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Research Article

An Evaluation of the Gender Gap between Islamic Law and Practice from an Anthropological Perspective on Female Share in Inheritance: A Case Study from Pakistan

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Abstract. The people in many developing nations are unable to exercise their fundamental human rights. Most women are not allowed to enter, own, or inherit land or other property. As a result, they are unable to purchase land. They become reliant on healthy marriage and family relationships as a result of this deprivation. Everybody has the legal and highly legitimate right to inherit, and Islam has explicitly granted this right to women. Unfortunately, Pakistani tradition differs from Islamic custom in this regard. The main goal of this study is to identify the factors that prevent women from inheriting property. The quantitative research approach has been used to achieve the research's aims. Four public universities in Bahawalpur and Lahore underwent a study. The survey was employed as a research technique. Students and instructors with advanced degrees were chosen for the data collecting. This data was subsequently examined to derive the study's conclusions. The study focuses on two key areas.

According to poll results, women are denied their religious right to inheritance even in the highly educated sector because of social, cultural, and economical concerns.

Keywords SDG 16: Gender Equality, Law of Inheritance, Women's Issues, Punjab-Survey, Islamic Perspective

INTRODUCTION

Through the creation of State Laws, the Islamic Republic of Pakistan gained its independence and was able to create Islamic Shariah in its purest form. (Ali, 2001, P. 60) It was made sure, along with all other Islamic organizations, to grant Muslim women the ability to inherit from the estate of their ancestors. The 1937 legislation, which was issued at the time of the subcontinent's division, states that women are entitled to receive half of the male's portion of the property, in accordance with the Hanafi and Shafi schools of Islamic law. (National Commission on the Status of Women Pakista, 2006) The proportion of women in inheritance is likewise included under the Muslim family law of 1961. Finally, Pakistan's constitution from 1973 states in article 23 that every citizen, regardless of gender, has the right to inherit their ancestors' property in accordance with Shari'ah law. Furthermore, it is a fundamental right for anybody to freely sell or buy property on Pakistani soil. The Pakistani Constitution assures sex-based discrimination is prohibited, as is equal protection under the law. The other measures make room for the ongoing reopening of the women's rights debate. Women experience uneasiness and confusion about their rights as a result of the widespread use of socio-cultural norms and religious interpretations as the foundation for disputing and resolving women's rights concerns. In reality, nevertheless, a number of laws with generally benevolent provisions are nonetheless disregarded or not put into effect.

Shariah-compliant Muslim women's inheritance rights

By granting women a legal stake in the inheritance, Islam brought about a fundamental upheaval in Islamic society. Islamic teachings consider and offer women's financial stability by allowing them to partake in the inheritance like their male counterparts. The Islamic Shari'ah expressly states the shares that men and women get from the inheritance of their ancestors, elevating women's status in the process. Prior to the advent of Islam, women did not receive shares; instead, they were seen as being subject to inheritance. (Jawad, 1998) According to the Shariah's directives, women are assigned fixed-shares based on their status as a mother, sister, daughter, wife, and even a female infant. (Khan, 2004, P. 25) In the most recent sacred book, Allah Almighty declares that: There is a share for men and a share for women from what is left by parents and those nearest related, whether the property be small or large - a legal share. (Holy Qur'an, 4:7) A person is not permitted to select how to distribute an inheritance according to the rules prescribed by Shari'ah. Due to his poor comprehension and hunger for riches, a person would be unable to conduct justice; the only way to ensure that justice is done is to follow the Shari'ah laws. (Shafi, 2004, P. 340) Islam is credited with elevating the position of women by granting them

respect and an inheritance share. Following the decedent's passing, the state and the heirs are required under Shari'ah law to provide the woman her half of the estate. Without going through any formal procedures, inheritance shares become automatic upon death of the decedent.

Twelve inheritors are mentioned in the holy Qur'an as being qualified to receive a definite part of an inheritance: the father, mother, husband, wife, grandpa, grandmother, daughter, son's daughter, full sister, paternal half-sister, maternal half-sister, and maternal half-brother. (Hussain, 2005, P. 62) Because the Shari'ah assigns economic responsibility to the male family member, the Muslim woman is entitled to half of the amount that the man receives. (Maududi, 2003, Pp. 312-13) Allah orders through the holy book: Allah commands you as regard your children's (inheritance): to the male, a portion equal to that of two females; if (there are) only daughters, two or more, their share is two-thirds of the inheritance; if only one, her share is a half. For parents, a sixth share of inheritance to each if the deceased left children; if no children, and the parents are the (only) heirs, the mother has a third; if the deceased left brothers (or sisters), the mother has a sixth. (The distribution in all cases is) after the payment of legacies he may have bequeathed or debts. You know not which of them, whether your parents or your children, are nearest to you in benefit; (these fixed shares) are ordained by Allah. (Holy Qur'an , 4:11)

On the other hand, if a dead individual only had one daughter and no son, his daughter would be entitled to receive two-thirds of the estate, with the remaining portion going to the other heirs. (Maududi, 2003, Pp. 312-13) No one may claim their entitlement in the case of women throughout their lives, not even their husbands, fathers, or other relatives. (Holy Qur'an , 4:11) Similar to this, Allah the Almighty commands: In that which your wives leave, your share is a half if they have no child; but if they leave a child, you get a fourth of that which they leave after payment of legacies that they may have bequeathed or debts. In that which you leave, their (your wives) share is a fourth if you leave no child; but if you leave a child, they get an eighth of that which you leave after payment of legacies that you may have bequeathed or debts. If the man or woman whose inheritance is in question has left neither ascendants nor descendants, but has left a brother or a sister, each one of the two gets a sixth; but if more than two, they share in a third, after payment of legacies he (or she) may have bequeathed or debts, so that no loss is caused (to anyone). This is a Commandment from Allah. (Holy Qur'an , 4:12)

These Divine laws explicitly state that if a deceased person leaves behind no children, his or her wife or wives are entitled to one-fourth of their estate, but if the deceased person also leaves behind children, the wife or wives are entitled to one-eighth of their estate. When Saad bin Abi Waqas asked the last messenger if he would donate two-thirds of his possessions to charity, the final messenger said no. He asked the final messenger once again if he would donate half of his wealth to charity, and the last messenger once more said no. The last messenger said that you are welcome to take one-third of it since it is preferable to offer the part to kids than to leave them in a terrible situation. Anyone who spends money in Allah's way will be rewarded, even if they only give their wife a small amount of food. (Maududi, 2003, Pp. 312-13)

Allah the Almighty forewarned in another verse that anyone who disobey Shari'ah law will burn in hell. (Saeed-ur-Rehman, 2010)

Enforcement of Pakistan's Inheritance Law

Inheritance laws from the Muslim Family Law of 1961 are applicable in Pakistan, however there are no obvious social effects. Women are still denied their rightful portion of the property that Allah Almighty has granted to them, despite the fact that a new amendment to Section 498A of the Women Protection Act was approved in 2011 to address this issue and set penalties in the event of a breach. (Khan, 2004, P. 25) The majority of women in Pakistan are denied their rightful inheritance under the sharia. The major barrier to the application of sharia law is thought to be the local customs and traditions of the people. (Balchin, 1996, Pp. 262-78) Women are coerced and emotionally intimidated into signing a contract giving up their right to inherit property in accordance with custom, which is completely against Islamic moral law. (Ahmad, 1992, Pp. 168) The Pakistani Supreme Court recently ruled that if a daughter does not exercise her right to inherit during her lifetime, then after her death, her children cannot exercise their right to inherit a share of the property of their paternal grandfather. This ruling is in direct violation of Islamic edicts and is an attempt to deny women their rights. (Bhatti, 2021)

Factors that Deny Women the Right to Inherit

Only 3% of Pakistani women receive their inheritance rights, which is regrettable given that the majority of women are denied this privilege. (Zia Ul Rahman, 2010, Pp. 4) Following are some factors that are prevalent in society and important contributors to why women are deprived of their legal inheritance rights:

Land Divided by Inheritance

The main reason why women are not allowed to inherit is that most people are afraid that if they allow their female family members to inherit, their wealth will pass to another family, which is intolerable to the male members of society. (Khan 2010, Pp. 4) The fear of dividing inherited property prevents many women from feudal households in the Southern Punjab, interior Sindh, and other regions of NWFP and Baluchistan from getting married.

Uncertainty regarding rights and comprehensible legal procedure

Most women are unaware that they have the right to inherit property under sharia law. Women are primarily denied inheritance opportunities because they are not aware of their legal rights. The woman's lack of education prevents her from understanding the legal documentation or proof of income needed to get the title. Furthermore, highly educated women lack the knowledge required to understand the specifics (legalese & standards to meet) of this paperwork. Similar to how they can be easily tricked and taken advantage of by their male kin. Due to this, according to the National Commission on Status of Women's 2006 report, just 3% of women in Pakistan inherit real estate or property. Due to the intricacies of the inheritance records, the legal documents for obtaining the title are quite difficult to read, even for educated women. (Khan 2010, Pp. 4)

Male members of the family's socio-financial responsibilities

There is a mentality that women have no place in providing for their families financially and that all financial obligations rest on the shoulders of the male family members. There is no need to offer a fair part of the membership to the female members because their male members are in charge of them as all financial duties fall on men.

Alternatives to Inheritance Rights: Dowry Giving

The payment of dowries, which is regarded as one of the cultural aspects and has no religious importance, compensates the female members. The majority of the population thinks that because dowries are paid as compensation for women's equal rights at the time of marriage, there is no need to give them a portion of inheritance.

METHOD

The procedure that leads the study to use a quantitative research technique to explain is described in this portion of the study. With this strategy in mind, a questionnaire's description has been provided. A sample, or the people who took part in the conversations and completed the questionnaire, has also been detailed. A review of the questionnaire's content and various data collection techniques followed by a description of data analysis and interpretation techniques were the next steps in the data collection process.

Selection of Data

Four public universities, including Islamia University Bahawalpur, Cholistan University of Vaternity and Animal Sciences Bahawalpur, University of Punjab, Lahore, and University of Management and Technology, Lahore, participated in the study. In order to determine the participants' degree of awareness, these universities were chosen from Rawalpindi and Islamabad for the survey in the province of Punjab. The institutions were chosen in consideration of the study's consultation-related suggestions. The participants' ages ranged from 30 to 45 on average. A total of 100 participants were chosen, 50 of whom were men and 50 of whom were women. The selected participants' maximum ages ranged from 18 to 45, and they comprised both male and female faculty members as well as male and female students. The majority of respondents said they were aware of the existing practices and participated directly or indirectly in family decisions about inheritance. Figure 1 indicating Media Spread Information on Inheritance Laws:

Figure 1: Media Spread Information on Inheritance Laws

Media provide awareness towards inheritance laws			
1. Do you think that media provide awareness related to laws about inheritance prevailed in Pakistan?			
Yes	No	I don't know	Total
Male	Male	Male	
14	34	2	50
Female	Female	Female	
28	18	4	50
Total			
42	52	6	100
2. Do you think that media can play their active role in providing awareness about the inheritance right of women?			
Male	Male	Male	
33.3%	65.4%	33.3%	50.0%
Female	Female	Female	
66.7%	34.6%	66.7%	50.0%
Total			
100.0%	100.0%	100.0%	100.0%
3. Do you think that media support those women who are deprived from their inheritance right?			
Male	Male	Male	
14.0%	34.0%	2.0%	50.0%
Female	Female	Female	
28.0%	18.0%	4.0%	50.0%
Total			
42.0%	52.0%	6.0%	100.0%

Figure 1 explains the ratio of responders' opinions. The survey's participants, on average, had bachelor's degrees, master's degrees, doctoral degrees, and M. phil. degrees. The English-language structured and closed-ended questionnaire was created as a data collecting instrument to determine the degree of knowledge of the highly educated members of society on the reasons why women are denied the ability to inherit property. After entering the information into SPSS (Statistical Package for Social Sciences), the data were examined.

Discussion and Results

Different questions were posed to assess the level of awareness of the highly educated members of society, in order to determine whether they are aware of the shari'ah rulings governing women's inheritance rights and what might be the most effective way to spread awareness of this issue. Islamic law, or sharia, makes explicit inheritance laws. The proportion of male and female heirs is expressly mentioned. Every Muslim is expected to be aware of these regulations, to follow them in their daily lives, and to ensure that everyone receives their just portion of the property. Nearly all of the people is aware of the sharia right of inheritance granted to women,

but they give it no thought and completely disregard how it affects society. The media may play a part in educating the public about their rights and obligations. 52% of participants, including 18% women and 34% men, believe that the media hasn't done enough to raise public awareness of these pressing social concerns. Despite all the facts, individuals still have a habit of ignoring the Islamic need to give women their fair portion of the inheritance. If they don't, they will suffer repercussions in the hereafter since Allah Almighty hates injustice. Figure 2 and 3 shows Factors that Deny Women the Right to Inherit:

Figure 2 : According to uneducated Society

Women are uneducated about the worth of their share			
1. Do you think that women are mostly uneducated or illiterate about the worth of their share in inheritance?			
Yes	No	I don't know	Total
Male	Male	Male	
28	18	4	50
Female	Female	Female	
4	36	1	50
Total			
71	24	5	100
2. Do you think women are not given their right of inheritance due to lack of information about their property share?			
Male	Male	Male	
39.4%	75.0%	80.0%	50.0%
Female	Female	Female	
60.6%	25.0%	20.0%	50.0%
Total			
100.0%	100.0%	100.0%	100.0%
3. Do you think that lack of religious knowledge is keeping women away from their share of inheritance?			
Male	Male	Male	
28.0%	18.0%	4.0%	50.0%
Female	Female	Female	
43.0%	6.0%	1.0%	50.0%
Total			
71.0%	24.0%	5.0%	100.0%

Figure 3: According to Patriarchal Society

Patriarchal society			
1. Women are deprived from their right of inheritance due to male dominating society?			
Yes	No	I don't know	Total
Male	Male	Male	
34	11	5	50
Female	Female	Female	
42	5	3	50
Total			
76	16	8	100
2. Male support their family economically this is the reason of deprivation of women from their right of inheritance?			
Male	Male	Male	
44.7%	68.8%	62.5%	50.0%
Female	Female	Female	
55.3%	31.3%	37.5%	50.0%
Total			
100.0%	100.0%	100.0%	100.0%
3. Does the right of inheritance is not given to women because they will become independent?			
Male	Male	Male	
34.0%	11.0%	5.0%	50.0%
Female	Female	Female	
42.0%	5.0%	3.0%	50.0%
Total			
57.0%	34.0%	9.0%	100.0%

Figures 2 and 3 depict the factors that prevent women from inheriting. Given that the majority of women are denied their legal inheritance rights, the following analysis is conducted to determine the barriers that stand in the way of granting women their legal inheritance rights. The majority of respondents agreed that women lack knowledge about their legal inheritance rights and are unaware of them. Some of the males who responded held the opinion that women are well aware of their rights. It is extremely evident to say that approximately 70% of the participants concur that women are denied their legal right to inherit because knowledge is not readily available. In Pakistani society, men are seen as having the most power. Men believe that regardless of whether they are a parent, brother, or spouse, they have the right to choose the fate of a woman. They seek to govern her and have a history of oppressing women while ignoring Islamic principles. The rights of women are denied as a result of this oppression. The majority of the female members acknowledge that patriarchal culture is one of the main factors preventing women from inheriting and that males oppress women in all spheres of life, figure 4 shows the results of dowry systems and inheritance:

Figure 4: According to Dowry and Inheritance

Dowry as Replacement of Inheritance			
1. Does the dowry given to women is compensated by parents as their share?			
Yes	No	I don't know	Total
Male	Male	Male	
28	19	3	50
Female	Female	Female	
28	16	6	50
Total			
56	35	9	100
2. Women are asked to voluntarily relinquish their right in the award of some compensation?			
Male	Male	Male	
50.0%	54.3%	33.3%	50.0%
Female	Female	Female	
50.0%	45.7%	66.7%	50.0%
Total			
100.0%	100.0%	100.0%	100.0%
3. Do you think that due to materialistic approach and love to accumulate wealth males deprived female of their right of inheritance?			
Male	Male	Male	
28.0%	19.0%	3.0%	50.0%
Female	Female	Female	
28.0%	16.0%	6.0%	50.0%
Total			
56.0%	35.0%	9.0%	100.0%

Figure 4 depicts the outcomes of inheritance and dowry systems. The practice of providing hefty dowries to daughters has become so common in Pakistani culture. The dowry is taking the place of the legal inheritance right in this custom. Without comprehending that it is a man-made tradition with no importance in Islam, parents used to offer dowry to their daughters in hopes of improving their futures and thought of it as their fair share. Dowry is regarded as the portion of women, and women are not given any additional inheritance shares. 56% of men and women in total support it. Parents, in their opinion, do not perceive dowry as a folk tradition formed by the people, but rather as compensation provided to women in lieu of an inheritance portion. Figure 5 explains Lack of courage prevents me from demanding my fair share:

Figure 5: According to Lack of Courage Prevents Demanding Share, a Problem

Hindrances in Demanding Share due to Lack of Courage			
1. Do you think that women do not demand their right of inheritance due to lack of courage and from the fear of facing the challenges?			
Yes	No	I don't know	Total
Male	Male	Male	
43	7	0	50
Female	Female	Female	
40	8	2	50
Total			
83	15	2	100
2. Does the women's claim to inheritance from their father's property is considered an act of disgracing their paternal family?			
Male	Male	Male	
51.8%	46.7%	.0%	50.0%
Female	Female	Female	
48.2%	53.3%	100.0%	50.0%
Total			
100.0%	100.0%	100.0%	100.0%
3. Do you think that women don't demand their share of inheritance because they fear that they might lose their close relations?			
Male	Male	Male	
43.0%	7.0%	.0%	50.0%
Female	Female	Female	
40.0%	8.0%	2.0%	50.0%
Total			
83.0%	15.0%	2.0%	100.0%

Figure 5 demonstrates "I (The subjects) lack the fortitude to demand my due share". Due to traditional norms, women view asking for inheritance as disgracing their parents. When women experience problems in their marriage relationships, their parents and brothers are their first and best sources of assistance. Women tolerate their lack of inheritance because they are afraid of losing their personal relationships and lack the guts to address their situation head-on. The majority of the male members supported this position, while the majority of the female members opposed it.

Findings

The research's findings are as follows: The sharia gives women the legal right to inherit, yet educated people are still oblivious of the reality of denying women their fair portion of the inheritance. The well-educated class is aware of the sharia requirement that women partake in property ownership, but they are unable to carry out this religious requirement because they lack the necessary understanding. This prevents their female family members from inheriting. The primary flaw in Pakistan's educational system is that it is entirely theoretical in nature and lacks a practical foundation. The educational system does not provide knowledge on how to grant

women their legal rights. It is because of the long-standing, pointless conventions. Almost of women are not aware of their rights. Due to ingrained social norms, those who are aware of their legal inheritance rights do not claim them. On the other hand, knowing about rights is not enough, and its implications for achieving the real goal are also quite significant. The vast majority of women in Pakistani culture are dependent on and subject to the authority of their male family members. The male members are able to deny women's inheritance rights because of this circumstance. The media is highly important in educating women about their legal rights and raising awareness of this religious viewpoint among society's citizens, yet male members of the community pay little attention to this information and women are not given any property rights. Due to long-standing tradition, women may choose not to use their inheritance rights. Demanding inheritance is viewed negatively since it violates the social norm of respecting one's parents. Women therefore remain silent and do not assert their right, which has been granted to them by God Almighty, out of fear of losing their intimate relationships. The majority of people believe that since the family's male members are responsible for taking care of the female members' needs, the female has no right to inherit anything. Another extremely important factor in the disregard of women's right to inherit is lust for material wealth. Although parents believe that by paying dowry for their daughters, they are providing recompense, women are really being denied the ability to inherit property.

CONCLUSIONS

In order to ensure their financial security and safety, Allah Almighty has given women the right to inherit, and no one is permitted to take away this right or modify their inheritance portion. Unfortunately, most individuals in Pakistani culture have a habit that forbids giving women their rightful inheritance portion. Due to their desire for material gain and other cultural and economic reasons, these people—many of whom are educated and fully aware of the Islamic edicts—ignore and disregard their obligations without considering Allah Almighty's atonement.

The following suggestions would be extremely helpful in ending the pernicious social practice of denying women of their lawful right to inherit after a thorough investigation and achieving the research's insightful conclusions: The government should take action to start programs that educate and raise knowledge of the Sharia's inheritance laws and its application to women. Media should start such programs that would aid in raising knowledge of the rights and obligations of individuals who live in society since media may also play a significant part in raising society's level of awareness. Those who violate the sharia law and deny women inheritance should face punishment from the community. The law needs to completely forbid the practice of leaving gifts as inheritance. NGO (Non-Governmental Organizations) should fulfill a crucial role in educating women about their legal inheritance rights and supporting those who are denied these rights. On the other side, they must inform parents of their right to a daughter that was granted to them by the world's creator.

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It's to be, Declared no potential conflicts of interest with respect to the research, Authorship, and/or publication of this article.

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