

Right to Financial Empowerment of Women: An Analysis of Sharia

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Abstract: *The position of women in the pre-Islamic era in the period of ignorance, called Jaliyah before the dawn of Islam, was very miserable. Women were just treated as inferior beings under customary tribal laws existing in Arabia. The inheritance was mostly passed by the male heirs, and the women had no property rights. In this article, a descriptive evaluation has been done regarding the distinctive Privileges given to women in Islam: Maintenance for women as a wife and daughter. The notion of maintenance in Islamic Law/Sharia was to provide support to the one not having the capability to maintain oneself; maintenance involves the fulfilment of basic requirements of a person for sustenance, e.g. niceties of life. In the circumstances where a woman gets half of the man's legacy, the lady's new income is safe by the Sharia and is hers to allocate with as she desires.*

Key Words: Inheritance, Rights, Sharia, Woman

Introduction

Most of the time, economic disparities in Muslim countries are attributed to religion, ignoring the reality that even the first Muslim woman Hazrat Khadija Tul Kubra, was the businesswoman in history. Her Decorum and accuracy were irresistibly venerable with her well-reputed honesty of business in the male ruled society of that time. She acquired the business after the demise of her father that also laid the footing stone and model for the law of inheritance of property and business to women without any gender judgment prevalent at that time and still had its controls deep-rooted in patriarchal cultures of all times. Her father was a popular trader in the Quraysh tribes of Mecca. After her father's death, she acquired the responsibility of trading goods from the main business hubs of that period Mecca to Syria and Yemen. Her trade was loftier than all of Quraysh trades combined, highly praised with a repute of fair and honest dealing with high-quality goods.

It's noteworthy that this prestigious lady of marvellous character 'Khadijah R.A was a remarkable person; having a high degree of expertise in business and homemaking, Khadijah donated the trade to help poor people who were in need. By her determination, understanding and funding 'Khadijah Al Kubra proved her as a great acquaintance and loving mother and an

exemplary character of all times ([Saba, I., & Bari, K., 2020](#)). In Islamic countries social constraints, political dogmas, patriarchal culture illiteracy and above all unawareness of women of about their right and religious misrepresentation create impediments in the route to economic independence of women. It is common observation that female are disadvantaged of their fundamental rights esp. right of inheritance the male heirs keep on utilizing commercial benefit of the property linger on the process of distribution as in Pakistan there is no right that restrict them to infringe the economic empowerment of the female of their family this practice is common among highly educated and elite class without any percipience from illiterate and lower middle class. Women who are already clutched by social constraints if take courage to get legal support the justice is delayed that much that sometimes the petitioner is no more to enjoy the fruits of that justice our legal history is complete with such cases Pakistan, being an Islamic republic, deals with matters of inheritance according to the Sharia law, which permits women the right to inherit property.

Islam acknowledged women's share of inheritance in a period when it was against the prevalent custom where women were often treated as commodities to be inherited and

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handed over as assets. It is revealed in The Quran, "O ye who have faith in! It is not permitted to you to forcibly inherit the women (of your departed kinsmen)." Islam also assured women that the property they acquired through inheritance or personal effort is entirely their own, and the male custodian has no prerogative over it. The holy Quran is the main source of guidance for all Muslims. It is combined with actions and sayings of the Holy Prophet (SAW) as well as other techniques of Islamic juristic cognitive abilities, e.g., consensus and analogical clarification, where required. In the case of inheritance, the holy Quran not only declares inheritance to be a right of every human being, but it also defines shares in each case. Matters of legacy have been meticulously described in its various chapters, named Surah al-Baqarah, Surah al-Maidah and Surah An-Nisa.

It is obviously stated in the holy Quran, "Unto the men (of a family) belonged a share of that which parents and near associated leave, and unto the women a share of that which parents and near relative leave, whether it be little or much - a lawful share." (Saifi, S. F., 1980) This section refutes the practice of *Jaliyah* under which women were just not allowed to inherit and was revealed on the Prophet (SAW) when the widow of one

Of his companions, Aws bin Thabit approached to complain about the customary trend in which she and her children had been excluded from the inheritance of her husband. Since, by the time the verse of inheritance? It was not revealed, the Prophet (SAW) withheld his response (Esposito, J. L., 2001). Thereupon, this verse was revealed, and the unfair practice of *Jaliyah* was removed. Conferring to a case reported by Saad bin Abbi Waqqas (RA), Prophet Muhammad (SAW) directed Saad bin Khaula (RA), who was near to die, to distribute his property among his daughter and wife instead of donating it for donations.

The priority here is leaving one's family comfortable: Saad bin Khula narrates that when the holy prophet PBUH came to visit him at a time, he was on his death bed afflicted with sickness. I said, "O Allah's apostle! I have much property and no successor except my single daughter. Shall I give two-thirds of my property in donations?" He said, "No." I said, "Half of it?" He (SAW) said, "No." I said, "One-third of it?" He (SAW) said, "You may do so though one-third is also too much, for it is better for you to leave your offspring wealthy than to leave them poor, asking others for help. And whatever you spend (for Allah's sake), you will be compensated for it, even for a morsel of food which you may put in the mouth of your wife." (Shahih Bukhari, 725)

Afterwards, Allah's Apostle (SAW) felt

gloomy for Sa'd bin Khaula at his death in Mecca (Sufyan, a sub-narrator, reported that Sa'd bin Khaula was a member of the tribe of Bani 'Amir bin Lu'ai). Thus we can observe a visible revolution in the life of the women of that time that their due share is provided to them without any discrimination. Taking direction from Islamic laws and the history of Islamic women, we see an unmatched change in the Muslim world, especially in the new millennium; this awareness is increasing in Muslim ladies, and a move can be observed from home to work in the last 15 years.

The persons who are eligible for maintenance according to Muslim Laws are Children (both boy and girl), Wives, Parents and grandparents. Maintenance of a wife is non-conditional and absolute in Muslim law; it is tremendous "*Nafqah*", i.e. the amount spent on one family by the husband. The Muslim woman is given the privilege to enjoy this right irrespective of the fact that the woman is earning or not. It is distinctive the most other religious acts where only dependent women are eligible for the maintenance. The liability of the husband to provide adequate his wife is all circumstances except when the woman has not attained the age of puberty. The sole owner of her property received in dowry in legacy *Mehr* Dower Not dowry Distinctive privileges for Woman Maintenance after divorce Section - 125 CRPC Maintenance "*Nafqah*"

- She has abandoned her marital obligations owing to sufficient causes.
- She elopes with some other person leaving her husband.
- In case of disobedience of some reasonable command of her spouse.

The Quantum of maintenance is not prescribed under any personal law. It is decided by the court depending on the economic position of the spouse and other relevant conditions. In Shia Law, consideration is given to the requirement of the women. The Shafi determines it is taking into account the economic status of the husband/post of the husband. Exceptional right acknowledges by Muslim Law in case of Divorce: A Muslim marriage is construed as a contract that confers certain rights and obligations to the parties of this agreement. The right of maintenance and *Mehar* is settled at the time of marriage. The woman is given the right to stipulate this agreement in case of an abusive relationship or polygamy without getting her consent or keeping a concubine. It is noteworthy that the A woman can claim her *Nano Nafqah* till "*iddat*" or even beyond that period according to the protection of right on Divorce Act 1986. A husband is not only liable for the provision of adequate amount for the secure

further of the divorced wife: Ayat: To pay to the divorced wife. "A divorced Muslim wife who has not remarried and is incapable of fulfilling her basic needs can claim maintenance from her husband or from those relations who are entitled to her legacy after she dismissed. ([Sanasarian, E., 1993](#))

This is an additional right to Muslim women" Similarly, the girls are privileged than the sons; the father is bound to maintain his daughter until her marriage or she goes to her husband's home, unlike the son responsibility that ends till he attains majority. *Meher* or Dower in Islam: The main cause of the bleak picture is the religious misconception in the world and especially in the Muslim world that aggravates the situation. The main emphasis in Islam is on Dower, not dowry, which is prevalent wisdom in the subcontinent. A woman is the undisputed owner of her property received in *Mehr*. It is obligatory for a *Mehr* person to pay *Mehr* as emphasized in the Holy Quran *Surah e Nisa*. The money or property Received by women from her spouse as *Mehr* is entirely her possession and legally. She can dispose of it without even sharing it with her spouse, according to Muslim family law ordinance 1961. This right continues even in case of dissolution of marriage as enunciated in the dissolution of Muslim marriage Act 1939 except if the woman demands the dissolution on her own termed as *Khula* in Sharia. Similarly, the woman is the sole owner of her property received as dowry as a tradition in our country no one can deprive her. ([Ahmed, L., 1986](#))

The woman has the privilege to execute their will: It is mostly misconceived that woman is deprived of their right of executing their Gift deed and Will in her life. It is quite lawful if the woman wants to execute her Gift deed or Will to dispose of, one-third of her legally possessed property without the intimation of her legal heirs or obtaining their consent. In the same way, she can *Hiba* some or all of her property in her lifetime. She can also acquire property through *Hiba* like male members of the society.

Islamic Perspective of Women Financial Empowerment

At the advent of Islam, the status of women was raised to the most prestigious position. After the dawn of Islam in Arabia, where the clouds of the darkness of *Jalijah* were prevailing all around the Islamic law called Sharia cleared conflicts related to almost all aspects of life, including crimes, politics, economics issues, administrative matters personal life such as cleanliness, food, supplication, everyday decorum and fasting. The most deferential step was the prestige of women

that was raised to an honourable position. The daughter who was buried alive was now respected that much that at the arrival of his daughter, our Holy prophet stood up out of love and respect, spread his *Kisa* for her, and honoured her. It was revealed by our holy prophet that paradise lay underneath the feet of the mother. Historically it is observed that adherence to Islamic Sharia is the distinguishing characteristic of the Islamic world.

The fundamental misconception in Islam is about the status of females; it is believed that they are dispossessed of liberty and impartiality. This delusion is the result of either unawareness about Islam or the prejudiced hoopla of anti-Islamic dogma and a discriminatory campaign. The point is just contradictory. It is very significant here to inspect the Abode gave to women in some of the ostensible magnificent cultures proceeding to Islam. For example, in the Greek tradition, a woman, Pandora, was measured to be the cradle of all hatred. In the name of art, The Greeks depicted females to approve her image as an unrestrained gender. In the Roman civilization, the Roman thinker, Seneca, criticized Romans for the deteriorating family system. A sport named "Floralia" encouraged a dissolute atmosphere.

When it came to Christians, Chrysostom says: "Woman is an inevitable evil, a delightful disaster and a gorgeous anxiety." Aristotle avowed: "The female state is an irregularity." A Roman Catholic, Aquinas, supposed: "A female is an unsuitable male." Nietzsche, the German philosopher, orates: "Woman is the cause of madness, unreason ([Mitten, D. et al., 2017](#))." In modern Europe, women were not given identical privileges and these conditions endorsed women's libber activities which have been obstinately stressed for equivalent rights for women ([Miller, N. J., & Yavneh, N., 2006](#)).

Before the arrival of Islam in Arabia, the status of the women was terrible; daughters were sometimes slain as soon as they were born. The blameless daughters were suppressed alive. A man could marry, dissociate or leave a woman any number of times. Polygamy was very common. Islam enlightened woman and raised their prestige in all spheres of life.

Gender Equality

Islam is a religion of humanity. The rights conferred to human beings Women, Children, Slaves or universal and without any discrimination these are the rights which were bestowed by the sovereign of all Sovereigns and the Holy Prophet (PBUH) fourteen hundred years back. These rights cannot be derogated and

suspended in case of any legislation or worldly emergency and exigencies. Islam believes in gender equality. It is a misrepresentation of religion and socio-economic, cultural, and political motives that lead to women discrimination and ill-treatment. The Holy Prophet (PBUH) emphasized, "Fear Allah! Concerning women verily, you have taken them on the security of Allah Indeed; you have rights over your women, or the women have rights over you."

"The rights enjoyed by men are the duties of the women, and rights enjoyed by women are the duties of men. This implies a similitude between both genders. O, man! Fear your lord who initiated your creation from a single soul than from it created its mate and from these created the countless men and women." ([Holy Quran 4:1](#))

This verse clarifies that men and women are the progeny of the same parents, so they are basically equal, and there is no disparity on the basis of gender. On the other hand, Islam also emphasizes chastity, piety and fidelity from the women so that the social fabric of the society should not be disturbed and they should not go astray from it.

"Go near the adultery. It is an outrage an evil path" ([Holy Quran, 17:32](#))

The Holy Prophet (PBUH) emphasize the same thing by saying ([Holy Quran 4:1](#); [Holy Quran, 17:32](#)) that "I enjoin good treatment of women you have no right to treat them otherwise unless they commit clear indecency." The other view is that as a woman is most privileged being in a family who has no financial burden, Islam has given her protection of the fore wall land financial assistance through the male, so this is obligatory to be faithful to the husband and take care of her chastity.

"The woman and man guilty of adultery or fornication flog cash of them with a hundred stripes ([Holy Quran, 24:2](#))." But there is a strict condition "Those who accuse chaste woman of adultery and fail to produce four witnesses, give them eighty lashes ([Holy Quran, 24:4](#))."O' you who have faith! It is not lawful for you to inherit the women against their will, and do not straighten them in order that you may take a part of what you have given them unless they are guilty of manifest lewdness; but deal kindly with them, and if you hate them, it may be that you dislike a thing while Allah has placed abundant good in it ([Holy Quran 4: 19](#))."
([Holy Quran, 24:2](#); [Holy Quran, 24:4](#); [Holy Quran 4: 19](#))

Woman Inheritance Rights in Islam

In the Islamic legacy distribution system, a male successor does not always get a double or a

greater share than the female. There are many circumstances where a lady gets the same or more than a man ([Abdullah, R. et al., 2014](#)). If the departed person left a daughter, father, and mother, then the daughter will get half the assets. According to the Islamic system of dispersal of legacy, a male successor does not necessarily get a double or a greater share as compared to the female. Here are numerous circumstances where a female come to be the same or more than a man. If the cadaver person leaves a daughter, father, and mother, then the daughter will get half the assets. It is a general misconception that Islam deprives women by giving them half share of the property as compared to men's inheritance. This misconception must be clarified because, as Muslims, we have a strong belief in the justice of the Almighty. Allah is just a fair judge, and His justice is ultimate. The Quran says:

"And your Lord wrongs no-one" ([Holy Quran, 18: 49](#))

"God is no oppressor of His servants" ([Holy Quran, 22: 10](#))

"It was not for God to wrong them." ([Holy Quran, 29: 40](#))

Our faith in the Almighty is unfaltering. To understand the wisdom in this distribution of inheritance, an in-depth analysis of the Quranic law of inheritance is required. The grade of association to the late: Irrespective of the inheritor is man or lady, the nearer the link to the departed, the male single will receive. For example, a departed female's descendant is sanctioned to half the inheritance as compared to the husband of the deceased only takes one fourth. The reason behind it is the daughter, as a direct descendent and close relation to the deceased, is nearer in kin in comparison to the husband. Consequently, the quantity of legacy she obtains is larger.

Further monetary duty is given due deliberation. The unit to which the heir belongs: Grandchildren frequently get additional legacy in comparison to grandparents because they will have to bear upcoming ([Holy Quran, 18: 49](#); [Holy Quran, 22: 10](#); [Holy Quran, 29: 40](#)) Monetary errands, while others generally reserve the economic maintenance of grandparents. The scheme resolves this way regardless of masculinity: Notwithstanding take the example of two female legal heirs of the deceased, that they are both women, the daughter of the dead obtains more than the deceased's mother because they go to different nobles. Equally, the daughter of the deceased gets more than the father of that dead person. This is so even if she has a brother who gets with her. Monetary duty is given due attention to the legacy of assets. It is in this

collection alone that the share of legacy differs in interpreting masculinity. However, this disparity grounds no bias to the female. When a set of heirs, such as the families of the dead, are equal in the first two aforementioned issues, then their shares are affected by the third.

In this precise state, the misjudged verses denoted to in the sole query arose. The Quran has not created the inconsistency amid males and females a common situation, then somewhat has limited it to this exact state. Then the persons in an assembly of successors are identical in together their family member to the dead, and their stage, the man son of the dead, takes twice as much as the woman offspring of the departed. This financial benefit also guards her against any circumstances that would place her in financial trouble. Regrettably, a small number of people today intensify this improved point of the Muslim legacy scheme. The monetary tasks of men comprise the expense of a marriage gift, continuing financial keep and provision with no expectation of altercation, and monetary funding of their strained family if conditions appeal this. Thus the demand for an equal share in inheritance is out of the question and just blind following of western culture where the women are not given financial security, and she has to bear the brunt of daily expenditure.

This is why we are competent to say that Islamic legacy rules protect the capital of women and reward penchant to them over men. In other situations, men and women receive the same amount. The parity of men and women in this situation be indebted to the point that they jumped from the identical womb but do not have the same dad. Involvement of the similar father would basis the manly child to receive the father's monetary errands, to the omission of the female child. In the

state clarified above, the son does not have those monetary loads, so, therefore, his sister is equally permitted. Numerous evidences are exposed by studying the following circumstances and matters of legacy:

1. There are merely four circumstances where a man gets double the portion of a woman.
2. There are numerous circumstances where a woman acquires a portion equal to that of a man.
3. There are other than ten circumstances where a female receives more than that of a man.
4. There are circumstances where a female obtains a portion, but the male receives nothing.

Conclusion

There are merely four circumstances where a female gets half the portion of a male. These are the consequences of probing the circumstances and disputes in the law of legacy. I contemplate that this delusion is now flawless. The Muslim world should understand the philosophy behind this law of inheritance in Islamic Sharia and promote its real spirit that not only grants the right of inheritance to women but also spares them from all financial burdens. Capital is a better idea than income. Income turns out to be part of capital but is not capital itself, since capital is that which leftovers after all expenditure. In the circumstances where a woman gets half of the man's legacy, the lady's new income is safe by the Sharia and is hers to allocate with as she desires. The man's net income, on the conflicting, is to fund him in assistant domestic followers that have now come below his attention.

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