

# DOWER

*Excerpted from "Dictionary of Islam" by Thomas Patrick Hughes © 1886*

Dower is considered by some lawyers to be an effect of the marriage contract, imposed on the husband by the law as a mark of respect for the subject of the contract – the wife; while others consider that it is in exchange for the usufruct [the legal right of using and enjoying the fruits or profits of something belonging to another] of the wife, and its payment is necessary, as upon the provision of a support to the wife depends the permanency of the matrimonial connection. Thus, it is indispensable *a fortiori* [To draw the inference that because a certain thing is true, then another thing must be true as well.], so much so, that if it were not mentioned in the marriage contract, it would be still incumbent on the husband, as the law will presume it by virtue of the contract itself, and award it upon demand being made by the wife.

In such case, the amount of dower will be to the extent of the dowers of the women of her rank and of the ladies of her father's family. Special beauty or accomplishments may, however, be pleaded for recovering a larger award than the customary dower, where the amount of dower is not mentioned in the contract.

There is no limit to the amount of dower. It may be to a very large amount, considering the position and circumstance of the bridegroom, but its minimum is never less than ten dirhams [1 dirham = 3 grams silver, silver was very valuable back then]. So where it is fixed at a lesser amount, the law will augment it up to ten dirhams. The dower need not invariably be in currency, or even in metal – everything, except carrion, blood, wine, and hog. Also the bridegroom's own labour, if he is a free man, being held by the law to be a good dower.

Dower is generally divided into two parts, termed *mu'ajjal*, "prompt," and *mu'ajjal* "deferred." The *mu'ajjal* portion is exigible [payable] on entering into the contract, while the *mu'ajjal* part of the dower is payable upon dissolution of the contract. Although the first part is payable, and is sometimes paid at the time the contract is entered into, it has been the general practice (at least in India) to leave it unpaid, and so like an on-demand obligation, it remains due at all times; the wife's right to the same not being extinguished by lapse of time.

The wife's (or her guardian's) object in leaving the exigible part of the dower unrealised, seems to be that there may always exist a valid guarantee for the good treatment of her by her husband. The women of the respectable classes reserve their right and power to demand their exigible dowers till each time as occasion should require the exercise thereof.

The custom of fixing heavy dowers, generally beyond the husband's means, especially in India, seems to be based upon the intention of checking the husband from ill-treating his wife, and, above all, from his marrying another woman, as also from wrongfully or causelessly divorcing the former. For in the case of divorce, the woman can demand the full payment of the dower. In the event of the death of the husband, the payment of the dower has the first claim on the estate after funeral expenses; the law regarding it as a just debt.