

SOCIO-CULTURAL BARRIERS TO WOMEN INHERITANCE IN PAKHTOON SOCIETY

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Abstract

This study discusses the socio-cultural barriers that women face while getting their share in property inheritance that is left by their father and husbands and also the difference that exists among the perception of literate and illiterate society towards women's inheritance rights. The study focused on the Pakhtoon Society (the most rigid structure) and the researcher took data from both the highly literate people of Kohat, like lecturers of University, doctors, lawyers and also from the graduate students and also from the 81 local household members of Kohat. The results of the study revealed that though the society is becoming literate (people are educated) still there are some socio-cultural challenges that prevent the women from getting share in their fathers' and husbands' properties after their death. These barriers may be overcome by women empowerment, making such laws where women will not be allowed to give their properties to anyone-else even by their own consent.

Keywords

Inheritance, Socio-Cultural Challenges, Pakhtoon culture & Women Status

INTRODUCTION

Each and every social group in this world has its own particular cultural beliefs which it follows throughout their life. These may be traditional beliefs, which sometimes may be advantageous for all the members living in that group but sometimes they are harmful for some members of that group, i.e. women, e.g. the cultural and traditional practice of denying the women's shares in inheritance (Awaz Foundation Pakistan, 2010). When the parents transfer their physical assets to their children in order to make their future more independent and having capability for better economic productivity, this is called "Inheritance" (Fafchamps&Quisumbing, 2005). According to Cooper, (2008) in many countries, there are several laws and customary practices that exclude women from giving them share in inheritance like land, housing and all other productive resources. In our own country (Pakistan) there are various tribal customs, where a son receives all the assets after their parents' death whereas the daughter has to forgo her share in inheritance in brother's favour (Ahmed, et al 2012). Some customary practices regard dowry as the legal right (though it is not legal) in inheritance, while other practices like telling a girl that her brother will always take care of her, for this she has to give her share in inheritance to her brother (either by consent or compulsion) (Ahmed, et al. 2012). Historically, Pakhtoons are witnessed as the true believers of Islam (Naz, 2011) but still the women's fate is miserable in the Pakhtun society (Qadeer, 2014) because of the patriarchal nature of it (where authority is in hands of male). They follow Islam strictly (Naz, 2011) and their code of life that is call "Pakhtoonwali" from which they take guidance in all their daily routines and also for resolving all kind of major and minor conflicts (Khan, 2011), but still they do not give rights to their women in inheritance as it is against their economic interests (Qadeer, 2014). Women are often mistreated in the name of religion and culture by the denial of their legal and fundamental rights (Kakar, 2013). Like practice of Swara Marriage (fixing her marriage to the enemy in place of money), BadalWoda (Exchange Marriage) killing them in the name of honour, and not giving them rights in the inheritance of property (Qadeer, 2014). According to Kakar, (2013) Pakhtoons follow Islamic laws in all of their life but when it comes to women, they just follow their tribal laws and those tribal laws do nothing except ignoring the rights of women in inheritance.



SIGNIFICANCE OF THE STUDY

Thoughwomen are nowadays increasingly engaged in the economic contribution and increased proportion of the labour force of the world is made by them. But still there is lack of access of them to the property and inheritance rights. Several national laws as well as international legal rights have been brought in practice in Pakistan in order to secure women's property and inheritance rights, but still there are several social and cultural challenges of meeting the property rights of women as a share in inheritance, especially in patriarchal societies and cultures like Pakhtoon Society.

This study focuses on those socio-cultural barriers of Pakhtoon society that become barriers in the way of Pakhtoon women's property rights as a share in inheritance. And this study also aims to present several solutions to resolve these challenges that cause hurdle in the way of women's rights to inheritance.

OBJECTIVES OF THE STUDY

- **i.** Measuring the social perception of Pakhtoons toward women's rights in inheritance.
- ii. Finding out the socio-cultural challenges of women while getting their inheritance rights.
- iii. Suggesting solutions and recommendations to overcome these challenges.

LITERATURE REVIEW

Before the arrival of Islam, families and their members were ranked as having high and low status on the basis of property they possessed (Rizvi, Undated). Therefore on this basis women had no status in the society and they were totally dependent on males for survival but there status was interpolated into the prestige of man (Rizvi, Undated). A number of inheritance systems were practiced that time like: primogeniture (where eldest son receives all the property assets, ultimo geniture (where the youngest male receives all the property assets (Robichaux, Undated). Today, though women have been given the inheritance rights in their fathers or husbands property by Islamic Laws, still in practice the societies deny the rights of them especially when it is the case of land (Mehdi, 2002). The share of a woman in inheritance is one-half of her brother e.g. due to the responsibility to support his family, for every two shares of a son, the daughter inherits one share (Mumtaz, 2006). Only blood relatives can have a share in inheritance:

"According to the book of Allah, Those who are bound by ties of blood are nearest to one another(in the matter of inheritance) (Maududi, 2002).

In any society woman may be legally eligible to get a share in inheritance and property but socially this right of women may not be legitimate (CSRC, 2013). While defining the social responsibilities and economic activities on the basis of gender, there may be some social and cultural norms in the society that will influence the access of women to productive assets like land (CSRC, 2013). Many surveys have been conducted in Pakistan as well as in Afghanistan to focus on the Pakhtoon women (Pessala, 2012). For historians the origin of the Paktoons is still unclear but they are distinguished from other groups due to their language and the moral code of life called *Pakhtoonwali*. Among its principles many restrictions on women are included (Cathell, 2009).

STATUS OF WOMEN IN PAKHTOON CULTURE & SOCIETY

Due to the male-dominated social structure, misperception of religion and strict traditional values, women are considered disempowered in Pakhtoon society (Naz& Khan, 2013). All the responsibilities of the men and women are divided on the basis of gender, like men are supposed to work outside and perform productive responsibilities while women are subject to stay inside the homes and perform all the domestic and household duties (Naz, 2011). The norm of Women

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remaining and staying at homes is associated with men's honour (Naz, 2011) means when the women would stay at homes under the veil (*Purdah*) the men may be honoured in the society. According to Qureshi and Rarieya, (2007) the honour (*Izzat*) of the male and his whole family depends upon the sexual behaviour of their women. Women in Pakistan Report, (2000) written by Asian Development Bank, affirmed that strict customs and traditions, restrictions on women and the patriarchal nature of the society result gender inequality and discrimination in all fields of life, especially in women inheritance rights.

SOCIO-CULTURAL CHALLENGES TO WOMEN'S PROPERTY AND INHERITANCE

According to UNAIDS, (2004) women have always remained as owners' minority and they are often restricted to have share in property, by facing traditional, tribal and customary practices. The factors that may hinder their access to the share in inheritance in existing literature are discussed in this section of study. Like Discriminatory Formal Law, Custom Rules, Polygamy i.e. marriage practice may also influence women's inheritance, Bride price or dowry lack of social mobility, social pressure, poverty and women's personal beliefs (RDI Report, 2009). Traditionally, *patriarchy* has been accepted by most of the societies (Dhakal, et al, 2016). There is conservative social setup is existing that influences the status of women in society as well as their mobility (CSRC, 2013). A study conducted by Dhakal, et al. Indicated that in Morang (Nepal's city) the significant barrier that restricts women to have inheritance rights, was patriarchal value in which only the male receives his ancestral property.

They further found that in most of the areas, the women had lands on their names but this was not, because they were given the rights in inheritance by their male family members, but just because the male members wanted to take advantage by the provision of tax exemption (Dhakal, et al. 2016). Moreover the perception that the daughters would be sent off to the husband's house after her marriage is also sometimes considered as the barrier in the way of providing women inheritance and property rights (Dhakal, et al. 2016). According to Dhakal, et al. (2016) *lack of trust on women* sometimes also acts as a barrier in the way of providing women their inheritance rights, the presumption of the society that women cannot perform financial responsibilities like men. Women were considered having less knowledge and information regarding legal practices and policies of land registration and inheritance as compared to men. They (Dhakal, et al. 2016) also found that the structure of family also plays an important role in increasing or decreasing the women's mobility in society. Where there is an uneducated family, the property will be transferred in the same hierarchical position from man to man in next generation but if the family is educated, there would be high acceptance of the freedom of women, and their men may be in the favour of providing women their shares in inheritance. This kind of family structure is called "Women-Friendly" to some extent. Hubbard, (2001) stated that unmarried women (i.e. sisters and daughters) have lack of access to inheritance rights as compared to married women (i.e. wives and mothers). Married women are better protected than the unmarried women. Steinzor (2003) in his study found a custom in Africa, where the widow had to get married to her deceased husband's brother or any other male family member in order to preserve their property within their own household. Social Perceptions regarding whether women can claim their share in the property left by their deceased husbands or parents or not, can also influence their property ownership and status in the society. Ahmed, et al. (2012) identified four variables by his study that represent the attitude and perception of the society to accept the women's rights in inheritance, i.e. the social members' intentions to give women their share in property, their views regarding giving their women rights in property inheritance, their views regarding whether women should keep the property in their own women or they may have the authority to manage their property by their own. They often face Social Pressure due to which she is compelled to leave or forget her share



in her father's or husband's property either voluntarily or involuntarily (RDI Report, 2009). Women in Afghanistan are subject to refuse from getting share in the property and giving her share to her brother with love and respect.

Similar is the case in Bangladesh, where it is considered inappropriate to claim their share in property until their brothers give them willingly (RDI Report, 2009). In Pakistan, women have no control over productive sources (Shahid, 2007). Moreover, the Pakistani women have their personal belief that they do not deserve getting share in their fathers' or husbands' property as they do not consider themselves to be parts of their families (RDI Report, 2009). **Dowry** (the amount of money that is given to bride on her marriage by her natal family) is also considered barrier in the way of women inheritance. And traditionally, this amount of dowry is perceived as the share of a woman in her father's property (Basu, 2005). A study conducted by Brown and Chowdhury (2002) found that most of the girls did not claim their shares in property as they wanted to keep good relations with their brothers and also their mothers forbade them to ask their brothers to give them their property share. Moreover, the married girls themselves used to think that they have got their share as the assets of dowry. A study conducted by Chakraborty and Duvvury (2006) revealed it too that most of the married women believed that they had no share in their natal property as their property share was negotiated at the time of their marriage when they were given dowry. According to a study of Anderson and Bidner (2014) nowadays groom of a woman controls the money or any other assets that a bride receives from her parents as dowry. Due to secondary nature of the role of women, they may have to productive sources like land, but they may have rare or nearly no control and ownership over those sources (UN Women &Landesa Study, 2012). In societies, where all the economic and social responsibilities are decided on the basis of *gender*, the social norms regarding women's ownership and share in the productive sources e.g. land, may also be influences by this (Chatterjee, 2016). The women's brothers also oppose the idea of giving share to their sisters in their father's property, and the women too do not claim their shares in order to maintain harmonious relations with their brothers (Chatterjee, 2016). In many cultures, women after marriage live at their husbands' houses, this system is known as Patrilocality, due to which they are ceased to be the part of their birth household that means that their parents after that only make investments on their brothers i.e. on their education and health etc (Ebenstein, 2014). Ebenstein and Leung (2010) stated in their study that traditionally sons are believed to provide *support to their parents in their old age* it means they may have greater access to their ancestral property due to their greater social responsibilities as compared to women. Another challenge in the way of women inheritance rights is **Patrlineality**(in which the property of a father is transferred to his sons only) (Jayachandran, 2014). For explaining this she (Jayachandran, 2014) has given an example of an Indian widow, who is not allowed to get share in her deceased husband's property instead she has to rely on her sons for holding and maintaining her living standard in her widowhood. Moreover, lack of literacy and power *relationships* of being a man and woman may also become hurdle in the way of women to get their legal rights (Zuckerman and Greenburg 2004) like getting share in the property and inheritance of their husbands or fathers. And his inability of women to prevent their own legal rights may result in women disempowerment, as they may be rarely allowed to access and inherit productive assets like land or any other assets and this leads to social exploitation of them or sometimes may result in economic destitution and homelessness (Annan, 2005).

RESEARCH METHODOLOGY

This study was quantitative study and Purposive Sampling method was used for selection of sample size. The universe of this study was Kohat District. The researcher took data for his study from highly educated people of that area, like University and College Lecturers, Doctors



and Lawyers (in order to know their view whether they support women's rights in property and inheritance or not). The sample size of them was 40. The researcher also took data from 81 household members of Kohat for this purpose¹. So, the total sample size of this study was 121. All of them were non-randomly selected. The researcher made a pilot and structured questionnaire and distributed among them. It consisted of two basic aspects: A) Social Aspect and B) Cultural Aspect. The researcher asked some questions in each aspect and used the likert scale for the answers, in which three type of choices were given; Yes (1), No (2), and Undecided (3) respectively.

RESULTS & ANALYSIS

The data taken by the researcher from the respondents was put into SPSS 21 and then analyzed through descriptive statistics and frequencies and percentages were drawn of the questions. Among total respondents i.e. 201 (100%), 88 (72.7%) were literate and 33 (27.3%) were illiterate.

The following tables (1 & 2) show the results of the data taken from the respondents about the both aspects of the study i.e. social aspect and cultural aspect. When asked whether they support the share of women in property and inheritance 56 (46.3%) of the respondents supported this statement while 52 (43.0%) did not support this and 13 (10.7%) remain undecided.

Social Aspect Yes Undecided **Total** No (Frequency+ %) (Frequency+%) (Frequency+ %) Women are less likely to inherit land in society. 68 00 121 (100%) (56.2%)(42.1%)(00.0%)Women are preferred to get married instead of getting inheritance share. 13 121 (100%) (46.3%)(43.0%)(10.7%)Dowry is often treated as the daughters' share in inheritance. 00 121 (100%) 90 31 (74.4%)(00.0%)(25.6%)Only highly educated people give their daughters their land rights. 121 (100%) (76.9%)(16.5%)(6.6%)Women often face social pressures not to claim her property rights. 121 (100%) 60 61 02 (49.6%) (50.4%)(1.7%)Claiming property may result desertion by their parental side. 77 39 05 121 (63.6%)(32.2%)(100%)(4.1%)

Table No 1: Results

The researcher filled the questionnaire on the behalf of the illiterate household members according to their views.

DISCUSSION OF TABLE NO 1

Table 1 shows that most of the respondents agreed that women are less likely to inherit land in society, means they have lack of access to the property of their natal family and husbands. As Cooper (2008) and Ahmed, et al (2012) stated in their studies that women in almost every country around the globe are supposed to forgo their share in inheritance to their brothers or any other male in the family either voluntarily or involuntarily due to social pressure. It is the social perception in Pakhtoon society that women may be got married instead of claiming and getting share in inheritance. This was the statement that was included in the questionnaire and majority of the respondents agreed to this statement. It means that it is thought preferable for a

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girl to get married rather than demanding their shares in property and inheritance. And for this purpose their natal families give them dowry either in the form of money or any other assets that is considered the legal share of them in their natal property (Basu, 2005) though it is not their legal rights but majority of the Pakhtoons perceive it the same. So dowry is often treated as the women's share in property as majority of the respondents of this study affirmed to this statement. According to this study the structure of familyalso plays an important role in increasing or decreasing the women's mobility freedom in society. As Dhakal, et al. (2016) stated that in an uneducated family, the property will be transferred from man to man in next generation but in an educated family, the men may be in the favour of providing women their shares in inheritance. This study also proved this statement that only highly educated people provide share in the property to their women. Pakhtoon women often face social pressure (either by their mothers or any other relative) not to claim their property rights, as reported in RDI Report, (2009) that it is socially inappropriate when a girl demands her property share from her brother as it may destroy her harmonious relations with their brothers and with the family as a whole. Demanding and claiming share in the property may be socially appropriate when her brother willingly gives them share in the property. As Chatterjee, (2016) in his study stated that women may not demand their property share from their brothers if they want to maintain their harmonious relations with their brother all other natal relatives. For this they may have to forgo their rights in the property either willingly or unwillingly.

Table No 2: Results

S.	Cultural Aspect	Yes	No	Undecided	Total	
No		(Frequency+%)	(Frequency+ %)	(Frequency+%)		
1.	Pakhtoon culture is highly patriarchal.					
		76	36	09	121 (100%)	
		(62.8%)	(29.8%)	(7.4%)		
2.	Pakhtoonsdo not g	Pakhtoonsdo not give a share in property and inheritance to women.				
	_	68	53	00	121	
		(56.2%)	(43.8%)	(00.0%)	(100%)	
3.	It is culturally inappropriate for Pakhtoon women to inherit any property.					
		67	52	02	121 (100%)	
		(55.4%)	(43.0%)	(1.7%)		
4.	It is customary for a Pakhtoon woman to surrender her legal right to family property.					
		70	51	00	121 (100%)	
		(57.9%)	(42.1%)	(00.0%)		
5.	The consent of women is not sought during marriage in Pakhtoon culture.					
		69	51	01	121 (100%)	
		(57.0%)	(42.1%)	(0.8%)		
6	Changing cultural mindsets can lead to the increased share of women inheritance.					
	•	75	43	03	121	
		(62.0%)	(35.5%)	(2.5%)	(100%)	

DISCUSSION OF TABLE NO 2

Table no 2 shows the results regarding cultural barriers that women face in Pakhtoon society while getting their share in their property. Among the cultural barriers the one is that Pakhtoon culture is highly patriarchal i.e. it is male dominated culture where the authority is in the hands of the eldest male member of the family and where he receives all his ancestral property. As described by Dhakal et al. (2016) in their study that the patriarchal nature of the family may restrict the women to get their shares in property and inheritance. Due to the tribal customs that are conservative and having restriction on women, most of the Pakhtoons are not in the favour of giving their women rights and share in the property and inheritance as reported by (Women in Pakistan Report, 2000). In Pakhtoon culture, all the responsibilities of men and women are based on gender lines i.e. women perform inside the home's activities like cooking, cleaning and caring for children while men do outside activities like earning, farming etc (Naz, 2011) so it is culturally inappropriate for Pakhtoon women to inherit any property.

This study also found through the views of the respondents of his study that it is customary for

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a Pakhtoon woman to surrender her legal right to family property, as they have to maintain their harmonious relation with their parents and brothers (RDI Report, 2009) and due to the strict tribal customs that restrict women to claim their property rights (Women in Pakistan Report, 2000). Most of the respondents agreed to the statement that the consent of the women is not sought while arranging their marriage. This may be because of the patriarchal nature of the family where the decision making power is in the hands of male regarding every matter of their families (Dhakal, et al.) as well as the examples that we can found in the Pakhtoon culture: practice of Swara Marriage (fixing her marriage to the enemy in place of money), BadalWoda (Exchange Marriage) killing them in the name of honour, and not giving them rights in the inheritance of property (Qadeer, 2014). Majority of the respondents agreed to the statement that changing cultural mindsets can lead to the increased share of women inheritance. If the mindsets of the Pakhtoons changed, the strict norms that they put on the freedom of women like claiming their basic rights e.g. for education, decision in marriage as well as most important claiming their rights in property and inheritance, then the challenges that the women face while getting their fundamental and legal rights in the property and inheritance, both in their fathers and husbands property may be overcome to a great extent.

CONCLUSION

This study concluded that women face so many socio-cultural barriers and challenges while demanding their share in the inheritance, though demanding rights in inheritance is among their basic, fundamental and legal rights but Pakhtoons just follow their moral code of life "Pakhtoonwali" that is consisted of strict values and norms regarding women's rights and that totally ignores the women's rights in property and inheritance. This study came to the conclusion that only highly educated Pakhtoons are in the favour of giving women their legal shares in inheritance but still there are some challenges that prevent them to do so like social pressure on women and women's personal beliefs (that they do not deserve the share in their natal and husbands property) etc.

RECOMMENDATIONS

This study recommends the following solutions:

- i. We need to sensitize and create awareness among the community members about the gender equality regarding women rights to property and inheritance.
- **ii.** Women may be empowered by giving them better education and the sense of how to use the productive assets like land, they may receive from their parents and husbands as their shares in inheritance.
- **iii.** Different agencies may be involved to take actions against the violence that women face for not claiming their property rights.
- **iv.** Residential Associations and self-help groups are need to be emerged at local levels to keep an eye on the residents whether they give their women shares or not or whether the women face violence by their male family members to compel them not to claim their property rights.
- **v.** Multi-dimensional counselling like psychological (thrashing out the issue of land rights both social and cultural) and other like legal and financial counselling etc.
- **vi.** Different research are needed to be conducted regarding the issues that the women face while getting their rights in property and inheritance and solutions are needed to be drawn to overcome these problems.

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