

The Rise of Divorce Rate in Bangladesh: Excessive Dower is Major Cause among Muslim Wives Initiating Divorce

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ABSTRACT---In order to constitute a valid marriage, the Muslim law requires that there should always be a consideration moving from the husband in favor of the wife for her sole and exclusive use and benefit. This consideration is called dower (Mahr). Dower is an essential requirement in Muslim marriage takes place. But there is no maximum limit of dower, when dower is fixing high, wife can realize the dower as it is. The present study intends to discover the practices of dower among women in Bangladesh. The main purpose of this study to probe whether excessive dower is leading to more wife-led divorce for quick economic gains.

Keywords--- Marriage, Dower, Excessive dower, Divorce

1. INTRODUCTION

Dower is either specified or unspecified but in either case, the law confers a mandatory right of dower on wives. Dower belongs to wife and she can deal with it in the manner she likes it and neither her husband nor husband's relatives nor even her relations can dictate her in matter of using the dower money or property. But now a day's dower has become a business, it is often called 'Dower business'¹. While talking about business it is actually pointing towards the demand of some women's excessive demand of dower from husband and later divorcing the husband. Some women with bad intention now marry for dower only². The rate of wives initiated divorce is increasing in Bangladesh which is concern matter. There are some incidents on records where women married several times, each time fixing high amount if dower, and then divorced their husbands. There is a potential of misuse of this practice of fixing excessive dower for quick gain of money or property. Marriage being a foundation institution of social structure and divorce being a disruption of that foundational institution, it is necessary to examine if excessive dower is playing a role in the disruption.

2. RESEARCH METHOD

The study employed a qualitative approach in which content analysis was used to analyze news coverage of excess dower-related in Bangladesh. This study focuses on Newspapers because readers can have latest report on excessive dower. The empirical data is collected from secondary and primary sources. Primary Data has been collected from the Quran, Sunnah, The Dissolution of Muslim Marriages Act, 1939 the Muslim Family Laws Ordinance, 1961, Muslim Marriages and Divorces Rule 1975 of Bangladesh. Secondary data sources such as books, articles, journals, media report, web sites have been used.

3. TYPES OF DOWER

The basis of the classification of dower under Muslim Law is: a) Whether it has been fixed by parties or is fixed by operation of law, and b) Whether the dower may be claimed by wife any time or only upon the dissolution of marriage. If the parties do not specify the dower during marriage, it is called Unspecified or Proper Dower. Broadly, there are two types of dower: (i) Specified Dower and (ii) Unspecified Dower.

Specified Dower (*al-mahr al-masamma*): Specified Dower is a payment that a husband makes to his wife at the time of marriage or later on. There are provisions in Section 13, 14, 15, 16, and 20 of the *Kabinnama* [Form-E] based on the Muslim Marriages and Divorces Rule 1975. The Specified Dower has been further divided into-(a) Prompt Dower (*Mu'ajjal*) and (b) Deferred Dower (*Mu'ajjal*).

Prompt Dower (*Mu'ajjal*): Prompt dower is payable immediately after marriage on demand, and the wife can refuse to have conjugal rights if the dower is not paid on demand. If consummation has taken place, the wife can refuse to have conjugal rights on the condition of payment of prompt dower. If there is no mention of prompt dower in the *Kabinnama*, the court may consider half of the total dower as prompt dower³. According to Ameer Ali, a wife can refuse to enter into conjugal domicile of husband until the payment of the prompt dower.

Deferred dower (*Mu'ajjal*): Deferred dower indicates that dower which is payable in case of dissolution of marriage by death or divorce. In case of an agreement regarding the payment of deferred dower earlier, then such an agreement would be valid and binding. If there is no specification of dower either prompt or deferred and then according to *sunni* law, It should be split into prompt and deferred.

Unspecified or Proper Dower (*Mahr al Mithl*): In case of non fixing the amount of dower during marriage or later on, the wife is entitled to proper dower, though the marriage was contracted on the condition that the wife cannot claim any dower. Proper dower varies according to the social position of the woman's family, the wealth of her husband, her own personal qualifications and circumstances of time and social conditions surrounding her. According to *Hedaya* (renowned book on Islamic law) proper dower is to be determined depending on the personal qualifications of the wife like her age, beauty, fortune, understanding and virtue. The amount of dower fixed of other female members of the wife's family like her sister and paternal aunts is also to be considered. Above all social position and economic capability should be taken into consideration at the time of determining proper dower. Factors to be considered for the determination of proper dower are summarized:

- (i) The personal qualifications of the wife- beauty, virginity, personality, age, education and wealth;
- (ii) The status of the family;
- (iii) The amount of dower settled upon the female members of her father's family like her sister and paternal aunts;
- (iv) The financial capacity of the husband.⁴

4. DOWER AMOUNT FIXED FOR DIFFERENT SCHOOL OF THOUGHTS

Muslim Sharia law doesn't specify a minimum or lower limit for dower, but some jurists believe it shouldn't be less than ten dirhams. Either money or goods may be used as payment. No minimum dower was established by the Prophet (SAW). According to the well reported traditions of the Prophet of Islam, the bride need only bring a small amount of barley, dates, or even an iron ring. In another case, the teaching of one or two verses of the Holy Qur'an by the husband to the wife was declared to be an adequate *mahr* for the bride⁵. These minimums are no longer followed, and it is now customary in many nations to determine the amount of dower only by taking the husband and wife's circumstances into account⁶.

Reducing the dower is Sunnah: *Sharia* does not stipulate a certain limit for the dower that should not be overstepped, but it does not encourage reducing the *mahr* and keeping it simple. The Prophet (peace and blessings of Allah be upon him) said 'The best of marriage is that which is made easiest'⁷. And he (Peace and blessings of Allah be upon him) said 'The best of *mahr* is the simplest (or most affordable)⁸. Ibn Maajih (1887) narrated that 'Umar ibn al-Khayyab said:

"Do not go to extremes with regard to the dowries of women, for if that were sign of honour and dignity in this world or sign of piety before Allah, then Muhammad (peace and blessings of Allah be upon him) would have done that before you. But he did not give any of his wives, and none of his daughters were given, more than twelve uqiyah. A man may increase the dower until he feels resentment against her and says, 'You cost me everything I owe, and caused me a great deal of hardship'"⁹.

Standard of Dower and Conditions or Terms of Payment: This may be divided into two-

If the marriage is consummated, and is dissolved by death:

- i) Whole of the specified dower in case of regular marriage.
- ii) Proper dower if unspecified in case of regular marriage.
- iii) Specified or proper dower, whichever is less, in the case of irregular marriage.

If the marriage is not consummated, and is dissolved by the act of party:

- i) When divorced by the husband-half of the specified dower, in case of regular marriage.
- ii) A present of three articles if unspecified, in case of regular marriage.
- iii) When divorced by the wife: No dower.
- iv) If the marriage is irregular: No dower.

5. SCOPE OF WIFE-INITIATED DIVORCE IN MUSLIM LAW

Islam from the very beginning recognized judicial as well as extra-judicial divorce. In traditional Muslim law, wife could secure divorce in the forms of *Khula*, *Mubarat* and *Talaq-e-Tafwid*. The Dissolution of Muslim Marriages Act, 1939 and The Muslim Family Law Ordinance, 1961 opened another avenue for Muslim wives to secure dissolution of marriage through court verdicts. The traditional forms and the court-based form of wife-initiated divorce are discussed below:

A. Divorce by agreement between the parties (Extra-Judicial Divorce)

- (i) *Talaq-e-Tafwid* (without intervention of court): The husband has the power to delegate his own right of pronouncing *talaq* to some third person or to the wife herself. The person to whom the power is thus delegated may then pronounce the divorce accordingly. Such a delegation of power is called '*tafwid*'. The husband may delegate the power absolutely or conditionally, temporarily or permanently. A permanent delegation of power is revocable but a temporary delegation of power is not. The delegation must be made distinctly in favour of the person to whom the power is delegated and the purpose of delegation must be clearly stated. This form

of delegated divorce is perhaps the most potent weapon in the hands of a Muslim wife to obtain her freedom without the intervention of any court¹⁰.

- (ii) *Mubarat*: It is initiated by the wife and comes into existence if the husband gives consent to the agreement and releases her from the marriage tie. Where both parties agree and desire a separation effecting a divorce, it is called Mubarat.
- (iii) *Khula (Redemption)*: Khula means to put off. It is a divorce with the consent, and at the instance of the wife, in which she gives or agrees to give a consideration to the husband for her release from the marriage tie¹¹.

B. **Judicial Divorce**: This is by obtaining a decree from a Civil Court for dissolution of marriage under Section 2 of the Dissolution of Muslim Marriages Act 1939, which also amounts to divorce (under the law) obtained by the wife. It is also called as Faskh and refers to the power of a Muslim judge (*Qazi*) to annul a marriage on the application of the wife. The Quranic basis of the *Faskh* is lying in SuraNissa¹².

Women in Bangladesh can also ask for divorce through court under Muslim Family Laws Ordinance, 1961 on the following grounds:

1. Whereabouts of the husband have not been known for a period of four years.
2. Husband has neglected or has failed to provide for her maintenance for a period of two years
3. Husband has been sentenced to imprisonment for a period of seven years or upwards
4. Husband was impotent at the time of the marriage and continues to be so
5. Husband has been insane for a period of two years or is suffering from virulent venereal disease.
6. Husband treats her with cruelty i.e. habitually assaults her or makes her life miserable, leads an infamous life, or attempts to force her to lead an immoral life¹³.

6. INCREASING DIVORCE IN BANGLADESH BY WOMEN

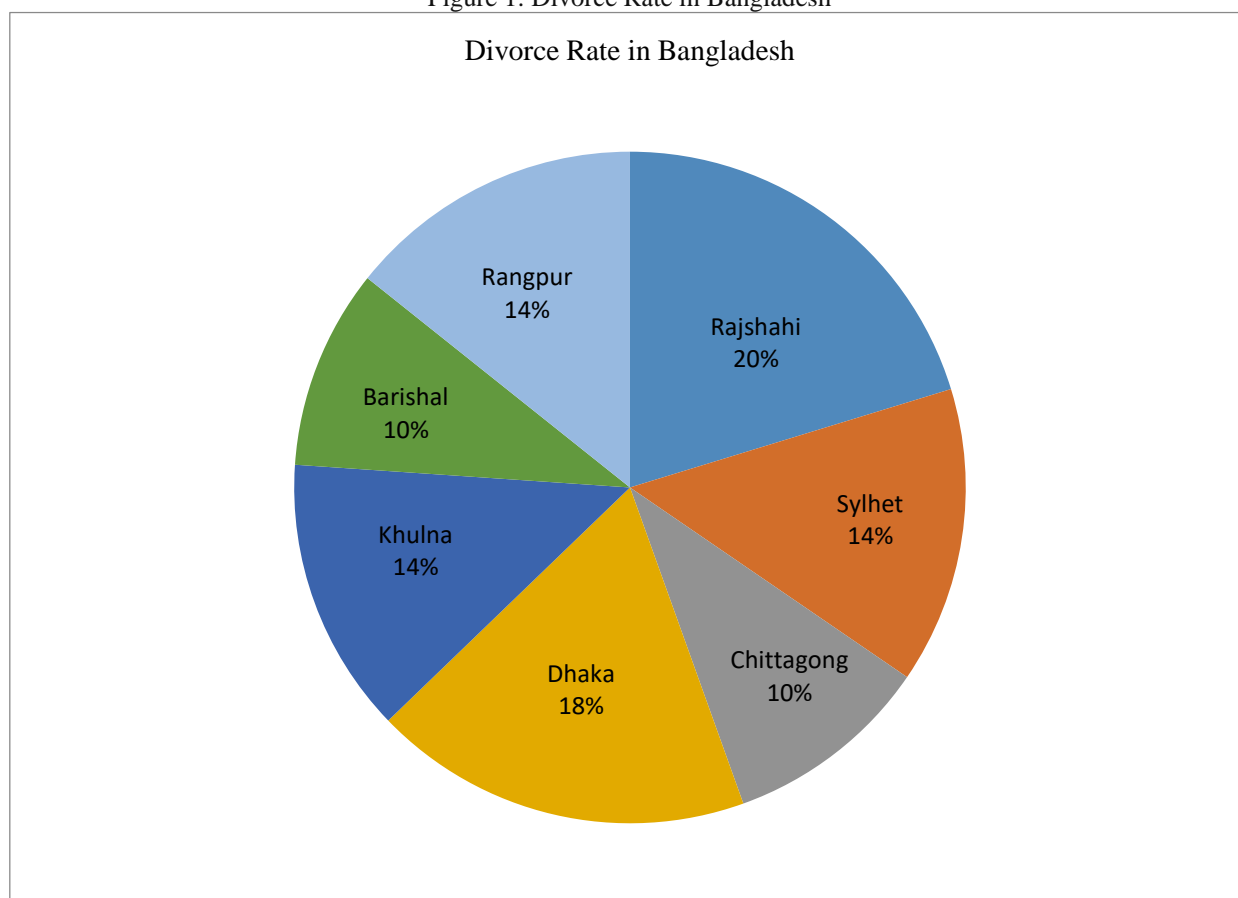
Fixation of large amount of dower and the transfer of divorce authority are two factors that may lead to an increase in the number of wife-led divorces in Bangladesh. A husband and wife have the legal right to divorce, and they are free to utilize it in accordance with the current laws of Bangladesh. In Bangladesh earlier divorce rate was more among illiterate and poor but currently it is increasing among all section of people. According to statistics in the first 180 days from 2019, there were 4500 divorce applications were filed (BBS, 2020). A survey shows that from 2010 to 2019, the number of divorces in the capital was around 70,000 and 50 to 60 divorce rate has increase by 29.78 percent (BBS, 2021). 99 divorces have increased in every month from last year. Last seven years divorce rate has increased (34%). Since last six years at least 50000 divorce applications were filed in the capital city Dhaka, that indicates on average one divorce application filed per hour. More than 20 martial relationships are broken in a day¹⁴

Table 1. Divorce applications submitted by men and women in Dhaka city of Bangladesh

Year	Total Divorce Notice Served in Dhaka North City Corporation	Application Served by Women	Application served by Men	Total Divorce Notice Served in Dhaka South City Corporation	Application Served By women	Applications served by men
2021	7,414	4,081	1,762	7,245	5,183	2,062
2020	6,168	4,053	2,115	6,345	4,428	1,917

Table 1 shows the registered files of divorce applications, but there are many cases where filed in other areas. This data reveals an alarming rate of divorce that is increasing year after year. Though Dhaka city does not represent the entire scenario of divorce in Bangladesh, due to lack of data on divorce rate, we will only show data from Dhaka City Corporation¹⁵.

Figure 1: Divorce Rate in Bangladesh



Wife-initiated divorce has substantially grown in Bangladesh. In 2022 the divorce rate is 0.61% in Rajshahi division, 0.29% in Barishal division, 0.30% in Chittogram division, 0.40% in Dhaka division, 0.38% in Rangpur division, 0.43% in Sylhet division, 70% of applications for divorce are filed by Women¹⁶.

Real Life Incident of Dower Business: Beautiful young women target rich man and create intimate relationships with them through various tricks become common in Bangladesh. Claiming that they are single or virgin. Sometimes build a relationship until marriage. Later, extorted money from the *Kabin* by threatening her husband and their family with a lawsuit. Some daily newspapers in Bangladesh have highlighted the trend of dower business. There are some true events on record where woman married several times, each time fix high amount of dower and extort money, gold and valuable property, and then divorced the husband. In several media report covered it “Women are making money by making marriage a business”¹⁷.

Some highlighted media reports are given below:

1. Sharmin Islam Neela married Imran Sheikh. This marriage was completed with a *kabinnama* of Tk 5 lakh. But after the marriage, Neela demanded her dower money. She filed a case for recovery of dower and dowry due to non-payment of money. Imran later recognized that his wife Neela has had seven other marriages before him. She married a man named Shumon. She demanded dower money on wedding night and later demanded another 5 lakhtaka. She mentioned herself as a virgin in her *Kabinnama*. She also married another man named Wadut and here also she claimed herself a virgin. Neela filed a false dowry case to Chief Metropolitan Magistrate (CMM) of Dhaka against Shumon. Not only dowry case, but also filed dower and maintenance suit in Dhaka's assistant judge and family court. Later Shumon left Mirpur area due to his fear and went abroad. Later Neela demanded Tk 5 lakh dowry from her mother-in-law Rahima and Tk 3 lakh for the dower, a case was filed against her in the CMM court of Dhaka. Neela resorted to deception by posing herself sometimes as Sharmin and sometimes as Shahreen Islam Neela. Sometimes she refers to herself as a girl from Pirojpur and sometimes as a girl from Narayanganj in *Kabinama*¹⁸.
2. Layjun Nahar Poppy in Babugonj, Barisal. Layjun Nahar claimed to be a virgin and married young men of rich families. In 2006, Faisal Kabir, area New Upsahar of Jessore, had a dispute with her husband and divorced her after a few days

of marriage. After the second marriage broke up, Poppy went in search of a new men. Then for the third time on 7/2/2008, she married TuhinIslam, areaJadavpur of Jessore district, with a dowry of Tk 1 lakh. For the 4th time, on 12-09-2009, she got married to KhairulAzim, district Feni and continued the marriage business. Married for the 5th time in 2010, KaoliDanga, UpazilaRamganj, Noakhali District got married to Jamil Akhtar. There is a son. But her 5th husband Jamil Akhtar Shuman came to know about this character. Later, there was a lot of turmoil in the family and there was also a divorce for the same purpose, she was introduced to Saiful Islam Sohan, village Thanpura in Babuganj. LajunNahar married Sohan on 07/06/2018. When their relationship deteriorates, they demand huge sums of money from Sohan. If Sohan expressed his inability to pay, he threatened in various ways. Sohan claimed that the airport police had filed a rape case and harassed Sohan and his family¹⁹.

3. Ahida Begum Kavita has built a huge fraud circle. There are all kinds of relatives in the circle, from fake in-laws, brothers-in-law, sisters-in-law, relatives, aunts and uncles, and even marriage counselors. Kavita lives for six to seven months after marriage. During that time, he wins the heart of the targeted person and tries to grab cash, expensive furniture, gold ornaments, land, and flats. Seven people were found to have been cheated by the gang. However, there is no specific information on how many people have actually been cheated. In five years, the cycle has grabbed at least five crore taka. The cycle targets men only²⁰.
4. A young man named Yaseen Hossain Kiran was cheated by a young woman named Kanta Moni, Age 23., Kiran got married in a *Kabin* Tk5 lakh. Kanta claims to be a virgin during her marriage to Kiran. After a few days of marriage, Kanta returned to her original form. He started returning home drunk. At one point in her quarrel with her husband, Kanta demanded Tk5 lakhs for her *Kabin*. Unable to collect the money, Kanta filed a case in the name of Kiran and his family. Later, Kiran came to know that Sujan Bhuiya of Narayanganj was married to Kanta before that. In that marriage, the *Kabin* cost one lakh taka. There too he got stuck with money²¹.

7. DISCUSSION

In our county very often the groom is forced to increase the amount of dower under social pressure. Some women with bad intention take it as opportunity for making huge money. They are extorting lakhs of taka from innocent men by fixing excessive dower in the name of marriage. These women ultimately misuse the right of dower. But no action is being taken against them. Business requires capital and risk of profit loss but many these women have become millionaires within short time by trading *Kabins* with no capital²². Husband has to pay the whole dower money, whatever unreasonable or unrealistic amount it might be without any consideration of his income and along with the maintenance for three more months for his wife. At present, (80%) of *Muslimmen* are victims of dower business across the country and abroad²³. Many respected dignitaries do not even open their mouths due to self-esteem and social and public shame²⁴.

Consequences of Divorce on Men: Divorce has some universal consequences which are affects men differently than women. A study of the Journal of Men's Health (JMHS) confirms that divorced people, both men and women, suffer higher rates of mortality, depression, illness in general and substance abuse than do married people. The most devastating Consequences of divorce for male are the followings:

Physical Effects of Divorce on Men:

- (i) Divorced men have significantly higher incidences of cancer and heart disease.
- (ii) divorced men experience extreme changes in their weight
- (iii) The mortality rate for divorced men is nearly 250 percent greater than with married men
- (iv) Divorced men suffer more heart attacks and strokes than non-divorced men²⁵.

Psychological Impact and Lack in Ability: Divorced people tend to experience increased depressive feelings over time and pass the days with great psychological stress²⁶. They become more susceptible to mentally illness. A study in Dhaka showed that the divorce left them with pain, anxiety, and uncertainty and with the feeling of failure because they had not been able to continue their marriage for the rest of their life²⁷. After separation, as a result of psychological impact, many of the people become unable to restore the impaired personality. It becomes very difficult for them to concentrate on their daily doings and confront a reduced ability in themselves which in turn affect their mental health.

8. CONCLUSION

Dower is an essential components to constitute a valid marriage in Muslim personal law, so it should be fixed within the ability of the husband and religious norm. According to Surah Baqarah verse 229 of the Holy Qur'an, if a wife wants to be freed from her husband, something must be exchanged, which will not be more than her dower²⁸. Therefore, according to Islam, if the husband is harmed by the wife, the wife is obliged to compensate the husband. But according to our domestic law, even if the wife divorces the husband, the husband has to pay the dower money, which is not completely compatible

with Islam²⁹. Some mischievous women using this law as a tool and doing dower business in the name of marriage. All those women get married and divorce their husbands after some month and collect the dower money, but husbands are helpless. Because the law requires the husband to pay for the *Kabin*. The tremendous increase in the divorce rate by wives in Bangladesh makes us suggest that the Muslim Personal Law must be modified on the same pattern as it has been modified in other countries. All such modifications are within the frame-work of the Quran and Sunnah. It is also submitted that, The Dissolution of Muslim Marriage Act 1939 and The Muslim Family Law Ordinance, 1961 must be remodelled in order to meet the present demands of society. The modification made in Indonesia and Pakistan may be taken into consideration in this respect. Extra-judicial divorce which is often being exercised in an arbitrary manner. Scope of the delegated power of divorce (*Talaq-e-tafwid*) must be narrowed down. Some measures must be taken into increase the awareness about the settlement of dower among wives, husband, and their guardians. Moreover, normally the wife has no right to divorce unless she has given the power of divorce by *Talaq-e-Tafwid* in marriage certificate. So do not give such delegation to wife, then she cannot divorce her husband without reason. If she wants divorce, choose *Khula* mode, where husband can claim full or partial refund of the dower money. In addition to that some women are grabbing millions of taka by doing dower business in the mane of marriage, but no action is being made against such mischievous women. Therefore such a law should be made that the bride cannot claim any dower in case of voluntary divorce or the husband should be compensated with an amount equal to the dower in case divorce. If this law is implemented, the dower business of mischievous women will be stopped.

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