

# A Theory of Islamic Dower Payments<sup>1</sup>

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**Abstract:** This paper develops an economic theory of the purpose of Islamic dower payments and the conditions necessary for their existence. Because women are susceptible to holdup, they demand contractual protection from abandonment and abuse in marriage. Successful marriage contracts must protect against opportunistic behavior within marriage, protect against undesired contract termination, and provide exit possibilities. In section one, I provide an overview of Islamic dower and distinguish it from other forms of marriage payments. In section two, I investigate the nature of marriage contracts and propose necessary societal conditions for dower payments to arise. In section three, I test my predictions by examining dower payments in 20<sup>th</sup>-century Palestine. I demonstrate dower is a market solution to gender inequality in some of the most oppressive societies in the world.

Keywords: Marriage, Dower, Mahr, Middle East, Opportunistic Behavior

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*“A good marriage is one in which both partners secretly suspect they got the better deal.”*

- Unknown

## **I. The Processional**

The oppression of women in Islamic countries is no secret. Marital abuse remains a special concern. Islamic women often cannot work, cannot own property, and must obey their husbands without question (Jacobson 2003). In addition to lopsided spousal rights, one unique aspect of Islamic marriage is the payment of dower. Dower payments, which are practiced exclusively in Islamic nations, are payments made from groom to bride before marriage. In recent years, feminist organizations have labelled such payments oppressive, arguing they are “sex for money”, or that they increase dependence on male provision (Jacobson 2003). On its face, dower payments instill discomfort in many. Such payments seem to reduce marriage, which is the peak of human intimacy, to a market transaction. It may be this stigma which has deterred economists from offering an explanation.

Despite the stigma, marriage is a mutually beneficial market contract, and its practices require explanation. Historically, most cultures have transferred some form of wealth at marriage (Anderson 2007). These payments include two broad categories: brideprice and dowry. Economists define brideprice as payments from the groom to the bride’s family and define dowry as payments from the bride to the groom’s family (Anderson 2007). To date, economists have focused their efforts on explaining these two categories, with the current theory remaining Becker’s seminal work (1981). Despite Becker’s success explaining these two transactional forms, a third form, dower, remains unexplained.

Although 20% of the world’s population practices dower, traditional economic theories of brideprice and dowry fail to explain why most societies favor payments to the bride’s family and

why a few favor payments to the bride herself. My paper answers this question. In my paper, I explain the practice of Islamic dower by identifying the transaction costs they minimize. My thesis is that women use dower to protect against cheating, abuse, and abandonment in societies where they are given insufficient legal or cultural protection.

My paper contributes to the growing literature on the role private institutions play to protect against marital opportunistic behavior (Leeson et al. 2014), (Brinig 1990), (Allen and Brinig 1998). My article also adds to the marriage payments literature, following Becker's seminal work (1981). For a comprehensive survey of the work on marriage payments, see Anderson (2007). Within that literature, I also contribute to the narrower dower payments literature (Ambrus et al. 2010), (Chowdhury et al. 2019), (Goodarzi 2018), (Anderson et al. 2020).

Although the literature on dower payments to date has focused on measuring the response of dower payment magnitudes to certain economic shocks, I add to the literature by explaining why Islamic dower payments arose in the first place. My paper also adds to the broader literature on marriage payments by identifying the transaction costs the payments are minimizing, rather than the incentive for marriage they create. Ultimately, I demonstrate that Islamic marriage markets are not as oppressive as previously thought, and that markets can safeguard the rights of women even in the absence of legal protection. To demonstrate this claim, I divide my paper into four sections. In section one, I provide a brief overview of dower and explain why current theories are unsatisfactory. In section two, I establish a theoretical framework of marriage contracts and describe the societal conditions necessary for their existence. I then apply my theory to generate several predictions. To test these predictions, I examine dower in 20<sup>th</sup>-century Palestine in section three. Section four concludes.

## II. Exchanging of Vows

In Becker's seminal work (1981), he argues individuals marry when the gains from marriage exceed the gains from remaining single. According to Becker, gains from marriage stem from the household division of labor. In most cases, husbands specialize in income earning, while wives specialize in childbearing and domestic activities. Reaping benefits from specialization, however, presents a problem. Household income is often indivisible. Since certain household goods such as children cannot be divided, partners often reap equal benefits regardless of proportional input into household production. To compensate for disproportionate gains, less productive partners can pay a dowry or brideprice equal to the expected discrepancy. If women in a given society are systematically more productive, brideprice will emerge. If the reverse is true, dowry will emerge. Becker's theory explains why brideprice often dominates in agrarian societies, as women contribute to both domestic activities and field work. It also explains why dowry prevails in societies experiencing rapid economic growth, as high income-earning males grow increasingly necessary (Anderson 2007).

What Becker's theory omits, however, are variations in property rights over these payments. Dower payments, for example, are a rare case in which payment is paid to the bride herself, rather than her parents. On the surface, such payments are puzzling, since partners tend to share all wealth within marriage. Modern dower payments consist of two parts: the prompt dower and the deferred dower. The prompt dower payment is paid into the hand of the bride upon marriage, and she is free to make use of it as she pleases. The deferred portion is an amount explicitly stated in a contract which the husband must pay upon divorce (Anderson et al. 2020). In most marriages, both payments are present. The trend of greatest interest among researchers is the shift in importance from the prompt portion to the deferred portion. In Palestine, for example, the

prompt portion was larger than the deferred portion in most marriages before the 1930s, but researchers found the trend reversed in the 1930s-1940s, with the deferred portion larger than the prompt portion in most cases. The gap between payments continues to grow today (Moors 1994); (Welchman 2000, pg. 184).

On the surface, Middle Eastern societies practice dower because Islam commands it. Origins of dower date back to Muhammed. Quran 4:4 reads, “*And give the women (on marriage) their dower as a free gift; but if they, of their own good pleasure, remit any part of it to you, take it and enjoy it with right good cheer.*” Today, individuals pay dower in most Islamic nations (Goodarzi 2018), (Welchman 2000), (Hopkins 2003). In the Quran, however, Muhammed does not specify required payment magnitude. If the obligation was not market efficient, partners could agree to pay the lowest amount possible. In reality, dower payments tend to be massive, often many times annual household income. An Egyptian study found marriage costs averaged nine to fifteen times per capita annual household expenditures for families below the poverty line (Rashad et al. 2005).

Most contemporary anthropologists and sociologists believe dower payments, especially the deferred component, exist to disincentivize husband-initiated divorce and to offer women economic security in cultures where they face limited employment opportunities. This theory fails to explain several phenomena. First, average deferred payment size is rising in most nations today despite increased female labor participation (Jacobson 2003). Second, individuals in most societies with high male/female income inequality do not practice dower. Third, the theory cannot explain why partners split payments into prompt and deferred portions. Although safeguarding against divorce may be one function of dower, it is far from a comprehensive explanation. I propose a more robust theory of dower in section two.

### III. Exchanging of Rings

My theory contends that dowry serves a different economic purpose than traditional brideprice. Although men utilize brideprice as a bargaining tool to attract women before marriage, women require dowry to minimize husbands' opportunistic behavior after marriage. To understand why dowry exists, one must first understand why couples choose to enter marriage contracts over informal cohabitation. Several economists have argued marriage contracts exist because women are susceptible to holdup (Becker 1981); (Klein et al. 1978); (Cohen 1987). Women are susceptible to holdup for several reasons. Women in most societies enjoy fewer labor market prospects, increasing the costs of divorce relative to men (Cohen 1987). Women's domestic labor is also more replaceable than male income earning abilities (Brinig and Crafton 1994). A man can hire a daycare to watch his children or hire a maid to clean his house, while a woman must personally enter the labor market to replace her former husband's labor. As Becker writes, "*Since married women have been specialized to childbearing and other domestic activities, they have demanded long-term 'contracts' from their husbands to protect them against abandonment and other adversities. Virtually all societies have developed long-term protection for married women...*" (1981, pgs. 30-31).

Because women face higher costs of divorce than men, husbands can engage in opportunistic behavior knowing wives will remain in the marriage. To prevent this possibility, women can stipulate marital terms in third-party enforceable contracts. A problem arises, however, since most marriage contract terms are implicit rather than explicit. The definition of "opportunistic behavior" varies among couples depending on unique expectations. Although partners can stipulate terms such as sexual fidelity and abuse, they cannot stipulate relationship-specific

expectations of behavior. In contracts requiring implicit terms, individuals often rely on two-party enforcement mechanisms, rather than third-party enforcement (Klein and Leffler 1981).

Since only the marrying partners know all implicit expectations, and since these expectations change over time, a successful marriage contract must satisfy three conditions to provide sufficient protection and flexibility. First, it must protect the wife from abuse within marriage. Such abuse includes physical abuse, failure to invest in the relationship, and failure to meet agreed-upon behavioral expectations. Second, it must protect the woman from abandonment. Since abandonment is less costly for men, husbands may desert their wives if they perceive greater prospects outside marriage. The depreciation of female human capital as child-bearing capabilities decrease and attractiveness wanes, and appreciation of male human capital as income rises over time intensifies this possibility (Nunn 2005). The fact that women are less desirable after a first marriage further raises divorce costs. Because men often perceive women as less attractive after losing their virginity (Brinig 1990), and because women with children are less desirable as a mate, the costs of divorce for women can be quite high. Third, the contract must provide women opportunity for marital exit. If, for example, the husband becomes paralyzed, and can no longer fulfill the marriage contract terms, the wife requires the ability to nullify the contract.

For marriage, a legally enforceable contract can satisfy at most two of these three conditions. Legal marriage contracts take four forms: unilateral divorce, mutual consent divorce, indissoluble marriage, and judge-determined divorce (Cohen 1987). Indissoluble marriage fails to protect women from abuse within marriage, since no opportunistic behavior is grounds for divorce, and provides no opportunity for exit. Unilateral divorce cannot protect women from abandonment. Mutual consent divorce and judge-determined divorce also fail to satisfy

conditions. To fulfill unsatisfied conditions, couples can apply market mechanisms such as Coasean bargaining. According to the Coase Theorem, when transaction costs are negligible, property rights allocations are inconsequential to outcomes (Coase 1960). Couples can bargain to effect desirable outcomes in the absence of legal support. Under fault divorce in America, for example, individuals would pay their spouses to fabricate stories of abuse to obtain divorce (Brinig and Crafton 1994). Marital bargaining will take different forms depending on the legal property rights allocations in a society.

In Islamic societies, such bargaining takes the form of dower payments, which can satisfy all three necessary contractual conditions. Since dower payments consist of a prompt portion and a deferred portion, they introduce the required protection and flexibility for all possible outcomes. Because marital bargaining mechanisms depend on the legal structure partners face, one can make several predictions of the conditions giving rise to dower. My predictions are as follows:

- 1) Dower tends to arise where men possess the right to unilateral divorce, but women do not. Since women receive no legal protection from abandonment and limited exit prospects, market mechanisms must instead provide these services. Women can pay men to stay with the prompt portion, or she can seek protection by demanding a deferred portion which raises husband divorce costs. The prompt portion also functions as a Coasean bargain to pay the husband for divorce.
- 2) Dower tends to arise where women cannot own private property. If the husband owns all household property, the wife's bargaining abilities are limited. She cannot offer him any money or good which he does not already possess. Foreseeing this dilemma, women can demand wealth upon marriage to which they hold exclusive rights to act as a marital bargaining tool.



- 3) Dower tends to arise where husbands possess absolute authority over wives. Even in the absence of physical property, women retain some bargaining power. They can, for example, withhold or offer more sex to influence husband behavior (Allen and Brinig 1998). Alternatively, one could withhold domestic labor until demands are met. If husbands are legally able to demand sex or command labor, however, it neutralizes even these bargaining possibilities. Furthermore, absolute authority extends possibilities for abuse. In this circumstance, women require added protection from holdup.
- 4) Dower tends to arise where cultural norms prohibiting divorce are absent for men. If abandonment and abuse is sufficiently discouraged in a society, the brand name enforcement mechanism described by Klein and Leffler (1981) may constitute sufficient protection. In these societies, the husband may face shame or ostracism for behaving opportunistically. This mechanism would be most effective in close-knit communities where divorce and abuse are discouraged. In the absence of such norms, however, women require other protection.
- 5) Dower tends to arise where female labor prospects are limited. In societies with similar gender income rates, women are less susceptible to holdup and may require little protection. The cost of divorce is low, meaning women would require less protection, *ceteris paribus*.

#### **IV. Reception**

To test my predictions, I examine dower payments in 20<sup>th</sup>-century Palestine. Today, dower appears almost exclusively in Islamic societies and exhibits minimal variation across different nations (Anderson 2007). I examine Palestine because dower payments are close to universal and exhibit identical traits to dower payments in several other countries such as Egypt and Jordan. To

test my predictions, I reference Jordanian Personal Status Law (JLPS), which governs marriage contracts in Palestine's West Bank (Jacobson 2003).

First, if my theory is correct, men must possess unilateral divorce rights in Palestine, while women do not. According to JLPS Law, which governs Palestine, men hold the right to unilateral no-fault divorce, while women must prove either abuse or unfaithfulness in court (Jacobson 2003). According to JLPS law, partners may obtain divorce in three ways (Spencer 2011). First, men may pronounce *talaq*, which is unilateral divorce for any reason. Second, women may prove infidelity or abuse in the courts. Third, women may obtain a *khul* divorce by relinquishing at least the deferred portion to her husband. Although the husband need not accept a *khul* divorce, evidence suggests this bargaining tool is quite effective. Of all Palestinian divorces, almost 60% are so-called *khul* divorces (Welchman 2000, pg. 186). Since most divorces are initiated by women, not men, one can assume dower acts both as an effective deterrent to divorce and as a possible exit from marriage.

For predictions two and three to be correct, Palestinian law should grant husbands sole property rights to household goods and complete authority over their wives. Upon examination, JLPS Law indeed does both. Women are legally obligated to render absolute obedience to their husbands (Jacobson 2003). A husband may forbid his wife from working or even from leaving the house (Welchman 2000, pg. 200). Because of these mobility constraints, husbands can prevent wives from traveling to courts to prove abuse or unfaithfulness. Furthermore, since the husband owns all property, women possess no resources to pay for legal fees or even to travel to a court. Because of these barriers, bargaining with dower remains a much more viable option.

For my fourth prediction to be correct, certain cultural norms must exist in Palestine. It is no secret that Palestinian culture views women as subservient to men and holds that men may

divorce their wives as they please (Welchman 2000, pg. 200). In addition, Palestinian culture contains unfavorable norms against women as well. Because a divorced woman is a disgraced woman, women are often disallowed from returning to their parents' home for shelter, eliminating the possibility for familial support (Jacobson 2003). A woman accusing her husband of infidelity in court can also be ostracized, regardless of the man's guilt or innocence (Spencer 2011). Furthermore, although a woman can stipulate against certain behaviors in a marriage contract, Palestinians view such stipulations as "an affront to the husband's honor", rendering them almost nonexistent in Palestinian marriage contracts (Jacobson 2003, pg. 158).

A final unfavorable norm is the discouragement of female labor participation. This norm supports my fifth prediction, which states that dower tends to arise in societies with limited female labor prospects. According to the Women's Center for Legal Aid and Counseling, in 1999, women comprised 11.6% of the Palestinian workforce (Jacobson 2003). That figure was even lower for most of the twentieth century. Furthermore, by law women are entitled to only a half-portion inheritance relative to men, minimizing the prospect of inherited wealth to support women and further strengthening the gender wealth divide.

Since all five predictions are present in Palestine, dower is the efficient solution considering the restraints Palestinian women face. Women can leverage the prompt payment as a bargaining device to constrain opportunistic behavior. Wives can either reward good behavior by adding to household wealth or punish bad behavior by withholding it. Furthermore, women can leverage the prompt portion to protect against abandonment by paying her husband to remain in the marriage. Adding to protection against abandonment, the deferred portion provides protection by raising the husband's divorce costs. The higher the perceived risk of divorce, the greater the magnitude of deferred payment the woman will demand (Klein 1980). In addition, the deferred

portion functions as a Coasean bargain to obtain exit from marriage. Because the husband must save enough money in the possibility he must deliver the deferred payment in the future, relinquishment of payment rights releases the funds for his personal use. If this incentive is insufficient, the wife can relinquish her prompt portion for additional bargaining power.

One remaining question is why partners choose to split payments into two portions, rather than pay a lump sum. This split exists for three reasons. First, if the entire payment was prompt, it would incentivize the wife to bargain for a divorce with a portion, then abscond with the rest. By retaining part of the payment in the husband's possession, this possibility is neutralized. Second, deferring a portion of the payment ensures the wife's funds will remain. If a wife used her prompt dower to assist the family in time of financial crisis, it would eliminate her future protection. The deferred payment ensures protection in all future outcomes. Finally, due to its magnitude, dower forms a significant barrier to marriage. Men often struggle to raise the funds necessary to pay a suitable dower. By deferring a portion, partners ease the financial burden.

## **V. Honeymoon**

According to my theory, dower payments protect against male opportunistic behavior in societies where legal and cultural restraints are insufficient. Women are susceptible to holdup by men and require contracts to protect against abandonment and abuse. Because implicit terms contained in marriage contracts, third-party enforceable contracts are insufficient to protect women, causing them to resort to various bargaining forms depending on the legal structure they face. My theory of dower generates several predictions of conditions necessary for such payments to arise. These predicted conditions are all present in 20<sup>th</sup>-century Palestine, where dower payments are universal. I find that both the prompt portion and the deferred portion play a unique role in protecting against opportunistic behavior. My theory demonstrates that Islamic

women enjoy greater marital protection than was previously believed, and that markets can safeguard these women's rights in the absence of legal protection.

My paper ultimately provides a theory for why dower payments arose in Islamic nations and lays the groundwork for further research. Multiple aspects of dower remain unanswered. For example, why is emphasis shifting from the prompt payment to the deferred payment? More recent and reliable data on magnitude of dower payments is also lacking. Researchers have found it difficult to retrieve reliable figures, as the actual size of payment can differ significantly from the contract figure. Finally, what is the relation between dower and polygyny? Dower is not present in most cultures practicing polygyny (Anderson 2007), but its dominant presence in Islamic nations is difficult to ignore. Might dower be a deterrent against the taking of multiple wives? Although my theory does not answer these questions, it is a useful theoretical starting point for future empirical research. Ultimately, the economics of dower requires substantial further study and should provide material for countless future projects to come.

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