

Sanctioned by Islam, Denied by Society: Property Rights of Daughters- Islamic Teachings vs. Kashmir's Reality

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Abstract: This article examines the clear contrast between Islamic law and Kashmiri societal norms regarding daughter's property rights. Despite Islam's guarantee of inheritance, Kashmiri daughters face systematic denial of property. A daughter's claim to property can spark conflict with her brother and just to maintain harmonious relationship with her brother, a sister often gives up her property claims. The article demonstrates how recognizing daughter's property rights can reduce suicide rates among daughters-in-law in Kashmir, promote gender equality, social justice and align Kashmiri society with Islamic principles. Renowned Islamic scholar Maulana Tariq Jameel's words are quoted, wherein he states that to deprive a sister of her property is as grave sin as stealing from someone's home.

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I. INTRODUCTION

In Islam daughters have the right to inherit property from their parents. She receives a specific share of her father's property regardless of her age and marital status however the share may vary according to the situation: If the daughter is an only child, i.e. she has no brothers or sisters then she has half of the legacy of the deceased. If (there are) only daughters, two or more, their share is two-thirds of the inheritance. If other male heirs are descendants of the deceased then her share is equal to one-half of her brother's share. The male takes a share equal to that of two females.

Although the valley of Kashmir is a Muslim majority state, most of the women are denied the right of inheritance from their parental property which is granted to her by the sharia. In fact it is very much normal for majority of the women to freely surrender their claims to their father's property and this is done to maintain the harmonious relationship with their brothers. In majority of the cases, if a daughter claims her share, the doors of her maternal home are closed to her. They also fear that in case they face any crises in their married life, they should have the doors of their brother's house open. However exceptions do exist.

In the valley a trend has started where fathers divide their property among their children during their lifetime, however in majority of the cases daughters are being left out. At the time of distribution daughters are not even counted and surprisingly the daughters also choose not to express their thoughts and feelings and if in any case a daughter is given a share, usually it is very small and not equal to what sharia has granted for her. I met a number of women to assess the situation closely,

Muneera's father distributed his property among his children during his lifetime. However Muneera was not even counted. She got nothing from her father's land, house, bank balance etc. All was distributed among her brothers. On this she chose not to speak up because she did not want to hurt her father and brothers. However she was deeply hurt.

Shameema 60 has chosen not to demand her share in her father's property because she wants to maintain a good relationship with her maternal family.

Dilshada 45 says that her husband earns quite handsome salary but still she feels insecure because she does not own any property in her name. "Yesterday I went to my father's house, there papa gave me 500 rupees of pocket money. I told him 'Emi seith wasi na myon haq nakah', this won't do justice to my share."

Mahbooba 50 does not want to share with her brother since he is the only son among four sisters, and distributing the property would leave him with a small portion.

Haleema is 60 years old. Her father had 30 kunal of land, however, despite her husband's death, her brothers did not give her any share of the land.

When asked about the property rights of a daughter many parents believe that they fulfill their daughters rights by marrying them off. This is the perception that arranging their daughter's marriage is enough to fulfill their obligations towards them. Also at the time of marriage, a daughter is given some gold ornaments, furniture, and other household appliances by her father or maternal family (which is totally against sharia). These gifts are often seen as a way to fulfill her rights.

Here are some questions for my society:

Q: How can you deny a daughter the property right that sharia has granted her ?

Q: If marrying off a daughter is enough to fulfill her rights , then why do you still give property rights to a son after he gets married ?

Q:If giving golden ornaments, furniture,and other household appliances at the time of marriage (which is against sharia) fulfills a daughters property rights, why do you also give all this to a son and still give him a share in property?

Q:Why are the gates of the maternal house shut to her if a daughter claims her share?

Q:Can a brother only fulfill his brotherly duties when his sister gives him her share?

Q:Does a brother cease to be a brother if his sister gets her share?

Q:If giving a share to the sibling breaks the relationship between them then why does not a brother distance himself from the brother when he gets his rightful equal share?

In Islam it is not permissible for any one to deprive a woman of her inheritance and if anyone in the Family deny her her right, he is considered oppressor.

These are the words of moulana Tariq Jameel on share of daughter/sister in inheritance:

‘‘My God has granted daughters the right to inheritance and not giving it to them is as a big sin as stealing from someone’s house.’’

Recalling an incident, he stated: ‘‘I took a bottle of honey to the respected teacher from whom I learned the Quran. The teacher asked, ‘where did you bring it from?’

I said it's from my own garden.

My teacher asked ‘did your father give his sisters a share of the land? If your father has given his sisters a share of the land, then this honey is halal (permissible), but if he has not, then it is haram (forbidden), and I wont take it.’’

Why daughters should be given their share in parental property?

- The Quran and sunnah have ordained a share for daughters in inheritance, and denying them their share is a sin.
- Giving daughters a share provides them with financial security.
- Giving daughters their property rights can lead to a significant decrease in domestic violence cases against daughters-in-law. When girl has her own property she is less likely to suffer violence in silence and also her in-laws realize that she has her own property and can escape if she wants to.
- Granting daughters their property rights can significantly reduce the suicide rate among abused daughters-in-law. An abused daughter-in-law often commits suicide when she lacks support, and doesn't have a place to escape to. Societal pressure and norms sometimes even prevent her brother from offering her refuge in his home. With no other options, she may turn to suicide. However, owing property provides her with a means of sustenance and independence.
- It boosts confidence and self esteem among girls.

- It increases her standing and respect within the family and society.
- When a daughter is given a share in property, she can fulfill her dreams
- It promotes gender equality. Her future security is ensured.