EVALUATION OF JURISPRUDENTIAL AND LEGAL INCREASING DOWRY AFTER MARRIAGE

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Abstract
Since increasing the dowry has positive functions but also there is negative result which is not condonable. Dowry which in Persian is equivalent with cabin is a good which the woman possesses when marrying to a man, and is obliged to pay it whenever the woman wants it and according to material 1082 of civil law whenever woman possesses it she can use it as she wants. Marrying and as its result dowry has material and spiritual aspects. So this paper as its subject says is going to investigate its history and opinions about it and describing its entity in Iran law. In fact legal possibilities of this issue is the main subject of this paper which wants to investigate whether or not it is possible to change the dowry after it is settled, as the lawyers and jurisprudents opinion it cannot be changed because it is of the primary conditions in marrying and also in approving their opinion guardian council declared; changing the amount of dowry after marring and its settling as Sedagh is not authentic and any change in dowry amount is due to the new marriage and naturally divorcing the former wife, because marriage is an necessary espouse and is not cancellable except as predicted in the law unless in case of new marriage.

Key word; dowry, Sedagh, Nahleh, marriage, family, wife, couples, equivalent fee, property

INTRODUCTION
What is clear from studying the history of woman right in the past is that dowry is not of inventions of Islamic law and exists before it and oldest known law, Hamoorabri, which consists of 282 materials and is translated to 150 languages. In ancient Iran girl reaching to the puberty were forced to marry in order to get some money or property as a gift. Essence of dowry in Iran law is based on religion and in Iran jurisprudence and law dowry means certain property which woman possesses as she espouses and man is obliged to pay it which sentences are Mehrol Mesmi (material 1080 of civil law) Mehrol Mesl (material 1091 of civil law) Mehrol mote (material 1093 of civil law) Mehrol Mefozeh(materials 1090 and1089 of civil law).

This paper consider the dowry issue as one of the most important issues in solidifying the families and is going to describe its meaning on the basis of Iran law and then kinds of the dowry and investigation of legality and philosophy of its necessity and at last investigates the guardian council jurisprudents about it and possibility of its increase after the marriage, and after all this paper wants to come to this conclusion that whether or not increasing the dowry

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is authentic and assuming new marriage is it possible according to Iran laws and regulation? Also describe these issues in details.

BACKGROUND
1- Description and kinds of dowry according to the Iran laws and jurisprudence
In jurisprudence; dowry or Sedagh is a property man gives to the woman, in other words after marriage woman is deserved to get it from the man (Mahmoodi, p17).
In Iran civil law no description is presented and just its sentences are declared. Thus woman as soon as marries is the owner of the dowry and man is forced to give it because dowry is resulted from religion and is not by contract (Emami, 2009, p148).
Here are the kinds of dowry as follows;
1. Mehrol semi; is a kind of dowry when marrying both sides are satisfied and there is mutual satisfaction about the amount of it. Examples of Mehrol semi are financial right, profit, doing certain job, invention, compilation and key money rights.
2. Mehrol mesl ; is a kind of dowry which is not determined according to the certain agreement but it can be increased or decreased depending on the tradition, virtual and ethic, scientific and physical values, age, virginity and beauty (mehr.1378, p 126).
3. Mehrol mote; in jurisprudence terminology is a property which spouse before divorce and intercourse and determining dowry and due to his economic status gives to the wife like clothes or jewelry.
2. Mehrol mafooze; marrying in which is a permanent one but dowry is not mentioned in it, this dowry is of two kinds; a) MAFOOZOL BEFAA b) MAFOOZOL MEHR (materials 1098 and 1090 of civil law).

2- Dowry necessity philosophy
Main philosophy for dowry necessity is its spiritual and material aspect and its jurisprudential origin is one of the presented issues in that marrying and some scholars consider dowry as prevention against the polygamy adventures of the men and against the divorce. In case of need this factor can be used as a lever to control avarices and bullying of men.

3- Legal entity of dowry
About legal entity of dowry five approaches are presented and everyone is resulted from documents coming from jurisprudential and law books.
First approach consider dowry as a stead or substitute for marrying which is against the Baz. Stead or substitute which is Sedagh is against the imprisonment right (Material5801 of C. L).
Second approach followers consider dowry as a forgiveness or gift of men to women (GHorban Nia, 2000, p22). Third approach consider dowry as a stead or substitute of Estebahey Ozv (Ebne GHavam, 561). Fourth approach considers dowry as a subordinate financial contract and believe that mentioning of dowry is authentic. Thus dowry is subordinate financial contract which is about the property and separated from marrying but is subsidiary to it. (Safaei, 1, 861). Fifth approach consider the marrying espouse as an independent espouse.

4- legal investigations of dowry
Necessity of modifying the Rial based dowries and its function results from its economic and social functions. The Dowry modification results to save its own function and philosophy. Dowry justification philosophy; the main reason of dowry justification is not economic issues. The term Sedagh comes from truth because it shows the truth of men love to the women and a prove of his love, so it is a unchangeable dowry (Tosi, 1378, p 271)
Functions and economic and social results of dowry are as follows;
It is completing the inheritance portion of women because her portion is half of men portion (Motahari, p 237-238).
Guaranty instead of divorce the right of women which according to material 1105 is a trait of men to lead the family as a boss (Taleghani, 1360, p 72).
Social insurance and provision of women future needs in the case of divorce of hazards and difficulties help women be independent. So economic aspect of dowry is not its legitimation even though have importance. In classifications some scholars consider the economic relations like dowry, Nafaghe, Ojratol mesl, Nehle and some others consider non-economic relations like Asr and Haraj in marriage, Hezanat, espouse conditions.

5- Possibility or non-possibility of increasing dowry after marriage
A contract which is settled between men and women is not a financial subordinate contract.it means that it is a contract about the property which is separated from marrying but is subordinate to espouse contract. So marrying without dowry is possible and common regulation of contracts is applicable in dowry too.
Dowry being free, rivalry, increasing economic values and materialistic spirituality and cultural factors influences are responsible in increasing dowry amount.
According to the guardian council jurisprudents opinion cited in 2009.5.12 with the number 88/30/25079 legal dowry is what cited in marrying espouse condition and its increasing is not authentic and order of dowry impact on it is not legal.
So part (B) off151 registry circulars which considered the possibility of increasing the dowry if legally registered in a registry office was cancelled according to 170th law of Islamic Iran law and material number 41 of official justice law approved 1385.
So dowry is subordinate to espouse and any increase in it needs to cancel espouse of marrying and renewal of it and mutual acceptance. However it is not possible to refer to freedom of contracts and property of contracts principles according to domination rule and with such a decryptions and legal analysis decide to increase the dowry amount after the espouse of marrying, it is obvious that followings are exceptional:
1- If both side claim that their declarations are registered wrongly and request a new reformed document.
2- If the sides claim that the amount of dowry is more or less than what is cited in the document of marriage and they had had mistaken in expressing the amount.
3- Regulation of approval to express that whole or part of dowry is forgiven by men to women.
So increasing dowry after the marrying espouse is not possible and have no legal impact.
According to Iran law espouse is a necessary contract which cannot be cancelled unless what is predicted in the law. So it is impossible to change its amount unless in new marrying, but man can guaranty to give some more than what is wrote in the marrying espouse to the woman as like woman can forgive whole or part of her dowry too. It should be added that any agreement in order to forgive or increase in dowry amount is included in material 10 of civil law and for both sides is obligatory to be loyal about it. And if in permanent espouse dowry is determined by both sides agreement, and in next action they decide to increase the amount for example after 5 years, is not included in dowry regulation even though it is a contract but is separated from marrying espouse. About calculating the amount of dowry it should be noticed that the dowry is just includes Mehr ol masmi not extra amount to Mehr ol masmi which is added to espouse by both sides’ agreement and the claims about its obligation to pay is put to the court investigating the case. And also man cannot refrain of increasing the number of coins from 14 to 114 (Mirzaei, p455-465). Thus according to consultative opinion 1386/587-7/3264 the number of coins is not included in the dowry and the dowry is what had
registered in espouse of marriage and both sides should be loyal to it as said in holy Quran verses and also this rule is dominant when returning provisional espouse to permanent one.

CONCLUSION
Dowry or Sedagh which is said cabin in Persian is a property which woman possesses and man is forced to give it to the woman and according to material 1082 of civil law of Iran woman can do anything with this property as she possesses it. The basis of dowry in Iran laws is according to the tradition and religion and dowry exist before Islam. Espouse of marrying and consequently dowry has material and spiritual aspects. Kinds of dowry are Mehrol masi, Mehrol mesl, Mehrol mote and Mehrol mafoozeh. According to the answer of first question the increase or decrease in dowry amount is not authentic according to the guardian council jurisprudents and scholars' opinions and also Iran laws, and it assumed as a new espouse and needs to mutual agreement because it is a necessary espouse and any change in dowry amount means new marrying and divorcing former wife and is not authentic.

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