



HURDLES TO WOMEN'S INHERITANCE RIGHTS AMONG VARIOUS SOCIETIES OF PAKISTAN (A SOCIOLOGICAL INVESTIGATION)

Abdul Rasool

(Rural Development and management, China Agricultural University Beijing)

Izhar Ahmad

(University of Malakand)

Muhammad Irfan Khan

(University of Malakand)

Sanaullah Veesar

(Sindh Agriculture University Tandojam)

Article history:	Abstract:
<p>Received March 26th 2021 Accepted: April 7th 2021 Published: April 25th 2021</p>	<p>Denial of women inheritance being an international phenomenon existing throughout the globe has been extensively found in under developing nations. Pakistan is one of them where women are deprived of their rights to inheritance in diverse societies under traditional, religious and political laws which may hinder women rights of inheritance. The major aim of this research is to explore the socio-cultural/religious hurdles concerning women property in inheritance right. For the purpose, the study was conducted from various societies of Sindh and KPK due to the nature and importance of the study. The qualitative data from 20 respondents were collected using interview guide as research instrument. The results revealed that, inheritance right was not furnished to the women due to the patriarchal system. Followed by, the legacy hurdle was concluded at greater extent sustained by the elders, though; due to the sacrifice, respect and love for brothers were impeding them to get the inherited rights, as, religious misconception was also formed by the local people with regards to the dissipation. Yet, the tradition was forcedly pertained on religion in some aspects and misconception was formed by the local masses, yet; the flaws in ordinance/law regarding inheritance were also missing as a whole. It is therefore recommended that, concerned authorities/departments should revise the ordinance/law regarding the inheritance right in property. Yet, parents must be sensitized through various social awareness programs by media and awareness campaign to give equal importance to male and female children for the sustainable development as well as reduction of gender discrimination.</p>

Keywords: Inheritance right, Hindrance, socio-cultural/religious factors, Sindh, KPK.

INTRODUCTION

Inheritance is defined as "a perpetual or continuing right which a man and his heirs have to an estate; an estate which a man has by descent as heir to another, or he may transmit to another as his heir; an estate derived from an ancestor to a heir in course of law". The inheritance of moveable and immovable property is practiced globally, but the gender discrimination occurs in some of traditional societies in case of inheritance. Pearsall, (2019) stated that inheritance is as the money or property derived from one's parents or ancestors (Pearsall, 2019).

The inheritance of moveable and immovable property is practiced globally, but the gender discrimination occurs in some of traditional societies in case of inheritance. Inheritance rights are the genetic characters transmitted from parent to offspring taken collectively (Leach, 2018). In most of the social group of Pakistan, men hold a monopoly power. Denial of women's rights in matters of property and inheritance as recognized by Islam is due to the cultural code of honor, stemming from the male value system. It often entails subordination of women and seclusion of women from the social order. UNDP, (2016) reported that under United Nations Development Programme (UNDP) revealed that the concept of inheritance was evolved centuries ago as a deviation from the custom of burying wealth, widows, and slaves along with

the deceased and continue to persist strictly under the patriarchal domain. The implementation of inheritance laws is to immovable property is regulated under the West Pakistan Land Revenue Act 1967, but due to the multiplicity of laws involved there in and lack of close coordination between the relevant institutions the women are being denied their right to inheritance (LEAD Pakistan).

By specifying clear-cut entitlement and specific shares of female, Islam not only elevated the position of women but simultaneously safeguarded their social and economic interests as long ago as 1400 years. The Quran contains three verses [4:11, 4:12 and 4:176] which give specific details of inheritance shares. Using the information in these verses together with the traditions of the Prophet Muhammad (SAWS) as well as methods of juristic reasoning, the Muslim jurists have expounded the laws of inheritance in such meticulous detail that large volumes of work have been written on this subject (Hussain, 2017). It is ironic that Pakistani women are deprived of their rights of inheritance in the name of Islam when it was Islam itself that introduced the concept of women's rights to property for the first time in human history. Before Islam, the inheritance would trickle down from male descendent to male descendent. Islam actually changed this dastardly concept by elevating the status of women (Pakistan Today, 2018).

However, even where laws are in favor of women, there are some other ways which become a threat for women. Legislation should prohibit discrimination against women and girls in inheritance and explicitly allow females to inherit property and land on an equal basis with males. Pakistan's Ministry of Human Rights has launched an awareness campaign on women's rights to inheritance, under Islamic jurisprudence and the country's constitution. Federal Minister for Human Rights Dr. Shireen Mazari announced that her ministry aimed to educate people about religious and legal protection provided to women through this awareness campaign. The protection of women's rights to inheritance has been one of the priorities of the incumbent government, for equality and justice in Pakistan. Women's rights to inheritance play a vital role in their socio-economic and political empowerment, she noted, adding that unfortunately women are often denied the right to inheritance due to deep-rooted patriarchal systems, biased interpretation of divine directives, the laws of land and above all, an inefficient mechanism for the implementation and enforcement of laws which are also delaying tactics. When defined as legal at legal grounds, it is the property from an ancestor under the law of inheritance or a property (movable or immovable) that a person receives by bequest or devise (Black, 2011).

The laws of inheritance rights are a very important feature of a developed nation and explain how the reward inheritance right to both gender. Rights to inheritance especially property rights for women are extensively considered as essential to ensure active and viable empowerment. Rights to land and property include the right to own, use, access, control, transfer, exclude, inherit and otherwise make decisions about land and related resources (Gomez *et al.*, 2012).

For men there is a share from what their parents and close relatives leave, and for women there is a share from what their parents and close relatives leave, be it little or considerable ; a definite share.

STATEMENT OF PROBLEM

Denial of women inheritance being an international phenomenon existing throughout the globe has been extensively found in underdeveloping nations. Pakistan is one of them where women are deprived of their rights to inheritance in diverse societies under traditional, religious and political laws which may hinder women's rights to inheritance. There's one statistic cited by advocates more than the rest: women own less than two 2% of the world's land (Doss, 2014). Denial of women inheritance is one of the major issues, women in Pakistan have all property rights as men do. But how often and effectively do they exercise these rights, is a matter of debate. There are various socio-cultural and political barriers preventing women from getting their rightful share in the property. Islam provides a rightful share to women in inheritance, while the rights are protected by different applicable laws in Pakistan. Including Muslim Family Laws Ordinance, 1961, Muslim Personal Laws (Shariat) Application Act, 1962, Partition Act 1893. But unfortunately, fair division of property inheritance law in Pakistan particularly provides shares to women have always been a problematic in our societies and causing the disputes. Nevertheless, the researchers are of the opinion to investigate either there is the inheritance in property for women or not, which reflected the researchers to conduct the study on various parameters in some societies of Pakistan. Thus, the foremost purpose of this study is to investigate the role of socio-cultural as well as misinterpretation/ non-adherence to religious codes in the various societies of two provinces (KPK and Sindh) of Pakistan. Followed by, the ordinance/laws would also be investigated through secondary parameters of various cultures as well as different nations towards inheritance.

Fig-1: Conceptual Framework for the study



Source: Author's own idea

RESULTS AND DISCUSSION

This section of the article is limited to the findings of detailed interviews conducted during 2017-18 through in-depth interviews for pursuing the appropriate results.

Table-1 Background of the respondents

Particulars	Descriptions
Age (years)	(M=35.7)
Family size (No)	(M=8.7)
Literate (minimum Intermediate)	53.7%
Marital status	80%
Family status	Joint
(Percentage)	Nuclear
	62%
	38%

Table-1: shows that on average the respondents were in the age of (M=35.7) years. Hence, the college level education (53.7%) was noticed higher, showing somehow the maturity level of the respondents connected with the urban areas. Normally, in Pakistan the average family size is almost 6.4 but in study area (M=8.7) was observed, where (62%) of people were living in the joint family system.

Table-2: Possible socio-cultural/religious facts of hindrance in women inheritance

Perspectives	Socio-cultural factor	Religious factor
Female	Patriarchal system	Religious misconception
	Distribution hurdles	Lack of religious knowledge
	Male dominance	Swap marriages
	Decision making authority	Women are good at home
	Arrogance	Birth to marriage
	Swap marriages	Neglecting actual religious
	Inheritance barrier	teachings
	Fear of disputes	Priority of traditions over religion
	Cultural Obstacles	
	Flaws in ordinance/laws	

Source: authors own survey (2017-18)

2.1 Socio-cultural Factor

The attempted study was staged on the issue of inheritance hurdles among various societies of Pakistan specially mentioning the Sindh and KPK province's two cities considering it a gigantic and ignored issue of the time. For the purpose various related questions regarding the socio-cultural/ religious were asked from the local people including male

and female from the mentioned areas through in-depth interviews, because; in-depth interviews could be more beneficial for achieving the objectives as compared to the quantitative study. The results of the study found that Pakistani culture is a form of patriarchal society, where all the decision-making power rests with men, whereas women have a less space to make a claim about their share in inheritance. Men are the breadwinner of the house, and women are considered nothing but a commodity for his male partner. They have no access to the financial resources while the men are considered as the owner of the economic resources including the Parent's property. Regarding the process of inheritance in term of women majority of the respondents argued that in both societies the lives of women are miserable and suffer a lot. They never enjoyed the economic and social well-being due to the harsh traditional customs and socio-cultural traits. So far, the distribution hurdles take place in the Shahdaskot as well as Jacobabad, where female are just given dowry on their marriage rather than the property/land as accomplished for the male child. During data collection from the local women of Shahdaskot, it was noticed that the male dominance was usually found in terms of decision making, (education, work, labor) e.t.c. so far there superiority were generally furnished to the man rather than the women which showed the highest concern of women for inheritance hurdle at Shahdaskot as well as Jacobabad. Similarly the other factors encouraging the denial of inheritance of women it was concluded that swap and exchange marriages are also carried out in both societies. Most of the interviewees at Barikot said that the exchange marriage is not just a custom but it is to deny the economic share that the women have with their parents. They think that their daughters already have shares in husband's property; hence they promote exchange marriages due to which the claim for due-share in inheritance would not be possible to raise. While the swap marriages in cousin were usually observed during the interview in Shahdaskot, which was centrally focused and deemed to be positivity regarding their perception of male dominance.

Regarding the perceptions of males about the inheritance and property rights it was found that since the society is highly patriarchal for ages all those principles are denied to women which are against the interests of men. They do not give a share in property and inheritance to women, because it is against his economic interests. Qadeer (2014) delineated that mostly in Pashtun society men do not give a share in property and inheritance to women, because it is against his economic interest. In these scenario men also encourages exchange marriages and use it as an economic tool. Another justification which men gives in these cultures are that; as they are entitled to the outside jobs and are the bread winners, where as women are inside the four walls of the house. Therefore, they argue that the property and economic well-being is because of men and belong to them hence, the women have no right to claim for shares in property which are produced by men. Following by, the local women of Shahdaskot were again asked about the demanding for their rights to property, but they replied back that the disputes would take place in general, which could harm the lives of both tribes just for their ego and the power. Thus, the cultural obstacles were deemed for the inheritance because it was varied from the response pursued as dispute trepidation which strongly stopped the women to raise their voices against the issues as there is the ordinance/law concerned for the women rights. However, the flaws were totally found in ordinance as well as the awareness which were creating hurdles in the studied area.

2.2 Religious factors

While addressing the Socio-cultural Structure and the religious teachings regarding the issue of inheritance most of the respondents criticized the discriminatory structure in these cultures and credited the commandments of Islam. They added that Islam is the only religion that empowers women economically and give them status and position in society but unfortunately all those teachings which secure the interests of women are denied by the men. A respondent further argued that in Pakhtun culture due to the conservative mindset woman is not even considered as a human being in the true sense rather she is just limited to the domestic chores. We have to change our social structure for elimination of all kinds of discrimination against women she concluded. Further it was received from the respondents that Mostly Pakhtun people think that they are inclined toward Islam and follow Islamic teachings, but in reality they are totally opposite of the teachings of Islam. Religion is used for personal interests therefore the commandments of such laws are misinterpreted by the clerics for their personal or follower gains. Thus, in Sindh both societies have almost the same perception, mentioning that, men always considered and highlighted that "women are good at home, because Islam abides us for pardah, and we are not allowed to go outside for the work, education. The misconception that women were ordered by Islam to necessarily stay inside and perform domestic duties resulted in their exclusion from inheritance rights. In the end it was concluded from the respondents that in these cultures the traditional and conservative thoughts, traits and customs are still practiced and preserved on the other hand the religious teachings clearly supports and empower women socially and economically, it orders us to give women their share which they have in parent's property. Nevertheless, it was noticed that, women have right of inheritance from their birth to marriages after that, they are deemed to be the separate from the property.

Table-3: Possible socio-cultural/religious facts of hindrance in women inheritance

Perspectives	Socio-cultural factors	Religious factor
Male	Cast system Lethargic behavior Prestige Property transformation to	Islam abides for pardah Favorable interests are followed regarding religion Traditional priorities
	husband Male is dominant of society Trepidation of property	

Source: authors own survey (2017-18)

3.1 Socio-cultural factor (Male point of view)

Since the male members considers themselves the custodian of their parent’s property, their attitude and behavior changes. Whenever women ask for their shares in property they cut off relationship with them and consider their daughters and sisters as their rivals. This relationship of rivalry and hatred gets worsen with time just because of the misconception that only men are entitled to parent’s property. Furthermore, it was concluded lethargic behavior of the husbands were deeming their property alienation because the whole property is than handed over to the husband not to the wife. Thus the whole property is transferred to the husband. Even, we didn’t get any property from our wives family. So it’s necessary till your daughter or sister is living with you. So far, male is the dominant of society because it handles all over the situation more than the female, that’s why the inheritance given to the male is good more than the female.

RELIGIOUS POINT OF VIEW

Thus, the question was mainly asked from the people of both societies regarding Islamic teachings of inheritance, which was found that Islam abides us for pardah which should be followed by the women rather asking about the inheritance because they are not allowed in Islam to go out and do whatever they are doing and there are some restriction to them besides Islam. So far, the culture should also be followed with religion because, we can’t even do whatever we want, we also have our tradition which is deemed to be followed in our society.

CONCLUSION

It has been concluded from data analysis and literature that women deprivation in inheritance share is a universal problem. Women deprivation from their rights is found almost in every society with some exceptions of change in its nature and mechanism, causes and impacts. Women deprivation in inheritance rights is universally found in different forms including customary laws, it does not explicitly provide women the right to inherit land and does not guarantee reform of that discriminatory customary laws. Another factor is dominant cultural practices, norms and taboos pose numerous hurdles for women share in inheritance. Some parents prevent daughter’s right of inheritance and say that we compensate the right to investing in their education. It is concluded that male dominance is present in both societies where men are considered as the breadwinner of the house, and women are considered nothing but a commodity for his male partner. So far, exchange marriages, parents encourage exchange marriages to deny women inheritance

RECOMMENDATIONS

After evaluating the problems and concluding the results, it is quite necessary to recommend the suitable solutions in terms of suggestions or laws to be adopted in the various societies of Pakistan.

Firstly, there must be an ordinance which could provide the platform for women inheritance as a whole and awareness among common masses should be created through campaigns about the role of women, which she can play locally, nationally and internationally for sustainable development.

Secondly, Parents must be sensitized through various social awareness programs by media and awareness campaign to give equal importance to male and female children. Besides that, Rural women must be encouraged to establish rural social organizations to alter their condition by solving their problems by their own.

Finally, the Islamic teachings regarding inheritance should be explained with wisdom and rationality not only to minimize the level of attachments with wealth and valuable objects.

AUTHORS CONTRIBUTIONS

Abdul Rasool: Floating research idea to the compilation of the study **Izhar Ahmad:** Data collection, Analysis, Idea Discussions **Muhammad Irfan Khan:** Data collection, Interviews
Sanaullah Veesar: Data collection

REFERENCES:

1. Amber, P. (2011). women property rights and gender policy:implication for women's long term welfare in rural tanzania. *the journal of development studies* 47(10 , 1-30.
2. Butt, B. I., & Asad, A. Z. (2016). Refulation, Relinquishment and inheritance:Exploring women's inheritance rights in pakistan. *pakistan journal of social science (JPSS)* 36(2) , 1001-1009.
3. Cresswell, J. W., 2009. Qualitative, Quantitative and Mixed Method Approach: Research Design, *Thirrd Eddiion*. s.l.:Sage Publications.
4. Gomez, M., & Tran, H. (2012). Women's land and property rights the post-2015 Development agenda . Global thematic Consultation on Addressing inequalitiesl .
5. Hussain, A., & Of, C. (2010). Islamic Laws of Inheritance. *Retrieved March 13, 2014, from Islam 101: <http://www.islam101.Com/sociology/inheritance>.*
6. Muhammad, N. (2011).Inheritance in property: A gender based discriminatory practice in rural areas of Tangi,district Charsadda. *Sarhah J.Agric,27*(1):143-146.
7. Qadeer, A. (2014). The status of Women in FATA:Comparison between islamic principles andpashtunwali. *International journal of research(IJR) ISSUE 7 , 1232-1248.*
8. Today, P. (2018). Inheritance rights: high time women claim a share in the pie. lahore:MariamZermina.
9. LEAD. Denial of women inheritannce rights. Islamabad: LEAD Pakistan.