

## **Woman's Share in Inheritance: Islamic Teachings, State Law and Contemporary Pashtun Traditions in District Bannu and Lakki Marwat.**

Fida-Ur-Rahman<sup>\*</sup>, Dr. Rashid Ahmed<sup>†</sup>

### **Abstract:**

*The woman was once considered a commodity and property of her male partner that was to be used for satisfying physical needs and procreation. There was no concept of woman rights in its ideal sense for many centuries in east and the west. Though socialists and historians claim that woman was once head of the family in the agricultural age due to certain factors of that age, the plight of women throughout various phases of history is pitiful. It was when Islam came that the just rights for women were granted to them keeping in view their innate capabilities and requirement. The Islamic law of inheritance is one of such rights that accommodate and preserve economic needs of a woman in view of her rights and responsibilities as a mother, sister, daughter, and wife. Muslim states in the current age have also legislated and enforced certain laws in accordance with these Qur'anic principles. Contemporary Pashtun society, mainly a male-dominant society, indicates quite an opposite approach towards woman's share in inheritance, however. An attempt has been made in this paper to study and explore the context, factors, and impacts of the Pashtun social traditions regarding women's share in inheritance and explain the teachings of Islam based on rationality and divine wisdom and highlight the State Law in this respect as well.*

**Key Words:** Woman, Inheritance, Islam, State Law, Pashtun Traditions, Bannu, Lakki Marwat.

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<sup>\*</sup> Lecturer Islamic Studies, Department of Social Sciences, University College of Zhob, BUITEMS, Baluchistan. E-mail. fidamwt@gmail.com

<sup>†</sup>Associate Professor, Sheikh Zayed Islamic Center, University of Peshawar.

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## Introduction:

Women were considered to be second rate citizens in various societies before the advent of Islam.<sup>1</sup> Theoretically, Plato claimed gender equality, but the situation in practice was quite opposite in the then Greek society. Male had a dominating role. An imaginary woman Pandora was declared as a cause of all hardships.<sup>2</sup>

After the inception of the Prophetic era, it was witnessed that women were lifted from the degraded status by emphasizing and urging people regarding the rights women in whatever capacity they may be in, being a mother, sister, daughter, and wife. Women have equal rights like men in terms of entering into contracts, holding own property and disposing of it as they wish but within the boundaries of moral discourses of Islam.<sup>3</sup>

The Messenger of Allah (peace be upon him) neither romanticized the status of a woman by ignoring the traditional approach of history nor he initiated any feminist movement for woman's rights. He just reformed the attitude and mindset of man towards the woman in accordance with the divine injunctions and lessons of history. If women are considered to be inferior in any society or civilization, it simply means the men in that society have degraded themselves to a shameful level; otherwise, a woman cannot be considered inferior.<sup>4</sup>

After looking into the Islamic concept of economy, one can discover that there are various ways and heads of spending money for getting the pleasure of Allah and establishing a welfare state. Zakat is the redistribution of wealth among the 'present' generation and taken from those who are alive; whereas inheritance is the distribution of wealth left over by the deceased - this not only removes concentration of wealth but also ensure a peace settlement of property and wealth after a person dies.<sup>5</sup> There are a few communities which adopt the law of primogeniture in which only the eldest son inherits the wealth; On the other hand, there are some other communities that grant the entire inherited property to male members of the family only. On contrary to such man-made systems

which often forsake justice towards women and weaker members of family and clan, Islam presented a balanced and rational procedure for the distribution of inheritance, keeping in view the status and needs of all legal heirs.<sup>6</sup> Unfortunately, the contemporary Western and Eastern societies have granted only theoretical and documentary rights to women and the ground realities show quite an opposite scenario.<sup>7</sup>

One of the fundamental rights of a human being is the right to hold, inherit and own property and valuables. Islam has presented and explained a very rational law of distribution of inheritance among the legal heirs of a deceased person. Those who oppose the Islamic procedure of distribution of inheritance and declare it to be based on discrimination and injustice are actually unaware of the philosophy of Islamic law of inheritance.<sup>8</sup> One's claim of being a believer is unacceptable unless there is a consistency between his words (claim of belief) and his deeds (as per the injunction of Islam). Because whenever Allah mentions the importance of belief, He describes the conditions of good and acceptable deeds with it<sup>9</sup> as a requirement for the purity of claim and sincerity of attachment with one's Creator.

وَالْعَصْرَ إِذْ أَتَى الْإِنْسَانَ لَفِي خُسْرٍ. إِلَّا الَّذِينَ آمَنُوا وَعَمِلُوا الصَّالِحَاتِ وَتَوَّصُوا بِالنَّحْيِ وَتَوَّصُوا بِالصَّبْرِ<sup>10</sup>

*I swear by the passage of time, that man is surely in a state of loss, except for those who believe and do good deeds and exhort one another to hold fast to the Truth, and who exhort one another to steadfastness.*

The Constitution of the Islamic Republic of Pakistan does not discriminate the citizens on the basis of gender. The legislation, in the shape of Muslim Family Law 1962, has been in place for safeguarding and protecting the women rights to holding property and share in inheritance in the light of the constitutional principles. It states that "Every citizen shall have the right to acquire, hold, and dispose of property in any part of Pakistan".<sup>11 12</sup>

On one hand, Islam directs believers to abstain from inappropriate and unwarranted love for wealth

يَا أَيُّهَا الَّذِينَ آمَنُوا إِنِّي كَثِيرٌ مِّنَ الْأَخْبَارِ وَالرُّهْبَانِ لَيَأْكُمُونَ أَمْوَالَ النَّاسِ بِالْبَاطِلِ وَيَصُدُّونَ

عَنِ سَبِيلِ اللَّهِ وَالَّذِينَ يَكْنُزُونَ أَلْذَّهَبَ وَالْفِضَّةَ وَلَا يُنْفِقُونَهَا فِي سَبِيلِ اللَّهِ فَبَشِّرْهُمْ بِعَذَابٍ أَلِيمٍ<sup>13</sup>

*Believers, many religious scholars and monks wrongfully appropriate people's possessions and turn people away from God's path! Tell those who hoard gold and silver instead of giving in God's cause that they will have a painful punishment.*

أَلْهَاكُمْ أَنْتَا ثَمَّرْتُمْ حَتَّىٰ زُرْتُمُ الْمَقَابِرَ<sup>14</sup>.

*Greed for more and more distracted you [from God] till you reached the grave.*

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ إِلَّا أَنْ تَكُونَ تِجَارَةً عَن تَرَاضٍ

مِنْكُمْ وَلَا تَقْتُلُوا أَنْفُسَكُمْ إِنَّ اللَّهَ كَانَ بِكُمْ رَحِيمًا<sup>15</sup>.

*Believers, do not wrongfully consume each other's wealth, but trade with it by mutual consent. Do not kill one another, for God is most merciful to you.*

And on the other hand, it directs not to consume others properties illegally i.e. without the due permission of the owners.

وَلَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ وَتُدْلُوا بِهَا إِلَى الْحُكَّامِ لِتَأْكُلُوا فَرِيقًا مِّنْ أَمْوَالِ النَّاسِ

بِالْإِثْمِ وَأَنْتُمْ تَعْلَمُونَ<sup>16</sup>.

*Do not consume one another's property by unjust means, nor offer it as a bribe to the authorities, so that you may deliberately and wrongfully devour a part of other people's wealth.*

The findings of this research show that, in the area under study, people not only consume and occupy others properties especially of women and utilize it without taking permission and consent of the legal owners due to the dominance of male, lack of awareness regarding rights of women and excessive love of wealth and properties. It was also learnt that women have their names in the official records of the lands and properties, but they never get it

practically.<sup>17</sup> Male members of the family have more control and dominance in the financial matters than the females even though their shares are clearly mentioned in Islamic teachings and state law.<sup>18</sup> Even though it is clearly mentioned in the Qur'an that Allah's curse is on those who exceed their limits and act against the divine injunctions by following the way of Satan and accomplishing their whims and wishes.

الَّذِينَ يَصُدُّونَ عَنِ سَبِيلِ اللَّهِ وَيَبْغُونَهَا عِوَجًا وَهُمْ بِالْآخِرَةِ كَافِرُونَ .<sup>19</sup>

*Who turned people away from the path of God and sought to make it appear crooked, and who denied the Hereafter.*

The sound spirit of Islam cannot be created in believers until the awareness of Islam arises at the cultural level and merges into the social life of the people.<sup>20</sup> In fact, if their social life has nothing to do with the spirit and fundamentals of Islam then their claims of being believers are worthless.

Although some misinformed and ill-intentioned people claim that the Islamic laws are based on gender discrimination having no rationality,<sup>21</sup> the fact is quite the opposite. Every Islamic law and contents of divine injunctions have a unique consistency and compatibility with human nature.<sup>22</sup> Islam lays the responsibility of breadwinning on the shoulders of men, not on women keeping in view their biological, physiological and functional gender differences.<sup>23</sup> In fact, the Islamic laws are based on justice, rationality and in harmony with the human nature in the most suitable manner. Men and women have both been granted some distinct and some joint responsibilities so that they can complement each other instead of pushing one another from their positions or unjustly competing.<sup>24</sup> Consequently, it has charismatic attraction and appeal for the non-Muslim women of both Western and Eastern societies and they are embracing Islam rapidly despite the attempts from Western media and scholars to present a negative image of Islam.<sup>25</sup> <sup>26</sup> Most of the non-Muslim women embrace Islam after thoroughly studying the fundamentals and ideals of Islam,

especially the teachings regarding the social system and the unique distribution of rights and duties at the family level.<sup>27</sup>

### **Bannu:**

Bannu is one of the main districts of Southern *Khyber Pakhtunkhwa* province of Pakistan and is located adjacent to the tribal area of North *Waziristan*, district *Karak* and district *Lakki Marwat*. According to the available historical records, *Bannu* had an important strategic position in the tribal areas as it was used as a military base during British rule for subjugating the tribal areas. The inhabitants of the said district are known as *Banochis* and they speak a unique and specific dialect of Pashto. Main ethnic classes are *Banochis*, *Wazirs*, *Niazis*, and *Marwats*. Moreover, the ratio of Muslims is 99.5%, *Ahmadis* 0.3%, Christian 0.19% and Hindus 0.03%. 98.3% inhabitants of *Bannu* speak *Banochi* dialect of Pashto while the rest 1.03% speak Urdu and Punjabi respectively. It has a total population of 1.073 million consisting 52% male and 48% female population. 95% of the population lives in the rural areas while 5% are residing in the urban area. The total geographical area of the district is 1,227 square kilometers. It has 49 Union Councils and 2 Tehsils, Tehsil Bannu and *Domel*. Furthermore, it is famous for its drain basins of *Kurram* and *Tochi/Gambila*.<sup>28</sup>

### **Lakki Marwat:**

*Lakki Marwat* is connected with districts *Karak* in the North and Bannu in the North-West, districts Dera Ismail Khan in the South and Taank in the South-West. In the West of Lakki Marwat is South Waziristan Agency. The main ethnic classes are *Marwats*, *Banochis*, *Khattaks*, *Wazirs*, *Bhettanis*, *Niazis* and *Gandapurs*. Its population is 815000, 51% of which are males. 86% of the population lives in the rural areas while the remaining 14% are residing in the urban area. It has 33 Union Councils and 2 Tehsils, Tehsil *Lakki Marwat* and *Serai Naurang* respectively. It was created as a district on July 1, 1992. Before its designation as a district, it was a Tehsil of district Bannu.<sup>29</sup>

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## **Research Methodology:**

### **Nature of Research:**

This Research Work is empirical in nature and is mainly based on the fieldwork. Qualitative as well as quantitative research methods have been employed. Primarily, inductive method is adopted in the study to draw conclusions. The research is based on a historical, comparative and analytical approach using both explanatory and analytical methods.

### **Data Collection:**

The total population of the targeted region was estimated to be 1.073 million (in Bannu) plus 0.815 million (in Lakki Marwat). Data was collected through a questionnaire. Moreover, observations and interviews with the experts in local cultures and history were also conducted.

### **Sampling:**

The sample size for both districts was 384. 219 (149 male and 70 female) questionnaires were acquired from District Bannu and 165 (103 male and 62 female) from Lakki Marwat. This is in sync with their populations (i-e 57% and 43% respectively). 12 union councils from each district were randomly selected for field data collection. Data collection procedures were based on the population statistics considering rural and urban living ratios, main ethnic groups, social classes, gender, and age. Only married people were included in the study as the study is totally based on the domestic affairs and experiences regarding which married people can provide better insights than the unmarried people. Moreover, the research output is a product of secondary and primary data sources including published materials, books, research journals, research papers, survey reports, newspapers, magazines articles, and fieldwork. Special attention has been paid while making the questionnaire to ensure neutrality, objectivity, and suitability.

### **Data Analysis:**

Descriptive statistics such as frequency tables have been

used to analyze the data. The tables show responses of male and female members from the sample in terms of their exact numbers, their responses to the data collection instruments as well as the aggregate percentages.

## Discussion and Analysis:

Distribution of inheritance and property is one of the most problematic and frequently contested matters in contemporary Pashtun society. Most people deny giving the due share to their daughters and sisters on the basis of misconceived excuses that have nothing to do with the Islamic teachings based on rationality, justice, and humanity. It has been directed by Allah swt that there are shares of men and women in the inheritance of the deceased.

لِّلرِّجَالِ نَصِيبٌ مِّمَّا تَرَكَ الْوَالِدَانِ وَالْأَقْرَبُونَ وَلِلنِّسَاءِ نَصِيبٌ مِّمَّا تَرَكَ الْوَالِدَانِ وَالْأَقْرَبُونَ مِمَّا قَلَّ مِنْهُ أَوْ كَثُرَ نَصِيبًا مَّفْرُوضًا<sup>30</sup>.

*Men shall have a share in what parents and relatives leave behind, and women shall have a share in what parents and relatives leave behind, whether it be little or much. This is ordained [by God]:*

Furthermore, it has been explained that these shares are determined and fixed by Allah on the basis of His all-embracing knowledge and wisdom and that they should be distributed after paying the debt of deceased and fulfilling his will.

مِن بَعْدِ وَصِيَّتِهِ يَوْصَىٰ بِهَا أَوْ دِينَ غَيْرِ مَصَّارٍ<sup>31</sup>.

*After [the deduction of] any bequest you make or the repayment of any debts.*

The Will, however, cannot overrule people's due right. We know it from the practice of the companions of the beloved Messenger Muhammad, may Allah's peace and blessings be upon him, that they rejected any such will or action which was meant to disable the due heirs, especially women, from their right to inheritance. The detailed explanation of the laws of inheritance which is mentioned in the Holy Qur'an shows the importance and significance of the distribution of inheritance. Moreover, these



directives have been declared as sacred bounds fixed by the Allah Almighty. And those who ignore the Divine directives regarding the distribution of inheritance and follow their own wishes and opinions are warned of the dire consequences of their actions in the shape of disgrace and punishment on the Day of Judgment.

وَمَنْ يُعِصِ اللَّهَ وَرَسُولَهُ وَيَتَعَدَّ حُدُودَهُ يُدْخِلْهُ نَارًا خَالِدًا فِيهَا وَلَهُ عَذَابٌ مُهِينٌ<sup>32</sup>.

*But anyone who disobeys God and His Messenger and transgresses His limits shall be cast into a Fire, wherein he will abide forever. And he shall have a humiliating punishment.*

Despite all these clear instructions and warnings, women are deprived of their due share in inheritance in many areas within Pakistan.<sup>33</sup> The factors behind avoiding giving women their due shares in inheritance are based on some people's superficial excuses such as payment of dowry replacing the need to pay inheritance to women, willingly surrendering of her share (unless done in accordance with the Islamic principle of settlement within heirs in which no pressure or forced actions are involved) etc. These are all the ancestral traditions that got consolidated and cemented in the society due to centuries-long and unquestionable practice and transmission from generation-to-generation.<sup>34</sup> There is a need to educate people about the gravity of this situation. They should be informed about the correct *Qur'anic* procedure of distribution of inheritance which ensures that the due shares of daughters, wives, mothers and sisters are given to them. This is not only against the universally accepted moral values and fundamental human rights but also against the directives laid down by the Allah Almighty to deprive them of their rights. There is a possibility that people may be able to dodge the worldly courts of law and social pressures in this matter, but there is another inescapable court of justice that would be taking place on the Day of Judgment and any wrongdoings will not go unnoticed and unactioned on that day.

With this context, the following tables and the explanations that follow them, highlight the responses from the sample population of

## Bannu and Lakki Marwat.

**Table 4.4.1 Procedure of Distribution of Inheritance/Property**

<b>Q. How inheritance/property is distributed in your family?</b>						
District	Variable	Male responders	%	Female responders	%	Aggregate
Bannu	<i>As per Shariah</i>	31	38.27	21	28.76	52 (33.76%)
	As per court decision	11	13.58	13	17.80	24 (15.58%)
	<i>As per Jirga decision</i>	6	7.40	2	2.73	8 (5.19%)
	<i>Khangi Wesh</i>	33	40.74	37	50.68	70 (45.45%)
Lakki Marwat	<i>As per Shariah</i>	23	43.39	13	29.54	36 (37.11%)
	As per court decision	5	9.43	4	9.09	9 (9.27%)
	<i>As per Jirga decision</i>	7	13.20	6	13.63	13 (13.40%)
	<i>Khangi Wesh</i>	18	33.96 %	21	47.72	39 (40.20%)

As the figures show, 33.76% people in Bannu and 37.11% people in Lakki Marwat among the well-off families distribute inheritance and property on the basis of principles laid down by Islam. 15.58% families in Bannu and 9.27% families in Lakki Marwat distribute inheritance/property through courts. 5.19% in Bannu and 13.40% families in Lakki Marwat distribute inheritance/property through Jirga (it is basically a body of tribal elders who decide issues and disputes and they have the capacity of implementing the decisions taken by them). 45.45% families in Bannu and 40.20% families in Lakki Marwat distribute inheritance/property through

*Khangi Wesh* (it is done by the tribal elders as per their own understanding and expertise without consulting the Islamic sources.).

**Observation and Analysis:** As the figures show that only 33.76% families in Bannu and 37.11% in Lakki Marwat follow the Islamic procedure of inheritance/property distribution. The main reason for not adopting Islamic procedure of inheritance/property distribution is that 76.25% families in Bannu and 78.18% in Lakki Marwat (as the Table shows) do not grant share to women in inheritance/property. Islam specifies shares for all the close relatives based on clearly stipulated conditions.

It is mentioned in the holy Qur'an directing the honest and true believers that; Allah enjoins you that a male shall receive a share equivalent to that of two females.

يُوصِيكُمُ اللَّهُ فِي أَوْلَادِكُمْ لِلذَّكَرِ مِثْلُ لَلْأُنثِيَيْنِ فَإِن كُنَّ نِسَاءً فَوْقَ اثْنَتَيْنِ فَلَهُنَّ ثُلُثَا مَا تَرَكَ وَإِن كَانَتْ وَاحِدَةً فَلَهَا النِّصْفُ وَلِأَبَوَيْهِ لِكُلِّ وَاحِدٍ مِّنْهُمَا الشُّدُسُ مِمَّا تَرَكَ إِنْ كَانَ لَهُ وَلَدٌ فَإِن لَّمْ يَكُنْ لَهُ وَلَدٌ وَوَرِثَتْهُ أَبَوَاهُ فَلِأُمِّهِ الثُّلُثُ فَإِن كَانَ لَهُ إِخْوَةٌ فَلِأُمِّهِ الشُّدُسُ مِن بَعْدِ وَصِيَّتِهِ يُوصَى بِهَا أَوْ دِينِ آبَائِكُمْ وَأَبْنَاؤُكُمْ لَا تَدْرُونَ أَيُّهُمْ أَقْرَبُ لَكُمْ نَفْعًا فَرِيضَةٌ مِّنَ اللَّهِ إِيَّاكَ اللَّهُ كَانِ عَالِمًا حَكِيمًا. وَلَكُمْ نِصْفُ مَا تَرَكَ أَنْوَأُكُمْ إِنْ لَّمْ يَكُنْ لَّهُنَّ وَلَدٌ فَإِن كَانَ لهنَّ وَلَدٌ فَلِكُمْ أَلْرُبُّهُ مِمَّا تَرَكَنَّ مِن بَعْدِ وَصِيَّتِهِ يُوصِينَ بِهَا أَوْ دِينِ وَلهنَّ أَلْرُبُّهُ مِمَّا تَرَكَنَّ إِنْ لَّمْ يَكُنْ لَكُمْ وَلَدٌ فَإِن كَانَ لَكُمْ وَلَدٌ فَلَهُنَّ الثُّمُنُ مِمَّا تَرَكَنَّ مِن بَعْدِ وَصِيَّتِهِ تُوَصَّوْنَ بِهَا أَوْ دِينِ وَإِن كَانَ رَجُلٌ يُورَثُ كَلَالَةً أَوْ أَمْرًا وَلَهُ أَخٌ أَوْ أُخْتٌ فَلِكُلِّ وَاحِدٍ مِّنْهُمَا الشُّدُسُ فَإِن كَانُوا أَكْثَرَ مِن ذَلِكَ فَهُمْ شُرَكَاءُ فِي الثُّلُثِ مِن بَعْدِ وَصِيَّتِهِ يُوصَى بِهَا أَوْ دِينِ غَيْرِ مُصَارٍ وَصِيَّتِهِ مِّنَ اللَّهِ وَأَللهُ عَلِيمٌ حَلِيمٌ.

*Concerning your children, God enjoins you that a male shall receive a share equivalent to that of two females. But if there are more than two females, then their share is two-thirds of the inheritance. If there is only one, she will receive the half. Each of your parents receives a sixth of what you leave if you have children. If you are childless and your heirs are your parents, your mother receives a third. If you have brothers [or sisters] your mother*

*receives a sixth, after [the deduction of] any bequest you make or the repayment of any debts with regard to your father and your sons. You do not know which of them is going to benefit you more: but this fixing of portions is by God and He is all knowing and all wise. You will inherit half of what your wives leave, provided they have left no children. But if they leave children then you inherit a quarter of what they leave, after payment of any bequests they may have made or any debts they may have incurred. Your wives shall inherit before they come of age. If the guardian is affluent, let him abstain altogether, and if he is poor, let him have for himself what is just and reasonable. When you hand over their property to them, call witnesses in their presence; God is sufficient as a Reckoner. Men shall have a share in what parents and relatives leave behind, and women shall have a share in what parents and relatives leave behind, whether it be little or much. This is ordained [by God]. If other relatives, orphans or needy people are present at the time of the division, then provide for them out of it, and speak kindly to them. Those who are concerned about the fate of their own helpless children if they should die and leave them behind should show the same concern for orphans. Let them fear God and uphold justice. Those who consume the property of orphans unjustly are actually swallowing fire into their own bellies; soon they will burn in the blazing Flame. One-quarter of what you leave if you are childless. But if you leave children, your wives shall inherit one eighth, after payment of any bequest or debts. If a man or woman has no direct heirs [neither children or parents] but has left a brother or a sister, they shall each inherit one-sixth, but if they are more than two, they share one third between them, after payment of any bequests or debts, so that no harm is done to anyone. That is a commandment from God: God is all knowing and forbearing.<sup>35</sup>*

Five legal injunctions have been directed in the above-mentioned verses of the Qur'an; firstly, it is not only the men who can have share in inheritance; women have their shares too. Secondly, inheritance must be distributed irrespective of whatever the amount

and value of inheritance is. Thirdly, the law of inheritance is applicable on all kinds of properties whether moveable or immovable, agricultural or industrial etc. Fourthly, the right to inheritance only emerges when the owner of the property dies and leaves some property. Fifthly, the distant relatives will not be entitled to share in inheritance in the presence of nearer relatives.<sup>36</sup> The share of a (close relative) male is greater than female because he has to fulfill two additional responsibilities. However, in the presence of more closely related female members of the family, their rights are more than those of men. Accordingly, in Islamic law, women can enjoy more shares in inheritances as compared to men depending on conditions. As the man has to pay Maher to his wife, and he is also responsible for earning and livelihood of his family, in certain situations, close male members of the family are entitled to have higher shares under certain conditions.<sup>37</sup>

It has been further indicated that;

وَلِكُلِّ جَعَلْنَا مَوَالِي مِمَّا تَرَكَ الْوَالِدَاتُ وَالْأَقْرَبُونَ وَالَّذِينَ عَقَدَتْ أَيْمَانُكُمْ فَآتُوهُمْ نَصِيبَهُمْ  
إِنَّ اللَّهَ كَانَ عَلَى كُلِّ شَيْءٍ شَهِيدًا<sup>38</sup>.

*We have appointed heirs for everything that parents and close relatives leave behind. As for those with whom you have entered into agreements, let them, too, have their due. God is witness to all things.*

**Table 4.4.2 Women Share in Inheritance/Property**

<b>Q. Do you grant share to women in inheritance and property?</b>						
District	Variable	Male Responders	%	Female Responders	%	Aggregate
Bannu	Yes	31	27.19	21	20	52 (23.74%)
	No	83	72.80	84	80	167 (76.25%)
Lakki Marwat	Yes	23	26.74	13	16.45	36 (21.81%)
	No	63	73.25	66	83.54	129 (78.18%)

As the Table 4.4.2 shows that 23.74% people in Bannu and 21.81% people in Lakki Marwat grant share to the women in inheritance/property while the massive 76.25% families in Bannu and 78.18% families in Lakki Marwat do not grant share to the women in inheritance/property.

**Observation and Analysis:** Those who grant share to the women reported that it is religious duty of every believer to grant due share to women in inheritance/property because it has been specified in Qur'an by Allah Almighty.

However, the attitude of those who do not grant their shares to women is what the Qur'an has strictly criticized in the following verses and warned those who deny the truth and invent falsehoods about God. It has been further mentioned that most of them do not use their reason:

وَإِذَا قِيلَ لَهُمْ تَعَالَوْا إِلَىٰ مَا أَنْزَلَ اللَّهُ وَإِلَىٰ الرَّسُولِ قَالُوا حَسْبُنَا مَا وَجَدْنَا عَلَيْهِ آبَاءَنَا أَوْ لَوْ  
كَانَ آبَاؤُهُمْ لَا يَعْلَمُونَ شَيْئًا وَلَا يَهْتَدُونَ<sup>39</sup>.

*When it is said to them, 'Come to what God has sent down and to the Messenger.' They reply, 'The faith we have inherited from our fathers is sufficient for us.' Even though their forefathers knew nothing and were not guided!*

The fact is very clearly stated in the above-mentioned verses of the Holy Qur'an. Same is the case with most of the families who deny the share of the female in inheritance and deprive them of their rightful share on the basis some lame and superficial excuses. It shows that still, their standard criterion regarding various issues is the customs and traditions of their forefathers instead of the Divine commandments revealed in the Holy Qur'an.

Furthermore, the Holy Qur'an has declared such people like cattle who do not use their reason and follow their own desires instead of the teachings of Allah:

أَرَأَيْتَ مَنِ اتَّخَذَ إِلَهَهُ هَوَاهُ أَفَأَنْتَ تَكُونُ عَلَيْهِ وَكِيلًا. أَمْ تَحْسَبُ أَنَّ أَكْثَرَهُمْ يَسْمَعُونَ  
أَوْ يَعْقِلُونَ إِنْ هُمْ إِلَّا كَالْأَنْعَامِ بَلْ هُمْ أَضَلُّ سَبِيلًا<sup>40</sup>.

*Have you seen him who has taken his own desire to be his god? Can you be a guardian over him? Do you think most of them can hear or understand? They are like cattle. Indeed, they are even more astray”.*

A poet has stated such a mindset very beautifully;

پہ اسلام بانڈے د خپلہ سرہ تیر یو      چی د مال خبرہ راشی پہ شا کیگو  
پہ حجونو تبلیغونو ڈیر مین یو      خور چی خپلہ برخہ غواڑی خفہ کیگو.<sup>41</sup>

[We devote our lives for the sake of Islam but if there is a matter of money then we turn back. We are devotees of pilgrimages and preaching but we mind it if our sister asks for her share (in inheritance)]

**Table 4.4.3 Reasons for Not Giving Share in Inheritance /Property**

<b>Q. What are the reasons for not giving a share to women in inheritance/property?</b>						
District	Variable	Male Responders	%	Female Responders	%	Aggregate
Bannu	Having no property	33	39.75	32	38.09	65 (29.68%)
	Pashtun culture	27	33.33	29	34.52	56 (33.93%)
	Women do not demand so	13	16.04	17	20.23	30 (18.18)
	Jahez was paid	10	12.34	6	7.14	16 (9.69%)
Lakki Marwat	Having no Property	33	52.38	35	53.03	68 (52.71%)
	Pashtun culture	19	30.15	21	31.81	40 (31%)
	Women do not demand	7	11.11	6	9.09	13 (10.07%)
	Jahez was paid	4	6.34	4	6.06	8 (6.20%)

The figures mentioned in table 4.4.3 show that 29.68% families in Bannu and 52.71% families in Lakki Marwat do not give a share to

women because of not having distributable inheritance and property. 33.93% families in Bannu and 31% families in Lakki Marwat did not grant share to women due to their families' traditions based on the centuries-long practice of their forefathers. 18.18% families in Bannu and 10.07% families were having inheritance and property but they did not grant the share to women on the basis of lame and superficial excuses that women did not demand their share in inheritance and property.

**Observation and Analysis:** The fact is that their share must be given even if apparently they do not demand. The reason of not demanding the share in inheritance and property is that they are afraid of the family boycott that is an inevitable result in case the women demand their share. 9.69% families in Bannu and 6.20% families in Lakki Marwat did not pay the due share in inheritance and property to women on the basis of the irrational and illogical excuse that they paid their share to them in shape of dowry (*Jahez*) while the fact is that they do not present the same excuse while granting share to their sons, because they spend more resources on the wedding of their sons as compared to their daughter.

Devouring properties and shares of women in inheritance illegally, without their prior permission and by depriving them of their due share is something illegal as per the commandments put forth by the Qur'an and Hadith. Qur'an clearly prohibits devouring and utilizing properties of others without their prior permission and in an unfair way.

وَلَا تَأْكُلُوا أَمْوَالَكُم بَيْنَكُم بِأَبْطَالٍ .<sup>42</sup>

*Do not consume one another's property by unjust means.*

In fact, illegal and impure property also distorts the purity of property that is gained through legal means.<sup>43</sup>

A Hadith clarifies status of such an illegal property in the following words;

عن جابر (رضى الله تعالى عنه) قال قال رسول الله (صلى الله عليه وسلم) لا يدخل الجنة



لحمر نبت من السحت وكل لحم من السحت كانت النار اولى به<sup>44</sup>

*Hazrat Jabir (Allah be pleased with him) reports that Messenger of Allah (peace be upon him) said that the flesh and body will not enter the paradise that had been brought up by illegal (Haram) means. And such a flesh and body are more entitled to Hell that had been brought up by illegal (Haram) means.*

عن ابي هريره (رضى الله تعالى عنه) قال قال رسول الله (صلى الله عليه وسلم) ياتي على الناس

زمان لا يبالي المرئى ما اخذ منه من الحرام امر من الحرام<sup>45</sup>

*Hazrat Abu Huraira (Allah be pleased with him) reports that Messenger of Allah (peace be upon him) said that an age is proceeding on the people when they will not take care of the legality (Halal) and illegality (Haram) and validity (Jaez) and invalidity (Na'Jaez) of the property they are taking.*

### **Findings:**

1. Most of the people do not pay the due and legal share to women due to illiteracy, male dominance, cultural and ancestral traditions.
2. Cultural and ancestral traditions play a more dominant role in contemporary Pashtun society of district Bannu and Lakki Marwat in case of inheritance than the true teachings of Islam.
3. Most of the women do not know about their legal rights due to illiteracy and lack of social exposure.
4. State Law is mostly ignored and violated due to lack of implementation and punishments to the violators.

### **Recommendations:**

1. People should be informed and educated about the legal share granted by Islam and safeguarded by state law.
2. Islamic teachings regarding inheritance should be explained with wisdom and rationality so that it not only minimizes the level of attachment with wealth and valuables, but also help

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people look beyond the intensity of cultural and ancestral traditions.

3. Women should be educated and informed about their legal rights by launching awareness campaigns through print and electronic media.
4. Pulpit and mosque should be engaged in educating the masses, especially male members of the society, regarding the reality and importance of women's share in inheritance as recommended by Islam and the misfortunate and grievous fate on the Day of Judgment for those who violate such just Islamic teachings.

### **Conclusion:**

Islam is the voice of human nature. Whatever Islam presented, can be practiced practically, with utmost convenience and without any inconsistency and conflict with the human nature. Inconsistency and conflict only take place when something from the outside world and against the human nature is imposed. Some of the cultural and ancestral traditions may possibly be based on rationality and wisdom, but it has no value in case they have any incompatibility with the teachings of Islam. Islamic law of distribution of inheritance guarantees smooth, peaceful and productive social interaction between blood relations. It is further safeguarded and protected by the State Law that needs to be implemented and enforced in the wide interest of the citizens.

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