145619 - Expecting the wife or her guardian to provide the dowry or accommodation is a custom that is contrary to sharee‘ah

the question

Its been a customary practice in my locality that during the time of marriage the girls parents build a house for their daughter and that both couples may live in that house.But in future if any problem occurs between husband and wife then the wife could still have her house while the male has no right to claim the house.This system was made lawful in my place to give security for females.
Now that am going to be engaged my Dad said that the fiancee's family haven't built a house yet.And dad fears that the fiancee's parents haven't come up with good security even for their daughter and he fears in future I might not get a good security from them as well.And dad said he will ask them for the house for both(me and fiancee) to live in.
I said since it is the husband who should give security to his spouse then it is not necessary for the fiancee's parents to build the house.But i also said if they build it without our own demand let us take it and i said that after reading the following verse of the quran from surah Nisa 004.004 And give the women (on marriage) their dower as a free gift; but if they, of their own good pleasure, remit any part of it to you, Take it and enjoy it with right good cheer.
But in my situation I fear falling into dowry.Please sheikh kindly clear this doubt.Under the circumstance i have said is it right of my father to ask the fiancee's parents to build the house for the girl so that we both can live in it?
Please reply shiekh for a long time i haven't got any reply from u. But Allah knows hw busy u are.But please take some time to clear this for me.

Detailed answer

Praise be to Allah.

The dowry (mahr) is a right that the wife has over her husband, because Allah says (interpretation

of the meaning):

“And give to the women (whom you marry) their Mahr (obligatory bridal-money given by the husband to his wife at the time of marriage) with a good heart; but if they, of their own good pleasure, remit any part of it to you, take it, and enjoy it without fear of any harm (as Allaah has made it lawful)”

[al-Nisa’ 4:4].

Al-Tabari (may Allah have mercy on him) said: What Allah, may He be glorified and exalted, meant by that is: Give the women their dowries as a gift that is required and obligatory.

And he said: It was narrated that Qataadah said, concerning the words “And give to the women (whom you marry) their Mahr (obligatory bridal-money given by the husband to his wife at the time of marriage) with a good heart”: As an obligation. And it was narrated that Ibn Jurayj said concerning the words “And give to the women (whom you marry) their Mahr (obligatory bridal-money given by the husband to his wife at the time of marriage) with a good heart”: As an obligation that is named (specified). And it was narrated that Ibn Zayd said concerning the words “And give to the women (whom you marry) their Mahr (obligatory bridal-money given by the husband to his wife at the time of marriage) with a good heart”: al-nihlah (translated here as “with a good heart”, in the language of the Arabs, refers to something that is obligatory.

End quote from Tafseer al-Tabari, 4/241.

So it is not permissible to force the wife or her guardian to provide it, but if the wife takes it and then gives some of it to her husband or gives some of her wealth to him, it is permissible to her to do that, because Allah says (interpretation of the meaning): “but if they, of their own good pleasure, remit any part of it to you, take it, and enjoy it without fear of any harm (as Allaah has made it lawful)”[al-Nisa’ 4:4].

Accommodation is also a right that the wife has over her husband, so he is obliged to provide her with separate accommodation according to his ability; that is part of the maintenance that he is

obliged to provide. Allah says (interpretation of the meaning): “Lodge them (divorced women) where you dwell, according to your means” [al-Talaaq 65:6]. If this applies in the case of a woman who is divorced, then providing accommodation for a woman who is still married is more appropriate. Moreover, Allah has enjoined kind treatment between spouses, as stated above. Part of the kind treatment that is enjoined is providing her with accommodation in which she and her wealth will be safe. The wife cannot do without accommodation in order to conceal her from people looking at her and so that she can settle down with her belongings. Hence accommodation is a right that she has over her husband.

The same may be said about accommodation as may be said about the dowry: it is not permissible to force the wife or her guardian to provide it.

Based on that, if the wife does not give accommodation, there is no room for demanding it from her. You should explain that to your father and not go along with the custom that is contrary to sharee‘ah. Allah has made the man the protector and maintainer of the woman, and one of the reasons for that is that he spends on her. Allah says (interpretation of the meaning): “Men are the protectors and maintainers of women, because Allaah has made one of them to excel the other, and because they spend (to support them) from their means” [al-Nisa’ 4:34].

See also the answer to question no. 45527.

And Allah knows best.