

**DENIAL OF WOMEN'S INHERITANCE RIGHTS IN PAKHTUN SOCIETY:
A STUDY OF SOCIO-CULTURAL VALUES AND CUSTOMARY
PRACTICES**

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ABSTRACT

The study quantitatively examined the role of various socio-cultural values and customary practices that hinder women right of inheritance in Pakhtun society in general and District Charsadda in particular. Universe of the study was consisting upon three union councils i.e. Shaikho, Nisatta and Dargai of District Charsadda. A sample size of 120 respondents was randomly selected from the study universe and interview schedule was used as a tool of data collection. The data was analyzed at uni-variate level with the help of frequency and percentage distributions. To ascertain relationship between variables Chi-Square test was applied at bi-variate level of analysis. The study concluded a significant association ($P < 0.05$) of the denial of female right of inheritance with socio-cultural values, unawareness among women, strict adherence towards prevailing customary practices, equal observance by all castes members and upward vertical mobility in the society. However, female demands for inheritance lead towards conflict, stoppage of family support in emergency situations due to demanding right of inheritance and preservation of this cultural identity were non-significantly associated ($P = > 0.05$) with the denial of female right of inheritance.

Keywords: *Inheritance, Pakhtun, Norms, values and Heirs.*

INTRODUCTION

In a common phrasing inheritance means that form of property which an heir received from ancestor under inheritance law (Accurate and Reliable Dictionary, 2008; Black's Law Dictionary, 1999; and Lloyd and Derrett, 1965) while heir is that person who inherit property from parents or ancestors (Hussain, 2002). He further elaborated that heirs are of two types' i.e. primary and secondary heirs. Primary heirs could not be excluded from inheritance rights and it's includes blood relatives like father, mother, son, and daughter and relatives by marriage like spouses. However, secondary heirs received shares in inheritance only in absence of primary heirs and it's includes brothers, sisters, and grandparents etc. Schacht (1991) stated that in an absence of both primary and secondary legal heirs, the property will go to the state.

Women in general faced discrimination over the world in different spheres of life while in particular context of Pakistani society such discriminatory practices are of severe nature (Weiss, 2007). Such relationship in most of the societies is based on inequalities on the basis of gender where women are mostly vulnerable and subjected to extreme exploitation. Women have been the victim of denial to inheritance as men are enjoying the social dominance while women are the most disadvantage group (Labinjoh, 2002). Although, the prominent religion of country (*Islam*), Islamic law (*Shariah*) and the state law of Pakistan entitled women right of inheritance in both movable and immovable property (Mehdi, 2002). As Islam gave the right of inheritance to women in the property left over by the ancestors (Omar, 2011; and Kamal, 1999). But in actual practice the right of women inheritance has been denied due to the reason of powerful influences of customary practices (Mehdi, 2002). He further added that especially in rural areas of Pakistani society, the tribal outlook of social organization deny women this basic right as it is controlled by patriarchal principles and male heirs.

Agarwal (1998) reported that women tend to be socially and economically vulnerable and had limited choices due to their limited access to manage and own property. Moreover, male segment of the society tends to have an actual control over property even owned by women (Kamal, 1999). He further disclosed that women can dispose their property only with the consent of male household. Similarly, Mehdi (2002) contended that in many cases even property are registered in the names of women, but practically they do not get it. The structural composition and functional acceptance also enhanced denial of women right to inherit in Pakistani society. Societal normative order and prevailing customary practices can potentially

affect people beliefs and attitudes regarding management, ownership and women right of inheritance (Ahmad, Bibi, and Mahmood, 2012). In a more specific contention, Pakhtun women had no control over land and assets as it is usually passed from father to the sons (Kelkar, 2013). Khanna, (1991); Kreiczer, (2012); and Mathew, (1990) disclosed that the law, customs and tradition of patriarchy have denied women their access to ownership, property and land. Moreover, the existence of gap between the traditional and statutory law have also lead to the enforcement of the law which denies women to have equal rights to men.

Similarly, Shirkat (1995) has sorted out that customary practice in Pakistan under the shadow of statutory law through the constitution of Pakistan has empowered women to their legal and property rights, however; this assumption is not going to become true as customary norms are not allowing women to have their inheritance rights. Moreover, Muhammad (2011) stated that women are not given their due share in property for many reasons like cultural restriction, women's illiterate status, fragmentation of landholdings and dowry articles as substitute of their share in parental land.

In Pakhtun society dowry is also considered an alternative of the female inheritance (Muhammad, 2011). Furthermore, remarriage of widows are also avoided due to the reason of inheriting the property left behind the deceased husband (Carole, 1990). National Commission on the Status of Women Report (2005) highlighted that fifty five percent women of NWFP (Khyber Pakhtunkhwa) and FATA accept the practice of no share in inheritance of the deceased person due the reason of strong socio-cultural values about women right to inheritance. Another aspect regarding denial of women right of inheritance was explored by Pallas (2011) who contended that the non-participation of women in public sphere with regards to line policy is closely related to lack of acquiring information in her part. This is one of the areas where man dominance prevails. Women are subjected to extreme hurdles if they wish to attend any meeting outside family. These restrictions on a woman is due to the prevalence of patriarchy which dictates man to participate, while women are restricted to. It included household activities to agricultural activities and other life related activities which may fall into the cultural and the traditional orbit of human life.

METHODS AND PROCEDURES

This research study was carried out with the core objective to examine the role of socio-cultural values and customary practices of Pakhtun society that contributes in the way

of denying women right of inheritance. The data was collected under the quantitative methodology and an interview schedule having three levels (Yes, No and Uncertain) was developed to collect relevant information from the respondents. Three union Councils of District Charsadda namely Shaikho, Nisatta and Dargai selected as study universe. A sample size of 120 respondents consisting upon fathers who were having married daughters and married women of the study universe were selected with equal ratio of 40 respondents from each Union Council with sub-division of 20 parents and 20 married women. For selection of the suitable number of sample size, purposive sampling method was used for the identification of the respondents in the study universe. Then after the identification of the respondents through purposive sampling method, the respondents were further selected with the help of simple random sampling method. From female respondents i.e. 60 respondents (20 from each union council), the data was collected personally by the principle investigator of the study. However, to collect data from the male respondents, the task was accomplished with the help of two male Research Associates. Before formal initiation of the process of data collection, research associates were properly guided about the tool of data collection and nature of the study. The collected data was analyzed with help of Statistical Package for Social Sciences, 20-Version (SPSS) while using Chi-Square test statistics to draw objective conclusion and to suggest policy recommendations in light of the study findings. At uni-variate level of analysis, the layout of the data was presented with the help of frequency and percentage distributions. Moreover, to ascertain association between the dependent variable (denial of female right of inheritance) and independent variable (socio-cultural values and customary practice of Pakhtun society that restricts female right to inherit), bi-variate analysis were undertaken while using Chi-Square test statistics.

Data Analysis and Interpretation**Uni-Variate Results on Socio-Cultural Values and Customary Practices in Female Right of Inheritance**

S. No	Attribute/ Statement	Yes	No	Uncertain	Total
1	Socio-cultural values of the area restrict the observance of female right of inheritance	60 (50.0)	60 (50.0)	00	120 (100)
2	Unawareness among women about their right of inheritance contribute in the way of denying their right of inheritance	83 (69.2)	37 (30.8)	00	120 (100)
3	Female demands for right of inheritance lead towards a conflict between the family of orientation and family of procreation	96 (80.0)	9 (7.5)	15(12.5)	120 (100)
4	Women demands for shares in inheritance stopped family of orientation support of the women in case emergency situations	92 (76.7)	27 (22.5)	1(0.8)	120 (100)
5	Strict adherence of the local people towards the prevailing customary practices about female inheritance lead towards denial of female right of inheritance	61 (50.8)	59 (49.2)	00	120 (100)
6	Cultural identity about women disinheriting should be preserved	88 (73.3)	31 (25.8)	1(0.8)	120 (100)
7	All caste of the area equally observed women disinheriting	69 (57.5)	49 (40.8)	2(1.7)	120 (100)
8	Upward movement in class structure could ensure paying inheritance rights to women	105 (87.5)	13 (10.8)	2(1.7)	120 (100)

DISCUSSION ON RESULTS OF UNI-VARIATE ANALYSIS

Every society has its social and cultural norms. These norms are made by the society for its social stability, maintaining social order and to create social control. But in a patriarchal society these norms create socio-cultural constraints in the path of women rights. These socio-cultural constraints do not allow women to get their due rights and address their issue like inheritance rights. Results pertaining to socio-cultural constraints are given in the above table and explained below.

The study results further indicated that majority of the respondents i.e. 50% were both agreed and negated the statement that socio-cultural values of the area restrict the observance of female right of inheritance. Similarly, majority 69.2% of the respondents reported unawareness among women about right of inheritance that contributes in the way of denying their right of inheritance while 30.8% of the respondents negated the notion. Similarly, majority 80% of the respondents viewed that female demand for right of inheritance lead towards a conflict between the family of orientation and family of procreation while 12.5% of the respondents were not sure about the statement whereas 7.5% of the respondents negated the statement. It could be the reason that women are exposed to a complex of social constraints including denial to inheritance rights. Property is the major source of power in the society and losing property means loss of power. Transfer of property to the women will weaken the family due to reduction in poverty. To overcome the situation, women are kept unaware of their due right of inheritance. Whenever, any women asks for such rights they are forced to forgo their right or face the conflict. These results are in line with the views of Pillai (1995) who viewed that empowerment is a vigorous multifaceted process to assist womenfolk to understand their complete identity and powers in all spheres of life. The components of this process are interwoven and reinforcing each other. Some of the components are listed as awareness about own situation, privileges and chances, involvement in decision making, access to resources and control over resources.

Furthermore, 76.7% of the respondents opined that women demands for shares in inheritance stopped family of orientation support of the women in case emergency situations, 22.5% negated the statement and remaining 0.8% of respondents were uncertain about the statement. Socio-cultural constraints hinder female to get their inheritance right. Neither

female are given inheritance right nor did they dare to demand. Female demand for inheritance leads to a conflicting situation. These findings of the study are supported by the inferences of Dascalopoulos (1990) who claimed that cultural environment degrades women status in all walks of life including inheritance and they fear to uplift their status through legal action and they fear that their demand may lead to conflict or any offense. They are being persuaded to let go of their inheritance right rather than demand for it.

In addition, majority of 50.8% of the respondents perceived that strict adherence of the local people towards the prevailing customary practices about female inheritance lead towards denial of female right of inheritance whereas 49.2% respondents disagreed with the statement. Moreover, majority 73.3% respondents said that this cultural identity about women disinheriting should be preserved, 25.8% respondents denied the statement and only 0.8% of the respondents were uncertain about it. It could be deduced that disinheriting female in inheritance is not a new practice while existed from many decades. If a girl dare to demand her inheritance from parents on the occasion of her marriage then, she is stigmatized as she has dishonored and disgraced by the society. Lindisframe (1991) stated that rights of inheritance follows Pakhtun culture and it is a traditional practice of disinheriting women and sometimes even leader of the sub tribe as well. It prevents the women from inheriting. In such situation customary law do not permits female to get her inheritance.

Furthermore, majority (57.5%) of the respondents agreed with the statement that all castes of the area equally observed women disinheriting, 40.8% respondents disagreed with the notion and 1.7% of the respondents were not sure about it. Similarly, majority of 87.5% of the respondents said that upward movement in class structure could ensure paying inheritance rights to women, whereas, 10.8% of the respondents denied from the statement and 1.7% respondents were uncertain about the statement. It is also an evident that people from all classes of society equally ignore female inheritance. However, upward social mobility of women in social stratification could improve their condition for inheritance. National Commission on the Status of Women (2005) reported that even women do not demand for their right of inheritance due to their inferior status in the society and socio-cultural values of the area which are directly supported by patriarchy. Similarly, upward mobility in class provides a smooth way to get inheritance for women.

It is concluded that women are discriminated in all spheres of life, notably in inheritance. Families are not willing to give women their inheritance shares and customary laws do not provide conducive environment for female to get their inheritance. Upward mobility in class could make a way to get it.

BI-VARIATE ANALYSIS REGARDING SOCIO-CULTURAL VALUES AND CUSTOMARY PRACTICES THAT RESTRICT FEMALE RIGHT OF INHERITANCE

Associated Factors	Perception	Denial of Female Inheritance		Total	Chi-Square (P-Value)
		Yes	No		
Socio-cultural values of the area restrict the observance of female right of inheritance	Yes	17(14.2)	56(46.7)	73(60.8)	$\chi^2=37.006$ P= (0.000)
	No	30(25)	10(8.3)	40(33.3)	
	Uncertain	7(5.8)	00(00)	7(5.8)	
Unawareness among women about their right of inheritance contribute in the way of denying their right of inheritance	Yes	40(33.3)	66(55.0)	106(88.3)	$\chi^2=19.371$ P= (0.000)
	No	10(8.3)	00(00)	10(8.3)	
	Uncertain	4(3.3)	00(00)	4(3.3)	
Female demands for right of inheritance lead towards a conflict between the family of orientation and family of procreation	Yes	50(41.7)	64(53.3)	114(95.0)	$\chi^2=1.198$ P= (0.274)
	No	4(3.3)	2(1.7)	6(5.0)	
	Uncertain	00(00)	00(00)	00(00)	
Women demands for shares in inheritance stopped family of orientation support of the women in case emergency situations	Yes	42(35.0)	48(40.0)	90(75.0)	$\chi^2=1.073$ P= (0.585)
	No	12(10.0)	17(14.2)		
	Uncertain	00(00)	1(0.8)	1(0.8)	
	Yes	23(19.2)	39(32.5)	62(51.7)	

Strict adherence of the local people towards the prevailing customary practices about female inheritance lead towards denial of female right of inheritance	No	21(17.5)	12(10.0)	33(27.5)	$\chi^2=6.448$ P= (0.040)
	Uncertain	10(8.3)	15(12.5)	25(20.8)	
Cultural identity about women disinheriting should be preserved	Yes	42(35.0)	59(49.2)	101(84.2)	$\chi^2=3.785$ P= (0.151)
	No	8(6.7)	6(5.0)	14(11.7)	
	Uncertain	4(3.3)	1(0.8)	5(4.2)	
All caste of the area equally observed women disinheriting	Yes	17(14.2)	2(1.7)	19(15.8)	$\chi^2=42.246$ P= (0.000)
	No	24(20.0)	64(53.3)	88(73.3)	
	Uncertain	13(10.8)	00(00)	13(10.8)	
Upward movement in class structure could ensure paying inheritance rights to women	Yes	32(26.7)	61(50.8)	93(77.5)	$\chi^2=19.033$ P= (0.000)
	No	20(16.7)	5(4.2)	25(20.8)	
	Uncertain	2(1.7)	00(00)	2(1.7)	

DISCUSSION ON BI-VARIATE ANALYSIS

Inheritance of property rights is one of the fundamental rights of human being. Different societies, however, vary considerably on the basis of quantum and mechanism of inhering property to heirs. Egalitarian societies observe equal rights principle, however, traditional societies develop various socio-cultural mechanisms to deny weaker segment, like women, from their basic right in inheritance share. To test the association of socio-cultural values and customary practices and inheritance rights, the perception of inheritance rights was limited to few statements as given in the above table and explained as below.

A highly significant association (P=0.000) found between denial of female inheritance rights and socio-cultural values of the area that restrict the observance of female right of inheritance denial of female inheritance rights. From these results it could be deduced that the socio-cultural values of the area are strict enough, that do not easily permit female

right of inheritance. This could mainly be the outcome of strong patriarchal structure that prevail in the area since long and restrict women freedom in many ways.

Furthermore, a highly significant association ($P=0.000$) identified between denial of female inheritance and the statement that unawareness among women about their right of inheritance contribute in the way of denying their right of inheritance. These results pertain to some cultural facets of women disempowerment i.e. restriction in observance of equality in women's rights and their ignorance. The combined effects of the two facets are exhibited in denial to basic rights especially those related to property ownership and inheritance. Dascalopoulos (1990) claimed that cultural environment degrades women status in all walks of life including inheritance and female are not aware of their right of inheritance.

Conversely, a non-significant association was found between denial of female inheritance and female demands for right of inheritance that lead towards a conflict between the family of orientation and family of procreation ($P=0.274$). These results might be the reason that the local considered other factors more important than the role conflict that may emerged due to the reason of woman demand for inheritance right. This could also be the reason that the social capital of *Pakhtun* society is strong with regard to women and it could not breach just because of such demands. This might also be the reason the concept of taunt may restrict the male family members, not to be the part of any conflict with their women just because of the reason that she demanding for her due right in inheritance. In contrast to these results, Dascalopoulos (1990) reported that it is generally perceived female demand for inheritance could result in conflict within family members.

Similarly, a non-significant association ($P=0.585$) was found between denial of female inheritance and women demands for shares in inheritance stopped family of orientation support of the women in case emergency situations. The normative order of *Pakhtun* society demands from their male members to protect their women in difficult situation at all costs. In case of their failure in this connection, people raise their fingers on the role of the male. So that male segment of the society tries to protect their women family member in troublesome situations. That is why the local may support their female members even if she demands for inheritance, but it is also evident that they did not easily allow them to give such share in inheritance.

Contrary to the above results, a significant relationship ($P= (0.040)$) disclosed between denial of female inheritance and the statement that strict adherence of the local people towards the prevailing customary practices about female inheritance lead towards denial of female right of inheritance. From these results it could be assumed that the local strictly adhere to their culture and customary practice. Such adherence to the normative order and social system are in strong negation of women right of inheritance, so that; directly or indirectly it's playing their role in denying women right of inheritance in the area.

In contrast to the above, a non-significant association ($P=0.151$) was found between denial of female inheritance and this cultural identity about women disinheriting should be preserved. This could be the reason that due to increasing rate of education and awareness among the people, the outdated discriminatory practices regarding denying women rights are decreasing day by day. The local people intend that such practices should not be continued any more. Further, the increasing rate of women education also playing a pivotal role in changing people perceptions that could further contributes in the way abolishing patriarchal structure gradually.

Furthermore, a highly significant association ($P=0.000$) was found between denial of female inheritance and all castes of the area equally observed women disinheriting. It could be deduced from these results, that all castes of the area either superior or inferior equally endorsed the notion that women should not be given their right of inheritance. This might be the reason that they are living within a similar social environment and holding a uniform ethnic background all of them are *Pakhtun* by their decent tracing. National Commission on the Status of Women (2005) stated that social stratification restricts female to get inheritance as the decision power is vested in male.

Similarly, highly significant association ($P=0.000$) was found between denial of female inheritance and upward movement in class structure could ensure paying inheritance rights to women. The results make it evident that deprivation of women from their due inheritance rights were of universal occurrence. The probable reason of this denial to basic right was the fear of upward social mobility of the females due to which the male segment will lose their superiority and control over female. National Commission on the Status of Women (2005) reported that even women do not demand for their right of inheritance due to their

inferior status in the society. Socio-cultural values of the area directly supported patriarchy. However, admitting inheritance rights to women ensure their upward mobility on social ladder.

It is concluded that women rights are violated under the cover of prevailing culture and traditions. Cultural prerogatives to deprive women are actualized through keeping women unaware of their basic rights. This culture of depriving a weak segment like women is synchronized through combined efforts of all sections of the society to restrict upward social mobility of women. The obvious result of this organized cultural mechanism is deprivation of women and their denial to basic inheritance rights.

CONCLUSION AND RECOMMENDATIONS

The results concluded that socio-cultural values and customary practices of the area restrict women right of inheritance at large mainly because of unawareness among the women population about their due right of inheritance. The local people are strictly adhere to the existing norms, values, folkways, mores, customs, traditions, sanctions and taboos that deny female right of inheritance. But the local people no more want to continue this cultural identity. Moreover, all castes either superior or inferior residing the area equally endorsed the contention that women should not be given right in inheritance. However, upward vertical mobility in the hierarchal division of society may ensure paying women inheritance rights. Women demand for inheritance right never lead towards a conflicting situation between the family of orientation and family of procreation of women any more in the area. Awareness among the local people, strict implementation of women constitutional rights and adherence to the teachings of Islam in true sense were presented some of the recommendations.

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