popular and reflected other aims besides converting the dower into expensive presents. In particular, highly educated working women who had organised their marriages on their own often settled for not taking any expensive gifts from the husband. As one 28-year-old woman with a university degree explained: "The woman has the right to refrain (*nazala*) from the *mahr*." In June 1970, a 19-year-old nurse born in Ma'alla, who in the *ma'dhûn*'s office had her paternal uncle as her *walî*, married a 24-year-old government employee. The immediate *mahr* amounted to one dinar. In August 1991, a marriage was recorded in Sîra district between a government official who was a highly educated woman in her mid-20s, and a man aged 30 whose profession was a clerk. No *mahr* was recorded.
- 36 As a "modern" element, "love marriages" or, as such arrangements are called in Aden, "love before wedding", have become popularly accepted. Such a union is of course not a new phenomenon, but its greater acceptance is a symbol of modernity, since it downplays traditional family hierarchies and kinship structures. This type of marriage is distinguished from the customary arranged marriage that involves the entire family in choosing, planning, negotiating and organising the marriage, and which is called locally "love after wedding". Such local definitions, important to young people in particular, reflect the fact that in Aden a marriage is always supposed to be based on love. However, love is not considered to be the only important element, as a marriage should also manifest mutual respect, support and cooperation.
- 37 Marriages with love before the wedding often involve little or no financial transaction. Sâlim, a graduate from Aden University, explains his marriage arrangement:
- It was a long-time love affair. We had already met in the secondary school. After the school our ways separated as she left to Moscow to study and I went to San'â'. Years passed, and we met by chance back here in Aden. I made enquiries and found out that she had not married in the meantime. I went and asked her and she said yes. Her father had left the country after the 1994 civil war and was now living in Cairo. I travelled to Egypt to meet him and to sign the *caqd* with him. My father-in-law said he does not want any *mahr* to be paid so we wrote only one Egyptian guilder in

the contract. But I insisted on a deferred dower of US\$2000 and gave my wife a wedding ring, bracelets and a necklace.

The "women'slaw" and how it was viewed

- 38 During the period of the 1974 Family Law (1974-1992) agreements between the groom's and the bride's families about exceeding the legitimate dower were based on verbal agreement, as is customary in Yemen. Nobody I asked among law practitioners or lay people acknowledged the existence of secret written documents alongside the official (and *sharī'a*-based) marriage contract. After the 1974 law was replaced by new legislation for the unified country – the Personal Status Law No. 20 of 1992 – no woman brought before the Aden Divisional Court a case for suing her ex-husband for failing to pay the verbally agreed portion of a marriage payment that exceeded the limit set in the former law. The limitation of *mahr* was among the best-known stipulations of the 1974 law.²³
- 39 Reactions towards the 1974 law varied, especially in regard to this limitation. While the law otherwise was rather well received, and those who considered that it gave women too many rights were in the minority, the issue of *mahr* aroused mixed feelings. Nevertheless, it was not a question of women opposing the limitation and men being in favour of it. As mentioned earlier, high dowers tended to be typical of people who had moved to Aden from the countryside. Such families might have properties that could be mobilised when a wedding took place. By contrast, Adenis themselves seldom have properties.
- 40 Another salient factor seems to be the age of the respondent. As a result of the dramatic changes in Adeni history during the last 50 years, the circumstances in which people have contracted marriages have varied considerably. Based on the idea that people of the same generation do not necessarily share reactions to the circumstances where they live, but do share a common recognition of those circumstances, I have suggested that there are three markedly different generations in Aden (Dahlgren, 1998). First, those who are now elderly contracted their marriages during the late colonial period and the early years of independence. At that time, women seldom had education or were engaged in income-generating activities, and were thus economically dependent on their husbands. Second, in families of the middle generation, women joined the labour market, often chose their own husbands and attempted to establish marriages based on partnership and sharing. Men of this generation often supported the changes that improved the position of women, but not uncommonly changed their minds after unification, when women's "too many rights" were eliminated in legislation and men were once again allowed customary and Islamic privileges in marriage²⁴. Third, in contrast to this group, the younger generation tends to view marital relations in the same way as their grandparents, that is, in terms of a clear patriarchal hierarchy within the family, perceiving women's principal role to be as mothers irrespective of education or profession. The young people I met called these values "Islamic role models for the genders".²⁵
- 41 When I enquired about the ways in which the law was circumvented, I also asked what women in particular taught about the *mahr* issue. Most respondents were in favour of the law.²⁶ It was characteristic that a woman whose marriage was contracted in 1979 explained: "We accepted the law and the limitation. At that period the amount was

sufficient, as circumstances were such and prices were low." In her wedding contract no *mahr* was recorded. Instead she received gold, and her husband, an engineer, provided housing separate from his family, in a spacious flat with three rooms. This marriage is a typical Adeni union of the older generation, with both spouses having roots in the town and with the woman not working outside the home but managing the domestic economy.

- 42 Another older woman, married in 1966, explained: "The law has made it possible for many people to get married in the first place. Prices were low at that time and the dinar had a good value." In her marriage, which was contracted just before the independence, she received no immediate dower, only gold and equipment. Instead, the groom paid her mother 1,500 shillings (75 dinars) and an extensive *mahr mu'ajjal* of 10,000 shillings (5,000 dinars) was recorded by the *qâdî*. Seven days after the wedding, on her *subhiyya* celebrations, she received a gift from her husband that he himself had initiated. She explained that before independence it was customary to demand bigger amounts in deferred dower than in immediate dower, simply because the woman needed security for a possible divorce or widowhood.
- 43 Not only older women supported the limitation of *mahr*. A young woman who graduated from the Medical Faculty and married in 2000, received a huge immediate dower of 300,000 rials²⁷(11,538 dinars). She put it this way: "Yes, we accepted the law. Circumstances are now different. Then money was enough, today nothing suffices." Another young woman, married in 1993 to a worker, told me: "The little I know about the law, yes, the amount was enough. The families agreed between them about all the other payments. If the groom was wealthy, he was expected to provide the bride with all she needs for a fine wedding, so that she is well equipped."
- 44 One woman who married a government official in 1980 suggested that in actual terms the *mahr* paid during the jurisdiction of the former law became on average 10,000 shillings (5,000 dinars). That comprised the legitimate *mahr* (100 dinars) paid upon signing the contract, together with gold items and a *dafa* for all other equipment and clothing.
- 45 Those women who did not approve of the limitation of the dower tended to be negative to the law in general. A secretary who married an electrician in 1992 explained to me: "Women had no say when the law was enacted." She seemed to be very dissatisfied with her own marriage deal too, as she explained that her father, an engineer born in Aden, concluded the negotiations with her husband's father without informing her how much he had demanded and how much the other party had offered. She said that there should be mutual understanding in marriage and between fathers and daughters. Another woman explained her criticism this way: "Those in power watched that the set amount was not broken. The amount was not enough. We were forced to accept the law. To some extent it was sufficient anyhow." She married an aircraft engineer in 1983 in al-Mansûra, a northern suburb of Aden. He was her relative and paid her father 5,000 shillings (250 dinars) in immediate *mahr*. However, part of this amount was used to feed the guests at the wedding party, and she was given only what was left over. However, all the gold items, a wedding ring and bracelets remained her property.
- 46 Beyond the general negative attitude towards the law, economic factors were another main reason for opposing the limitation among those I interviewed. A woman married in 1989 to a broadcasting technician told me: "I could not be satisfied with so small an amount and did not support the law." She received 600 dinars as immediate dower.

According to her, no separate *dafa* was paid, and all equipment and furnishings were included in the *mahr*. Naturally, she received the customary gold items. She herself, her mother and husband were born in Aden but her father was "from a village" (*min qarya*), as she put it.

- 47 I also asked people what kind of problems arose when the law was broken. Was it difficult to break the law in the first place? Some said that since it is customary in Aden to make verbal agreements and because the payments were due to be paid before the wedding anyway, there were no risks. The marriage simply did not take place if the agreed amounts due were not produced. Some people recalled that at times the Local Defence Committee²⁸ had to resolve quarrels that involved unmet promises. An elderly woman recalled: "Occasionally there arose problems and the parties quarrelled. If the argument came to the knowledge of the Committee both parties might have ended in prison."
- 48 Jurists with whom I discussed the matter did not remember that many people had been sent to prison. It was anyway the practice to pay a *dafa* in connection with an engagement where one could hide part of the payment and buy expensive gold outside the legitimate *mahr*. And since verbal agreement is the custom, few people expected or encountered problems from the authorities. More often, instead of criminal consequences, a marriage that floundered in disagreement was terminated in court²⁹.

New times, new fashions

- 49 After national unification in May 1990, the 1974 law remained in force until it was replaced with the Personal Status Law that came into effect in summer 1992. In perusing the Adeni marriage records at that time, three interesting trends emerge. The first is that marriage payments skyrocketed and started to follow the practice in Ta'izz and San'a'. The second is that *mahr mu'ajjal*, the deferred dower, comes back into the picture. During the period of the 1974 law it was usually recorded, if at all, together with an immediate *mahr*. Now, several marriages are contracted with only the deferred amount documented. For instance, in a marriage contracted in summer 1992 and recorded in Sîra district, a 29-year-old divorced housewife from Radfan³⁰ became the fourth wife of a 57-year-old entrepreneur from Abyan³¹. It was the bride's second marriage and the groom's fifth. The only payment recorded in the marriage contract was a deferred dower of 100 dinars.
- 50 The third trend that emerged with the change in the law is that some people stuck to the previous law. In a wedding contracted in December 1992, a 20-year-old Aden-born woman whose profession is recorded as "housewife", makes a first marriage to a 35-year-old worker born in Hadramawt³². The *mahr* is only 100 dinars.
- 51 Reflecting on why a working woman with a good income of her own needed a high dower when marrying, I asked a women's rights activist about her opinion. She explained:
- 52 Middle class people these days³³ demand about 200,000 rials. Two of my sisters married last year. Both chose their husbands themselves and work, but still demanded this amount. They want to have the respect of the man. They wanted to see that he is ready to pay such a high amount. They also wanted their weddings to be special; it is after all

a once in a lifetime event. Both celebrations were organised in Laylatî club, 160,000 rials for the night.

53 To emphasise her sentiments, she continued:

"I was brought up with different ideas during the PDRY. We explained that you give your life and love to your husband, [so that] there is no need to pay high dowers. Now, after the unification, backward customs are returning."

Conclusion

54 At different periods during the 50 years discussed in this chapter, the issue of the *mahr* has been debated in the public arena in terms of control and limitation, while the practice among people contracting marriages has shown two tendencies: leniency and excess. The public discourses, whether argued from an "Islamic" point of view or as part of a state discourse to reform society and take into consideration "women's emancipation" (*tahrîr al-mar'a*), have collided with customary practices that argue in a variety of ways in favour of high dowers. Nevertheless, these public discourses have been widely supported.

55 While the 1974 Family Law has been commonly called the Women's Law (*qanûn al-mar'a*), with the idea that its provisions favoured women in particular, in light of the dower question such an interpretation is highly controversial. This finding puts the arguments of those who criticise the law, who say that it uniformly favoured women and gave them "too many rights", in a new light. Even though it would be easy to think that the contested *mahr* issue divides people according to gender, with women favouring excessive amounts and men opposing them, in this paper I have attempted to show that this is not the case. In discussions with people of different age categories and representing various social ranks, and of both sexes, it became evident that people link their positive or negative attitude to high dowers to wider aspirations about society.

56 In Aden, the *mahr* is rarely discussed in reference to property; this probably has to do with the fact that Adeni families seldom have properties that they could sell or move when contracting marriages. Instead, bridal payments are mulled over in terms of security, respect and dignity. People talk about how much dower is sufficient, recommended or decent. Criticism is expressed in terms of greed, commoditisation, or as offensive to Islam. All this debate is inevitably discussion on propriety (*adab*) and morality. On the issue of *mahr*, people argue moral values and social ideals. In legal discussions, *mahr* is addressed in terms of regulation, sufficiency and decency, values on which different societies construct their ideals for the family, too, as a basic tenet of society. In these colliding discourses, the *mahr* is argued in reference to larger visions for a desired future for society.

57 In this paper I have suggested that alongside the usual and still accurate perspective of looking at *mahr* as property or as a tool in social bonding, assessing the practice as a discourse on morality and propriety might bring refreshing new viewpoints to this centuries-old controversial issue. In reviewing how marriage settlements (as expressions of customary practices) have historically collided with marriage regulation (as the manifestation of statutory or other types of law,) the question of the *mahr* has proved a fruitful: in Aden these two forms of normativities have seldom been in peaceful coexistence.

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NOTES

1. Dahlgren 2002 and my Ph.D. dissertation (submitted for examination).
2. While carrying out the fieldwork for this paper I read through the Adeni marriage and divorce registers for the period 1951-2001. Aden is divided into three districts, each with an official *qâdî* acting as the marriage registrar (*ma'dhûn*). Sîra district comprises of Crater and Khormaksar, and Mîna district of Ma-alla and Tawâhi. *Shaykh* 'Uthmân district covers the northern suburbs in the mainland. Since the unification the number of *qâdîs* has gone up to 35, which makes

administration of records more difficult. The records are stored in the Ministry of Justice and Waqf, Aden Branch.

3. People consider economics not only in terms of family income, but also in regard to national economic policies and the available prospects for labour migration.

4. In choosing a bride, three factors are usually taken into consideration. These include her educational level, beauty and her family's level of wealth

5. When South and North Yemen united in 1990, the northern rial was adopted as the national currency. One southern dinar was fixed at a value of 26 rials.

6. A mildly narcotic shrub chewed in societal gatherings, a habit practised by about 90 per cent of men and a much smaller percentage of women, often on a daily basis.

7. This party is frequently organised so that guests can contribute to the expenses the groom has to bear. Among wealthy people no contributions are expected, and the guests might instead be provided with expensive *qât*, drinks and *shishas* (water pipes).

8. About 2,307 and 6,154 dinars respectively.

9. Adenis have a tendency to call people in the countryside "badu", even though they know that they are not Bedouins but settled folk. This name indicates the distinction that Adenis like to keep between themselves and these "uncivilised" or "backward" people who have "customs that degrade", as the difference is often characterised.

10. During this period, the dower payments registered in marriage records for a virgin bride varied between 15 and 50 dinars among workers and lower middle class people, but were much higher among wealthier groups. It is possible that the young men who attended the public meeting were from modest backgrounds, otherwise al-Bayhânî's suggestions would hardly have impressed them.

11. *Fatât al-Jazîra*, no. 1568 (February 1961).

12. Under the influence of the religious purifiers, people have become afraid to videotape weddings. In those weddings that are still taped, the former male video cameraman from a local video shop has been replaced by a woman video operator with a scarf covering her hair.

13. In the early 1970s the ruling party was the National Front, successor to the National Liberation Front, a leftist coalition. It ruled in coalition with two smaller parties, the Popular Vanguard Party (pro-Syrian Ba'athists) and the People's Democratic Union – the Communists (Halliday, 1974:214-222).

14. *The Middle East*, February, 1983:47.

15. Constitution of the People's Democratic Republic of Yemen 1970, Chapter I, Article 34 (1971:19).

16. Family Law, official English translation, issued by the Information Department of the Ministry of Information in 1976.

17. These days the gold comes from Saudi Arabia. Only a few decades ago, gold replaced silver that was made up locally by numerous silversmiths, a profession traditional to Adeni Jewish families.

18. At that period one dinar was equivalent to about US\$3.

19. Illiterate people sign with a thumbprint.

20. A governorate northeast of Aden.

21. The East African shilling, the currency that replaced the Indian rupee in the colony in 1951, was later renamed the South Arabian dinar. After independence, the dinar was itself renamed and became the Yemeni dinar. One dinar equals 20 shillings and one shilling 50 fils.

22. It has remained customary that if a woman works and is able to retain her income, she invests it in gold.

23. The 1974 law is otherwise known, particularly among women, as the law that allowed the woman to choose her husband, "free-choice marriage", as discussed in my Ph.D. dissertation (Dahlgren, submitted for examination). However, the law makes no direct stipulation in regard to

choice of spouse. The only requirement that hints at this is that both spouses should consent to the marriage (Chapter II, § 5). Women interpreted the absence of any mention of parental or guardian consent to marriage to mean free-choice marriage.

24. Women consider these privileges to be the right to repudiation (*talâq*), the possibility of taking a co-wife and the fact that men's right to children after divorce was facilitated, all of which were guaranteed in the 1992 Personal Status Law (as amended in 1994 and 1998) and were explained as originating in the *sharî'a*.

25. For a detailed discussion on the generations theme in the Adeni context, see Dahlgren 1998.

26. The data I collected for this purpose does not represent a sample (fewer than thirty people were interviewed) and on the basis of it I cannot draw any general conclusions about sentiments towards the law. The law has been challenged from other points as well, such as allowing women too many rights in marriage or representing a deviation from Islamic law. These aspects are discussed in my Ph.D. dissertation.

27. Amounts of 200,000–300,000 rials were the highest paid at this time in Aden.

28. A governmental organisation charged with tasks of local administration including providing reconciliation (*sulh*) in marital disputes. Every couple who sought divorce had to submit their case to arbitration either by this committee or by the Women's Union's marriage counsellor, before they were allowed to take their case to court. In the court decisions, the judge consulted the recommendations of the two bodies.

29. During the period of the 1974 Family Law, all divorces had to be taken to court.

30. An area north of Aden in the Lahej governorate.

31. A governorate northeast of Aden.

32. A governorate east of Aden, behind Abyân and Shabwa.

33. This was in January 2001.

INDEX

Mots-clés : femme, genre, mariage, Yémen