

Studying the Factors of Deprivation of Women from Inheritance in Afghan Society

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ABSTRACT

Ignorance and illiteracy have had negative effects on various areas of life in Afghan society, including the deprivation of women from the right to inheritance. In fact, some ignorant and oblivious families have violated the indisputable right of women and are not ready to consider girls and women as their children regarding giving them the right of inheritance like sons. As Women are afraid of threats from their house guardians, has prevented them from claiming inheritance rights. In addition, Women are sometimes threatened with severance of social ties and access to their paternal family, so they dare not to claim their inheritance rights. Now the question is, why are Afghan women not given their inheritance right, although, it is their legitimate right in Islam? This is the question which rises in the mind of every wise, adult and sensible person. In this article, the above question is answered and the factors, consequences and ways to protect women from being deprived of the right to inheritance from the Islamic point of view are introduced. Finally, the research ends with the conclusion and the list of references.

Keywords: Rights, Deprivation, Inheritance, Afghan Society

Introduction

Depriving women of their right to inheritance in Afghan society is a phenomenon that led to injustice, family and social anomalies in the society, and disrupted the order of social

life. Since life is of special importance in the social system of Islam, Islamic Law has discussed the rights of one another in detail, including the right of inheritance. Islamic Law stated the amount of the right of each heir and heiress clearly and precisely, which leaves no place for inference and *Ijtihad* to increase or decrease it. Islamic Law considers taking the right of inheritance away from women cruelty and injustice. Extensive researches have been done on the non-payment of inheritance right to women in Islamic countries, but the factors of not giving the inheritance right to women differs from country to country based on the customs and traditions of concerned society. In this study, I strive to find the factors that deprive women of their right to inheritance in Afghan society. It seems that the main reasons for depriving women of their right to inheritance in Afghan society are ignorance and unawareness of the rights of family members, especially the right to inheritance.

Research Outcome

Definition of the words *Haq*, *Hirman* and *Mirath*

Literally, the word *Haq* has the following meanings:

It means right as it is said: [قولك حق] namely, your saying is right; second, it means justice as it is said: [فليحكم القاضي بالحق] namely, the judge should decide on justice; third, it can mean portion and share as it said: [هذا حقه] namely, it is your share and portion. (Ahmad Ibn Faris, 9911)

Idiomatically, it is a material or spiritual competency which is expressed and protected by the law. (Hussein bin Muhammad al-Mahdi, 9001 A.D.)

Originally, the word *Mahromiatis* taken from the word *Tahrim* or *Hirmanin* Arabic language, which is the opposite of *Tahlil* (making something permissible), which literally means depriving someone of something and disappointing him or her. (Ahmad bin Fars, 9911) Literally, the word *Mirath* (Inheritance) means survival and transfer, and idiomatically it means a movable and immovable property which is left from the deceased. (Ahmad Ibn Fars, 9911)

Research Hypothesis

In the present era, one of the problems that has befallen the Afghan society is the lack of commitment of some of the heads of families to the principles of justice and the right of women to inheritance in accordance with the legitimate right in the practical life of some Islamic societies, especially in our Afghan society, it is less considered by heads of the families since in many cases boys' rights are given priority over girls' rights.

The aforementioned issues made the researchers conduct the researches so that they take positive steps toward eradicating the shortcomings and injustices that are being done to girls and women.

Research Importance and Need

The women's right to inheritance is the right which is mentioned in detail in the Holy Qur'an in Surah An-Nisa. Thus, violating and ignoring this right is considered injustice and oppression against women who make up half of the society. Islam is the religion of justice and righteousness, and came to eradicate injustice and cruelty, and secure each person's right. Therefore, it is necessary for parents to observe justice and fairness among their children in order to be saved from the anger of Allah the Almighty.

Research objectives

Due to the ongoing bad situation of Afghan society in regard to the issue of depriving women of inheritance, recognizing the causes, consequences and ways to resolve the deprivation of women from inheritance, and rescuing them from this oppression need to be researched.

Main objectives

- Recognizing the factors which deprive women of their right to inheritance.

Sub-objectives

- Explaining the consequences of depriving women of inheritance in society.
- Figuring out the ways to save women from deprivation of inheritance in society.

Research Questions

The research questions have been set up based on the objectives and problems of the research:

Main Question

What are the reasons for depriving women of their right to inheritance in the society?

Sub-questions

1. What are the consequences of depriving women of their right to inheritance in Afghan society?
2. What are the ways to save women from the prevailing injustice in Afghan society?

Research Background

Going through the research background is one of the important steps of the research since the researcher gets acquainted with the facts of research by using previous researches. The following researches have been conducted on the study of women's deprivation of inheritance:

1. Sayed Noh. (1378). Wrote the book titled "The Scourge of Religiosity and Injustice about Women's rights".
2. (141) Esavi, Ahmad (1966). Wrote a very precious book titled "The Rules of Inheritance". In general, the author has stated the right of women to inheritance in the light of authentic sources.
3. (136) Fayaz. Abdul Azim (1968). He has written a valuable book on inheritance titled "The System of Inheritance in Sharia". In his book, he has briefly discussed the financial rights of women in the light of Islam and the teachings of the Prophet (peace and blessings of Allah be upon him).

In fact, in the aforementioned books, each author has done a general research on women's right to inheritance, but what makes my research different from theirs is conducting the research which talks about the causes of deprivation of women in Afghan society only.

Research Method

This research is a descriptive analytical study that has been done in the form of a library. The research outcomes have been analyzed based on the research objectives.

Factors of deprivation of women from inheritance rights

There are various factors and causes related to the deprivation of women from inheritance, which have led to the emergence of the thought and motivation of deprivation of women from inheritance right. Considering women as the sixth finger and depriving them of the right to inheritance is like other unhealthy social phenomena. Some of the factors are as below:

Cultural Factors

1. Ignorance and unawareness: One of the reasons for violence during the division of inheritance right is the people's lack of knowledge about the Islamic and fundamental laws of Afghanistan since most women are faced with problems due to their lack of awareness and illiteracy. They think that in dividing the inheritance, whatever the brother or father says is correct, which is why women are deprived of the right to inheritance. The Messenger of Allah (peace and blessings of Allah be upon him) considered the ignorance one of the signs of the Day of Judgment. "Indeed, from the signs of the Day of Judgment is that knowledge will be raised and ignorance will be spread". (Alaaddin Ali, 9009 AH)
2. Lack of knowledge about violating women's right, and their deprivation is a legacy of the patriarchal nature of Afghan society. In Afghan society, contrary to all Islamic values, men are considered the superior sex of society. In fact, important decisions are made by men, and women are considered as a disabled class that must follow the decisions of men.
3. The poor cultural level of women and men in the Afghan society is one of the factors that deprives women of their right to inheritance.

Years of war in this country have led to the destruction of the cultural and educational infrastructure of society, which has affected various parts of life, including the observance of the principle of justice among family members in legal matters. (Nizamuddin, 8811)

Social Factors

Some uninformed and ignorant people in the Afghan society are against the female relatives who want their right to inheritance. They say that at different times of the year, we take care of our female relatives, we welcome them to our houses, the gates of our houses are open for them, we fulfil their orders and demands, so why should the female members ask for their inheritance right? With all these favors, if they want their right, we give it to them, but we cut off all social relations with them (Saad Noh, 9931).

Perhaps women out of fear or shame, do not want to legally claim their inheritance from their father's family, or for being afraid of losing their relationship with their family, they often relinquish their inheritance rights, while Allah Almighty has given female relatives priority over others in communication. Allah Almighty says: "But those of [blood] relationship are more entitled [to inheritance] in the decree of Allah". (Al-Anfal, 75)

Economic Factors

1. Greediness for property: The main reason for depriving women of inheritance in society is that the majority of people like the people of the pre-Islamic period of ignorance do

not want their wealth to be transferred from one family to another and to share others in their fathers' wealth. Thus, some people have violated this inalienable right of women and suppressed women's rights. Some families, in order to prevent the inheritance from being transferred out of the family, either make their daughters get married with close relatives or permanently bar them from the legitimate right to marriage. Allah Almighty refers this habit similar to the customs and habits of the time of pre-Islamic ignorance and says: "And when you divorce women, and they have come to the end of their waiting-term, hinder them not from marrying other men if they have agreed with each other in a fair manner". (Al-Baqarah, 232)

2. Poverty is one of the reasons for depriving women of inheritance in society; because the majority of people are underprivileged, so they do not want their wealth to be in the hands of others. Because of being afraid of poverty, they disobey Allah Almighty and deprive women of the right to inheritance, while the Holy Quran has stated fear from the poverty and losing hope as below: "Satan threatens you with the prospect of poverty and bids you to be niggardly, whereas God promises you His forgiveness and bounty; and God is infinite, all-knowing". (Al-Baqarah, 268)

People's Disrespect to the Law

1. The distance of some Muslims in the society from practicing the Holy Qur'an, a book that is the complete guide for all Muslims and humanity, and there are solutions to all human problems in it, but today Muslims are struggling with social problems and inadequacies more than any time else before since they do not follow the rulings of the Holy Quran which is the constitution and life-saving prescription. (Ghulam Mohi-ud-Din, 9919)

Allah Almighty has forbidden the people from cruelty, loss of rights, and devouring one another's possessions wrongfully. "Do not devour one another's possessions wrongfully - not even by way of trade based on mutual agreement" (Surah An-Nisa, 29)

2. Another factor of deprivation of women from inheritance is non-implementation of the divine law equally in the Afghan society. Furthermore, the dominance of a number of unpleasant customs and traditions of the pre-Islamic period of ignorance in a society that has no religious roots which have been playing a major role in depriving women of their right to inheritance. (Ahmad Issawi, 9166)
3. The Rulers' Lack of Attention to the Issue of Women's Inheritance Right

One of the most striking cases against Afghan women's birthright is the officials who rule over the country, and do not believe in women's rights. In fact they are considered as the first violators of women's rights in the country. They are even indifferent to what the Qur'an and the Sunnah of the Messenger of Allah (peace be upon him) have brought to women. In fact, the biggest reason is the indifference of these officials in the society, so there is persecution regarding the right of women to inheritance, which has not been seen in any other region in the history of Islam and humanity; but these power-hungry officials do not care about this cruelty to put an end to it. (Ali Ahmed Marei, 9119 AD)

Consequences of Depriving Women of Their Right to Inheritance

The holy religion of Islam has come to ensure goodness of the servants of Allah Almighty here in this world and in hereafter, so suspending the commands of Allah Almighty from implementation has dire consequences. I want to address some of these consequences as below:

1. Disobedience to the commands of Allah Almighty and the teachings of the Messenger of Allah (peace be upon him) leads to the deprivation from a peaceful and comfortable life in society. This is why the issue of women claiming the right to inheritance in the majority of families leads to family anomalies and internal conflict; even it sometimes causes murder and bloodshed in the result of which some members of his family are imprisoned. Allah Almighty says in this regard: “and whoever turns away from my remembrance - indeed, he will have a depressed life, and we will gather [i.e., raise] him on the Day of Resurrection blind.” (Taha, 124)
2. Deprivation of women and girls of the right to inheritance and not giving this right to male children spreads enmity and hatred in the children's hearts.
3. Not giving the right of inheritance to women will cause cutting of kinship, which has been condemned by the Messenger of Allah (peace and blessings be upon him). He said: “O Allah, establish a relationship with someone who has a close relationship with me, and cut off the relationship with someone who terminates her relationship with me”.
4. Deprivation of daughters of the right of inheritance is cruelty, so as a result of oppression, the parents deprive from the good prayers of their children. These girls who are deprived of their inalienable right will never pray to Allah for the person who has deprived them of their inheritance right but will pray against them. The Messenger of Allah (peace and blessings of Allah be upon him) said: “When a person dies, her deeds are cut off except in three ways, which are: durable charity, the knowledge that is used, the righteous child who prays for him, and the prayer is one of the righteous deeds that is not interrupted after death”. (Abu Issa Muhammad bin Issa, 1984)

Ways to protect women from being deprived of the right to inheritance

Undoubtedly, any change in a society necessitates a change in the educational and cultural system. The issue of inheritance in Islamic jurisprudence requires accurate and comprehensive education. Across different parts of the world, the transfer of property from one family member to another is an ancient acceptable principle which has been accepted by all the nations across the universe. Thus, in order to figure out the problem of violating women's right to inheritance in Afghan society, I mention the following points as examples:

1. We can put an end to the loss of the rights of women to inheritance with the help of tribal elders and by referring to the law and courts. It is necessary for the elders and influential people to speak out and work for the restoration of the right of women to inheritance without any fear and without considering any personal interests, and they should not be afraid of anyone's blame in this regard, as the Messenger of Allah (peace be upon him) said: “Speak the truth, even if it is bitter, and do not fear in the sake of Allah from the blame of the blamer.” (Asqalani, Ahmad bin Ali, 1415 AH)
2. Women who are aware of their rights which are given to them by religion and the law, should not ignore their rights because of fear of violence, or the threat of severance, and women should have the courage to achieve their rights and inheritance because

obtaining a religious right is also considered one of the obligations. (Ahmad Essawy, 9166) As the Messenger of Allah (peace be upon him) said: "Whoever kills without his right is a martyr." (Asqalani, Ahmad Ibn Ali, 9091 AH).

3. Reforms in the judiciary system of the country and the eradication of widespread administrative corruption, the implementation of laws and the creation of conditions for the rule of law are among the solutions that can put an end to all the challenges for women to achieve the right to inheritance and property.
4. Non-observance of the law in Afghanistan has also deprived women of their right to inheritance, and this has played a significant role in deprivation of them. There is no problem in the law and the rules of Islam, but the problem is not following the law and the rules of the religion of Islam. Therefore, the judiciary system of Afghanistan did not pay much attention to women's legal issues. (Ghulam Mohiuddin, 9919)
5. Establishing Women's Legal Centers and Clinics: In order to obtain the right of inheritance, it is necessary that legal centers and clinics should be established so that those who seek legal and useful effective advice can obtain it from these legal centers and clinics so that they can make a good use of it in obtaining the right to inheritance.

Conclusion

Through the discussion and study of books of Islamic scholars and the results of my research achieved from the society and families living in the country which are against the right of women to inheritance, I attained the following results:

1. Whoever deprives women of their legitimate right to inheritance, denies the clear texts of the Holy Qur'an and the Hadiths of the Prophet (peace and blessings of Allah be upon him) which leads to family and social anomalies.
2. Depriving women of the right to inheritance is a sign of the pre-Islamic age of ignorance.
3. Depriving women of their right to inheritance strengthens enmity, rupture, resentment and widespread corruption in the society.
4. Depriving women of their right to inheritance will lead to the severance of kinship which is a major sin.
5. There are several factors regarding deprivation of women of their right to inheritance in Afghan society, the biggest of which is unawareness of religious values.

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