

INHERITANCE IN PROPERTY: A GENDER BASED DISCRIMINATORY PRACTICE IN RURAL AREAS OF TANGI, DISTRICT CHARSAZZA

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ABSTRACT

This paper attempts to know the existing practice of inheritance in agricultural property on gender basis, and also to identify various hurdles in the way of giving share to women in Tangi, a big village of Charsadda district in the province of Khyber Pakhtunkhwa. The study, conducted in 2009, contained the total sample size of 120 male landowners and female members of the same families. The study revealed that women were mostly exploited in receiving shares in their parental property for socio-cultural and economic reasons such as unawareness about their rights, no practice of share giving in the area, threat to severe family relations after share is given and provision of dowry articles at marriage time etc. The minimal number of share-recipient women also had male members of their parental families annoyed. The benefited women belonged to either religious families or endogamous families. The study suggests that the religious scholars need to come forward and stress upon the people in religious sermons to adhere to religion regarding the matter of inheritance, entitling both men and women for their due shares in property.

Key Words: Inheritance, gender inequalities in shares, situational analysis

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INTRODUCTION

Inheritance is defined as “a perpetual or continuing right which a man and his heirs have to an estate; an estate which a man has by descent as heir to another, or he may transmit to another as his heir; an estate derived from ancestor to a heir in course of law” (Accurate and Reliable Dictionary, 2008). The practice of Inheritance in all kinds of movable and immovable parental property is a global practice, but some of the traditional societies are characterized by gender discrimination in the form of either total deprivation or partial deprivation. The exploitation of women in the matter of inheritance is not an odd event of human history; rather it is one of the disparities perpetuating women’s suffocation in different compartments of life throughout the world. Inheritance is an integral part of the family life, and depriving a child of each gender from entitlement in parental property is tantamount to diminish the conception of family as a social unit (Leach, 1982). Legacy determines the legitimacy of a child in human community (Beattie, 1964). It is the cultural environment that degrades the status of women in all walks of life including inheritance (Dascalopoulos, 1990). Marx considers women as a separate class of society and further makes the statement that they are vulnerable to various kinds of exploitation of men’s dominance (Abraham, 1990). Marriage is a mixed activity of religious influence and legal heritage in the island of Mauritius (Angelo, 1970). If a man fails to decide the distribution of his estate or leaves a will before he dies, the state stands with responsibility to do it as per its framed law (Simon, 1978). Women have no customary rights in estate in the northeastern and southwestern parts of India. Customary ways such as female seclusion, mental and physical torture against women, and other gender based practices have blocked their access to legal rights in the backward parts of India (Agarwal, 1988). Among Swazi people women are culturally not entitled for their share in lands (Andikrah, 1990).

Shahla (1989) has referred to the issues like inheritance, divorce and spouses’ rights, and obligations in the permanent marriages of Iran. There are less chances of remarriage of widows for the reason of inheriting property left behind in the first marriages (Carol, 1990). The local practices regarding women’s rights over property contradicted the existing customary law in the communities of Car pathos and Sopoto in the Greece. The customary law had a provision of share in land but the people denied this right of women, and somewhere in the same communities people substituted it with dowry (Dascalopoulos, 1990). The two studies, conducted in Peshawar and Malakand areas, concluded 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 lands (Wisal and Inam, 2006, and Aisha, 2008). In the religion of Islam women are entitled to inherit as heirs in the lands left behind by ancestors, and the followers have been asked to adhere to it strictly. After the appearance of Islam, a great change has occurred in the mental outlook of people by establishing the rights of women in all enterprises of life; Islam banished the inhuman practice of not remarrying of widows in view of apprehension of property transference. In the Holy book of Qur’an Allah Almighty says that “To everyone, we have

appointed the shares and heirs to property left by parents and relatives (Surah Nisa: 33). Even in the life time of our Holy Prophet ‘Hazrat Muhammad (SAW)’, women got their determined shares in lands. Pakhtunwali (a set of codes of pakhtun’s life) is also in favor of inheriting women but local practices are going in contrast for the perceived reason of their no bread earning role in the community (Wisal, 2006). In Pakistan in general, women are discriminated in respect of legacy in spite of the presence of the sate legislation on it. Various organizations of the private sector are also in the field to combat gender based discrimination in the inheritance.

The present study is an attempt to know the gender based practice of inheritance and also identify the various situations promoting the gender discrimination in the study area.

MATERIALS AND METHODS

Tangi is a big populated village of Charsadda district and has a big chunk of agricultural land in the region. The selection of sampled area for the study was made because there was no apparent practice of giving shares to women in property there. All owners, irrespective of landholding size, were potential for the purpose of interview. Data was collected from three categories of the land owners: (1) landowners having agricultural land below 50 acres (2) landowners having land from 50 to 100 acres and (3) landowners having land above 100 acres. The Revenue Department had no exactly calculated number of the land owners for the reason of scattered details laying at different agricultural circles. However, details about the names and addresses of 600 land owners (200 from each category) were obtained from the revenue personnel of the two circles: Tangi Nusratzai and Tangi Barazai. At the interval of 10%, 20 male respondents were randomly selected for interview from each category, constituting a total sample size of 60 male respondents. The same number of female respondents, belonging to the sampled male respondent families, was also interviewed under the same procedure. Thus the composite sample size of male and female respondents becomes 120. All sampled male respondents had single marriages. Male respondents were directly approached at their residences for the sake of early receipt of filled copies of questionnaire, whereas female respondents belonging to the families of the sampled male respondents were interviewed through trained female investigators. Questionnaire was exercised as a tool of data collection from the educated respondents, whereas uneducated or less educated respondents were asked through interview schedule. Interview schedule remained a more effective tool as the researcher reasoned at any contradictory answer from respondents and so ensured more accurate data. Analysis of data was made by using frequency distribution method.

RESULTS AND DISCUSSION

The personal characteristics of male and female respondents, gender based discrimination in land inheritance and forces involved behind keeping women deprived of their share in property were investigated through this study.

Personal Profile of Respondents

Table I shows the gender based profile of respondents on their education, marital status and family type. Majority of the male respondents (53.3%) were educated with graduation as maximum level of education, whereas 31.7% female respondents were educated and amongst from them none had education above the SSC level examination. It indicates that majority of the female respondents (68.3%) were illiterate; illiterate people are mostly unaware of their rights and so prone to exploitation in inheritance matter. These findings are in consonance to those of Wisal and Mateen (2006) who also observed the illiterate status of women as one of the responsible reasons of their deprivation in property. Even various occurrences from different parts of the world depict that uneducated women are mostly vulnerable to diverse forms of victimization in their lives. The second part of the table illustrates that majority of the respondents of both sexes was married and mainly had endogamy as form of marriage. It is evident that the problem of transferring land to heirs arises when a lady gets married and she demands for her share in the parental property, and the women of the target area had also the same behavior after their marriage. Table I further gives information on the family pattern of sampled respondents and majority of them (60%) had joint households. It could easily be ascertained that the traditional families are always conservative and prefer to comply in strict sense with the long standing cultural practices.

Table I *Gender wise distribution on personal profile of respondents*

Gender	Education		Marital Status		Family Pattern	
	Educated	uneducated	Married	Single	Nuclear	Joint
Male	32 (53.3%)	28 (46.7%)	48 (80%)	12 (20%)	22 (36.7%)	38 (63.3%)
Female	19 (31.7%)	41 (68.3%)	51 (85%)	09 (15%)	26 (43.3%)	34 (56.7%)
Total	51 (42.5%)	69 (57.5%)	99 (82.5%)	21 (17.5%)	48 (40%)	72 (60%)

Source: Field Survey, 2009

Gendered Inheritance

Table II is a multivariate table containing data on the receipt or non-receipt of share by women in their parental property. Majority of the male respondents of all the mentioned categories being 78 % did not give shares to female relatives on or after their marriages; a less number of male respondents (22 %) handed over shares to their females and mostly with their consent, as stated by them. The male respondents (62%) denied giving shares to their women in lands in spite of demand, whereas 77% sampled women told that they demanded of share but dishonored by men belonging to their parental families. It is noteworthy that the tendency of not giving share to female was high in categories 'C' and 'B' as compared to category 'A'. The reason for high rate of denial to the proprietary rights of women in categories C and B was the big pieces of land, as the concerned male owners did not want to let suffer their dominant and hegemonic role in the community through the fragmentation of landholdings. It reflects an amount of contradiction here because they gave shares to male descents on their demand but denied the same to female members. Besides, they connected the existing unjust practice to non-availability of such precedence in the past; even they thought denial in share to women as a cultural phenomenon. This perception is identical to the practice of the Swazi people, as indicated in the study of Andikrah (1990). The second part of the table contains women's responses on the above questions and (78%) of women from all categories negated the receipt of shares in property. A least number of women (22%) were provided with share in property and that was with annoyance of their male relatives. Some of the sampled women also complained of not receiving the exact size of measured share at the time of distribution. It is observed from table I of the study that majority of sampled women were uneducated and that is why they remained ignorant of the calculated size of their shares as well as their legal status regarding the right and procedure of its acquisition. The table further presents the data that most of the women (77%) asked for their share but their request was not honored and even they were exploited through different pretexts.

It is clear from the above data that majority of the landowners deprived their women of share in property, and this deprivation was mainly observed among the owners of those categories who possessed big pieces of land. There also appeared a contradiction in the data of male and female respondents because the women in majority asked for their shares but the male respondents denied that their women never put forward such demand. Besides, the women did not agree to this stance of their males that they gave them shares in property willingly. In brief, the sampled community was not looking in favor of giving share to women for many reasons. However, 22% owners, who gave shares to their women, were either religious minded or had endogamous marriages.

Table II Gender and category wise distribution of respondents about shares

Male	Share				Share Given		Ever Demanded if not Given	
	Given	%	Not Given	%	Willingly	Not Willingly	Yes	No
Category-A	06	30	14	70	04	02	09	05
Category-B	04	20	16	80	02	02	10	06
Category-C	03	15	17	85	02	01	10	07
Total	13	22	47	78	08	05	29	18
Female	Share				Share Given		Ever Demanded if not Given	
	Given	%	Not Given	%	Willingly	Not Willingly	Yes	No
Category-A	06	30	14	70	03	03	10	04
Category-B	04	20	16	80	01	03	12	04
Category-C	03	15	17	85	01	02	14	03
Total	13	22	47	78	05	08	36	11

Source: Field Survey, 2009

Denotations: Category-A for people having land below 50 acres
 Category-B for people having land between 50-100 acres
 Category-C for people having land above 100 acres

Reasons for Non-Receipt of Shares

It was mainly observed that the marriages solemnized among the people of kin groups (endogamy) had an apparent role in the receipt of share. Table III shows that majority of the discriminated women (53%) practiced exogamous marriages (marriages outside family) and 47% had endogamy. Exogamy was relatively practiced in greater number in category 'A' for the apparent reason of possessing small pieces of land by the owners. The data on nature of marriage support the preceding lines that women who practiced marriage outside families confronted numerous difficulties in getting their shares. It is a long standing perception in Pukhtun society that outside marriages weaken the traditionally strong position of families by fragmenting and transferring the landholdings to others' families. Such established perception is further supported by a continuous practice that an uneducated or even physically disabled member of the same patrilineage takes preference in marriage over an educated, normal and handsome boy hailing from an outside family in sampled community. This is not odd in Pukhtun society; rather most of the traditional families across the country have such priorities in marriage. Even the incestuous marriage of the Egyptian

queen ‘Cleopatra’ with her brother was also followed by economic and religious stimulants; economic was the apparent apprehension of the fragmentation of the royal property in case of outside family marriage. It indicates that non-transference of share in parental property is an ancient practice and the present societies have kept up this tradition with no seeming change in the paradoxical attitude of the male landowners in the near future. Another reason behind the non-receipt of share was to substitute it with dowry. Majority of the women (53%) regarded it as a responsible reason for their deprivation in the land. The sampled women admitted that the dowry articles accompanied them at the time of their marriages, but that time they were not told so. Besides, the males of their parental families used the revenues of the lands including their shares also. The customary practice to substitute dowry with share in favor of women does not come to surface in this study only, but the studies carried out earlier by Dascalopoulos (1990) in Car pathos and Sopoto communities, Wisal and Mateen (2006) in the outskirts of Peshawar and Aisha (2008) in the periphery of Malakand have also found the same reason obstructing women’s share as heirs. A reasonable number of the female respondents (34%) were intimidated of snapping the relations if they ever demanded for share. This has been a common practice of our society that women, who ever got shares, experienced tense relations with their fraternities. The data of Table III further reveal that only 04 women stepped down voluntarily from their share in respect of their brothers whereas the same number of married women did not ask for their share in view of no such cultural practice in the target community. It appears that majority of the people deprived their females of shares in parental land mainly for the reason of purchasing the dowry articles at the time of their marriages. It was thought a substitute of their shares inspite of fact that their male members utilized the revenues of land for a long time. The perception of local people on denial of share to females is further supported by the intimidation of finishing relations whenever a demand for share comes forth. It is quite astonishing to say that educated men, who were aware of the religio-legal rights of women, also exploited them in inheritance matter. This portrays the influence of culture more strong than other considerations.

Table III *Reasons for non-receipt of share in property*

Form of Marriage	Practiced %		Reasons for non-receipt of share			
			Given up	For dowry	Severe relation	Culture
Endogamy	22	47	03	11	06	02
Exogamy	25	53	01	12	10	02
Total	47	100	04	23	16	04

Source: Field Survey, 2009

CONCLUSION AND RECOMMENDATIONS

It was observed that women were mostly deprived of shares in agricultural property for the socio-cultural and economic reasons. The deprived women were either illiterate or less educated or insufficiently aware about their religious, moral and legal rights which played an important role in their deprivation. Provision of dowry articles to married females was perceived as substitute of their shares, and they were intimidated with dire consequences regarding family relations on production of demand for share. It was further observed that people with big land holding size exploited women at maximum in view of the expected land fragmentation in case of share giving. Exogamous marriages (marriages outside families) were also seen as an apparent cause of deprivation. The study recommends that the religious scholars ought to come to forefront and disseminate the message of Islam on the issue of inheritance in conceivable and arguable way on the eve of Juma (Friday) sermons or on other occasions, emphasizing the people to ensure the provision of shares to women. The state law also needs to be implemented in letter and spirit and by this way the degree of discrimination will reduce.

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