

DOWER

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ABSTRACT

The issue here is the fixation of Dower. Muslim lawgivers do not fix any particular (Minimum/Maximum) amount of Dower or Mahr in regard to the implementation of UCC. It's not specified or mentioned anywhere in Muslim law or the Quran that the husband has to pay a specific amount or property to his wife, but the wife decides what she wants from her husband, and this demand has to be complied with by the husband, otherwise the wife has an option to refuse to proceed with the marriage. The unusual feature of Muslim law of Dower is that no fixed maximum amount of Dower is prescribed, and, therefore, a husband can fix any amount of Dower at his discretion, even though it is beyond his means or ability to pay or earn. If UCC is implemented then it would lead to a positive influence on the personal laws of different religions (mainly Islam). It allows the Muslim women to claim maintenance for their entire lifetime and the can be removed in case of fixation of "dower", as one law will be applicable to all the women in different religions. Implementation of UCC abolishes harsh laws, oppressive laws and laws which are against doctrine of justice, fairness and equity such as Triple Talaq, Nikah Halala.

RESEARCH QUESTIONS



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- What is Dower?
- What is the importance of Dower?
- What is Prompt Dower?
- When Dower is payable?
- What are the gifts prevalent before Dower?

INTRODUCTION

One of the crucial/essential elements in case of Muslim marriages is "Dower or Mahr" promised to be paid or paid by the groom to bride. Without Dower, a nikah (marriage in Muslim law) is considered as incomplete. According to the Muslim law, Dower should be paid or fixed before the marriage. "Mahr (Dower) is the money or any other property such as jewelry etc. which the wife has right or entitled to receive from her husband in consideration to the marriage".¹ Amount/Value of dower may be settled before or at the time of marriage or else after the marriage. Muslim Law and Quran doesn't say

¹ SIR DINSHAW FARDUNJI MULLA, PRINCIPLES OF MOHAMMEDAN LAW (2017).

anything about the quantum/value of dower. Dower is categorized into two - “prompt dower” and “deferred dower”.

“Before Islam, two types of material gifts were in existence. In case of *beena* marriage, the wife was known as *sadiqa*, and a gift given by her husband on marriage was called *sadaq*. In Islam *sadaq* simply means a dower.²In case of *baal* marriage, where husband has dominion over wife, wife’s people part with her and have to be compensated”.

Dower in case of the *baal type* of marriages was used by the Prophet Mohammed to make better the status of married women in Islam, and it was combined with *sadaq*, which is nothing but a gift to wife so which remains as a security with her during her lifetime. In Islamic law, *Mahr* is a gift solely meant for the wife.

It is not only mere “consideration” but also an obligation imposed by the law upon the husband as a token of respect to the wife in the modern sense.³

“Before the Islam in Arabia “*sadaq*” was a gift to the wife; but *Mahr* was paid only to the father of the wife, and it was considered as a sale price of wife. But when Islam later on demanded its payment only to the wife, it could no longer be considered as a sale price of the wife. Therefore, Islam converted *Mahr* into a provision which was in favor of the wife, as a protection. In case of marrying another, the husband may think before giving a divorce to his former wife, as he knows that upon divorce the dower would be payable to his wife immediately⁴

TYPES OF DOWER⁵

- **Specified dower :**

Specified dower is an amount of money or any valuable property which is fixed by both the parties, at their own wills, at the time of marriage or afterwards. In case of dower, the husband is under an obligation to give the amount of money agreed upon or specified property to his wife.

²PUSHPDHAN GUPTA, *Topic: Current issues relating to “Mahr (Dower)” in light of Shariat (Islamic Law) & Indian Judicial decisions*, 2 PENACCLAIMS (2018).

³MAYANK JAIN, *Topic: Types of Dower and effects of Non-payment of Dower*, RESEARCHGATE (2018).

⁴ SIR DINSHAW FARDUNJI MULLA, *PRINCIPLES OF MOHAMMEDAN LAW* (2017)

⁵ <https://www.lawnn.com/meaning-of-dower/>

Many Muslim Jurists have divided specified dower into two categories, they are:

1. **Prompt dower**
2. **Deferred dower**

1. Prompt dower:

This is payable on demand by the wife which means prompt dower is payable at the time post the marriage . Prompt dower is payable immediately by the husband to the wife as and when it is demanded. The wife can demand the sum of money before the consummation or afterward.

2. Deferred Dower:

Deferred dower is payable at the happening of an event or after the expiry of a particular time period. The deferred dower cannot be demanded by the wife. The wife is not entitled to demand dower before the dissolution of marriage or happening of the said event.

If the said event didn't take place or the time period fixed for the payment of dower has not expired in any case, then it is payable at the termination of marriage or after the death of either of the parties.

• Unspecified Dower/Proper Dower :

If the value of the dower hasn't been settled by the parties before or at the time of marriage or after the marriage, then it is known as unspecified dower. In such case, wife is entitled to get a reasonable amount. Such dower is not specified by both the parties at the time of marriage but such type of dower is settled by the court taking into consideration factors such as the qualifications of the wife, the economic status of the husband, wife's age etc.



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CONCLUSION

Mahr is a compulsory or unavoidable gift given by the husband to wife in Muslim marriages. Unlike a price paid to bride, however, it is gifted directly to wife and not to her father. Although the gift is often money in common, it can be anything (valuable properties) agreed upon by the bride and groom such as a house or any business that is put in her name and can be run and owned entirely by her if she chooses.

As there are many Islamic laws there is an ambiguity in amount of dower to be paid as there is no fixed minimum or maximum limit, so there is always a chance that the groom might settle the Dower with an unfair amount, which happens frequently in most of the cases. It may at times lead to cancelling of the marriage if both parties can't agree upon Dower as it is mandatory for both the parties to be in an agreement with the amount of Dower.

Therefore, I, hereby conclude by stating that although Dower is a security provision for married women in Islam, there is no fixed amount of dower, which is one of the drawbacks in Muslim law. In fact, all personal laws must be scrapped and UCC must be implemented. This way our society will exist in a state of perfect peace and harmony.

