



Barrister Rabia Bhuiyan

DOWER - A RIGHT OR RITUAL ?

Barrister Rabia Bhuiyan
Senior Advocate

In Muslim Marriages, the provision of dower is considered as an essential aspect. Dower is considered under Shari'a law, as an inalienable right of the wife as well as an obligation of the husband to pay dower. So if marriage is contracted with a condition, that no dower shall be paid, according to Hanafi law, the wife still is entitled to proper dower. (Rahim, Abdur " The Principles of Muhammedan Jurisprudence, P-81) Dower is divisible into two parts, prompt dower and deferred dower. The prompt dower is realizable by the wife at any time before or after consummation. The prompt dower is realizable by the wife at anytime before, or after consummation. The deferred dower is payable on divorce or death of the husband. However, if the husband contracts another marriage without the previous permission of the Arbitration Council, he shall pay immediately the entire amount of the dower, whether prompt or deferred, due to the existing wife or wives, which amount, if not so paid, shall be recoverable as arrears of land revenue (Muslim Family Law Ordinance, Section 6(5) (a).

Though there is no fixed amount of dower, usually dower is fixed at the time of marriage according to the status of the husband, and mentioned in the Kabin Nama (marriage deed). But in any case, the money cannot be less than 10 Dirham (1 Dirham = 18 taka app.).

In reality, however the lofty ideals of Shari'a law have no application in the lives of Bangladeshi women. In practice and in reality, the non-payment of prompt dower is more common in Bangladesh. In rural areas, 90% of Muslim wives do not get any dower money at all whether prompt or deferred dower.

The prompt dower is not paid for several reasons: After marriage, most wives are reluctant to ask for it and they do not even know all the conditions in the marriage deed, a document written by their guardians. The husbands seldom pay the amount on their own. The stipulation is generally written under clause 15 of the *Kabin nama* (marriage deed), that the husband has paid certain amount of dower in the form of jewelleries and cloth during marriage. The husband or his men create pressure to fill up this clause mentioning those items. The customary concept of *usul* (paid) treating all kinds of jewelleries and wedding presents as dower does not allow the wife to ask for dower. Finally, even if the wife ask for dower money, the husband is unwilling to pay and the wife, in order to save her marriage dares not to insist for payment.

In most marriages, dower money is rarely paid even if the wife demands payment. Though dower is an important aspect during marriage, it is not deemed essential to settle this issue for divorce. The absence of any statutory obligation to pay unpaid dower money to the wife facilitate the dishonest husband escaping the payment altogether. In case of divorce, the wife has to recover it though court case like maintenance facing strong contest from the husband. During contest the husband often raises different pleas such as the dower money is paid

(*usul*) in the form of jewelleries or shows a paper (which he obtains from his wife forcibly or forges her signature) showing that his wife has either received or waived her dower.

Although Shari'a law contains several positive provisions, of which dower is one to safeguard women's rights; these provisions have deteriorated due to socio-cultural reasons and patriarchal subversions of a later period. The dower has eventually ceased to be a safeguard for women against arbitrary divorce.

=====