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CULTURALLY SPEAKING

Bridging traditions: Prenuptial agreements and Mahr in cross-cultural marriages

In California, cross-cultural couples — particularly those with Iranian or Muslim heritage — can honor both an Islamic Mahr and a state-compliant prenuptial agreement by approaching dual documentation with transparency, respect, and legal and cultural sensitivity.

By Abbas Hadjian

Modern family law increasingly meets the intersection of culture, immigration and faith. Among cross-border and diaspora couples, especially those with Iranian or Muslim heritage, the question often arises: Can a California prenuptial agreement and an Islamic Mahr coexist? The answer, both legally and culturally, is yes — if approached with knowledge, transparency and sensitivity.

I. The prenuptial agreement: Purpose and parameters

In American practice, the prenuptial agreement (commonly called a “prenup”) is a private contract that clarifies property rights and expectations before marriage. Its legitimacy in California stems from the Uniform Premarital Agreement Act, codified in Family Code §§ 1610-1615. To be enforceable, the agreement must be entered voluntarily, with full financial disclosure, independent counsel, and at least seven days for review before signing.

From a practical standpoint, a prenup makes sense when there is disparity — of wealth, age, or prior family obligations. A spouse who owns substantial property or supports children from a prior marriage has reason to clarify rights before remarrying. Yet, among young or



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similarly situated couples, the process can do more harm than good. When there is emotional equality but differing cultural expectations, a prenup may signal mistrust more than prudence.

Language comprehension is crucial. A party who does not fully understand the document cannot have given informed consent. Courts are quick to invalidate agreements that were signed in a foreign tongue without translation. Equally critical

is timing. If the prenuptial agreement is demanded as a condition of immigration or visa sponsorship, the element of duress may arise, rendering the contract vulnerable.

Nor can the prenup waive federally imposed obligations. Under U.S. immigration law, a citizen sponsoring a fiancé(e) or spouse must execute Form I-864, Affidavit of Support, promising to provide financial maintenance. That duty cannot be waived by private agreement.

II. The Mahr: A cultural institution

The tradition of marital gift by husband to wife, is called Bride Price, Dowry, Dower, Milk Money, etc.. It can be traced in many cultures and societies including Islam, Christianity, Judaism, Hammurabi Law, and Zoroastrianism and beyond, more than 4000 years ago.

The Mahr ~~هو~~ is an Arabic version, defining a gift from future husband to the future wife. It is in two parts, present and deferred, and an inte-

gral part of Arab-Islamic marriage contracts. It is a unilateral action by husband not the result of a negotiated entry into the marriage in exchange for a defined property rights. Rather, it is a solemn obligation assumed by the husband toward the wife, symbolizing respect and commitment. Different Islamic jurisdictions follow their own version of the tradition, such as the amount, nature, timing, identification and enforceability.

The difference in spirit between Mahr as gift by husband to wife or her family and the Western prenup is fundamental. The former is a gesture of honor, usually initiated by the groom's side; the latter is a protective instrument, often proposed by the wealthier or more cautious partner. Where the Mahr celebrates generosity in marriage, the pre-nup guards against risk of divorce. According to the Prefatory Note, in the 1983 version of Uniform Premarital Agreement Act (UPAA) it is in response to the steadily increasing "...number of marriages between persons previously married and the number of marriages between persons each of whom is intending to continue to pursue a career...."

Cultural misunderstandings often arise when the two systems meet. Iranian or Muslim families may regard a prenup as evidence of distrust, while American counsel may view absence of a written agreement as financial naïveté. Both perceptions miss the mark. Each system, in its own vocabulary, seeks fairness and security. Properly explained, they can complement — not contradict — each other.

III. Integrating the traditions

For couples of mixed or diaspora background, an integrated approach allows both traditions to be honored. The solution lies in dual documentation:

1. A Mahr Declaration — prepared in cultural or bilingual form, expressing the husband's promise of a stated Mahr as a moral and personal obligation.

2. A California-compliant Prenuptial Agreement — drafted in English, incorporating full disclosure, voluntary execution, and clear legal rights under California law.

The two instruments should align in tone and substance. The prenup can expressly acknowledge, without limiting, the Mahr: "This Agreement does not waive or restrict the Wife's right to receive her Mahr, which the Parties recognize as a personal and cultural commitment, distinct from their legal rights under California law."

Such language avoids conflict between civil enforceability and religious meaning. It also assists courts in interpreting the parties' intent as harmonious rather than adversarial.

IV. Practice considerations

Independent counsel. Each party should be represented by separate family-law counsel familiar with both the Uniform Premarital Agreement Act and cross-cultural practices. Where high assets or sensitive personal histories are involved, counsel may also sign a non-disclosure agreement to preserve confidentiality — a growing best practice in multicultural engagements.

Translation and timing. If one party's first language is not English, translation into Persian or Arabic is essential. The signing should occur well in advance of immigration or wedding formalities, to eliminate any appearance of coercion.

Financial disclosure. Full transparency is mandatory. California courts invalidate agreements where either party conceals assets or income. The inclusion of sworn schedules of property and income is the surest safeguard.

Respectful framing. The negotiation should be conducted in the language of mutual respect, not suspicion. Cultural honorifics and religious customs should be acknowledged in the recitals. An agreement that recognizes cultural values stands a better chance of being accepted — both emotionally and judicially.

V. Illustrative example

In one recent California arrangement, both husband and wife were U.S.-born professionals of Muslim heritage. They agreed upon a substantial Mahr — partly payable at marriage, with annual installments continuing during the marriage. Their California prenuptial agreement confirmed that obligation as a separate cultural promise, expressly stating that it did not alter the rights and duties imposed by state law. Both sides had independent counsel, exchanged financial statements, and executed a confidentiality clause. The resulting framework reflected harmony between faith and law: a Mahr that retained its symbolic purpose, and a prenup that met every statutory requirement.

VI. Guiding principle

Neither the Mahr nor the prenuptial agreement should dominate the other. One speaks the language of culture, the other the language of law. Together they affirm that tradition and modern legal order need not clash. What matters most is that both spouses act freely, knowingly and with equal dignity.

In short, trust cannot be drafted — but fairness can be structured. A well-crafted dual agreement demonstrates that love, law and cultural identity can coexist gracefully under California's legal framework and America's pluralist spirit.

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