

# ***Mahr*. A Symbol of Aristocracy!**

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## **Abstract**

*Mahr is an important concept of Muslim marriage, which signifies a Muslim woman's importance to her husband. Muslim women do not enjoy the rights of Mahr unless any extreme situations do occur such as divorce, death of husband where the wife may demand mahr. Muslim women are not conscious about their mahr; moreover those who show interest are identified as hampering social values.<sup>1</sup> Recently, inconsistent fixation of mahr became marriage culture in many societies; especially in urban marriages. Fixation of high amount of mahr beyond the capability of a bridegroom is now treating as element of maintaining social status. To uphold the family, societal so-called status, fixation of inconsistent amount of moharana is increasing in urban areas of Bangladesh. Actually, an attempt has been made in this study to pin point the Muslim marriage payment-niahr and tried to show how niahr is used as an important medium of maintaining family and societal status in urban Dhaka.*

## **Introduction**

We may define marriage as a transaction and resulting contract in which a woman and a man are recognized by society as having a continuing claim to the right of sexual access to each other, and in which the woman involved is eligible to bear children.<sup>2</sup> Marriage, itself has societal, cultural, religious variation. Marriage in Islam (Religion of the Muslim) is a very important matter, which is a form

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of *Ibadah*, (worship of Allah and obedience of His Messenger); an act of piety (*Taqwah*); an approach to inter-family alliance and group solidarity; social placement; a means of legitimate procreation; a mechanism of tension reduction; a means of emotional and sexual gratification.<sup>3</sup> The Prophet (s.) said: When a man marries he has fulfilled half of his religion. Social, legal and economic forces support marriage. Different sort of economic transaction in many societies formalizes marriages. However, in about 75 percent of the societies known to anthropology, one or more explicit economic transaction take place before or after marriage.<sup>4</sup> The economic transaction has several forms like bride price, bride service, dowry, gift exchange, etc. Among these, bride price or dower or *mahr* is found to exist in Muslim marriage.

The *Mahr* (dower) is something that is paid by the husband to his wife. It is paid to the wife only as an honor 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. The husband thinks twice before divorcing a wife when he knows that upon divorce the whole of the dower would be payable immediately.<sup>5</sup>

*Mahr* is essential to Muslim marriage.<sup>6</sup> In accordance to 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". The remarkable thing is that often the amount of *mahr* is not consistent with the income of the bridegroom. It is not fixed for practical usage. Rather the purpose of large amount of *mahr* fixation focuses on the status and honor of the families (both sides).<sup>8</sup> At present 'mahr' is a matter of prestige rather than religious or practical consideration or prerequisite of marriage" in urban societies of Bangladesh.

In this study two cases were drawn purposively one from the middle and another from the upper Muslim classes of Dhaka city to see how *mahr* is used as a medium of showing family and societal status instead of religious and practical significance.

## The Views of the Quran, Hadith and Islamic Scholars Regarding Mahr: Allah says in the Quran:

*Wa aatoo an-nissaaia saduqaatihinna nihlatan...* (Sura An-Nisaa: 4)

And give the women their dower with a good heart ...<sup>10</sup>

According to religion the Prophet Mohammad (sm.) prescribed an arrangement where "the suitor paid a sum of money (known as the mahr) to the father or the nearest kinsman of the girl he wished to marry and another sum (the *sadaq*) to the girl herself". This reflected some sort of devaluation for the girl, so the Prophet, in order to rescue the female from this dishonorable situation prescribed that the total amount should be given to the bride. Thus mahr and Sadaq became interchangeable terms. It has been said, that" ... The Holy Quran renders the payment of dower necessary at the time of marriage and " ... the dower must be paid, either at the time of consummation of marriage or afterwards. The mahr may be of only the most moderate value, but if it is not mentioned in the contract of marriage, there is a strongly accredited tradition to the effect that the marriage is invalid. It is further said, "And give women their dower as a free gift; but if they of themselves be pleased to remit to you a portion thereof, then eat it with enjoyment and with wholesome result'. This is the clause, which persuades women to forgive their claim to the *mahr*. Even then *moharana* is significant in the context of marriage in Islam. While conducting a marriage, whether the issue of *moharana* is uttered or not the marriage will be invalid because a marriage cannot be held without mahr. Again if anybody (bridegroom) does not give word for paying *moharana* during marriage he is still bound to pay *mahr*. (Since marriage is not valid without mahr)<sup>11</sup>. Moreover, 'there is no possibility of a dower system being replaced by a dowry system.<sup>12</sup>

There are no authentic *hadith* or reports explicitly stating a minimum or maximum amount of dower. Caliph Umar (r.) advised people not to give excessive dowers, but he did not prohibit people from agreeing among each other on any amount of dower.<sup>13</sup> With regard to the mode or determining the amount there are two types of dower specified and unspecified:<sup>14</sup>

**Specified:**<sup>15</sup>

When the amount of dower is settled between the parties of the marriage at the time of marriage any amount can be settled as dower. But it must not be less than 10 *dirhams* in Hanafi or 3 dirhams in Maliki school of thought. In Hanafi law if the specified dower is less than 10 dirhams it will be increased to 10 dirhams. In Ithna Ashari law it cannot exceed 500 *dirhams* (which was given on Prophet's daughter Fatima's marriage ).<sup>16</sup>

**Unspecified/Proper:**<sup>17</sup>

When the amount of dower has not been settled at the time of marriage the dower is fixed as to her paternal relatives (paternal aunts). If they don't specifically agree on a dower, then she is entitled to *Mahr al-Mithl* which means: dower given to women similar to her'.<sup>18</sup>

Ameer Ali says that the main consideration is the social position of the bride's family and the courts will consider the dowers fixed upon her female paternal relations such as sisters and paternal aunts.<sup>19</sup> According to the *Hedaya* the important rule is that her age, beauty, fortune, understanding and virtue must be taken into consideration. Before virginity was also considered.<sup>20</sup> In Ithna Ashari Law where no dower is specified the whole dower is prompt dower.<sup>21</sup>

**(i) Prompt Dower.**<sup>22</sup>

This portion of dower becomes payable immediately after the marriage and must be paid on demand. The wife claiming the prompt dower stands as an unsecured creditor. If the prompt dower is not paid she can refuse to stay with her husband and also can take legal action.<sup>23</sup>

**(ii) Deferred Dower.**<sup>24</sup>

This portion of dower becomes payable at the termination or dissolution of marriage either by death or by divorce. If by divorce, dower can be recovered by compromise or suing in the family court. If by death, dower can be recovered from her husband's estate or by compromise or by suing in the court of law.<sup>25</sup>

## Two Cases of the Study

### Case 1:

Rownak Jahan, aged 26, daughter of a Civil Engineer Mr. Abul Kashem who lived at Eskaton in Capital Dhaka. Rownak has completed her MBA from a private university in 2004. Her mother was a housewife who was also a graduate. She (Rownak) lives with parents and two brothers at Eskaton residence. One of her uncles was a Major in Bangladesh Army. Her two aunts were working in banking sector. She was also waiting to join a reputed commercial organization in Dhaka. Last year her marriage was arranged but both sides did not finalize the mahr before the wedding ceremony. The bridegroom, named Mohammad J ahirul Alam was an Executive Officer of a reputed commercial Bank. His father was not well off like the bride's father. Alam's service experience was one year at the preparation stage of his marriage ceremony. On the wedding day it was started the marriage procedure between two parties. At one stage bride's family proposed 5 lac taka (half million) as an amount of *mahr* for the marriage. But conflict arose and the bridegroom did not agree to the proposed amount of *mahr* due to his financial hurdle. He argued and proposed 2 lac taka for the amount of *mahr*. But the bride's family did not agree with him. Moreover, they made argument in favor of 5 lac taka as an amount of *mahr* for maintaining the family as well as societal status. They placed some example of marriage ceremony of their kin's and colleagues where *moharana* was fixed with a high amount of money. As income of the bridegroom was contradictory to the bride's proposed amount of *mahr*, finally Alam did not agree to marry Rownak with the proposed amount of *mahr*. Then two parties broke the marriage off.

Such incidence is a tragic event for the girl. Breaking off of marriage on the wedding day is a stigma to the girl in this patriarchal society of ours, where females are naturally in a weak position.<sup>26</sup>

### Case 2:

Mohammad Rakib Hasan, aged 30, only son of a garments businessman Mr. Rakayet Hasan who lived in their own apartment located at Uttara residential area in Dhaka city. Rakib completed his graduation from a private university and then he did not engage himself in any work. His mother was a graduate and involved in different socio-cultural organizations. Rakib's father was the owner of two garments industries. He had two pajero jeeps. Rakib married Asma Khatun, a 22 years old HSC passed girl who was the daughter of an Accounts Officer of a private bank. It was an affair marriage. They knew each other for one year before their marriage. The *moharana* was fixed at 10 lac taka (one million) in their marriage. Though Rakib's uncle Mr. Jamal Khondoker, a college teacher disagreed on the matter of fixation of such huge amount of *mahr*; but Rakib's parents agreed with that amount and in fact this amount of mahr was proposed from Rakib's mother. Rakib's parents; especially his mother felt pride and honor to complete her son's marriage with such a huge amount of mahr. His mother considered the huge amount of *moharana* as a symbol of aristocracy. Like Rakib's parents, Asma's family had same feelings about the *mahr*. But it is mentionable, neither of the two parties was conscious about the payment of *mahr*.

From the beginning this marriage seemed to be Problematic Asma began to realize that her husband was not like as before marriage. At one stage of Asma's unhappy conjugal life, her husband decided to divorce. In the mean time, Rakib's father's business was going down. According to law Asrna's husband was bound to pay the full amount of *mahr* to her. But due to sudden financial hurdle of Rakib's family, the bridegroom was unable to pay the mahr immediately. After a few months Rakib's family requested to excuse Rakib from paying the *mahr* in writing.

Divorce is still embarrassing issue among the middle class.<sup>27</sup> Moreover, if the separation is lingered for a long period; it creates more embarrassment for the bride and also her family. Even if Asma desired to establish herself with the *help* of money received as

*moharana*, situation was not in favor of her desire. Finally, she and her family agreed to the proposal for excusing Rakib from paying *mahr*.

Payment of *mahr* is an honor for a woman. It may be the weapon for empowerment of Muslim women.<sup>28</sup> From the analysis of the above two cases it is clear that though an important duty of the husband is to make a marriage gift<sup>29</sup> *Mahr* (Dower) to his wife at the time of marriage, it is not in practice in most of the marriage cases in urban society. Moreover, *mahr* is merely used to show status in most of the marriage cases in urban society, whereas the *mahr* has a long implication and significance in the society. *Mahr* has become a prestigious issue in recent time. It is not fixed according to the ability both of the bride and the bridegroom. It is often seen in the case of marriage that the bridegroom of a high status family is a jobless person, but to fulfill the religious condition of the marriage, *mahr* is fixed at a huge amount on the basis of his family status though it is beyond the capacity of the bridegroom. The *mahr* culture is now far away from true religious values.

## **Conclusion**

Presently, marriage payments or fixation of *mahr* became the matter of socio-cultural construction of our society instead of religious obligation. It is now treated as a symbol of aristocracy of different classes of the Muslim people. *Mahr* should not be perceived as a pre-requisite of marriage only in paper but need to be used in practical life.<sup>30</sup> There needs to be attitudinal and mental changes towards the fixation of inconsistent amount of *mahr* so that women rights are enforced and women are entitled to their granted<sup>31</sup> entitlements.

*Mahr* needs to be perceived with significance, which in many cases would help minimize social problems and unfortunate happenings.<sup>32</sup> It is important to mention that social awareness is urgent and more attention is needed from the social scientists, anthropologists regarding *mahr*. In the case of fixation of *mahr*, it should not be contradictory to the income of the bridegroom.

Fixation of a large amount of moharana is not necessary. By keeping the religious and social values of *moharana* in mind, it needs to be settled on the basis of capacity of the bridegroom and the brides family, which is *wajib* according to Islamic *Shariah*.

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