

# **Imbursement of Dower Right: a Study on Married Muslim Women in Dhaka City**

**M. Phil Dissertation**

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**October, 2014**

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(This thesis has been submitted to the Institute of Social Welfare and Research, University of Dhaka, for the requirements of the degree of Master of Philosophy.)



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**University of Dhaka, Dhaka-1205**

**Bangladesh**

**October, 2014**

## **Declaration**

This dissertation “Imbursement of Dower Right; A Study on Married Muslim Women in Dhaka City” is my own work and I worked to find the exact status of dower systems in our country. This study is a presentation of my original research work and here contributions of others are involved where every effort is made to indicate this clearly, with due reference to the literature, and acknowledgement of collaborative research and discussions. Being a candidate for the Master of Philosophy in social welfare, I am fully aware of the Institute of Social Welfare and Research, University of Dhaka’s rules and procedures relating to the preparation, submission, retention and use in higher degree thesis, and its policy and on intellectual policy. It has not been submitted before for any degree or examination at any other university either in Bangladesh or abroad.

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## Certificate of Approval

The undersigned certify that dissertation entitled “Imbursement of Dower Right; a study on Married Muslim Women in Dhaka city” submitted by Mst. Salma Akter to the Institute of Social Welfare and Research under University of Dhaka in partial fulfillment of requirement for the degree of Masters of Philosophy. To the best of my knowledge, it is a unique and innovative work done by her under my supervision. The matter embodied in this thesis is original and has not been submitted for the award of any other degree. I am recommending this dissertation to the University of Dhaka for final submission to the authority concerned.

Dr. A.S.M Atiqur Rahman

Research Supervisor

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## **Abstract**

One of the essential parts of Muslim marriage is “Dower” paid or promised to be paid by the husband to the wife. Without mahr a nikha cannot be said to have been properly solemnized. Under the Muslim law, dower is sum money or other property which the wife is entitled to receive from her husband in consideration of the marriage in this research. Here was discussed the concept of Imbursement of dower rights; a study on married Muslim women in Dhaka city. An attempt has been made to describe some situation which may affect the Muslim women’s right to dower. During this study it was observed- firstly married Muslim women’s are not aware about their dower right. Secondly most of the married women’s are not responsive regarding how much dower amount was fixed during their marriage time. Lastly, it was discovered most of the women claimed that if they raised their voice about rest of the dower amount then conflict and bring unhappiness in their conjugal life. They want to keep the relationship at any cost. In this research tried to give some necessary recommendations to improve the existing situation, such as: all women should have adequate knowledge about human rights and women rights. Implement some rules such as during marriage time dower amount should be paid, or compulsory through a bank account to deposit dower amount. Marriage registration is confirmed during marriage time. Increasing social awareness and religious value among people regarding dower issue.

## **Abbreviations**

**DCC: Dhaka City Corporation**

**FGD: Focus Group Discussion**

**MMW: Married Muslim women**

**MFLO: Muslim Family Law Ordinance**

**MMDA: Muslim Marriages and Divorces Act**

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## Executive Summary

The research work is mainly about Women Rights. Here we discussed about Dower which is the one of most important women right in our country, Dower is giving the economic empowerment to MMW (Married Muslim Women), In order to provide proper emphasis to this economic right of women. Muslim Women existing law is concerning women's rights with respect to dower, maintenance and inheritance and the large gap between what is stated in law and what is practiced in Bangladesh. Women in Bangladesh seldom take full advantage of their rights; this is due to the fact that they are mostly ignorant of them. Even if they are aware of these rights their lower socio-economic status often prevents them from exercising those rights.

According to our belief, the dower has come into being as the result of skilful arrangements, put into the very design of creation, to balance the relations between man and woman. The dower has come into being, because, by nature, the respective roles of man and woman are different from each other. It is generally supposed that the main object of dower in Muslim marriage is to offer protection to the wife against the arbitrary powers of the husband in exercising the right of divorce. However, it was neither goal of the dower nor intended by Quran. When procedure of Quran for divorce is followed the arbitrary powers assumed by husband in exercising the right of divorce become minimal.

In a study it was found that most of the women in Bangladesh never claim their dower right. It is a common belief among our women that a wife can claim dower only when her husband divorces her. A widow whose dower (deferred or may be both) remained unpaid is still entitled to dower. She can lawfully stay in the possession of her deceased husband's estate until her dower debt is satisfied as the dower being debt of the deceased becomes an

encumbrance upon his estate. In reverse the right of the widow as creditor is limited to retain not to obtain. In our country married Muslim women are not aware about this right.

The house wives of upper class families are educated. Their educational qualification is above H.S.C. They are aware about the provision of dower under Islamic law. Almost half of such families, wives receive half of their dower.

It should be mentioned that in rich families housewives whose marriage occurred before 90?s decade are not aware of their right of dower. After 90?s decade the situation had changed day by day and in 21st century dower, whether full or half is paid on marriage.

In contrary of rich class, the wives of middle and lower class are not at all aware about dower provision under Islamic law. Educational qualification of most of middle class families' wives is up to H.S.C level and of lower class families is at primary level. Their concept about dower is that if love prevails between husband and wife, dower is unnecessary. It should be specially mentioned that the wives whose marriage are before 90?s decade has no kabinnama and no idea about dower.

## **Chapter One- Introduction**

**1.1 Introduction**

**1.2. Statement of the Problem**

**1.3. Justification of the Study**

**1.4. Objectives of the Study**

**1.5. Definition of the Concepts and Terms**

**1.6. Limitations of the Study**

### **1.1. Introduction:**

Marriage is legal bond between a man and a woman as husband and wife. Most men in Bangladesh marry before the age of 35 and women before the age of 25. Marriages are arranged by the parents, relatives, friends or acquaintances of the parties concerned. There are, however, certain differences in the Muslim and Hindu marriage practices. Among Muslims, *mahr* or dower, a certain amount of money must be paid by the bridegroom or his family to the bride. The amount is specified in the *nikahnama*, the legal marriage contract. Among Hindus, the bridegroom is required in certain cases, to pay a certain amount known as *pan* or 'price' of the bride to her father (KMA Aziz)

Dower rights of women are mandatory in any Muslim marriage. In Arabic language it is called *mahr*, *mehr* or *meher*. It is a gift which becomes payable to wife immediately after marriage but before sexual intercourse. It is not essentially to be money but can be any valuable thing like property, ornaments or anything else which is agreed between the Muslim marriage partners. It is in fact a financial gain which the wife receives as a respect by virtue of the marriage contract itself (Muslim Marriage, 2014).

Mahr must be paid to the wife herself, and not to her guardian or parents. It provides financial independence and security to a wife in the event of her husband's death, or a separation. It recognizes that women are often more financially vulnerable than men in many Muslim societies, particularly after a divorce. Since the property belongs to the wife, it is not a bride

price. In pre Islamic Arabia, “bride price” was a customary payment to the bride’s father. Islam introduced mahr as a payment to the bride for herself absolutely. Mahr is given by the husband as a mark of respect for his wife to be, and to express his love for her. The payment of mahr is not a condition which affects the validity of the contract, nor is it an essential requisite for marriage. Therefore, if the mahr is not mentioned in the contract, the contract is still valid. Marriage is not not exactly “consideration” for mahr, nor is a gift to the wife to allow intercourse with her. (Marrige, ebanglapedia.com)

However, it is not a ‘bride price’ in any sense. The main difference between a dower and bride price is that former is paid to the wife while the later is paid to the parents. You can understand that the wife is not selling anything to the husband. It is just a token of respect and a part of financial rights of the women in Islam.

It is generally supposed that the main object of dower in Muslim marriage is to offer protection to the wife against the arbitrary powers of the husband in exercising the right of divorce. However, it was neither goal of the dower nor intended by Quran. When procedure of Quran for divorce is followed the arbitrary powers assumed by husband in exercising the right of divorce become minimal. On the other hand the dower rights are always obligatory. (Muslim Marriage, 2014)

No woman of any other nation except a Muslim woman has absolute rights of getting *Mahr* or dower from her husband. In none of the communities besides the Islamic Ummah, a husband is under legal obligation to give bridal gift or dower to his wife. Though the Jewish law insisted upon the specification of dower in the contract of marriage and considered the marriage without it as invalid, yet the dower settled on the wife was never made over to her for her exclusive use

and enjoyment. She got the right over dower when her marriage was dissolved either by the death of her husband or by divorce. No other law of any ancient, medieval or modern nation makes it incumbent or obligatory on a husband to make payment of any dower to his wife. It is only Islam which has conferred absolute rights on the woman to demand as much dower from her husband as she desires (there being no upper limit), to acquire it at her discretion and use and enjoy it according to her wishes.(C. Muhammad Sharif,2003)

Dower is one of the excellent protections, in other words privileges given by Islam to women. In the notion of Islam, it is a bridal gift, a token of respect to the woman. It is the right of the woman which accrues at the time of her marriage and similarly a duty or obligation upon the man as husband.

In a study it was found that 88% women in Bangladesh never claim their dower right. It is a common belief among our women that a wife can claim dower only when her husband divorces her. A widow whose dower (deferred or may be both) remained unpaid is still entitled to dower. She can lawfully stay in the possession of her deceased husband's estate until her dower debt is satisfied as the dower being debt of the deceased becomes an encumbrance upon his estate. In reverse the right of the widow as creditor is limited to retain not to obtain. (Ferdous, R, 2012).

According to Dr. Jung defines, “Dower” as the property or its equivalent, incumbent on the husband either by reason of being agreed in the contract of marriage or by virtue of a separated contract, as special consideration of Buza, the right of enjoyment itself (Aqil Ahmed, 2004).

This scenario has taken a cruel picture and as a social researcher I have identified the Dower as a major social problem. Accordingly I am highly interested to conduct a research, “The Imbursement of Dower right: a Research on Married Muslim Women”. I believe through the

research, I would be able to present the exact picture of Dower System, Law & Islam, the present status of women on the basis of dower system and the way of ensuring the rights for the women.

## **1.2. Statement of the Problem:**

Women are the nerve of the society. We cannot deny their role in the global society. We cannot imagine a body without a heart. Similarly it is not to think a societal improvement without the participation of the women. In Bangladesh practical field of present twenty century they can't live independently.

It was found in a study of the metropolitan city of Dhaka that 88% of Muslim wives did not receive any dower at all. If this is the situation in the capital city, one can anticipate an alarming situation in the rural remote areas. Here the same causes for which the women in Bangladesh are being subordinated come in, as women are dominated in the patriarchal family and in the wider socio-religious arena. What needs to be ascertained here, in particular, seems to be whether the women's right to dower is being enlarged or reduced by local customary conventions. Only present perspective of Bangladesh women it is found much weakness in basic rights of women, such as Dower. Dower which is the one of most important women right in our country, Dower is giving the economic empowerment to Muslim Women, In order to provide proper emphasis to this economic right of women.

Muslim Women existing law is concerning women's rights with respect to dower, maintenance and inheritance and the large gap between what is stated in law and what is practiced in Bangladesh. Women in Bangladesh seldom take full advantage of their rights; this is due to the fact that they are mostly ignorant of them. Even if they are aware of these rights their lower socio-economic status often prevents them from exercising those rights.

One of the essential parts of Muslim marriage is "dower" paid or promised to be paid by the husband to the wife. Dower must not, however be confused with "dowry" which consists of presents made by father and other relations of the bride and Muslim Law does not make any provision for payment of dowry. Dower is the sum of money or other property which the wife is



entitled to receive from the husband in consideration of marriage. The amount of dower may be fixed either before or at the time of marriage or after marriage. The law does not say anything about the quantum of dower. The claim to dower is not lost even when the marriage is dissolved by Court at the instance of the wife or when the wife exercises the right to divorce.

Dower is giving the economic empowerment to Muslim Women. In order to here is providing proper emphasis to this economic right of women. Dower is given by the husband to the wife as a mark of respect; and it is a device to control the unfettered power of the husband to divorce his wife. According Islamic law where there is a marriage there is a dower. It is a bridal gift. It is a token of respect to the bride.

For this reason as a researcher tries to convey the message that if the judiciary is more sensitized about the particular needs of women it will be able to protect women more effectively. It also urges for a better implementation of the existing legal rights of women. This carried out at all levels would secure for women, freedom from economic deprivation, which is at this time required.

### **1.3. Justification of the Study:**

Dower is a security system of Muslim women's and an important condition during marriage. It is our findings that during marriage all Muslim follow this rules, but in reality its practice is not well maintained. Different literature shows that in reality the purpose of taking and giving dower is to establish women security by following Islamic rule is not literally active in Bangladesh. If this system is maintained properly then the Muslim women will live safely during their last stage in life. According to Gazi Shamsur Rahman -*This dower system is a one kind of cheating*.

Dower is intended to use by Wife as she wishes. According to Islam, one of the ways in which women can empower themselves is through a reasonable dower and without fear of social consequences. In reality no women association stepped forward to raise their voice for an ideal dower system and that is the reason for which the dower right is not established in our country. It exists as like only a marriage rules on the paper and pen. There is no thesis on dower system. But

basic information is needed to establish dower right in our country. Some thesis is found but they are very poor in number and not very much informative.

We think that if can collect adequate information on dower systems, can represent a clear picture on its application then we can develop the existing dower systems and the planners will be encouraged and grow their eagerness to implement this. It is evident that for the lack of proper documentation and wrong perception different countries and communities are using this with their own culture and religion. Furthermore in this case women's safeties and securities are given less importance. For example, in the dowry systems in Hindu religion, women do not get their properties. As a result, during marriage time, the father of a daughter is bound to pay the dowry indirectly. But reality is, the dowry that a woman deserves become a demand of the bridegroom through various tortures on them. As this, according to Muslim religion women's protection is dower. That means because of marriage a women suffer from physical, mental and social harassment and dower is considered as the part of this harassment.

Dower system is not working properly in Bangladesh. If this system works properly then a huge number of women will get their security. Specially they would not suffer during their last stage or are not neglected financially.

If we can execute a system under which the dower is paid pay bank then it will be more effective for ensuring women's security. For this reason we need information and therefore research is needed. Hence forth I selected this subject matter to enrich our information department. I believe if I can work here, it will help any social welfare organization or even governments to get idea on dower systems and ensure social justice on women.

#### **1.4. Objectives of the Study:**

The objective of the study was to identify actual scenario of MMW dower right and to gain in depth understanding about the existing status and conditions of dower, the specific objectives are as follows:

- ) To gather knowledge on the actual dower system of Bangladesh
- ) To collect information and identify the ratio, type of dower imbursement

- ) To know the present knowledge status of women on dower system.
- ) Suggestion how to address of dower imbursement.

## **1.5. Definition of the Concepts and Terms:**

### **Woman Rights:**

The term women's rights refer to freedom and entitlements of women and girls of all ages. These rights may or may not be institutionalized, ignored or suppressed by law, local custom, and behavior in a particular society. These liberties are grouped together and differentiated from broader notions of human rights because they often differ from the freedoms inherently possessed by or recognized for men and boys, and because activists for this issue claim an inherent historical and traditional bias against the exercise of rights by women and girls (Alrimuzzaman Choudhuy,1983).

All family laws- Hindu, Muslim, Parsee, Sikh, Jain and Christian personal laws-have certain common features. All of them recognize the man as the head of the household, they sanction patrilineage and patrilocality, they treat women as men's property and consider the father to be the natural guardian and they perpetuate double standards in sexual morality and property rights. It is common knowledge among those reasonably acquainted with law that women are greatly deprived of their rights within the laws that govern crucial aspects of the man woman relationship: marriage and divorce, custody of children and guardianship rights, alimony and maintenance for divorced women as well as property rights. The question of women has acquired great importance throughout the world today among all communities. This is for obvious reasons. For centuries, women have been in total subjugation in male-dominated patriarchal societies. It has been a "natural law" to regard women as the inferior sex and for them to submit to male authority for the smooth functioning of society in its day to day progress.

The women in Bangladesh have to deal with little to no rights. Women's rights are definitely an issue in Bangladesh it is starting to become better but yet at a very slow speed. Many men do not agree with women acquiring equal rights as men because of religious reasons. Some connections to women's rights matter in Bangladesh are caused from education to religion to legal issues (Sakina Hasin, 2005).

Women's rights in Bangladesh have been an issue for decades. One of the main reasons for this problem is the religion of the country. Now the government is starting to put rules in order to protect and grant women more rights. As of today there are three laws that are set in place for women, Anti-Dowry Prohibition Act of 1980, Cruelty of Women Law of 1983 and the Women and Children Repression Act of 2000. These laws have helped women out, but they are not strongly enforced, therefore, there are still many issues that are not taken care of. The main reason for why these rules are not being strongly enforced is because of religious conflicts. Muslims follow a certain guide line of rules which states that women are not to have equal rights as men. Men have made protest against the government for making those laws; they don't think it is right that women should be allowed to have the same rights as the men. Men say that some of the policies that are being made are against the Quran and that they are against the teachings of the Quran. The Quran is a Holy and divine text that the Muslims follow. The scenarios are almost same in Hindu community. The laws relating to women's right are believed to be oriented from Holy Scriptures which cannot be altered or modified for the religious sentiment that does not allow the radical changes in customs and rules which have been prevailing for hundreds of years. It is difficult for the government to set any clear and enforced law (Norshirvan H. Jhavala). The rights for women in Bangladesh are becoming a big issue that is slowly getting better, but there are still a lot of incidents where women are suffering (Laws of Bangladesh).

### **Marriage:**

In Islam, marriage is a contract between a man and the wali of a woman, who gives her to the husband to be his wife. The bride is to consent to the marriage of her own free will. A formal, binding contract is considered integral to a religiously valid Islamic marriage, and outlines the rights and responsibilities of the groom and bride. There must be two Muslim witnesses of the marriage contract. Divorce is permitted and can be initiated by either party. The actual rules of marriage and divorce (often part of Personal Status Laws) can differ widely from country to country, based on codified law and the school of jurisprudence that is largely followed in that country (Hasso, Frances S, 2011). (Marriage in Islam).

Under Islamic law, marriage is not a status; it is a contract, which requires a woman's consent (Esposito (2004). "Women were given inheritance rights in a patriarchal society that had previously restricted inheritance to male relatives/ family members." Annemarie Schimmel claims, "Compared to the pre-Islamic position of women, Islamic legislation meant an enormous progress; the woman has the right, at least according to the letter of the law, to administer the wealth she has brought into the family or has earned by her own work."( Schimmel (1992). Other scholars suggest Islam subsumed and expanded many cultural practices with regards to women, such as their gender role before and after marriage, continuation of bride price as mahr, and the sanction of female circumcision before she can be married, as Islam started and expanded from the Arabian peninsula (P. Bearman, Th. Bianquis, C.E. Bosworth, E. van Donzel, W.P. Heinrichs ) (Gruenbaum, Ellen, 2011) (William G. Clarence-Smith (2012). [Marriage in Islam]

### **Marriage Registration:**

A marriage certificate is an official recorded document issued by a governmental authority that proves that the couple listed on the marriage certificate has a legal marriage. In most areas, a marriage record is part of the public record.

A marriage certificate usually contains who married who, when they were married, where they were married, who married them, and who was there.

It is generally the responsibility of the officiant of your wedding ceremony to make sure that your signed marriage license delivered to the recorder's office. Since the recorder's office has to process the filing and recording of the marriage license, you usually have to wait several weeks before receiving your marriage certificate.

In some locales, once a marriage license is signed and filed with the county clerk, the license becomes the marriage certificate. Generally, in order to receive an additional copy of a marriage certificate, you need to send your request along with the required fee to the County Clerk/Recorder's Office of the county where the marriage took place.

In order to be acceptable as a legal document, a Certified Marriage Certificate needs to show the state seal or be imprinted with a seal/stamp. Keepsake marriage certificates are not legal documents. (Sheri Stritof).

## **Dower:**

In Islam, a mahr (in Arabic: *mehr*, *meher*, or *mahrīeh*) is a mandatory payment, in the form of money or possessions paid by the groom, or by groom's father, to the bride at the time of marriage, that legally becomes her property (Fareen. J, 2012). While the *mahr* is often money, it can also be anything agreed upon by the bride such as jewelry, home goods, furniture, a dwelling. Mahr is typically specified in the marriage contract signed during an Islamic marriage.

Mahr is similar in legal enforceability to *donatio propter nuptias* of Eastern Roman law, except some critical differences ( Syed Ameer Ali, page 299-300) .

Mahr or dower is a sum of money or offer property which the wife is entitled to receive from the husband in consideration of the marriage. Mahr or dower is a sum that becomes payable by the husband to the wife on marriage either by agreement between the parties or by operation of Law. It may either be prompt or deferred.

According to wolson, “Dower” is a consideration for the surrender of person by the wife. It is the technical Anglo- Mohammedan term for its equivalent “Mahr” in Arabic.

According to Ameer Ali, “Dower” is a consideration which belongs absolutely to the wife.

According to Dr. Jung defines, “Dower” as the property or its equivalent, incumbent on the husband either by reason of being agreed in the contract of marriage or by virtue of a separated contract, as special consideration of Buza, the right of enjoyment itself.

According to Baillie, “the property which is incumbent on a husband, either by reason of its being named in the contract of marriage, or by virtue of the contract itself”. Dower is not the endanger or consideration given by the man to the women for entering into the contract; but an effect to the contract imposed by the law on the husband as a token of respect for its subject, the women.

In order to constitute a valid marriage, the Mohammedan law requires that there should always be a consideration moving from the husband in favors’ of the wife, for her sole and exclusive use



and benefit. This consideration is called mahr or sadak in legal treatises and in common parlance dain mahr.

The principle of ante nuptial settlements is not peculiar to the Mohammedan law. Sautayra thinks that the custom originated in ancient times with the payments which the husbands often made to their wives as a means of support and as a protection against the arbitrary exercise of the power of divorce. The above opinions are based on the argument that marriage is a civil contract and dower is a consideration for the contract. But it is submitted that the above opinions are erroneous, because even in those cases where no is specified at the time of marriage, marriage is not void on that recount, but the law requires that some dower should be paid to the wit. Abdur Rahim correctly observes, "It is not a consideration preceding from the husband for the contract of marriage, but it is an obligation imposed by the law on the husband as mark of respect for the wife as is evident from the fact that the non- specification of dower at the time of marriage does not affect the validity of marriage (Assessment Point, 2014, Accessed on 18<sup>th</sup> Feb 2014).

### **Dower Rights**

Dower right is giving the economic empowerment to Muslim Women. The dower right was originally a common law creation (Thomase. Atkinson). Early forms of dower were justified partly by the fact that women could not own their own property while they were married, and thus could not build up any independent resources (Meyers).

The concept of dower has its origin in Islam and in addition to many other rights and protection under Islam this concept also offers protection to the wife in a marriage. This is a right every woman is entitled to in a marriage under Islam and our law also respects and recognizes the same in the *Muslim Personal Law (Shariat) Application Act 1937*. *Muslim Personal Law Application Act 1937* mandates application of Muslim personal laws (sharia) in matters concerning personal law issues where the parties are Muslims.

Therefore, both under law and Islam dower rights of women are mandatory in any Muslim marriage. It is a right every woman acquires in a marriage under the marriage contract known as Nikahnama/Kabinama and the clauses 13-17, 20 of the Nikahnama prescribe the right to dower.

Dower in Muslim marriage forms an inseparable part of the terms of the Nikahnama and thus as the Nikahnama is intended to be registered under *Muslim Marriage and Divorce (Registration) Act 1974*, so is the dower. Therefore non-payment of dower fixed in Nikahnama amounts to the breach of a registered contract. (Ishrat Ahmed)

Dower rights of women are mandatory in any Muslim marriage. In Arabic language it is called mahr, mehr or meher. It is a gift which becomes payable to wife immediately after marriage but before sexual intercourse. It is not essentially to be money but can be any valuable thing like property, ornaments or anything else which is agreed between the Muslim marriage partners. It is in fact a financial gain which the wife receives as a respect by virtue of the marriage contract itself. However, it is not a 'bride price' in any sense. The main difference between a dower and bride price is that former is paid to the wife while the later is paid to the parents. So understand that the wife is not selling anything to the husband. It is just a token of respect and a part of financial rights of the women in Islam.

It is generally supposed that the main object of dower in Muslim marriage is to offer protection to the wife against the arbitrary powers of the husband in exercising the right of divorce. However, it was neither goal of the dower nor intended by Quran. When procedure of Quran for divorce is followed the arbitrary powers assumed by husband in exercising the right of divorce become minimal. On the other hand the dower rights are always obligatory. (Muslim-marriage-guide).

According to the Islamic jurisprudence, a woman married to a Muslim man has a right to get a property or money which is called Mahr. Declaration or commitment of Mahr at the time of solemnizing the marriage or Nikah is advisable. But Mahr is so natural a right of woman over her husband that even if Mahr is not negotiated or declared at the time of Nikah, the woman has the right of having Mahr and the right is immutable unless the bride remits all or a part of it after marriage. Malefolks in today's Muslim societies are so preoccupied with dowry that this divine and obligatory aspect of Mahr is often forgotten. Islam strictly enjoins the groom to give a 'bridal gift' or 'dower' as a token of love and assurance to his would be wife at the time of marriage. In fact, without payment of this sum, the marriage cannot get solemnized and consummated. According to a tradition in Bukhari, the Mahr is an essential condition for the

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legality of the marriage: 'Every marriage without Mahr is null and void'. The Holy Qur'an instructs the believers: "And give to the women (whom you marry) their Mahr or dower 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 Allah has made it lawful)." (Surah An-Nisa: 4) Some interpretations regard Mahr as wajib (obligatory) while others regard it as Sunnah or desirable. (Muhammad Abdul Munim Khan).

### **Divorce:**

The Muslim husband may initiate the divorce process by pronouncing the word **talaq**, the formula of repudiation, three times. The first two times the talaq is pronounced, it may be withdrawn. But the third time it is pronounced, the divorce is irrevocable. There are a range of systems specifying the requisite formalities to complete an irrevocable divorce, i.e., whether some period of time must elapse between each pronouncement of talaq, whether there must be mediation, or the need for witnesses. According to the Quran which is the book on which Islam is based, there is a waiting period. In countries where polygamy is permitted, there is no waiting period before the husband can remarry. The wife must usually wait three months after the third talaq has been spoken before remarrying (this period is known as *iddah*). [Freeland], [Hasan], [Hinchcliffe, D], [South African Law Commission)].

The talaq is endorsed by several scholars of the Sunni theology, and some in the Zaydi theology. It consists of the husband saying the phrase "*I divorce you*" (in Arabic, talaq) to his wife, three times.

In the laws of Islam (sharia) there are three kinds of divorce, each with separate rules. When a man has initiated a divorce, the procedure is called *al q* (Arabic:     ). When a husband accuses his wife of adultery without supplying witnesses and the wife denies it, the process is called *li' n*. (Arabic:), (Lian). When a woman has initiated a divorce it is called *khula* (Arabic:     ). Talaq is easily obtained, while obtaining khula is typically quite difficult.

In the *al q* divorce, the husband pronounces the phrase "I divorce you" (in Arabic, *talaq*) to his wife, three times. Many Islamic scholars believe there is a waiting period involved between the

three talaqs, pointing to Quran 65:1(YUSUF ALI) and various hadiths. However the practice of "triple al q" at one sitting has been "legally recognized historically and has been particularly practiced in Saudi Arabia". [DeLong-Bas, Natana J. (2004) ].

Shia and Sunni Muslims have different rules for performing a *al q* divorce. Sunni practice requires no witnesses, and allows a husband to end a relationship by saying the talaq three times. According to some Sunni schools of jurisprudence, each talaq utterance should be followed by a waiting period of three menstrual periods for women or three month (iddah), when the couples are supposed to try to reconcile with the help of mediators from each family, until the third and final *al q*. Some Sunnis who believe the practice of triple talaq in one go to be wrong, nonetheless accept it as final, especially the Hanafi schools of jurisprudence. (Divorce in Islam)

Divorce is unlike annulment which declares the marriage null and void. Divorce laws vary considerably around the world, but in most countries it requires the sanction of a court or other authority in a legal process. The legal process of divorce may also involve issues of alimony (spousal support), child custody, child visitation/ access, parenting time, child support, distribution of property, and division of debt. In most countries monogamy is required by law, so divorce allows each former partner to marry another; where polygamy is legal but polyandry is not, divorce allows the woman to marry a new husband.

Divorce can be a stressful experience: affecting finances, living arrangements, household jobs, schedules, parenting and the outcomes of children of the marriage as they face each stage of development from childhood to adulthood. If the family includes children, they may be deeply affected. (Divorce)

According to Yossef Rapport, in the 15th century, the rate of divorce was higher than it is today in the modern Middle East, which has generally low rates of divorce. In 15th century Egypt, Al-Sakhawi, recorded the marital history of 500 women, the largest sample on marriage in the Middle Ages, and found that at least a third of all women in the Mamluk Sultanate of Egypt and Syria married more than once, with many marrying three or more times. According to Al-Sakhawi, as many as three out of ten marriages in 15th century Cairo ended in divorce. In the

early 20th century, some villages in western Java and the Malay Peninsula had divorce rates as high as 70 %.(Yossef ).

"Dower" or *mahr* ( Arabic: مهر) is an agreed upon compensation for wife that is obligatory on husband before the act of intercourse occurs, especially in Shia Islam. In recent years some younger women have agreed to married with high amounts of *mahr* with the intention to only divorce shortly after for an easy profit. In these cases the Islamic jurisprudence has clear guidance depending on who asks for divorce and whether or not the wife is still virgin. If husband asks for divorce and intercourse has occurred, he pays full *mahr*; if husband ask for divorce and wife still virgin, husband pays half the dower; if wife asks for divorce and not virgin, husband pays half the *mahr*; and if wife asks for divorce and still virgin, then no *mahr* is required to be paid out by the husband. However there may be other financial obligations depending on the length of marriage, whether there are any kids involved and their ages, and the property that they own under joint ownership.( Divorce in Islam).

#### **1.6. Limitations of the Study:**

The study was an academic study. We are tried to best ensure conduct research accurately. But we are not far from limitation. During this research faced several problems to select respondent and to reach them. But we are grateful to our supervisor for his valuable guidance we are able to minimize limitation of our study and assemble accurate information about dower.

- ) Initially, the respondents were suspicious about the intention of research. In some cases, the researcher had to struggle hard to convince the respondents for getting appropriate information.
- ) Some of the married women were reluctant to participant in the interview because there was no monetary benefit. But their information could have enriched our research paper.
- ) Regarding information about age, most of them did not know their age. So in majority of cases was estimated.

- ) Sample size was only 5 for case study and 10 respondents in FGD, which is not sufficient for generalization.
- ) Time constraint was one of the main limitations. More time was needed for collecting more in-depth information.
- ) This research depends on having access to people or documents. Unfortunately during interview it was possible to access people but it's really difficult to review marriage related documents (kabin namha). That reason this research depends only questionnaires and observation.
- ) Lack of dower knowledge was main obstacle during interview; most of the respondents did not know how they are benefited by the dower amount.
- ) Prior research was not sufficient so that it was very difficult to collect actual data or relevant data.

Though some limitation and hindrance are available in this research but in the application research method and strategy, we have been careful as much as possible. We have tried to make the research standard hearty and carefully so we hope the limitation will not be interrupt the main goal of the research.

## **Chapter Two- Dower Perception**

**2.1. Review of Literature**

**2.2. Historical Background of Dower**

**2.3. The Real Philosophy of Dower**

**2.4. The Dower in the Qur'an**

**2.5. Difference between Sunni and Shia Law Regarding Dower**

**2.6. Importance or Significance of Dower**

**2.7. Classification of Dower in Muslim Marriage**

**2.8. Amounts of Dower and Conditions of Payment**

## 2.1. Review of Literature:

Very little literature is found on the study of dower rights in Bangladesh. However the available literature showed some interesting findings of the present study and some are new.

According to Ferdous Rahman , It is sometimes heard that the husband begs to the wife at their nuptial night for the relinquishment of her claim of dower and she used to do the same out of emotion or in the belief that it is the possible way to win or retain the affection of her husband. Therefore she remits the dower. There is a misconception among our women that if she relinquished once, she cannot claim dower anymore and the husband also thinks the same.

In a study it was found that 88% women in Bangladesh never claim their dower right. It is a common belief among our women that a wife can claim dower only when her husband divorces her. A widow whose dower (deferred or may be both) remained unpaid is still entitled to dower. She can lawfully stay in the possession of her deceased husband's estate until her dower debt is satisfied as the dower being debt of the deceased becomes an encumbrance upon his estate. In reverse the right of the widow as creditor is limited to retain not to obtain.

It is used asked by the women that if she divorces her husband, she will be automatically relinquished her right to dower. But the case is not always so. There are few forms of divorce for a wife to divorce her husband. Among them only for Khula, she forgoes her right to dower. But when she gives talaq-e- tafwid (delegated right to divorce) she remains entitled to dower. Therefore there are separate form for registration of divorce of Khula and Talaq-e Tafwid. Again if the divorce is prayed on any grounds under section 2 of Dissolution of Muslim Marriages Act 1939, the divorce never affect her right to dower (section 5 of the said Act 1939). Moreover due to such misconceptions among men and women, many husbands are found not giving divorces to their wives rather force their wives by way of cruelty to give him divorce. Therefore it becomes a ground of cruelty to women. It is thought by husbands that when she cannot bear his cruelty anymore, she would divorce him and he would be freed from his duty to pay dower. It ultimately frustrates the philosophy of Islam behind dower i.e. to act as a check and balance on the unlimited power of the husband to divorce his wife. It was thought that The husband would think twice before divorcing his wife when he knows that upon divorce the whole of the dower would be payable immediately. But the reality is found different (Ferdous Rahman).



According to Chaudhry, Dr. M.S. - No woman of any other nation except a Muslim woman has absolute rights of getting Mahr or dower from her husband. In none of the communities besides the Islamic Ummah, a husband is under legal obligation to give bridal gift or dower to his wife. Though the Jewish law insisted upon the specification of dower in the contract of marriage and considered the marriage without it as invalid, yet the dower settled on the wife was never made over to her for her exclusive use and enjoyment. She got the right over dower when her marriage was dissolved either by the death of her husband or by divorce. No other law of any ancient, medieval or modern nation makes it incumbent or obligatory on a husband to make payment of any dower to his wife. It is only Islam which has conferred absolute rights on the woman to demand as much dower from her husband as she desires (there being no upper limit), to acquire it at her discretion and use and enjoy it according to her wishes. We have already discussed at length the various legal aspects of *Mahr* (dower), (Chaudhry, Dr. M.S. October 11, 2003).

Ferdous Rahman in the Daily Star - For a Muslim marriage there are three basic requirements under Sharia law: Ejab, Qobul and Mahr (commonly known as Denmahr or dower). Dower is one of the excellent protections, in other words privileges given by Islam to women. In the notion of Islam, it is a bridal gift, a token of respect to the woman. It is the right of the woman which accrues at the time of her marriage and similarly a duty or obligation upon the man as husband.

The dower is a sum of money or other property which becomes payable by the husband to the wife as an effect of marriage. With regard the mode of determining the amount, it may be specified i.e. fixed at the time of marriage between the parties or unspecified i.e. not fixed before or at the time of marriage. The unspecified dower shall be fixed after marriage. It is observed that in determining the amount of unspecified dower, the dower fixed upon her female paternal relations is considered.

Again as regard the time of payment, the specified dower would be deferred and prompt. The prompt dower is payable on demand. It is like debt of the husband upon the wife. On the other hand deferred dower becomes payable at the termination of dissolution of marriage either on death or on divorce. (Ferdous Rahman)

As Alexander Leichter write down his literature- Generally, the man accepts, agrees to, and pays a dower (called “mahr” or “saddaq”).When a marriage contract is completed, the “woman comes under her husband’s . . . authority, control and protection.” (Ziba Mir-Hosseini ).

The Shari’a conception of marriage (is) dominated by two presuppositions: Women render their sexual favours; and in return they gain the right to maintenance. (Ziba Mir-Hosseini)

Each party to the marriage has certain rights and obligations under Shari’a.

However, some of these rights and obligations are defined differently in various Islamic countries, and it is these rights and obligations that may be augmented or abrogated to a certain degree in the marriage contract itself (depending on the provisions of the law in that particular country) . For example, in many of the Islamic countries, a Wife may insert into the marriage contract the reasons for which she may be entitled to divorce (even without the husband’s consent). In contrast, and most importantly, however, the marriage contract may not alter husband’s unfettered right to divorce his Wife, without cause, as that right is deemed to be unalterably granted to Husband by Shari’a. (There is no such thing as long-term or lifetime maintenance, alimony or spousal support under shari’a. That is one reason why the amount of mahr the wife receives upon divorce is such an important part of the marriage contract– the amount of mahr, in many cases, is all the wife may have to survive on if the husband divorces her).

In most Islamic countries, the marriage contract itself may stipulate specific reasons where by a woman is entitled to request and be granted an unconditional divorce without giving up her mahr (Alexander Leichter).

As Indicated by Dr. Taslima Monsoor - on his writing at The Daily star about dower right -The Mahr/Dower is something that is paid by the husband to his wife. It is paid to the wife only as an honour and respect and to show that he has a serious desire to marry her and is not simply entering into the marriage contract without any sense of responsibility and obligation or effort on his part. It is also a provision for her rainy days and socially it became a check on the capricious exercise by the husband of his unlimited power of divorce. Dowry is a new phenomenon for the

Muslim communities in Bangladesh, with enlarged effects after independence. For the Hindu community also, its impact was not so widespread before liberation.

Some authors in Bangladesh are claiming that dowry has become an essential criterion for marriage in every community and is near universal in Bangladeshi society. The simple gesture of jamai ador or special affection shown to the bridegroom has been transformed to the shape of daabi or demand by the bridegrooms. Even poor men are taking this chance of exploiting the bride's family to improve their fate from poverty and unemployment. This is making marriage a commercial transaction, giving more value to property and money than the bride herself.

The real scenario-It was found in a study of the metropolitan city of Dhaka that 88% of Muslim wives did not receive any dower at all. If this is the situation in the capital city, one can anticipate an alarming situation in the rural remote areas. Why are women not receiving their legal right of dower? To inquire into this one has to probe into the causes for not giving dower. Here the same causes for which the women in Bangladesh are being subordinated come in, as women are dominated in the patriarchal family and in the wider socio-religious arena. What needs to be ascertained here, in particular, seems to be whether the women's right to dower is being enlarged or reduced by local customary conventions.

Here is some confusion-The dowry system is not recognised in the religion or the law of the Muslim societies but has spread into it. Conversely, Islamic law provides dower to enhance the status of women. Why should Muslim women, who are supposed to be protected by dower, become victims of dowry?

It is important to note that until now authors confuse dower with dowry. Perhaps the aspect of women's property or stridhanam in Hindu law and dower as the exclusive property of the wife are seen as synonymous. When dowry is regarded as stridhanam or pre-mortem inheritance for women, contradictions arise and the equation of dowry with stridhanam has been disputed by several authors. They argue that the situation is absolutely reverse, as dowry is not a gift to the wife or her exclusive property but the property of her in-laws. The anti-dowry law stated that property given as dowry belongs to the wife but later on amended the law. However, the

misconceptions still lingers on that she has been paid dowry than why should she be a part and parcel of the succession?

Thus, the recent emergence of dowry among Bangladeshi Muslims is more due to simple greed and commercialisation of marriage than the impact of traditional culture, the urge of hyper gamy and the undermining of the women's productive role. The impact of men coming into contact with a wider cash economy by going abroad has also been shown to be a significant variable for their raised expectations in marriage (M. Taslima).

## **2.2. Historical Background of Dower:**

It is said that during pre-historic times man lived a barbaric life, which had the tribal form. For unknown reasons marriage was prohibited between a male and a female of the same blood. Hence the young men of a tribe, who wanted to marry, were compelled to choose their wives from some other tribe. They often visited other tribes for this purpose. At that time man was not aware of his role in begetting children. He thought that the children belonged exclusively to their mother. Though he often found that the children closely resembled him, he did not know the cause of that resemblance. Naturally the children also thought that they belonged to their mother and not to their father. At that time ancestry was traced through the mothers. Men were considered to be barren and sterile. After marriage they stayed with their wife's tribe as a mere adjunct of it, because the wife required her husband's company. This period is known as the period of matriarchy.

It was not long before man discovered his role in procreation and came to believe that the children in reality belonged to him. From then onwards, he dominated over woman and assumed the role of the head of the family. Thus, the so called period of patriarchy began.

During this period also a marriage between the people having the same blood was prohibited. Man had to choose his wife from some other tribe, and bring her to his own tribe. As there was constant warfare among the tribes, the only way to get a wife was to kidnap a young girl from some other tribe.

Gradually peace took the place of warfare and the different tribes were able to achieve peaceful coexistence. During this period the custom of kidnapping the girls was abolished. In order to get

the girl of his choice the man went to her tribe, became a hired worker of her father and worked for him for some time. In consideration of the services rendered by him the girl's father gave her hand to him and he took her to his own tribe.

When money became common, man discovered that instead of serving the bride's father for years, it was better to present a suitable gift to him and take the girl immediately. That was the origin of the dower (mahr).

According to this account, in the early days man lived as an adjunct of woman and served her. During this period woman ruled over man. In the next stage, when power passed into man's hands, he kidnapped women from some other tribe. During the third stage, in order to win a woman, man went to woman's father and served him for years. During the fourth stage man presented a sum of money to the woman's father. And that is how the custom of dower originated.

It is said that since the time man abolished the system of matriarchy and laid the foundation of patriarchy, he gave woman the status of a slave, or at the most, of an employee or a servant of his. He looked upon her as an economic tool, which, by the way, could satisfy his lust also. He did not give her social or economic independence. The fruits of woman's labour belonged either to her father or to her husband. She did not have the right to choose her husband, nor could she carry out any economic activity for her own sake. The money which man paid as dower and the expenses which he bore as maintenance (*nafaqah*) were in consideration of the economic gains which he derived from her during the period of conjugal relations.( Assignmentpoint.com, accessed on 18 February,14)

### **2.3. The Real Philosophy of Dower**

According to our belief, the dower has come into being as the result of skilful arrangements, put into the very design of creation, to balance the relations between man and woman. The dower has come into being, because, by nature, the respective roles of man and woman are different from each other. According to the gnostics the law of love and attraction prevails everywhere in the Universe. As everything is designed to perform a definite function, its role is different from that of all other things.

While discussing the disparities between man and woman, we have already pointed out that their feelings and sentiments, with regard to each other, are not the same. The law of creation has ordained that woman should have the qualities of beauty, pride and indifference, whereas man

should have those of courting and pursuit. That is how the physical weakness of woman, as compared to man, has been counterbalanced, and for this very reason it has always been man who has sought women hand and proposed to her. As we have already seen, according to the sociologists, during the periods of both matriarchy and patriarchy, it has been man who has sought after woman.

The scientists say that man is more lustful than woman. Certain Islamic traditions say that man is not more lustful. Actually the case is the reverse, but woman has a better sense of self-restraint. Practically, both the views come to the same thing. Anyway, it is certain that man has less self-control. This feature has enabled woman not to run after man, nor to submit to him easily. Man's instinct compels him to approach woman, and he takes steps to gain her favors. One of these steps is to present her with a gift.

Members of the male sex have always vied with each other to win a female. They have even fought each other to achieve this end. But the members of the female sex have never shown the same keenness to win a male. This is so, because the roles of the male and the female are not the same. The male always pursues a female whereas the female shows a sort of indifference to him.

The dower is closely related to woman's modesty and chastity. She knows by instinct that her self-respect demands that she should not submit herself freely.

That is how woman, in spite of her physical weakness, has been able to bring men to their knees, to compel them to vie with each other, and to make Romeos run after Juliets. When she agrees to marry a man, she receives a present from him as a sign of friendship, cordiality and goodwill.

It is said that among some barbaric tribes, when a girl had more than one suitor, she used to persuade them to fight a duel. Whoever won the duel or killed his rival was considered fit to secure the hand of the girl.

There was a newspaper report that a girl in Tehran persuaded two boys to fight a duel in her presence. From the point of view of those who think, that power means only brute force and maintain that the history of man-woman relations contains nothing but cases of cruelty and

exploitation, it is unbelievable that the fair and weaker sex should be able to set on two members of the stronger sex to attack each other. But for those who have some knowledge of the wonderful and mysterious power which nature has granted to woman there is nothing strange in this.

Woman has had much influence over man. Her influence over man has been greater than man's influence over her. Man is indebted to woman and to her chastity and charming modesty for his many achievements of art and feats of bravery. The credit for the building of many a personality and the developing of many a genius goes to her. Woman has built man and man has built the society. If woman loses her qualities of chastity, modesty and restraint, and tries to play the role of man, first she may be debased, then man may lose his manhood, and in the end the society may be ruined.

That faculty of woman, has enabled her to maintain her personality throughout history; to compel man to come to her door-step as a suitor; to lead man to rivalry and even to fight for her sake; to maintain her modesty and chastity as her hallmark; to keep her body hidden from the gaze of man; to inspire man to love to perform feats of bravery, as a sacred asset; to excel in intellectual and creative deeds; to sing amorous songs and to submit to the weaker sex in humility. Hence this tendency has impelled bridegroom to offer his bride a present at the time of marriage as the dower. The dower is a part of the natural law, which has been promulgated by nature itself. (Women and her right. Accessed on 20 March 14).

#### **2.4. The Dower in the Qur'an:**

##### **The Quran**

The form of the dower described above in connection with the fifth stage is not an invention of *the Quran*. All that *the Qur'an* did was to restore it to its natural and pristine form. *The Quran* in its incomparably elegant style says: "Give to the women a free gift of their marriage portions". (Surah an-Nisa, 4 : 4) This means that the dower belongs to women exclusively and it is a gift to be paid directly to them. It has nothing to do with their fathers or brothers.

In this short sentence the Holy *Quran* has referred to three basic points: Firstly it has used for marriage portion or the dower the word, *saduqatehinna* meaning truthfulness and sincerity and not the word *mehr*. Thus, the dower is a symbol of the cordiality of the man paying it. This point has been expressly mentioned by a number of the commentators of the Holy *Quran*, such as *Zamakhshari*, the author of the well-known commentary, the *Kashshaf* Similarly, the famous philologist, *Raghib Isfahani* says in his lexicon of *the Quran* that the dower has been called *saduqah* because it is a symbol of the sincerity of faith. Secondly, it is clear from the above verse of *the Quran* that the dower is to be paid directly to the woman, and her parents have no claim to it. It is not a compensation for the efforts made by them to bring up their daughter.

The Holy *Quran* abolished many pre- Islamic Arab customs connected with dower and restored it to its natural and deserving pristine form.

According to the Islamic traditions not only a father has no claim to any part of the dower of his daughter, but it is also not permissible to include, in the marriage agreement, a condition that apart from dower anything additional would be paid to him. In other words, a father is not allowed to derive any financial gain out of the marriage of his daughter.

Islam also abolished the custom according to which a man worked for his prospective father-in-law when money had not yet become a medium of exchange. This custom did not come into existence simply because the fathers wanted to benefit through their daughters. There were other reasons also, which were characteristic of the age and were not necessarily unfair. Anyhow, there is no doubt about the existence of such a custom in the ancient world.

Anyhow, Islam has done away with this custom, and now the father of the woman has no claim to the dower, even if he wants it for spending it on his daughter. Only the woman herself has full rights to spend it as she likes.

During the pre-Islamic period there existed other customs also, which practically deprived the woman of her dower. One of them was the custom of inheriting conjugal rights. If a man died, his son or brother inherited his conjugal rights, in respect of his wife, in the same way as he inherited his property. The son or the brother of the deceased had a right, either to give the



widow in marriage to another man or take her dower, or to declare her his own wife against dower already paid to her by the deceased.

The Holy *Quran* did away with this custom also. It says:

‘O you who believe! It is not lawful for you to inherit women forcibly’ (Surahan-Nisa, 4 : 19)

In another verse, the holy *Quran* has totally banned a marriage with one’s father’s wife (stepmother) even if she be willing. It says: “Marry not those women whom your father married” (Surahan-Nisa, 4 : 22).

The Holy *Quran* did away with every custom which deprived woman of her dower. One of such customs was that when a man lost interest in his wife, he harassed her with a view to making her agree to a divorce on the condition that she would return, wholly or partly, the dower which she had received. The Holy *Quran* says: “Nor should you put constraint on them (women) so that you take away part of what you have given.” (Surahan-Nisa, 4: 19).

## **Sunnah**

A hadith of the Prophet Muhammad (May peace is upon him) on the rights of woman regarding dower are as under: -

Omme-Habibah reported that she was the wife of Abdullah-b-Jahash who died in the land of Abyssinia, and then the Negus gave her in marriage to the Prophet and took from him a dower of 4000 (in another narration 4000 dirhams). Then he sent her to the Prophet with Shurahbil-b-Hasanah. (Abu Daud; Nisai)

Anas retorted that the Messenger of Allah emancipated Safiyyah and married her and made her emancipation a dower... (Bukhari and Muslim)

Anas reported that Abu Talhah married Omme Solaim and the dower between them was Islam. Omme Solaim had accepted Islam before Abu Talhah who sought her in marriage. She said: I

have surely accepted Islam; but if you accept Islam, I shall marry you. So Abu Talhah accepted Islam and it was their dower between them. (Nisai)

Oqbah-b-‘Amer reported that the Messenger of Allah said: The most equitable of the conditions (of marriage) is that you should fulfil that (Dower) with which you have made private parts lawful. (Bukhari and Muslim)

Jaber reported that the Messenger of Allah said: whoso gives two handful of barley or dates as dower of his wife has rendered (marriage) lawful. (Abu Daud)

Sahl-b-Sa’ad reported that a woman came to the Messenger of Allah and said: O, Messenger of Allah, I offer myself to you. She then kept standing for a long time. A man got up and said; O, Messenger of Allah! marry her to(me)...The Prophet said: Have you got with you anything which we may give to her as dower? He said; I have nothing but this trouser of mine. The Prophet said: Seek, though it be a ring of iron. Then he searched but did find nothing. The Prophet asked: Have you got any portion of the Qur’an with you? ‘Yes’, said he ‘such and such a verse.’ He said: I give her in marriage to you for what is with you from the Qur’an (So teach her something from the Qur’an). (Bukhari, Muslim)

Hazrat Umar once addressed the people in the Mosque of the Prophet: O People! Why have you started fixing the dowers of women at fantastically higher amounts, while the Messenger of Allah had never fixed the dower of any of his wives at an amount exceeding four hundred Dirhams. Beware! I should not hear in future that any of you has fixed dower exceeding 400 dirhams. He then descended from the pulpit. There and then came a woman of Quraish and said: O Umar! Have not you heard the word of God (in *Al-Qur’an* 4:20). Allah says. Even if you have given a big treasure to a woman, don’t take back anything out of that. Hazrat Umar at once returned, withdrew his order and announced: Any one of you can fix as much dower as he pleases: I can’t stop him. (Tafsir Ibn Kathir).

The Sunnah has laid down the following rules and regulations regarding Hag Mohr or dower the payment of which by the husband to the wife is obligatory.

Payment of the Mahr (dower) to his wife is obligatory on the husband. It is an essential part of marriage. *The Qur'an* says: "O Prophet! We have made lawful to thee thy wives to whom thou has paid their dowers"- (33:50). At another place the *Qur'an* says:....And there is no blame on you to marry them when you give them their dowries"- (60:10). However, the marriage is not invalid if dower is not paid or contracted or fixed before marriage. It is apparent from verse No. 236 of chapter 2 of *Al-Qur'an* which reads: "There is no blame on you if ye divorce women before consummation or the fixation of their dower; but bestow on them a suitable gift." Even in such case something is to be paid.

The amount of dower which the bridegroom has to give to his bride has not been fixed by *the Qur'an* or Sunnah. It depends entirely on the agreement of the contracting parties *The Qur'an* says:" ....The wealthy according to his means and the poor according to his means; a gift of a reasonable amount, is due from those who wish to do the right things"- (2:236)

There is no minimum or lower limit of dower fixed by law, though some jurists opine that it should not be less than ten dirhams. It may be in the form of cash or in kind. The Prophet (PBUH) did not fix any minimum: According to the well reported Traditions of the Prophet of Islam, even a handful of barley or dates or even an iron ring may be sufficient provided the bride agrees to accept it. The Messenger of Allah himself married Hazrat Safiyyah and her emancipation was her dower. Omm Solaim agreed to marry Abu Talha on the condition that he should accept Islam. Abu Talha fulfilled the condition and his acceptance of Islam was declared to be mahr or dower of Omm Solaim. In another case, the teaching of one or two verses of the Holy *Quran* by the husband to the wife was declared to be an adequate Mahr for the bride.

No maximum or upper limit of mahr or dower has been fixed by Islam either. *The Quran* says: "But if ye decide to take one wife in place of another, even if ye had given the latter a whole treasure for dower, take not the least bit of it back"- (4:20). From this verse the jurists of Islam have deduced that the right of a woman to demand any amount of dower as a condition of her agreeing to marriage is not restricted by the Islamic Law. Hazrat Umar, the second pious caliph of Islam, once thought of fixing the upper limit of dower on the complaint of the men that the

women were demanding fantastic amounts; but he was dissuaded by a woman who drew his attention to verse of the Holy *Quran* quoted above.

If a person divorces his wife before touching her and before appointing any amount of dower for her, he has been directed to make provision for her according to his means (*Al-Quran* 2:236). But if he divorces her before touching her and after fixing the amount of dower for her, he is bound to give half of the amount of dower which has been fixed. However, if the woman agrees to forgo her rights of accepting this half dower or the man shows generosity in giving her full dower, such an accord is permitted. (*Al-Quran* 2:237)

The men should give to their wives their dower willingly. But if the women of their own accord agree to remit the whole or part of their dower, the husbands are welcome not to pay it (*Al-Quran* 4:4). Hazrat Umar and Qazi Shuraih have decreed that if a wife remits the dower but later on demands it, the husband shall be compelled to pay it because the very fact that she demands it' is a clear proof that she did not remit it of her own free will.

According to verse no. 24 of Surah Al-Nisa, dower has to be paid as a duty.

## **2.5. Difference between Sunni and Shia Law Regarding Dower:**

### **Sunni Law**

A minimum limit of 10 dirham's is prescribed for specified dower.

There is no limit to proper dower.

There is no maximum limit for specific dower.

If marriage is dissolved by death and dower has not been specified, or it is agreed that no dower shall be payable, proper dower would be due whether the marriage was consummated or not.

An agreement that no dower shall be due is void.

In the absence of an agreement only a reasonable part of the dower is presume to be prompt.

## **Shia Law**

No minimum limit is prescribed. Proper dower cannot exceed 500 dirham's. Fixing of dower exceeding 500 dirham's is considered abominable though not illegal. In such case no dower would be due if the marriage was not consummated. Such agreement by sane and adult wife is valid. (Assignmentpoint.com, Accessed on 20 March 14).

### **2.6. Importance or Significance of Dower:**

According to our belief, the dower has come into being as the result of skilful arrangements, put into the very design of creation, to balance the relations between man and woman. The dower has come into being, because, by nature, the respective roles of man and woman are different from each other. According to the Gnostics the law of love and attraction prevails everywhere in the Universe. As everything is designed to perform a definite function, its role is different from that of all other things.

While discussing the disparities between man and woman, we have already pointed out that their feelings and sentiments, with regard to each other, are not the same. The law of creation has ordained that woman should have the qualities of beauty, pride and indifference, whereas man should have those of courting and pursuit. That is how the physical weakness of woman, as compared to man, has been counterbalanced, and for this very reason it has always been man who has sought women hand and proposed to her. As we have already seen, according to the sociologists, during the periods of both matriarchy and patriarchy, it has been man who has sought after woman.

The scientists say that man is more lustful than woman. Certain Islamic traditions say that man is not more lustful. Actually the case is the reverse, but woman has a better sense of self-restraint. Practically, both the views come to the same thing. Anyway, it is certain that man has less self-control. This feature has enabled woman not to run after man, nor to submit to him easily. Man's instinct compels him to approach woman, and he takes steps to gain her favors. One of these steps is to present her with a gift.

Members of the male sex have always vied with each other to win a female. They have even fought each other to achieve this end. But the members of the female sex have never shown the same keenness to win a male. This is so, because the roles of the male and the female are not the same. The male always pursues a female whereas the female shows a sort of indifference to him.

The dower is closely related to woman's modesty and chastity. She knows by instinct that her self-respect demands that she should not submit herself freely.

That is how woman, in spite of her physical weakness, has been able to bring men to their knees, to compel them to vie with each other, and to make Romeos run after Juliet. When she agrees to marry a man, she receives a present from him as a sign of friendship, cordiality and goodwill.

It is said that among some barbaric tribes, when a girl had more than one suitor, she used to persuade them to fight a duel. Whoever won the duel or killed his rival was considered fit to secure the hand of the girl.

There was a newspaper report that a girl in Tehran persuaded two boys to fight a duel in her presence. From the point of view of those who think that power means only brutal force and maintains that the history of man-woman relations contains nothing but cases of cruelty and exploitation, it is unbelievable that the fair and weaker sex should be able to set on two members of the stronger sex to attack each other. But for those who have some knowledge of the wonderful and mysterious power which nature has granted to woman there is nothing strange in this.

Woman has had much influence over man. Her influence over man has been greater than man's influence over her. Man is indebted to woman and to her chastity and charming modesty for his many achievements of art and feats of bravery. The credit for the building of many a personality and the developing of many a genius goes to her. Woman has built man and man has built the society. If woman loses her qualities of chastity, modesty and restraint, and tries to play the role of man, first she may be debased, then man may lose his manhood, and in the end the society may be ruined.

That faculty of woman, has enabled her to maintain her personality throughout history; to compel man to come to her door-step as a suitor; to lead man to rivalry and even to fight for her sake; to maintain her modesty and chastity as her hallmark; to keep her body hidden from the gaze of man; to inspire man to love to perform feats of bravery, as a sacred asset; to excel in intellectual and creative deeds; to sing amorous songs and to submit to the weaker sex in humility. Hence this tendency has impelled bridegroom to offer his bride a present at the time of marriage as the dower. The dower is a part of the natural law, which has been promulgated by nature itself. (Assessment Point, Accessed on 21 March 2014).

## **2.7. Classification of Dower in Muslim Marriage:**

A key feature of all Muslim marriage contracts that differs from a standard Western civil marriage license is a provision regarding mehr, a sum of money or any other valuables that the husband promises to give to the bride upon marriage. Muslim scripture species that all marriages

involve a transfer from groom to bride, and the majority of classical Muslim clerics hold mehr to be an automatic effect of the marriage contract such that even if no mehr is stipulated, the wife is entitled to claim a "fair" amount based on that received by others of her social standing (Welchman 2000; Ali1996; Esposito, 1982). Customarily, mehr is divided into prompt mehr, which is payable immediately at the marriage, and deferred mehr, which is payable on the termination of the marriage by death or by divorce initiated by the husband (Rapoport 2000; Welchman 2000). Muslim marriage contracts routinely include written documentation of both types of prenuptial arrangements. In Bangladesh, after the announcement of the engagement of a Muslim couple and before the wedding takes place, a formal contract (kabin) is drawn up and signed in the presence of a licensed marriage registrar (qazi) at a special ceremony. The contract specifies the amounts of prompt and deferred mehr, which cannot be renegotiated after the marriage has become legal (Geirbo and Imam, 2006). Islamic family law under any interpretation affords far greater rights in marriage and divorce to men than to women. Most notably, only a man can contract more than one marriage at a time (up to four permanent wives are allowed in all schools of Islamic law), and only men have unilateral and unconditional divorce rights (talaq). When talaq rights are not curtailed through legal amendments, husbands can divorce their wives without cause, attempt at mediation, judicial oversight or even informing their wives. As a result, in many traditional settings married Muslim women live under the ever-present threat of being divorced without having the right to initiate divorce themselves (Attila Ambrus, Erica Field, Maximo Torero, 2009).

Broadly, there are two kinds of dower:

- (i) Specified and
- (ii) Unspecified.

### **Specified Dower**

Specified dower is that dower which is fixed at the time of marriage or later on. There are provisions relating to dower under sections 13, 14, 15, 16 and 20 of the Kabinnama [Form-E] according to *the Muslim Marriages and Divorces Rule 1975*. When a husband agrees to pay to his wife a residential building or one lakh taka as mahr, it is an example of specified mahr (Muhammed Faiz-ud-din,1998).

**The specified dower has been further divided into-**

- (a) Prompt and
- (b) Deferred.

### **Prompt Dower (Muajjal Mahr)**

It is payable immediately after marriage on demand. According to Ameer Ali, a wife can refuse to enter into conjugal domicile of husband until the payment of the prompt dower. The following point must be noted regarding prompt dower: Prompt dower is payable immediately on the marriage taking place and it must be paid on demand unless delay is stipulated for or agreed. It can be realized any time before or after the marriage. The wife may refuse herself to cohabit with her husband, until the prompt dower is paid. If the wife is minor, her guardian may refuse to allow her to be sent to the husband's house till the payment of prompt dower. In such circumstances, the husband is bound to maintain the wife, although she is residing apart from him.

It was held in *Rehana Khatun v. Iqtider Uddin*, that the prompt portion of the dower may be realized by the wife at any time before or after consummation (*Obaidul Huq Chowdhury, 1943*). In the case of *Mahadev Lal v. Bibi Maniran* it was decided that prompt dower does not become deferred after consummation of marriage, and a wife has absolute right to sue for recovery of prompt dower even after consummation. Dower which is not paid at once may, for that reason, be described as deferred dower, but if it is postponed until demanded by the wife it is in law prompt dower.

It is only on the payment of the prompt dower that the husband becomes entitled to enforce the conjugal rights unless the marriage is already consummated. The right of restitution arises only after the dower has been paid.

As the prompt dower is payable on demand, limitation begins to run on demand and refusal. The period of limitation for this purpose is three years. If during the continuance of marriage, the wife does not make any demand, the limitation begins to run only from the date of the dissolution of marriage by death or divorce.

Although prompt dower, according to Muslim law, is payable immediately on demand, yet, in a large majority of cases it is rarely demanded and is rarely paid, in practice a Muslim husband generally gives little thought to the question of paying dower to his wife save when there is domestic disagreement, or when the wife presses for payment upon the husband's



embarking upon a course of extravagance and indebtedness without making any provision for the lapse of time since marriage raises no presumption in favor of the payment of dower.

### **Deferred Dower**

It is payable on dissolution of marriage either by death or divorce. According to Ameer Ali generally in India dower is a penal sum with the object to compel husband to fulfill marriage contract in its entirety. The following points must be noted regarding deferred dower:

Deferred dower is payable on dissolution of marriage by death or divorce. But if there is any agreement as to the payment of deferred dower earlier then such an agreement would be valid and binding.

The wife is not entitled to demand payment of deferred dower, but the husband can treat it as prompt and pay or transfer the property in lieu of it such a transfer will not be void as a fraudulent preference unless actual insolvency is involved. The widow may relinquish her dower at the time of her husband's funeral by the recital of a formula. Such a relinquishment must be a voluntary act of the widow.

The interest of the wife in the deferred dower is a vested one and not a contingent one. It is not liable to be displaced by the hampering of any event, not even on her death; as such her heirs can claim the money if she dies.

If the Kabinnama, the marriage contract deed, fixes the amount of dower but fails to show what portion of it will be prompt and what deferred dower, according to Allahabad and Bombay High court's the proportion between the two should be fixed on the basis of (i) position of the wife, (ii) custom of locality, (iii) total amount of dower, (iv) status of the husband.

Shia law- Under Ithna Ashari shia law if the Kabinnama fixes the total amount of dower but does not specify as to what portion of it will be prompt and what deferred, the whole of the dower is regarded as prompt.

In the Madras presidency, unless otherwise stipulated the entire dower is prompt no matter the parties are Shia or Sunni.

Sunni law- According to Sunni law, in the absence of any family usage and statement in kabinnama, half of the total amount is regarded as prompt and half as deferred.

### **Proper Dower (mahr-i-mithl)**

Its size is to be determined in view of the socio-economic conditions of the parties involved.

If no mahr has been agreed or expressly stipulated by the parties, the contract of marriage is still valid. This also means that if no mahr sum is specified in the marriage contract, the husband is not thereby released from his liability to pay a dower. Even a statement that no dower shall be paid does not change the position. In these circumstances, what is known as the 'proper dower' becomes due. It is worked out on the basis of the mahr agreed for women of a similar social status to the wife. Particularly relevant will be the mahr paid to other female members of the wife's family, for instance sisters, paternal aunts and female cousins (David Pearl & Werner Menski,1998).

There is no limit to the maximum amount of proper dower under the Sunni law, but under the Shia law the proper dower should not exceed 500 Dirham. 500 Dirham was the amount of dower which was fixed in the marriage of Fatima, the prophet's daughter. In the Shia Muslims it is, therefore, considered a point of honor not to stipulate for a sum higher than the sum of dower fixed by the prophet for his daughter, Fatima (Assessment Point, 2014. Accessed on 18<sup>th</sup> Feb 2014).

### **2.8. Amounts of Dower and Conditions of Payment:**

**This may be divided into two-**

1. If the marriage is consummated, and is dissolved by death:
  - (a) Whole of the specified dower in case of regular marriage.
  - (b) Proper dower if unspecified in case of regular marriage.
  - (c) Specified or proper dower, whichever is less, in the case of irregular marriage.
  - (d) If the marriage is not consummated, and is dissolved by the act of party:
2. When divorced by the husband-

1. Half of the specified dower, in case of regular marriage: in case of regular marriage.
2. A present of three articles if unspecified: in case of regular marriage.
3. When divorced by the wife: No dower.
4. If the marriage is irregular in the ways and above: No dower.

### **Maximum and Minimum Amounts of Dower**

The amount of dower or mahr varies in different countries; there is no fixed rule as to the maximum (mus'ab Settled a dower of 500,000 dirham or the granddaughter of Abu Bakre. The Prophet did not enunciate any fixed rule as to the amount of dower. He expressly left it to custom and local usages but as he appears to have settled 500 dirham upon Maimuna, the Shias consider that amount to be the mahr-i-sunnat. The Radd-ul-Muhtar says the dower of "our lady" Fatima was 400 dirham). It depends on the social position of the parties and the conditions of society in which they live. The Radd-ul-Muhtar lays this down with considerable distinctness. "Whatever amount exceeding the minimum the man agrees to pay he will be liable therefore".

The Shiah Shara'ya says: "there is no limit either to the maximum or the minimum of dower," it being a matter of contract between husband and wife; So long as the article given or assigned by way of dower possesses any definite value, the assignment is considered valid. There is no distinction so far as this principle is concerned between the Shias and the Sunnis. Both schools, however, regard excessive dower as improper though not absolutely illegal; but, as will be seen, this recommendation is totally disregarded by the Indian Musulmans, for reasons which have been explained in the Introduction.

The early Hanafi lawyers fixed ten dirham, as the minimum for dower. The Malikis inhabiting a poorer and less populous country than that in which the early Hanafi lawyers flourished, considered even a smaller sum as permissible.

These minimums have become obsolete and it is now customary in different countries to fix the amount of dower entirely by a consideration of the circumstances of the husband and wife.

Among Sunnis there is no maximum; any amount may be fixed. Some of the sects of Shias, however, there is a tendency “not to stipulate for a sum higher than the minimum fixed by the Prophet for his favorite daughter Fatima, the wife of Ali, namely 500 dirham.” (Assessment Point, 2014. Accessed on 18<sup>th</sup> Feb 2014)

### **Chapter Three- Dower Correlated Muslim Laws**

**3.1. Muslim Family Laws Ordinance, 1961**

**3.2. Muslim Marriages and Divorces (Registration) Act, 1974**

**3.3. Marriages and Divorces (Registration) Rules, 1975 Muslim**

**3.4. The Family Courts Ordinance, 1985**

### **3.1. Muslim Family Laws Ordinance, 1961:**

The Muslim Family Law Ordinance (MFLO) of 1961 imposed, above all, significant restrictions on polygamy. Under the MFLO, a man was given permission to marry a second wife only under specific circumstances and after following specific procedures. These included the requirement that a husband obtains the written permission of the local government authorities of the existing wife's residence and satisfy the local government body, or Union Council, that he had obtained the prior wife's consent. In addition, the proposed new marriage had to be "Just and necessary", determined on the basis of the current wife's physical or mental condition and the husband's ability to support multiple families.

To enforce these rules, the MFLO empowered Union Councils to arbitrate on all disputes related to divorce and polygamy, and imposed automatic jail sentences for men found to be in violation of these rules. The MFLO also rendered registration of all Muslim marriages compulsory, including detailed rules regarding the manner in which registration was to take place, and pronounced that registers be preserved permanently. However, the MFLO made no provision for the establishment of sufficient registrars to accommodate this new requirement, and as a result penalties were not imposed on couples that failed to register and marriage registration rates remained low throughout the 1960s and 1970s.

In addition to changes in laws governing polygamy, the MFLO made an attempt at divorce reform by requiring that a husband notify the local official of his pronouncement of talaq, intended to empower local councils to impose barriers on arbitrary divorce. However, in the absence of a system requiring notification of talaq revocation, this requirement had little effect on divorce proceedings. As a result of this oversight, in effect the MFLO provided no restrictions on divorce nor increased the likelihood of a woman receiving provisions for maintenance following divorce. Hence, in practice, while the institution of marriage became formalized under this law, the institution of divorce was relatively untouched and the husband maintained complete rights to unconditional divorce.

To summarize, the main effect of the MFLO was to place .rm restrictions on polygamy, hence Increasing husbands Incentives to officially divorce in the event that they desire to separate (Report, in *The Gazette of Pakistan [Extraordinary]*, June 20, 1956, p. 1215).

### **3.2. Registration of Muslim Marriages and Divorces Act of 1974:**

The second amendment to divorce law was the MMDA of 1974, which succeeded in imposing barriers to divorce. Most importantly, by establishing a universal system of divorce registration and assigning legal responsibility for the maintenance of registries, the Act made notification requirements of talaq effective, such that men were under threat of penalty for committing talaq without going before the courts, thereby curtailing men's privilege to verbally divorce their wives. By requiring that divorce be granted only in court, these stipulations increased a man's expected costs of divorcing his wife (for any fixed level of mehr specified in the marriage contract) since there was a greater chance that he would be required to pay alimony (Pereira 1999). The requirement that local UP councils be involved in all divorce proceedings further strengthened a divorced woman's right to alimony and possibly also her right to mehr. Furthermore, the three-month notification period and administrative procedures associated with talaq registration that the law imposed are likely to have reduced the number of divorces that occurred out of emotional impulse. To summarize, the 1974 amendment enacted procedural requirements that lowered the likelihood that a man would seek a divorce by increasing the expected alimony he would be required to pay in the event of divorce and creating barriers to impulsive divorce. (Attila. A, Erica. F, Maximo. T, 2009).

### **3.3. Marriages and Divorces (Registration) Rules, 1975 Muslim:**

The Nikah Registrar is the name of an office appointed by the government, (popularly known as the Kazi) has the authority to register marriages in Bangladesh.

Nikah Registrar, appointed by the government under the Muslim Marriages and Divorces (Registration) Act, 1974, and rules framed there under, the Muslim Marriages and Divorces (Rules), 1975. Each Kazi is appointed to a defined locality where their job is registration of Muslim marriages and divorces within the given area. According to a recent High Court decision, Nikah Registrars are "public" servants [*Kazi Obaidul Haque vs. State 55 DLR (1999) 25*]

A Nikah Registrar, in effect, is an agent of the Government and the Nikah Registrar's license is also liable to be revoke, suspended, annulled following the procedure provided under rule 8 thereof. The Government has authority to curtail, extend or otherwise alter the limit of ant Nikah Registrar within the permissible limit of area without any notice, even in the case of permanent Nikah Registrar. [*Fazlur Rahman & 38 others vs. Government of Bangladesh and others 53 DLR 237*]

It authorises the Government to alter, extend, curtail or otherwise alter the limits of any Union Parishad for which a Nikah Registrar has been appointed by granting license. Likewise the government can also curtail the jurisdiction of any Union Parishad and declare any part of it as an "urban area" to be included in any Pourashava – Muslim Marriages and Divorces (Registration) Rules, 1975, rule-10. [*Kazi Md. Amirul Islam vs. Secretary, Ministry of Law, Justice and Parliamentary Affairs and others, 18 BLD (AD) 152*]. (Chancery Law Chronicles).

A nikah (Marriage) Registrar shall charge for registration of a marriage a fee at the rate of taka ten for the dower of every one thousand taka or part thereof, subject to a minimum of taka fifty and a maximum of taka four thousand. The legal position as regards the issue of dower remains the same in Bangladesh as it was after independence from Pakistan. It has been argued that the division of dower into prompt and deferred creates anomalies and sometimes reduces the amount of dower if the husband can falsely prove that the prompt dower has been paid. In the Pakistan period, the dowers which were not specified were regarded as to be realized in full on demand under the Muslim Family Laws Ordinance of 1961. This is still the law in Bangladesh (Assessment Point, 2014)

### **3.4. The Family Courts Ordinance, 1985:**

Family courts, which have been established in the country more than twenty years ago, need not be made familiar once again. If you are not a lawyer you may not have to learn the procedure of trial in the courts. It may even not be necessary for everyone to know the jurisdiction of the courts. But you must know your rights to be exercised through family courts. Hence, this write-up aims to make you informed about your dealings with a family court.



By the Family Courts Ordinance 1985 the Family Courts get hold of exclusive jurisdiction for expeditious settlement and disposal of disputes only in suits relating to dissolution of marriage, restitution of conjugal rights, dower, maintenance, guardianship and custody of children. The courts began working all over the country except in the hill districts of Rangamati, Bandarban and Khagrachhari. Soon after the court began functioning, questions were raised about whether the Family Courts would deal only with the family matters of Muslim community or of all communities. The uncertainty lasted for a long time until in 1998 a special High Court bench of the Supreme Court in a path finding judgment removed all the questions regarding family court's jurisdiction. Every lawyer and judge dealing with Family Courts is supposed to be aware of the judgment. But the common people for whose benefit the courts have been constituted seem still uninformed about the great decision relieving the justice-seekers in the Family Courts of a harming uncertainty. Section 5 of the Family Court Ordinance, 1985 speaks about the jurisdiction of the Family Courts which reads as: "Subject to the provisions of the Muslim Family Laws Ordinance, 1961 (VII of 1961), a Family Court shall have exclusive jurisdiction to entertain, try and dispose of any suit relating to, or arising out of, all or any of the following matters, namely:-

1. Dissolution of Marriage
2. Restitution of Conjugal Rights
3. Dower
4. Maintenance
5. Guardianship and Custody of children. (Assignmentpoint.com; Accessed on 12 Sept 14, 11:30 pm)

Establishment of Family Courts was on the one hand an expression of our sophisticated legal thought, on the other hand, an acknowledgement that our traditional civil courts had failed to successfully deal with the suits relating to family affairs. Family Courts were established by the Family Courts Ordinance 1985.

1, To serve the purpose of quick, effective and amicable disposal of some of the family matters. This purpose, though not perceptible from the preamble of the Ordinance, is evident in different

places of the body of the Ordinance. The anxiety of the framers of the Ordinance for the said speedy disposal of the family cases is palpable in fixing only thirty days for the appearance of the defendant.

2, in providing that if, after service of summons, neither party appears when the suit is called on for hearing the court may dismiss the suit.

3, The purpose is again manifest in providing a procedure for trial of cases in camera if required for maintaining secrecy, confidentiality and for effective disposal of some complicated and sophisticated matters which may not be possible under normal law of the land. Once more, the Code of Civil Procedure 1908 except sections 10 and 11 and the Evidence Act 1872 have not been made applicable in the proceedings under the Family Courts<sup>4</sup> which is another sign that indicates the concern of the lawmakers to dispose of the family matters in congenial atmosphere of the Family Court, which was proven to be absent in the lengthy procedure of civil courts. Unfortunately, the noble aim of introducing Family Courts has not been expectantly achieved though already more than two decades have passed after the courts' coming into operation. There are many and diverse type of reasons behind such let down.

It is evident that the setting up of these family courts was a dynamic step so far as reducing the backlog and disposing of cases while ensuring that there is an effective delivery of justice goes. However, as aforementioned, there are still matters of concern which plague these courts. The issues relating to the functioning of these courts is to be seen in total, as quoted in the examples relating to the procedural as well as substantive aspects of the problems. There are many controversial and debatable issues such as engaging a lawyer due to the specific provisions of the Family Courts Act.

Furthermore, the lack of uniformity regarding the rules laid down by different states also leads to confusion in its application. Merely passing a central legislation is not in itself a complete step; for implementation in its spirit, it is to be ensured that some level of uniformity is maintained, at least in the initial stages of its coming into effect. Further, the need to amend certain laws is also to be examined and implemented effectively in order to ensure that these courts do not face any hindrance in their working. These small steps, if examined and implemented within time, will go

a long way to ensure that the Family Courts are successful, to a greater degree, to fulfill the noble purpose for which they were created.(Assignmentpoint.com, Accessed on 12 Sept 14, 12:45 pm).

## **Chapter Four- Methods of Study**

**4.1. Method**

**4.2. Study Area**

**4.3. Population**

**4.4. Sampling of the Study**

**4.5. Case Study**

**4.6. Interviewees**

**4.7. Techniques and Instruments of Data Collection**

**4.8. Primary Data collection**

**4.9. Secondary Data Collection**

**4.10. Data Analysis**

**4.11. Ethical Consideration**

#### **4.1. Method:**

Methodology is the systematic, theoretical analysis of the methods applied to a field of study, or the theoretical analysis of the body of methods and principles associated with a branch of knowledge. It, typically, encompasses concepts such as paradigm, theoretical model, phases and quantitative or qualitative techniques. (S.I. and Rose, A.A. 2005)

All research, whether qualitative or Quantitative, must involve in explicit (i.e auditable), disciplined, systematic approach to finding things out, using the method most appropriate to the question being asked. Consideration should be given to these common goals, although the differences between qualitative and quantitative research have often been exaggerated in the past. Qualitative research is concerned with developing explanations of social phenomena. That is to say, it aims to help us to understand the social world in which we live and why things are the way they are. It is concerned with the social aspects of our world.

Generally qualitative research is multi-method in focus, involving an interpretive naturalistic approach to its subject matter. Qualitative research is multi method in focus, involving an interpretive, naturalistic approach to its subject matter. This means that qualitative researchers study things in their natural settings, attempting to make sense of, or interpret, phenomena in terms of the meanings people bring to them. Qualitative research involves the studied use and collection of a variety of empirical materials – case study, personal experience, introspective, life story, interview, observational, historical, interactional, and visual texts – that describe routine and problematic moments and meanings in individuals' lives. Accordingly, qualitative researchers deploy a wide range of unconnected methods, hoping always to get a better fix on the subject matter at hand. (Denzin and Lincoln 1994: 2)

The study Follow qualitative approach because qualitative methods are often regarded as providing reach data about real life people and situations and being more able to make sense of behavior within its wider context. Researchers are speaks in this study a language cases and contexts and given emphasize conducting examinations of cases that arise in the natural flow of women social life.

#### **4.2 Study Area:**

The research has been aimed to be conducted in the MMW (Muslim married women) who are living in Mirpur Area of Dhaka City.

#### **4.3. Population:**

The selected 5 women from Mirpur will be taken under the research intentionally. Then age group of respondents were 20 to 55+ and focus group participant age also same. All research participants were educated and self employed.

#### **4.3 Sampling of the Study:**

Samples in qualitative research tend to be small. In terms of situation here are selected 5 Muslim women from Mirpur area in DCC will respond to the question directly and one FGD. The primary data was collected through direct interview method by using pre tested structured interview. We gathered some information through informal discussion. We have used purposive, non-probability, network sampling methods. We have contacted the interviewees through acquaintance. Because it was not so easy to make an interviews with the respondents without informing her about the study concern. Before conducting the interviews it was needed to make an appointment according to the interviewee's convenient time, place and followed the ethics of research in every step.

#### **4.5. Case Study:**

To conduct a qualitative research five cases has been chosen purposively according to the sample size. All cases are taken from Mirpur area in DCC's who were MMW.

#### **4.6. Interviewees:**

Structured interviews can also be used as a qualitative research methodology (Kvale & Brinkman. 2008) These types of interviews are best suited for engaging in respondent or focus group studies in which it would be beneficial to compare/contrast participant responses in order to answer a research question (Lindlof & Taylor. 2002).

For structured qualitative interviews, it is usually necessary for researchers to develop an interview schedule which lists the wording and sequencing of questions (Patton. 1991).

In terms of situation here are selected 5 Muslim women from Mirpur area in DCC will respond to the question directly and made a semi - structured interview guide in relation to research questions. By following the semi structured interview guide, we have collected more information from the interviewee and the interviewees have understood more about the study.

#### **4.7 Techniques and Instruments of Data Collection:**

The study considered both primary and secondary source of data. Primary information collected directly from selected respondent in the research area. I assumed different question in our mind and used a semi-structured interview guide to conduct interview. I physically interview, observed and contact with selected case. We have taken the notes simultaneously in the time of interviews. Before ending the interview, I have asked the respondents that are anything they would like to include or exclude. Then I have started to transcribe the empirical data as a readable scientific text. In addition to necessary data were collected from secondary sources such as, research reports, books, journals, thesis, relevant publications of the government and non government organization those who are working in this field.

#### **4.8. Primary Data Collection:**

Primary data was collected through direct interview from the selected interviewees.

#### **4.9. Secondary Data Collection:**

To gather secondary data we were chosen related literature i.e. online Journals, articles, books unpublished research materials and dissertation elect era. Data were also collected from the available literature both from the print and the electronic media.

#### **4.10. Data Analysis:**

The information collected through the in-depth interview has been compiled for qualitative analysis. After conducting interviews the mentors transcribed these later on verbatim to understand the real theme of our respondent's information and experiences. It covers the whole perspective of a respondent. The collected data are categorized according to the objective outlined above and presented the situation in the findings of the study chapter and give some

suggestions to overcome that situation. Holloway & Wheeler (2009) state that based on the stream of phenomenology used, that is, hermeneutics or Husserlian, will guide the researcher as to the most applicable framework of data analysis. Polit & Beck (2010) posit that data analysis in qualitative research typically starts with seeking the establishment of recurrent themes by using a framework. This research used qualitative method system and organizes the raw data into conceptual categories and creates themes or concepts to analyze data. The data are in the form of words, which are relatively imprecise, diffuse, and context-based, and can have more than one meaning. So researcher conducted analyzes data by organizing it into categories on the basis of themes, concepts, or similar features and develops new concepts, formulates conceptual definitions, and examines the relationships among concepts. Because qualitative is an integral part of data analysis.

#### **4.11. Ethical Consideration:**

Since this type of research could be of benefit to both the society and individuals with in it, the researcher was obliged to consider important ethics. An attempt then was made to conduct the study in the light of moral and legal order of Mirpur area in particular (Appendix one-consent form). One way of doing this was to maintain scientific standards employed in collecting and analysing data to ensure that data collected would serve rather than threaten the interest of the women society. The researcher also strived to protect subjects from undue harm that might have been a consequence of their participation. This included letting them know that this research differs from others (mostly government funded researches) because it is for the partial fulfillment of the degree. An attempt was made to uphold professional integrity without fear or favors. Findings were not misinterpreted by commission or omission or based on the researcher's prior understanding of the processes.





## **Chapter Five- Case Stud and Focus Group Discussion**

**5.1. Case study -01**

**5.2. Case Study -02**

**5.3. Case Study- 03**

**5.4. Case Study-04**

**5.5. Case Study-05**

**5.6. Focus Group Discussion**

Case Study : 01

Name : Mrs. Subrina Azmeri Borsha

Husband Name : Rezwan Ahamed Khan

Profession : Teacher

Marital Status : Married

### **Personal Information**

Subrina Azmeri Borsha was born 7<sup>th</sup> of July 1984, at Shamoli of Dhaka city. Now she lives in Mirpur with her family, Borsha's father is a service holder. Among two of her brother and Sister Borsha's position is second. Her elder brother who is doing a job in Qatar and her younger sister is studying in Honor's second year. Borsha came from a conservative Muslim Family. She completed her Masters from Jahangirnagar University and now she is doing job at an English Medium School as a class teacher.

### **Marital Information**

When Borsha got married she was 24 years old and her husband was 28. Her husband used to serve for a foreign airline during that time. Borsha like her husband before her marriage, this is her affair marriage but after that the marriage was arranged by her family, and it was held in a community center under the presence of both of their family members. Before her marriage arrangement both family be seated together and fixed everything such as -where the marriage program will be held and, how much the gold jewelry they will give to the bride was decided. Before her marriage dower amount was fixed by Borsha's father in law and it was at an amount of 3 (three)lac. But neither Borsha nor her husband were aware about the dower amount which has been decided to be fixed and nobody even cares to inform them or asked them about how much the amount would they like to fixed as there dower money. Furthermore, her father in law raise a issue just before her marriage registration to deduct half of the dower amount which will

be deemed as paid as usul (deduction from the dower amount by evaluating the value of gold jewelry given to the bride during marriage) by assessing the value of gold ornaments which has been given to the bride and the rest of the amount will be paid later by cash. By contrast, this has become a common practice in Bangladesh to reduce the amount of dower by deducting the value of ornaments given to the wife by her husband at the time of marriage. This process, called usul, has no relevance or significance to the Muslim law. Borsha's marriage was held by Kazi and was registered.

### **Social and Economical Status**

As per Borsha's information and my personal observation her socio-economical condition is good. Her husband who is doing a good job as well as Borsha also involve with an English medium school. She is happy with what her husband is earning. Her husband always tries to fulfill all her necessity on every aspect. That's why Borsha never claim her Dower amount to her husband. After marriage one day Borsha asked for her dower money and her husband replied that *–I will give it to you no problem, just keep patience*'. Borsha's economical condition is good that's why she never worried about her Dower money.

### **Knowledge and percentage about Dower**

Dower right which gives the economic empowerment to a married Muslim Women but in most cases women are not aware of their right. In my case study, Borsha also not serious about this matter, her concern is that "dower just a ritual and marriage rules; nothing else". Before her marriage and during her marriage she was not concern about this matter as well as she did not even knew about how much the dower amount was fixed on her marriage. Furthermore, Borsha's dower was fixed at 3 lac and during her marriage 50% was deemed to be paid (in Muslim system it's called usul) on her ornaments and clothes.

### **Payable Dower amount and mode of payment**

"Dower amount will be fixed during marriage and it is depends on both side (Bi lateral agreement) family member ", it is a system of our Muslim marriage. This happenes in Borsha's marriage too and she does not knew about how much the dower was fixed and what is the

process that she will get paid. During her marriage dower was fixed 3 lac by her father in law and it was paid 50% by Gold and belongings. After her marriage Borsha never asked her husband about rest of the dower amount because she is not aware or serious about dower imbursement. When I asked her - do u know that you can file a case against your husband about your due dower amount? She answered -“I do not know about this Act (Muslim law 1985) and I do not know what are talking about”. She also added, “I do not need to do this as because what I believe, money and property what belongs to my husband is belong me too as well”. Married woman they do think like that -if they ask about their dower amount or if they fight for their dower right then it will make conflict between each other and the consequences will be end up with divorce from there husband.

### **Suggestions for Dower system get better or make active**

Dower is a social and economical right for married Muslim woman but most of the cases women in our country do not take this matter as serious. What they think if they raise their voice about this matter or claim their dower amount then their husband will be squabble with them and it will be hamper their conjugal life. In my case study Borsha’s suggestions or request was -if dower will be paid during Marriage time and government takes these following steps then this problem will be solve.

1. **Banking System** - During marriage time groom will be pay dower amount to his wife through creating a new bank account and only his wife owner or can operate this account. This account all rights to reserve for bride not groom.
2. **Insurance System** – If dower amount will be pay by insurance policy then it will be helpful for married women and they can enjoy their amount for her own benefit.
3. **Social Awareness buildup** - Now a day’s dower systems just like a ritual and customs and our society people as well as government is not serious about this systems that’s why women are deprive about their economical and social rights, so that we need to build up social awareness in general people.

**5. Awareness buildup about Dower right among Government and in general people-** Dower amount is just a customs and ritual in our country, there have no proper implementation to our society. So that women better life and their economical solvency government and in general people needs to awareness buildup about Dower amount.

**6. Execute Muslim rules and systems-** In Muslim law Dower amount is just a rules and systems not more than that but if we wants women will be get her right and economically solvent then not only government but also our Muslim society need to execute this system.

**7. Woman has to conscious about woman right-** First of all dower amount or dower systems are well-known as a marriage rules and regulation. Not only our Married Muslim women but also our Government, general people are not aware about this system or rights. As a woman rights Government and women need to more conscious about it.

Borsha's opinion was - if government make it compulsory to pay this dower amount before marriage with proper follow up and established a rules, nobody can married without paying dower amount during marriage time. Then it will be better for a married woman to establish her dower right.

### **Observation and Discussion**

For accumulate some more and accurate information I visited Borsha's house to meet her husband. I discussed the issue with her husband about Borsha's dower amount and that time he informed me -50% I already paid to her by ornaments and rest of the amount will be paid as soon as possible. As per his concern- "*Borsha clime her rest of the dower amount 2 to 3 times that time I told her to give me some time I will be paid*". I asked him that does he know about this Muslim law or rules that before your prenuptial night you must be paid your dower amount to your wife. He informed me yes I know but I took her permission before to pay her dower amount later. All her information is accurate and finally her husband will say to me he will be paying his wife's dower amount as early as possible.

Borshs is a well educated married Muslim woman. She suggests that women and our Government, NGO has to come forward about women right and need to established prompt

dower amount payment system. She also suggest Government need to established and implement specific system to paid dower amount.

Case Study : 02

Name : Mrs. Shanjina Mahmuda Tushi

Husband Name : Forhad Kobir

Profession : Housewife

Marital Statius : Married

### **Personal Information**

Shanjina Mahmuda Tushi was born in 29<sup>th</sup> of April 1985, at Mirpur of Dhaka city. Now she lives in Mirpur-1 with her family, Tushi's father is an Engineer. Among two of her brother and Sister Tushi's position is First and her brother studying in IUB University. She came from a conservative Muslim Family. She completed her Masters from BUBT and now she is housewife.

### **Marital Information**

When Tushi got married she was 24 years old and her husband was 25. Her husband used to serve for a private organization that time. Tushi like her husband before her marriage this is her affair marriage but marriage was arranged by her family, and it was held in a community center under the presence of both family members. Before her marriage arrangement both family be seated together and fixed everything such as -where the marriage program will be held and, how much gold jewelry they will give to the bride was decided. Before her marriage dower amount was fixed by Tushi's father-in-law and it was at an amount of 3 (three)lac. But neither Tushi nor her husband were aware about the dower amount which has been decided to be fixed, nobody even cares to inform them or asked them about how much the amount would they like to fixed as

there dower money. Furthermore, her father in law raise a issue just before her marriage registration to deduct half of the dower amount which will be deemed as paid as usul (deduction from the dower amount by evaluating the value of gold jewelry given to the bride during marriage) by assessing the value of gold ornaments which has been given to the bride and the rest of the amount will be paid later by cash. By contrast, this has become a common practice in Bangladesh to reduce the amount of dower by deducting the value of ornaments given to the wife by her husband at the time of marriage. This process, called usul, has no relevance or significance to the Muslim law. Tushi's marriage was held by Kazi and was registered.

### **Social and Economical Status**

As per Tushi's information and my personal observation her socio-economical condition is good. Her husband is doing a good job. She is happy with her current position and her husband's income. Her husband always tries to make her happy and to fulfill all her necessity on every aspect. That's what she never claim her Dower amount to her husband. As Tushi said, after marriage once she asked for her dower money to her husband and her husband replied her like that –*I will give it to you no problem, just keep patience*'. Tushi's husband and her father families economical condition is good that's why she never worried about her Dower money.

### **Knowledge and percentage about Dower**

Dower right which gives the economic empowerment to a married Muslim Women but in most cases woman they dose not aware of this woman right. In my case study Tushi also was not serious about this matter as to her concern “dower just a ritual and marriage rules; nothing else”. Before her marriage and during her marriage she was not concern about this matter as well as she did not even knew about how much the dower amount was fixed for her marriage. Furthermore, Tushi's dower was fixed at 3 lac and during her marriage 60% was deemed to be paid (in Muslim system it's called usul) by her ornaments and clothes.

### **Payable Dower amount and mode of payment**

“Dower amount will be fixed during marriage and it is depends on both side (Bi lateral agreement) family member”, it is a system of our Muslim marriage. Same thing happened during



Tushi's marriage, Dower amount was fixed but she does not know about how much the dower was fixed and what is the process she will get paid. During her marriage dower was fixed 3 lac by her father in law and it was paid 60% by Gold and belonging. After her marriage she never asked her husband about rest of the dower amount because she is not aware or serious about dower reimbursement. When I questioned her, -"Do u know that you can file a case against your husband about your dower amount? She answered me -"I do not know about this Act (Muslim law 1985) and what you talking about why should I file case? I do not need of doing like this as because what I believe, money and property what belongs to my husband is belong to me as well". In our society married woman thinks that -if they ask about their dower amount or if they fight for their dower right then it will make conflict between each other and the consequences will be the end up with divorce.

### **Suggestions for Dower system get better or make active**

Dower is a social and economical right for married Muslim woman but most of the cases women in our country do not take this matter as serious. What they think if they raise their voice about this matter or claim their dower amount then their husband will be squabble with them and it will be hamper their conjugal life. In my case study Tushi's suggestions or request was -if dower will be paid during Marriage time and government takes these following steps then this problem will be solve.

1. **Banking System** - During marriage time groom will be pay dower amount to his wife through creating a new bank account and only his wife owner or can operate this account. This account all rights to reserve for bride not groom.
2. **Insurance System** – If dower amount will be pay by insurance policy then it will be helpful for married women and they can enjoy their amount for her own benefit.
3. **Social Awareness buildup** - Now a day's dower systems just like a ritual and customs and our society people as well as government is not serious about this systems that's why women are deprive about their economical and social rights, so that we need to build up social awareness in general people.

**5. Awareness buildup about Dower right among Government and in general people-** Dower amount is just a customs and ritual in our country, there have no proper implementation to our society. So that women better life and their economical solvency government and in general people needs to awareness buildup about Dower amount.

**6. Execute Muslim rules and systems-** In Muslim law Dower amount is just a rules and systems not more than that but if we wants women will be get her right and economically solvent then not only government but also our Muslim society need to execute this system.

**7. Woman has to conscious about woman right-** First of all dower amount or dower systems are well-known as a marriage rules and regulation. Not only our Married Muslim women but also our Government, general people are not aware about this system or rights. As a woman rights Government and women need to more conscious about it.

Tushi's opinion was - If Government makes it compulsory to pay this dower amount before marriage with proper follow up and set up a rule, nobody can marry without paying dower amount during marriage time. Then it will be better for a married woman to establish her dower right.

### **Observation and Discussion**

For accumulate some more and accurate information I visited Tushi's house to meet her husband. I discussed the issue with her husband about Tushi's dower amount and that time he informed me - '60% I already paid to her by ornaments and rest of the amount will be paid as soon as possible'. As per tushi's husband concern- "Tushi clime her rest of the dower amount 2 to 3 times, that time I told her to give me some time I will be paid". I asked him that does he know about this Muslim law or rules that before your prenuptial night you must be paid your dower amount to your wife. He informed me yes I know but I took her permission before to pay her dower amount later. All her information is accurate and finally her husband will say to me he will be paying his wife's dower amount as early as possible.

Tushi is a well educated married Muslim woman. She suggests that - Government, NGO has to come forward about women right and need to established prompt dower amount payment

system. She also suggest Government need to established and implement specific system to paid dower amount.

Case Study : 03

Name : Mrs. Khaleda Yesmin Rumi

Husband Name : Foyesal Khan

Profession : Housewife

Marital Statius : Married

### **Personal Information**

Khaleda Yesmin Rumi was born 14<sup>th</sup> of February 1982, at Borishal city. Now she lives in Mirpur-10 with her family, Rumi's father is a Government service holder. Rumi's position is First in her family and her younger brother studying in UK. Rumi came from a conservative Muslim Family. She completed her Masters from Tejgeon College and now she is housewife.

### **Marital Information**

When Rumi got married she was 25 years old and her husband was 32. Her husband used to serve for a private organization that time. Rumi like her husband before her marriage this is her affair marriage but marriage was arranged by her family, and it was held in a community center under the presence of both family members. Before her marriage arrangement both family be

seated together and fixed everything such as -where the marriage program will be held and, how much gold jewelry they will give to the bride was decided. Before her marriage dower amount was fixed by Rumi's father-in-law and it was at an amount of 4 (four)lac. But neither Rumi nor her husband were aware about the dower amount which has been decided to be fixed, nobody even cares to inform them or asked them about how much the amount would they like to fixed as there dower money. Furthermore, her father in law raise a issue just before her marriage registration to deduct half of the dower amount which will be deemed as paid as usol (deduction from the dower amount by evaluating the value of gold jewelry given to the bride during marriage) by assessing the value of gold ornaments which has been given to the bride and the rest of the amount will be paid later by cash. By contrast, this has become a common practice in Bangladesh to reduce the amount of dower by deducting the value of ornaments given to the wife by her husband at the time of marriage. This process, called usol, has no relevance or significance to the Muslim law. Rumi's marriage was held by Kazi and was registered.

### **Social and Economical Status**

As per Rumi's information and my personal observation her socio-economical condition is good. Her husband is doing a good job. She is happy with her current position and her husband's income. Her husband always tries to make her happy and to fulfill all her necessity on every aspect. That's what she never claim her Dower amount to her husband. As Rumi said, after marriage once she asked for her dower money to her husband and her husband replied her like that -*'I will give it to you no problem, just keep patience'*. Rumi's husband and her father families economical condition is good that's why she never worried about her Dower money.

### **Knowledge and percentage about Dower**

Dower right which gives the economic empowerment to a married Muslim Women but in most cases woman they dose not aware of this woman right. In my case study Rumi also was not serious about this matter as to her concern "dower just a ritual and marriage rules; nothing else". Before her marriage and during her marriage she was not concern about this matter as well as she did not even knew about how much the dower amount was fixed for her marriage. Furthermore,

Rumi's dower was fixed at 4 lac and during her marriage 30% was deemed to be paid (in Muslim system it's called usul) by her ornaments and clothes.

### **Payable Dower amount and mode of payment**

"Dower amount will be fixed during marriage and it is depends on both side (Bi lateral agreement) family member", it is a system of our Muslim marriage. Same thing happened during Rumi's marriage, Dower amount was fixed but she does not knew about how much the dower was fixed and what is the process she will get paid. During her marriage dower was fixed 3 lac by her father in law and it was paid 30% by Gold and belonging. After her marriage she never asked her husband about rest of the dower amount because she is not aware or serious about dower imbursement. When I questioned her, -"Do u know that you can file a case against your husband about your dower amount? She answered me -"I do not know about this Act (Muslim law 1985) and what you talking about why should I file case? I do not need of doing like this as because what I believe, money and property what belongs to my husband is belong to me as well". In our society married woman thinks that -if they ask about their dower amount or if they fight for their dower right then it will make conflict between each other and the consequences will be the end up with divorce.

### **Suggestions for Dower system get better or make active**

Dower is a social and economical right for married Muslim woman but most of the cases women in our country do not take this matter as serious. What they think if they raise their voice about this matter or claim their dower amount then their husband will be squabble with them and it will be hamper their conjugal life. In my case study Rumi's suggestions or request was -if dower will be paid during Marriage time and government takes these following steps then this problem will be solve.

1. **Banking System** - During marriage time groom will be pay dower amount to his wife through creating a new bank account and only his wife owner or can operate this account. This account all rights to reserve for bride not groom.

2. **Insurance System** – If dower amount will be pay by insurance policy then it will be helpful for married women and they can enjoy their amount for her own benefit.

3. **Social Awareness buildup** - Now a day's dower systems just like a ritual and customs and our society people as well as government is not serious about this systems that's why women are deprive about their economical and social rights, so that we need to build up social awareness in general people.

5. **Awareness buildup about Dower right among Government and in general people**- Dower amount is just a customs and ritual in our country, there have no proper implementation to our society. So that women better life and their economical solvency government and in general people needs to awareness buildup about Dower amount.

6. **Execute Muslim rules and systems**- In Muslim law Dower amount is just a rules and systems not more than that but if we wants women will be get her right and economically solvent then not only government but also our Muslim society need to execute this system.

7. **Woman has to conscious about woman right**- First of all dower amount or dower systems are well-known as a marriage rules and regulation. Not only our Married Muslim women but also our Government, general people are not aware about this system or rights. As a woman rights Government and women need to more conscious about it.

Rumi's opinion was - If Government makes it compulsory to pay this dower amount before marriage with proper follow up and set up a rule, nobody can marry without paying dower amount during marriage time. Then it will be better for a married woman to establish her dower right.

### **Observation and Discussion**

For accumulate some more and accurate information I visited Rumi's house to meet her husband. I discussed the issue with her husband about Rumi's dower amount and that time he informed me - '30% I already paid to her by ornaments and rest of the amount will be paid as soon as possible'. As per Rumi's husband concern- "Rumi clime her rest of the dower amount 2 to 3 times, that time I told her to give me some time I will be paid". I asked him that does he know

about this Muslim law or rules that before your prenuptial night you must be paid your dower amount to your wife. He informed me yes I know but I took her permission before to pay her dower amount later. All her information is accurate and finally her husband will say to me he will be paying his wife's dower amount as early as possible.

Rumi is a well educated married Muslim woman. She suggests that - Government, NGO has to come forward about women right and need to established prompt dower amount payment system. She also suggest Government need to established and implement specific system to paid dower amount.

Case Study : 04

Name : Nigar Sultana Anne

Husband Name : Faoyed Hassan Abedin

Profession : Teacher

Marital Statius : Married

### **Personal Information**

Nigar Sultana Anne was born in 20<sup>th</sup> of August 1977, in Dhaka city. Now she lives in Mirpur-1 with her family, Anne's father is a Government service holder. Anne's position is First in her family and her younger brother doing a job in a private organization. Anne came from a

conservative Muslim Family. She completed her Masters from Jahingirnagar University and now she is a class teacher at an English Medium Schools. She was doing this job before her marriage.

### **Marital Information**

When Anne got married she was 27 years old and her husband was 32. Her husband used to serve for a private organization that time. They have one son and one daughter .Anne did not know her husband before her marriage, this is her arrange marriage and it was arranged by her family. Anne's marriage ceremony was held in a community center under the presence of both families member. Before the marriage both the family seated together and fixed everything such as -where the marriage program will be held and, how much gold jewelry they will give to the bride was decided. Before her marriage, dower amount was fixed by Anne's father-in-law and the amount was 5 (five)lac. But neither Anne nor her husband were aware about the how much dower amount was fixed, nobody even cares to inform them or asked them about how much the amount would they like to fixed as there dower money. Furthermore, her father in law raise a issue just before her marriage registration to deduct half of the dower amount which will be deemed as paid as usol (deduction from the dower amount by evaluating the value of gold jewelry given to the bride during marriage) by assessing the value of gold ornaments which has been given to the bride and the rest of the amount will be paid later by cash. By contrast, this has become a common practice in Bangladesh to reduce the amount of dower by deducting the value of ornaments given to the wife by her husband at the time of marriage. This process, called usol, has no relevance or significance to the Muslim law. Anne's marriage was held by Kazi and was registered.

### **Social and Economical Status**

As per Anne's information and my personal observation her husband socio-economical condition is good. Not only that but also Anne got a flat from her father as a marriage gift .Furthermore, her husband is doing a good job. She is sufficient with what her husband is earning as well as her husband tries to fulfill all her necessity on every aspect. That's what Anne never claims her Dower amount to her husband. As Anne said, after marriage once she asked about the dower money to her husband and he replied to her that –“*we already passed long years now why u need this rest of the amount? No problem I will give it to you*”. Anne is economically solvent that's why she never worried about her Dower money.

### **Knowledge and percentage about Dower**



Dower right which gives the economic empowerment to a married Muslim Women but in most cases woman they dose not aware of this woman right. In my case study Anne also was not serious about this matter as per her concern “*as a educated person I know about dower amount but never I take it seriously*”. Before her marriage and during her marriage she was not concern about this matter as well as she did not even knew about how much the dower amount was fixed for her marriage? Furthermore, Anne’s dower was fixed at 5 lac and during her marriage 60% was deemed to be paid (in Muslim system it’s called usul) by her ornaments and clothes.

### **Payable Dower amount and mode of payment**

“Dower amount will be fixed during marriage and it is depends on both side (Bi lateral agreement) family member “, it is a system of our Muslim marriage. At the time of Anne’s marriage same thing happened and she does not knew about how much the dower was fixed and the what is the process she will get it paid. During her marriage time dower was fixed 5 lac by her father in law and it was paid 60% by Gold and belonging things. After her marriage Anne never asking her husband about rest of the dower amount because she is not aware or serious about dower imbusement. When I asked her a question - do u know that you can file a case against your husband about your due dower amount? She answered me - “*I know about this Act (Muslim law 1985) but I do not think the way you told. I do not need to do this as because what I believe, money and property what belongs to my husband is belong me too as well*”. Married woman they do think like that -if they ask about their dower amount or if they fight for their dower right then it will make conflict between each other and the consequences will be end up with divorce from there husband.

### **Suggestions for Dower system get better or make active**

Dower is a social and economical right for married Muslim woman but most of the cases women in our country do not take this matter as serious. What they think if they raise their voice about this matter or claim their dower amount then their husband will be squabble with them and it will be hamper their conjugal life. In my case study Anne’s suggestions or request was -if dower will be paid during Marriage time and government takes these following steps then this problem will be solve.

1. **Banking System** - During marriage time groom will be pay dower amount to his wife through creating a new bank account and only his wife owner or can operate this account. This account all rights to reserve for bride not groom.

2. **Insurance System** – If dower amount will be pay by insurance policy then it will be helpful for married women and they can enjoy their amount for her own benefit.

3. **Social Awareness buildup** - Now a day's dower systems just like a ritual and customs and our society people as well as government is not serious about this systems that's why women are deprive about their economical and social rights, so that we need to build up social awareness in general people.

5. **Awareness buildup about Dower right among Government and in general people**- Dower amount is just a customs and ritual in our country, there have no proper implementation to our society. So that women better life and their economical solvency government and in general people needs to awareness buildup about Dower amount.

6. **Execute Muslim rules and systems**- In Muslim law Dower amount is just a rules and systems not more than that but if we wants women will be get her right and economically solvent then not only government but also our Muslim society need to execute this system.

7. **Woman has to conscious about woman right**- First of all dower amount or dower systems are well-known as a marriage rules and regulation. Not only our Married Muslim women but also our Government, general people are not aware about this system or rights. As a woman rights Government and women need to more conscious about it.

Anne's opinion was - if government make it compulsory to pay this dower amount before marriage with proper follow up and established a rules, nobody can married without paying dower amount during marriage time. Then it will be better for a married woman to establish her dower right.

### **Observation and Discussion**

For accumulate some more and accurate information I visited Anne's house to meet her husband. I discussed the issue with her husband about Anne's dower amount and that time he informed me 60% I already paid to her by ornaments and rest of the amount will be paid as soon as possible. As per his concern- "*Anne clime her rest of the dower amount 2 to 3 times, that time I told her, I will be paid*". I asked him that does he know about this Muslim law or rules that before your prenuptial night you must be paid your dower amount to your wife. He informed me yes I know but I took her permission before to pay her dower amount later. All her information is accurate and finally her husband will say to me he will be paying his wife's dower amount as early as possible.

Anne is a well educated married Muslim woman. She suggests that -our Government, NGO's has to come forward about women right and need to established prompt dower amount payment system. Furthermore, Government need has to established bank system to paid dower amount then women will be get her proper right.

Case Study : 05

Name : Hosne Rumiza

Husband Name : Khondokar Golam Kibriya

Profession : Housewife

Marital Status : Married

### **Personal Information**

Hosne Rumiza was born in 8<sup>th</sup> of July 1976, at Mirpur of Dhaka city. Now she lives in Mirpur-13 with her family, Hosne Rumiza's father was a Police officer. Among six brothers and Sisters Hosne Rumiza's position are last and her all brothers and sisters are established. She came from a conservative Muslim Family. She completed her H.S.C from Dhaka Board and now she is a housewife.

### **Marital Information**

When Hosne Rumiza got married she was 22 years old and her husband was at 30. Her husband is a businessman and they have one son and one daughter. Her husband was doing his own business at that time. Hosne Rumiza meet up her husband before her marriage and this is her affair marriage but marriage was arranged by their family, and it was held in a community center under the presence of both of the family members. Before her marriage arrangement both family seat together and fixed everything such as where the marriage program will be held and, how much gold jewelry they will give to the bride was decided. Before her marriage dower amount was fixed by Hosne Rumiza's father-in-law and it was at an amount of 3 (three)lac. But neither Hosne Rumiza nor her husband were aware about the dower amount which has been decided to be fixed, nobody even cares to inform them or asked them about how much the amount would they like to fixed as there dower money. Furthermore, her father in law raise a issue just before her marriage registration to deduct half of the dower amount which will be deemed as paid as usol (deduction from the dower amount by evaluating the value of gold jewelry given to the bride during marriage) by assessing the value of gold ornaments which has been given to the bride and the rest of the amount will be paid later by cash. By contrast, this has become a common practice in Bangladesh to reduce the amount of dower by deducting the value of ornaments given to the wife by her husband at the time of marriage. This process, called usol,

has no relevance or significance to the Muslim law. Hosne Rumiza's marriage was held by Kazi and was registered.

### **Social and Economical Status**

As per Hosne Rumiza's information and my personal observation her socio-economical condition is Moderate. Her husband business condition was good. She is sufficient with what her husband's income as well as her husband tries to fulfill all her necessity on every aspect. Not only had that she got her rest of the dower amount after 10 years of her marriage. Hosne Rumiza's husbands secure a land for her as a rest of the dower amount.

### **Knowledge and percentage about Dower**

Dower right which gives the economic empowerment to a married Muslim Women but in most cases woman does not aware of this "woman right". In my case study, Hosne Rumiza also was serious about this matter and concern about this, she knows that "*dower just not a ritual and marriage rules; the holy Quran give women this right*". Before her marriage and during her marriage she was not concern about this matter as well as she did not even knew about how much the dower amount was fixed for her marriage. Furthermore, Hosne Rumiza's dower was fixed at 3 lac and during her marriage 50% was deemed to be paid (in Muslim system it's called usul) by her ornaments and clothes.

### **Payable Dower amount and mode of payment**

"Dower amount will be fixed during marriage and it is depends on both side (Bi lateral agreement) of the family member", it is a system of our Muslim marriage. In Hosne Rumiza's marriage this was also happened as usual and she does not know about how much the dower was fixed and the process it will be paid to her. During her marriage time dower was fixed 3 lac by her father in law and it was paid 50% by Gold and belonging things. After her marriage she never was asking her husband about rest of the dower amount because she is not aware or serious about dower imburement. When I asked her a question - do u know that you can file a case against your husband about your due dower amount? She answered me - "*I do not know about this Act (Muslim law 1985) and I do not think the way you told. I do not need to doing like this as because we believe in holy Quran and as per the Quran he already paid rest of the dower*"

*amount*". But after 10 years of my married I get rest of my dower amount as a piece of land. Because of my husband is Islamic minded person that's why he has paid my rest of the dower amount.

### **Suggestions for Dower system get better or make active**

Dower is a social and economical right for married Muslim woman but most of the cases women in our country do not take this matter as serious. What they think if they raise their voice about this matter or claim their dower amount then their husband will be squabble with them and it will be hamper their conjugal life. In my case study Hosne Rumiza's suggestions or request was -if dower will be paid during Marriage time and government takes these following steps then this problem will be solve.

1. **Banking System** - During marriage time groom will be pay dower amount to his wife through creating a new bank account and only his wife owner or can operate this account. This account all rights to reserve for bride not groom.

2. **Insurance System** – If dower amount will be pay by insurance policy then it will be helpful for married women and they can enjoy their amount for her own benefit.

3. **Social Awareness buildup** - Now a day's dower systems just like a ritual and customs and our society people as well as government is not serious about this systems that's why women are deprive about their economical and social rights, so that we need to build up social awareness in general people.

5. **Awareness buildup about Dower right among Government and in general people**- Dower amount is just a customs and ritual in our country, there have no proper implementation to our society. So that women better life and their economical solvency government and in general people needs to awareness buildup about Dower amount.

6. **Execute Muslim rules and systems**- In Muslim law Dower amount is just a rules and systems not more than that but if we wants women will be get her right and economically solvent then not only government but also our Muslim society need to execute this system.

**7. Woman has to conscious about woman right-** First of all dower amount or dower systems are well-known as a marriage rules and regulation. Not only our Married Muslim women but also our Government, general people are not aware about this system or rights. As a woman rights Government and women need to more conscious about it.

Hosne Rumiza's opinion was - if government make it compulsory to pay this dower amount before marriage with proper follow up and established a rules, nobody can married without paying dower amount during marriage time. Then it will be better for a married woman to establish her dower right.

### **Observation and Discussion**

For accumulate some more and accurate information I visited Hosne Rumiza's house to meet her husband. I discussed the issue with her husband about Hosne Rumiza's dower amount and that time he informed me - '100% I already paid to her by ornaments and rest of the amount will be paid as soon as possible'. As per Hosne Rumiza's husband concern- "*Hosne Rumiza's claim her rest of the dower amount 2 to 3 times, after that I brought a land for her as a dower*". I asked him that does he know about this Muslim law or rules that before your prenuptial night you must be paid your dower amount to your wife. He informed me yes I know but I took her permission before to pay her dower amount later. All her information is accurate and he already paid full amount of dower to her wife.

Hosne Rumiza's is a well educated married Muslim woman. She suggests that - Government, NGO has to come forward about women right and need to established prompt dower amount payment system. She also suggest Government need to established and implement specific system to pay dower amount as well as every man need to pay dower amount as per the holy Quran path.





## **5.6. Focus Groups**

### **Introduction:**

The research's goals are to improve awareness, knowledge, and attitudes about Dower imbursement. For these goals to be achieved, it was determined that focus groups would be conducted within this population to obtain information about Married Muslim women in the Mirpur , Dhaka metropolitan area regarding their knowledge and attitudes about Dower amount and its imbursement ratio.

Two focus groups were conducted among the Married Muslim women in Dhaka City Mirpur area regarding their knowledge and attitudes about Dower amount and its Dower Imbursement. The information gathered in these focus groups will be used as a basis for developing key messages as well as a determinant of the information that must be addressed in the educational efforts and the types of materials that are most likely to be beneficial in this research. The groups were deliberately arranged to be working women and housewives specific. They are also more likely to share information about women-specific issues or family problems (e.g., a female participant shared how her common-law husband's mistreatment of her Dower amount).

All focus groups were conducted in Bangla and lasted approximately 2 1/2 hours. Each focus group discussion was written.

### **Demographics**

Eleven people participated in the focus groups. Of this number, 6 numbers were working women and 5 were housewives. The focus group participants ranged in age from 22 to 54 years.

When asked where they spent their childhood, 86 percent reported that they had spent it

Entirely in home district (i.e., Borishal, Khulna, Noyakhali, and Mymensingh), and 14 percent reported spending most of their childhood in Dhaka.

### **Education:**

The number of years of schooling completed ranged from 1 to SSC. Among of them 5 participants are completing their SSC and rest of them are completed class five education.

### **Marital Status and Number of Children**

Six participants were married, 2 participants were separated and 2 participants were divorced or 1 participant was widow. The number of children the participants had ranged from none to eight children.

### **Employment:**

Forty percent of the participants did not work outside the home, they are housewives. Of those participants who did work (60 percent), 30 percent were employed in a cleaning job, 10 percent were employed as a mason's helper, and 10 percent each were employed either in a school or as teacher's aides.

### **Income:**

Family income ranged from less than 15,000 per month to over 20,000 month.

## **Focus Group Discussion Results**

### **Dower Knowledge**

First, in our country though Registration of Marriage has been made mandatory by the Muslim Marriages and Divorces (Registraton) Act, 1974 but still in many villages this is not strictly followed. The reasons behind this are sometimes lack of awareness and sometimes a hidden intention to deprive the bride from legal or religious right. Consequently, there exist no Kabinnama of the marriage and it is natural that it will not be possible to trace the amount of dower of the marriage unless it is testified by the witnesses. Absence of Kabinnama is a major cause for the deprivation of the women's right of dower in Bangladesh.

The participants were generally quite responsive when answering "What do you know about Dower amount?" Very few people hesitated or chose not to answer. Several of the women, however, began their response by saying, "I don't know very much but . . ." and then gave their opinion. It was often a very detailed opinion.

The most common responses were related to marriage, specifically "Dower is a customs and rituals," Muslim marriage rules and lack of information. The following are representative responses:

*"We do not know detail about dower amount or right, it just a ritual or a marriage rules not more than that".*

*"I don't know how much dower amount is fixed during my marriage and still I don't get any amount as dower money. If it is women right then why we don't get it and government will not take any necessary step to paid dower amount on time."*

*"Dower is just a system to Marriage not more than that, if it is married Muslim women right then why we will not get it?"*

Several of the participants also mentioned lack of knowledge and awareness are responsible for dower Imbursement.

### **Payable Dower amount and mode of payment**

There were very few responses to the question, "How much dower amount was fixed in your marriage and which procedures are you get that amount?" Of the few responses given, the most common word given for Dower amount "we do not know how much amount was fixed and how much they paid."

"During my marriage 30,000/= taka was fixed as my dower money and 50% was deemed to be paid (in Muslim system it's called usul) by her ornaments and clothes".

Another respondent answered like –*“My marriage was held without any kind of marriage registration and dower amount ,that’s why I do not know about this dower system and is this dower amount for married Muslim women I do not know it”*

One of respondent said like this –*“Dower amount was fixed my marriage time but I did not get any single amount or ornaments “.*

### **Suggestions for Dower system get better or make active**

Although people in five of the focus groups responded that they are married long year ago but still they do not get their dower amount. Furthermore they are not conscious and serious about this matter. There were very few responses to the question,” Do you have any suggestions for dower amount imburement or how you wants to get this dower amount please describe”. Few responses given –

*“We think if dower amount will be paid during marriage time then it will be helpful for women life”*. Another respondent answer like this –*“Dower amount is our right and if we get it cash or through bank then we can use it for self-employment work”*.

Among of them respondent said like this- *“Dower amount is for Married Muslim women then it should be fixed by bride and it should be mandatory to pay before marriage or during marriage time.”*

Lastly everyone said like this – Government should be more concern about this matter and established a rule without pay dower amount nobody can get married as per his capability.

### **Concluding remark**

The focus groups that were conducted an opportunity to comprehend the ways in which selected Mirpur in the Dhaka metropolitan area view Married Muslim women Dower imburement. Although these groups were not representative of all Mirpur in the Dhaka metropolitan area, the opinions obtained provide a foundation for the development of a campaign that successfully meets the needs of this population. The information obtained in the focus groups is critical to the development of a campaign because it considers cultural factors and provides insight into those

concepts that are not well understood. More importantly, it gives an awareness of the issues most relevant to the Married Muslim women population. Overall, these focus groups were well received by the participants. Many participants expressed their appreciation of having the opportunity to "learn" about Dower amount. They also were glad to be able to vocalize their opinion on this subject. Because of this enthusiasm, the participants were asked to write their name, address, and telephone number if they were interested in becoming involved in a future campaign n (e.g., receiving information, participating in discussion groups). Every person who participated in the focus groups willingly provided this information. A few people said that they would like to help out in any aspect of the program even if they were not paid.

These findings indicate that there is willingness by Married Muslim women in the Mirpur, Dhaka metropolitan area to become involved in this campaign. This enthusiasm should be embraced, and active participation by members of the Mirpur area should be encouraged. More importantly, they can provide insight on the perceived barriers that keep them from having a better life.

## **6. Chapter Six - Review of Findings**

## **Review of Findings**

### **1. Living Condition**

Most of the respondent belongs to middle class families and their living condition was moderate. More than two respondents live in their own house and rest of them in rented house. All respondents are MMW from Mirpur area at DCC.

### **2. Background Information of the Respondent:**

#### **2.1 Age of the Respondents**

The respondents were very young and in the age group of 22-35 years. All of them are married Muslim women. Most of the respondents got married in the age between 22 to 25 years. Among them two or three respondent got married at the age between 13-16 years.

#### **2.2 Educational Background of the Respondents**

A large number of respondents were highly educated. They finished their Masters from well reputed university with good subject and result. Three of respondents finished only the Junior Level School (up to five and eight class). Rest of two respondents can only write their names.

#### **2.3 Occupation of the Respondents:**

Most of the women are contributing in their family income through different ways like teaching, administrative work, Sewing & Tailoring and engaging themselves in small business and garments. Through this way they made themselves economically independent and supporting the family.

#### **2.4 Monthly Household Income:**

The data shows that many of the respondents belong to middle class group and their month income ranges from TK 20,000 to Tk 35,000. I found some of the working couples among the respondents.





### **3. Information Related to Marital Condition of Respondents:**

#### **3.1: Age at First Marriage**

It is evident that the average age for first marriage among the respondents is majority between 20-25 years. This shows that large number of respondents married for first time at the right marriage age. So in most cases, the tender aged wives contain knowledge about marriage registration and dower.

#### **3.2. Guests Invited at Marriage Ceremony:**

In the case of settled marriage, 10 to 100 guests were entertained and most of the ceremonies were held in community center. I found no marriage event took place without the consent of their guardian.

#### **3.3. Knowledge about Dower Right:**

Most of the participants thought dower is just for ritual or rules and regulation for Marriage. It is just a formality. They do not have the knowledge that dower money should be economical empowerment for the women in rest of their married life. In my research, it has been revealed that our women's knowledge level on dower systems is very poor.

#### **3.4. Marriage Registration:**

The respondents expressed that there should be effective implementation of the law related to marriage registration. However most of the respondents got marriage document (Nikah nama) with them, but being lack of consciousness they do not read what was written there. The Kazi some time takes this opportunity to exploit them. For example, there was a document where most of the options were not filled up properly. Another respondent informed that during her marriage ceremony time none came to ask her opinion and two of them said their marriage was held without any marriage registration and they did not get any Nikah nama or kabin nama.

#### **3.5. Dower Money:**

When respondents were asked about their dower or mohr, 3 respondents informed that they are not aware about it. Among those who were aware of it 4 respondents reported that dower (mohrana) was fixed in Tk 300000 to Tk 500000. Respondents knew that it has to be mentioned in the 'Kabinnama', but most of them did not know that they can claim for it. Most the divorce women did not claim it and among of them even did not know that they could claim for it. Among those who knew that they can claim it, but most of them did not claim it for various reason and another very few respondents who claimed for it, but didn't receive the money. According to the research findings most of the respondents reported that they have not claimed dower money. The minority of respondents got the total amount, highest number of respondents got partial amount and excused the dower money.

### **3.6 .Women's Right to Divorce:**

In most cases we found respondents do not have knowledge that there is a clause in marriage registration form which gives them right to divorce. Furthermore, even women did not know they have right to give divorce. They have a misconception that only man have right to give divorce.

### **3.7. Condition of Conjugal Life:**

Most of the respondents thought that they have a happy married life. Among of them respondents thought that they have fairly happy married life and some of them are unhappy in their married life. There is also a situation that since the interview was conducted in front of their husband and in- laws; women's may not have provided the correct information. Those respondents who were unhappy came up with the following reason:

- a) Constant demand for dowry by the husband or in- laws
- b) Threat of Divorce
- c) Continuous threat of second demand.

Most of the women claimed that the practice of polygamy of their husbands is a major factor affecting their conjugal life.

### **3.8. Causes of Separation:**

Reasons for women living separately from their husband were:

- a) Husband was living with their other wives.
- b) Husband does not provide cost for family maintenance.
- c) Husband disappeared or the women did not know the whereabouts of their husband.

### **3.9. Knowledge about Organizational Assistance:**

While discussing with the respondents it has been revealed that most of the women did not have any information or knowledge about the organizations that can help in solving their marital problems. Only a few mentioned “Ain - O -Shalish Kendra” and “Mohila Porishod”. They expressed that there should be a provision for counseling and legal assistance to marriage related problem. However, they would like to continue their marital status with their present husband.

### **Observation of the Participant:**

1. Most of the respondents (FGD) were married first time at or near their poverty period. So in most cases the tender aged wife lacked knowledge about conjugal life.
2. Most of the respondents got marriage registration document with them (Kabin nama), but being illiterate they did not understand what was written there. The ‘Kazis’ take this opportunity to exploit them. For example, there was a document where most of the options were not filled up properly.

The respondent informed that during her marriage ceremony none come to ask her opinion about dower amount.

3. When respondents were asked about their dower or Mohr, 6 of them informed that they were not aware of it.

### **The Respondents Recommended that:**

1. There should be provision for legal assistance to marriage related problems. However, they would like to continue their marital status with their present husband.
2. There should be effective implementation of the law related to marriage related registration.

## **7. Chapter Seven - Recommendations**

### **Recommendation:**

None of us can change the world by ourselves, but lots of people doing a little can make a real difference. Though some achievements have been made throughout the agency, still the condition of women in the area is not up to the mark. Dower right is like that kind of changes which can help our MMW (Married Muslim Women) society to make them self dependent and economically strong. The respondents mentioned the following indicative factors which improved scenarios in these areas. Therefore according to their view, the followings can be considered as the major parameters to measure the status of women in the society. Here providing some relevant recommendations which are helpful to implement dower right as follows:

### **Program recommendation:**

- ❖ To raise awareness among the general people. Media should be more involved in broadcasting incident and consequences of early marriage, dower, dowry, divorce and polygamy.
- ❖ To organize different events and programs (cultural and educational) on dower to change our thought, create awareness and mindset, such as-Short film, The Stage Drama, Drama on TV & FM Media, Stage show ,Billboard .
- ❖ To organize seminar/workshop at regional level to disseminate the best practices and knowledge of dower right. Teachers, religious leaders, principal of Madrasha and school would participate in such events for future to arrange the same in future and create impact in society.
- ❖ To develop and upgrade the existing dower system or dower right endorsing the recommendation of women. Also programs and plans need to be taken for effective circulation and implementation of the law related to marriage registration.

- ❖ To initiate system/rules during marriage so that the dower amount can be ensured to be paid by the husband to his wife or can be made it mandatory to deposit the dower amount through a bank account. We make develop insurance policy or it can be fixed as well.
- ❖ To ensure that the women of the society have contact with the organizations providing counseling and legal assistance to dower or marriage related problems. However, they can continue their marital status with their present husband.
- ❖ To be members of the society women should have adequate knowledge about dower rights and women rights. Government, Civil Society, NGO's should take steps to make them aware of these rights.

#### **Study Recommendations:**

- ❖ To instigate research for Dower imbursement issues like Dower Rights, Dower reimbursement effects, Dower imbursement policy and Dower imbursement timeline.
- ❖ Dower system is essential part of marriage. The some amount of money the husband is bound to give to his wife, but actually most of the woman does not get the dower at the time of marriage or after marriage. So it is an important question to our society for the easy realization of dower. On this point further study is very much needed.
- ❖ To improve the present scenario, women need to have basic knowledge and literacy is needed. In this regard, various government and non-government organizations may be involved in organizing effective literacy program for the dower right and women rights.
- ❖ To initiate more research about Dower imbursement activities of implementing field on various Dower issues.

From this study it has been noticed that most of the women demands amendment of the law, raising consciousness of their rights and responsibilities, providing more opportunities, continuous campaign, ensure equal share of property and avoid fundamentalists and soon.

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## **Appendix**

**1. Interview Schedules**

**2. Consent Form**

গবেষণায় ব্যবহৃত সাক্ষাৎকার অনুসূচী

সমাজকল্যান ও গবেষণা ইনস্টিটিউট

ঢাকা বিশ্ববিদ্যালয়, ঢাকা-১২০৫ ।

ঢাকা শহরের মুসলিম বিবাহিত মহিলাদের দেনমোহর প্রাপ্তি সম্পর্কিত একটি সমীক্ষা ।

সাক্ষাৎকার অনুসূচী

(এ সাক্ষাৎকার অনুসূচী কেবলমাত্র গবেষণা কার্যে ব্যবহার করা হবে এবং প্রাপ্ত তথ্যাবলীর গোপনীয়তা রক্ষা করা হবে )

ব্যক্তিগত ও পারিবারিক তথ্যাবলী

১। আপনার নাম : .....

২। বর্তমান ঠিকানা : .....

৩। আপনার বর্তমান বয়স বলুন : .....

৪। আপনার শিক্ষাগত যোগ্যতা কি ?

- নিরক্ষর
- স্বাক্ষর
- ক্লাস পাশ করেছেন ।
- অন্যান্য(নির্দিষ্ট করুন)..... ।

৫। আপনার বর্তমান পেশা বলুন?

- চাকুরী
- গৃহিনী
- ব্যবসা ।

৬। আপনার বর্তমান বৈবাহিক মর্যাদা কি ?

- বিবাহিতা
- বিধবা
- তালাক প্রাপ্ত
- সেপারেশন

৭। আপনার কত বছর বয়সে প্রথম বিয়ে হয়েছিল ?

- ১২ বছরের নিচে
- ১২-১৫ বছর
- ১৫-১৮ বছর
- ১৮ বছরের উপরে ।

৮। বিবাহকালীন সময় আপনি কি কোন রকম পৈত্রিক সম্পত্তির অধিকার লাভ করেছিলেন?

- হ্যাঁ
- না

৮(ক)। উত্তর হ্যাঁ হলে নির্দিষ্ট করুন .....

৯। আপনার স্বামীর নাম বলুন : .....

১০। আপনার স্বামীর শিক্ষাগত যোগ্যতা বলুন :.....

১১। আপনার স্বামীর পেশাগত যোগ্যতা বলুন : .....

১২। আপনার স্বামীর বর্তমান মাসিক আয় কত?

- ২০০০০-৩০০০০ টাকা
- ৩০০০০-৪০০০০ টাকা
- ৫০০০০-৬০০০০ টাকা
- নির্দিষ্ট করুন.....

১৩। আপনার বিবাহের আয়োজন কার মাধ্যমে হয়েছিল ?

- নিজ
- পিতামাতা
- আত্মীয় স্বজন /প্রতীবেশী ।

১৪। আপনার বিবাহিত জীবন কি এটাই প্রথম ?

- হ্যাঁ
- না



১৪(ক) উওর না হলে কতবার .....

১৫। আপনার বিবাহের অনুষ্ঠান কোথায় এবং কার দ্বারা সম্পন্ন হয়েছিল ?

- বাসায়
- কাজী অফিস
- কমিউনিটি সেন্টার
- মাওলানা
- কাজী
- অন্যান্য (নির্দিষ্ট করুন) .....

১৬। বাংলাদেশের পুরুষ ও নারীদের বিবাহের সঠিক বয়স সীমা সম্পর্কে আপনার কোন ধারণা আছে ?

- হ্যাঁ
- না

১৪(ক)। উওর হ্যাঁ হলে বয়স সীমা কত বলে আপনি জানেন ?

পুরুষ..... বছর , নারী.....বছর

১৫। বিবাহের সময় আপনার মতামত নেয়া হয়েছিল কিনা ?

- হ্যাঁ
- না

১৫ (ক)। উত্তর 'না' হলে কেন মতামত নেয়া হয়নি ?

- পারিবারিক প্রথা
- অভিভাবকের ইচ্ছা
- কিছু বুঝতাম না
- প্রয়োজন মনে করিনি।
- অন্যান্য (নির্দিষ্ট করুন) .....

১৬। আপনার বিয়ে কি রেজিস্ট্রিকৃত ?

- হ্যাঁ
- না

১৬ (ক)। উওর 'না' হলে এর কারণ কি ?

- আর্থিক অস্বচ্ছলতা
- এ সম্পর্কে জানতাম না
- প্রয়োজন মনে করিনি

অন্যান্য (নির্দিষ্ট করে বলুন) .....

১৬(খ) উওর হ্যাঁ হলে আপনি কি কাবিননামা পড়ে দেখেছেন ?

হ্যাঁ

না

১৬(গ) কাবিননামা না পড়ে দেখলে এর কারন কি?

পড়তে জানিনা

সুযোগের অভাবে

এ সম্পর্কে কিছু জানতাম না

প্রয়োজন মনে করিনি

অন্যান্য (নির্দিষ্ট করুন).....

### দেনমোহর বিষয়ক অবগতি ও ব্যক্তিগত দেনমোহর প্রাপ্তির প্রক্রিয়া

১৭। মুসলিম বিবাহ ব্যবস্থায় দেনমোহর বা মোহরানা বাবদ অর্থের পরিমাণ নির্দিষ্ট করে তা কি আপকি জানতেন?

হ্যাঁ

না

১৭(ক) উওর হ্যাঁ হলে দেনমোহর সম্পর্কে আপনার ধারণা কি ? (গুরুত্বের ত্রুটিমানুসারে)

অর্থনৈতিক নিরাপত্তা

সামাজিক নিরাপত্তা

আইনগত অধিকার

ধর্মীয় অধিকার

মর্যাদার চিহ্ন স্বরূপ

অন্যান্য (নির্দিষ্ট করুন).....

১৮। আপনার কি জানেন আপনার বিয়েতে কতটাকা দেন মোহরের ধার্য হয়েছিল ?

হ্যাঁ

না

জানি না

১৮(ক) উওর হ্যাঁ হলে আপনার বিয়েতে দেন মোহরের পরিমাণ উলে-খ করুন ?

টাকা.....

দেনমোহর পরিশোধের ধরন ও পরিমাণ

১৯। আপনার বিয়ের সময় দেনমোহরের কোন অংশ পরিশোধ করা হয়েছিল কি ?

- হ্যাঁ
- না
- জানা নেই।

২০। হ্যাঁ হলে কী পরিমাণ উসুল /আদায় হয়েছিল ?

- সম্পূর্ণ
- অর্ধেক
- আংশিক
- জানা নেই।

২১। দেন মোহরের যে অংশ পরিশোধিত হয়েছিল বলে জানাচ্ছেন তা কিভাবে পরিশোধিত হয়েছে ?

- নগদ টাকা
- গহনা
- জমিজমা
- অন্যান্য .....

২১(ক)। যা পরিশোধিত হয়েছে তা কি আপনি ভোগ করেছেন ?

- হ্যাঁ
- না

২১(খ)উওর না হলে আপনি কখনহ কি আপনার স্বামীর কাছ থেকে দেনমোহরের প্রাপ্য অর্থ দাবী করেছিলেন ?

- হ্যাঁ
- না

২১(গ)। উওর না হলে আপনার স্বামী কী বলেছিলেন ?

.....

২১(ঘ) উত্তর না হলে দাবী করেন নি কেন ?

- স্বামীর সাথে সমঝোতা ।
- স্বামীর আর্থিক অস্বচ্ছলতা
- স্বামী তেমন গুরুত্ব দেয়নি ।
- পরবর্তীতে করবে ।
- ধর্মীয় কারণে ।
- পারিবারিক কারণে ।
- সামাজিক কারণে ।
- অন্যান্য (নির্দিষ্ট করুন).....

২২। আপনি কি জানেন দেনমোহর প্রাপ্তি আপনার অধিকার ?

- হ্যাঁ
- না
- জানি না

২২। আপনি কি জানেন দেনমোহর প্রাপ্তির জন্য দেশে আইন প্রচলিত আছে ?

- হ্যাঁ
- না

২৩। আপনি কি জানেন ১৯৮৫ সালের পারিবারিক আদালত অধ্যাদেশের ৫ ধারায় পারিবারিক আদালতে দেনমোহর এর জন্য

মোকাদ্দমা করতে পারবেন ?

- হ্যাঁ
- না
- জানার প্রয়োজন মনে করেননি ?
- অন্যান্য .....

**দেনমোহর প্রক্রিয়ায় উদ্ভূত সংকট ও সুবিধা।**

২৪। আপনি বা আপনার পরিচিত কেউ দেনমোহরের কারণে যদি সমস্যার সম্মুখীন হয়ে থাকেন তবে তা বলুন ?

.....

.....

২৫। বিবাহ পরবর্তীকালীন সময় দেনমোহর কি প্রক্রিয়ায় পরিশোধ করা হবে এর জন্য কি কোন রকম সিদ্ধান্ত গ্রহণ করা

হয়েছিল?যদি হয়ে থাকে তা হলে সে সম্পর্কে বলুন ।

২৬ । আমাদের দেশে দেনমোহর সাধারণত উভয় পরিবারের বয়স্ক ব্যক্তির ধার্য করে থাকেন,আপনি/আপনি কেন নয় এই প্রক্রিয়ার ব্যাপারে আপনার মতামত বলুন?

২৭ । আপনি কি মনে করেন দেনমোহর ধার্য করার জন্য নির্দিষ্ট আইন ও দেনমোহরের পরিমাণ উল্লেখ্য থাকা প্রয়োজন ?এ ব্যাপারে আপনার অভিমত বলুন ?

২৮ । দেনমোহর ব্যবস্থা বিবাহিত মহিলাদের কি ভালো করতে পারে বলে আপনি মনে করেন ?

- অর্থনৈতিক নিরাপত্তা
- সামাজিক নিরাপত্তা
- আইনগত অধিকার
- ধর্মীয় অধিকার
- মর্যাদার চিহ্ন স্বরূপ
- অন্যান্য (নির্দিষ্ট করুন).....

২৯ । দেনমোহর ব্যবস্থা কার্যকর করার জন্য আপনার পরামর্শ বলুন-

- ব্যংকিং ব্যবস্থা
- বীমা ব্যবস্থা
- আইনগত ব্যবস্থা
- সচেতনতা বাড়াতে হবে
- মেয়েদের শিক্ষিত করে গড়ে তুলতে হবে
- দেনমোহর যে মহিলাদের অধিকার এ সম্পর্কে সরকার এবং জনগণ উভয়কেই সচেতন হতে হবে ।
- ধর্মীয় প্রয়োগ থাকতে হবে ।
- মেয়েদের নিজস্ব অধিকার সম্পর্কে সচেতন হতে হবে ।
- অন্যান্য.....

একটি সুন্দর সাক্ষাৎকার দেয়ার জন্য আপনাকে ধন্যবাদ ।

## CONSENT FORM

**Read this. If you agree then you can sign.**

**I (please print name) \_\_\_\_\_ give my consent to take part in this study.**

1. I have read the information sheet I understand. I know that I will answer questions about my dower right experiences.
2. I know that everything I say is between me and the researcher but if there is something very serious, such as the harm of somebody or me, then the researcher will have to tell somebody. My name or personal information is private and will not be used. The information will be kept safe and only the researcher will see the interview information. I can view them at anytime
3. I respondent freely to be part of this study, without duty or obligation. I understand that I am free to withdraw from this study at anytime without notice or penalty. I have received a copy of this agreement.

**Participant's signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Researcher's name (in print):** \_\_\_\_\_

**Researcher's signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_