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Muslim Women's Right to Inheritance: An Analysis of the Legal Framework and Practice in Bangladesh

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ABSTRACT

The system of succession has been described in detail and systematically in Islamic jurisprudence. It has acknowledged women as legitimate heirs with specified shares in property. The principles of inheritance have been designed to ensure fairness, financial security, and the protection of family members, including women. According to Noel J. Coulson, in pre-Islamic Arabian customs, Islamic inheritance law brought significant reform by recognizing women as lawful heirs and granting them definite shares in property succession (Coulson, 2009). In the Indian subcontinent, under the Muslim Personal Law (Shariat) Application Act, 1937, Muslim personal law has been applied to matters such as inheritance, succession, and other family matters for Muslims. Although clear legal provisions exist, the implementation of Muslim women's inheritance rights remains limited and insufficient in numerous societies. Due to social customs, patriarchal attitudes, economic dependence, and lack of awareness regarding their legal entitlements, women are being frequently deprived of their lawful shares. Although Islamic law grants women an enforceable right in property, social practice often prevents them from exercising that right effectively. Although Islamic Law grants Muslim women legal inheritance rights to property, social practice prevents them from exercising those rights properly. There are different types of heirs in Islamic Law, including sharers, residuary heirs, and distant kindred. In the Holy Quran, the shares of certain heirs are explicitly prescribed to ensure the legal distribution of property, but implementing these rules continues to face various practical challenges. This article explores the legal principles relating to Muslim women's inheritance rights and examines the gap between law and practice. It also analyses the socio-legal barriers that actively deny women's property rights. It also highlights the urgent need for greater awareness, social reform, and effective enforcement. Stakeholders and policymakers must take immediate steps to ensure justice and equality in inheritance matters.

Keywords: Muslim women; inheritance rights; Islamic law; legal awareness; law and practice.

1. Introduction

As a Comprehensive guideline for human life, Islamic law focuses on matters regarding inheritance as well. Circulation of ownership in a regularized way and on basis of fairness is the core condition to avoid complications relating to property and such fair circulation can ensure financial and social security to human beings. In this prospect, Islamic law of Inheritance recognizes the right of Muslim women to property as well. Muslim Inheritance law classifies heirs in different categories and also prescribes respective shares according to such categories as well to avoid complications and injustice in this regard and apart from Islamic law of inheritance, Muslim Women's right to inherit property as per their prescribed share is also recognized and secured legally by the Muslim Personal Law (Shariat)

Application Act, 1937. Despite the religious and clear legal provision for Muslim Women's right to inheritance, they are deprived of their right to property in practical. Multidimensional obstacles and sentiments function here as impediment to ensure their economic and social security through their share in the property. This study focuses on exploring the legal aspects and principles regarding Muslim Women's Right to Inheritance and examines the blank spaces between law and practice. Furthermore, it explores the needs of awareness, improving legal literacy, modifying legal implication method, education and urgency of modification to socio-legal psychology regarding women's right to property.

Bangladesh Perspective

Within the subcontinent, personal affairs like marriage, dissolution of marriage, inheritance, maintenance, guardianship are reserved to be maintained according to the Muslim Personal Law under the Muslim Personal Law (Shariat) Application Act, 1937. In this context, Bangladesh is no exception. But where in cases Muslim law is applied and properly followed if any dispute regarding such personal matter arises and that is brought under judicial proceedings, Muslim Women's right to inheritance to a greater extent remains unnoticed as there are a few people who would bring this within the orbit of judicial practice. Rather under various family and social pressure, along with lack of awareness women remain deprived of their right to property from both their own family and husband's. The socio-cultural and socio-legal structure of Bangladesh cannot be said sufficiently strong in this regard. Hence Theoretical assurance does not bring actual ensured solution in practical context. Weak enforcement of law and patriarchal sentiment of society together creates the barrier between law and enforcement.

Theoretical Framework

Although Muslim women are entitled to inherit property under the Muslim personal Law as well as the statutory law, the practical aspect is vividly different from the religious and legal texts.

Where under the Muslim Personal Law application Act, 1937, the Muslim Family Laws Ordinance, 1961 and even the United Nations Convention on the Elimination of all Forms of Discrimination against Women ensures their right and entitlement to property according to Islamic Law, for various legal and social aspects, mostly prejudicial, they remain left behind in case of enjoying such rights. This study thus focuses on the examination of reasons behind the deprivation of enjoyment of Muslim Women's right to inheritance and also suggesting probable effective solutions to this crisis scenario by legal awareness, education, and effective enforcement mechanism.

Thus, first of all the study seeks to examine present condition of practice of the law relating to inheritance.

As even at this era, many Muslim women are unaware of their own right to inheritance, this study further seeks to contribute to expand the awareness and share knowledge regarding the fact.

Also, consequences that results from the deprivation are reflected in the study and it aims at providing information about the legal mechanisms that women may avail of need any remedy. Another significant aspect of the study is that it explores the scope where it is visible that access to inherited property may bring a huge change in the social, financial and educational standard of a woman and therefore her contribution to society increases if property is properly circulate per law.

Finally, the study throws an opportunity for further academic research as scholarly academic research are few in number regarding the topic. It opens the gate for discussion on policy, deprivation, analysis and reformations.

Application of Muslim Law

In matters relating to succession, marriage, dissolution of marriage or other family business, the Muslim Personal Law (Shariat) Application Act has made it clear that these personal businesses to be administered by Muslim law. But what it does not clarify is, who is a Muslim. Thus the concerned definition is extracted from judicial interpretation on theological aspects. According to the courts, Muslim law applies to all persons who are Muslim by birth or by Conversion (Fyzee, 1949). From theological aspect, he is Muslim who believes the oneness of Allah and accepts Hazrat Muhammad (peace be upon him) as the last prophet. Consequently these people become the subject of Muslim Personal Law and inheritance is regulated for them under the Muslim law as well.

Muslim Women's Right to Inherit on Quranic Basis

The holy Quran clearly gives Recognition regarding muslim women's right to inheritance, through which women are protected and also given a healthy standard in the financial sector. It confers their right in different categories by determining specific and clear share as their status like wife, daughter, mother, sister.

The Holy Quran states-

Allah directs you concerning your children: for the male, a share 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 one-half. (The Quran, Surah An-Nisa 4:11)”

“In what your wives leave, your share is one-half if they leave no child; but if they leave a child, you get one-fourth... and for the wives is one-fourth if you leave no child, but if you leave a child, then for them is one-eighth. (The Quran, Surah An-Nisa 4:12) ”

“If a man dies childless and has a sister, she shall have one-half of what he leaves; and if there are two sisters, they shall have two-thirds of the inheritance. (The Quran, Surah An-Nisa 4:176)”

These verses clearly establish women as valid inheritors and also Muslim Law confers the right of inheritance not as a life interest, rather an absolute one.

Statutory Basis

The principal legal framework regarding Muslim Women's Right to Inheritance derives its statutory basis from the Muslim Personal Law (Shariat) Application Act, 1937. Under section 2 of the Act, it is specified that matters relating to intestate succession, marriage, dissolution of marriage, dower, guardianship, gifts, trusts, waqf, and women's property rights shall be regulated by Muslim Personal Law notwithstanding any custom or usage otherwise. Again, The Muslim Family Laws Ordinance, 1961 is another important and mentionable Act in this regard, which specifies principle of representation, whereby to another upgraded extent, right to property of a Muslim woman is strengthened on statutory basis.

Non-Discrimination in Property Right under CEDAW

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) was adopted by the United Nations in 1979 where the main objective of the

Convention is to eliminate discrimination and place women on an equal footing with men respecting all kinds of rights and also to ensure protection from discrimination. As a signatory party to this Convention, Bangladesh also is under a liability to ensure social, financial and proprietary rights of women.

Article 2 of the Convention is clear about its requirement to the parties to make reforms and upgrade legal mechanism to eliminate all sorts of discrimination against women. beside this provision, Article 16 of the Convention exhibits the issue of marriage and family relations, asserting the equal rights and obligations of women and men with regard to property rights and other family relation and command issues. The legal status of a woman is the broadcast attention here and it is inclusive of all her rights and this is where the property right becomes relevant. Again under article 13 CEDAW recognizes women's equal rights in economic and social life.

Women's economic security and financial independence is a broad spectrum that constitutes an encompassed area of issues like management, engagement and enjoying property rights along with financial credentials. Denial of inheritance is a prominent weakness in the whole process.

The Doctrine of Representation

Traditional practice in Muslim law of inheritance was that the orphaned grandchildren were generally excluded from inheriting the property of their grandparents if their parent had died before the porosities.

The traditional position was influenced by pre-Islamic customs and greatly favored by male successors. As a result, orphaned grandchildren, especially female ones got deprived of the social and financial security in absence of their guardians which actually degraded their life standard as a human being. The doctrine of representation has brought an end to this practice recognizes that the children of a predeceased son or daughter should inherit the share their parent would have received if alive at the time the succession opened.

The Muslim Family Laws Ordinance, 1961

A landmark reform was introduced by the emergence of the Muslim Family Laws Ordinance, 1961 as it includes the doctrine of representation as a core feature of this ordinance by giving it a practical statutory form under section 4 allowing the children of a predeceased son or daughter to inherit per stripes the share their parent would have obtained if alive.

It abolishing the rigid exclusionary principle, this reform significantly updated the traditional law of inheritance rights and most importantly, to a greater extent it has a positive effect on muslim women's right to inheritance.

Respondent Categories and Research Indicators

Among the respondents, 59% were male and 41% female. And on basis of education the ratio is 56% uneducated and 44% Educated. Based on the data gathered, the breakdown of the survey provides that above 60% married women are deprived of their right to inherit property from deceased husband and around 35% women, holding the status of daughter, are deprived by their brothers from inheriting. The finding also suggests that Married women are more frequently affected by inheritance-related disputes compared to unmarried daughters.

General awareness and Knowledge about the Right

Among the female respondents, 88% were aware that Muslim women possess inheritance rights under Islamic law, while 12% had no knowledge of such rights. However, only 46% of women knew the exact share to which they were legally entitled under Shariat, whereas 54% lacked the idea about their proper share. 92% of the male respondents acknowledged that Muslim women have inheritance rights, while 8% were unaware of the legal position.

The finding clearly sets the point that detailed legal understanding about Muslim women's property right is inadequate as well as neglected. And women who could be able to get their inherited share, the process was not always smooth. Many of them are deprived on basis of quality of land or homestead some had to go through legal process. Thus the process was never fully smooth for them to get the fair share.

Deprivation Linked with Social Pressure

It is found from the brief survey that the percentage of the women who could get their inherited property is nearly 48% whereas remaining 52% have been deprived. Most of the time patriarchal psychology along with its influence on social and family sphere causes the deprivation. Lack of legal awareness, undue influence, and fear of damaging family pressure are most common variables for those who have been deprived.

Reluctance to Seek Remedies

Regarding the willful exclusion to inherit property, it is found that about 65% women lack the knowledge of requiring legal remedies. The rest though have knowledge that legal remedies can be sought, most of them avoided to seek the remedy as it involves diverse movements and the socio-cultural perspective of the country is not that much supportive for women to support them in legal battle by sole movements. About 8% women were found who actually went through the legal battle and achieved their rights.

Viewing through Male Lens

About 65% of male respondents ensured that they have distributed inherited property to the successor as per Shariah, but there also are men who did acknowledge that they denied ensuring it. Moreover, from the survey it became evident that a large number of male people tried to give a vague justification for depriving the women from their right to property.

Perception Regarding Equal Share in Property

Excluding women from their fair share is not justified as per opinion of 58% male people but when it comes to the talk about equal share in property, a tendency is observed that somehow male members of the society interlinks it as a violation of the religious rules and they even to some extent got excited over the question in practical scenario. But younger and educated respondents demonstrate reform. Overall, the issue of equal share of property for male and female actually reflects an evolving public discourse regarding gender equality and inheritance rights.

Overview of the Research Findings

The study reveals a substantial gap between the legal recognition of Muslim women's inheritance rights and their practical realization in Bangladesh. Although the Muslim Personal Law (Shariat) Application Act, 1937 guarantees women's right to inherit property, many women continue to be deprived of their lawful share. In several instances, women who inherited property did not receive the full extent of their entitled portion.

Lack of Awareness among Women

The study finds that women, to a greater extent are not having sufficient knowledge about the right they have in inherited property. Also they have gap in their knowledge regarding remedies which they can get if any difficulties arise.

Reluctance to Seek Remedies

Those who are aware of the ways to get remedy, most of the time step back to seek one because of invisible but strong influence of social and family pressure. This is an important reason that they keep being deprived by their families to get their share in the property.

Patriarchal Spectacles to Women's Right to Inherit

The patriarchal social structure of Bangladesh is driving the wheel of psychology which considers women as mere necessity in domestic and family domain, where their capability to contribute financially and educationally is neglected. Therefore they are considered as dependent human beings and their property rights also remain dependent on the male sharers.

Partial Exclusion

It is also found that not always women are excluded from their property rights in complete sense, but they are partially excluded. If they get their share, it is a common scenario that they get less valuable portion of share on the land. Again, sometimes they are not getting complete share, rather a part of their share is retained by other sharers. Again, in some cases they are deprived of their share in lieu of a lump sum amount of money for their share in the property.

Intergenerational Difference of Opinion

The Young generation, including both male and female people carries a much different viewpoint in this regard. Their thought is reformative. They hold a progressive perspective regarding Muslim Women's Right to Inheritance than the old generation. The study reveals that their thought has been upgraded from the traditional socio-economic perception of the issue.

Need for Reformation and Awareness

Overall, from the study it is clear that legal recognition alone is not sufficient to ensure the right of Muslim women in their inherited property unless accompanied with actual practice and that is also not possible unless there is sufficient institutional support as well as awareness is motivated. As a whole the society and cultural aspect needs to be reformed in this respect otherwise mere recognition is nothing but some ornamental texts.

5. Recommendations

Combination of preventive statutory mechanism as well as strict legal consequence for willful deprivation of women of their inheritance right should be introduced properly to solve the problem. Also, easy and comfortable access to legal aid can be a significant tool to ensure their right in property, so that they can claim without hesitation.

Raising Public Awareness

Public awareness campaigns and like programmes can get a good grip over social psychology. From rural to urban, different categories of people must have the opportunity to understand the basic concept of Muslim Women's Right to Inheritance and its significance in Islam as well as in day to day life of a woman. Relation between ensuring women's inheritance right and social security of women should be made understandable through educational programmes as well.

Simplifying Legal process

To seek desired remedies, women should not depend upon anybody. Thus Simplification of existing legal process may be another fruitful step to ensure their rights.

Producing positive Environment

Women are often pressurized by their family and influenced unethically to leave their right in the property. Only creation of a positive social environment can eliminate this kind of undue influence.

Financial Empowerment of Women

Protection of any kind of right is deeply connected with financial contributory factors. It is very natural that a financially independent and educated woman should be much more aware of her own rights and vocal in case of any infringements. Therefore empowerment of women through education and employment is a core means to ensure women's inheritance rights.

Strengthening Research Field

More research is needed to understand the real challenges women face in inheritance disputes. Such research can help improve laws and policies to better protect women's rights in practice.

6. Conclusion

The study reveals a significant gap between the legal recognition of Muslim women's inheritance rights and their practical enforcement in Bangladesh. Although Islamic law and the Muslim Personal Law (Shariat) Application Act, 1937, guarantee women's right to inherit property, many women continue to be deprived of their lawful share because of social pressure, patriarchal attitudes, and lack of legal awareness. The findings further demonstrate that inheritance rights are closely connected with women's socio-economic empowerment and financial security. The research also indicates growing awareness among younger, educated groups about protecting women's property rights. Therefore, effective realization of Muslim women's inheritance rights requires stronger legal enforcement, increased public awareness, and broader social reform to ensure gender justice in practice. The study further highlights that depriving women of inheritance rights not only goes against legal and religious principles but also negatively affects their social status and financial independence. In many families, social customs and traditional expectations are given more importance than the actual rules of Muslim inheritance law, which prevents women from receiving their rightful share of property. This shows the continuing gap between what the law guarantees and what women experience in reality within Bangladeshi society. At the same time, the research makes it clear that Islam itself supports justice and fairness in inheritance matters and recognizes women as independent individuals with economic rights. Therefore, the real problem does not lie in Islamic principles, but in their inadequate implementation and social acceptance. Protecting women's inheritance rights can play an important role not only in ensuring gender equality but also in improving women's financial security, family welfare, and overall social development. In conclusion, bringing meaningful change will require the combined efforts of the government, legal authorities, religious leaders, civil society, and families. Legal provisions alone cannot solve the problem unless they are supported by public awareness, education, and effective enforcement. Society must create an environment where women can freely and with dignity claim their inheritance rights, without fear, pressure, or discrimination. Only then can true justice and equality be achieved in line with both Islamic values and constitutional principles.

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