

# *The Status of Women's Legal Right to Inheritance in District Buner*

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## Abstract

*The women's legal right to inheritance is a legal as well as a serious problem in District Buner, KP. The main focus of this research article is that by what means to investigate and elucidate the women's legal right to inheritance. The method of this study is based on analytical and quantitative approach. The study concludes that the majority of women are not given their legal right of inheritance willingly and are being deprived due to illiteracy, frauds, and Pashtun culture, despite the fact, that Islam has fixed the right of share in the inherited property for women. Moreover, it is of great significance to take vigilant steps and implement rules and laws at national level to vanquish this problem.*

**Keywords:** *inheritance, Pashtun culture, Islamic law, national laws, District Buner*

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## **Introduction**

Pakistan is the sixth most populous country in the world and second in South Asia, while women constitute 49 percent of Pakistan, (2017, census). It shows the importance of women being an integral part of society. But in male dominant society; women are deprived of their legal entitlement to the inheritance which is against the Sharia and law of the land (*Ghulam Ali v. Mst. Ghulam Sarwar Naqvi (1990) PLD (SC) 1 (Pak.)*). It is observed in many Muslim societies that women are being deprived of their right of inheritance after the death of their parents. This is largely due to the negligence of Islamic as well as national laws on the subject<sup>1</sup>. This situation is worse in rural areas of Pakistan, where 80% of the female population lives, and female rights of inheritance are not protected and enforced as required by Islamic law. Cases of a similar nature come to different courts and even to the Supreme Court. But very few dare to come to court for their enforcement of inheritance rights (*Mst. Hameedan Bibi v. Muhammad Sharif (2010) C.R No. 3264 (LHC) (Pak.)*). This deprivation has, unfortunately, put women at a very disadvantage stage in many ways which ultimately creates an imbalance rate of participation in economic, social, and political activities. And in Pakistan, the deprivation of women from inheritance is becoming a major issue in society, especially when the daughters are denied the rights after the demise of their parents<sup>2</sup>. Despite the fact, that the principle of inheritance has been stated in the Holy Quran as one of the fundamental rights of a person.

It is also important that generally Islamic as well as Pakistani law makes it mandatory to give a share of inheritance to daughters and wives and there is no exception to keep females deprived of any inherited property<sup>3</sup>. Islam which is a practical and rational religion has placed more stress on women's right, protection, and dignity and particular their role as mother, sister, and wife. They are given so much importance that it is said that paradise lies under the mother's feet. A good wife is considered a great wealth of the world and a daughter is a blessing of Allah<sup>4</sup>.

District Buner is a tiny forest and mountain area in the Malakand Division of Khyber Pakhtunkhwa province. It is one of the largest marbles producing areas of Pakistan and is famous for different Mazars of pious personalities such as Pir Baba, Dewana Baba, Shalbandi baba, Sarmalang, etc. District Buner was a part of the former princely state of Swat. Which was subsequently merged with Pakistan in 1969 and District Buner got the status of an independent district in 1991.

Before the merger of District Buner with Pakistan, the area was governed by the rules of Riway (customary law) for land ownership. According to this rule, the land can be owned and inherited by the male member of the society and the women had no such right. If there was no male descendent, then the property used to pass to the patrilineal male heirs or the near agnates. While the Islamic right of the woman to ownership and inheritance was not recognized<sup>5</sup>. Women were likewise subjected to restrictions when it came to

receiving land in Mahar. If they own some land with it, they merely have rights to its products. They can neither sell it nor mortgage it. And if she dies, leaving some property, the whole property went to her son and if there was no son, the husband was entitled to receive the property. The daughters in this case were also deprived of their right to inheritance. Indeed, Wali Sahib (The previous ruler of Swat) denied allowing authorization to the men who looked for his consent to donate to their ladies' share of legacy. This shows that, if someone wanted to give women a share of the inheritance, he has to take permission from the Wali Sahib.<sup>6</sup>

When the state of swat was merged with Pakistan in 1969, the Riway and its rules of it were retained for land ownership and inheritance (under section 7 of Regulation I of 1969). But On 15 January 1976, The West Pakistan Muslim Individual Law (Shariat) Application Act, 1962 was amplified to area Swat (at that time area Buner was moreover portion of swat) beneath the Provincially Managed Tribal Ranges (Application of Laws) Control, 1975 (NWFP Direction I of 1976 (*Mst. Shahi Lal v. Khurshid Ali* (2012) C.R. No. 90-M (PHC) (Pak))). It eventually permitted females to prospectively inherit property.

The extension of this act and land settlement which was to be passed out by the Provincial Revenue Department, in the 1970s and 1980s, was supposed to carry the changes in the record. If there was any land that had to be exchanged within the names of legitimate legatees, the female names were also required to be entered along with it<sup>7</sup>.

However, in 1990, the landmark decision of the Supreme Court further paves the way for the protection of women's right to share an inheritance. The honorable superior court held the view that the scope of the right of inheritance is so wide and strong that the court has to protect and enforce it. Similarly, the honorable Supreme Court has also declared that if a deal is made based on a deed on the part of females who are either Purdah Nashin or illiterate, and even though the deed is registered, still the problem of confirmation will untruth happening on the beneficiaries.

However, the recent judgments of the honorable Supreme Court make clear and prescribe a general rule that if an inheritance mutation was not challenged by the deceased plaintiff during her lifetime, then the legal heirs of such lady cannot claim such share being barred by the law (*Muhammad Rustam v. Makhan*, (2013) SCMR 299 (SC) (Pak.)).

Anyhow, after the General Retired Musharraf era, the law on the subject is quite clear and there is no justification left for depriving a woman from her right to share in the inherited property. But still, the situation has not considerably improved in the area. Because, according to Khalid Zaman, a record keeper of the District judiciary of District Buner, approximately 1300 inheritance-related cases are pending in lower courts in Buner, while approximately 800 inheritance-related cases are pending before District and Session judges for appeals. It shows that the women in district Buner receive very little in their legal share of the inheritance. There are small bunches of the

population who are willing to give the women a share in the property in district Buner. The majority of them ultimately knock on the door of the court for their right of inheritance.

The present study is designed to analyze the statutes of women's inheritance right in district Buner. The data has been ascertained from those different samples of the population who filed court cases for getting their legal right to share in the property. The study will also analyze the Islamic system of distribution of inherited property to women and different provisions of the law in Pakistan that protect women's right to property and inheritance.

### **Methodology**

The research study was carried out with the main objective of highlighting women's right of inheritance status in the area. And to study what factors were responsible for the denial of women's right of inheritance in district Buner that ultimately led them towards filing court cases for their claim. For this purpose, the study follows the quantitative mode of research. The data was collected randomly from 30 respondents who had filed court cases for their right of inheritance in different civil courts of district Buner and an interview schedule having different questions with different options to be answered, was developed to collect relevant information from the respondents. The collection of data was ascertained through three different sources as due to cultural norms direct access to the female was not possible, 10 cases were directly obtained from the plaintiff, 10 from their male representatives, and 10 cases data are obtained from the lawyers who are representing them in the court. Besides this, the Holy Quran, Sunnah (the hadith of Hazrat Muhammad (PBUH)) and Tafsir (the understanding of the Holy Quran), different research papers, newspapers, and survey reports are also referred to in this research. Lastly, special attention has been paid to ensuring neutrality.

### **Islamic Distribution of Inherited Property of Women**

District Buner is a part of Pakistan and Pakistan is an Islamic state where almost all laws and rules derive their force from Islamic teachings. Therefore, the Islamic law on inheritance also needs to be examined. Most importantly, the customary laws are disgraceful to the status of women. Women felt that if Islamic law of inheritance is enforced rather than Jirga law, their right to assets and legacy would be more affirmed and protected (Hayat Khan, 2020). The science of learning the Islamic system of inheritance is called Faraid. The Faraid is derived from the verses of the Holy Quran and Sunnah of Prophet Muhammad (SAW) (Chowdhury 1964). Islam has given and described a very comprehensive and rational distribution of inherited property among the legal heirs after the death of a Muslim person (Ur Rahman 2018). The learning of Faraid has great importance in Islam and the prophet Muhammad (SAW) said that "Learn about the inheritance and teach it, for it is half of knowledge, but it will be forgotten. This is the first thing that will be taken away from my nation." (Ibne Majah, Chapter: 26, The Chapters on Shares of Inheritance, 34 Ahadith in this chapter, page 1 of 4).

The Holy Quran has prohibited the use and utilizing the property of another without his consent.

*"Do not consume one another's property by unjust means" (Al Qur'an, 2:188)*

Similarly, Allah (SWT) directs that there are shares of men and women in the inheritance of the deceased. Allah (SWT) says in the Holy Quran:

*"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)" (Al-Quran, 4:7).*

This verse of the Holy Quran shows that both men and women have a fixed share in the property of their parents and relatives after their death whether the property is little or much, and no one can be denied this right.

Similarly, Holy Quran has clearly and comprehensively discussed the rules for the distribution of property to the heirs. And as our topic is related to the rights of women, we will discuss only the rights of women as inheritors of the property of male relatives.

### **Inheritance of Daughter**

*"God enjoins you about your children that a boy's share is equal to that of two girls. And, if there are only girls among the children and they are more than two, then they shall receive two-thirds of the inheritance, and, if there is only one girl, then her share is half" (Quran, 4:11).*

This verse identifies that the share of a son is rise to two girls and if in case there is no son, at that point the daughter will get half of the property. However, in case there is more than one girl, at that point their share will be two-thirds of the property. The rest of the property will be shared by others. In case, there's as it was one son, he is entitled to all the property (Uthaimin 1983, p. 45).

### **Inheritance of Mother**

Similarly, the share of the mother is also mentioned in the Holy Quran in the following verse.

*"And if the deceased has children, then the parents shall inherit a sixth each, and if he has no children and only the parents are his heirs, then his mother shall receive a third, and if he has brothers and sisters, then the mother's share is the same one-sixth after the payment of any legacies he may have bequeathed and after discharging any debts he may have left behind" (Al-Quran, 4:11).*

This verse of the Holy Quran says that if the deceased has children, then the share of both father and mother is one-sixth of the property. However, if the deceased has no children and his parents are his only heir, then the mother will receive a third of the property and if he has brothers and sisters, then she is entitled to one-sixth of the property.

### **Inheritance of Wife**

Similarly, Holy Quran has also prescribed the share of the wife. The Holy Quran says that

*"Your wives shall inherit a quarter of what you leave if you die childless. If*

*you have children, then they shall inherit one-eighth, after payment of any legacies you may have bequeathed, and after discharging any of your outstanding debts” (Quran 4: 12).*

This verse of the Holy Quran entitles the wife to receive one-fourth of the property if her husband has no children. However, if the husband has the children, then she will receive one-eighth of the property after the payment of the will and discharging of any outstanding debt.

Furthermore, the Holy Quran has also prescribed the rules for the share of a sister in the property of her brother.

*“Allah gives you a ruling concerning one having neither descendants nor ascendants as beneficiaries. “If a man dies, leaving no child but only a female sibling, she will have half of what he left. And he inherits from her if she dies and has no child. But if there are two female siblings or more, they will have two-thirds of what he left. If there are both male siblings and female siblings, the male will have the share of two females. Allah makes clear to you His law, lest you go astray. And Allah is Knowing of all things” (Quran, 4:176).*

This verse of the Holy Quran says that a sister will get half of the property in the property of her brother if he has no child or parents while if there are two or more sisters, then they will get two-thirds of the property.

From the above, we can conclude that the share women in whatever relationship with male relatives are fixed and clear. And there is no excuse for the deprivation of their rights from the inheritance in Islam.

### **The Protection of Women's Rights of Property under different Pakistani Laws**

In this heading, the protection of property rights of women under different rules and regulations enacted by Pakistan will be discussed. As already discussed, Pakistan is an Islamic state and most of the laws derive their force from Islamic laws. Similarly, Pakistan also follows Sharia rule on the division of inherited property and its protection under different rules and regulations. The different provisions for the protection of women's rights in Pakistan will be discussed in the following headings.

#### **Constitution of 1973**

The constitution of Pakistan which is the supreme law of the state safeguards the fundamental rights of every citizen of the state. The Constitution of 1973 was passed by the government of Zulfikar Ali Bhutto, Pakistan People's Party (1970-1977) who was characterized by his marked development in feminist awareness. The constitution incorporated fundamental rights which banned all sorts of discrimination, especially in employment, based on sex, caste, and religion<sup>8</sup>.

Article 8 of the constitution declares that any law, custom, or usage having the drive of law which is in discrediting with the basic rights of the constitution will be considered void. Article 24 is about the protection of property rights including (inheritance rights) of a person and says that no person shall be deprived of his property except under the law. And most importantly, article 25 of the constitution ensures the equality of all citizens

including women and children before the law and their entitlement to equal protection of the law (*Farhan Aslam v. Mst. Nuzba Shaheen* (2018) CP No.4459 (SC) (Pak.)).

### **Pakistan Penal Code**

Section 498A of PPC, which was inserted by the Prevention of Anti-Women Practices (Criminal Law Amendment) Act 2011, with the exception to overcome women's marginalization in terms of legacy and included three modern offenses against females in the PPC. The section expressly and specifically warns against depriving a woman of her right of inheritance or unfair and biased division of inherited property and its consequences. The text of the section says:

*"Whoever by deceitful or, illegal means deprives any woman of inheriting any movable or immovable property at the time of opening of succession shall be punished with imprisonment for either description for a term which may extend to ten years but not be less than five years or with a fine of one million rupees or both" (This section was inserted under Criminal Law (Amendment) Act, 2011 Chap# XX-A PPC).*

The section covers all aspects whether by deceiving, fraud, or any illegal means of depriving a woman of her right of inheritance and if someone does, he shall be punished with imprisonment for the term from ten to five years or with a fine of one million rupees or both.

### **The Muslim Family Laws Ordinance 1961**

The act was enacted by General Ayub Khan in 1961 for the modification of existing laws of Pakistan regarding women in line with the United Nations Conventions on Human Rights, because of the adaptation of the Convention on the Consent to Marriage and Minimum Age for Marriage and Registration of Marriage in 1950 and the Convention on the Political Rights of Women in 1953<sup>9</sup>.

Under the Islamic law of inheritance, the children are not entitled to receive an inheritance if their father dies during their grandfather's life (Abdul Huq, 2010). Subsequently, this act was passed to give to the children the right of inheritance in case their father dies during the lifetime of his father. It is to preserve the interest of the orphaned grandchildren in the property of his father<sup>10</sup>. The text of the act says:

*"In the event of the death of any son or daughter of the propositus before the opening of the succession, the children of such son or daughter, if any, living at the time the succession opens, shall per stirpes receive a share equivalent to the share which such son or daughter, as the case may be, would have received if alive" (Section 4 of MFO 1961).*

But, this provision of the act is controversial and has been challenged many times in different cases on the grounds of do not align with Islamic law. In (*Allah Rakha v. Federation of Pakistan and others* (2000) PLD (FSC) 1 (Pak.)), Federal Shariat Court held that

*"Section 4 was opposite to the orders of Islam conjointly coordinated the President of Pakistan to require steps to bring it in toeing the line to the directive of Islam. A plea against this verdict is still pending earlier the*

### **West Pakistan Muslim Personal Law (Shariat) Application Act, 1962**

This act was promulgated on the 31st of December 1962 and was made as a rule of decision, in the matters of inheritance, despite any custom or usage having enforceability for the time being in the society. (*Abdur Rehman v, Mosam Khan (2010) CR No.64-B (Pak.)*).

This act was passed in reaction to the request to substitute the customary with Muslim Personal Law since females needed to hand off on Sharia distribution of property rights which are denied by customary law. As their rights to property and inheritance will be more confirmed<sup>11</sup>.

Section 3 of this act says that all the restricted lands which are held by a female beneath any custom or law were ended and the life lands so ended under Section 3 of the Act, by operation of law, were to delegate in the compatibility of Section 5 of the Act, on such individuals who were entitled to succeed beneath the Muslim Personal Law, upon the death of last complete proprietor. The restricted lands which are held by all the Muslim females under any custom were ended by operation of law and were reestablished to the real lawful legatees of the last complete proprietors (*Abdur Rehman v, Mosam Khan (2010) CR No.64-B (Pak.)*).

This act was made applicable to the Provincially Administrated Tribal Areas (PATA) through Regulation No. (1 of 1976), but the previous operation of any law, instrument, custom, or usage had been saved through the insertion of Section 7(2) (a) of the Regulation *ibid*. And, the act was not given retrospective effect to the former state of swat, which means that all women who were deprived of their right to inheritance before this act were not given the right to share in the property (*Mst. Shahi Lal v. Khurshid Ali 2012 CR No. 90-M (PHC) (Pak.)*).

### **Data Analysis**

The researcher ascertained the data using questioner. The questionnaire was created in English, but it was translated to the participant in the local language that is Pashto. The interview with the participant took 10-15 minutes. The questionnaire also contained the case title and the court name where the case was pending or decided by it. And as already discussed, it was not possible to take interview directly with the participants who are females, so the researcher was able to take 10 interviews directly with the participant as most of them were old-aged females and was also relatives of the researcher. The next 10 interviews related to the court cases, were ascertained from the plaintiff's male representatives who are mostly the son or husband of the participant. And the rest of the interviews were taken from the lawyers who were representatives of the participant in the court and had enough information about the case. But, it has to be noted that the paper is based only on the information of those cases which are either pending in different courts in the district or decided by them.

**Table of Information Obtained from Questioner**

<b>S.No.</b>	<b>Statement</b>	<b>Option 1</b>	<b>Option 2</b>	<b>Option 3</b>	<b>Option 4</b>
1	The education of the plaintiff	Uneducated 24	Primary 4	Matriculate 2	HSSC (0)
2	The plaintiff has a legal share in the property, she sued the court for	Agree 14	Disagree (0)	Strongly agree (16)	Uncertain (0)
3	Relationship of the plaintiff with the defendant	Full sister 23	Half-sister 3	Mother 1	Wife 3
4	The defendant illegally and without the consent of the plaintiff transferred the inherited property to his name	Agree (02)	Disagree (10)	Strongly Agree (17)	Uncertain (1)
5	The defendant compelled the plaintiff to transfer the inherited property to him	Agree 02	Disagree (20)	Strongly agree (06)	Uncertain (02)
6	Plaintiff's claim of her legal share led to a	Agree (3)	Disagree (2)	Strongly Agree (24)	Uncertain (1)

	social boycott and created conflict between the family				
7	The plaintiff has a history of proper distribution of inherited property	Agree (07)	Disagree (18)	Strongly Agree (03)	Uncertain (02)
8	The reason for not giving a due share of inheritance to the plaintiff	Dowry 3	Having no property 11	Pashtun culture 15	With no reason 1
9	Educational status of the defendant	Uneducated 12	Primary 8	Matriculation 5	Graduate 5
10	Motivation for filing the suit	Her own 05	Blood relatives (24)	Other people (1)	NGOs (0)
11	Marital status of Plaintiff	Married (30)	Unmarried (0)	Engaged (0)	None (0)
12	The suit is filed after the death of the parents	Agree (0)	Disagree (0)	Strongly agree (30)	Uncertain (0)
13	The statuses of claimed property	Paternal (26)	Maternal (1)	Husband (3)	Uncertain (0)

**Results and Discussions**

Serial 1 of the table is related to the educational background of the

plaintiff. The educational background of the one, who filed the court case against the defendant, is in a very deplorable state. The majority of the female respondents that was 80%, were uneducated. They had no understanding of how to write and read. Only 13% of respondents had an education up to the primary level. It means that they were able only to read and write. While 6% of the respondent have educational background up to matric level and there was no single respondent who had an educational background higher than matriculation.

Education is supposed to empower and enlighten women by providing them a chance to learn and use their rights in domestic, economic, social, and political aspects (Khurshid, 2012). The honorable Supreme Court in its judgment has declared that if a female is *Pardah Nashin* or illiterate and even she has made a registered document or deed in favor of a male, the burden of proof would lie on the beneficiary of the deed, Lahore, pp. 580-85). So, it can be assumed from the result that one of the main factors for depriving the women of their right to inheritance could be their illiteracy and unawareness of their right to property and inheritance. If they had the education and awareness regarding their rights, the defendants would not be able to deprive them of their rights.

Serial 2 of the table is about the surety of the plaintiff's claim regarding her right in the property of the defendant before filing the suit in court. Almost 100% of the respondents had the belief that they had the right to share in the property, in 60% were quite sure that they had the right to share in the property, but are denied to them by the defendants.

Similarly, serial 3 of the table tells about the legal relationship between the plaintiff and the defendant. The data shows that 76% of the respondents were sisters who filed suits against their brothers. According to the prominent lawyers of the area who are contesting inheritance-related issues in court, 80% of the cases in inheritance-related issues are filled by the sisters against their brothers. The data shows that majority of the cases are filed by the full-sisters, among them only 10% are filed by half-sisters, against the brothers. While 3% were filed by a mother against her son and 10% are filed by a wife who is demanding her right to the property of her husband. The lawyers are also of the view that as sisters after the marriage becomes part of another family, so they are motivated and get support to demand her right to share in the property. And mostly those who are living in the same family, due to lack of enough support or not want to lose relations with their dear ones, do not demand and bring the suit in court for their share in the property. So, it can be deduced from the data that most of the litigations, related to the share in inheritance, are brought by a sister against her brother, for the former refusal to give her the right to share in the property outside the court.

Serial 4 of the table is related to the unlawful transfer of property made by the defendants. The respondents as well as their lawyers were asked, whether the defendants transferred the inherited property to their names

without the will and consent of the plaintiff? The majority of the respondents i.e. 57% strongly agreed with the statement that the defendant had illegally and without their consent transferred the inherited property to their name and 6% of the respondents agree with the statement as they were not quite sure about it. While, 33% of the plaintiffs responded with a negative reply and viewed, that the defendants had not transferred the inherited property to their names but are unwilling to hand it over to them. So, it can be assumed that mostly male member of the family transfers the inherited property to their names without the consent of female members of their family and either keep them unaware of their share or deprives them through illegal transfer.

Serial 5 of the table tells about whether the respondents were compelled to transfer the property to the names of the defendants or whether it is transferred through fraud or some other means. 66% of the respondents negated this statement that they were compelled to transfer the inherited property to their names. But 20% of the respondents strongly agree and 10% were agreeing with the statement that they were compelled to transfer the property to their names. The compulsion includes social boycott, the cut-off of relationships, etc. The plaintiffs were of the view that they did not want to lose their dear and near ones therefore they agree to transfer the inherited property to the names of the defendants.

But above all, serial 6 of the table creates a very sad situation. When the females demand their legal right to share in the inherited property from any male member of the family, it creates social conflict and cut off the relationship between the plaintiff and the defendant's family. When the researcher asked the question about this aspect, 80% of the respondents strongly agreed and 10% were agreeing with the statement that the demand for a share of property in the inherited property led to social boycott and conflict between two families. The respondent was of the view that when her demand for a share of the property was not honored, she had no choice but to knock on the door of the court for the redressal of her grievances. But it is a very sad aspect of society that when a male member of the society has any grievances, he can address them in any forum, but when a female wants to claim her legal right then this act of her is condemned and led toward social conflict between the families (Respondent view in case title *Rokhmina v. Khiradin*, etc. pending before civil court). There has been a great number of incidents of male relatives using force or even murder when females approach the court for their right of inheritance in the property<sup>12</sup>. So, it can be assumed that on one side the women are not given their right to share in the property and if she wants to enforce her legal right, it is discouraged and become the bone of contention between them.

The researcher also intended to ascertain whether only the respondent's claim of right was not honored or the defendants had a history of proper distribution of inherited property which is asked in serial 7 of the table. The result shows that 10% of the respondents strongly agreed and 23% agreed with the statement that their family has a history of proper distribution of inherited

property. But while 60% of the respondents believed that there is no history of proper distribution of inherited property. So, it can be concluded that most of the defendants in the area are neither willing to give the women their right of inheritance nor they have given them in the past.

Similarly, serial 8 of the table tells about the reason behind for non-payment of inherited property to the women. The result shows that 50% of the women are deprived of their right of inheritance in the property due to the culture of the society. As already discussed, the area was formerly under the rule of the state of Swat where the share of women in the property was almost non-existent and was highly discouraged, the impact of it is still on the minds of the people. They are unwilling to consider women as a sharer of their property. Therefore, they are mostly deprived of their share in the property. Similarly, 36% of the respondents were of viewed that the defendants were even not willing to enlist them in the legal sharer of the property. And they are either being excluded from the list of sharers through fraud or have concealed from them the inherited property. And, says that the plaintiff has no right to share in the property. While, 10% of the respondents replied, that they were not given a share in the property due to dowry.

In the case of *Ghulam Ali v. Mst. Ghulam Sarwar Naqvi*, the male members of the family claimed that they had incurred huge expenditure on the marriages of their sister and subsequently made the stance that she should not be included in the list of the share. The judge rejected this entirely and said a woman cannot be deprived of her right to inherit merely on the ground of dowry or maintenance. So, it can be assumed that Pakhtun culture, payment of dowry, and exclusion from the list of sharers through fraud are the main reasons for not giving the women their right of inheritance in the property.

Serial 9 of the table shows the educational background of the persons who deprive women of their right of shares. The result shows that 40% of the defendants were uneducated. Illiteracy is one of the basic factors for conservatism and rural culture does not allow women to inherit the property of men. While 26% of the defendants had the educational background of primary level and 16% were matriculated. But it is also the sad condition of our educational awareness that 17% of the defendants were highly educated and even some of them were school teachers. Education should improve the personality of the person and should also have the realization to respect the rights of others, but it is not the case with our society.

Serial 10 of the table is related to the motivation for filing the suit in the court of law for getting her legal right to share in the inherited property. 17% of the respondents were of the view that they have filed the suit in the court of their motivations. While 80% of the respondents filed court cases against the defendants on the motivations of their blood relatives. This includes mostly sons, in case of mothers filing the suit against their brothers and brothers in case of wives claiming the right in the property of their husband. While only 3% of the plaintiff filed the case on the motivation of some other people which does

not include their blood relatives. So, it can be assumed that most of the women in society do not have the awareness and motivation to claim their rights and in this aspect, the education of a woman plays a very important role to create motivation for claiming her rights.

Serial 11 of the table shows the marital status of the plaintiff. The result shows that 100% of the suit is filed by married females. According to the prominent lawyers of the area, as most of the females in the society are uneducated, they are either unaware of their rights or kept silent about their rights. But after the marriage, they are motivated and encouraged by the nears and dears mostly including their sons. That's why; they filed a suit for their rights against the defendants.

Serial 12 of the table shows, that 100% of the suit are filed by the respondents after the death of their parents mostly their father. And 86% of the suits are filed for claiming rights in the paternal property. While 3% are filed for claiming rights in maternal property and 10% of the suits were related to the suits filed by wives who were claiming their rights in the property of their husband. So, it can be assumed that most of the suits are filed by the respondents against the defendants in the property related to their parental property.

### **Recommendations**

Local people should be properly aware of women's right to inheritance. In this regard, social media especially local Facebook channels, newspapers, and sermons by local imams in every mosque, can play a very important role.

Strict adherence to the spirit and teaching of Islam can greatly resolve the issue. Because most of the inheritance system is based on the Islamic system. And religious scholars should come forward to highlight and support women's right to inheritance. So, following Islamic teaching in a real sense will automatically resolve the issue and people will then willingly and without the interference of the court, will give their women the right to share in the inherited property.

It is also suggested to ensure the enforcement of women's constitutional rights.

The courts should also ensure the speedy disposal of the cases related to inheritance and maximum punishment should be awarded to the violators. So that the people in the future may not deprive women of their right to inheritance.

It is also suggested that if possible, a separate court should be established for dealing with cases related to inheritance. Because 70% of the declaration cases which are pending in the civil courts are related to inheritance-related issues.

It is also suggested that a strong and vigilant check should be kept on the revenue department, especially on Patwari and Tehsildar level officers. There should be a vigilant check on every mutation especially, on inherited property. So that fraud and illegal mutations may not be made. And the

violators should be heavily fined as well suspension from their services.

And finally, the conservative and dark aspects of the local culture should also be discouraged and abolished.

### **Conclusion**

To conclude, one can safely say that mostly the women in District Buner are deprived of their right to share in the inherited property of their family. Although Islamic law of inheritance and National law on the subject is adequately available and quite clear. And as the area was previously governed by the customary law regarding property ownership and inheritance, which did not allow women to own and inherit the property, the effects of it still prevail in the minds of the people of the area. And giving the right of share in inheritance to the women is considered against their norms and values. That ultimately compels the woman which is motivated mostly by their blood relatives to file the suit before the court of law for getting her due legal right of share in the inherited property. Pashtun culture, dowry, fraud, and illiteracy are some of the factors which are responsible for depriving a woman of her right to share in the inherited property.



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