



ADVANCE SOCIAL SCIENCE ARCHIVE JOURNAL

Available Online: <https://assajournal.com>

Vol. 03 No. 02. April-June 2025. Page#.1344-1354

Print ISSN: [3006-2497](#) Online ISSN: [3006-2500](#)

Platform & Workflow by: [Open Journal Systems](#)



Cultural Barriers and Legal Gaps: Protection Against the Denial of Women Rights of Inheritance in Khyber Pukhtoonkhwa

Mohammad Zamin

Lecturer at Department of Shariah & Law, Islamia College Peshawar

mzamin@icp.edu.pk

Alishba Shahlalay

Student at Department of Shariah & Law, Islamia College Peshawar

shahlalayalishba@gmail.com

Seema Gul

Assistant Professor at Khyber Law College, University of Peshawar

seemagullb56@gmail.com

Uzma Khan

Student at Department of Shariah & Law, Islamia College Peshawar

uzmakhn2002@gmail.com

Abstract

Death is inevitable. Every human being has to face it in one day or another. When a person dies, they usually leave property behind them. Such property is distributed among their heirs under Islamic Law. Pakistan, being an Islamic Country, tends to follow Islamic Inheritance Jurisprudence with regards to the matters of inheritance. According to Shariah, the legal heirs have the right to inherit from the property of their ancestor or relatives after their death. Under Islamic Law, women are as entitled to inherit from their deceased parents and relatives as men are. However, they are deprived of this right especially in the province of Khyber Pukhtunkhwa. The basic theme of this research paper is to highlight this reluctant behavior of majority of the people of Khyber Pukhtoonkhwa whereby they deprive their women fellow from their due right of inheritance. The paper throws light on the relevant Islamic and Pakistan Laws which is related to women rights of inheritance. It highlights the gaps in these laws and recommends a suitable solution for the protection of women rights of inheritance in the province of Khyber Pukhtoonkhwa

KEYWORDS: Islamic Law, Inheritance, Due Share, Pakistani Laws, Women Rights, Due Right.

INTRODUCTION

Islam, being a complete code of life, has given a complete guidance to human being in all walk of their lives. Islamic Law has left no aspect of human lives untouched and undiscussed. It has given complete guidance not only when a person is alive but also after they die. Among the various branches of Islamic Law, one of its branches is the law of inheritance. This law comes to operation when a person dies and leaves property behind them to be distributed among their heirs. Islamic Law has elaborately and comprehensively discussed the law of inheritance, offering a detailed and well-structured framework that ensures justice and fairness in the distribution of wealth among heirs. The Law of Inheritance primary foundations are laid down in the Holy Quran and the Sunnah of the Holy Prophet SAW. Its further elaboration can be found in the consensus (Ijma) and decisions

of the noble Companions of the Holy Prophet SAW. Some of its detail is found in the rulings of classical jurists. Contemporary scholars also continue to interpret and resolve emerging inheritance issues in light of modern-day challenges, ensuring the dynamic relevance of this divine legal framework. These sources discuss this law beginning from its literal meaning to its definition, its logic and rational, its elements, individual shares and types of heirs etc.

The paper first defines the law of inheritance followed by the verses of the Holy Quran and sayings of the Holy Prophet SAW. It throws light on Pakistani laws related to women rights of inheritance. It discusses the intuitional frame work for the enforcement of women rights of inheritance. The paper highlights the issues and hindrance in women right to their due share in inheritance and propose reforms in the law so as to protect women rights with respect to their due share in their deceased parents and relatives' properties.

Definition

According to the famous book Al Sirajiah. Inheritance (Al Mirath) means

علم باصول من فقه و حساب تعرف حق كل من تركه

The science of inheritance (Ilm-e-Mirath) is the name of certain rules and issues in Fiqh (Islamic jurisprudence) and arithmetic through which the share of each heir is determined. (Siraj Uddin-2017)

So, the science of inheritance is the name of certain principles and rules which determines that who is an heir in a deceased property and what share has to be given to each heir.

Quran and Inheritance

There are several verses of the Holy Quran which deals with the law of inheritance. It fixes the shares of heirs in a deceased property. Since the basic theme of the paper is women right to their share in inheritance, the explanation focuses on the part which deals with women right of inheritance. Allah says in the Holy Quran

"For men is a share of what the parents and near relatives leave and for women is a share of what the parents and near relatives leave, be it little or much - an obligatory share." (Al Nisa-07)

At pre-Islamic Period (Time of Jahiliyah) Arab used to deprive children and women from inheritance. They used to give inheritance on the basis of comradeship. Those who could fight, were supposed to be given the property of their deceased relatives. Since adult men were able to fight, that is why women and children used to be given no share in inheritance. This verse made it null and void and ruled that both man and woman have share in a deceased relative property. This verse is quite clear on women right of inheritance. Depriving them of their due share in inheritance is a sheer injustice, oppression and unfairness. It is a clear violation of an unambiguous verse of the Holy Quran. This verse makes it clear that how Islam has given importance to the rights of women. (M. Qasim-1911) According to Taiseer ul Quran, women used to be given no share before the advent of Islam. They themselves used to be considered property. Allah took these women from this oppression and humiliation and made them sharer in their relatives/antecessor's properties after their death. The verse says that both male and female relatives are entitled to deceased property, whether the property is less or more in quantity (Abdur Rehman Kilani-2004)

According to the famous Tafseer Ibn Kateer, this verse throws light on the properties left by parents and relatives after their death. It says that women and children have the same inheritance rights as male heirs, including a child in the mother's womb. It aims to end the practice of Arab who used to deprive women and children of their due share in inheritance before the advent of Islam. (Ibn e Kateer-722)

This verse of the Holy Quran is quite clear on women share in inheritance. It clearly and without any doubt or ambiguity protects the share of women in deceased parents and relatives' property. It makes no difference between men and women in entitlement to their share in a deceased parents or relatives' property.

In another verse of the Holy Quran, Allah says

"Allah instructs you concerning your children: for the male, what is equal to the share of two females. But if there are [only] daughters, two or more, for them is two thirds of one's estate. And if there is only one, for her is half. And for one's parents, to each one of them is a sixth of his estate if he left children. But if he had no children and the parents [alone] inherit from him, then for his mother is one third. And if he had brothers [or sisters], for his mother is a sixth, after any bequest he [may have] made or debt. Your parents or your children - you know not which of them are nearest to you in benefit. [These shares are] an obligation [imposed] by Allah. Indeed, Allah is ever knowing and Wise." (Al Nisa-11)

This verse fixes the share of woman who accompanies her brother. In such case she is to be given half of his brother. Woman as a daughter has to be given $\frac{1}{2}$ if she is not accompanied by her brother and if they are two or more without having a brother or brothers, they are to be given $\frac{2}{3}$. The verse fixes the share of mother that she is entitled to $\frac{1}{6}$ in case the deceased has child or children or the deceased has left with two or more brothers (or sisters)

Allah further says;

"And you will have half of what your wives leave, if they have no child. But if they have a child, then you shall have a fourth of what they leave after (the payment of) any bequest they may have bequeathed or a debt; and they shall have a fourth of what you leave if you have no child, but if you have a child, then they shall have one eighth of what you leave after (the payment of) a bequest you may have bequeathed or a debt. And if a man or a woman leaves property to be inherited by neither parents nor offspring, and he (or she) has a brother or a sister, then each of them two shall have a sixth, but if they are more than that, they shall be sharers in a third after (the payment of) any bequest that does not harm (others). (This is) an ordinance from Allah and Allah is Knowing, Forbearing" (Al Nisa-12)

This verse fixes the share of wife which is $\frac{1}{4}$ in the absence of children of the deceased and $\frac{1}{8}$ when the deceased husband has child or children. Similarly, the verse fixes the share of uterine sister which has $\frac{1}{6}$ in case she is alone and if she is accompanied by her brother or sister, they are to be given $\frac{1}{3}$ collectively.

In another verse Allah says;

"They ask you 'for a ruling, O Prophet'. Say, "Allah gives you a ruling regarding those who die without children or parents." If a man dies childless and leaves behind a sister, she will inherit one-half of his estate, whereas her brother will inherit all of her estate if she dies childless. If this person leaves behind two sisters, they together will inherit two-thirds of the estate. But if the deceased leaves male and female siblings, a male's share will be equal to that of two females. Allah makes 'this' clear to you so you do not go astray. And Allah has 'perfect' knowledge of all things" (Al Nisa-176)

This verse fixes the share of sister in deceased property in case the deceased does not leave any ascendent or descendent. In such case, if she is alone, she is entitled to $\frac{1}{2}$. If they are more than one, they are entitled to $\frac{2}{3}$ and in case they are accompanied by their brother or brothers, they are entitled to half of a brother share.

These are the clear verses of the holy Quran on women share in inheritance. Inspite of these verses of the Holy Quran, depriving women of their due share in their parents and other relative inheritance is oppression and a sheer injustice to them.

Saying (Ahadiath) of the Holy Prophet SAW on the Entitlement of Women to their Share in Inheritance

There are many sayings of the Holy Prophet SAW in this regard which are as under.

Hazrat Anas (may Allah be pleased with him) narrated that the Messenger of Allah (peace and blessings be upon him) said:

“Whoever cuts off the inheritance of his heir (i.e., does not give them their due share), Allah will cut off his share of Paradise on the Day of Judgment.” (Ibn e Majah)

This saying of the holy Prophet SAW threatens those who cut off the inheritance of their heirs whether they are women, children, infirm and anyone who has a due share in a deceased property.

Jabir bin Abdullah (may Allah be pleased with them both) narrated:

The wife of Sa’d bin Rabi’ (may Allah be pleased with him) came to the Messenger of Allah (peace and blessings be upon him) along with her two daughters and said:

“O Messenger of Allah! These are the daughters of Sa’d, who fought alongside you in the Battle of Uhud and was martyred. Their uncle has taken all of their inheritance. Now, it is time for them to be married, but no one marries a woman without wealth.”

The Prophet SAW remained silent until the verse of inheritance was revealed. Then he called Sa’d bin Rabi’'s brother and said:

“Give two-thirds of Sa’d’s wealth to his daughters, one-eighth to his wife, and whatever remains, keep for yourself.” (Sunan Abi Dawood)

Besides the above verses of the Holy Quran and Sunnah of the Holy Prophet SAW, there are various religious rulings (fatwas) which declare the deprivation of women of their due share in inheritance as the violation of Islamic Law.

One of the ruling rules that; it is clear that in parent’s properties, daughters have the same rights as their sons have. It is illegal and a bigger sin for sons to deprive their sisters from their parents’ inheritance after parents’ death. It is obligatory upon brothers to give their sisters due share otherwise they will have to give it on the Day of Judgment (Al Jamiha Banory Tawn)

Legislation and Institutional work for the Enforcement of the Law of Inheritance in Pakistan with Special Recourse to the Protection of Women Rights of Inheritance

Pakistan is a Muslim Majority country which provides for Islamic Law to govern the country. Its constitution makes it clear that no law shall be made which is repugnant to Islam (Article-2) Islamic Law, being a state law, plays a vital role in ensuring the distribution of assets after a person dies and leaves with property. It tends to follow Islamic Inheritance Jurisprudence with regards to the matter of inheritance.

Article 23 of the 1973 Constitution of Pakistan states: "Every citizen shall have the right to acquire, hold and dispose of property in any part of Pakistan, subject to the Constitution and any reasonable restrictions imposed by law in the public interest. (Article-23)

Property may be acquired through different means among which inheritance is one of the sources of acquisition of property. Pakistani law contains several provisions to safeguard inheritance rights and impose penalties on those who violate them.

Succession Act deals with legal framework for inheritance after the death of a person whether they die intestate or testate. The law addresses matters related to wills, codicils, executors, and

administrators. The Act provides a summary procedure which does not lead to the detailed determination of the right to inheritance. (Succession Act)

Section 4 of Muslim Family Law Ordinance deals with an orphan paternal grandson share in inheritance. It says, if a deceased leaves his son or sons and a son of his pre deceased son, his pre deceased son's son will take the share of his deceased father. This section is restricted to the share of an orphan child share only. (MFLO)

Section 498a of the Pakistan Penal Code deals with the penalty for those who by deceitful or any other illegal means deprives any women of their due share in inheritance at the opening of succession. It says that such person shall be punished with imprisonment for either description which may extend to 10 years but shall not be less than five years or with fine of one million rupees or both. (Pakistan Penal Code)

This section was incorporated in Pakistan Penal Code through the Prevention of Anti-Women Practices Act, 2011 with the aim to stop the violation of women right of inheritance. (Prevention of Anti Women Practice-2011)

According to Section 3 of the KP Enforcement of Women's Ownership Rights Act 2012, "No person shall abridge, violate, curtail or obstruct the right of ownership or possession of a woman, nor shall he dispossess any woman of her property save in accordance with law" (KP Women Ownership Act-2012)

The office of the ombudsperson, Khyber Pakhtunkhwa Protection against Harassment of Women at Workplace serves as a quasi-judicial forum to guard against harassment of women at workplace. But in 2019, the provincial government took the remarkable decision of granting the ombudsperson additional powers to decide inheritance and property cases of women through the Khyber Pakhtunkhwa Enforcement of Women's Property Rights Act, 2019.

The purpose of the act is to build an effective and efficient redress mechanism to protect and secure women's property ownership rights. (KP Enforcement of Women Property Act-2019)

Last but not the least, civil courts serve as the primary forum for resolving disputes relating to property disputes, including matters of inheritance. Individuals, especially women, turn to these courts to seek justice and claim their rightful property when their legal right to inheritance is violated.

These provisions address key facets of the law of inheritance. Besides the above, there is the absence of a comprehensive code/ legislation on the law of inheritance, the courts implement the traditional Islamic rules of inheritance in accordance to the different Islamic Schools of thought.

Inheritance Laws and Ground Realities: Women Still Remain Deprived

As mentioned in the Holy Quran, sayings of the Holy Prophet SAW, Juristic Ruling of the jurists and different provisions of Pakistani Law, Islamic Law of Inheritance acknowledges women as an independent entity with inherit rights rather than mere property. It entitles them to their rightful share in the same manner as they do it for male. It puts them among the sharers who are listed in the first types of heirs. When succession opens, they are to be given in the first instance.

Although laws and institutions exist for the protection of women inheritance rights, yet when it comes to reality and its implementation, they are not implemented with its true spirit which leads to their deprivation from their due share in their deceased parents and other relatives' property. Laws and institutional job are over taken by customary practices and Jirga system although no customary practice and Jirga is supposed to overtake any law.

The prominent religion of the country and state laws of Pakistan entitles women right of inheritance

in both movable and immovable property and punishes the one who deprives them. It is reported that women tend to be socially and economically vulnerable and had limited choices due to their limited access to manage and own property (Fariha)

In many cases properties are registered in women names but in practical they get nothing. The structural composition and functional acceptance enhanced denial of women right to inherit their due share in the property in Pakistani Society. More importantly, Pashtun women have no control over the property because fathers usually pass their property to sons only. In spite of the fact that Pakistan statutory law empowers women to their legal and property rights, the customary norms are not allowing them to have their inheritance rights. Many factors, like cultural restriction, women's illiterate status and fragmentation of landholdings play their role in women deprivation from inheritance. Dowry articles are also considered as an alternative to female right of inheritance (Fariha)

According to the National Commission on the Status of Women Report, fifty five percent women of Khyber Pukhtoonkhwa and FATA are deprived of their share in inheritance due to the strong socio-cultural values about women right to inheritance. (National Commission on the Status of Women-2005)

It was recorded by revenue department's service delivery center that one of the districts of Khyber Pukhtunkhwa naming Shangla has recorded 30 cases of Tamleek (The practice of gifting property to legal heirs during one's lifetime). In these 30 Tamleek cases only two persons took their daughters into consideration. In the rest, women had been set aside (Umar Bacha- 2022).

Khan Bahadur, who is an advocate at Peshawar High Court's Swat bench, says that he has come up with the conclusion that cases of inheritance which he has dealt in, 80 percent of them ends with the compromise between the parties. He says that it is because of the fact, women usually do not want to disturb their relations with their brothers. He further says that probably one percent of women is taken into consideration when property is transferred by Tamleek as fathers just bequeath their property to their sons. (Umar Bacha- 2022)

According to Baba Jan, the president of Awami workers party in Gilgit Baltistan, men in Gilgit Baltistan enroll and admit their daughters in schools but when it comes to their right of inheritance, they consider it a shameful thing. (Umar Bacha- 2022)

In a case which was decided by the jirga and later reached to the Supreme Court of Pakistan, was heard by a two judge's bench Justice Qazi Faez Isa and Justice Yahya Afridi. Justice Qazi Faez Isa ruled that the law of inheritance given by Islam fourteen Hundred years before was final. He added that neither the jirga nor the court has the power to change it and added that the decision of the jirga was not greater than the divine religion. The petitioner requested the court to consider the "ground realities" of the region while hearing the case. The court ordered the distribution of the property of the late Habibullah among all the legal heirs in accordance with the Shariah Law (Express Tribune-2021).

Most of the women are denied their right to inheritance owing to patriarchal customary practices both in rural as well as in urban areas. In the regular time, such scheme came under the light of court for examination. Meanwhile, in this context, the Supreme Court in Ghulam Ali's case made the following observation:

"Relinquishment in question even if proved against female, would be against public policy and is void. The Court further observed that the status of women in Islam as compared to other, occupies the best position as regards her legal status and no other system of law stands any comparison to

the Islamic system in this respect, therefore, desired the need of a new set up to protect the rights of female. (Gulam Ali- 1990)"

It was said that giving right of inheritance to women is a public policy that is why no law can be made to limit this right

But inspite of it most of the women are facing many kinds of challenges in getting their due right of inheritance (Women Rights and its implementation).

According to the information taken through the Right to Information Act, 2013, 1430 complaints have been registered in Provincial Ombudsperson for Protection of Inheritance Rights of Women out of which 975 are still pending at the ombudsman. At least 94 cases have been sent to the court concerned. 42 women have withdrawn their cases from the ombudsperson institution. 17 cases have been closed due to the non-compliance of the litigant and 25 cases have been challenged before Peshawar High Court (PHC). Similarly, the number of cases for inheritance by women in the civil courts of KP is more than 5,000. (Kamran Ali- 2023)

According to a Survey by Mushtaq Ahmad Jadoon and Rashid Khan for the Pakistan Journal of Criminology on "Practices of Depriving Women of Inheritance in KP" they interviewed women across Khyber Pukhtoonkhwa putting questions with respect to their right of inheritance. On the question about women knowledge on their right of inheritance, 70% of respondents said that they did not know about their inheritance rights. Answer to a question 45% of the women said that their names have been removed from the list of heirs. 52 percent of the women responded that brothers put their thumbprints on inheritance papers or "power of attorney" was taken from women.

In the same survey, women were asked why they do not want to get a share of the inheritance to which 71% of the women answered that the legal procedure for obtaining inheritance is complicated and expensive while 10% of women have no knowledge of the legal procedure. (Kamran Ali- 2023)

According to the report of the Federal Ombudsperson Secretariat for Protection against Harassment (FOSPAH), around 699 women haven't received their due share in the property, depriving them of their rightful inheritance since last year. Approximately 613 women were unable to obtain their property share in 2023, and this year 86 such cases have been reported. FOSPAH was successful in securing property for 2 women only. (Daily Time- 2024)

A Lawyer from Chakdara Dir Lower Khyber Pukhtoonkhwa name Muhammad Saeed Khan Advocate was murdered by unknown persons. Later, it was revealed that he was killed by his maternal grandfather family due to his demand of his mother share in her father property. (Dawn-2019)

It has been reported that there is an increase in deprivation of women's right to inheritance in Khyber Pakhtunkhwa. Only 20 – out of the 527 complaints filed by women this year regarding the insecurity of their inheritance rights have been resolved so far, according to data obtained from the Provincial Ombudsman for Women's Rights. (Ajj-2024)

Persistent Denial of Inheritance Rights to Women: Causes and Challenges

The above discussion highlights a troubling reality. Despite the existence of punitive laws and the presence of both general and specialized institutional frameworks, women are still deprived of their rightful share in the inheritance of their parents and relatives. This persistent injustice stems from deep-rooted patriarchal practices that must be urgently addressed and dismantled. Several other key factors contribute to this deprivation, including rigid customary practices, lack of awareness among women regarding their legal rights, fear of disrupting familial relationships, a weak legal enforcement infrastructure and pervasive gender discrimination. These underlying causes continue

to undermine the implementation of inheritance laws.

Customary Practices

In Pakistan in general and in Khyber Pukhtoonkhwa in particular, it is a common customary practice that women are deprived of their due share in their deceased parents or other relative's property. After the death of parents, brothers do not show their sisters' names in succession certificates. They make false statements and documents by which they deprive their sisters of their respective inheritance rights. Women inspite of having both criminal and civil remedies claim none. (Muhammad Babar Shaheen-2024)

Dowry as a Compensation for Inheritance

One of the reasons of women deprivation of inheritance is their dowry articles at the time of marriage. It is believed that dowry is a compensation for women's share in inheritance. Women are given dowry at the time of marriage which is presumed to be her share in inheritance. (Muhammad Babar Shaheen-2024)

Family Pressure

Women are generally pressurized by their elder to relinquish their right of inheritance in favour of their male relative particularly brothers. It is normally done under the pretext that it is the man who support the family and bear all financial responsibilities. When they claim their due share in the inheritance, they are believed to be greedy and are believed to break the unity of the family. (Abdur Rehman Agha-2024)

Marriage as a Compensation

Women are believed to be the responsibility of husband after they get marriage. Their financial needs are to be fulfilled by their husband that is why they are supposed to be deprived of their due share in inheritance. (Abdur Rehman Agha-2024)

Lack of Awareness and Lack of Education

Ignorance is the root cause of the deprivation of women from inheritance. They do not know their due share neither under Islamic Law nor under Pakistani law. This lack of awareness is common in rural areas. (Abdur Rehman Agha-2024).

Lengthy Legal Battles

One of the main reasons of the deprivation of women from inheritance is the long legal battle. When women come to court, it takes years to settle inheritance disputes. During this time, women are deprived of the economic security and autonomy that property ownership would provide them. Thus, justice delayed is denied (Munazza Hameed-2024).

Conclusion

The law of inheritance is one of the branches of Islamic Law which deals with the distribution of a deceased property among his heirs. It describes that who will inherit and what will be their share in the property. It divides the heirs into different types and gives them their due share according to the principle of Islamic Inheritance Law. It puts women among the sharers in order to protect their share in a deceased property.

Various verses of the Holy Quran fix the shares of different types of heirs including women in a deceased property. Their shares are said to be Quranic shares. Many sayings of the Holy Prophet SAW also deal with the law of inheritance and gives ruling on its different aspects.

Various new problems and cases relating to the law of inheritance has been addressed by the companion of the Holy Prophet SAW, earlier jurists and some of the modern issues have been addressed by the modern-day jurists.

Pakistan being in Islamic Country protects women rights of inheritance through its various laws and institutions. It punishes the one who deprives women of their due right of inheritance. It provides both civil and criminal remedies to the women whose right are infringed. It has mandated the ombudsperson to deal with inheritance cases. Civil courts are also mandated to decide cases related to inheritance. However, statics shows that women are deprived of their due share in inheritance due to various reasons.

Lack of awareness and education, weak and lengthy courts procedure, marriage as a compensation, dowry articles and fear of bitter relationship with the relatives are some of the factors which contribute to deprive women right to inherit their due share in impertinence.

Suggestion

As mentioned above, inspite of many clear verses of the Holy Quran, Saying of the Holy Prophet SAW, ruling of the companion and jurist and the existence of different provisions related to inheritance, women are deprived of their due share in inheritance. This issue needs to be addressed. By adopting the following measure this issue may effectively be addressed.

Awareness Campaign

Awareness drive is the need of the day to overcome this series issue. Women need to be educated through different workshops, Seminars and lectures focusing on their Islamic share in their deceased parents or relatives. Print, electronic and social media platform must be used to spread the awareness. Special programs on these platforms need to be conducted.

Female Education

Ignorance is the root cause of all evils. For women to get their due share in inheritance, their education has a key role. An educated woman knows her right. She knows how to fight for her right. Women need to be educated in the same manner as men are educated. They must be given equal opportunities to get education. Men also need to be educated because an educated man knows his duties and has a better sense of his duty.

Specialized Courts

The cases related to inheritance are dealt by ordinary courts. Ordinary courts having a lot of burden on them, are unable to address inheritances related cases speedily. Today the ombudsperson is mandated to try inheritance cases but there is only ombudsperson in the whole province. State needs to introduce special court with specialized officer in this law so as to resolve inheritance matters effectively and timely. It also needs to extend ombudsperson offices to other districts of the province.

Time Frame for Succession

State needs to enact law to fix time frame for opening the succession after the death of a person. It must carefully inquire the list of the heirs so as to avoid the exclusion of any heir from the list of heirs. Such enactment must insert provisions to punish those who fail to abide by the time frame fixed by the law.

Eradication of Tamleek

The state must take measure to discourage the practice of Tamleek whereby fathers distribute their property in life among their sons only depriving their daughters from their due share. If a father distributes his property among his heir when he is alive, state must ensure the distribution of such property among the heirs fairly and justly keeping in view the Islamic Share of each heir.

Ending Forced Inheritance Waivers in Favour of Male Heirs

Law permits any legal heir to voluntarily waive their right of inheritance in favour of one or more co-heirs. However, this provision is often exploited by male heirs. In many cases, female heirs are pressured, coerced or emotionally manipulated to relinquish their rightful share in favour of their brothers. This deeply entrenched practice perpetuates gender inequality and undermines the spirit of inheritance laws.

To address this injustice, the State must take effective legislative steps to ensure that such waivers are not the result of coercion. A progressive reform would be to disallow inheritance waivers by female heirs altogether at the initial stage. Instead, women should be granted full ownership of their inherited property. If, after a reasonable period, preferably not less than one year, they freely wish to transfer their share to another heir, they may do so through a properly documented legal transaction. This cooling-off period will empower women to make informed and independent decisions, free from immediate social pressure. In most cases, once women are given full possession and legal recognition of their inheritance, they are unlikely to surrender it. Thus, it will promote economic independence and dignity.

Abolishing Discriminatory Jirga Decisions and Customary Practices

It is often observed that when women assert their lawful right to inherit property, the matter is referred to local jirgas. The Jirga often issues decisions that either grant women less than their legal share or even entirely deprive them of their due right. This practice is a blatant violation of constitutional and legal protections afforded to women.

The State must take firm action by prohibiting any jirga or informal body from intervening in inheritance matters, especially when their rulings contravene the law. Any jirga decision or customary tradition that results in the denial or reduction of a woman's inheritance must be declared unlawful, void and unenforceable. It is because the rights of women in inheritance is not only a legal obligation but a moral imperative. The elimination of such discriminatory parallel systems is essential to ensure justice, equality and the rule of law.

It is evident from the above that ensuring women's access to their due share in the property of their deceased parents and relatives is not only a matter of law, but also fundamental issue of equality, justice, and human dignity. By implementing these legal and policy reforms, the State can take significant strides toward eradicating this deeply rooted injustice of depriving women of their rightful inheritance. Such measures, when taken, will not only empower women economically but will also contribute to build a fairer and more inclusive society, where legal rights are not overridden

References

Siraj Uddin Muhammad bin Abd Rashid Al Sahawandi Al Hanfi (2017) Al Serajiah fil Mirath maha Sharh Aljadeed Al Musamma Alqamriah Al Madinatul Al Elmiah Shubat Al Maktab Al Dirasiah Karachi Pakistan p. 7

Al-Qur'an, Surah Al-Nisa: Verse 7.

Al-Qur'an, Surah Al-Nisa: Verse 11.

Al-Qur'an, Surah Al-Nisa: Verse 12.

Al-Qur'an, Surah Al-Nisa: Verse 176.

Kilani, A. R. (2024). Taiseer ul Quran.

Qadri, A. S. M. Q. (1911). Sirat al-Jinan: Tafsir al-Quran.

Ibn Kathir, I. (722). Tafsir Ibn Kathir.

- Ibn Majah. (n.d.). Sunan Ibn Majah (Vol. 1, p. 266) (Chapter: Wills, Section 3)
- Abi Dawood, S. Sunan Abi Dawood (Kitab al-Fara'id, Hadith 2891, 2892).
- Tirmidhi, M. I. Jami' at-Tirmidhi (Kitab al-Fara'id, Hadith 2092).
- Al-Mizzi, Y. Tuhfat al-Ashraf (Hadith 2365).
- Dar al-Ifta, Jamia Uloom Islamia, Binori Town, Karachi. Fatwa No. 144109203065.
- Constitution of the Islamic Republic of Pakistan. (Article 02.
- Constitution of the Islamic Republic of Pakistan. (Article 23.
- Government of Pakistan. (1925). The Succession Act.
- Government of Pakistan. (1961). Muslim Family Laws Ordinance.
- Government of Pakistan. (November 15, 2011). The Prevention of Anti-Women Practices (Criminal Law Amendment) Act, 2011.
- Government of Khyber Pakhtunkhwa. (January 17, 2012). The Khyber Pakhtunkhwa Enforcement of Women Ownership Rights Act, 2012.
- Government of Khyber Pakhtunkhwa. (2019). The Khyber Pakhtunkhwa Enforcement of Women's Property Rights Act, 2019.
- Bibi, F., & Bangash, D. A. K. Denial of women's inheritance rights in Pakhtun society: A study of socio-cultural values and customary practices. Pakistan Journal of Society, Education and Language, 2–3.
- National Commission on the Status of Women. (2005). Policy research: Women's right to inheritance and its implementation. Islamabad: NCSW.
- Bacha, U. (2022, March 5). Women's right to inheritance is enshrined in Islam and the law – why do they still have to fight for it? Dawn.
- The Express Tribune. (October 26, 2021). Courts, jirgas cannot override Islamic law of inheritance.
- Ghulam Ali v. Ghulam Sarwar Naqvi, PLD 1990 SC 1 (Pakistan).
- Women Rights of Inheritance and Its Implementation.
- Ali, K. (2023, September 24). Khyber Pakhtunkhwa: 90% of women 'deprived of inheritance'. Ajj News.
- Daily Times. (March 2, 2024). Women being deprived right to inheritance in KP.
- Dawn. (October 22, 2019). 'Killer' of public prosecutor arrested.
- Ajj News. (November 13, 2024). Women in Khyber Pakhtunkhwa 'face violence' in struggle for inheritance rights.
- Shaheen, M. B., Shehzadi, H. M., & others. (2024). from exclusion to inclusion: A comparative analysis of Pakistani inheritance laws and international best practices for women empowerment. Annals of Human Social Sciences, 5(3), 4. <https://www.ahss.org.pk>
- Khan, P., Anwar, S., & others. (2018). Causal factors behind female discrimination practices regarding property inheritance at global level: Case of Pakistan. Pakistan Journal of International Affairs, 1(1), 6.
- Agha, A. R. (October 9, 2024). Denial of inheritance for women in Pakistan: Addressing deep-rooted injustice. Lead Pakistan.
- Hameed, M. (September 20, 2024). The women inheritance paradox in Pakistan: Faith vs family.