

# **INHERITANCE RIGHTS OF WOMEN: LAWS AND PRACTICES IN PUNJAB**



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Accession No TH24574 K  
CIP

PhD  
342.0878  
ST11

Women - legal status, laws, etc

Women's rights

Human rights

# **INHERITANCE RIGHTS OF WOMEN: LAWS AND PRACTICES IN PUNJAB**



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Submitted in partial fulfilment of the requirements for the Ph.D. in Sociology at the  
faculty of Social Sciences, International Islamic University Islamabad

Supervisor  
Dr. Amber Ferdoos

June,  
2021

## APPROVAL SHEET

### INHERITANCE RIGHTS OF WOMEN: LAWS AND PRACTICES IN PUNJAB

By

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This thesis has been accepted by the Department of Sociology, Faculty of Social Sciences, International Islamic University Islamabad in partial fulfillment of the degree of **PhD Sociology**.

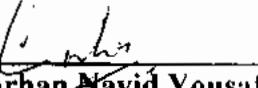
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## **Forwarding Sheet**

This dissertation entitled "Inheritance Rights of Women: Laws and Practices in Punjab" submitted by Ms. Shahla Tabassum in partial fulfilment of the requirements for the degree in Doctor of Philosophy in Sociology has been completed under my supervision. I am satisfied with the quality of the scholar's research work and allow her to submit it for further process as per IIUI rules and regulations.

Date -----

Signature \_\_\_\_\_  
Dr. Amber Ferdoos

**Dedicated to**

**My Spiritual Advisor**

**Baba Jee**

*"Believe in your infinite potential. Your only limitations are those you set upon yourself. Believe in yourself, your abilities and your own potential. Never let self-doubt hold you captive."*

*Roy T. Bennett*

**This dedication is a way of thanking you for believing in me and making me believe in my own potential. It is all because of your believe that I am here today.**

## ABSTRACT

The study engages in debate of inheritance rights of women and explores practices in present legal and cultural context of Pakistan. It focuses on the experiences of men, women and lawyers of rural and urban areas of Pothohar region of Punjab. The experiences and practices regarding inheritance were studied through a qualitative research approach and the data were collected through exploratory interviews from forty participants. The central argument of the thesis is that there is no simple answer to denial of inheritance property of women. The findings reveal a number of practices prevail in domestic and public sphere to retain the inheritance property within male members of the family. The results further indicate that government has made a number of changes in the inheritance laws in Punjab but women are still unable to get benefits from these legal amendments. The results were analysed through feminist lens and the main argument is that inheritance is political and is constructed through gender division of labour and gender power relations that create and recreate inequality and it starts from the family through socialisation. Gender ideologies build obstacles that prevent women from getting their inheritance share. My analysis, further shows that men's assigned role as bread winners in the family and the power they possess both in domestic and public sphere ignored by the state so whatever/whenever changes the state made in the laws, they will not benefit the women until changes are made in the domestic sphere. Participants suggested changes both in domestic and public sphere for women to ensure their benefit from inheritance share.

## ACKNOWLEDGEMENTS

First of all, I want to acknowledge the time and energy of all the participants who helped in the formation of this study. I would also like to appreciate the cooperation of all the participants, which they gave in this study without getting anything in return for the sake of knowledge production. I am extremely thankful to the Department of Sociology for their support in making researches like this possible.

I want to particularly thank my research supervisor, Dr. Amber Ferdoos, without whom this thesis could not have been in this way. I am eternally grateful for her listening ability that made me feel that I am on the right track and helped me continue my work. My deepest gratitude goes to the faculty committee members who supported me through this rigorous process; Dr. Hazir, Dr. Rabia, and, Dr. Farhan that I can complete this process. None of this would have been possible without my encouraging friends, Prof. Dr. Uzaira, and Dr. Akhlaq who supported me immensely throughout this journey.

My special appreciation for my fellows Dr. Saira, Farah, and special Irum who kept me motivated in grey times. Their constant appreciation and encouragement played a major role in completing this study. I would also like to thank the resilient Mahnoor, Maryum, and Fatima for their help and support in completing this research. Lastly, I want to thank my caring husband for his constant support in my pursuit of career development and my dear daughter for standing with me through thick and thin.

Shahla Tabassum

**LIST OF TABLES**

Table 1: Sampling participants .....	89
Table 2: Organizing of the categories.....	97
Table 3: Developing of the themes .....	98

## LIST OF ACRONYMS

Baradari	Community
Barani land	Agriculture land dependent on rainfall for cultivation
Bigha	5 kanals are equal to one Bigha
Fard Malkiyat	Ownership of land
Girdwar	Supervisor of patwari
Habba	Land given as gift to son/brother
Hanifi	One of Islamic school of thought
Hectare	2.5 acre is equal to one hectare
Jamabandi	Register of holdings of owners and tenants showing land held by each and amount payable as rent and land revenue
Kanal	20 Marla is equal to one kanal
Karam	Unit of length (basic measurement of agriculture land which is equal to five point five feet)
Katcheri	District court house
Khatauni	List of holding tenants
Khewat	List of owners' holdings
Khewat- Khatauni	Combined khewat and khatauni correspondence to the present
Jamabandi	
Killa/Acre	8 kanals or 4.8 bighas are equal to one killa
Lambardar	Village headman
Marla	Equal to nine sarsai $9 * (5.5 * 5.5) = 272.25$ sq. ft
Mauzaa	Village
Mehakma-e-maal	Land Revenue Department
Misl haqiyat	Record of Rights
Murabba	25 acres are equal to one murabba land
Patwar khanay level	Basic office of record keeping in revenue department at tehsil level
Patwari	A village accountant or registrar in the revenue department

Sarsai	One square karam is equal to one sarsai ( $5.5 * 5.5$ ) = 30.25 sq. ft
Shia	One of Islamic school of thought
Swara/vani	Exchange girls in marriage to aggrieved family as a compensation to end dispute
Taluka	Tehsil/ a subdivision of a district
Tehsildar	Official executive in-charge of a tehsil
Varasat	Inheritance
Watta Satta	Exchange marriage

## Abstract

Acknowledgements	ii
List of Tables	iii
List of Acronyms	iv-v

## TABLE OF CONTENTS

	<b>Page No</b>
<b>CHAPTER 1.....</b>	<b>1</b>
<b>INTRODUCTION TO THE STUDY.....</b>	<b>1</b>
1.1 Land Administration System.....	7
1.2 Legal Reforms and its Application in Punjab .....	7
1.3 Statement of the Problem.....	10
1.4 Research Question.....	11
1.5 Significance of the Study .....	11
1.6 Conceptual Terms .....	12
1.6.1 Inheritance .....	13
1.6.2 Rights.....	13
1.6.3 Women.....	13
1.6.4 Law .....	14
1.6.5 Practices.....	14
1.7 Organization of the Study .....	14
Chapter 1: Introduction to the Study .....	15
Chapter 2: Inheritance Rights and Theoretical Underpinning.....	15
Chapter 3: Literature Review and Inheritance.....	15
Chapter 4: Research Methodology .....	15
Chapter 5: Results: Domestic Sphere as the base of Inequality .....	16
Chapter 6: Results: Public Sphere as an extension of Family Inequality .....	16
Chapter 7: Conclusions, Limitations, Suggestions .....	16
1.8 Summary of the Chapter .....	17
<b>CHAPTER 2.....</b>	<b>18</b>
<b>INHERITANCE RIGHTS AND THEORETICAL UNDERPINNINGS .....</b>	<b>18</b>
2.1 Introduction .....	18
2.2 Theoretical Framework for the Study .....	18
2.3 Development of Feminists' Perspectives on Property Rights .....	25
2.3.1 Liberal Feminism.....	26

2.3.2 Marxist Feminism.....	29
2.3.3 Radical Feminist.....	30
2.3.5 Post-modernist/Post-modernist feminism.....	33
2.4 Summary of the Chapter .....	34
<b>CHAPTER 3 .....</b>	<b>35</b>
<b>INHERITANCE AND LITERATURE REVIEW .....</b>	<b>35</b>
3.1 Introduction .....	35
3.2 Development of Property Laws.....	35
3.3 History of Common Property Rights .....	40
3.4 History of Private Property Rights .....	41
3.5 History of the notion of Property Rights .....	43
3.6 Different Perspectives on Property Rights .....	46
3.6.1 Liberal Perspective .....	46
3.6.2 Libertarian Perspective .....	49
3.6.3 Utilitarian Perspective .....	51
3.6.4 Marxian Perspective .....	52
3.7 Global Gender Perspective on Inheritance Property .....	53
3.7.1 Gender and Inheritance Property in South Asian Countries.....	55
3.7.2 Gender and Inheritance Property in South East Asian Countries.....	57
3.7.3 Gender and Inheritance Property in African Countries .....	59
3.7.4 Gender and Inheritance Property in Latin American Countries .....	61
3.8 Women's Movement, UN Bodies, Regional Organizations, and Property Rights .	62
3.8.1 Women's Movements and Property Rights.....	62
3.8.2 United Nations and Property Rights .....	64
3.8.3 Convention on the Elimination of all forms of Discrimination against Women and Inheritance Property.....	66
3.8.4 Millennium Development Goals (MDGs).....	67
3.9 Regional Organizations and Women's Inheritance Property .....	68
3.9.1 South Asian Association for Regional Cooperation (SAARC).....	68
3.9.2 African Union (AU) and Property Rights.....	69
3.9.3 Association for Southeast Asian Nations (ASEAN) and Property Rights .....	70
3.10 Women Empowerment and Inheritance Property .....	71
3.10.1 Economic Empowerment and Inheritance Property .....	71

3.10.2 Social Empowerment and Inheritance Property .....	72
3.10.3 Political Empowerment and Inheritance Property .....	73
3.10.4 Legal Empowerment and Inheritance Property .....	74
3.11 Inheritance and Women's Situation in Pakistan .....	74
3.12 Summary of the Chapter .....	81
<b>CHAPTER 4 .....</b>	<b>82</b>
<b>RESEARCH METHODOLOGY .....</b>	<b>82</b>
4.1 Introduction .....	82
4.2 Research Paradigm .....	82
4.3 Qualitative Research .....	85
4.4 Research Methodology .....	86
4.4.1 Study Area .....	86
4.4.2 Population of Study .....	86
4.4.3 Sample of the Study .....	87
4.4.3.1 Sampling Technique .....	87
4.4.3.2 Selection criteria of participants for inclusion in the study .....	89
4.4.4 Sample Size for the Study .....	89
4.4.4.1 Participants of the study .....	90
4.5 Development of Interview Guide .....	92
4.6 Interview technique for data collection .....	93
4.6.1 Interview types .....	93
4.6.2 Explorative Interviewing .....	94
4.7 Data Analysis .....	95
4.7.1 Thematic Analysis .....	95
4.8 Quality of Data .....	101
4.8.1 Criteria for judging quality .....	102
4.8.2 Positionality and Reflexivity .....	103
4.9 Ethical Considerations .....	110
4.9.1 Informed consent .....	111
4.9.2 Privacy and confidentiality .....	111
4.9.3 Avoiding Harm to the Participants .....	111
4.10 Summary of the Chapter .....	112
<b>CHAPTER 5 .....</b>	<b>113</b>

<b>RESULTS: DOMESTIC SPHERE AS BASE OF INEQUALITY .....</b>	113
5.1 Introduction .....	113
5.2 Part I: Demographic Information of the Participants .....	113
5.2.1 Urban Female Participants.....	113
5.2.2 Urban Male Participants .....	115
5.2.3 Rural Female Participants.....	117
5.2.4 Rural Male Participants .....	120
5.2.5 Female Lawyers as Participants .....	123
5.2.6 Male Lawyers as Participants .....	124
5.3 Part II: Politics of Inheritance: A Gendered Ideology.....	125
5.3.1 Part II. A. The Domestic Sphere: Family as the Base of Inequality .....	126
5.3.1.1 Theme 1: Marriage as Gendered Structure in Inheritance.....	126
5.3.1.2 Theme 2: Vulnerability of Widowhood in Inheritance .....	129
5.3.1.3 Theme 3: Socialization of Gender Ideology in Family .....	131
5.3.1.4 Theme 4: Reinforcement of Gender Ideology through Stereotypes .....	136
5.3.1.5 Theme 5: Gendered Beliefs, Compliance and Opinion about Inheritance ..	137
5.3.1.6 Theme 6: Manipulation, Dominance, and Compensation for Inheritance ..	143
5.3.1.7 Theme 7: Social Practices for Retaining Inheritance .....	148
5.4 Summary of the Chapter .....	152
<b>CHAPTER 6.....</b>	153
<b>RESULTS: THE PUBLIC SPHERE AS AN EXTENSION OF FAMILY INEQUALITY.....</b>	153
6.1 Introduction .....	153
6.2 Part II. B: Public Sphere: An Extension of Family Inequality.....	153
6.2.1 Theme 8: Prevailing Meanings of Inheritance in Society .....	153
6.2.2 Theme 9: Transfer of Immoveable Inheritance Property .....	155
6.2.3 Theme 10: Transfer of Moveable Inheritance Property .....	168
6.2.4 Theme 11: Civil Court Culture and Difficulties for Women.....	171
6.2.5 Theme 12: Illegal Practices of Attaining Property .....	174
6.2.6 Theme 13: Repercussions for Demanding Inheritance.....	177
6.2.7 Theme 14: Repercussion: Help from Selfish Sources .....	181
6.2.8 Theme 15: Participants' Resolve: Awareness, Socialization and Implementation.....	183
6.3 Discussion .....	186

6.4 Summary of the Chapter .....	199
<b>CHAPTER 7.....</b>	<b>200</b>
<b>CONCLUSION, LIMITATIONS &amp; SUGGESTIONS.....</b>	<b>200</b>
7.1 Introduction .....	200
7.2 Conclusion.....	200
7.3 Limitations of the study.....	207
7.4.1 Suggested Changes at the State Level .....	208
7.4.2 Suggested Changes at the Community Level .....	213
7.4.3 Suggested Changes at the Family Level.....	215
7.5 Summary of the Chapter .....	216
<b>REFERENCES.....</b>	<b>217</b>
<b>INTERVIEW GUIDE.....</b>	<b>249</b>
<b>INFORMATION LETTER AND CONSENT .....</b>	<b>254</b>

## CHAPTER 1

### INTRODUCTION TO THE STUDY

Societies progress when all its potential human resources are utilized optimally and for that, societies provide equal opportunities and resources to all members (World Economic Forum, 2018). Globally, countries are ranked on a different basis to access human potential and Global Gender Gap Index (2018) report of WEF, rank countries on four areas like economic participation and opportunity, educational attainability, health disparities, and political empowerment. Iceland is the most gender-equal country of gender gap followed by Norway (83.5%), Sweden and Finland (82.2%). Pakistan ranked 148 out of 149 countries in overall gender disparities, while in economic participation and opportunity, the ranking is the fourth-worst performing country which shows a grim situation in gender disparities.

Similarly, the Global Multidimensional Poverty Index (MPI) report conducted by Alkire and Jahan (2018) mentioned that 1.3 billion people live in multidimensional poverty (MPI) and 85% of the poor live in rural areas and 546 million are living in South Asia. Afghanistan and Pakistan are one of those countries where one in four people live in severe poverty and women are the most affected in these countries. According to a Report on MPI conducted by Alkire, Jindra, Robels and Viz (2016), in rural areas of Pakistan, women are involved in agriculture work but 80% of them are regarded as unpaid family workers. There are only 18% of women paid labor force participation as compare to 71% of men.

Women make up half of the population and involved in family chores i.e. child care, preparing food, and managing the household in Pakistan (National Institute of Population Studies (NIPS), 2013).

World Bank (2018) in its report on women's access to assets mentioned that bank account ownership in high-income countries is 94% where all adults have bank accounts and in developing countries, this is 63% and half of them live in seven developing countries and Pakistan is one of these seven countries. Women are more than half of all these unbanked (56%) and almost half (47%) of these unbanked are of the labor force, out of which 32% are men and 59% are women. The reasons include lack of knowledge about the documentation and distrust of the financial institutions as well as lack of enough money.

Women of Pakistan not only bear the burden of domestic work but are also dependent on the family members in terms of money, mobility, and major decisions of their lives. This was also highlighted in a report by the Organization for Economic Cooperation and Development (OECD) (2017) that mentions the proportion of early age marriages between men and women in Pakistan is 25%, out of which 48% are women compared to 21% of men. The total dependency ratio of women in Pakistan is 65% and it is the parental right to marry their children and women are also dependent on their parents after divorce.

The most devastating fact is that women own 3% of land and in rural areas, it is less than 1% of land ownership (Human Rights Commission of Pakistan (HRCP), 2008). Another research report by Shafqit and Zahir (2016) mentions that there are 11 million female landowners in Punjab and this is 10% of the total population of Punjab. Data

collected from Land Reform Management Information System (LRMIS) by Shafqit and Zahir (2016) further reported that among 10.6% of female landowners of Punjab, 65.8% of women are from Rawalpindi district which is the highest among all districts in Punjab.

Research has demonstrated that legal reforms in terms of land ownership have had a positive impact on women's status and this has been documented internationally and nationally (Harari, 2014; Deininger, Goyal & Nagarajan, 2013; Roy, 2011). Studies also found a positive relation of women's access and control to resources and investment in the education of their children (Luke & Munchi, 2011; Qian, 2008; Duffo, 2003; Quisumbing & Otsuka, 2001). The relationship between women's land ownership and lower risk of marital violence has been established in most of the researches (Rehman, 2010; Panda & Agarwal, 2005). Studies in Pakistan showed a relation between lack of land ownership and subordinated status of women (Muhammad, 2011; Aisha, 2008; Sustainable Development Policy Institute (SDPI), 2008; Wisal and Inam, 2006; Mumtaz, 2005).

1 The constitution of Pakistan (1973) guarantees the rights of women in property ownership. Article 23 of the Constitution of the Islamic Republic of Pakistan states private property right as:

“Every citizen has a right to acquire, hold and dispose of the property in any region or part of Pakistan, subject to the constitution and any reasonable restrictions imposed by law in the public interest.”

Furthermore, the constitution of Pakistan under Article 227 declares that religion dictates all the laws of the state. So, all the laws in Pakistan are governed by Islamic rules

but inheritance is based on what religion the individual follows, so Christians inherit through their own laws. The issue of inheritance comes under the personal law of each citizen residing within the state. The Muslim Family Law Ordinance (MFLO) 1961 codified a number of matters dealing with Muslim personal law but MLFO did not codify the laws relating to Islamic inheritance. Islamic law of inheritance comes under:-

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

The basic principle of law is that only blood relatives may inherit and excludes adopted children from inheritance. Inheritance shares are laid down in the Quran which are pre-defined and these include all movable and immovable property whether ancestral or self-acquired (Engineer, 1994). Chapter four of the Holy Quran, "The Women" explains in detail these shares. Verse 11 of Chapter four of the Quran "The Women" says translated by Yusuf Ali (1988): -

"Allah (thus) directs you as regards your Children's (Inheritance): to the male, a portion equal to that of two females: If only daughters, two or more, their share is two thirds of the inheritance; if only one, her share is a half. For parents, a sixth share of the inheritance to each, if the deceased left children; if no children, and the parents are the (only) heirs, the mother has a third; if the deceased left brothers (or sisters) the mother has a sixth. (the distribution in all cases ('s) after the payments of legacies and debts. Ye know not whether your parents or your children are nearest to you in benefit. These are settled portions ordained by Allah: and Allah is All-knowing."

Furthermore, verse 12 of Chapter four of the Quran “The Women” explains it in detail translated by Yusuf Ali (1988): -

“In what your wives leave, your share is a half, if they leave no children; but if they leave a child, yet get a fourth; after payments of legacies and debts, in what ye leave, their share is a fourth, if ye leave no child; but if they leave a child, they get an eighth, after payments of legacies and debts, if the man or woman whose inheritance is in question, has left neither ascendants nor decedents, but has left a brother or a sister, each one of the two gets a sixth; but if more than two, they share in a third; after payments of legacies and debts; so that no loss is caused (to anyone). Thus is it ordained by Allah; and Allah is All-knowing, Most Forbearing.”

Verse 176 of Chapter four of the Quran “The Women” further explains it and says translated by Yusuf Ali (1988):-

“They ask thee for a legal decision, Say: Allah directs (thus) about those who has no descendants or ascendants as heirs. If it is a man that dies, leaving a sister but no child, she shall have half the inheritance: If (such a deceased was) a woman, who left no child, her brother takes her inheritance: If there are two sisters, they shall have two-third of the inheritance (between them): If there are brothers and sisters, (they share), the male having twice the share of the females. Thus doth Allah make clear to you (His law), lest ye err. And Allah hath knowledge of all things.”

One part of inheritance is about portion of the property from the deceased to the legal heirs and the other part is the transfer of the property to the legal heirs. The share is

described in the Quran and the laws of the land already explained above. The transfer of property is different both in movable and immovable property and different laws deal with the transfer of the inheritance property (UN-HABITAT, 2012). The following laws for immovable and movable property in Pakistan deal with inheritance/landed property matters:-

1. Transfer of Property Act, 1882 (Immovable property): is a general law that describes the concepts and principles of property. The law regulates the transfer of interest in property
2. Stamp Act, 1899 (Immovable property): regulates the process of transfer of property by paying duties to the government.
3. Registration Act, 1908 (Immovable property): deals with the registration of the documents related to transfer or sale deeds. It also describes the registration process and also deals with the local government in terms of private housing schemes, cooperative housing societies, and laws made by cantonment boards for housing construction and lease.
4. Succession Act, 1925 (Movable property): providing certificates to the legal heirs to get a share from a movable property like pension, bank accounts, etc.
5. Punjab Partitioning Act, 2012 (Immovable property): is related to amendments and reforms regarding partition in immovable property. An owner of immovable property may file a suit to partition of property by providing detailed documentary evidence of the property.

6. Land Revenue Act, 1967 (Immovable property): deals with records of land and cultivation of crops in rural areas. It implies taxes on agriculture crops and mutation in land record. The *patwari* entered the names in the records of rights and *tehsildar* is the final authority to complete the process of mutation.

## 1.1 Land Administration System

In the sub-continent, Sultan Alauddin Khilji introduced the land administration system historically but the basic foundation was developed during the Mughal emperor Akbar regime and the system was improved by British rulers and it still exists in the sub-continent (UN-HABITAT, 2012). In Pakistan, the Federal Government does not have any land administration system, they rely on provincial governments and land revenue departments administered the property matters under provincial governments.

Punjab is divided into divisions and has nine divisions which are headed by the commissioners. Each division is divided into three to six districts which are headed by the deputy commissioner. Districts are further divided into *Talukas/Tehsils* and may vary from three to five in each district and headed by an assistant commissioner. Each *tehsil* is further divided into *Mauzaas* (village/revenue estate). The village is the basic unit of land administration and a group of villages are called *Patwar Circles* that is headed by *Patwari* (basic revenue officer) (Board of Revenue, 2018).

## 1.2 Legal Reforms and its Application in Punjab

There is a number of amendments that were made during the years to make it easy for women to get their inheritance share. Following are the timeline of amendments:-

1) Amendment in Sub-section 6 (1) Transfer of Property Act, 1882 that stated:

“Muslim women or men cannot withdraw their right of inheritance.”

2) Amendment in section 9 (a) of Stamp Act, 1899 that stated:

“Exemption from the payment of stamp duty in *Tamleek* (gift in favor of legal heir) on agriculture land in rural areas.”

3) Amendment in section 78 of Registration Act, 1908 that stated:

“Exemption from the payment of registration fee in portioning deed in favor of agriculture land in rural areas.”

4) Amendment in section 4 of Muslim Family Law Ordinance 1961 that stated:

“Grandsons and granddaughters are also heirs in presence and absence of son and daughter in inheritance.”

5) Amendments in the procedure of mutation in section 42 of the Land Revenue Act, 1967 that stated:

- a. A person acquiring the right of inheritance, report to *patwari* regarding land acquisition.
- b. *Patwari* will record in his daily record and provide a copy of this record to the applicant within a week.
- c. If *patwari* fails to provide a copy of the record, a person can make a written application to the Revenue Officer.
- d. The Revenue Officer will check the Record of Rights and attest the mutation in presence of the applicant with two respectable persons from the area or chairman of the union council or member of the union council for fulfilling the procedures.

- e. Revenue Officer will issue orders within three months in the mutation register.
- f. If the Revenue Officer will not issue the orders within three months, apply the case to the collector where the Revenue Officer will explain the reason for the delay in a suitable manner.”

6) Amendment in 498-A of Pakistan Panel Code (PPC) under Prevention of Anti-Women Practices Act, 2011 that stated:

“Those who deprived women of claiming their inheritance rights by any illegal or deceitful means will be imprisoned up to ten years but not less than five years or a fine of one million rupees or both.”

7) Amendment in section 135-A of Punjab Land Revenue Act, 1967 that stated:

“After the sanction of inheritance mutation, under a scheme of joint holdings, without any application, Revenue Officer shall issue notice all joint landowners to submit their landholdings within thirty days. The RO will decide the case of portioning within six months from the date of application or from the sanctioning of mutation of inheritance.”

8) Amendments in attestation of inheritance mutation under Punjab Revenue Rules, 1968 about duties of the RO and he shall:

- a. Record the statements of at least two honorable persons, preferably, a chairman of the union council or a member of the local government.
- b. Obtain their signatures or thumb impressions on the register of mutation.
- c. Receive copies of the CNIC and Form – B or other relevant documents of the deceased and his/her legal heir.

- d. Establish district enforcement inheritance rights committee to monitor the situation if someone is deprived of her/his share.”

9) Amendment in Punjab Pension Rules, 2009 on the direction of Punjab Ombudsman that stated:

“The Punjab Pension Rules, which provide the divorced daughter and unmarried sister of a deceased government employee will be entitled to pension till life after the widow, infant, and unmarried daughter.”

10) Enactment of Punjab Partitioning of Immovable Act, 2012:

- a. Enacted for the partitioning of immovable property to alleviate the suffering of joint owners especially for women for protected litigation. A person can file a suit for partition by providing details of the property and citing all the co-owners as defendants by attaching all the documents.
- b. Registration fee waiver on documents pertaining to inheritance property and only token charges of Rs. 500/- per mutation will be charged.

### **1.3 Statement of the Problem**

Keeping all these facts in mind, it is worth mentioning that the right to own a property and independent decision of utilizing the property is one key indicator of women's empowerment. This right to property is also granted under various national and international instruments like Convention of the Elimination of all forms of Discrimination against Women (CEDAW) and Universal Declaration of Human Rights (UDHR). The Constitution of Pakistan and Islam, the religion of the majority of people in Pakistan, also

ensure share of women in inherited property. Despite these facts, this research raises some of the following questions:-

#### **1.4 Research Question**

Why are most Muslim women in Pakistan unable to get their granted legal and religious right to inheritance property?

##### ***1.4.1 Sub-questions:***

1. What are the practices that deter inheritance share for women in the Pothohar region of Pakistan?
2. Do women have an understanding of the implementation of processes/procedures to transfer inheritance property in Punjab?
3. Do women have awareness about the existing inheritance laws in the Pothohar region of Pakistan?
4. How can the situation of women in getting their inheritance share be improved in Pakistan?

#### **1.5 Significance of the Study**

The study is important in a number of ways:-

This study provides a holistic, innovative, and distinct methodological approach to help solve women's issues in inheritance rights of property. The study is addressing an issue well illuminated by the gap between women's property rights and their actual ownership of property. Property ownership confers economic benefits as input in agricultural production and a source of income from rent or sale, and as collateral for credit that can be used for either consumption or investment purposes.

The study helps in creating understanding for the policy makers and other stakeholders that property ownership is a critical resource for a woman in the event that she becomes a de facto household head as a result of male migration, abandonment, divorce, or death. In both urban and rural settings, independent land property rights under these circumstances can ensure less dependence on natal family and enhance the ability to form a viable, self-reliant, female-headed household. Women with stronger property rights to land are also less likely to become economically vulnerable in their old age and or in case of death, divorce, or abandonment. Furthermore, property ownership is a direct indicator of women's empowerment, owning property acquisition as well as the decision of utilizing that property, a woman can gain more power within the household and thus be less prone to abandonment or domestic abuse.

The study provides specific suggestions for the implementation of the laws related to women's inheritance rights of property. The present study is excellent reference material for teachers, students, lawyers, researchers, and activists to know about ways of inclusion of women in inheritance property. The study provides specific suggestions for the implementation of the laws related to the women's inheritance rights of property. The present study is an excellent reference material for teachers, students, lawyers, researchers and activists to know about ways of inclusion of women in inheritance property.

## **1.6 Conceptual Terms**

This part focuses on concepts that are used in this research and serve as a pillar to study findings and the concepts including inheritance, rights, women, law and practices.

### **1.6.1 Inheritance**

Anything, including money, jewelry, land, housing derived from ancestors of parents is inheritance. Black Law Dictionary edited by Garner (1999) described inheritance as a legal movable or immovable property received from an ancestor under the laws of inheritance that a person received by bequest. Inheritance in Pakistan is divided under sharia laws and The Quran mentions the shares in inheritance both for men and women in different capacities like mother/father, sister/brother, wife/husband, and grandparents/grandchildren from the property (The Women: verse, 11-12 & 176).

### **1.6.2 Rights**

Khaki and Haider (2015) mentioned the definition of right as explained by Hibbert, a right is one person's capacity of obliging another to do not by means of his/her own strength but by the strength of a third party. If that third party is God, then the right is divine. If the third party is public, through its opinion, then the right is moral. If the third party is the state then the right is legal. So, I am talking about those rights which are legal entitlements and given to its people through the provisions of the constitution of the country. The Constitution of Pakistan (1973) granted women the right to own and dispose of the property as equal to men.

### **1.6.3 Women**

There are two dominating perspectives that defined women, one is naturalistic and the other is culturist. The former defined women based on sex characteristics while the latter viewed women through their role and status in a particular culture (Simone, de-

Beauvoir, 1949) and the assigned social roles women perform which produced a certain pattern of exceptions, behavior, and emotions in the family and workplace. These patterns of behavior are valued differently and produced different social outcomes. I view women in their cultural context.

#### **1.6.4 Law**

According to Black's Law Dictionary Volume (196), Law is described as the solemn expression of legislative will and when we speak about the law, it means something which is enforced and which is not the capacity to be rejected by the courts as unreasonable or uncertain. In another way, the law is a rule of conduct or action that is formally recognized by a legitimate authority and obligatory to abide by everyone living in the country. Inheritance and succession laws are shaped according to the needs of society. Family and religion play a major role in shaping and formulating these rules in Pakistan.

#### **1.6.5 Practices**

According to Bourdieu (1996), the term 'practices' is usually used as a repeated feature of a way of doing things. It is an action or conduct of something that people engaging intentionally or unintentionally and a condition of conduct of the action. In this study, the practices mean legal and cultural actions, behaviors, and activities related to the inheritance that people do while owning and transferring shares of property to women.

### **1.7 Organization of the Study**

## **Chapter 1: Introduction to the Study**

This chapter explains the rational, significance of the study, statement of the problem, research question with four sub-questions, key terms used, and in the end, describes the organization of the study.

## **Chapter 2: Inheritance Rights and Theoretical Underpinning**

The chapter outlines my own theoretical position with some borrowed concepts from different strands of feminism and aligns with the broader context of power dynamics in society. Also, it describes major feminists' ideas in relation to gender inequity and property. In the end, focusing on Okin's idea of the public/ private dichotomy as political in the context of gender and power.

## **Chapter 3: Literature Review and Inheritance**

This chapter sheds light on the development of property laws in different civilizations, perspectives of different philosophers on property rights, a global gender perspective on inheritance property, the role of UN conventions in promoting women's property rights, and the relationship of women's empowerment with inheritance property as well as global and local empirical studies with reference to inheritance property.

## **Chapter 4: Research Methodology**

This chapter includes a research approach that starts from ontology, epistemology, and axiology which is a foundation of building methodology and a deciding factor of method selection. All these are based on research questions that are raised for this study. The chapter also includes procedures of participant selection, data collection, data analysis,

and maintaining the quality of the qualitative research as well as ethical consideration for the study.

### **Chapter 5: Results: Domestic Sphere as the base of Inequality**

This chapter presents results developed through themes and subthemes that emerged from the coding and categorization of the data. The results include demographics of all the participants which includes their education, age, gender, family members, areas, and professions. The part II within the domestic sphere hold seven themes.

### **Chapter 6: Results: Public Sphere as an extension of Family Inequality**

This chapter consists of results part II about the public sphere as an extension of inequality that happened within families regarding women's inheritance property. These results are divided into themes and sub-themes as the meaning of inheritance in society, land as a male domain, transfer of immovable and movable property (inheritance), documentation of the transfer inheritance, the language of the documentation, court culture, making fake documentation, taking power of attorney, getting help from selfish sources, repercussion of demanding inheritance and participant's resolve to improve the situation regarding inheritance property share. In the end, discussed results based on the theoretical frame which was developed for this study.

### **Chapter 7: Conclusions, Limitations, Suggestions**

The last chapter of the study consists of a conclusion based on findings and analysis, as well as discussed limitations and provided suggestions to improve the situation of women regarding inheritance rights in the Pakistani society.

## **1.8 Summary of the Chapter**

This chapter included an introduction of the study, scope, significance of the study, and a research question with four sub-questions. It also included laws of the land about inheritance and transfer of property and some conceptual terms used in the study. The chapter also highlighted the organization of the study.

## CHAPTER 2

### INHERITANCE RIGHTS AND THEORETICAL UNDERPINNINGS

#### 2.1 Introduction

The chapter consists of two parts: Firstly, my own theoretical position with some borrowed concepts from different strands of feminism and then aligned with feminist philosophy which upholds a notion of ‘personal is political’ in a broader context of power dynamics in society. And lastly, focused on Okin’s idea of public/ private dichotomy as political. I also discussed major feminists’ ideas in relation to gender inequity and property.

#### 2.2 Theoretical Framework for the Study

The knowledge constructed in this study is based on a feminist perspective, who challenged positivist epistemology and argued that all human knowledge is a product of social experience, as well as argued that the production of knowledge is a politically engaged activity (Liz Stanley and Sue Wise, 1993). The purpose of all feminist knowledge production is to understand women’s view of the world and emancipate women during the research process (Harding, 1987). Feminist research not only addresses the question of women’s oppression, inequalities, and exploitation but also suggests strategies to overcome these inequalities and exploitations (Abbott et al., 2005). This study also suggests strategies to overcome the denial of inheritance rights of women in Pakistan. As I believe in feminist

epistemology and my whole research process from developing a research question till strategies holds a feminist perspective.

With regard to my own position in this whole research process, I called myself an indigenous feminist, and I borrowed some of the concepts from social, political, and legal feminists to analyze my data in this research. I cannot call myself a pure socialist feminist but I locate myself within this perspective and have learned from my own experiences of discrimination, exploitation, and oppressions that are aligned with other strands of feminism. I believe that the economic dependency of women on men is the root of their subordination. I am not looking at it in isolation as I knew a number of women who are economically independent but they cannot make independent major decisions of their lives like purchasing property and buying or selling houses, and for that, they are dependent on men. So material resources are the key players in decision-making at all levels. All these are discussed by feminists of different strands like radical, socialist, and legal and explained reasons for denial of property in multiple ways.

Marxists see women economic subordinate position in history and Collins (1975) highlighted men's role as head of household as legal authority to control family members and she identified domestic division of labor as the root cause of women's subordination (Collins, 1993) while Eisenstein (1979) mentioned economic inequality of women in their unpaid domestic labor and child-rearing responsibilities in the family through male power in the household in capitalist societies. Furthermore, Lee (2010) argued that it is in the modern capitalist societies where women were dependent on fathers, brothers, and husbands as a result of separation from domestic and public life during the transition from

agricultural to industrial society. These feminists highlighted the link between state structure and legitimate decision-making in the family which is one way of controlling women and property through different practices within the families.

Firstly, property ownership was discussed by Engels (1884) in his book "The Origin of the Family, Private Property and the State" by outlining his theory of the development of human societies and mentioned that initially, men were responsible for producing food and women for domestic spheres but in these society, women were not subordinate to men and private property existed in its primary form that entailed simple tools, utensils, and weapons. The private property passed through women's lineage because of their choice of partner.

According to Engels, men gained power and animals were domesticated which became an important form of private property. During the period of Barbarism, women suffered a historic defeat and men gained control over the livestock and were not willing to pass the property through female lineage. Furthermore, in order to ensure the identity of their own children, men put restrictions on women's choice of sexual partners.

De Beauvoir (1949) rejected the view of Engels that women's historical defeat is a result of the emergence of private property she rather claimed that it was a result of men's desire to dominate women by maintaining family and keeping inheritance through male lineage in her book 'Second Sex' written in French and translated in almost 40 languages which published its English version in (2009) in New York. She, further claimed that the idea of being a woman is constructed to help men in their economic and physical needs.

There is no doubt that the women's biological experiences have significance but the notion of femininity and masculinity are socially constructed. This is reflected in her famous quote "One is not born but rather becomes a woman". She claimed that the social construction of women is a deliberate effort of men to keep the women subordinate and they are kept in this situation and adopt a passive role through a process of socialization. From an early age, boys and girls are forced to adopt appropriate roles according to their gender and then reinforced through gender stereotypes. Boys and girls are very clear about their roles as breadwinner and caretaker accordingly.

De Beauvoir was critical of the family as an institution and eager to destruct patriarchy through abolishing the family. At the same time, she also advocated the equality of sexes through 'politics of equality' and in her point of view, this could happen when there were no men and women rather only workers who equally respect each other. Although she did not claim to be a feminist but her ideas are aligned with feminist ideologies.

Feminists during the late 60s developed the idea of women's personal problems as political and Hanisch (1969) discussed that women's personal problems are political and this essay was published under notes of the second year of women liberation in 1970 title 'the personal is the political' and the term political was used in a broader sense of power relation, not in a narrow sense of electoral politics. I am borrowing this idea in my analysis of the data.

While analyzing sexism, Millet (1970) in her book 'Sexual Politics' highlighted that sex-based oppression is not only cultural but political as well and defined sexual politics as a power structure relationship where one group (men) control the other group (women). She blamed marriage as the root cause of women's oppression and mentioned marriage as patriarchal the term patriarch derived from the Old Testament which used it for paternal ruler of a family, tribe, or church.

Patriarchy in later years redefined as a sexual system of power where male possesses more power and economic freedom and it is argued that patriarchal system is preserved through marriage and family through the sexual division of labor (Eisenstein, 1979) while Walby (1990) defined patriarchy as a system of social structures and practices in which men dominate, oppress and exploit women.

Bernard (1982) in her book 'The Future of Marriage' discussed inequalities in a marriage where marriage is not a contract between men and women but a cultural system of beliefs and ideas as well as an institutional arrangement of roles. Culturally, marriage for women is considered as a source of fulfillment and as a mix of blessing for men. Institutionally, marriage empowers the role of husband with power and freedom to move beyond the domestic sphere and an essential for wives to be dependent, self-empty and surround domestic activities.

These gender ideologies operate not only in the marital life of men and women but surround the whole spectrum of human life in societies. Inheritance is not just a transfer of assets within a family but a politics of gender which creates and justifies these differences

and exploit on the basis of gender which continues in public life. These were discussed by Pateman (1983) in her book 'Sexual Contract' that also located patriarchy as the subordination of women in the institution of marriage as a contract and link it with the social contract practices and argued that political theories created a powerful myth that all citizens through the social contract are equal. In the sexual contract, she discussed husbands and wives, not as individuals but as a social and political category. She claimed marriage as an institution that gives husbands a specific power to treat their wives poorly. The marriage contract is characterized by subordination and domination and provides a legal understanding of contract and gender.

Pateman (1983) criticized in her article 'Feminist critique of the public/private dichotomy and mentioned that traditional definitions of politics excluded women from politics and as a result, they are invisible in building state welfare. She traced the roots back to traditional political thinker John Locke's ideas who created a split between the public and private sphere where the head of the family played an active role in public life and confined women and children within the private life of the family and was free from state interference. Pateman said that the feminist movement is all about challenging the 'dichotomy between the public and the private' and I agree with Pateman's idea of public and private that still exists and affects the economic structures of public life and economic values of family property.

In this regard, Okin (1989) in her book 'Justice, Gender and the Family' discussed that the dichotomy of public and private as a misleading construct that has not yet discovered the patterns of inequality between men and women. She clearly pointed out the

personal issues in public life as political by evaluating family and market life. She argued that gender is a major influencing factor in building inequalities and oppression in the family and goes on in public life. I agree with her idea and believe family is the base of creating inequality by establishing relations through gender-structured marriage and constitutes a means to control material and social resources. She also discussed four aspects of the personal as political in evaluating the domestic life in the personal realm and public life in the political realm and I used her ideas in analyzing my data in this study.

First, the power which is always considered as political has a significance in family life. What happens in personal life is not protected from the power dynamics. The power within the family is not recognized whether this is the husband's power over the wife or parent's power over the children. It is considered natural and where everyone's interests are protected. Family is the place where one is connected with love, sacrifice, trust, and cooperation for each other and that's why power dynamics become insignificant in the family.

The second aspect of personal is political which Okin (1989) discussed that the construction of family is the result of political decisions. Men as heads of the family will take care of the interests of the family in public life and the state will not interfere in the matters of family life. She has pointed a number of connections in this regard. While I still believe that it exists as we see the unequal distribution of inheritance within the family and exploitation of women by denying their due share in inheritance and state is not interfering in this matter and no man is punished for this act. As well as hegemony of men in the administrative offices of state deal with the transfer of inheritance cases and no women can be found in these offices because women lack the ability to interact with men. The language

construction of those documents, which is developed by the state is foreign to women. In many ways, the state is responsible for the background rules that affect people's domestic behavior within the family.

The third aspect of personal is political is the family as a-political is challenged by Okin. It is political because it is a place where all of our early socialization takes place and what we become as gendered selves is the outcome of training. We learn gender division of labor, gender norms and gender values from childhood that exclude women from material resources of public interest latter in their life.

The fourth aspect is discussed by Okin that the division of labor within the gendered structured family create multiple obstacles for women which handicapped them and they are unable to cope with them in public life.

### **2.3 Development of Feminists' Perspectives on Property Rights**

The Feminist movement emerged in the 1960s and 1970s and the purpose of the movement was to achieve gender equality in various fields such as political, economic, social, cultural and other male dominated activities (Tickner, 1997). Feminism can be described as an interdisciplinary body of knowledge which is based on experiences and lives of women, who challenge the notion of oppressive and unequal relation between man and woman. Tickner (1997), describes the aim of feminist theory as to explain women's subordination in varying degrees in societies and explores ways to end it.

Squires (2000) said that the goal of feminism was to eliminate the ideology of different and establish equality among men and women and bring them under a common measure. Freeman (2001) said that feminists aim to end women exclusion from gender

stereotyped paradigm as well as argued that theoretical bases for the institutions established such as family and personal relationships are flawed.

From Plato to Aristotle, and Hobbes, Locke to Rousseau, political thinkers and philosophers alike have identified a natural difference between men and women as men being rational and women inclined towards emotional, passivity, irrationality and other characteristics which they deem unsuitable for politics and public life (Freeman, 2001). Claims and notions such as these made women vulnerable and dependent on men for security and social protection, and led to the birth of masculinity in society.

Bhagwat (2004) said that traditionally women were stereotyped as passive and dependent while men as active and independent. Conventional notion suggests men were breadwinners which led to inferior treatment of women. Lee (2010) said that term feminism refer to social and political movements which are working to end women subordination.

Feminism encompasses different theoretical approaches, which include the liberalist, radicals, socialist, Marxist, post-modernist, and post-structuralist. The purpose of all these is to understand the basis of women oppression and provide solutions to it. It is important to understand that the present discourse of gender revolves around the question of dominant concept of knowledge-making which has excluded women as subject of knowledge (Lee, 2010). Various feminists have diverse social groups with their experiences and their conceptual framework also differ from each other.

### **2.3.1 Liberal Feminism**

The objective of liberal feminism is to bring equal legal rights for women in society. Sylvester (1994) said that liberal feminist raised their voices against practices of liberal

societies due to their bias, discrimination, and gender un-representativeness among liberal legislators and philosophers. Brody (2009) said that liberalist traditionally appeals to legal intervention and show faith in the capability of law, to bring changes in women lives on a legal level. Denial of women's rights is the reason for arguments for equal laws as it leads to ideas of justice, equality, and freedom in the public sphere should also be present in the domestic sphere. This philosophy is based on the division between the idea of the public and private sphere. To reduce women's suffering, laws have to provide special provisions for them (Brody, 2009).

Menon (2004) said that notion of private and public from seventeenth-century feminists suggests the distinction between state and society, and domestic and non-domestic. Okin (1991) said dichotomies that categorized state as public and family as private. Men are to be responsible for the state of public affairs and women for domestic affairs. She, further argues that women are regarded as unsuited for public affairs 'by nature' and hence dependent upon men (Okin, 1991).

Donovan (2012) said that the idea of liberal feminism can be found in the eighteenth century. The liberal feminist argued that women and men are ontologically identical, and believed in education natural rights doctrine. The book 'A Vindication of the Rights of Women' (1792) by Mary Wollstonecraft is considered a landmark in feminist ideology in Britain. John Stuart Mill in her book 'Subjection of Women' (1869) also helped in bringing out the seed of feminists thought. They both argued that every human being has an equal capacity of reasoning which is the only distinction between humans and animals. Most countries have laws that are biased in nature, and they discriminate against women more

with respect to inheritance, wage-earning, marriage, and divorce, and liberal feminists demand equality in legal rights. (Donavon, 2012).

Christman (1994) said that equality for women can only be achieved through legal means and social reforms. The theory of equality must be adopted by the policies of states while distributing goods and resources. The marginal groups in society are provided limited justice due to rules shaped by the society, rights to possess, dispose, or transfer of property. Lee (2010) cited Mill who argued that women should have equal rights to men in education and access to training and work, representation of their political interests, right to vote, divorce, and so on. Mill insisted that women should be provided with equal opportunities, economic, civil rights, as well as property rights.

Caha (2013) said, for women to have full potential and pleasure in society, they should have the same rights as men in civil society. Tong (2009) said that in the mid-1960s many liberal feminists joined women's rights groups, such as 'National Organization for Women' (NOW), 'Women Equality Action League' (WEAL), and 'National Women Political Caucus' (NWPC). The purpose of these groups was to improve the status of women by applying legal, social, and other pressures on institutions and major political parties. 'National Organization for Women' (NOW), the first president was Betty Friedan pointed out that the formation of NOW would challenge sex discrimination in all spheres of life: political, personal, and social (Tong, 2009).

Gupta (2001) explained that in the 1970s feminist legal scholarship challenges the traditional liberal feminist premises because laws became an instrument of patriarchal

oppression. Equality can be achieved legally through removing specific barriers that uplift women by providing them equal status within society and legal structure (Charlesworth, Chinkin & Wright, 1991).

### 2.3.2 Marxist Feminism

Marxist feminists claimed that women's oppression is class-based derived from the idea of Karl Marx who mentioned the exploitation of the working class in capitalist society from the wealthy hands who use their labor by paying minimum wages for gaining maximum profit. Donovan (2012) mentioned Marx's alienation theory that has a direct relation of labor detach from their final products in the modern capitalist society. The Marxist feminist Caha (2013) saw a clear connection between women's subordination and capitalism. She mentioned that the introduction of the notion of private property laid the foundation of women's subordination. The traces can be found in 'The Origin of the Family, Private Property and the State' by Fredrick Engels (1884) where he stated that the early societies were egalitarian based on collective production and communal property ownership and women were equal partners.

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As society progress and animals were domesticated, it went away to the accumulation of wealth and affect social relations. The property ownership shifted from tribes to private owners and other forms of the property also added and demand for human labor increased. Women (child-bearer) exchanged for valued property and human beings as slaves (Brewer, 2004). He further mentioned that the unique capacity of women as child-bearer and caregivers rise to the division of labor in ancient society. Hence, lead to high

status to men in the family and they overthrow the matrilineal order of inheritance and establish patrilineal. Engels (1884) claimed that it is the 'world-historical defeat of female sex'. Margaret Benston, a Marxist feminist claimed that capitalism is the root of subordination of women and mentioned the economic situation of men and women in the modern capitalist society where women are producers of family and men with factory products in public. She claimed that unless women are free from domestic activities, they are not able to enter the public force.

### **2.3.3 Radical Feminist**

According to Donovan (2012), radical feminism was totally different from the previous feminist movements which emerged in the 1960s, they were from the left wings of the political parties, modernist, and radicals. They rejected the idea of equality with men rather advocated the emancipation of women from the patriarchy and all other traditional aspects of women (Caha, 2013). They focused on consciousness-raising sessions, the creation of a counter-culture, and literature with a women's perspective like feminist theatre, women's festivals and music bands, etc. (Mackinnon, 1989).

Firestone (1970) in her book 'The Dialectic of Sex: The Case for Feminist Revolution claimed that the fundamental cause of women's oppression in the sex/gender system is not between the classes as Marx and Engels identified. She argued that women are oppressed because they have the capability of reproduction and their reproductive system make women more powerful and with the advent of new medicine, women can take control of their bodies and it may be possible to end the patriarchy.

According to Caha (2012), radical feminists blamed men as oppressors and focused that men and women have conflicting interests and by eliminating patriarchy women will achieve freedom. Because patriarchy gives rise to men in public life and left women in the domestic sphere. She highlighted the slogan 'personal is political' and said that women's personal needs must be addressed politically or publically. Radical feminists identified marriage and family as the root cause of women's oppression so they suggest eliminating the institution of marriage within the family so that they could have freedom (Okin, 1991).

Millet (1970) mentioned the term patriarchy that is derived from the Old Testament and has been used for paternal ruler of a family, tribe, or church. She argued that sexed based oppression is both cultural and political in her book 'Sexual Politics' and highlighted patriarchy as sexual politics of a power structure relationship established through a marriage where one group (men) controls the dominates.

Moreover, Eisenstein (1979) redefined patriarchy as a sexual system of power where male possesses more power and economic freedom and argued that patriarchal system is preserved through marriage and family through the sexual division of labor while Walby (1990) defined patriarchy as a system of social structures and practices in which men dominate, oppress and exploit women.

Lee (2010) claimed that patriarchy built upon gender dichotomies like culture/nature, reason/emotion, dependent/independent, and public/private in the social system. Feminists see the concept of public/private as an essential part of discrimination. Lee (2010) further asserted that during the modern system of capitalism, we see a shift

from an independent unit of the household to a legal male household where women became dependent on brothers/husbands and fathers. As a consequence, we found households separated from the workplace, and women assumed domestic roles, and men were assigned the role of breadwinner. Feminist challenged this dichotomy between private and public as the public sphere with the absence of women and assured that both the spheres are important for the development of women and society.

#### **2.3.4 Socialist Feminism**

Tong (2009) mentioned that socialist feminists reject the idea of Marxist feminists of women's oppression based on class. They went beyond and asserted that women's subordination is systematic and integrated class, sex, and other categories like race, ethnicity, and sexual orientation. Caha (2013) mentioned that socialist feminists linked the radical concept of patriarchy with Marx's idea of production which they called material-based patriarchy which brought men's control over women's labor. Mitchell (1971) in her book 'Women Estate' argued that women's situation is surrounded by the structures of production, reproduction, sexuality, and socialization of children. She, further claimed that in order to achieve liberation, they need to enter public life so their status can be changed.

Gupta (2001) mentioned that socialist feminists tried to locate women's subordination in the social, cultural, and economic processes and practices. She further, argued that the source of women's exploitation resided in the structure of capitalism and major structural changes required to remove the oppression. For that the socialist feminist's combined hands with other social groups in society rather than struggling separately for women's rights.

### 2.3.5 Post-modernist/Post-modernist feminism

Sylvester (1994) viewed French post-structuralism philosophies as a way of deconstruction authority and often look at language as a power in the construction and reconstruction of male-dominance orders. Michel Foucault, Simone de Beauvoir, Jacques Derrida, and Jacques Lacan developed the concept of post-modernism by rejecting the structure of patriarchy and accept the binary structure like male/ female, culture/nature as the determining force in society. Post-modernist deconstruct the assumptions of culture and men and women are the common examples of cultural assumptions where knowledge is constructed socially, historically, politically and their roles are determined by nature (Sylvester, 1994; Walker, 1992).

Harding (1987) mentioned that women are systematically excluded from knowledge production and history is written from men's point of view and always prefers men's interpretations. Flax (1990) highlighted the post-modernist feminist view about gender, knowledge, social relations, and culture as hierachal and the need to deconstruct and challenged the fixed, universal, and natural definitions of gender and gender relations. According to Gupta (2001), post-modern feminists are skeptical about general and universal claims and tried to uncover the realities which are constructed through language and investigated through legal, cultural, and political discourses but they ignored the material realities that still women are confronted with. So I am not using the post-modernist feminist perspective as they ignored the economic dependency of women which is still relevant in today's world.

## 2.4 Summary of the Chapter

The chapter is about the theoretical underpinning and my own theoretical position of an indigenous feminist with a socialist feminist positioning. The chapter also discusses major feminist strands in relation to gender inequity and property. My main focus is on Okin's idea of gender and power through politics of public/private dichotomy for analysis of the data.

## CHAPTER 3

### INHERITANCE AND LITERATURE REVIEW

#### 3.1 Introduction

This chapter sheds light on the development of property laws in different civilizations, the history of the notion of property rights, perspectives of different philosophers on property rights, a global gender perspective on inheritance property, the role of global feminist movements in women's right of inheritance property, the role of UN conventions in promoting women's property rights and the relationship of women's empowerment with inheritance property as well as local empirical studies with reference to inheritance property.

#### 3.2 Development of Property Laws

How property rights developed over a period of time as the material side of human civilization mainly engaged the idea of property ownership and the idea of property became an important part of the social development of societies (Mahajan, 1988).

According to Tully (1979), the ownership of property was absent in early societies. Human development can be traced in different stages from the Stone Age to Copper, Bronze, and then Iron Age. The hunting and gathering society, without permanent settlement consisted of men, women, and children living as nomads (Diamond, 2004). Their main roles were to find food because they had not yet learned how to sow seeds for

crops and to plant trees or domesticate the animals. If they hunted and gathered food for family without realizing the concept of property, they might be considered as private property because they did not share it with others (Hidayatullah, 1983).

Initially, land resources were considered communal because all were engaged in gathering foods and developing tools. With the passage of time, land resources were changed from communal to individual ownership due to agricultural activities (Mahajan, 1988). Then they started domesticating animals and the construction of cottage came into existence for settlement and ownership and possession were guided by their own norms and rules (Hidayatullah, 1983). Things were exchanged through a barter system in order to fulfill their needs. As the state emerged, the possession of property became the responsibility of the state to protect the rights of the people and their property. Inheritance of property rights was protected under Greek, Romano-Germanic, and common and private laws.

Greek inheritance law was regulated by the Greek civil code and it was taken from the Roman law which was likewise motivated by the German Civil Code (Mathie, 1979). According to Pomeroy, Stanley, Walter, Jennerfer, and David (2004), early Greek society was patrilineal and patriarchal where the father had authority within the family through customs and then it was regulated through laws. The deceased's assets were inherited by the children and grandchildren who come under the first-class category. If the deceased had no first-class inheritor, then assets could be inherited by a close relative, who come beneath the second and third category. Caseau and Sabine (2014) stated that they did not take the right of the firstborn and usually children inherited equally, though daughters

regularly inherited land, but mostly obtained their share of movable belongings as a dowry. Widows have not been allowed to inherit assets from their husbands but were granted lifelong usufruct rights in the family.

A number of studies indicated that the historic Greek ideology was constructed upon male dominance in which women did not inherit personal assets (Fleck & Hanssen, 2007; Pomeroy et al., 2004; Johnstone, 2003; Blundell, 1995; Foxhall, 1989). In most of the Greek societies, women accessed little education facilities and faced restrictions. Women in Athenian society were confined by means of law from getting into a settlement while the women from Spartan society followed a distinct method, and had specific inheritance laws for women in which they may own and inherit the belongings. Spartan daughters inherited all of the assets if they had no living brothers inside the family. They were well educated and moved freely in society (Fleck & Hanssen, 2007; Pomeroy et al., 2004). Spartans have been totalitarian in nature and Athens' customs have been based totally on a democratic governing system, though they shared commonplace background (Rehmke, 1997).

The Romano-Germanic regulation, also called civil regulation or Roman law, the regulation of continental Europe became based totally on an admixture of Roman, Germanic, ecclesiastical, feudal, commercial, and customary laws (Carrozz). This law was adopted in Latin America, Asia, and Africa. It became originated in Europe in the 12th century. Nichols's work, *An Introduction to Roman law*, stated that Roman law unfolds in nearly the entire of Europe, as a common inventory of prison ideas. The Twelve Tables (Couperus, 1990) turned into a written regulation and another primary source of Roman

law. Alternatively, Juris Prudentes were helped by using Praetors who interpreted the Twelve Tables and different laws and such interpretation became the sources of law.

Roman society at the start divided into two bodies, the populous and the plebeians, the former possessed political and higher rights than the latter have been settlers from outside (Hidayatullah, 1983). Household head, known as the paterfamilias meaning father of a family or household, possessed an authority within the family (Thompson, 2006). This indicates the power and obligations regarding rights over family belongings and other religious activities have been looked after by the pinnacle of the circle of relatives.

In the ancient period, Roman law gave no choice to primogeniture. If the father died, his intestate assets become inherited equally amongst children, however, later on, such legal guidelines were modified and preference of inheritance changed in favor of the eldest son and the concern to male participants (Treggiari, 1979). Although in Roman law, each son and daughter inherited property, sons enjoyed more than daughters. In reality, Roman girls in ancient times did not own personal belongings, like girls of classical Athens and somewhere else in Greece (Fleck & Hanssen, 2007; Lemmer, 2006), and did not revel in political rights (Couperus, 1990). Under historical Roman law, girls were generally living under their husband's control and widows and unmarried women could not own personal assets as well (Robinson, 1987 mentioned by Zaher, 2002).

Susan Treggiari (1979) expounds in her article, "Sentiment and Property: Some Roman Attitudes", Romans had not seen land and slaves in a commercial way, which would be bought and sold, due to the fact they have been emotionally connected with these.

In historic Athens and Rome, slaves including men and women had no prison rights, they had been merely taken into consideration as assets and they had been handled as the property of the masters (Palmer, 2014).

Common law is also referred to as Anglo-American law, the frame of normal regulation (Glendon). Common law, in particular, belonged to the law of England which emerged at some stage in the Middle Ages and it is able to additionally apply to different nations, whose laws had been modeled on the bases of English regulation. In reality, the common law is a prison device of most of the English-speaking nations. The foundation of common law referred to the royal power. It especially set up as a way to keep the peace rather than giving ethical justification to social order (Mohsin, 2010). It was basically uncodified, which means that there had been no legal policies and statutes. The influence of common law can be visible in many colonized countries, for example, South Asian Counties like India, Bangladesh, and Pakistan. The English common law gives important evidence in favor of belongings rights, for example, William Blackstone in his Commentaries on the laws of England covered belongings rights as one of the absolute rights (Clark, 1982).

England retained the common law and those common laws had been encouraged via the standards of Roman laws. Common law was regulated by real property within the inheritance gadget, deceased intestate assets: this is surpassed directly to the eldest son and within the absence of sons, to daughters who inherit jointly within their own family (Erickson, 1993). Nearly, most of the fathers, preferred sons over daughters while the distribution of land and daughters enjoyed the simplest movable properties.

### 3.3 History of Common Property Rights

According to Demsetz (1967), common ownership means a right that can be exercised by all members of the community. It means that no one can interfere in the communal-owned property, even the state. For example, fishery in open sea and grazing of public land is common property. Alston and Mueller (2015) shared the Richard Posner idea that common property provided unity in a society where everyone in the society can enjoy the fruits of common property.

Marx in his work also mentioned property as a means of the creation of human relations with nature. If the man owned private property, then it will be hard to make a relationship with nature as private property created alienation from social bindings and create isolation. In the same way, Hunt (1979) also claimed that private property destroys man's true identity as a social being. He, further claimed that private property also destroys the social bases of production which is the sole purpose of common property.

The idea of property rights can be incomplete without the contribution of Plato, a classical thinker. Plato favored common possession of belongings, in his ideal state land to-be owned by farmers privately, due to the fact they want to supply for guardians' class. As in the elite class, production can be consumed in a common way. Plato's expression in the direction of guardian magnificence is described in terms of, 'friends have all things in common' (Okin, 1979a). This suggests that Plato's concept was of common-ownership, but, it simply applies to the elite class, even as artisans are permitted to own their personal belongings (Sabine & Thorson, 1973). Plato's fundamental aim was to provide the best

degree of solidarity within the country, and personal belongings were incompatible in his state of nature. The ownership of personal assets for guardian elegance could obscure them from reasoning and could hamper the easy functioning of the state (Verma, 2012). The communism of Plato includes two elements: abolition of private property and abolition of family as it inculcated corruption and family enlarges nepotism within the society.

### **3.4 History of Private Property Rights**

According to Waldron (1988), possession of personal property enhanced virtues like "responsibility, prudence, and self-reliance and it provides a place to stand in the world. Similarly, it offers the freedom to access, and management over non-public natural sources on the basis of vital conditions of human improvement. Hegel's Philosophy of Right also shared equal skill that a person managing over natural sources is an essential condition of human improvement. As Demsetz (1967) cited, a property owner who owns a property indefinitely will optically maximize its cost over and in time, as optically advantage of it for short-term benefit. In contrast, person rights, wherein each member of the network is entitled to a separate useful resource packet, to the exclusion of other contributors, concentrates costs and advantages and hence creates constructive incentives (Krier, 2009). Private proprietors have the right to exclude non-proprietors, but the right to exclude was a function of assets rights in general, as opposed to the defining characteristic of private possession (Merrill, 1998).

Daube (1979) gave a clear distinction about private ownership and said that ownership has nothing in common with possession. He, further argued that individual

ownership has absolute power over things in the possession, and thus, rights must be respected under the government's legitimacy on a moral and logical basis. The concept of legal absolute ownership was the basis of Roman law because it prevented waste and property was cared for properly. Private property ownership gave the power to sell or transfer the property to any other for any purpose (Mccffery, 2001).

Barker (2009) cited Aristotle's Politics Book Two which elaborated the proper system of property for citizens who live under the constitution. Mathie (1979) criticized the common ownership of Plato and explained difficulties in land ownership and found a conflict situation among the reward between the workers who work hard and work less for the labor. Kruger (2009) also mentioned that a resource was common, any commoner who exploited the resources get all the benefits of doing so, and the cost split over everyone. Mathie (1979) referred to Aristotle's suggestion of owning a plot of getting their reward independently and preferred the idea of private ownership of property. So, Aristotle suggests if each person owns a plot, then he would get this reward independently. He preferred the concept of private ownership of property and assumed no fight among workers. Aristotle was also in favor of communal resources by getting taxes from rich people (Waldron, 1988).

According to Cohen (1927), private property recognized some kind of sovereignty and excluded others on the basis of the law of property which belongs to them. The idea of private property was linked with the justification of dignified spheres of household in society. The notion of private property was inextricably linked with the justification of separate spheres of interest or household in society (Waldron, 1988; Mathie, 1979).

### 3.5 History of the notion of Property Rights

The perception of property rights undergoes diverse socio-economic, political, and cultural changes. Usually, the property is related to the access of natural resources which includes land and other materials, so that one can fulfill human needs. Individuals own property through different means like inheritance, gifts, or buying from others. In this context, philosophers have apparently given justification of property rights while the contemporary philosophers are more inclined towards possession of the private property, contesting with the notion of common property (Chandra, 2010).

Renaissance period gave way of a person's rights to the property. The seed of property as natural rights was located in the Glories Revolution of 1688 in England (Phillips, 2008), during the enlightenment period, many social conditions improved, the struggle for the right to life, freedom of religion, and property rights also emerged. As a consequence, it broke the back of feudal regimes and steered humankind's prospects towards recognizing human rights. The ideas of enlightenment played a great role in inspiring the French Revolution.

Enlightenment, additionally known as the Age of reason, had become popular in the late seventeenth and early eighteenth centuries, where many thinkers also contributed toward the concept of property (Whitaker, 2014). Thomas Hobbes argued that private property turned into the creation of government power and said that there can be no property without government. The state was created for the security of man's property. On the contrary, he dedicated himself to the view that within the state of nature there has been

no property, no difference of mine and thine, so there's nothing to be said for explaining subordination, a species of transfer of possession (Ryan, 2002b). Ironically, in Leviathan, he identified the right to property entirely with the power to take possession over matters and protect them from being taken by others (Rubin & Klumpp, 2011). In the Hegelian approach, fundamental human interest owes property which contributes immensely to the ethical development of the person (Waldron, 1988).

French Revolutionaries recognized property rights under Article 17 of the declaration of the Rights of Man and the Citizen, wherein it was asserted that 'when you consider that property is an inviolable and sacred right, no man or woman may be deprived of it unless a few public necessities, legally certified as such, simply requires it; and challenge usually to a just and previously decided compensation'. If anyone violates, people can legally claim their rights. but these rights excluded women from political participation, in this regard French philosophers Marquis de Condorcet (1743-1794) and Etta Palm's Alders, wrote a declaration of the Rights of women in 1791, demanded the same natural rights (Ishay, 2008).

Edmund Burke (1729-97) stated that the power of perpetuating our assets in our households is one of the most precious and exciting occasions which tends to be the continuation of the society itself. In addition, Mackintosh said that "property is the sheet-anchor of the society" this means that, it plays a great role in chaotic situations. Jeremy Waldron (2001) explored the relationship between property and honesty and mentioned that it would be sincere, a man or woman needs to respect the guideline of property law.

Similarly, to thieve is against honesty, which violates the rules of property, but in some of the prison systems, it'd be neither cheating nor incorrect.

Macpherson's article (1979) "Property as means or end", meticulous elaboration has been completed, concerning property rights on whether or not it was a means or an end, with a purpose to gain human happiness. He argued that most of the philosophers have stressed upon its miles approach to achieve the end itself, and conversely theorists, like Hobbes and Bentham, invoked accumulation of property as an end itself, which can help in attaining universal happiness.

In line with Rousseau, the beginning of property and family have four effects – (i) competition (ii) self-assessment with other (iii) hatred, and (4) urge for power, family, the superb institution of inequality turned into private property (Vermani, 2012). Ironically, property to Rousseau was considered because of the maximum sacred right of all citizens and quite necessary social right. Property rights gave birth to the idea of materialist, self-interest, and human ego amongst people. For Rousseau, a restricted right of property is justifiable and the primary justification of limited property rights is to develop from the original means of producing property from a piece of land, and this possession must be taken by means of labor for cultivation (Vermani, 2012). Another justification for the property as a limited right became that it becomes consistent with the sovereignty of the general will where individuals needed to give up life, liberty, and property (MacAdam, 1979).

In reality, a democratic society is a society that could be ruled by the general will. The property then will become a legal right, given the identity of law, sovereignty, and the general will. Under these situations, changes emerged as apparent that private property is protected by using the common force of the state (MacAdam, 1979).

Throughout the 19th century, the term ‘property rights’ was used to refer to “package deal of rights” in the work of John R. Common, *The Distribution of Wealth* (1893) and Ronald Coase (Schmidt, 2012; Claeys, 2012; Alston & Mueller, 2015). Prior to 1883, the property was understood as entailing absolute rights upon a thing owned, for example, Roman legal guidelines and Blackstone (Klein & Robinson, 2011). Package of rights also refers to the package deal of sticks in which each stick represents the rights of benefits and some vital sticks of landowners which include—right to sell, mortgage, lease, donate, etc. package of rights between two or three parties are taken into consideration as a transaction process that also involved the idea of democracy and capitalism. So, the land was also a part of the package deal of rights: it is accessible through inheritance, received from others or bequeathed by parents.

### **3.6 Different Perspectives on Property Rights**

Liberal, Utilitarian and Marxian perspectives view property rights in different ways. While the liberal perspective started with the idea of John Locke’s property as a natural right of individuals, the Utilitarian perspective takes property as a source of happiness and Marxian incline is towards communal property ownership.

#### **3.6.1 Liberal Perspective**

Classical liberalism was propounded by John Locke (1689-1755), Baron de Montesquieu (1689-1755), Adam Smith (1723-90), Thomas Pine (1739-1809), and others in the Seventeenth and Eighteenth Centuries. This concept holds that a free society and private ownership of belongings rights go hand-in-hand. Such ideas focus on personal freedom and rights from the community traditions. Edmund Burke (1729-97) became additionally a classical liberalist thinker. Under classical liberalism, the legitimacy of the state is based totally on the claim that it has constrained moral authority to guard or to protect life, liberty, and property (Fox, 2012). Rights, such as belongings rights, are inalienable and people can trade objects of property in a classical liberal world but personal property defines the spatial limitations within which a person can legitimately exercise his right of action (Fox, 2012).

Classical liberals hold those rights, such as property rights, are pre-political, which means that they exist previous to the independence of the state. They considered citizens shape governments with a view to defend their rights within the state of nature. Classical liberalism is intertwined with natural law and it derives its sources from theological components. The primary differentiating function of classical liberalism, relative to modern libertarianism, is the role of theological reasoning which was usually hired by classical liberals (Fox, 2012).

Locke endeavors to find his idea on the basis of natural rights, the right to live, liberties, and estate, and amongst them right to property is the most outstanding one. The person possessed such rights by using nature and it was not simply based totally on the arbitrary ruler (Ryan, 1984a). Locke, known as an individualist, throughout that inside the

state of nature non-interference policy might be implemented from the opposite without the earlier consent of the owner. Locke's second Treaties explained the theory of blending one's labor with a piece of land and made it fruitful. In-State of Nature, the right to belongings was given by nature to mankind in common and it wishes to be preserved for his or her purpose (Ryan, 1984a). Such properties need to be respected via authorities for men or women (Waldron, 1988). On the other hand, the function of the government was to shield men or women's basic rights. Locke firmly believed that people who've no property may be governed despotically; they don't have rights and are to be ruled arbitrarily and definitely (Ryan, 1984a).

Locke's theory was criticized by James Tully, who demonstrated that an individual has no right to individualize property, because it is given to mankind by nature, in common form. All men have the common right and use things that have been provided by nature, but at the same time, they have been debarred from private property within that domain (Tully, 1979). Robert Nozick played an important role in reviving interest in Locke's views on the property (Munzer, 2001). By criticizing Locke's mixing one's labor with something and to be an owner, he illustrated, "spill of tomato juice in the sea, by thinking to own whole sea". This meant that an individual cannot own the whole sea, so it is foolish to spill tomato juice into it (Nozick, 1974).

Famous contemporary evidence of this liberal thinking is to be found in John Rawls' Theory of Justice in which, the principle of justice was remarked as important in understanding property rights. The idea of 'basic liberties' included 'the right to hold (personal) property' or emphasis that justice should be fair (Rawls, 1971). Thus property

was useful to the owner because it allows him freedom of choice; but it was equally useful to others because it creates a predictable situation within which they may plan (Flanagan, 1979). Rawls holds that “difference principle”, where inequalities were justified if they benefit the least advantaged. He also stated that the right to own property was one of the basic liberties protected by the first principle of justice (Rawls, 1971).

For Rawls, no property exists previous to the social institution; justifiable property rights and distribution of assets have to be tied with self-respect; and the products of national abilities are the social property (Munzer, 2001). He identified that everyone should have identical rights which makes the concept of justice, in which absolutely, everyone must be organized in such a manner in order that no one might be deprived of benefiting possibilities. Further, he argued that marginal humans should get the same rights consisting of property rights and that justice must be termed ‘fairness’ inside the society. The concept of liberal ideology gave birth to individualism, capitalism, and stress upon the market economy, which may benefit and remodel human life to better opportunities (Pocock, 1979). However, Nozick’s sole book on political philosophy consists of no longer handiest a critique of Rawl’s on justice, and greater importantly, a spectacular clever ancient entitlement theory of justice (Nozick, 1974).

### **3.6.2 Libertarian Perspective**

The concept of libertarian theory can be traced back to the work of John Locke, who became the founding father of liberalism. He talked about the natural rights of freedom of choice and favor of restricted government policy. In the course of the 20th century, the

concept of libertarian was evolved within the paintings of Robert Nozick (1974) *Anarchy, State, and Utopia*, in which he advanced his idea from John Locke and stated that government was legitimate simply to the degree that it promotes greater protection for life, liberty, and property. However, he justified that nation should play a minimum role in protecting the security of the people and the function of the state was just like a 'night-watchman'. "The state might not use its coercive apparatus for the motive of getting a few citizens to aid different, or that allows you to restrict activities to people for his or her personal property or protection" (Nozick, 1974). Personal possession of rights would be violated whilst a government uses the property for a public purpose by means of constructing library or park, and so forth.

Libertarians agreed that the number one right is the right to freedom and a right in opposition to coercion from others. The right to non-public possession was visible as an important element of freedom, consequently, the right to belongings is implicitly associated with the right to liberty. The right to property was the guardian of each other's right, and to deprive people of this, was in fact to deprive them of their liberty (Gaus, 2002). Scholars of liberalism accepted true that property as a way of retaining liberty. Libertarians together with Robert Nozick emphasized belongings as one of the essential factors in recognition of individuals (Waldron, 1988).

Robert Nozick argued that the theory of justice made the justice of individual, appropriation-centric rather than the distribution of crucial and placed a conception of self-owning personal rights-holders on the center of the argument (Reeve, 1991). Nozick and Rothbard disagree very sharply over the felony imposition restriction of the state; both

adamantly, accept it as true for personal self-ownership. Each argued for it efficaciously with the aid of disregarding alternatives; if we do not own ourselves, others have to have an element- ownership of us, and we are partly slaves to others humans (Ryan, 2002b). The state's handiest function is to guard citizens against acts of coercion which incorporates homicide, assault, robbery, and so on, and as a result, libertarians regard the modern-day welfare nation to be illegitimate (Duncan, 2010).

The vital attraction of libertarian theory advocates justice in terms of ethical elements. Robert Nozick's well-known version of the theory of justice can be observed in 'entitlement theory', in which distributive justice mostly includes three concepts- (i) the principle of justice is the unique acquisition of holdings, (ii) the precept of justice in the transfer of holdings and (iii) the precept of rectification for violations of (i) and (ii). In keeping with Nozick, "the entire principle of distributive justice might definitely be that distribution is just if anyone is entitled to hold what they own beneath the distribution" (Nozick, 1974). Therefore, property rights could be one of the critical aspects of distributive justice of a man or woman.

### **3.6.3 Utilitarian Perspective**

Utilitarian theory is essentially individualistic in nature and assumes rationality within the modern sense that people maximizes utility or happiness (Solimano, 1998). Bentham defines property as a "foundation of expectation," from which people can derive happiness from possessions.

Ironically, Bentham is dismissive approximately property rights as a natural right. On the way to secure property, law and government need to play tremendous role, in fact

the “regulation creates expectation is a source of happiness, and additionally a potential source of sadness” (Ryan, 1984a). As Jeremy Bentham famously said, “property and law are born together, and die together. Before laws had been made, there has been no property, eliminate laws and belongings became ceases” (Bentham, 1975). He sees belongings from the point of criminal bases and secondly, this right ought to be covered and preserved by using law of any state.

In keeping with Bentham, the right to property is the main way to attain ‘greatest happiness in greatest numbers’. The ownership of belongings by way of one guy need not to be interfered with the possession of belongings by way of any other man, whilst this situation isn't fulfilled property becomes the robbery (Mahajan, 1988). Property rights are justified in standard by means of the need for protection, for making the outcomes of movement calculable, and for avoiding the frustrations that follow uncertainty and sadness, absolutely a constrained concept of social security (Sabine & Thorson, 1973). Utilitarian no longer best embrace the criminal analysis of property rights however are also prompted via the economic analysis of law. Utilitarian argument for personal belongings issues the role of markets in promoting efficient performance and social prosperity (Waldron, 1988).

### **3.6.4 Marxian Perspective**

According to Gauba (1981), Marxist theory sees private property as a condition that determines the relations of production to the historical development stages rather than a right of the individual. This theory was produced by Karl Marx who refused to accept the private property as a natural right like the state as it was created by the class of property owners to protect their property. In Marxian opinion, private property is an instrument of

exploitation of the dependent class who does not own any property. So it is private property that divides society into two classes who own and who do not own means of production. Historically, this division took between master and slave, lords and serfs and bourgeoisie and the proletariat in ancient, medieval to capitalist society respectively.

The division under the capitalist society between the bourgeoisie and proletariat was based on capital and labor. Private property is a deceptive force to exploit and conflict not to create harmony and cooperation in society. It is a mode of ownership of the means of production which determines how the bourgeoisie 'Will' earn their livelihood. Marxian therefore, believes that the abolition of private property will lead to the end of exploitation. Abolition of private property does not mean the abolition of property rather it suggests changes in the pattern of ownership of the property from class ownership to communal ownership.

### **3.7 Global Gender Perspective on Inheritance Property**

Women's position in the family is determined by their relation with property in society. Allocation of natural resources, specifically land affects women's status. Gender biased programs and policies with respect to property rights is a critical issue in many areas. It affects women's access to resources, products, and services and as a result affects women's participation in programs (Narciso & Pedro, 2010).

Gender is not about biological differences but a social construct and an outcome of many social factors (Okin, 1989b). In many developing countries where customary norms and practices worked as a guiding principle, women's access to resources to property rights

is limited especially inheritance, marriage, and divorce. Gender inequality is a socially accepted norm in relation to property rights and a mechanism of land distribution (Mukund, 1999). In many developing countries, women's land rights emerged as a source of gender inequality that needs to look into as a serious matter (Narciso & Pedro, 2010). Women and men do not enjoy the same rights to land and men in many societies are considered the controller of natural resources.

Actually, command over productive resources of land enabled poverty reduction, food security, and development in rural areas (FAO, 2016; Mukhopadhyay, 2001b). In South Asian and Sub-Saharan countries, women's rights especially property rights are mediated through male lineage or marital status (Berge, Daimon, Alister & Henrik, 2014).

According to UNDP (2015) Global Entrepreneurship and Development Index report, women do not get benefits from inheritance property as men because they are restricted through legal provisions or discriminatory practices. Thus, gender inequality regarding inheritance property interpreted in a patriarchal socio-cultural system in customary and statutory laws (Adelman & Peterman, 2014; FAO, 2003).

Customary laws assumed to create obstacles in the inheritance property rights where patriarchal norms prefer male members and result in inadequate independent access of women's land ownership (Berge et al., 2014). At the same time, the formal process of the land administrative system which is biased, also affects women's control over productive resources (Bezabih & Holdon, 2010; Whitehead & Tsikata, 2003; Lastarria-Cornhiel, 1997).

The denial of women's inheritance property is a reality and Okin (1989b) stressed that women are affected by the structure and practices of family life and to achieve gender justice, the family is the key institution to address the issue. Ownership of property in a woman's name actually reduced her dependency on male partners and relatives and increased bargaining power in the family (Kenney & Ana Paula, 2016; Agarwal, 1996a). Women's inheritance and succession rights are still precarious in many countries (SIDA, 2015). Women's empowerment is still influenced by cultural values, norms, and social beliefs and they are discriminated against in socio, economic and political structures and policies of the institutions (UNDP, 2015).

There are few countries where women still need permission from their husbands to make any decision due to customary and religious laws supersede civil laws that discriminate against women in the family, marriage, and inheritance property rights (UNDP, 2015). It is critical to address gender inequality including gender-based discriminatory laws and practices with regard to inheritance property rights if we want to achieve gender and women empowerment (UN-MDGs, 2015).

### **3.7.1 Gender and Inheritance Property in South Asian Countries**

According to Velayudhan (2014), the majority of women in South Asia live in rural areas working in agriculture but denied their right to access and control over land resources. Agarwal (1996a) in her study mentioned that women with land rights have higher economic statuses and enjoy power and prestige in society. The land is valued not only for productive and material reasons but also significant in terms of identity, status, and hierarchy within

the social context (Rao, 2005). Rao (2005) further, argued that control over natural resources and property also reduces poverty in rural areas of South Asia but the women in these countries lack control over the land.

South Asian societies have a patriarchal nature and the father as the head of the household played a major role in property inheritance rights (Agarwal, 1996a). One of the customary practices in South Asian countries, is that women are not allowed to plough the land and this leads women to depend upon men (Rao, 2005a). In case women own land, they are dependent on men for agricultural activities that creates obstacles for women from independent ownership of property.

A Women's Bill on Equal rights to unmarried daughters in Nepal was passed under the 11th Amendment of the Civil Code (Bhadra & Shah, 2007). Though the daughters are granted equal rights in the property but in reality, it has not been implemented (UNWOMEN, 2014). In Pakistan, women are granted religious and legal rights to own property but women's property ownership is less than 3% and widows lose their right to inheritance if they plan to remarry. Women's names are enclosed in transfer papers but in practice, their brothers often process the land (Velayudhan, 2014). In Nepal, women work on agricultural land but they are considered minor while women in Sri Lanka enjoy land property but they are given poor quality land (Velayudhan, 2014). Similarly, Bhutanese women did not own property because the land is under the name of male members of the family. These discriminations lead to inequalities (UNESCAP, 2013).

Saxena (2013) in her study identified social norms as the hindrance for women to control over the land in rural India as the women legally inherited in their natal village. In patriarchal societies, ownership of land is mostly in male hands and property inheritance rights are mediated through kinship and focus on legal rights which change the rights of women and often not recorded.

Three different studies conducted in different parts of India indicated a strong patriarchal mindset of society that restricted women from getting inheritance property rights. Kelker and Maithreyi (2013) in their study on widows of Jharkhand revealed that women are treated as witches under traditional practices and they cannot own the land of husbands or brothers. Dave (2013) studied that Gujarati women justified patriarchal mindset and social biases excluded women's inheritance rights because of men-owned traditional land practice and son preference. While Dzyvuchu (2013) in her article explained in detail that women due to a strong patriarchal system cannot inherit property because all the decisions are made by men in Nagaland.

### **3.7.2 Gender and Inheritance Property in South East Asian Countries**

The family system in South East Asian countries is favorable to women in general as they participated in the economic activities and rarely excluded from these opportunities (World Bank, 2001). Women play an important role by participating in economic activities and manage their family system. They have their own customary laws related to inheritance like in Laos, bilateral inheritance practices are very common among these communities. It is a custom to give property to the youngest daughter who takes care of their parents. More

than 50% of women live in matrilocal traditions and they have greater access and control over land (World Bank, 2014).

UNDP (1995) mentioned that in Malaysia's matriarchal communities, the inheritance goes to female community members and all ancestral property entailed in women. Lastarria-Cornheil (2005b) argued that ownership of property and empowerment process is correlated and the property is an important natural resource, capital, and a productive force, those who have control over this likely to have power. So, land rights are very important for women specifically for the survival of the household when she is the sole earner of the family in rural areas. If inheritance property is denied that results in continuous women's subordination in the socio-economic and political sphere.

Narciso and Pedro (2010) explained that Timor-Leste society followed a patriarchal system where women are not allowed to inherit property. They stressed that these customary rules and practices are the biggest hindrance in acquiring equal rights for women in society. As customary rules stop women from getting title to land in Cambodia. Women have a subordinate status and men hold power and make decisions on behalf of women in the household. Land rights are in the name of the male head of household and women need permission from men to get the land title (USAID, 2006). Philippines had passed the Comprehensive Agrarian Reform Law recently which guarantee equal ownership for rural women in the property (USAID, 2006).

### **3.7.3 Gender and Inheritance Property in African Countries**

Women in African countries compromise with the existing customary rules and practices of their communities as these societies are patrilocal and patrilineal. The land is considered a source of economic activities, livelihood, and wealth that's why land is very important for them and is mostly acquired through inheritance (Cooper, 2010). Men are the landowners and material users of it and women have to depend on men for the benefits of land resources (Owen, 1996). In many African societies like Burkino Faso, Kenya and Uganda married women do not own land but get benefits of property through marriage and get ownership with the consent of men because men are breadwinners (Kevane & Gray, 2008).

According to a report by Food & Agriculture Organisation (FAO) (2010), the situation is depressing regarding landholders in Western and Central Africa as well as in East and North Africa where women are less than 10% landowners. In African countries owning and controlling the property actually enable women to improve their health and handle the consequences of HIV/AIDS (Strickland, 2004). King and Mason (2001) explained that women are granted legal rights of land titling but the prevailing customary norms and practices created hindrances to get it. Harrington (2008) argued that women derived their land rights through male relatives under customary laws and men have the right to access land.

Although customary and statutory laws regulate inheritance rights, the widows are excluded from access to property rights (Cooper, 2011). Actually, the property is registered in the name of the husband and women lose their home in case of divorce and death of the

husband and these traditions do not allow women to get benefit from these granted rights (Kenney & Ana Paula, 2016; Strickland, 2004).

These customary laws place women in a subordinate position in their families which are patriarchal in nature and women are denied inheritance rights as they were permanently living under the guardianship of male members (UNDP, 1995; Burman, 1992). According to Mor (2015), gender discrimination is a critical issue with regard to property in Tanzania due to customary laws as they permit men a greater share in the deceased property.

Harrington and Chopra (2010) argued that Kenya is a patrilineal society where ancestral land is kept within the family just for the continuation of the lineage. They further argued that women in Kenyan society are not allowed to own property as inheritance is secured for sons to continue the lineage of the family. Own (1996) shared Malawi women's experiences if there is any dispute occur on inheritance land, it is always decided according to the customary laws, and widows are not allowed to inherit natal property.

King and Mason (2001) explained that different legal frameworks codified customs and social norms like land registration is associated with the head of the family and mostly head of the family is a male member in society and women's claim over property is mostly overlooked. Harrington (2008) in his study mentioned that formal laws carry ambiguity in different cultural activities, information, and institutional barriers which create obstacles for women to claim property rights. All these reports or studies showed that women are

being discriminated against by customary rules and practices in relation to inheritance property.

### **3.7.4 Gender and Inheritance Property in Latin American Countries**

Gender division of labor is an important factor in role assignment in a family where men occupy work outside home e.g. agriculture and women inside the home for the domestic activities in most of the Latin American countries where Deere and Leon (2001a) in their article, “The Gender Asset: Land in Latin America” stated that gender biases with respect to inheritance property exist due to male preference in inheritance, male advantages in marriage and gender-biased in market and land. A report of FAO (2010) explained that land is associated with male members and women lose their right in the property in case of divorced, widowed, and migration of the husband.

A report of USAID (2006) mentioned that some countries from South America like Peru, Bolivia, and Ecuador follow a bilateral system of inheritance. Bilateral inheritance where one can inherit property from both parents. But customary rules and practices showed a strong bias against women in ownership of land. While countries like Mexico, Chile, and Brazil hold a strong patrilineal system of inheritance (Deere & Leon, 2001a). They further stated that the daughter only inherits property if the male heir is absent as the youngest son of the family gets the preference in the family inheritance property because it is considered that he will take care of the parents in old age.

Own (1996) discussed the reasons for women's limited access to property are patriarchal and virilocality patterns. Deere and Leon (2001a) argued that society is moving

towards a bilateral system because of rural to urban migration and lack agricultural activities in families. USAID (2006) reported that a number of changes in laws in some of the countries like Peru and Chile regarding property inheritance enacted. In Chile, women own property from both the parents but preferences are always given to sons in the family. Women find it difficult to claim property from their brothers (Deere & Leon, 2001a).

### **3.8 Women's Movement, UN Bodies, Regional Organizations, and Property Rights**

This part addresses the international women's movement regarding international laws, conferences in relation to property rights at the global level. International laws framed gender equality related to human rights in socio-economic and political aspect of global concerns.

#### **3.8.1 Women's Movements and Property Rights**

According to Mountjoy (2008), women did not enjoy their rights equal to men in relation to the property as women's position was determined through male relatives under Roman laws. Wives are considered slaves of the husband and treated like purchased properties. It was during the period of Emperor Constantine to Justinian that the women's condition was improved slightly.

Donovan (2012) mentioned that John Locke's theory of natural rights became the source of the American Declaration of independence 1776 where he talked about private property as the natural right of men and he did not discuss women's right. The French Declaration of the Rights of Man 1789 built on the notion of equality but women remained at a disadvantage from these rights.

Freedman (2001) explained that women started fighting for their rights shortly after the French Revolution as it promised equality. Similarly, Bhadra (2006) mentioned that the women's rights movement started in the United States with the Seneca Falls Convention of 1848. The aim was to demand equality for women that was promised in the American Declaration of Independence in 1776.

According to Mountjoy (2008) due to gender discrimination, women could not enjoy legal rights through Sir William Blackstone's commentaries on the law of England (1765-1769). As women were considered inferior to men and Napoleon believed that they should not have an influence in society (Knapp, 1994). As a consequence, the Napoleonic code (1804) restricted women and children to take part in social life as the right to vote, right to own property. The great Charter of 1215 of England mentioned certain individual liberties but it did not achieve justice for women as it was designed for nobles and men. The married women had no right to inherit property because women belonged to their husbands and women and property both belonged to the husbands (Zaher, 2002).

Erickson (1993) explained that during the nineteenth century, daughters got inheritance property in absence of sons in the family and the married women's property right was dependent on their marital status and as she married, her property right governed by the English Common Law was absorbed by her husband.

After the famous case of Caroline Norton, the British parliament was compelled to change the situation as the law was discriminatory in nature and women depend on their

husbands for economic gains. As a result in 1882, the Married Women's Right to Property Law was passed which enabled women to inherit and own property (Sanders, 2006).

Khan (1996) in her article analyzed the effects of Married Women's Property Laws on women in the United States in the 19<sup>th</sup> century and she argued that this law brought changes to women's engagement in business and trade by owning separate property rights. Married women in the USA were not allowed to own property separately. The husband controlled his wife's property which she acquired before or after marriage.

At the beginning of 1960, a number of movements for the development of women occurred in the USA such as radical feminists, poststructuralist/post-modernist feminists all were unanimous on gender inequality. Betty Friedan in 1966 formed a National Organization for Women and in 1969 Shulamith Firestone through its Redstocking manifest declared to achieve freedom from male supremacy and identified it as the basic form of domination.

### **3.8.2 United Nations and Property Rights**

The United Nations took different measures to combat gender inequality. One of the examples is to set up the Commission on the Status of Women in 1946 with the purpose to promote women's rights and equality (Commission on Status of Women, 2006).

Another initiative of the UN was the Universal Declaration of Human Rights 1948 mentioned in article 17 (1) everyone has the right to own property independently and with others, (2) no one shall be deprived of his/her property. Owen (1996) mentioned that such

provisions guarantee women's rights but women in rural areas are not aware of these guarantees properly.

Similarly, the other initiatives of the UN were the series of four world conferences related to women's rights held from 1975 to 1995. 1975 was declared as the International Year of Women and the first world conference was held in Mexico in 1975. It developed guidelines for the advancement of women till 1985. The Second World Conference was held in 1980 in Copenhagen five years after the Mexico conference. The agenda was to take strong measures at the national levels for implementation of women's rights as well as women's ownership and control over property (World Conference on Women, 1980).

The Third World Conference on Women was held in Nairobi in 1985. The objective was to review the achievements of the UN Decade for Women: Equality, Development, and Peace. The conference emphasized members to take constitutional and legal steps to eradicate gender discrimination including inheritance property rights.

In 1995, the fourth World Conference on Women was held in Beijing. Gender inequality remained a challenging issue despite servile presses. Under article 14 women's rights were asserted as human rights and committed to take specific actions and ensure respect for those rights.

Although UN Women emerged as the world champion of women's empowerment and gender equality and have been trying to eliminate the consequences of gender inequality. It always stressed equal access and control over resources and women's social

and economic development. Article 35 restates its determination for governments to ensure equal access and control over resources including land.

### **3.8.3 Convention on the Elimination of all forms of Discrimination against Women and Inheritance Property**

CEDAW was set up by the UN General Assembly in 1979 with the aim to promote non-discrimination and gender equality. Daley and Ciara (2011) informed that the purpose of CEDAW under article 3 is to end all forms of discrimination against women and guarantees fundamental freedom, and equal enjoyment of human rights.

The Global Initiative for Economic, Social, and Cultural Rights (GIESCR) (2014) reported that gender inequality in relation to land rights is a very crucial issue, and structural patterns of gender discrimination found in societies across cultures. Women support families in need of health, education, and nutrition and that's why they rely on the land. FAO (2010) in its report highlighted the link between land rights and welfare and livelihood. In order to address women and their property rights, CEDAW has a very important role to play in increasing gender justice with regard to landed property rights.

Article 13-15 of CEDAW deals with women's equal inheritance property rights with men in the administration of property and dealing with contracts, including equal access to mortgages and equality in procedures before the courts and tribunals.

Article 14 stated women to receive equality in agrarian land reforms and land housing and resettlement schemes. Article 16 in CEDAW further stated that women get

the same rights in marriage as their spouses in relation to ownership, management, and disposal of property including divorce.

Daley and Clara (2011) mentioned that under these articles women could get the benefit of equal mortgage or sale and purchase of their landed property landed schemes and housing. He further explained that CEDAW urged governments to implement the provisions of the convention for rural women especially on the basis of non-discrimination. GIESCR (2014) in its report mentioned that CEDAW and its provision play important roles in any violation related to landed property and inheritance rights of women and encourage states to hold good practices and made accountable when there is an occurrence of any violation. CEDAW is considered an important tool for the empowerment of women with respect to inheritance property rights in the world.

### **3.8.4 Millennium Development Goals (MDGs)**

The Millennium Development Goals of UN under its goal 3 in 2000 promote gender equality and women empowerment and emphasized that empowerment of women can be met through their access to natural resources and land rights (UN-MDG, 2015). Natural resources and agriculture management are gender blind and male-dominated in most developing countries of Africa and South Asia.

Further, Sustainable Development Goal one aims to end poverty in all its form from everywhere and ensures gender equality in economic resources and access to and control over land and other kinds of property, inheritance, natural resources (UN-MDG, 2015).

USAID (2013) reported that economic empowerment of women is important for development to achieve MDGs by securing women's land rights and improving agricultural productivity. It was reported by Women's Economic Empowerment, DAC Network on Gender Equality (GENDERNET) (2012) that women put more effort into earning for their families and communities. So, their economic rights should be strengthened related to land, property and inheritance rights.

### **3.9 Regional Organizations and Women's Inheritance Property**

The three important regional Organizations i.e. SAARC, African Union and ASEAN worked on to accelerate the status of women in the respective countries.

#### **3.9.1 South Asian Association for Regional Cooperation (SAARC)**

SAARC comprised of eight south Asian Countries i.e. India, Pakistan, Nepal, Bhutan, Bangladesh, Sri-Lanka, Maldives and Afghanistan in 1985 with an objective to promote economic cooperation and welfare of the people of this region (UNEP, 2009). SAARC and UN Women signed a Memorandum of Understanding to promote gender justice, gender equality and empowerment of women in the year 2014.

Many South Asian countries have a similar kind of gender discrimination with respect to inheritance property rights. Though women in this region are involved in different developmental activities nationally and internationally but they are considered least developed because they are caught up with the same web of discriminatory factors such as poverty, health and inheritance property. The inheritance property is used to share through male lineage and this patriarchal system puts restriction on women to move forward (SAARC & UNIFEM, 2007).

In the eleventh meeting of SAARC technical committee on women development in 1996 held in New Delhi analysed legislation of women's property rights among other discussion (SAARC & UNIFEM, 2007). To improve the situation of women in the region, SAARC has signed CEDAW and an advocacy group of women was formed to address gender issues in its meeting held in Kathmandu in 2002 (SAARC, 2002).

SAARC (2004) summit held in Islamabad adopted a social charter with an objective to achieve women empowerment by removing non-discriminatory customary practices. The fourteenth Summit of SAARC held in New Delhi in 2007 with a purpose to involve women in all spheres of public life as well as in the decision making process of life (SAARC, 2007).

### **3.9.2 African Union (AU) and Property Rights**

African Union was set up in 2001 also known as Organization of African Unity (OAU) was established in 1963. The main purpose was to promote unity, peace and cooperation in the African countries. The African Charter on Human and People's Rights worked on gender equality with a focus on women empowerment (African Union, 2009). The charter was adopted in 1981 and signed by 53 countries with standards of promotion and protection of human rights in African countries (Kenney & Ana Paula, 2016). African Union developed a gender policy to reduce gender inequalities in all spheres of life (Martin, 2013). The policy framework ensured non-discriminatory and gender equality in the region and promoted access to and control over resources for women economic empowerment (African Union, 2009).

The African Union Committee on Women which was inaugurated in 2006 was replaced with African Women Committee on Peace and Development (African Union,

2014). The African Union celebrated 2015 as the Year of Women Empowerment and Development toward African Agenda 2063 and through this agenda, women will be the key drivers of development (African Union, 2015). As women in this region are the most disadvantaged in most of the aspects of life and African Union is playing an important role to empower women.

The article 14 of African Charter on Human Rights stated that the property right guarantees women the right to property and the protocol of the African Charter on Human and People's Rights in its 21 article mentioned the right of a widow in inheritance was equal to her husband and she could live in the matrimonial house. Women and men have equitable share in inheritance property from their parents.

### **3.9.3 Association for Southeast Asian Nations (ASEAN) and Property Rights**

ASEAN is a regional intergovernmental organization of ten countries such as Brunei Darussalam, Myanmar, Cambodia, Indonesia, Lao People's Democratic Republic, Malaysia, Philippines, Singapore, Thailand, and Vietnam in 1967 with an aim to achieve freedom, equality, democracy, and human rights (Prasertsri, Huong, Nina, & Singh, 2013). The main concern of ASEAN for women's rights was established in the ASEAN Women Leadership Conference in 1975 and a women's committee was set up in 1976 and the women's program started in 1981 (Mohammad, 2011).

ASEAN Committee on Women (ACW) advocated women's participation in all aspects of socio-political and economic life (Prasertsri et al., 2013). ASEAN members' states have ratified CEDAW regarding women's rights. The ASEAN Commission for the Protection of the Rights of Women and Children was formed in 2010 to address women's

rights and for their protection (ASEAN, 2014). It also included women's right of property in inheritance and land in its five year work plan. The ACWC expert also developed a study frame on economic and women right to landed property in ASEAN countries in 2013. The purpose of this meeting was to analyze the situation of women in the landed property (ASEAN Secretariat news, 2013). In most of the Southeast Asian countries, land ownership and titling of land are male-dominated. This leads to difficulties for women in getting loans and credit (ASEAN, 2007).

### **3.10 Women Empowerment and Inheritance Property**

The notion of inheritance property has the socio-economic, political, and legal foundation and individual identified property within the social system has resided in families and communities. The interdependence of inheritance property among socio-economic, legal, and political is considered fruitful in getting property rights.

#### **3.10.1 Economic Empowerment and Inheritance Property**

Ownership of property rights empower women in economic terms like possession would help in taking loan from financial institutions and they are economically empowered, that would help them to engage in political activities (Domingo, 2013). Economic empowerment help women at two levels, one in income-generation from agriculture or another level, and in reducing financial instability and property crisis in family.

Property rights of women is the main feature in developing economic growth. Land entitlement in women's name would give them a sense of economic empowerment, respect

in the family, and self-worth and it has also been identified in the study that economic empowerment can be achieved through property rights (Phillips, 2008).

The property right is a key input into agricultural production and direct economic benefits, income from rental property, collateral for credit, indirect benefits like child care and social security (Kenny & Ana Paula, 2016; Keller & Maithreyi, 2013; UNESCAP, 2013; USAID, 2006; UNDP, 1995).

### **3.10.2 Social Empowerment and Inheritance Property**

According to Scalise (2011), property rights enhance women's position at home and in the community and helps women in greater bargaining power in the family. Property rights not only empower women's economic status but also enhance her power in family and society. This helps women to take part in the decision-making process. Lack of decision making power and representation in property distribution worst her status in family and society alike (Sircar & Pal, 2014; Bezabish & Holden, 2010).

Kelker (2013) mentioned that women's ownership of property means to bring changes in the position of women in family and society as well as in the ideology and structure of the patriarchy. Similarly, Agarwal (1996a) mentioned that land ownership of women not only increases bargaining power in the market place but also gives control over agricultural land, and helps in getting household bargaining power along with allocation of household subsistence in comparison to landless women because the patrilineal society restrict women from owning land. The essay of Sen (2001) highlighted that ownership of

property in many societies is unequal and this inequality for women makes it harder for women to get involved in socio-economic activities.

Moreover, unpaid work that women do for the family could not count as labor, and agricultural production is also managed by their husbands and they are helping members of the family in this regard. Allendorf (2007) conducted a study and reported that the women who have control over land have more decision-making power in the family and their children are healthier and less malnourished.

Land not only improves women's health but also creates an impact on the health of her family for both urban and rural areas (Meinzen-Dick, 2009). FAO (2016) in its report mentioned that land is a source of poverty reduction, food security for women, and rural development. USAID (2006) in their report mentioned that for single, divorced, and widows, land is an important source of income for women.

### **3.10.3 Political Empowerment and Inheritance Property**

Property ownership and its utilization independently enhances women's capacity to engage and participate in political activities (Domingo, 2013). When women are involved in different political activities or processes, they can contribute to the decision-making process and effective political support through the development of leadership that is useful for economic development (Phillips, 2008). Action-aid (2013) in its report mentioned that ownership of property utilized as a means to secure and exercise political support and considered a medium of wealth generation from land resources.

### 3.10.4 Legal Empowerment and Inheritance Property

Law protected and determined the individual right of property. This idea of Jeremy Bentham and John Austin developed legal positivism during the 18th and 19th centuries that legal rights must be managed through the state legislative system. Ownership of individual property rights would tie people through the network of legal rights (Fox, 2012).

The UN Commission on the Legal Framework of the poor stated that it is one of the means to empower individual property rights on a legal basis and establish rights, responsibilities, obligations and recognition in the community (UNDP, 2008). This report further, mentioned that legal ownership recognized women's position in the community and developed a sense of empowerment for women (CLEP-UN, 2008). Women in many countries are still trapped in the customary land tenure system (GENDERNET, 2011). As social practices and laws are not protecting women's property rights. Law should protect individual rights on an equal basis as it is the obligation of the state to protect individual rights. The scholars of law and economics assumed that law is a manifestation of social policy (Landes & Richard, 1987).

### 3.11 Inheritance and Women's Situation in Pakistan

This section highlights the situation of women in Pakistan in terms of property ownership and inheritance issues, laws dealing with ownership and transfer of property in Punjab. A lot of literature is available on the inheritance property of women in Pakistan. The focus shifted when 'The Report of the Inquiry Commission on the Status of Women' (1997) declared the inequalities and injustices women faced in the country in the name of

religion and law. World Bank (2005) cited Pakistan Rural Household survey 2001 that women own 2.8 % of the land. Mumtaz (2005) conducted a survey in rural Sindh and found that two-thirds of households do not own land and only .4% of households own 24% of the total land area.

Another annual report of the Human Rights Commission of Pakistan (2008) mentioned that women own less than 3% of land and in rural areas, it is even less than one percent. Punjab Commission on the Status of Women in its report mentioned that there are eleven million female landowners in Punjab and that is 10.6% of the total population and out of which 65.8% are from Rawalpindi district which is highest in Pakistan (Shafqit & Zahir, 2016). The interesting fact of the report is that 14% of the land ownership women got through inheritance property. This is also highest among all the districts of Punjab and the land ownership through inheritance range from one percent to three percent in all other districts of Punjab.

Arif and Ali (1998) in their study in rural Punjab mentioned that rich people transfer property in the names of their daughters and wives in order to avoid taxes and they keep the documents in their custody. They also reported that men in rural Punjab exclude women's names from the landed property after making an understanding with *patwari* on the pretext that they have withdrawn their share from the property. They further mentioned that if the land is transferred to women, *Habba* (gift) is made in favor of brothers.

Tirmazi (1999) in his study in Southern Punjab pointed out a contradiction regarding men's behavior that they did not allow their women to go out without *purdah*

and at the same time, women are asked to fetch water from long distances for household consumption. He also mentioned that women who own property are not able to manage the property themselves because of a lack of mobility and freedom of handling situations in the public sphere. He explained that women are considered as house makers and are not able enough to handle and control property matters in the public sphere.

Ali (2000) in her study highlighted one of the practices of taking inheritance share through force or social pressure by the male members. There are no protective measures for women in a time of need and difficulties like miss marriages, illness, and economic pressures, most women rely on parental families and sacrifice their share of inheritance as insurance for the future. Ali and Rehman (2001) stated that the law of Pakistan entitled women the right to own property but at the societal level, people use illegal means to keep the property within the male members of the family and deny the share of the women.

Mehdi (2002) in her study described landed property practices of Pakistani society. She highlighted both positive and negative aspects of women's position in property matters. She claimed that women have more control in their dowry and they are also compensated through a lending house or with agricultural land in case of a divorced, widowed, or single unmarried daughter. However, women's position in marriage is weakening in front of husband and in-laws who actually took control of their lives and weaken her relationship with the natal family. She reported different marriage practices in different provinces of Pakistan like marriage with Quran in Sindh to keep women's inheritance share within the male members of the family, *Watta Satta* (exchange marriage), marries a widow to her husband's brother just to keep the property in the family, 'Swara'

and 'Vani' marriage practices in Kyber Pakhtunkhwa (KP) and Balochistan and mentioned that both the 'Swara' and 'Vani' marriages are exchange marriages between the families of a male victim of murder as compensation to resolve the disputes.

Mehdi (2002) in her study mentioned that in case of property dispute women prefer to resolve the matter through *baradari* (tribe, community) due to multiple restrictions like lack of legal awareness, distrust in police, lengthy court procedures, lack of money, *purdah*, and the notion of family honor and lack of a deal in formal settings. Contradictory findings were reported by Ahmad, Bibi, and Mahmmod (2012) in their study on effects of various demographic variables on belief and attitudes regarding women's inheritance rights, ownership and management of the property in Lakki Marwat district of KP and found that women's education level, awareness of the law and informal source of information shape the perception of women. Factors like economic status and marriage practices are less important in making their perception.

Mumtaz (2005) mentioned in her report that men in rural areas have control over the land and women withdraw their inheritance property when families forced them to do so and all buying and selling of property is done through male members of the family. Another study conducted in Kashmir by Mumtaz and Noshirwani (2007) stated that women own subordinated status in the family is reflected in disaster situations by giving reference to the 2005 earthquake in Pakistan and said that since household title rest with the male members of the family, women survivors could not get relief and reconstruction compensation and their claims were suspended in favor of claims of male relatives.

Aisha (2008) in her study on KP pointed out parents neglect women as they are the ones who deprived their daughters of inheritance by forcing them into exchange marriages. Sustainable Development Policy Institute (SDPI) (2008) examined a relation between women's property and land ownership in the context of empowerment in Pakistan and found a significant relationship and suggested a framework to reach that level.

The National Commission on the Status of Women in Pakistan (NCSW) (2008) published a report on the inheritance property rights of women and mentioned legal complications and contradictions in the justice system that created obstacles for women to get their share besides the cultural impediments. Besides cultural difficulties, Saigol (2010b) in her study claimed that women fail to get their inheritance share from the landed property because of fear of social disapproval as they see them as part of the family, not as an independent entity.

Rehman (2010) conducted a study in Southern Punjab and reported that policies and practices regarding agricultural landed property did not match with the existing laws. Legal complications, corruption, lack of awareness, and education in the communities made inheritance right a dream for women. He also reported the relationship of marital violence with property ownership. Women with ownership of property faced less violence than women who do not own property.

Ahmad (2010) stated a huge disparity in property ownership in Pakistan but few cases are brought into court because of the patriarchal nature of the legal system, although the religion and laws support the rights of women in property ownership women cannot

find single legal support or expectation that prevent them from their rightful inheritance share.

Khattak, Brohi, and Anwar (2010) mentioned in their study that women acknowledged the importance of land ranging from sustaining livelihood, honor, power, prestige, and provision to shelter, security, and status but their land rights revolve around marriage. They are live around their natal and affine families and see them as temporary members of natal families. Khattak et al. 2010, also mentioned that women are always in fear of losing support from their families in the future.

Brohi (2010) in her report claimed that women's land rights need to see in the broader context of systematic and institutionalized biases against women which considered women weak, dependent, and in need of protection. No decision can favor them unless they are considered equal citizens by the state.

The government made an amendment in the 498-A, PPC (2011) that stated violation in the context of deprivation of women from their inheritance share lead to legal imprisonment of five to ten years or a fine of one million rupees or both. Whereas Ishaq, Hina, and Hafizullah (2012) stated about an amendment in the law regarding restriction of '*Habba*' through this court have made a compulsory appearance in person as well as submission signed legal documents to show that she has not been forced to withdraw her share in inheritance property.

Chaudhry (2009) mentioned that the perception of people regarding inheritance rights of women in rural areas is due to the women's lack the capacity to deal with property

matters specifically in rural areas, they are not aware of the laws that deal with inheritance property and they cannot bear the financial cost in pursuing a case in court. Women cannot contact *patwari* or other related government officials because all these places are male dominated and they are not trained enough to move in these offices.

IDRC (2014) conducted research on women and land in focus, a case study of Pakistan, and mentioned that marriage practices like marriage with Quran in Sindh are common to keep the property within the family specifically in rich families. The organization further, claimed that it is hard for a widow to get her share if she decided to remarry outside the family. She has to withdraw her share from the deceased husband's property. She is dependent on her parents or brothers whether to remarry or not and with whom as they are responsible and that's why she sacrifices her share from inheritance property.

Judoon and Khan (2015) conducted research on denial of inheritance in Punjab and found different practices adopted by the male members to get women's share like omitting women's names from the list of heirs, making women's thumb impressions on property documents. They also stated that patriarchal based norms, long legal procedures, the dysfunctional role of legal institutions are other parts in denial of inheritance share.

Rubab, Parveen, and Usman (2016) mentioned in their study that awareness of laws of inheritance in Pakistan is lacking among women. They further reported a small proportion of women's owning land title in rural areas of Punjab that still women's land ownership is limited. They mentioned if we really want to address the issue of gender-

based discrimination and empower women, give women their land right. According to Zaheer and Jabeen (2016) family is the place where women are still considered as property and are used to pay a family debt, settle family disputes, and to score revenge points. The family kept these objectifying activities and maintain terrible injustices.

### **3.12 Summary of the Chapter**

This chapter included a review of literature in context of property inheritance nationally and internationally as well as the development of property laws historically to see the development of laws over a period of time in different societies of the world. It also included role of the United Nations in context of inheritance property and empowerment of women. Special focus on gender perspective on inheritance property in Pakistan, and South Asia.

## CHAPTER 4

### RESEARCH METHODOLOGY

#### 4.1 Introduction

This chapter includes the research approach that starts from ontology, epistemology, and axiology which is a foundation of building methodology and a deciding factor of method selection. All these are based on my research questions that are raised for this study. The following procedures of participant selection, data collection, data analysis, and maintaining quality of the qualitative research, are most suitable to address the formulated research question.

#### 4.2 Research Paradigm

The topic of inheritance rights of women with regard to laws and practices pushed me to think about how I should go about investigating it. My feminist ideology was an influencing factor to view the problem through this lens and this is also creditable to the discipline of sociology of gender to view the social issue through the feminist/gender lens. That's how I view the truth and constitute feminist knowledge and truth. This is what Schwandt (2001) argued that every researcher has her/his own way of developing knowledge and finding truth and the researcher's views always guide thinking, and making assumptions about herself or the society. This is what social scientists called a paradigm. The term 'Paradigm' was first used by Thomas Kuhn (1962) in his study "The Structure of the Scientific Revolution" in two ways:-

1. The community of scientists shared a particular way of thinking in solving problems in their own discipline/field.
2. The shared comments, beliefs and assumptions, values, methods are spread across disciplines.

According to Patton (2002), a paradigm is a way of describing a world view that is based on philosophical assumptions about the nature of reality called ontology, the ways of knowing are known as epistemologies, and the ethics and value system as axiology. The paradigm guides to ask particular questions and use a suitable approach for a systematic inquiry called methodology. The researcher does not choose a paradigm of her/his own will but based on the research question raised for the study. The research question determines which paradigm best answer the study question (Kawulich, 2012).

My research question “Why women are not getting their inheritance shares though law and religion grantee right in Pakistan” determines my paradigm. The question requires a solution to a problem that exists in Pakistani society. After a thorough review of the literature, it was found that a number of researchers have presented the solution to this problem in different times, places, and cultural contexts, nationally and internationally but the problem still persists at the local and global level. The reality of denial of inheritance has historical, social, cultural, political contexts and there is no single reality that exists, so it guides me to choose a constructionist ontology.

Constructionists believe in multiple realities (Lee & Baskerville, 2003) and Haraway a standpoint feminist, (2004) mentioned that there is no single standpoint because

women live in diverse social locations based on race, class, sexuality, and disability, and sometimes it is conflicting. She, further mentioned that the word 'humanity' is socially constructed and is a product of history and technology. If something is historically specific, then it is not permanent and can be challenged.

Stanley and Wise, constructionist feminists (1993) also argued that all the knowledge is a creation of human social experiences and the judgments about them are always context-specific within which such knowledge is constructed. They, further mentioned that it is the responsibility of the researcher to produce reflexive accounts of both the research process and findings. In this way, readers can understand the procedures that are used to produce knowledge and presented by the researcher.

Extensive literature review on inheritance rights at the global, regional and local level, as well as different perspectives from liberal, utilitarian, Marxist to feminists on legal inheritance property, gave me a contradictory world view in different times and locations and gave me the strength to use the feminist lens as Oakley (1998) argued that feminist epistemology challenged the existing knowledge that mainstream research is actually male stream research and excluded women experiences and by including their experiences, the truth can be found. Constructionist also believe that knowledge is subjective and truth lies within the human experiences (Lee & Baskerville, 2003).

As the reality of denial of inheritance rights of women is socially constructed and subjective experiences of people on inheritance rights, social inquiry cannot be value-free (axiology). Everyone is influenced by the values s/he holds which also affects the choice

of inquiry, topic, method, data collection, data analysis, and the way of presenting and reporting the findings. As a feminist social constructionist, I admit the value-laden nature of the study and report my values and biases related to the topic, data collection, data interpretation that may interfere with my neutrality on the coming pages.

### **4.3 Qualitative Research**

According to Burns and Grove (2003), the qualitative approach is a systematic subjective approach to describe life experiences, events, and situations to give meanings while Holloway and Wheeler (2002) referred to it as a form of social inquiry that focuses on the way people make sense of the world around them and interpret their meanings. The researcher who used this approach basically adopted a humanistic and individual-centric perspective to understand the lived experiences of the people (Field & Morse, 1996). Qualitative research methods provide answers to the why and how questions like why things happened in this way and how things are emphasized, and understanding the phenomenon. As good qualitative data is difficult to measure but can reveal attitudes, beliefs, practices that are difficult to access through quantitative research (Broda, 2006). The exploratory nature of qualitative research allowed data collection on a specific areas of research through in-depth, face-to-face interaction between the researcher and the participants (Naderer & Balzer, 2007).

Ontology, epistemology, and axiology guided me to use qualitative research as to understand the denial of inheritance right of women and allied problems that surrounds the issue as well as find a solution to the problem and develop a strategy to tackle the issue.

## 4.4 Research Methodology

### 4.4.1 Study Area:

Pothohar is a plateau included part of the province of the Punjab and some parts of KPK situated in northeastern Pakistan (Warwick & Wardlaw, 2007). McDongall and Hussain (1991) mention that the Pothohar plateau is famous for oil and gas exploration and production. Agriculture is dependent on rainfall and the climate of the area is semi-arid and less than 25 cm rainfall per year and due to low rainfall, there is deforestation (Ahmed, 1969).

The two districts namely Rawalpindi and Chakwal were selected because most of the studies in Pakistan were conducted in remote areas of Punjab, Sindh, and KPK of Pakistan and very few studies conducted to find the practices in the northern part of Punjab. Furthermore, Rawalpindi district is the highest-ranked with women land ownership district and Shafqit and Zahir (2016) reported almost 10.6% women land ownership in Punjab and out of it 65% belongs to Rawalpindi district. They further reported that 14% of the land ownership women got was through inheritance property.

According to the Census report (2017), Rawalpindi is the fourth highest populated city in Pakistan. The overall literacy rate of the district is 60% and this is 69% for men and 45% for women. The Pakistan report on Human Development Index (2017) placed Rawalpindi and Chakwal districts at the highest literacy and high indices districts in Pakistan respectively.

### 4.4.2 Population of Study

The research population is the total number of population from which the data is collected (Parahoo, 1997). While Burns and Grove (2003) described the population as all the individuals, elements, and events that meet the required list of characteristics criteria for inclusion in a target population of the study. Men, women, and male and female lawyers from the Pothohar region who have experience of getting, not getting, and dealing with inheritance cases were the population of the study.

#### **4.4.3 Sample of the Study**

Polit, Beck and Hungler (2001) defined sample as a proportion of a target population. The sample comprised of both men, women from rural and urban areas and lawyers of Pothohar region in Punjab who met the criteria and were willing to participate in the study.

##### **4.4.3.1 Sampling Technique**

An approach of homogenous sampling was used to focus on particular women who were facing difficulties in getting their inheritance share and have filed their cases in the court. I faced a number of problems getting information about the cases. I approached the registrar in the high court of Rawalpindi to get information on the cases but it was difficult to get meaningful information as lawyers, and the women clients were reluctant to share information as they have their own insecurities regarding the current conflict going with other families as well as in the courts and talking to different people to reach the right person constituted a high risk for the researcher and that's why the strategy of selecting participants had to be revised.

Interviewing with key informants in research methodology is frequently used in recent years particularly in behavior organizational studies (Kumar, Stern, & Anderson, 2017), health studies (Whittakers, 2012), and ethnography research (Bernard, 1994). These are used in documenting reasoning of the issues and when in-depth interviewing is not possible (Kumar, Stern, & Anderson, 2017). However, Tremblay (1957) used key informants in his research and cautioned that one must choose them very carefully while keeping the content of the guide and structure of the society.

When I choose the sample, I did not select the participants randomly rather I selected them based on the sampling characteristic. In this study, I identified key influential people from different towns, cities of urban and rural areas of the Pothohar region in Punjab who were not only willing to participate in the study but also helpful to identify men and women who fulfill the criteria and willing to participate in the study. I met more than 100 people during that process and people declined the request to participate and explained some reasons to avoid participation in the study given below.

People who were in conflict with their families avoid participating as they thought that it might create further problems in this matter. Women, particularly, were hesitant because they need permission from their male members to participate and they did not get permission. People were also reluctant because of the audio recording of the information as they thought this can be leaked and posted on the internet and can be used against them.

The key informant interviews provided a broad range of perspectives as it included individuals with diverse experiences with the issue related to the inheritance rights of

women: laws and practices in Punjab. In this study, the purposive sampling technique was used to select the participants as it is a technique where I deliberately choose participants to include in the study based on the set criteria. The rationale behind selecting this technique was to get the answer to the problem currently faced by women in getting inheritance share in the landed property.

#### **4.4.3.2 Selection criteria of participants for inclusion in the study**

The criteria developed for the participants to include in the study was as followed:

- Having minimum experience of five years of marital life.
- Have the following criteria, to provide an in-depth understanding of inheritance personal experiences
  - Own a house
  - Have a medium level of business or have a job
  - Family income one hundred thousand
  - Own motorbike or a small car
  - Family size between four to five members
    - Education up to matric or onwards

#### **4.4.4 Sample Size for the Study**

Holloway and Wheeler (2002) mentioned that there are no guidelines to determine sample size in qualitative research as it does not influence the quality of the study. They

also explained that researchers in qualitative research does not know the size of the sample to be interviewed beforehand because it may change in number during the research. Sampling goes on until the point of saturation has been achieved and no new information is generated. However, Bernard (1994) described that identifying sample size in the smallest project required 40-50 interviews to generate sufficient data to be worthwhile. In this study 40 men, women, and lawyers were interviewed from rural and urban areas of the Pothohar region in Punjab. The breakdown is as under:-

**Table 1: Sampling participants**

<b>Sample participants</b>	<b>Number of participants</b>
<b>Women</b>	
Rural women	09
Urban women	06
<b>Men</b>	
Rural men	08
Urban men	07
<b>Lawyers</b>	
Female lawyers	05
Male lawyers	05

#### **4.4.4.1 Participants of the study**

There were forty women, men, male, and female lawyers who participated in the study and belong to different towns, cities, and rural and urban areas of the Pothohar region of Punjab.

**Rural women:**

Nine women from different villages of Gujar Khan, Chakwal, who met the criteria and willing to part take in the study, interviewed and some of them were highly qualified and working for a paid job and some were homemakers.

**Urban women:**

Six women from different areas like the inner-city of Rawalpindi, who met the criteria and were willing to take part in the study, were interviewed and mostly graduates and working for a paid job.

**Rural men:**

Eight men from different villages of Tehsil Gujar Khan and Chakwal were interviewed. The men who graduated and doing business or had a job and fulfilled the criteria were included in the study.

**Urban men:**

Seven men from different areas of Rawalpindi living in residential colonies in the cities participated in the study. Most of them had migrated from the rural areas or from the inner-city of Rawalpindi and were highly educated and involved in the property business.

### **Lawyers:**

Ten lawyers, five male and five female were interviewed to explore the expert opinion as they were practicing lawyers and having experience of dealing with civil cases from the last five years in the Pothohar region.

### **4.5 Development of Interview Guide**

According to Patton (2002), an interview guide is a plan of data collection about the topic of the research and the stated questions to address the problem raised in the research that will be covered during the interview. In qualitative research, questions are open-ended, clear, singular, and neutral and range of questions from experience questions, opinion questions to background questions (Patton, 2002).

The interview guide was divided into four parts. The first part consists of background questions about the participants. The second part confirms the information related to the inheritance and property prevailing laws that deal with inheritance property and these were to confirm the awareness related to laws. The third part was a mix of both opinion, cultural and legal practices related questions and the last part was suggestions to improve the situation with regard to women concerning inheritance property.

The interview guide was prepared with an extensive review of the literature and it was discussed with the supervisor as well as with the experts in this field to validate the information and it was pretested in the field with a group (7 participants, 2 male lawyers, 3 female lawyers, one community man and one woman) and then it was finalized to get data from the field.

## **4.6 Interview technique for data collection**

The interview is a communication process where the researcher extracts the information from a person or informants. The information provided by the informant was based on the experiences in her/his cultural context. That's why every interview creates subjective information shaped by the experiences of the interviewee. Qualitative research is also based on the assumption that the perspective of others is knowledgeable and meaningful and one of the objectives to do the qualitative research is to get subjective experiences of participants to get in-depth understanding of the problem (Patton, 2002).

### **4.6.1 Interview types**

There are different types of interviews that one can do based on the situation and amount of control, one tries to exercise over the responses of informants (Spradely, 1979).

#### **Semi-structured interviewing:**

Semi-structured interviews are done only when the researcher has only one chance of interviewing. Semi-structured interviews are based on an interview guide. The interview guide is a written list of questions and needed to be concerned in a flexible order (Bernard, 1997).

In the current study, “Inheritance Rights of Women: Laws and Practices in Punjab” semi-structured interviews were conducted with the help of an interview guide by me it was difficult and to meet the participants again.

Interviews were started with informing the purpose of the study and asking their help in understanding the phenomenon. It was also ensured that the information, opinion, and experiences matter a lot to me and I don't want to miss anything and needed both hands free to take the notes and get their permission to audio record the interviews as Bernard (1994) mentioned that using tape recording for interviewing is good as one can't memorize and note at the same time. Also tapes are a permanent record of primary information and can be archived and passed on to other researchers.

During the interviews, mostly silent probing was used and it is just waiting and waiting for the continuation but sometimes, echo probing was used when they were telling the incident happened because of the conflict on demanding inheritance share between the families. Echo probing consists of simply repeating the last thing of the interviewee and ask them to continue (Bernard, 1994).

#### **4.6.2 Explorative Interviewing**

Explorative interviews are semi-structured conversionary interviews that primarily focused on gathering detailed and complete information on a particular issue (Broda, 2006). The major goal of the interviews is to get relevant information, opinions about the issue, and prevalent practices in the area. Broda (2006) outlined these characteristics as important criteria to distinguish from in-depth interviews. In-depth interviews also revealed unconscious motives and attitudes that are different to find out. In-depth interviews focused on the psychological aspect and explorative interviews focused on the information aspect.

I used explorative interviews in the current study as its purpose is to get information from the related persons for difficulties women faced in getting their inheritance share and associated practices.

## **4.7 Data Analysis**

Once qualitative data has been gathered, that collected data were required to organize in a certain framework. In this study, data were collected through explorative interviewing with 40 men and women, and lawyers. The framework for organizing data was proposed by Patton (2002) as storytelling, case study, and analytical framework approach and for the current study, an analytical framework was used. The Analytical framework processes key issues, interview questions, sensitive concepts and key terms used by people in their settings. This implies that qualitative research captures most important key phrases that used to build categories and it remains important how people actually experience and described their realities (Patton, 2002).

In this study, interview guide was conceived and developed on an analytical framework for analysis. The answers from different participants were grouped by topics from the guide. However, the sequence of questions differed from interview to interview. The relevant data were dispersed throughout the interviews.

### **4.7.1 Thematic Analysis**

Thematic analysis is a method of identifying, organizing, analyzing, and reporting patterns within the data set (Bran & Clarke, 2006). Clarke and Bran (2013) mentioned that thematic analysis is much simpler in organizing and describing the data with the main

research question and a good thematic analysis does not require a particular theoretical perspective rather it interprets and makes sense of the data.

### **Getting started:**

The transcription of the semi-structured interviews conducted with lawyers, rural and urban men and women of the Pothohar region of Punjab was done and the duration of each interview ranges from 20 minutes to 60 minutes depending upon the experiences and exposure of the participants. All these audio-recordings and their transcriptions are available on a computer and kept under the audit trail.

### **Doing the analysis:**

A framework developed by Bran & Clarke (2006) was used to conduct a thematic analysis in six phases. The six phases include:-

1. Familiarity with the data
2. Generating initial codes
3. Search for the categories/Developing coding families
4. Conceptual themes
5. Defining themes
6. Write-up

The first step was to read and re-read the transcripts. All the 40 interviews were transcribed got printed and familiarized with the entire body of data. During reading the interview transcriptions, some notes were also made to jot down the impressions.

In the second step, data was organized in a systematic and meaningful way. Coding basically reduced data into small chunks of meanings. Although, there are different ways to code the data the researcher chose the method according to its perspective and research question. I was more concerned with my research question to analyze the data, keeping this in my mind. I used open-coding and nothing pre-set codes rather developed and modified codes as I worked through the process. For in-depth understanding and analysis, I used line by line coding and read every single line. When I finished the codes of one transcript, I compared and modified these codes before moving to the next transcription. As I worked through them, I generated new codes and sometimes modified existing ones. I did all this work by hand, working through the hard copies of transcripts with pencil and assigning these codes a number, and each new code, a new number. While going through the transcripts, a similar number was assigned with a similar concept. I organized the codes according to conceptual families and categories the codes mentioned in the table below:

**Table 2: Organizing of the categories**

Category	Generating initial codes	Code numbers
Social practices of keeping the inheritance within the natal family	Denied inheritance through making WILL Withdraw inheritance through HIBBA (practice)	23 24
	Women share experience of HIBBA	156
	Families consider dowry as substitute of inheritance for women	65

Experiences of women dowry as a substitute of inheritance	90
Considering providing education to girls as substitute to inheritance	160
Experience of education as substitute of inheritance	161
Fight among sister in-laws to withdraw property (violence)	121

In step three, themes were identified according to the research question from the significant data. I examined the codes and conceptual families/categories and fit together into a theme. Three to five categories were clubbed into one theme. Initially, I developed one theme as 'Documentation: the main axis of power in inheritance'.

All the codes and conceptual families of codes organized into broader themes that were specific about the research question and sub-questions. The theme here were descriptive and describe patterns in the data relevant to the research question. Table shows the preliminary themes along with categories and conceptual families.

**Table 3: Developing of the themes**

Theoretical Debate	Conceptual families/ themes/ subthemes
Domestic Sphere: Family, the base of inequality	Gendered structured marriages
	Socializing gender ideologies
	Reinforcing gender ideologies
	Creating emotional dependence
	Widowhood and inheritance

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Social practices of keeping the inheritance within  
the natal family

**Public Sphere: Extension of  
family inequality**

Defining inheritance: cultural and religious  
ideologies

Gendered politics of landed property

Passage towards inheritance

Registration and documentation

Bureaucracy: the state apparatus

Public offices: the matrix of domination

Legal practices of keeping the inheritance with  
men

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The step four, all the themes were reviewed, modified and developed and then the data were tabulated in the form of tables in Microsoft word by defining themes, categories, and codes. It was reviewed, cut and pasted under the relevant codes and categories with suitable themes. Bree and Gallagher (2016) used it in a Microsoft Excel sheet. I considered the themes while working both within a single interview and across all the interviews, whether the themes were coherent as well as distinct from each other and included the following while reviewing the themes:-

- 1) Do the themes make sense?
- 2) Do the data support the themes?

- 3) Are the themes overlapping or not?
- 4) Are there other themes within the themes?
- 5) Are the themes relevant to the theoretical framework?

I felt initially that some themes did not really work like “Documentation: the main axis of power”. Actually, the data were not supporting the power rather indicating a legitimate authority of the bureaucracy. They are not the ones who create and disseminate information regarding the documentation of inheritance. The knowledge construction is specific and the offices for supporting people in this regard hold authority even the lowest rank workers do the same. So the whole theme was redefined based on a theoretical understanding of the data. The whole data were divided into four major parts and every major part signifies themes and each theme consisted of the following sub-themes.

- 1) Demographic information of the participants
- 2) The politics of inheritance: a gendered ideology
  - a) The domestic sphere: family, the base of inequality
    - i. Marriage as a gendered structure in inheritance
    - ii. Socialization of gender ideology in family
    - iii. Reinforcement of gender ideology through stereotypes
    - iv. Gendered beliefs, practices and blames in inheritance
    - v. Manipulation, domination and compensation for inheritance
    - vi. Vulnerability of Widowhood & inheritance

- vii. Social practices of keeping the property within the family
- b) The public sphere: extension of family inequality
  - i. The prevailing definitions of inheritance
  - ii. Knowledge regarding measurement and demarcation of landed property
  - iii. Documentation of transfer of inheritance
  - iv. Bureaucracy as an apparatus in inheritance
  - v. Awareness and public offices regarding inheritance matters
  - vi. Hegemonic masculine culture of public offices
- c) Demanding inheritance: repercussions and seeking help

3) Participant's Resolution

In step five, the final stage of refinement of themes and the purpose was to see the crux of each theme and to see how the themes and subthemes are interacting with each other and with the main theme.

#### **4.8 Quality of Data**

Patton (2002) explained some important elements of different methods on which credibility depends, like the employment of systematic data collection during fieldwork. It means that the interview guide must be prepared beforehand and interviews must be conducted through prescribed interview guidelines.

In the current study, the interview guide was prepared before going to the field and used for the collection of data. The ending point of creditability is the employment of systematic analytical strategies of the collected data, what Patton (2002) referred to as integrity in the analysis.

The study focused on conducting explorative experts' interviews with male and female lawyers as well as men and women from different cities, towns, and villages to include diverse perspectives of the people related to inheritance and property. Theory triangulation was done using a social, legal, and political feminist lens to interpret data. In the end, the quality was also ensured through the use of systematic coding and thematic analysis and using systematic data interpretation procedures. It enhanced the credibility, transferability, dependability, and conformability of the study. Keeping these philosophies in views, a criterion for ensuring the quality of the qualitative research is discussed as under:-

#### **4.8.1 Criteria for judging quality**

Guba and Lincoln (1994) developed a criteria for evaluating the qualitative research and I used this criteria to achieve the objectivity and truthfulness of the research findings in the following manners:-

##### **4.8.1.1 *Creditability***

It is about the creditability of the accounts of the participants means how reliable are these accounts in the study. This was ensured by conducting interviews of both men and women who had direct experience of the realities of inheritance property and also by

including interviews of male and female lawyers who had indirect experience of dealing with inheritance cases in the courts. This was ensured through an inclusion of multiple voices.

#### ***4.8.1.2 Transferability***

This means how much the research findings are applicable to other contexts. This was handled by including participants belonging to different areas like rural and urban as well as including people from both genders.

#### ***4.8.1.3 Dependability***

This means the possibility of replicating the findings on other settings. This was done through developing an 'audit trail' meaning all the process is recorded from the recording of interviews through audiotapes, their transcripts, all were kept in hard and soft copies in a systematic way. It can be utilized for research purposes with the permission of the departmental research review committee.

#### ***4.8.1.4 Conformability***

This means to maintain objectivity and neutrality in the research process and it was done through reflexivity during the research process by keeping track of my own position.

### **4.8.2 Positionality and Reflexivity**

The following pages are the description and reflection of my own position in relation to conduct and examination of the research process which was used before, during, and after the data collection and analyzing process. Reflexivity is a self-conscious awareness of the researcher as well as the researched and a continuous mode of self-analysis (Callaway, 1992).

According to Hall (1990), one cannot express unless taking a position so, in order to say anything, one has to position oneself somewhere. Therefore, positionality represents objectivism and subjectivism and it is a dialectic relationship (Friere, 2000). I try to remain objective by expressing my own subjectivities. The same is the case with positionality. I have to acknowledge what I am as an individual as well as a member of a group and within my social positions.

#### ***4.8.2.1 Locating Myself:***

I am a fifty-two years old Punjabi, a Pakistani woman. I was raised in a family that has only daughters and no son. My family had exchanged one daughter for a son with my maternal uncle. In this way, I had a younger brother. I was brought up in a women-centered family, male relatives like cousins were not allowed to visit in the house, and was not allowed to interact with male cousins throughout my childhood. I was given opportunities to get an education and then allowed to work. With this women-specific living experience, I entered into professional life and started working with a Non-Governmental Organization that was working for the uplifting of women and spent 13 years with them where I traveled in and outside the country and had interaction with a diverse range of women groups at the grassroots as well as national and international level. Then, I got an opportunity to move towards the public sector in the first Women University in Pakistan for teaching in the Department of Gender Studies. Currently, I have been teaching here for 12 years. All my research work during this period is a reflection of what I am and have spent my life, going through and seeing the miseries, and hardships experienced by women on a daily basis. This dissertation project is also one of the outcomes of those experiences.

As I got the approval for my research proposal on “Inheritance Rights of Women: Laws and Practices in Punjab,” I began to reflect more deeply on my experiences beyond this project. I asked questions to myself about my multiple identities in this research project that can affect the results of the project. One of my identity as the experienced woman who has been denied her share of the inheritance and the other as a researcher as well as my position as faculty at Fatima Jinnah Women University and the most important claim of myself as being feminist in relation with the participating women and men of Pothohar region. The questions I was asking myself, again and again, was about my position with multiple identities, did it play any role during this process, did I use my position in different social locations and spaces or did my position affect the interactions with men and women participants differently. There were no straightforward answers to these questions but one can be found throughout this reflexivity of my position in this project. At the same time, it keeps in mind that the researcher in qualitative research act as an instrument for the data collection and that is reflecting the subjectivity of the researcher, an expression of voice, and may affect the subsequent reporting of the findings.

It was important for me to see how my accounts and experiences with participants and the meanings of the participants attached to their experiences are tabled because, through these voices, the researcher leaves her own expression on the research and uses her own self as an instrument and her subjectivity. It is possible that my biases, observations, and interpretations may affect the results of the research but I consciously tried to bracket my biases and at the same time I felt present in the research, but when it comes to subjective experiences, no research is bias free. As Dorothy Smith (2004) argued

that all the knowledge constructed in human history was with a male perspective and by challenging, feminists offered a new way of knowledge construction by adding women standpoint through their experiences and opinions.

So, I tried to locate my work with the Pothohar region with women's perspective and adding men's opinion as well as lawyers' opinion but not influencing the findings. During the interviews, the purpose was conveyed to them, and getting permission to record the interview, gave me an opportunity to block my conversation to influence their opinions.

#### **4.8.2.2 *Challenge to my in-between status:***

As a privileged, experienced, professional 52 years old woman, working on a research project with women and men sharing their experiences as participants in this study, what does it mean to work on this issue? Basically, I was moving in-between with my own experiences as a Punjabi woman fighting for my inheritance share and experiences of women, sharing their experiences on the issue.

Being aware of the issue, women who were fighting for their rights and sharing their experiences, I felt connected with the struggle they were in but asking them to reach out to the organizations by providing information related to the laws and as a researcher, I felt connected myself again and again and facilitating them and communicating with them as a researcher was really challenging sometimes. This challenge was overcome by listening to their experiences that give me strength that their experiences were unique and different but with the same underline idea.

#### ***4.8.2.3 Challenge being a woman researcher:***

The data I had collected from men and women of urban and rural backgrounds showed that these participants had a wide range of experiences. Men were more reluctant in sharing their experiences as they were hesitant to open up about the denial of inheritance rights of women in front of a woman. While women were comfortable to share their experiences of leaving their share by following the norms but the women who demanded share from their brothers have different stories. This challenge was overcome by approaching men in their workplaces and by meeting in restaurants or food places to interview them.

#### ***4.8.2.4 Challenges in data collection:***

Semi-structured interviews were used as the primary mean of data collection. Initially, it was decided to do Focused Groups Discussions (FGDs) with the male and female lawyers' in session and district courts. But after completing the first FGD, I learned that lawyers were not ready to open the practices and not willing to share the data of women who were fighting for their rights through legal way and being my privileged position as a government official and asking permission to use audio recording considered it a harmful for them at any stage of life so, I decided to quit conducting FGDs. This challenge was overcome by shifting the research method from FGDs to semi-structured exploratory interviews with the participants with the discussion of my supervisor. It took more time but I was successful in recorded 40 interviews with men, women, and lawyers of rural-urban backgrounds.

Another challenge came when my expectation regarding my position of being a Punjabi woman shattered. I thought it would help me in interacting with women, and I assumed that I would have to make special efforts to interact with men in this area. These expectations were logical as I can communicate in their language with similar issues that I was confronted with. But women from rural backgrounds refused to talk to me without permission from their husbands. The challenge was overcome by interacting and communicating with their menfolk first by explaining the objectives of the research and benefits to the larger society and with their permission, the women were ready to be interviewed.

In general, women were more open who were fighting for their rights as compared to those women who withdraw their share, on the other hand, men were reluctant to openly discuss the issue. The idea of the importance of my position was reversed while collecting data.

Issues of positionality remained active throughout my data collection process. While engaging in discussion with rural women, they always checked my family background, one of the women, asked me about my status on inheritance right, did I receive it or fight for getting the share. I told my personal efforts to get it, they immediately, questioned my education and pointed out that educated and urban women can fight for their rights. I had to tell them my own story and problems I faced during the fight for getting my right besides being an urban educated, economically sound woman. This challenge was overcome by answering their queries at the end of the interviews.

Another question that the rural women usually asked me about the places like court and land revenue offices are men specific and the land-related matter are also men specific and how women cannot handle the property issues and cannot interact with *patwari*. These questions actually addressed existing power dynamics in land-related matters and also the existing fears which women have on the property shed light not only on prevailing stereotypes and ground realities but also their relationship that favor men.

#### **4.8.2.5 *My Insider/outsider position:***

The researcher is conscious about her position within the overlapping power relations as well as a process of finding her place within the world, her initial assumption, and the lens from which she watches the world (Haraway, 2004).

Who am I in relation to finding out the inheritance rights of women? Reflecting on my own experiences, the assumption I made as a researcher about my positionality as well as my experience of fight for my inheritance share and with the notion of insider and outsider. As I was a Punjabi female and living in Rawalpindi and they were also from Punjab but from Rawalpindi and Chakwal area, we shared a common bond, the inheritance norms in that area. I have achieved a greater sense of solidarity with the participating women like a woman and having denied my inheritance share and faced resistance to get my inheritance share. Although, men in this study were from the same area they were at the receiving end. Engaging them on the discussion, why women are not getting their inheritance share and hitting them indirectly as many of them immediately responded that they had given them their due share. It's not a matter of discussion. This was overcome by sharing the informational facts about women's land ownership in Pakistan and particularly

in Punjab that it is a general issue and their contribution will help women in getting their share.

Most of the time, I found my position as an insider as a woman challenged. In discussion with men, I always introduced my position as faculty as well as a researcher and engaged them in forwarding discussion. I drew on my insider status more with women when interacted with them rather than with men. Does it raise a question for me that was I really an outsider?

Everyone shared experiences regarding inequality that persist in inheritance property and highlights the perspectives that women withdraw their inheritance share in favor of their brothers for the sake of love with their natal families. I could not separate myself to keep quiet and I always at the end of the interviews discussed my own experience of inheritance property and sometimes shared experiences of other women without mentioning their names and locations. That was really a question of my position as an outsider and challenging their perspective and putting my own feminist perspective and experience influenced and questioned my outsider position.

#### **4.9 Ethical Considerations**

Research ethic mainly guided by University's guide which is approved by Advance Board of Studies, American Sociological Association and feminist guides. My discussion of ethic focusses on three main areas like informed consent, privacy, confidentiality and avoiding harm to the participants.

#### **4.9.1 Informed consent**

Getting consent from the participants is one of the central ethical practices. It involved both formal and informal consent. Initially, it was verbal consent through the key informants by a brief explanation about the study objectives. Those who have willingly scheduled a second meeting with the researcher in their places and given detailed information about the research objectives, process, time duration and audio recording for the interview. Those who were willing, asked for their opinion about the place of conducting the interview and at the day of the interview, they again explained the objectives and permission of audio recording and they were assured to leave the interview if they were not comfortable to answer. A written consent form was provided to sign. There were participants who did not wish to sign a consent form due to their concerns about privacy and replied that they have given verbal consent to interview. It was more ethical to accept their verbal agreement than to force them to sign a consent form.

#### **4.9.2 Privacy and confidentiality**

I was also guided by the principle of privacy and maintained the anonymity of those who participated in the research process. I assured the participants that the data would be treated as confidential and would not be shared with anyone until unless the research committee demands to present it. Currently, this was shared with two people who were involved in transcribing the interviews and for them, the demographic information of the participants was replaced with pseudo names.

#### **4.9.3 Avoiding Harm to the Participants**

As the topic was sensitive and many people refused to participate because of the anticipated threats they feel. During my fieldwork, it was also realized the danger of disclosing the identity and purpose of the research to irrelevant people may cause negative consequences. The participants gave time and place outside of the home to ensure the safety of the participants, informants and researcher.

#### **4.10 Summary of the Chapter**

This chapter included a detailed research methodology that started from my ontology which is based on socially constructed feminist epistemology as well as feminist research ethics with my own reflexivity and positionality in this study. This philosophy of research lay the foundation for the selection of research method, participants, data analysis techniques as well as maintaining the quality of the study.

## CHAPTER 5

### RESULTS: DOMESTIC SPHERE AS BASE OF INEQUALITY

#### 5.1 Introduction

This chapter presents results developed through themes and subthemes that emerged from the coding and categorizing of the data. The results, present the demographics of all the participants. It is important to understand that this is qualitative research and the point of view of participants depends upon their standpoints which are influenced by their gender, areas, and professions. All the themes are divided into three major parts to distinguish the purpose of each part.

#### 5.2 Part I: Demographic Information of the Participants

##### 5.2.1 Urban Female Participants

Urban Female 1 is 48 years old. She lives in Chaman Colony, Rawalpindi. Currently, she is living in a nuclear family with three sons and one daughter. Her education is M.A. M.Ed. and is teaching in a government school. She has two brothers and one sister. Her mother is alive but her father has died. Her grandparents have also died. His father left the commercial property and a house where his brothers are living. The brothers put pressure on both the sisters to surrender their share from the inheritance property. Her mother is not well and she is not demanding her right as their mother is living in the same house with their brothers.

Urban Female 2 is 50 years old. She lives in Dhook Rata, Rawalpindi. Currently, she is living in a nuclear family and has no children but an adopted son from her brother-in-law. Her education is M.A and she teaches in a school. She has three brothers and two sisters. Both her parents and grandparents have died. She has agriculture land near Chakwal and owned a house. She never demanded her share from her brothers as they send her crops annually. They never asked to write down the papers but they never gave her inheritance share.

Urban Female 3 is 50 years old. She lives in Dhook Rata, Rawalpindi. Currently, she is living in a joint family with a son. Her education is B.A. and is teaching in a government school. She has three brothers and four sisters. Her mother is alive but her father has died. Both of her grandparents have also died. Her mother is living with her daughters as the brothers have refused to keep her in the house and are not willing to give their shares from her father's property to any of them.

Urban Female 4 is 55 years old. She lives in Golramore, Rawalpindi. Currently, she is living in a nuclear family with three sons and a daughter. Her education is matric PTC and is teaching in a government school. She has two brothers and seven sisters. Her mother is alive but her father is dead. Both of her grandparents have died. She has withdrawn her share in favour of her brothers and is happy with it.

Urban Female 5 is a 55 years old woman. She lives in Workshop Muhallah, Rawalpindi. Currently, she is living in a nuclear family and with a son and three daughters. Her education is matriculation. She is a house maker and both her parents and grandparents

have died. She has six brothers and two sisters and her father left commercial plots and house in inheritance and currently, there is a dispute and the case is in court for the distribution of the property among the siblings.

Urban Female 6 is 42 years old woman. She lives in Rawalpindi on rent and her parents have three factories in Sargodha. Currently, she is living in a nuclear family with three daughters and a son. Her education is B.A. and she is a house maker. She has four brothers and four sisters. Her parents are alive but her grandparents have died. She is asking her parents to give her share from the property so that she can build her own house in the city but her brothers and parent are resistant to fulfil her demands.

### **5.2.2 Urban Male Participants**

Urban Male 1 is 60 years old. He lives in Bagh Sardaran in Rawalpindi. Currently, he is living in a nuclear family with one son and three daughters. He is graduated and retired from the army and has his own house and some commercial plots. He has four brothers and three sisters. His parents and grandparents have died. His wife is from Kashmir and she has agriculture land and his wife has withdrawn her property for her brothers. He has no problem with getting anything from them as this is a matter of her family and they will solve it themselves. He will not interfere in her matter whether she will get it or not.

Urban Male 2 is 62 years old. He lives in the judicial colony, Rawalpindi. Currently, he is living in a nuclear family with one son and three daughters. He is M.A. in political science and retired from Water And Power Development Authority. His parents migrated from India at the time of partitioning in 1947. Both his parents and grandparents have died.

He has four sisters and two brothers, and one of whom is dead. His wife gave power of attorney to her sister for getting her share from inheritance property in Lahore. Her wife faced a lot of problems in getting her share from her sister.

Urban Male 3 is 51 years old. He lives in Tench Batta, Rawalpindi. Currently, he is living in a joint family and with three sons and two daughters. His education is MA Urdu and teaching in Government College and working part-time in real estate business. He has two brothers and no sister. Her mother is alive but father has died and the property divided equally among the brothers after the death of the father. Both of his grandparents have also died.

Urban Male 4 is 32 years old. Currently, he is living in a joint family with two brothers and no sister. He has done his graduation in business administration and involved in real estate business. His parents are alive and grandparents have died. He informed that his father has faced a lot of problem in getting his share from his brothers as they were residing in the parental house and they did not distribute the share of the house. As the house was a big one and they were more powerful. So, my father did not get his share and left it for Allah to decide. Besides this, they have custody of all the related papers of the property.

Urban Male 5 is 51 years old. Currently, he is living in Rawalpindi in his own house but belongs to Jhelum. He is living in a nuclear family with only one son. His education is Bachelor and retired from PTCL and now works as a real estate builder and owns a commercial plaza. He has one sister and one brother. He is the eldest in his siblings and

distributed the inheritance property among them according to their share. Both his parents and grandparents have died.

Urban Male 6 is 49 years old. Currently, he is living in Rawalpindi but belongs to Chakwal. He is living in a nuclear family with two daughters only. He is graduated and worked in real estate business in Rawalpindi. He has three brothers and two sisters. His mother is alive but his father has died. All of his grandparents are dead. His mother is educated and trained them from the childhood regarding the share in the property and after his father's death, the mother herself distributed the inheritance share among the children. He informed that this is not the case with his in-laws as his wife did not get anything from her brothers and withdraw her share as to get the share through court is a long process and it may disturb the family life. So, she did not pursue her share from her brother.

Urban Male 7 is 26 years young is working in a government office. He lives in cantonment board Rawalpindi. He has done Masters in computer science and runs an academy in the evening. He is married from last five years and has a son and living in a joint family with his parents and grandparents who are alive and has three brothers and sisters. He informed that his family has no tradition to give inheritance share to the daughters and they consider giving dowry and helping them in need is the share.

### **5.2.3 Rural Female Participants**

Rural Female 1 is 38 years old. She lives in Sihala village in Rawalpindi. Currently, she is living in a joint family with two sons. Her education is MPhil in Psychology and teaching in the university. She has five brothers and only sister. Her father is not alive but

has three brothers and sisters. As her grandfather married three times, her father had three step-siblings as well. Her mother also has three brothers and sisters. Her mother and father also married twice and has two step-siblings so there is a complication in distributing property among the family. She is also suffering and fighting for inheritance share from her brothers as her father left agricultural and commercial property.

Rural Female 2 is 30 years old and lives in Rawat Rawalpindi. Currently, she is living in a joint family with one daughter and one son. She graduated from a college and is a homemaker. She has two sisters and no brother. Her parents and grandparents have died. Her uncle has kept all the property of her father and he did not give anything to them. They do not have papers and were not aware of the land so they are dependent on the mercy of their uncle.

Rural Female 3 is 38 years old. She lives in Chakwal, Rawalpindi. She is living in a joint family and with daughters and one son. Her education is F.A. and is a house maker. She has two brothers and four sisters. Her mother is alive but her father is dead. All of her grandparents are dead. She has withdrawn her share and written it in favor of her brothers. All of her sisters did the same.

Rural Female 4 is 30 years old. She is living in one of the houses of her relatives. Her parents married her to a poor person so she is living a very hard life. She is a matriculate and a house maker. She has three sons and one daughter. She has five sisters and one brother. Her parents are alive but her grandparents are dead. She said that she will not demand her inheritance as she has the only one brother and he should have all the property

and house which is from her parents. She has no right to demand it. This is her husband who should work hard and make their livings not her natal family to take care of them.

Rural Female 5 is 42 years old. She belongs to Kalyan, Dhok Muqaddam Rawalpindi. She is living in a nuclear family with three daughters and one son. Her education is F.A. and she is a house maker. She has two sisters and two brothers. Her parents are alive but only the grandmother is alive. She informed very proudly that she withdrew her share in favor of her brothers because to demand inheritance is a demeaning thing.

Rural Female 6 is 34 years old. Currently, she is living in Tench Bata Rawalpindi on rent as she belongs to Chakwal and the couple has a lot of agriculture property in rural Chakwal. She has an MPhil in Development Studies and is teaching in a university. She has two daughters and two sons. She has three sisters and one brother. Both of her parents are alive. She informed that they are being told indirectly from their parents that they have spent a lot on their education and marriage. What you are earning, you are spending on your husband and his family, not on us. So keep in mind, do not ask a share in property and house. Everything belongs to sons.

Rural Female 7 is 65 years old. She belongs to Kalyam, rural area of Rawalpindi. She is living in a joint family and educated up to matriculation and is a house maker. She has three sons and no daughter. She is proud of her sons and informed that they all live together and she has identified her jewelry among her daughter-in-laws and informed them who will get what after her death. She has seven brothers and two sisters. She further

informed that it is their tradition to withdraw inheritance share in favor of their brothers so she and all the women in that area withdrew their shares. The women get a dowry and all kind of financial and emotional support after marriage from the family.

Rural Female 8 is 40 years old. She lives in village Nolower near Rawalpindi. Currently, she is living in a joint family with one daughter and two sons. Her education is B.A. and is teaching in a private school near her village. She has three brothers and two sisters. Her parents are alive. She said that in her family there is no tradition of giving landed property from inheritance to women so she never thought to get anything from the property.

Rural Female 9 is 28 years young. She is currently living in Chakwal in joint family and is married but her husband is living in England and she is waiting for a residence visa with her three daughters and one son. She is educated and looking after her family. All of her parents and grandparents are alive and traditionally, daughters are not allowed to get the share in the inheritance property. "We acknowledged our tradition and never demand the share as our husbands did not allow us to ask the inheritance property."

#### **5.2.4 Rural Male Participants**

Rural Male 1 is 43 years old. Currently, living in Rawalpindi and belongs to Gujar Khan. He lives in a nuclear family system with four daughters but no son. He has a Bachelors' degree and runs his departmental stores. His parents are alive but his grandparents are dead. He has one brother and no sister. He has agricultural land which is a joint property in the village with his uncles and it has number of issues with them. He

also has problems with his wife's property as she wants her inheritance share by her brothers and he is on his wife's side in getting inheritance share.

Rural Male 2 is 55 years old. He belongs to village Phinanad near Gujar Khan. He is living in a joint family with three daughters and three sons. He is a graduate and is teaching in a school and also working on his agriculture land. He has four sisters and two brothers. Both his parents and grandparents have died. In his village, there is no custom to give inheritance share to sisters. The land belongs to the son only. The house and land are shared among the brothers. He said due to urbanization and education, the trend is changing. Due to large housing schemes, rural land is becoming part of these schemes and now women are demanding their share because of the increased land value.

Rural Male 3 is 48 years old. He belongs to village Dumair near Islamabad. He has a B.A. B.Ed. and is teaching in a private school near the village. He is living in a joint family with two sons and one daughter. He has four sisters and five brothers. His father is alive but his mother has died. Both of his grandparents have also died. They have more than one *marba* agriculture land and said that they do not have any tradition to give inheritance share to the women in the area.

Rural Male 4 is 32 years old. He lives in Dumair village near Islamabad. He has a Masters in Urdu and is teaching in a school. He is living in a joint family with two sons. He has four sisters and a brother. His parents are alive and his maternal grandmother is also alive. He said that we are Rajas and we do not have a tradition to give landed property to women as the land belongs to sons only. The elder son is the owner of the land.

Rural Male 5 is 40 years old. He lives in Bahira Town Rawalpindi and belongs to Gujar Khan. He lives in a nuclear family and have two sons and one daughter. He graduated in law and has practiced civil cases since 1999 in Gujar Khan. He has two brothers and three sisters. His parents are alive. He informed me that his mother withdrew her inheritance share and informed that nobody will question and focus on their own lands. There is no tradition of getting inheritance share and women rarely demand their rights but the trend is now changing and more women are coming out for getting their shares.

Rural Male 6 is 60 years old. He lives in Bahria Town, Rawalpindi, and belongs to Gujar Khan. He is living in a nuclear family with two daughters and one son. He is a graduate and retired from PTCL. He has one brother and two sisters. His parents are not alive and he is the eldest among the siblings. He told that he distributed the property among his sisters and brother according to their shares. He also told that he has advised his son to give inheritance share to his sisters accordingly after his death.

Rural Male 7 is 58 years old. He lives in Chirah village near Gujar Khan. He graduated and is teaching in a private school. He is living in a nuclear family with three daughters and two sons. He has five brothers and one sister. His three brothers have dead. His parents and grandparents also have dead. He said that there is no tradition of giving inheritance share from landed property and we as men are responsible for our women and taking care of them after marriage. It is our responsibility and we fulfilled our responsibilities.

Rural Male 8 is 77 years old. His village in Jurmount kalannear Chakwal. He is living in a joint family. He has been elected as village head of his union council for many years. He has three daughters and four sons. All of his parents and grandparents have dead. He proudly informed that he has given education to his daughter and one of his daughters is doing MPhil in Psychology from Quaid-i-Azam University, Islamabad. He informed that women are coming out to get their shares. At the same time, he regretted that even though her daughter is educated enough but she knew nothing about the property matters. He also acknowledged that the fathers never inform their daughters about the property related matters and I also did not train my daughter about the land and related documents.

#### **5.2.5 Female Lawyers as Participants**

Female lawyer 1 is 42 years old. She graduated in law and practices civil cases in Rawalpindi district court. She has been a practicing lawyer for the last nine years in civil cases. She belongs to a village from Chakwal and has two daughters and two sons. She has four brothers and four sisters. Her parents are alive but her grandparents have died.

Female lawyer 2 is 25 years old. She has a degree in L.L.B., works with senior lawyers and has two years of experience in dealing with civil cases in the district court of Rawalpindi. She is unmarried. Her parents are alive but her grandparents have died. She has four brothers and two sisters.

Female lawyer 3 is 25 years old. She has a degree in LLM, in International Humanitarian Law. She is working under the supervision of a senior lawyer who has experience in dealing with civil inheritance cases. She has an experience of three years of

working in the district court of Rawalpindi. She belongs to Paryal Chakri village. She is unmarried. She has seven siblings.

Female lawyer 4 is 43 years old. She has graduated in law and has a Master's degree in Urdu also. She has six years of experience of independent dealing with civil case in the district court of Rawalpindi. She is living in Rawalpindi but belongs to Sargohda. She is living in a joint family with four children. Both her parents and grandparents have died and she has one brother.

Female lawyer 5 is 30 years old. She has graduated in law and M.A in political science. She has been working in the civil court of Rawalpindi for the last five years. She lives in Rawalpindi with her parents and she is unmarried, having four siblings.

#### **5.2.6 Male Lawyers as Participants**

Male lawyer 1 is 42 years old. He lives in Rawalpindi. He has a degree in law and is a practicing lawyer and has 11 years of experience in dealing with civil cases in the district court of Rawalpindi. He lives in a joint family with her parents and belongs to Chakwal. He is married with three sons and one daughter. He has four brothers and two sisters.

Male lawyer 2 is 50 years old. He has a degree in law and a practicing lawyer and has 12 years of experience in dealing with civil cases in the district court of Rawalpindi. He lives in a nuclear family in Rawalpindi. He is married with seven children. He has one brother. His father is alive but his mother has died. His grandparents have also died.

Male lawyer 3 is 47 years old. He has a degree in law and ten years of experience as a practicing lawyer in civil cases in district court Rawalpindi. He lives in Garyam, Rawalpindi in a joint family with four children. He has two sisters and three brothers. His parents are alive but his grandparents are dead.

Male lawyer 4 is 32 years old. He has a degree in law and has six years of experience in civil cases in district court Rawalpindi. He belongs to *Potaki Rajan* village near Chakwal. He lives in a joint family with one son and one daughter. He has three sisters and two brothers. His mother is alive but his father has died. His grandparents have also died.

Male lawyer 5 is 31 years old. He has a degree in law and experience of 7 years dealing with civil cases in district court Rawalpindi. He lives in Rawalpindi and belongs to Hassanbad near district Attock. He lives in a nuclear family with daughters. His mother has died but his father is alive. Both of his grandparents have also died. He has two brothers.

### **5.3 Part II: Politics of Inheritance: A Gendered Ideology**

Inheritance has two parts, one is the distribution of property among the heirs, and the other is the transfer from the deceased to heirs. One part of the ownership of the property operates in the family and the other happens in the public sphere. I argued that inheritance is personal and political within the domestic and public sphere and operates through gender ideology. That is in line with the socialist and political feminist point of view. The following themes discussed the ways politics of inheritance takes place in

Pakistani society. This part is further subdivided into four parts to separate the reasons behind why inheritance is not obtained by women.

### **5.3.1 Part II. A. The Domestic Sphere: Family as the Base of Inequality**

The first part of my findings focuses on the domestic sphere that is divided into themes and sub-themes like the formation of a family through gender structured marriages, the vulnerability of widows, family as a place of gender socialization of children, gender stereotypes reinforced by socialization, using techniques like manipulating on domination to control women in the family to keep inheritance within male members. The outcome of these gender inequalities in the family is these social practices that help retain the inheritance with men.

#### **5.3.1.1 Theme 1: Marriage as Gendered Structure in Inheritance**

The first theme focuses on the institution of marriage where marriage is the source of fulfillment. The marriages are not a contract between husband and wife but are arranged by parents or elder men of the family who always keep their interests of retaining the inheritance in the family, in the custody of men.

##### ***Sub-theme 1.1: Importance of Marriage for Women***

Marriage is an important part of life in Pakistani culture, but it is more important for women as it defines their social status as well. Urban male 4 said that daughters are trained in a way to think that they should get a good education so their parents could marry them with good families. Girls always think that marriage and having children is the only

important thing in their lives. Girls are not told or made realized the security which comes from inheritance and they never focus on these things. He quoted,

چاہی کتنی زبردست پیچھوئی ہے اور اس سے بہت خالصت ملتی ہے۔

“What a fantastic thing this property is? It can give you a lot of security and girls do not know about these things” (Urban Male 4, 32 Years)

Urban Male 2 also shared that women solely focused on the idea of marriage and husbands. They did not take a stand for other things such as inheritance. Urban Female 5 said that there were other important matters which took their attention as women rather than focusing on inheritance matters. Rural Male 6 said that after marriage, the only concern of a woman is her husband, and her life centered on him so she does not need to entangle herself with inheritance.

Rural Female 3 said that in her region when a girl gets married, she has no knowledge related to the property of her parents. Rural Female 2 also shared the same experience saying that she does not have any knowledge or any awareness regarding her rights in inheritance. She went on to say that women are always busy in their household activities and they tend to avoid interactions with such matters and ended up having no awareness at all.

Rural Female 7 said that she thanked that she did not have to take interest in inheritance as Allah has given her enough facilities. She is married now and she did not need to know about inheritance at all. Rural Female 5 also agreed by saying that she is also

thankful to Allah and she does not need to know about these things. She further said that she is not social and a typical housewife, she does not know anything about inheritance matters. Female lawyer 4 said that the women have only one dream and that is to get married and going to another home. She does not realize that it was her house and she has a share in it just as much as anyone else.

#### ***Subtheme 1.2: Arrange Marriages and Inheritance***

Marriages are also used to take out women in the family from inheritance. Urban Male 1 said that the responsibility of parents was over when they got their daughters married and they did not need to give their property to their daughters who are already going to someone else's house. Arranging good marriages for their daughters is shown as a way to keep her out of the inheritance. Rural Female 3 said that parents thought of the security of daughters while marrying them. Rural Female 2 also said that parents wanted their daughter to go to a well-settled family so her future could be secured.

Arranging a marriage is critical regarding inheritance as the inheritance of the other family is important to notice while marrying. It can determine if they demand inheritance in return for marrying their daughter or not. Urban Male 1 said that parents think that daughters are going to a better place and do not care much about inheritance. Urban Male 7 said that it depends on the family whether they think of inheritance while considering marriage proposal, some notice education, and status. It is just a part of arranging marriages like judging other things. Urban Female 6 mentioned that sometimes marriages are arranged because of keeping the property within men of natal family. Rural Female 2 said

that parents wanted a well-settled family for their daughters to secure their future so taking care of such things is important. Female lawyer 1 agreed that parents take care of inheritance while marrying their daughters.

Rural Male 3 said that with the passage of time, inheritance is not the only thing people noticed while considering a proposal. But first priority is to marry within the family to keep inheritance and if they did not have someone good then they look for outside the family. Rural Males 7 and 8 also said that in our culture marrying daughters people think of a way out to keep inheritance within their family by marrying them within the family as inheritance is believed to be land of ancestors to be kept within the family. Rural Females 8 and 9 also mentioned that in their areas cousin marriages are popular as a way of keeping inheritance within the family. Rural male 2 said that people try to marry their daughters with the person who is in the equivalent economic status and they do not have to give a share to their daughters.

### **5.3.1.2 Theme 2: Vulnerability of Widowhood in Inheritance**

Widows are more prone to vulnerability while getting inheritance than other groups within women. Like others, widows have their religious and legal share in the inheritance, they are more vulnerable than others regarding inheritance.

Urban Male 1 said that if the husband has any inheritance, then she can get 8<sup>th</sup> part of that inheritance. Urban male 2 said that a widow after the death of her husband lives with her brothers and they do not give her a share in the inheritance because they tell her that she is

living with them. They also do not share inheritance even if she remarried as they already spend a lot of money on her wedding.

Widows face more problems with their in-laws because of inheritance. Urban Male 1 said that widow is aware of her husband's inheritance and she does not know the procedures of inheritance. Rural Male 3 shared a case of a man who died having land and after his death, his brother took over the land without giving share to his wife. Urban Male 5 said that widow has to face more pressure from her brothers-in-law to give up her share in the inheritance. He further, explained that going to court takes time and money which she already does not have, so she gives up her share in the inheritance.

کورٹ پر یوں میں وہی لوگ کامیاب بکے جائے ہیں جن کے پاس اثر و سوچ ہیں یا جن کے پاس پیسے ہے۔

“Only those people are successful in courts who either are influential or have money”

(Urban Male 3, 51 Years)

Male lawyer 4 said that if a widow is not aware of laws and her rights, then male members of her in-laws' family try their best to deprive her of inheritance. Female lawyer 5 said that widows face more problems because they have to face harassment from male lawyers and because of that they do not even go through the process as she has financial and social issues as well.

There are also issues when the husband dies before father in law and inheritance is not transferred beforehand. Urban male 1 said that when a husband dies before father in law, and the inheritance is in the name of father-in-law, more problems arise as people do not want to give her share because of someone who is already dead.

Widows with sons face fewer problems as compared to those with daughters. Urban Male 1 said that if a woman has sons, she will not face much problem her son will help her in obtaining it. In the case young of children, there are different problems. The widow can still get her share of inheritance if she lives in the same house raising her children and does not remarry. Rural female 4 said shared that her father in law had a lot of property and her mother in law got that inheritance because she lived in the same house raising her children.

If a widow has daughters, she faces more problems. Urban Male 1 said, having only daughters creates problems because all cousins will also have their shares in the inheritance and may try to take away from the women. Rural male 1 said that after the husband's death, there is no one to look after the widow. If she has sons, things are relatively better for her, and if not for people take advantage of her vulnerability.

Male lawyer 1 discussed a case where the son died before his father and grandfather had to take care of the children, also known as maintenance. He said that the law grants the right to the grandchildren in the property. Urban Female 3 and rural female 6 said that there should be a law made to restrict giving property to only one child, as they were not informed there already exists a law. Urban Female 5 said that there should be a law to check fake documentation in inheritance matters.

### **5.3.1.3 Theme 3: Socialization of Gender Ideology in Family**

Family is the first place where early socialization took place. Developing different identities and adopting different roles comes through early gender socialization. Men are trained about land, agricultural crops, and as breadwinners of the family, and women are

trained to take care of the family and depend on men for economic gain that becomes a source of inequality at an early age in terms of getting an inheritance.

***Subtheme 3.1: Socialization of Children for Inheritance***

Since childhood, gendered socialization train boys and girls to behave differently. Inheritance is given to men in the family and women are asked to give their shares to men in the family. Urban Female 1 shared that mothers start telling their daughters that certain things belong to their brothers even if they wanted it and sisters are supposed to comply with and give those to their brothers. She said that is the reason women are in habit of giving things to their brothers and depend on brothers. Urban Male 6 said his parents lived abroad their entire lives and they did not have the same socialization and women around them are educated about inheritance.

Rural Female 3 argued that in the society, daughters' upbringing is done in a way they did not think of such things and they do not see women around them asking for their rights, and they do not think of asking for inheritance. She said that in her family she has not seen anyone asking for inheritance right from their brothers. Urban Male 3 said that since childhood women are not given their rights, and they are also not given inheritance.

عورت کا حق شروع سے ہی ارا جاتا ہے۔

“Since the beginning, women rights are being trampled” (Urban Male 3, 51 Years)

Rural Female 8 said that women are taught to sacrifice everything and it is very easy for them to give their share in the inheritance. She also said that information related to inheritance is only shared with men and women are considered as a part of the house

they will be married to. Rural Female 9 mentioned that women give their inheritance to their brothers because of love for their brothers and it is the love that their brothers have given to them throughout their lives. She further, said that from her childhood it is ingrained to her that she should give her property to her brother and that is the reason she does not ask her share for.

Female lawyer 5 also mentioned that Pakistani women are trained from childhood to provide the best to their brothers, so they compromise everything and give their rights to brothers. She said that it was because of their training of maintaining status for their fathers and brothers that includes giving their selves them. So, withdrawing their right of inheritance does not feel important and they have been doing the same for their entire lives.

### ***Subtheme 3.2: Dependence of Women as a Source of Exploitation***

Despite the socialization of women, the main source of exploitation is their dependence. This dependence stems from many things such as a lack of awareness and knowledge. Urban Male 2 said that women only get to know about inheritance in case of the death of their parents and even then, they are not given specific information. Rural Female 3 said that women in our society did not have enough time to go through inheritance laws and systems. They have household work and children to look after and they did not think of laws or inheritance. Rural female 5 said that it just depends on the woman if she takes part in knowing about inheritance or not.

Female lawyer 4 shared her experience by saying that the owner of the property is aware of all the legal things linked with it. She said that she has one brother who does not

want her to get a degree in law as he knew if she has the degree she will know about all her legal rights. Some of her family members from her mother's side do not want her to get the degree as they were facing some inheritance issues. She ended up taking her share of inheritance from her father and grandfather's side but not all of her shares in inheritance.

Urban Female 1 said that women have a hard time getting their inheritance because of their mobility. She cannot travel outside her house alone. Urban female 5 said that she does not need to go anywhere as men bring everything of need at home, so whatever they asked her to do, she does the same.

جہاں بھائیوں نے کہا وہاں دھنٹا کر دیئے۔

"I signed wherever my brothers asked me to sign" (Urban Female 1, 48 Years)

A woman cannot get an inheritance until her husband allows her to get it and Urban Female 1 said that it has almost been 21 years that I am living in the same house and I do not know who is living on my left and right and teaching in a government school from last 28 years. I never tried to make contacts because I know my husband will not allow me to go anywhere to meet anyone. I have to face more disputes in the house so I thought its better not to make contacts.

Another reason for women not to get an inheritance is the lack of money and time. Urban Male 7 said that going to court means having money and someone who knows all about the court and its procedures. Urban Female 4 said that going to court takes time and money which women generally do not have. She only asks for inheritance when she needs money and she cannot get it because she does not have money. Urban Female 1 said that

women need time and money to get the inheritance and they do not have exposure and experience.

میں کمر سے نکلوں کی تو مجھے سمجھ ہوگی تا اور یہاں نہ کسی کسی نے کھو تباہ کیا اور نہ کسی میں نے پوچھا ہے۔

“I will understand something if I ever get out of the house. No one has ever told me anything neither have I asked for” (Urban Female 1, 48 Years)

Rural Female 1 shared her experience and said that I have heard these kinds of things, they blackmail you emotionally, love relationship with family comes to an end especially with the one I resist, I can feel a gap because I confront with the relationship of brother and sister is coming to an end because of materialistic things and whenever you need someone in your problems you do not have. If you have issues with your in-laws do not even think of paternal family will own you. Your paternal family will not be there for you in any situation, it is that cost which a woman has to pay if she took her right. It's her decision which she will choose whether her right or she will choose emotional dependencies and compensations which are nothing of her property and always be in this phase that brothers are too good whenever I need them they are always there for me.

یورت کو فصلہ کرنا ہے کہ اس نے خود کو مصروف کرنا ہے اور اپنی زندگی میں ہے یا ساری زندگی بھائیوں پا خواہ کر کے ساری عمر اسی زندگی میں سے کو حصہ لے کے اپنے کھلڑی اسے رہنا ہے۔

“A woman has to decide that either she has to make herself strong and live her life or be dependent on her brothers for entire life and take a little share from her right and be thankful for” (Rural Female 1, 38 Years)

#### 5.3.1.4 Theme 4: Reinforcement of Gender Ideology through Stereotypes

Stereotypes are practices of labeling individuals to some specific roles, characteristics or attributes being part of a special group. If this is done on the basis of gender, it is gender stereotyping. These are designed to maintain social order in society. It involves a strategy of dividing women and resulting in exclusion. So Stereotypes are one of the popular ways of reinforcing gender ideology which helps perpetuate discrimination and exclude women from inheritance. Rural male 8 said that men love the idea of land as it can be seen by their admiration of the word ‘*Rajput*’ which basically means ‘son of the land’. The word meaning also helps perpetuate the idea that land is the property of men in general and has nothing to do with women.

The land is considered a source of power for the head of the family so Rural Female 6 mentioned that families do not give land to daughters and they consider land to make the position better and a show of power, source of reputation. Rural Male 2 said that he has not seen any women around him going to court to get right. Urban Male 3 says that in our society men are supposed to bring home the food and women are to stay inside the home, which is the reason men are seen as the head of the household. It may be because saying that

مرد کا کر لتا ہے اور مورت کا کام خارجی کے اندر وہی پکانا ہے۔

“Man is supposed to earn money and woman to make bread inside the four walls of house” (Urban Male 3, 51 Years)

Another stereotype is that men should handle all the inheritance as they have always handled these matters. Urban Female 2 said that in her family all such matters are handled by men of the family. Female lawyer 5 said that in society stereotype is that women do not understand the documents and men are responsible to handle these matters.

#### **5.3.1.5 Theme 5: Gendered Beliefs, Compliance and Opinion about Inheritance**

Beliefs surround inheritance are gendered and operate like a system that builds on the norms prevailing in the society in a systematic way. Basically, these are the stories that we tell others to make sense of the reality in which we live. Gendered beliefs also play a role to create a hurdle for women to get the inheritance. If she complies with, she is considered good, and if does not then label as bad that pushes women to think differently. People make and spread opinions about women regarding getting or withdrawing inheritance that creates an effect on women who listen to these. These beliefs, opinions may not directly stop women from getting their rights but they do influence the actions of people around them which results in their actions.

##### ***Subtheme 5.1: Gendered Beliefs of Inheritance in Society***

It is a prevailing belief that women should not have an inheritance because society does not accept those. Rural Male 3 said that 90% of middle-class families think that women should not get the inheritance. Urban Female 1 said that she has never heard from anyone that they gave an inheritance to their sister willingly. Rural Female 1 said asking for the right of inheritance indicated that women do not care for her family. She said that

it is because of the mindset that women cannot have inheritance and changing the mindset should be foremost when talking about their right to inheritance.

Urban Female 1 said that she hoped that one day, her brothers will give her some share from the property because of the fear of Allah as they are getting profit from inheritance for almost 28 to 29 years. At the same, Urban Female 2 said that my brothers will give my share because I know that my brothers have never done anything wrong.

Urban Female 3 said that women are not given property because men think that they give food, clothes to women and there is no need to give them an inheritance. Urban Male 1 said that non-willingness towards women's inheritance share is simply because brothers do not want to give property to their sisters. Rural Male 3 said that fathers do not consider giving their daughter a share in the inheritance.

اگرے بیویوں کو حصہ دینے کے بارے میں کہیوں ہو چکے ہیں۔

“In our culture, it is not thought of given daughter inheritance” (Rural Male 3, 48 Years)

Another reason for not getting her share in inheritance is the belief that men by birth are entitled to inheritance. Rural Females 6 and 9 said that in our society male is considered as the head of the house, it is believed that he should take care of inheritance as well. Female lawyer 3 said that Pakistan's parliament is male-dominated and the laws and structure also do not facilitate women in getting an inheritance. Female lawyer 4 said that even though laws support women in getting inheritance but a male-dominated system, do not allow them.

Some of the women still believed in the relationship and hope that their brothers will give them their share one day. Urban Female 4 said that sisters think that their brothers are everything for them no matter brothers are harsh to them. Rural Male 3 said if brothers are good they distribute timely and if sisters are good, they leave their right. Rural Male 3 also said that women just give their property to their brothers out of love and maybe their brothers will give them something in return. Rural male 8 said that mostly brothers live in the joint system and women do not think of these things and give their share to their brothers out of love.

Rural Female 4 said she does not want inheritance as she has only a brother and he should have the property. Male lawyers 1 and 3 said that sometimes there is a good relationship between siblings and sister withdraw by choice. Female lawyer 1 said that most sisters live with their brothers and do not see any reason to ask for their inheritance when they are together and even they go when got married, they do not think of their share.

#### ***Subtheme 5.2: Compliance of Women regarding Inheritance in Society***

Many people believe that women should get their inheritance rights because of religious or legal reasons, but they still do not follow. Urban Female 4 said that in her house everyone should get his or her rights but It does not happen. Urban Female 6 said that we accept the right of women in property of inheritance but we have to take our rights, through the court. Rural Male 3 said that all people accept that women should get their rights, when the time comes, everyone backs off.

Rural Male 6 said that many people know that it is women's legal right according to Sharia but still refuse to give inheritance to women. They force women to write down their inheritance to men, men do not have a problem controlling the inheritance. Another practice of taking away women's inheritance share is asking them to transfer their inheritance to their sons in court.

Rural Female 6 shares her experience and told that if women go to court without men, they are labeled as bad women and face many problems as I am labeled as a bad sister and I got my right through the court. Urban Male 2 said that women who go to court for inheritance matters face lots of problems. Urban Male 5 said that society does not allow women to go court as they think the court is not the right place for women. Urban Male 7 said that women need support or escort to go to court. Urban Male 1 said that the women who go to court are not taken as good women.

عورت جب کچھری میں جاتی ہے تو لوگ سر سے پاؤں تک اس کا ایکسرے کرتے ہیں اپنی بات ہی بھی کرنے ہیں کہاں جیسی عورت نہیں ہے۔

“When a woman goes to court people scan her from head to toe and first thing they say this woman is not good” (Urban Male 1, 60 Years)

Urban Female 2 said that society thinks that going to places such as court is a bad thing for women. Urban Females 4 and 6 said that people especially talk badly about women who go to court. Rural Male 2 also said that in this region women going to court for legal procedures are considered bad. Rural Male 6 said that very few women go to court. Rural Female 1 said that in her area women never dare to go to court. Rural Female

2 said that women do not want to go to court because visiting court means losing their self-respect in society.

Rural Female 7 said that women have to spend money to go court so they do not go to court. Female lawyer 3 said that women have to maintain their relationships with their families. When they ask for her property she gives it to them because she does not want to be abandoned by family. Female lawyer 1 said women go to court when she wants her family a disgrace and humiliation. Male lawyer 1 said that women do not go because of fear and lack of awareness and love for their family.

#### ***Subtheme 5.3: Social Opinion about Inheritance***

The belief that women do not deserve inheritance and do not afford non-compliance to the family if a woman still tries to get her inheritance people have a negative opinion about her. One of the most popular opinions regarding women who want to get their inheritance is that she is greedy. Urban Female 3 shared her experience that when she asked for her inheritance, the family started spreading negative things about her in their social circle.

بیوں کی ہوں میں بھائی اتنے اندھے ہو گئے ہیں کہ ہماری ماں تک اس کھرے کل آئی ہے جس کی وہ خود وارث ہے۔

“Our brothers got blind by greed that our mother had to leave the house, she was heir to”

(Urban Female 3, 50 Years)

She further shared that her sister in law said to her that she has given her inheritance to her brothers and she should do the same. They think that if sisters work they do not need

inheritance share, and they have enough money and Urban Female 3 said that the house they are asking for the inheritance for is, the only house they have to live in, and if they sell it, they will not have any place to stay.

یہ دونوں نوکریاں کر کے اپنے خاوندوں کی مدد کر رہی ہیں تو بھائیوں کو دیتے ہوئے ان کو تکلیف ہوتی ہے۔

“They are helping their husbands by working but when it comes to giving their brothers, they have a problem” (Urban Female 3, 50 Years)

While her husband pressurized her to ask for inheritance and tells her that the only reason other sisters are not asking for their money is that brother has already sold the house and gave some money to them. She cannot ask anything her brothers because she never knows when she needs their support. Her husband has said,

تم لوگوں کے بھائی تم لوگوں کی جائیداد پر قبضہ ہے اور ان کی پیداوار ایسی تصریح میں ہے ہم لوگ بولتے ہیں نہیں ہو۔

“Your brothers are holding your inheritance and their wives are enjoying and you do not even say anything” (Urban Female 3, 50 Years)

Urban Female 3 also shared her family experience. Her mother asked her father to give her some share in the property. At the time her grandparents were alive and as her mother was her niece too, they agreed to give her share because the property will ultimately remain within the family. Rural Female 1 said that her family starts creating the image of her husband being greedy and that he wants her inheritance. They also ask her that he married her to get a property but she told them it is her right and nothing to do with her husband. Female lawyer 4 said that women do not have the courage to ask for inheritance as she fears negative comments by family.

یہ باغی ہو گئی ہے۔ اس کا میاں لا پڑی ہے۔

“She has become rebellious” or Her husband is greedy” (Rural Female 1, 38 Years)

Rural Female 1 said that the whole system is to blame as both men and women have become materialistic. They talk about getting rights but never about giving anyone their rights. Female lawyer 2, and male lawyer 3 said that asking for your inheritance seems like women are greedy and they are blamed for that. Urban Male 1 said that it is his father's inheritance and he should not have to give it to anyone out of the family. Urban Male 5 said that his father and grandfather used to give some shares to needy people but now a day people kill each other than to give their inheritance.

ہر بندہ اس خص کے لیے مرتا ہے اور انسان مر نے پڑا جاتا ہے۔

“Everyone fights over it (inheritance) and people are willing to kill each other for this”

(Urban Male 1, 60 Years)

#### 5.3.1.6 Theme 6: Manipulation, Dominance, and Compensation for Inheritance

Besides beliefs and practices being a hurdle in women's inheritance, different techniques are also used to change the perception of the women. They are emotionally blackmailed, convincing through the family networks and pressurized to take control of their inheritance. If women resist, they are rewarded with some monetary or non-monetary incentives to get the inheritance.

##### ***Subtheme 6.1: Manipulation through Social Connections***

Manipulating women through their ties in the family is one of the most popular ways to get inheritance as women are trained to be more social and take good care of social

connections. All of these things make women more emotionally insecure in family and social life. Rural Female 6 said that women are insecure about her relationship with her husband and in-laws and consider them as 'others' think it is better not to take property from their parents. Rural Female 1 said that giving the inheritance to their brothers provide a security that they will get help when in need. But if she has taken her inheritance, she is not sure if her brothers would give her any help material or emotional.

Women are also emotionally blackmailed to give their share of the inheritance. Urban Male 1 and Urban Female 4 shared that women are always pressurized. Through emotional blackmailing get their inheritance. Rural Female 1 said that women have to face emotional blackmailing and blame as her husband is greedy when she asks for her share in the inheritance. She also listens to demeaning comments about her husband if persists, her relationship with family ends.

Rural Female 1 shared her experience that her brothers have started asking that her husband wants this property or he got married to her because of her property. A woman has to face emotional pressure, she has to hear that her husband is greedy. My husband refused many offers previously by my father but I have to hear that my husband is greedy.

اس کے خاوند کی نظر ہماری جائیداد ہے۔

"Her husband has an eye on our property" (Rural Female 1, 38 Years)

Male Lawyer 5 said that women give up their share of the inheritance because of emotional pressure they face from their parental family and they know going to court is not a viable option for them, so they give up easily. Female lawyer 4 said that women face

emotional pressure from society, family, parents, and brothers to give up their share of the inheritance.

Female Lawyer 4 further shared a case of father and daughter where the mother died and left them some inheritance. Her father sold all of his wife's inheritance and when her daughter asked for her share, he threatened her to take away her share from other inheritance.

The lawyer further explained because our society has glamorized the status of the father, the girl was confused if she should pursue to get her share or not.

باپ جنت کا دروازہ ہے تو اب لڑکی اس سوچ میں پڑ جاتی ہے کہ جنت کا دروازہ لوں یا زین۔

“Father is (considered as) gate of heaven and the woman has to decide either to pick gate of heaven or land” (Female Lawyer 4, 43 Years)

It goes for every relationship, brother, father, they keep on taunting the girls that they have invested enough in them, marrying them, educating them and if they ask for more, they will no more be part of the family. Rural Male 8 said that he has never seen any woman go to court to get an inheritance, she mostly stays quiet. Rural Female 9 said that in my area, no woman dares to go to court. The woman happily surrenders her share to keep marital life smooth and calm.

#### ***Subtheme 6.2: Dominance through Social Pressure***

When manipulation does not work, dominance is used to get an inheritance from women. Social pressure is one of the ways to ensure women withdraw from inheritance.

Urban Female 1 is afraid of asking for her share in inheritance as her mother is sick and if something happens wrong to her mother, everyone will blame her she also does not know about laws or the legal system. Urban Female 2 said that it is difficult for her to get her share as she has no way to go to court and even she does, she will have to listen to people taunting her.

لوگ، محلے والے اور خاندان والے سب ٹک کرتے ہیں اور ایسے ایسے اڑمات لگاتے ہیں اور باقی کرنے کے قابل نہیں رہتے۔

“People, neighbours, and family members all tease and blame and talk about in such a manner that we cannot show our faces” (Urban Female 2, 50 Years)

Rural Male 1 said that brothers generally do not want to give inheritance. Brothers keep control of inheritance by creating a ‘*Baradari*’ system through which they pressurize their sisters. Rural Male 2 said that if a woman asks for her inheritance, all of her siblings get angry at her and stop talking to her. Rural Male 3 said that when brothers do not give their sister inheritance, and she goes to court or police, she still does not get inheritance because of ‘*Baradari*’ system cut her off from the family.

Rural male 1 said that there is a lot of social pressure on women. Female lawyer 4 and rural female 3 said that the pressure that by asking for a share in the inheritance, brothers will disown women refrain from getting an inheritance. Female lawyer 3 said that besides social pressure, social norms create a hurdle for women when they ask for inheritance.

Dominance seems a violent act, it is graver than actual physical violence. Sometimes conditions are made or arise due to which women are forced to withdraw their

shares. Urban Male 5 said that women withdraw their shares so their brothers will not feel bad. Urban Males 1, 3 and Rural Male 2 said that reason could vary from person to person but important is that brothers are financially weak.

There is also no family support when women ask for inheritance. Urban Male 1 said that women have no one to support the family when she asks for inheritance. Urban Male 7, Urban Female 1, and Rural Male 3 said that there are some families where brothers did not give inheritance to their sisters and their parents support that decision that is why many women do not ask for their shares as they would have to fight with family.

Rural Female 1 and 2 said that families do not give women enough space and time to think about these issues. Male lawyer 5 thinks fathers and brother work together to create conditions for women not to get the inheritance. Male lawyer 2 and female lawyers 1, 3, and 4 said that the whole family works together to give the inheritance to sons, because of social norms they also create various problems for women.

#### ***Subtheme 6.3: Compensation through Resources***

When various techniques do not work, compensation is made to take inheritance from women. Compensation can be made through material such as money or non-material resources such as education. Urban Female 1 said that her mother told her if she gives her inheritance to her brother, then he will give her 2 lac rupees. Rural Female 8 said that they have never seen anyone in their family giving the inheritance to women and sisters only get some money. Urban male 7 said that one of his friends sold all of the inheritance and he shared money to. Urban male 6 said that his brother in law kept ninety percent of the

inheritance and only gave jewelry and dowry to his wife. Rural female 1 said that parents and brothers do not even accept that they are compensating their daughters and sister with other things while taking their inheritance.

Rural Female 6 said that their parents think that they have given them education and dowry and they are compensated for inheritance. Rural Female 6 shared her experience by saying that when she got married she was studying, all of her expenses were borne by her parents. She will transfer all her money to her husband while her brother will be earning for parents. The concept that daughters are given to other's son returns, so the daughter should be least to ask for inheritance.

All these compensations are not mentioned directly but indirectly, conveyed to daughters so later on they can't demand their inheritance. Rural Female 1 said that I do not think parents or brothers accept this reality loudly that they are compensating their sister.

#### **5.3.1.7 Theme 7: Social Practices for Retaining Inheritance**

Social practices are ways of doing, acting repeatedly and regularly. These could be activated but must be recognized in a cultural context. Social practices work with manipulation and compensation to retain inheritance. Practices such as *Habba* and Dowry are most common to get an inheritance from women. While writing them off is another way not to give women inheritance.

##### ***Subtheme 7.1: Acquiring Inheritance through Habba***

Urban Male 1 said that *Habba* is a gift of inheritance given to son, daughter, or wife and it is not part of the inheritance. Rural Female 6 said that 'Habba' means inheritance is

given as a gift. Urban Male 4 said that giving property out of love as a gift is fine but forcing women to quit should not be done. Rural Male 2 said that sometimes sisters give inheritance to one brother not others. Rural Male 5 said that sisters think that their brothers have spent a lot on their weddings, and supported them in a hard time, so they should not ask for inheritance.

یہیں اس علاقے میں بہن اپنے بھائیوں سے حصہ لینے کو معیوب سمجھتی ہیں۔

“In our area, sisters think it is shameful asking brothers for inheritance” (Rural Male 5, 40 Years)

Also if there is agricultural land, the crop from the land is distributed among all the siblings, while in some cases brothers ask their sister to give testimony that they are giving them an inheritance by choice, so inheritance stays inside the family. Rural Male 4 said that sisters are mothers, they gift their inheritance to brothers and sons respectively. Rural Male 7 and rural Female 8 said that sisters feel proud by giving their share to their brothers even if they are not financially stable. Rural Male 7 said that

بھائیوں سے حصہ لینے کو گناہ کبیرہ سمجھا جاتا ہے۔

“Taking inheritance from brothers is considered the greatest sin” (Rural Male 7, 58 Years)

Rural Female 8 said that

جوتا ہے اسی پر صابر شاکر ہو جاتی ہیں۔

“We are patient and thankful for whatever we get” (Rural Female 8, 40 Years)

Rural Females 2 and 3 said that women withdrew their right of inheritance as a gift after marriage. Rural Females 4, 5, and 9 said that she recently gifted her inheritance to her brothers. Rural female 7 said that in her area, mostly women gift their share but if they do not want to give the share, 'Jirga' is involved to resolve the issue.

Male lawyers 1 and 5 said that parents gift inheritance to sons so they would not give their inheritance to their daughters as, after gift, it is no longer the part of the inheritance. Male lawyer 5 said that in some cases where the sister already has an inheritance, she is pressurized to gift it to her brothers. Female lawyers 3 and 4 also said that most families gift the inheritance so it can no longer be inherited and passed on to someone else. Furthermore, Male lawyer 4 said that changes have been made on Pakistan Penal Code (PPC) 142 that one cannot gift more than one-third of his/her property but many people are not aware of it.

#### ***Subtheme 7.2: Substituting Inheritance through Dowry***

Another way of retaining inheritance is by substituting it with the dowry. Urban Females 2, 3, and 4 said that people think that giving dowry is enough to daughters and they do not need inheritance after that. It is a bad thing as dowry is a gift and has nothing to do with inheritance. Urban Females 1, 2, 4, 5 and male lawyer 1 said that parents think that if they give their daughters dowry, and pay for the marriage expenses, their daughters do not have right to inheritance. Urban Female 2 said

لوگ سمجھتے ہیں کہ جیزدے دیا ہے اور اب اس نے ایک مرد کے پیچے ہی رہنا ہے تو اب وراثت میں حصہ نہیں ملے گا۔

“People think that if dowry is given and now she is going to live with a man then why should give her share in inheritance” (Urban Female 2, 50 Years)

Urban Male 5 shared his own family experience that brothers tell their sisters that parents have invested enough money in their weddings, and now they have no right to inheritance. Rural Female 1 said that parents give dowry to compensate for inheritance and later on give dowry as an uncle (mother' brother) or maternal grandfather to compensate for the inheritance. Rural Male 2 said that only gold and dowry are given at weddings.

Rural Females 2, 3, Rural Male 4, Male lawyer 3, and Female lawyers 1 and 5 said that dowry is not a substitute for inheritance. Urban Male 1 and Rural Male 2 said that dowry is not a substitute because dowry is not compared to the actual amount of inheritance. Urban Male 7 said that if the dowry is equal to the value of property in inheritance then it can be substituted otherwise it is not. Urban Female 1 said that dowry is not even allowed in our religion hence it cannot be a part of the inheritance.

Male lawyer 5 said that although people consider dowry the same as an inheritance technically, it is not. Female lawyer 3 said that parents think that they have compensated daughter by spending money on their wedding but they do not consider that they have spent as much money on their son's wedding as well if not more, but still give inheritance to him.

#### ***Subtheme 7.3: Allocating Inheritance through Will***

Another way to keep inheritance is ‘Will’. Urban Male 4 said that if a father wants to give some property to a specific child, he can do it and it does not have to be equal to everyone but if he does not then inheritance is distributed by law after his death. Urban

male 3 said that will allows someone in particular to have a share in over inheritance, and if someone does not have 'Will' inheritance will be divided among his family. In contrast to the above, Urban Male 1 said that inheritance is already distributed in the form of 'Will' but it has no legal value, and cannot be used legally after death. Furthermore, Male lawyer 4 said that there is a law that states that more than one-third of the property cannot gift or make 'Will'. He said that changes have been made in the law under PPC 141 and 142 but many people are not aware of it.

#### **5.4 Summary of the Chapter**

This chapter includes the first part of the results of the study and presented in two parts and the first part is about the demographic information of the participants. The second part is about the politics of inheritance with a gender ideology. The second part explained in detail through different themes and sub-themes under family as a base of gender inequality in the politics of inheritance within public/private dichotomy.

## CHAPTER 6

### **RESULTS: THE PUBLIC SPHERE AS AN EXTENSION OF FAMILY INEQUALITY**

#### **6.1 Introduction**

This part of the findings shed light on the transfer of the inheritance that took part in the public sphere. These results are divided into themes and sub-themes as the meaning of inheritance in society, land as a male domain, transfer of immovable and movable property (inheritance), documentation of the transfer inheritance, the language of the documentation, court culture, making fake documentation, taking power of attorney, getting help from selfish sources, repercussion of demanding inheritance and participant's resolve.

#### **6.2 Part II. B: Public Sphere: An Extension of Family Inequality**

To understand the extension of inequality in the family, a closer look at the public sphere is needed.

##### **6.2.1 Theme 8: Prevailing Meanings of Inheritance in Society**

Inheritance as a concept is seen differently by people depending upon their knowledge and experience. People have defined it as legal and religious means and they stand for similar meaning in Pakistan. Generally, people have defined it the way they have experienced it.

Rural Male 2 said that inheritance is the property of the father after his death transferred to the eldest brother which the brother transfers to the other siblings. Rural Male 2 said that after the father's death eldest son is the owner of the inheritance. Rural Male 7 said that the father's property is inheritance. Rural Females 5 and 9 said children getting father's property is inheritance in which son gets one and daughter gets half part. While there are some perceptions, which are not entirely correct and have different meanings. Urban Male 7 said that in Islam, it is the right of children to get their parent's property where one-third is given to the daughter and one to sons. Rural Female 2 said that out of 100% sons gets 80% of inheritance while daughters get 20% of inheritance.

It is the perception of urban people; urban males and females have defined it in two major ways. Urban Males 1, 3, 4, Urban Females 1, 2, 3, 4, 6 Rural Females 3, 7 and 8, Rural Male 2, 3 said that according to Islam inheritance is one part for daughter and two parts for the son.

Urban Male 1 said that society does not accept it, being part of Islamic law no one dares to change it. He also said that the father can give his property to the specific child before his death otherwise it will be divided equally as per Islamic law.

Rural Female 2 said that she knows that sons get more property as compared to daughters. Rural Female 4 said that she does not know anything about it and she has one brother who has everything and she does not need anything. Rural Female 1 also said that she does not know about this and she has not attempted to try reading laws regarding inheritance.

Other people have defined inheritance through legal means. Rural Females 6, 7, Rural Male 1, 4, and Urban Male 3, 6 said that all the property of parents or grandparents after their deaths is distributed among children is an inheritance.

Female lawyers 3, and 4 said that inheritance is transferring something either moveable or immovable from the deceased to its legal heirs. Female lawyer 5 said that inheritance is the property of a dead father to his children. Male lawyers 2 and 3 said that inheritance is property transferred to children after the death of a person. Male lawyer 1 said that there is no difference in inheritance law in distributing agricultural property and non-agricultural property. If one dies, his children will get the same share defined by Sharia law. Male lawyers 4 and 5 said that the inheritance law of Pakistan is based on Sharia, which means it is defined in Holy Book. Male lawyer 5 said that the amendment in inheritance law says grandsons can also get the inheritance. Male lawyer 5 said that an amendment has made that the ownership of the property can transfer 1/3 of the inheritance to anyone without any legal repercussion.

### **6.2.2 Theme 9: Transfer of Immoveable Inheritance Property**

#### ***Subtheme 9.1: Land as Male Domain***

Culturally, men in families are assigned the role of breadwinning and land was the first interaction of men as a source of food in early societies. Currently, agricultural land in rural areas is still a major source of income and housing schemes in urban areas. Land in the present scenario is surrounded by a complex system which is difficult to understand for those who are not related to land. Measuring, demarking, and partitioning is different

in rural and urban areas. Urban Male 4 said that in societies such as Bahria Town or DHA, it is not difficult for women because systems are managed properly and inheritance rules are not implied here.

Urban Male 4 said that even the person who is dealing in urban housing schemes cannot understand the complexity of rural agricultural land. Rural Male 8 said that the most important thing is to know the basics of land measurement. He continued that the basic measurement unit of agricultural land is '*karam*' which is equal to 5.5 feet and is made of a piece of cloth and one can make this measurement unit by himself/herself but measurement of land without *patawri* is not considered authentic. He also said that the land department is responsible to measure the land in front of parties and make a record of it and is an authentic measurement.

Rural Male 5 described that the measurement of agricultural land is done through '*karam*' and told that one '*karam*' is equal to 5.5 feet and one sq. *karam* is one *Sarsai* which is equal to  $(5.5 * 5.5) = 30.25$  sq. ft. He further explained that one Marla is equal to 9 (*Sarsai*) sq. ft. Karams which is  $= 9 * (5.5 * 5.5) = 272.25$  sq. ft. = 30.25 sq. yard and added that 20 Marla is equal to one Kanal and 5 Kanals are equal to one *Bigha* and 8 Kanals or 4.8 *Bighas* is equal to one Acre or one *killa*, and 2.5 *killas* is equal to one Hectare and 25 *killas* are equal to one *Murabba* land.

Urban Male 4 said that the basic unit of land measurement in urban housing schemes is sq. ft. It is easy to understand for a layman but this is not according to the government measurement units. In Rawalpindi Bahria Phase 1-6 one Marla is equal to 250 sq. ft. In phase 7-9, it is equal to 225 sq. ft. He further explained that this system is easy for

women in terms of the transfer of property. As inheritance is transferred through nominated person only and no problem in case of transfer of inheritance property. The person who is a designated person as next of kin can have a transfer of that property.

As agricultural land has no boundaries in a village, where the land of a person ends, start the boundary of other people. Rural Male 5 said that demarcation is the issue between two people's claims on some part of the land. No one knows exactly, who is using extra land. He, further added that there is a provision under Land Revenue Act of 1967 section 62, 62a, and 62b that an application can be given to the *Tehsildar* to measure the land while providing details such as *kharsa* number and other details.

Rural Male 5 further elaborated by explaining the old way of demarcation of agricultural land where the *patwari* chose three points which were old and through these points they start measuring the full land and if someone is using other person's land then *patwari* declares the actual possession of the land. The grieved writes an application for the possession of the land back to the assistant commissioner.

The land revenue department is responsible for making, keeping, and maintaining the agriculture record. There are different registers used to make and maintain records with different names according to the nature of the record. Rural Male 5 said about the basic register named *Khatauni* that is used for making a record of all cultivating or occupying land in a village. It is part of Records of Rights of the estate of a village. Another basic record register called *Jamabandi* entails records according to Punjab Record Manual. It comprises records related to ownership of agricultural land and it helps during mitigation. This record is updated after every four years. It is prepared by *patwari* and attested by the revenue officer. He mentioned that after 1953, the government did not update the record

and it has huge anomalies that are the reason for the difficulty in solving cases in courts. He further mentioned that *patwari* is just a record keeper of agricultural land and one can ask him to enter the record of his/her land.

Urban Male 5 mentioned that the Revenue Officer is the final authority to issue an ownership certificate. There are two maps related to the division of property, map A, and map B. In map 'A' the land of the property is located from where it starts and ends and map 'B' shows the possession of the land. For mitigation of the land, an application has to be submitted to the revenue office and after reviewing the record of the '*mehakama-e-maal*' an order for the map 'C' is to issue mentioning the mutation of property equally to everyone who is a rightful holder of this property.

Urban Female 4 shared her experience when she went into the *tehsildar's* office with her brothers. They just took her identity card and the ID cards of other sisters, after viewing their ID cards and the death certificate of their father he verbally asked them about the number of siblings. He asked our mother if she is our real mother and after that, she never been to any court or office.

Male lawyer 5 informed that an Act was introduced in 2012 for immovable property (referring to The Punjab Partition of Immoveable Property Act 2012). Male lawyer 4 only said that there are different laws dealing with moveable and immovable property. Rural Female 2 and 3 also said that they think laws are different regarding the moveable and immovable property.

***Subtheme 9.2: Documentation of Immoveable Property***

Inheritance as a legal system has many links with other laws to which inheritance is transferred. Inheritance itself is embedded in the idea of registration of one's birth, marriage, and death as a legal process. Urban Male 3 said that when a child is born, the cantonment board issues a birth certificate which confirms the birth of a child, and after that form-B of the child from the National Database and Registration Authority (NADRA) which means that a child is officially registered with the state. Death is also registered in the cantonment board. Urban Male 1 said that registration helps to protect the right of children and without the death certificate children cannot get the inheritance.

Urban Males 3, 5, 6, 7 explained that registration of the child is very important and shows the identity and relationship with the family as well as ownership of the place. Urban Male 6 mentioned the importance of marriage registration which is also linked with property share and other matters. While Urban Females 2 and 6 said that they know the importance of ID card is not only in law in general but in current law and other situations. Urban Female 4 highlighted the importance of birth and death registration certificates for inheritance property.

Rural Males 1, 2, 3, 4, 5, 6, 7, and 8 mentioned the importance of registration of birth, death, and marriage as these are the proof of identity. Rural Male 8 further declared that these documents are not given to women and only a few can see them in their lives as these are in the custody of male members of the family. Rural Females 2 and 7 mentioned the importance of registration of birth, death, and marriage while Rural Females 4, 8, and 9 said that they do not know anything about the registration laws and registration process.

Male lawyers 1, 4, and 5 acknowledged the importance of ID cards for birth and death registration, and their regulation through NADRA as it helps in attaining inheritance whether immovable or movable. While Female lawyers 3 and 5 mentioned that registration law is supplementary law to inheritance as it helps in getting an inheritance.

Transferring agricultural landed property through inheritance requires a number of documents depending upon the relationship with the deceased. As Rural Male 1 mentioned that *patwari* makes entries in the *jamabandi* register. Rural Male 5 elaborated further that the transfer of the property in the names of legal heirs, one has to do mutation in the '*mehakma-e-maal*' (land revenue office) then legal heirs will be declared as the legal owners of that property. There are two ways of taking '*varasat nama*' (Inheritance) the one is that in rural areas the Lumberdar (elected chairman of the union council) will come and give the evidence and testimony that these people are the legal heirs of the property of the deceased person. After that *patwari* will enter the '*varasat*' (inheritance) and send it to the *tehsildar* (Revenue officer) and the *tehsildar* will sanction it then that property is transferred to heirs.

The Rural Male 7 mentioned that *patwari* measures total land and distribute among them if he completed all the legal documentation and there is any problem in the partitioning of a piece of land then sometimes he manages a draw. Rural Male 5 explained the partitioning process and said that there are two ways of partitioning, the first way is in which property is partitionable and owners can have their parts through the partition and if the property is not partitionable then court auction the property and give the share among

the heir. While Rural Females 2, 4, and 5 acknowledged that they do not know anything about transferring the property.

Male lawyer 1 explained that rural and urban property is transferred differently with two different departments. Rural property is transferred through the land revenue department and *patwari* is responsible for maintaining an initial record of rural land and by showing the death certificate and ID cards of all legal heirs, he makes entries in the names of legal heirs, and *tehsildar* issues the mutation letter. Female lawyer 3 said that she has started taking cases of inheritance and follow the required procedures.

In case of urban property, Urban Male 1 said that in normal property transfer, you have to go to the civil court and during the process, they took pictures, thumb impression of the parties, and within ten days, the process of mutation is completed. Urban Male 3 also explained the process and said that urban property is transferred through court in front of the magistrate. Male lawyer 1 said that in urban areas one have to take a legal heirship form from civil court and go to the registrar's office, he will register the property in the names of legal heirs. While explaining the experience of transfer of property, Urban Male 5 said that he distributed the share among all the sisters and when one of his sister died then again, he distributed all her property among her children.

Rural Female 1 shared her experience of her snatched property and explained that she does not have any property in her name from parents and her brothers had taken power of attorney of many things from her because brothers were transferring property to Defence Housing Authority. There were some other pending things because of that they filed a case

and she has to give another power of attorney and she was not allowed to ask a question. Almost 4 to 5 months later there was another property which comes under “*shamlaat*” that land is almost 3 to 4 hundred *kanals* and they have to complete some paperwork. She was told that they need to transfer this property to each other’s name some of the part will be given to *patwari*, then he will transfer that property back and gave them a clearance letter.

Her brother who was handling this issue asked her to transfer her part to them in front of *patwari*. She asked him everyone is transferring property to each other’s name whose property is going to be transferred to her, he gave me an awkward confused expression and called my other brothers that she is resisting and she is not ready to sign. After the telephonic conversation, the eldest brother was called as he has an honorable position in the family and nobody raises a question in front of him. They realized it will take an hour or more to reach at the place, a brother gave her the words that whenever they will sell the property, he will give her right. After the discussion, he said to me that the discussion is over now and there is no need to say anything in front of *patwari*.

بھائی نے کہا کہ جب جگہ بچے کی تو میں تمہارا حصہ دے دوں گا اور اب اندر جا کے پڑاڑی کے سامنے کوئی ایسی حرکت مت کرنا۔

“My brother told me that whenever the property will be sold I will give you, your share and now go inside, and do not create a mess in front of *Patwari*” (Rural Female 1, 38

Years)

She said that she trusted him and she just signed the papers. Almost 2 months later some part of that property was sold and instead of giving her a share, she said they came up with many exercises. She asked for her share even if it is too little and the same brother

who gave her the words said to her that it is easy for her to ask her share while staying at home if she wants her right. She should come and contribute to everything and every process they are going through and spend equal money as they are spending.

نہ تو ہاں مکر بیٹھی ایکی اکر مصائبی اور جن میں پہلے کام کریں گے جب آجائے گا اس میں سے جو میں نہ خرچ کیجئے ہیں وہ کاشٹ لیں اور جو اپنے بھرپوریوں  
اکرم پر اپنی اونچوں کے جب مچک لے رہے ہیں اس وقت ہمارے ساتھ کمزی ایسا کہ تین چھٹے طلب ہے کہ اسکی کاشٹیں اپنے بھرپوریوں کے لئے پڑھ لے گا۔

“You are sitting at home asking for your share, if you want your share, do the work as we do. It cannot be like that when we get everything, and we will cut the cost of expenditures and give you the rest. If you are asking for share then stand with us with our fight/struggle and then you will know. So we sow the seed and do all the work then it is not fair that you want to take the fruit” (Rural Female 1, 38 Years)

Stamp papers serve different purposes including transferring of property either through sale, purchase, or inheritance. Stamp papers are purchased directly or through stamp vendors. This is paying tax to the government. Stamp duty is a major source of government revenue. Recently the Punjab government has introduced e-stamping. The stamp duty is calculated on the basis of land area, location, covered area, and commercial or residential status of the land.

Urban Male 1 explained that stamp papers are an earning source for the government. Urban Male 3 also mentioned that these are government papers which we buy from stamp vendor for the sale and purchase of the property. Urban Male 5 said that he used the stamp papers for his business like sale agreement, affidavit and got attested these stamps from notary public officer to produce in court.

Male lawyer 1 explained that whenever one transfers or gifts any property to someone, one has to pay the government fee which is now available through Bank of Punjab online and a challan form is issued, and by paying the fee, the stamp paper is issued. While the female lawyer 4 explained the multipurpose uses of stamp papers, to regulate the documents. Female lawyer 3 said that stamp law is compulsory in transferring inheritance property. When one creates any titled document in his name or any titled document is created, converted, or transferred in, one has to get it to stamp for registration.

***Subtheme 9.3: Language of Land Documents and Offices***

Women are not aware of the terms used in land-related matters as well as not familiar with the land record offices. Rural Male 7 said that his daughters do not need to see these papers. While Rural Male 3 said that he does not think that even ten percent of women are aware of it. Rural Male 2 mentioned that basically, women are not aware of these laws and papers.

Rural Female 1 said that she has listened to these terms in the family when men discuss these with each other in the evening but she does not know about the practical usage of these terms. Rural Female 2 admitted that she has no knowledge and she does not have awareness about her rights. Rural Female 5 said when one does not have the knowledge, she cannot get the right.

Urban Female 2 said that she does not think that a woman knows about these terms or papers. Urban Females 1and 6 said that they knew about the union council and the council issues the papers to them. Rural male 8 said that one of the reasons for low

awareness among young women is that they are spending more time getting an education and do not pay attention to land-related matters. He said that his mother and sisters were more aware of the property matters than his daughters. While Urban Male 2 mentioned that women living in rural areas are uneducated and are unaware of property matters and women living in urban areas do not take interest in these matters.

Female lawyer 4 mentioned that girls are not aware of their rights and female lawyer 5 mentioned that girls are trained to sacrifice for their brothers and the life of women revolves around four men, father, brother, husband, and her son. Urban Male 1 said that women have not seen these places even if she is a millionaire and owns legal property. They do not know '*patwar khana*' tehsil office. While Urban Female 4 said that she has never been to these places and do not know anything about the laws and procedures. Rural Female 1 mentioned that she does not know about these offices and in her family women are not allowed to go to these places. Male lawyer 5 said that these places are mostly visited by brothers and all the *patwari* are men and they demand bribes for a single paper and they do not interact with women.

Urban Male 1 mentioned that corruption is a routine in these offices and lower staff like *patwari* are involved in it. While Rural Male 1 said that there are fixed government rates to get these papers but *patwari* is one who took money to issue a paper such as '*Fard*'. Rural Males 5 and 6 mentioned that the whole revenue department is involved in land bribery but *patwari* is the front man who took money from people directly and share it among other holders in office.

Rural Female 1 mentioned that both *patwari* and *tehsildar* come to our house and she does not know the process of the bribe that her brothers gave to them. Male lawyer 5 mentioned that the biggest place of corruption is '*patwar khana*'. Rural Male 5 shared the experience of the corruption that happened in the landed property. When one needs to get a '*Fard*' from the *patwari* and to check the market value of the land and the four percent of the total amount of the property will be written on the stamp papers and then submitted to the registrar and complete their mutation process and get a registry. A registry is more powerful for transferring the property.

#### ***Subtheme 9.4: Connecting Land with NADRA through Computerized System***

The government of Punjab has linked the land record through the Punjab Land Records Management and Information System (LRMIS) with the computerized database of NADRA to make registration and transfer of property easy. This online registration and transfer of the property process is completed within 15 days. There are three online phases and every phase contains different steps and by following these steps one can get a transfer of property. The first phase is to obtain a '*Fard*' by following five steps like National Database and Registration Authority verification of identification of land and ownership in the land record, get and pay the fee challan, and received the '*Fard*'. The second phase is to get e-stamp papers online by getting fee challan from the nearby branch of Bank of Punjab, pay the fee and receive the stamp papers from the same bank. In the third phase prepare and complete the stamp papers and submitted these to the sub-registrar office which consists of seven steps and gets registry of the land.

Urban Male 5 mentioned that people have very low awareness regarding the land management and information system but it is good that this change will help to get rid of *patwari* system and old land revenue system. Urban Male 1 mentioned that the government has computerized the land system but that is not fully functional even in 2018. Urban Male 7 acknowledged that it will be difficult to make fake documents and deprived people of their due share. Urban Male 6 mentioned that in our case, the old system applied so I have no idea about this land management system. Rural Females 4, 5, and 9 said that they do not know anything about the system.

Rural Male 1 said that the system created more difficulties and mess for people. The Rural Male 5 explained the difficulties that come due to this computerized system and one is that the manual data was prepared and maintained by *patwari* and all the manual mistakes carried through in the computerized system and now have become part of the computerized system. Whenever one wants to sell or buy the property, the system will show the errors and one has to go through the *patwari* again for making corrections, and the new '*Fard*' issued through the land revenue office. The government made this system to help people but people are facing more problems by going through *patwari* and computerized system.

Rural Male 1 shared his own experience of facing the issue in the computerized system that he has a plot of five *kanals* which has already sold as six *kanals*. He has to go to *patwari*, *again and again*, to get this issue resolved. The dealing person at the computer center said, go to the *patwari*, after 2 to 3 months later that *patwari* went to the computer section and spent 3 to 4 hours and showed his record. This system is very difficult for men,

it is even more so for women. Urban Male 4 shared his friend's views, who is a governmental official in the land revenue department, about the *patwari* system, and according to him, it is hard to finish the *patwari* system as they are running the system for the last 70 years. It is possible to have a fully functional computerized system in the next two decades. The government can implement the laws but right now he does not think the government has that much success. All the government offices should resolve to make a forceful decision to demolish the *patwari* system and it is not easy.

#### **6.2.3 Theme 10: Transfer of Moveable Inheritance Property**

Inheritance distribution through the movable property is not totally a different phenomenon from the immovable transfer of property. The movable property includes all the money deposited in banks, bonds, saving certificates, and jewelry. The property which was kept in the custody of the deceased and after his/her death is distributed according to the will of the person but the property which is saved in a bank or in the form of saving certificates is distributed according to the law of inheritance. The basic document required for transferring movable property is a succession certificate that is issued through civil court. As the rural male 8 mentioned that if the jewelry is placed in a bank locker then one has to adopt a legal procedure to get it. Rural Male 7 mentioned that for bank property, every legal heir has to present in the court to get the succession certificate and the amount will be distributed according to the law of inheritance.

Urban Male 1 said that getting a succession certificate, the death certificate is required. Union council registered the death and issues a paper describing the death of the

person and submit it to the National Database Registration Authority along with the Computerized National Identity Card of the deceased and then National Database Registration Authority will issue the death certificate. Urban Male 5 said that one person from the deceased family can file a case along with a Computerized National Identity Card of all the heirs and death certificate in civil court for issuance of succession certificate. Urban Male 7 mentioned that a succession certificate is a legal document for obtaining movable property by the legal heirs. Urban Female 1 also described the procedure of getting a death certificate from the union council and that helped in getting all the legal property from the deceased.

Rural Males 1, 3, 4, and 7 mentioned the importance of death certificate and its relevance for attaining movable property. While Rural Female 5, 7, and 8 also told the need for the death certificate but they said that they never have these documents with them. These are always with the male members of the family. Male lawyers 1, 4, 5 and female lawyer 4 told that succession certificate is required for movable property only and the civil court issues the certificate and the documents required for getting succession certificates are the Computerized National Identity Cards of all the heirs and death certificate of the deceased. Rural Female 1 shared her experience and said that she has never seen the distribution of movable property among the siblings. She does not know how distribution is made.

میں جاں سے تعلق رکھتی اور وہاں تو یہ سوچتی نہیں ہے کہ بیٹی کو باپ کے اکاؤنٹ سے بھی کچھ مل سکتے ہے۔

“The area I belong to, there is no concept that of daughter is getting something from her father account” (Rural Female 1, 38 Years)

Rural Male 2 said that mother's jewelry goes to those daughters who helped her in her old age but if the jewelry is in a locker, then it is distributed according to the law of inheritance. Rural Male 4 said that the distribution of jewelry depends upon the mother to whom she wants to gift, to a son or to a daughter or his daughter in law and it is done verbally and is not according to the law of inheritance. Rural Male 2 said that people whose mothers live with them keep all the jewelry. Sometimes, the near and dear child takes all the jewelry because of the love that she has for the mother. Rural Male 8 mentioned that if the mother's jewelry is in a bank locker, it will be opened in front of the bank manager and distributed according to the law of inheritance.

Rural Female 5 mentioned that the daughters-in-law keep the property with her as the jewelry is in her custody. Rural Female 7 mentioned that her mother distributed her jewelry among her daughters. Mostly the mothers give the jewelry to whom she loves the most and who keep caring for her. Rural Females 5 and 9 mentioned that their mother-in-law has already told them about the distribution of jewelry after her death. Rural Female 1 shared her own experience regarding her father's bank accounts that he was hospitalized for more than a month and she noticed that her brothers shifted all the money to other accounts through the paperwork.

Male lawyer 5 said that its mind-set of people that they refuse to accept the commands of the religion and secondly people do not have fear of law. While the female lawyer 3 said that people spent a lot of money on the daughter's marriage in form of dowry and jewelry and they do not consider the daughter a part of movable property.

#### **6.2.4 Theme 11: Civil Court Culture and Difficulties for Women**

Inheritance is difficult to acquire due to many difficulties. Civil court culture and its processes increase the difficulty, especially for women. In the case of urban property, the registrar has the final authority to transfer property. Urban Male 1 said that the registrar has the authority for the property in the city and *tehsildar* for 'Barani' property.

Urban Male 4 said that more problems for women occur when she does not have a blood relation man or her husband on her side of testimony for transferring property. Whereas in housing schemes like Bahria town or DHA, it is not as difficult for women because systems are not as poor as in rural areas, and going to the court itself is a problem for women.

Urban Male 5 said that process is much simpler in the rural area where consent is the only thing needed but in the city one has to follow processes such as writing in information about the person who has property, the worth of property, and the amount one is transferring.

Rural Male 2 said that most of the time person living with the parents gets all the inheritance because he can get them to sign stamp papers. Urban Male 2 and Urban Female 2 said that very few women go to court because it is difficult for them to go the court. Urban Male 1 said that because of awareness there are more cases in court than ever. Urban female 1 and rural male 7 said that women do not know about laws and court procedures that is the reason they do not get their rights. She further explained that brothers ask their sisters that they will give them two to four hundred thousand to sign documents.

Rural Female 1 shared her experience of going to 'Katcheri' where she was asked to give her testimony but she does not know about documents as there were a lot of issues with her father's property. Rural Male 1 shared the experience of his wife where she went to the court to file a case against her brother when he sold the house and bought a new one to get rent. His sister-in-law died a few months ago due to a heart attack and she used to live with her in-laws in Rawalpindi and they live in Islamabad. His brother in law has repeatedly threatened to kill him and his wife has threatened by his wife.

Besides this, the long process and procedures of the court is another problem. Urban Male 5 said that it takes too much time to implement and systems are too complicated to keep track of. At the same time procedures take years and with no results in the end.

حالات یہ ہیں کہ جنہوں نے کیس کیے ہیں وہ بھی مر گئے ہیں اور کسی وہیں تک ہوئے ہیں۔

“The situation is, the people who have filed cases are dead and cases are still not decided” (Urban Male 5, 51 Years)

He also said against whom the case is filed in the court have strong connections he can delay the case using money. He also said because of delaying more money is spent on the court than the inheritance.

اتنے کی پاپلی ہیں ہے جتنا میں نے اور پکار دیا ہے۔

“The property is not worth the amount I have spent on it” (Urban Male 5, 51 Years)

Urban Male 5 said that justice is all about the right time if it takes years to get an answer, sometimes it is of no use for them. Male lawyer 5 said that women do not get their inheritance because the case process is too long and cases are thrown away due to

corruption. Female lawyer 2 said that processes take too long and systems are not fair due to which many do not get the inheritance. Female lawyer 5 said that the cases in court need to be handled within a year and the presence of lawyers and people should be mandated to get results faster.

Urban Female 1 shared her own experience where her husband and other elders in the family said to her sister in law to give them the power of attorney as she cannot go to 'Katcheri' she agreed to sign and give thumb impressions on papers. Urban Male 1 said that 'Katcheri' is not a good place for women as when she goes there an X-ray of her body is done and it is pointed out that she is not a good woman.

Urban Male 4 said that a court is a difficult place for women to go. Urban Male 6 said that he cannot allow his wife to go to court because it is not a safe place for women. Urban Female 4 and Urban Female 1 said that the court is full of men and society does not permit women to go to such places. Urban Female 2 said that it affects men's ego if any woman enters the court.

مردوں کی عزت پر حرف آ جاتا ہے کہ ان کے خلاف کوئی مورث کوڑت پھیگنی ہے۔

"Men dignity is questioned if a woman goes to court against them" (Urban Female 2, 50

Years)

Rural Female 1 said that she has personally experienced but she has heard that whenever a woman goes to court for such matters, lawyers and judges try to mold cases in such a way that she ends up stepping back. Male lawyer 1 shared that there are many cases where in-laws try to kill the wife of the dead person as otherwise, she will have a right in

everything. He also said that there is no system to help her as when she goes to the police, they refer her to lawyers for help. Male lawyer 1 also said that brothers try to instill a fear in their sister's mind about a court that she will get harassed, do not think of going to court.

Male lawyer 5 said that people in the legislative committee cannot comprehend the situation of '*Katchri*' and many people are facing these problems at the grassroots level. He said there are many issues in implementation though laws exist and there is a need for more lawyers for inheritance matters as almost everyone has to deal with these procedures. He also said that women do not come forward because they face many issues such as resources.

#### **6.2.5 Theme 12: Illegal Practices of Attaining Property**

Another way of keeping inheritance from women is to attain their property through legal practices.

##### ***Subtheme 12.1: Making Fake Documentation***

Fake documentation is considered a regular method for attaining inheritance and omitting women's names from documents is the most popular way. Urban Male 1 said that people do not give their daughters' names while transferring property. Urban Males 2, 4 and Rural males 6 and 3 said that during distribution, not all siblings are included because only male members are part of the process. Rural Male 1 said that most people do not register their sisters because they know they would have to give them inheritance if they registered them. Rural Male 2 shared an experience where he saw a man writing in the document that he did not have a sister when he had five sisters and after his death, all of

his money went to the sons. Male lawyer 3 confirmed that it is a practice where people do not add names of the sisters so they do not have to give them any share.

Rural Female 2 shared her experience where one of her uncle (father's younger brother) after her father's death took over two shops on Murree road as her another uncle (father elder brother) was also dead. Daughters did not get any share from the shops although it was supposed to be divided equally. Her uncle came to her mother and without informing her about the purpose of the documents and asked her to sign it. They did not pursue action because they know her uncle is working illegally on the property.

Another example of fake documents is false stamp papers and thumb impressions. Urban male 1 and rural male 4 said that it is a very common practice where people show fake documents and thumb impressions. Urban Male 2, and Rural male 6 shared that sometimes people force women to sign and give thumb impressions on documents. Urban Male 5 said that people make changes to documents to facilitate themselves. Rural Male 2 shared his own experience when he was out of town, his brother-in-law came to his house and ask his wife to sign and give her thumb impressions on stamp papers.

Another common practice men do use impersonators as Rural Male 2 said that people use impersonators as their wives and sisters in court to get their inheritance. Also, sometimes people prepare fake divorce papers to not give inheritance to women. Rural Male 5 said that if people share some cases of property by making fake divorce papers where dates are wrong to show that woman was divorced in her husband live to get inheritance as union council took 90 days to declare a divorce.

### ***Subtheme 13.2: Power of Attorney***

A common practice is taking power of attorney from women to get an inheritance. Urban Female 1 said that she does not know who got her share in inheritance after giving power of attorney. She explained that brothers say that their sisters have gifted them her inheritance.

بھائی چارنا ملے لیتے ہیں اور پھر کہتے ہیں کہ بہنوں نے ہمیں بخش دیا ہے یا انہوں نے اپنی مرضی سے ہمیں دے دیا ہے۔

“Brothers take power of attorney and say that our sister have withdrawn from share and gave it to us by choice” (Urban Female 1, 48 Years)

Urban Female 1 said that brothers tell their sisters that if they give them power of attorney then they will give her money according to the share and she never gets the money. Rural male 2 said that the eldest of the siblings may ask to take power of attorney by making their sisters afraid of the difficulties of court and police stations and after getting the power of attorney, they do not give anything to them. Rural Male 2 said that mostly eldest brother take the power of attorney because sisters want to avoid going to court. Male lawyer 5 confirmed that most of the power of attorney were taken by brothers.

Female lawyer 4 said that if women are uneducated then any man in her life such as her brother or husband can come to her and ask her to sign papers by telling her a lie and she does not know anything about the legal system, she loses all of her property probably she has given power of attorney to the man.

Male lawyer 5 informed that there is a change in Pakistan Penal Code (PPC) 498-A under Anti Women Practices Act 2012 which says that it is punishable to deprive women of their share of the inheritance. He also said that women can file the First Investigation Report (FIR) against brothers or fathers if they do not comply with it, but women mostly do not use the law. Rural Female 3 was misinformed that there is no such law and there is a need to make a law that can hold men accountable for not giving women their shares. Urban Male 6, 7 and Rural Females 2, 4, 8, and Rural Male 7 said that they have no idea about any changes in Pakistan Penal Code regarding punishment for not giving women her share.

#### **6.2.6 Theme 13: Repercussions for Demanding Inheritance**

There are repercussions for demanding inheritance that's why very few women get their inheritance. Urban Males 1 and 2 said that women do not get their right and even educated women are afraid of going against. Rural Male 5 said that women's determination matters a lot while getting an inheritance. He said that women do not have enough confidence and think that spending money on this is useless while men are confident that they will get it.

عورت بیادی طور پر ملک و شبک کی خواہوتی ہے جس کی وجہ سے وہ کوئی بھی کام کرنے سے ڈریتی ہے۔

(Women basically doubt themselves and they are scared of doing things)

Urban Male 1 said that women need to be brave and should not care about the consequences if they want to get an inheritance. Rural Male 2 said that educated and aware women try to get their right but still unable to get. Urban Male 7 said that asking for

inheritance depends on women's education and strength to bear stress and most women do not get inheritance because they do not believe in them.

عورتیں بچھے ہٹ جاتی ہیں کیونکہ ان کو لگتا ہے کہ وہ مقابلہ نہیں کر سکتیں۔

“Women back off because they think they cannot fight” (Urban Male 7, 26 Years)

Women face repercussions when they do not get an inheritance. Urban Male 1 said that sisters do not take a stand against their brothers until their husbands compel them to share. Husbands also threatened their wives to leave the house. Urban Male 1 shared a story of a woman who has worked as a maid while her uncles are millionaires and she keeps asking for her share but they did not agree. Urban Male 5 said that when a woman comes into practical life and have children, she only thinks of having a property for them. Rural Male 2 said that women demand their right now a day and the law is supporting them. Rural Male 3 women want to get inheritance because of financial issues and pressure from in-laws.

Women have to face consequences when they demand their inheritance. Urban Female 4 said that brothers try to fight with sisters, scold them, or stop talking to them or if their children are married in caste, then they will instigate them. Rural Male 1 shared that when sister-in-law instigated sisters and do not offer them tea then they ask for their rights. Rural Male 1 further shared that most sisters believe, it makes no difference if they own property or their brothers.

بھائیوں نے کھایا میں نے کھایا ایک ہی بات ہے۔

“Either my brother gets it (inheritance) or I do, it is the same thing” (Rural Male 1, 43

Years)

Rural Male 5 said that women are confused if the property will benefit them or worse in her relationships. He said women do not want to invest their energy and it does not pay off like filing a case takes time and is difficult so they just give their inheritance to their brothers. Relationships are the main reason for women not to take their inheritance because women think they cannot afford to fall out of their family. Rural Female 6 said that women are afraid of asking for inheritance because it may end their relationships up with their parents. Urban Male 1 said when a mother or brother asks a woman for her inheritance, there is no way to say no because she wants to save her relationships. Urban Male 7 and Urban Female 4 said if a woman is going to court it affects her relationship and family stops meeting her. Urban Female 2 and Rural Male 2 said that if women ask for their rights, the family leave them, stop meeting them, and taunt them.

Rural Female 7 said that when women demand their inheritance then brothers stop talking to them. Urban Female 3 shared her own experience, her brothers told her not to come to them. She further told that when one of her brothers died, her husband did not let her go to his funeral as the family did not give her inheritance. Urban Female 1 shares her experience that the family inheritance exists in two villages from the mother side as well as from the father side but she did not get anything. She said that the family does not even talk to her and keep saying that she needs property and not the family. Rural Female 7 and Urban Female 1 said that most people tell women demanding inheritance that their relationship is over.

اگر حصہ لینے کی بات کرو تو کہتے ہیں تمہارا اہل اور بیوی امر نہیں۔

“If you ask for share, we will cut off all contact with you” (Rural Female 7, 65 Years)

Urban Female 1 and Rural Female 8 said that the relationship between siblings gets affected when sisters ask for inheritance. Rural Male 3 said that people should just give their sisters their inheritance so they do not go to court and their relationship will not be affected. Rural Male 8 said that problem arises when sisters give their property as a gift and one decides not to do so and then relationships are ruined. Rural Male 4 said that it depends on the father is alive or not. Rural Male 7 said that the relationship cannot stay the same because when brothers do not give rights, the woman will go to court and the relationship will disturb.

Rural Female 2 said that paternal family does not keep in contact if women ask for their inheritance. It is always a choice between going for rights and staying with family. Most women chose family because losing family means losing emotional support from the family. One of the repercussions of asking for inheritance rights for women is to face physical violence. Rural Female 7 said that now a day people have many ways of getting inheritance such as beating women and even raping them. Urban Female 3 shared her own story where her mother had to face physical violence when all of the inheritance was given to her elder brother. She saw her younger brother kicking her mother and also asking his children to throw things at her. The sister-in-law also talked bad about her and her mother and spread rumors of giving the inheritance to everyone. She further shared that son of her younger brother threw something at her mother and she had stitches. Female lawyer 1 also said that in rural areas due to lack of awareness, they face the violence of different kinds.

Women face repercussions because of a lack of knowledge as well. Rural Male 3 said that women do not care for the documentation which is the reason for not getting an inheritance. Urban Male 1 said that women have to ask for a copy of documents if they want to have an inheritance. Rural Male 3 said that women who are educated enough to have custody of papers to get the inheritance.

There are also consequences of losing money and being betrayed by family. Urban Female 5 also shared her experience, her husband has four marriages, and she is constantly worried about and does not think about selling property. After going to court she got to know about the proceedings and procedures. She gave everyone the money and ask them to sign the papers which nobody did. After the sale of the house, her cousin claimed ownership of the house. She was later told that she has to give money to current house owners. She said that property creates spaces between family relations.

پس اور جائیدار بہت بڑی چیز ہے یا اپنے بھائی بھی دور کر دیتے ہیں۔

“Money and property is very bad thing as it creates distance between siblings” (Urban Female 5, 55 Years)

#### **6.2.7 Theme 14: Repercussion: Help from Selfish Sources**

Although women face many issues to get their inheritance and in the process of getting their inheritance, there are some cases where others help women to get inheritance for their interests. Urban Male 1 said that husbands push their wives to get the inheritance and help them in many ways so they can have the inheritance. Urban Male 7 said that

sometimes lawyer, husband, son, and other brothers help women to in getting inheritance because it helps the men in their lives to get the inheritance.

Rural Female 3 said that the husband helps the woman by taking her to court because the husband and in-laws have pressurized her to get her right as they know it will come to them. Rural Female 7 said that brothers help get an inheritance from the husband side and husbands help wives get an inheritance from their brothers. Rural female 8 shared that she has met a widow who goes to court to get an inheritance from her brother and her husband's brother helps her during the process. Male lawyer 5, Female lawyer 1 and 5 confirmed that women mostly get help from their husbands, sons, and fathers.

It is also a prevalent belief that women need help getting inheritance due to which they are always dependent on men around them. Urban Female 2, Rural Male 5 and 7 said that women need help in getting inheritance especially if she is uneducated and financially weak. Urban Female 2 said that

اکیلی ہوت کا کوڑت تک کوئی نہیں ہے اگر وہ پڑھنے کوئی نہیں ہے۔

“For a single woman to reach court is difficult especially if she is not literate and does not have strong support” (Urban Female 2, 50 Years)

Rural Male 7 mentioned that

اُن ہوت کو کسی اچھے مرد کی راہنمائی چاہئے۔

“This women need guidance from a good man” (Rural Male 7, 58 Years)

If women do not trust men in her family, she finds other sources to get help from, and sometimes it does not go the way she wanted. Rural Male 7 said that when a woman goes to any person with property and property can be sold at a good price, he will convince the woman to sell the property and get a share from that property while giving the woman less money.

Rural male 5 informed that in rural areas as we know that women are not educated enough to know these things and if her family is not supporting her or her sons are young to understand the issues. She has to write an application to the assistant commissioner of that area and submit it to the *tehsildar* of that area then he will mark that application to *patawari* to check whether there is any property of her in inheritance or not, if he marked yes, there is her share in the land then according to the land revenue act it is the duty of *tehsildar* to help her and give her the right and for that, they have to make the inheritance document through civil court and if she cannot do it through civil court then *tehsildar* himself can make inheritance document.

#### **6.2.8 Theme 15: Participants' Resolve: Awareness, Socialization and Implementation**

The theme discusses the participant's emphasis on creating awareness in society, changes in socialization pattern and focus on implementation of the laws regarding inheritance. Urban Female 2 and Male lawyer 3 said that half of the population do not have any awareness regarding inheritance at all. Rural Female 1 said that men need to be aware of women's rights as they are the ones who make most of the decisions. Male lawyer 1 said that it is the duty of the government to inform women about their rights and laws.

Female lawyer 1 said that people in the rural area are less aware of the law of inheritance than urban people. She also said though society and parents accept that women should get inheritance but parents are not ready to give rights to their daughters. Urban male 1 said that there is a need for awareness campaigns. He also said that union councils of the areas should arrange seminars for women to be aware of their rights. Rural male 3 said that seminars should be arranged in rural areas as there is more need there.

Urban Male 1 and Female lawyer 3 said that we should use media to spread awareness to women regarding their rights. Female lawyer 4 said that the media should also be arranging programs to raise awareness, especially when they are getting married. Urban male 3 said that there is a need to educate women by organizing small programs for them through social media. Urban female 1 also said that social media can be used to spread awareness of inheritance.

Male lawyer 5 said that awareness can be raised in Friday sermons because people listen to these and if it is told that it is sin to not give their sisters a share in the inheritance, I will help. Rural Female 6 and Rural Male 1 said that religion should be used as an instrument to raise awareness among communities about women's rights in inheritance.

This part focuses on the participant's opinions on change in socialization and education to provide women with inheritance. Rural Female 8 said that it is important to socialize children about property matters as people only tell their sons about such matters because they think property belongs to their sons only. Rural Female 5 said that women should take a stand on as parents should start giving right to their daughters and ritual of

gifting property can be managed. Urban Male 4 said that only the father of a girl can play a role in changing socialization as he should stop all the decisions of his daughter's life. Rural Female 1 said that there is a need to change the mindset that restricts daughters to have equal rights in the property. There is a need to change the way daughters are seen after they are married. It is believed that has nothing to do with the place where they spent their life before marriage.

Education also plays an important role in socialization, in bringing about change in society. Rural Male 7 said that as women are getting an education, they are becoming more aware of their rights. Rural female 2 said that women would get an inheritance if they have more knowledge about their rights of inheritance. Male lawyer 4 said that it is important for both men and women to get an education as it will raise awareness them of their rights. Rural male 3 said that children should be aware of their rights when they are in school so they can be better trained for getting their rights. Rural Male 7 said that the government should introduce these rights in the curriculum of schools, colleges, and universities and conduct seminars to give them more knowledge about their rights of inheritance.

This paragraph focuses on the implementation of the existing laws of inheritance. Urban male 5 and male lawyer 3 said that for implementation of law it is important that general people must understand the law and it should be available in a language easily understandable by people. Urban male 7 said that there is a strong need to improve implementation as corruption is common in the legal system. Urban Females 2, 4, Rural Females 2 and 3 said that the law of inheritance should be more strict for its

implementation. Urbar. Female 3 said that laws should also be made to hold those brothers or fathers accountable who do not give women their share in the inheritance.

Male lawyer 1 said that the problem is not with the law but with its implementation and time frame for dealing with the cases. Male lawyer 3 said that strict implementation of inheritance law will help women to enjoy their rights. Male lawyers 4, 5, Female lawyers 1 and 2 said that strict implementation of the law is needed to give women their right to inheritance.

Rural Male 2 said that a strong system of justice is needed to stop corruption and strict implementation of the law. Male lawyer 5 said that the people who take bribes in inheritance matters should be prisoned. Rural Male 4 said that courts should not extent inheritance cases for thirty years to give their decision. Male lawyer 1 suggests that parliament should uphold a timeframe for such cases and should be fixed in five to six months.

Urban female 1 suggests that there should be some concession in rates of lawyers if a woman is fighting for her inheritance right. Male lawyer 5 said that the problem is the shortage of judges, which leads to extra time, hence more judges should be hired for cases of inheritance.

### **6.3 Discussion**

This part consists of discussion based on findings and the theoretical framework which I have developed for this study and my research question. My research question for

this study was “Why women are not getting their inheritance share besides being granted legal and religious provisions?”

Finding the answer to the research question, inheritance is not just the distribution of property among the heirs, it is more than the distribution of property, and it is not completed until it is transferred to the heirs. It has two parts, one part is about the distribution of material resources among the heirs and the second part is the transfer of material assets to these heirs. The first part of the inheritance has happened in the domestic life of the heirs and the second part took place in public life.

Besides distribution and transfer of inheritance property, my findings showed multiple meanings of inheritance that prevail among the participants and they shared these meanings which were coming from religious, legal, and cultural contexts. These multiple meanings not only create confusion for women to understand but also limit the distribution of inheritance property among the heirs.

Definition of inheritance is described in Quran mentioned the distribution of inheritance property only and the law of inheritance is based on the Quran. My opinion here is that getting an inheritance share completes only when it is transferred to the women. Division of inheritance happened into two parts, basically a division of domestic and public sphere. This domestic and public dichotomy is challenged by all the feminists especially Pateman (1983) criticized this dichotomy and mentioned that traditional definitions exclude women from public life and they are unable to get their share as it is transferred in the public offices.

My second argument here is that inheritance is not the starting point of distribution of material resources among the heirs but it is the outcome of what we have learned throughout our life. This learning depends on how we form our relationship. The nature of the relationship between men and women is the determining factor as these are based on gender ideologies in the family where inequalities are produced and reproduced to keep these material assets among men in the family. This is also discussed by Okin (1989) and argued that gender is a major influencing factor in building inequalities and oppression in the family and goes on in public life. Family is the base of creating inequality by establishing relations through gender-structured marriage and constitutes a means to control material and social resources.

The findings of the study showed that the marriages in Pakistan are arranged by parents or elder men of the family who always keep their interest in retaining the inheritance within the family, in the custody of men. Although parents also see other characteristics in arranging a marriage for their daughters like a well-settled family, the status of the family and profession of the men, etc. it is the responsibility of the parents to choose partners, it is not a choice of men and women to choose their partners. The feminist like Bernard (1982) in her book 'The Future of Marriage' discussed marital inequalities and see the formation of marriage not as a contract between a man and woman rather as a cultural system of beliefs and ideas.

Further, the finding of my study mentioned the marriages in the same way in today's society of Pakistan where marriage is all for women and they view their life in marriage which is an important part of life in Pakistani culture, but it is more important for

women as it defines their social status as well. Women focus more on the marital life and domestic activities and during interviews, some of them thank Allah for being not involved in property matter as it is bad to interact with men while men during their interviews tell the reasons as the women are trained for marriage and domestic life so it is difficult for them to even think of property matters. Bernard (1982) further mentioned that culturally, marriage for women is considered as a source of fulfillment and as a mix of blessings for men. At the same time, marriage empowered the role of husband with authority and freedom and gave women the dependence on men as well as responsibilities of domestic activities and institutionally, marriage empowers the role of husband and freedom to move forward beyond the domestic sphere and an essential for wives to be dependent, self-empty and surround domestic activities. The radical feminist Millet (1970) in her book 'Sexual Politics' claimed that marriage is a sexual politics and a cause of women's oppression and subordination and patriarchal in nature. Another feminist Eisenstein (1979) claimed that patriarchy is not just parental ruler of the family, it is a sexual system of power where male possesses more power and economic freedom and she argued that patriarchal system is preserved through marriage and family through a sexual division of labor. These gender ideologies operate not only in the marital life of men and women but surround the whole spectrum of human life in societies. Inheritance is not just distribution and transfer of assets within the family but a politics of gender which creates and justifies these differences and exploit on the basis of gender which continues in public life.

My third argument is that inheritance is political, it's not only the distribution and transfer of assets within a family that works through gender ideologies and creates

inequalities and these inequalities start from the family and extend in the public life. When I am saying it is political, I mean political in a broader sense of power which is discussed by Hanisch (1969) in her essay and said that women's personal problems are political and coin the term 'personal is political'. She used the term political in a broader sense of power relations. This politics of inheritance work through gender ideologies, it means that politics of inheritance through gender ideologies work in ways that individuals (both men and women) conceptualize and construct reality (Inheritance) and give meanings to those ideologies to support the distribution of material resources and family responsibilities. As I see that our marital and family relations around us neither work in isolation nor untouched by the structural, political, and economic inequalities that I have noted in the data. West and Zimmerman (2005) argued that gender ideologies have a link with power that allows controlling the subordinate by creating a politics in which differences become a conceptual tool for justifying the exploitation and that can mask continuities between domestic and public life.

When I am saying inheritance is political, I am tracing the property ownership which was considered as a natural right of a man discussed by Locke, Montesquieu, and Smith in the late seventeenth and early eighteen centuries and claimed that free society and the private property goes together. It was the responsibility of the state to guard life, liberty, and property. They claimed that property rights were pre-political as they exist before the formation of the state. All of these philosophers see private property in the context of men in the family and ignores women in the family. Pateman criticized traditional political thinker John Locke's ideas who created a split between the public and private sphere where the head of the family as a citizen played an active role in public life and confined women

and children within the private life of the family which was free from state interference. The idea of public and private still exists and affects the economic structures of public life and economic values of family property.

Feminist Susan Moller Okin (1989) in her book 'Justice, Gender and the Family' discussed that dichotomy of public and private is a misleading construct that has not discovered the patterns of inequality between men and women. She clearly pointed out that personal is political by evaluating family life and market life. She discussed four aspects of personal as political while evaluating the domestic life of the personal realm, the public life of the political realm, and I am in line with her idea while analyzing my data.

First of all, the power which is always considered political has significance in family life. What happens in personal life is not protected by power dynamics. The power within the family has not recognized whether it is the husband's power over the wife or the parent's power over children. The idea of family as a natural start from Lock till Rawal in his theory considered family as natural and where everyone's interests are protected. Actually, the first interaction of human beings starts from the family and that is the place where one is connected with love, sacrifice, trust, and cooperation with each other and that's why power dynamic becomes insignificant in the family.

This is very different when it comes to seeing the material distribution in the family and my data revealed that getting the property of inheritance through manipulating women in different ways like social connections around them, emotional blackmailing, and blaming for greedy husbands or in-laws. The women prefer to withdraw the property bartering security from brothers to help them in case of need. This is consistent with the

argument of Lee (2010) of women's dependency on fathers, brothers, and husbands in modern capitalist societies after the separation of the domestic sphere from the public sphere and legitimate decision-making of men in the family is one of controlling women and property.

When manipulating does not work, dominance is used to get inheritance share by using social pressure. Although dominance seems a violent act in case of inheritance, it is more of a non-physical force where certain conditions are created due to which women are forced to withdraw their share in favor of her brother/s like women are forced from their mothers and sisters to withdraw and maintain the relations with the brother/s and the family. This is supported by the claim of Pateman (9183) that marriage as an institution gives husbands a specific power to ill-treat wives. The marriage contract is characterized by subordination and domination and provides a legal understanding of contract and gender.

When the manipulation and dominance do not work, compensation is made through other material resources like money which is not equal to the share of the property. All the compensations are done openly so later in life, they must not demand their inheritance share. All the social practices such as '*Habba*' (gift), 'Will' and 'Dowry' for attaining or retaining inheritance happened in the area are the result of the power of men over women in the family which is significant but ignored to question. This is also consistent with Eisenstein (1979) who argued that unpaid domestic labor and the economic inequality of women in the family left them nowhere just to accept what they are offering to her.

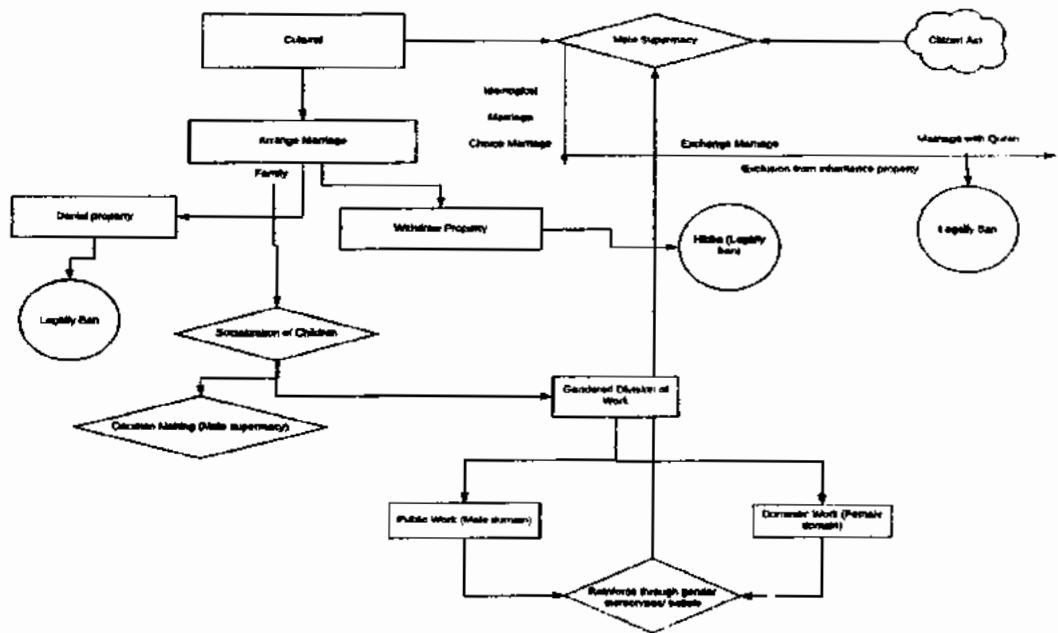
Another aspect of personal is political that it is considered that family is not political. My argument is that it is political because it is a place where all of our early socialization takes place and what we become as gendered selves is the outcome of that training. The findings of the study reveal that family is the first place where early socialization took place. Gender is produced and reproduced through gender parenting and particularly female parenting. Developing different identity and adopting different roles based on gender comes through early gender socialization and carry throughout public life. Men and women are trained differently in terms of material resources and care for the family. Men are trained on land, agricultural crops, and breadwinners of the family that benefits them in their public life. Women are trained to take care of the family and depend on men for economic gain and moving in the public places that reflect in their later life that women are unable to handle property matters and handicapped in public life that becomes a source of exploitation in terms of getting an inheritance. This is what Simone de Beauvoir (1949) claimed that the social construction of women is a deliberate effort of men to keep the women subordinate and they are kept in this situation and adopt a passive role through a process of socialization.

This early socialization is also reinforced gender ideology through stereotypes related to property. This study explored a number of stereotypes as the word '*Rajpooth*' means the son of the land, 'Men as breadwinner', 'Men can handle property matters', and 'Women cannot understand documents'. So through these stereotypes, men and women reinforced that it is men's duty to look after the family in terms of money, protection, and security and land and property belong to men. Further, the study findings strengthened the

prevailing beliefs in society that force women to leave their share. The beliefs like 'Men by birth are entitled to land', 'Men as the Head of Household' and the 'Relationship' are more important than property'. As with stereotypes, gendered beliefs also play a role to become a hurdle for women to get the inheritance. If women comply with them, they are considered good, and if not they labeled as bad that pushes women to think differently. People make and spread opinions about women regarding getting or withdrawing inheritance that create an effect on women who listen to these opinions. These beliefs, opinions may not directly stop women from getting their rights but they influence the actions of people around them which results in their own actions. Then how can I believe that family is apolitical by going and analyzing all these from this data set?

We learn gender division of labor where an early exclusion of women from material resources of public interest is made. The division of labor within the gendered structured family creates multiple obstacles for women which handicapped them in public life and they are unable to co-op with them later in their lives. The findings show multiple obstacles as a result of the division of work can be best understood in women's life when a woman is a widow or divorced. As a single woman with no breadwinner, dependent on the male members of the family, widows are more vulnerable while getting inheritance than other groups within which women though like everyone, widows have their own religious and legal share in the inheritance. This is also supported by the argument of Eisentein (1979) that the patriarchal system is preserved through marriage and family through the sexual division of labor where men possess more power over women as well as hold economic freedom. This politics of inheritance is also discussed by Tabassum, Ferdoos, and Ahmad

(2020) as a politics of family in context of gender and inheritance by outlining a flow chart which is illustrated here as:-



As I am saying that inheritance has two parts, one is related to the distribution of material assets which happens in the family but the other part, transfer of the inheritance property which occurs in public offices of the state. Actually, when the state declares men as head of the household and gives responsibility to take care of the interests of the family, it excludes women from taking part in public life and left women and children with the mercy of men. Public life is all about communication and this communication is ranging from interaction in the public offices (verbal communication) to documentation (written communication) as well as the construction of the language, which is different in the public offices of property-related matters. The women's exclusion from public life by assigning those tasks in domestic life under the headship of men is another aspect of personal is

political to control over material assets in the family. This is also supported from my findings of the study that reported men as the breadwinner in the family, their first interaction in rural areas is with agricultural land as a source of income by selling crops in markets and urban land in the shape of housing schemes have a source of income for men.

The findings reveal that land in the present scenario is surrounded by a complex system which is difficult to understand who is not related to this. Measuring, demarcating, and partitioning land is different in rural and urban areas and from the government to the private land distributor. Even the person who is dealing with urban land schemes cannot understand the complexity of rural agricultural land. So land is not a domain of men but a domain of specific groups of men who hold positions on these land systems. The outcome of this complex system of measurement, demarcation, and division of land in rural areas excluded women from this domain and hence out of inheritance as they lack this knowledge. This is consistent with Walby (1990) redefining patriarchy as a system of social structures and practices in which men oppress, dominate, and exploit women.

The land revenue department is responsible for making, keeping, and maintaining agricultural land records. The results of the study show that there are different registers used to make and maintain records with different names according to the nature of the record. Transferring agricultural landed property through inheritance requires a number of documents depending upon the relationship with the deceased. Understanding this complex system of land record is beyond the capacity of not only women but also men and this lack of knowledge leave them alone in getting a share from the inheritance.

Furthermore, inheritance distribution through movable property includes all the money deposited in banks, bonds, saving certificates, and jewelry. The findings show that the property which is kept in the custody of the deceased and after his/her death is distributed according to the will of the person but the property which is saved in the bank or in saving certificates is distributed according to the law of inheritance. The basic document required for transferring movable property is a succession certificate that is issued through civil court. Acquiring a succession certificate is not only out of the hand of women but they are not aware of the bank account and amount in it. The information about these movable properties is in the shape of bank accounts, certificates, and gold in lockers are beyond the knowledge of women and thus unable to get the share from movable property.

The transfer of inheritance property is all about documentation in the public offices. There are certain documents required for the transfer of inheritance property like a birth certificate, marriage certificate, national identity card, and the death certificate of the deceased. Union council is responsible for register deaths in the area and forwarding applications to NADRA National Database Registration Authority for the issuance of a death certificate. All the paperwork is done by the male members of the family and women have no access to these documents. The women have no interaction in the public offices and they lack knowledge of the offices and required papers.

After getting the required papers, the next step is to transfer the property among the heirs of the land record in the land revenue department. All the 'Patwari' and 'Tehsildar' are male in Punjab. The hegemony of men in these public offices dealing with the transfer

of inheritance cases, makes it difficult for women to interact and connect with them hence, lack in getting inheritance share.

The language which is used in the documents is another aspect as the terms used in the documents are not familiar as these are never used or discussed in the academic life of the people who are highly qualified. How can a woman know the language of the documents even if she is highly qualified as the number of women who were university teachers was not aware of the terms used in the documents, how can they know the meaning of the terms.

Recently, the Government of Punjab has linked the land record through the Punjab Land Records Management and Information System (LRMIS) with the computerized database of the National Database Registration Authority for easy registration and transfer of property. This online registration and transfer of the property process completes within 15 days. But inheritance is difficult to acquire due to many difficulties and its processes increasing the difficulty, especially for women. In many ways, the state is responsible for the background rules that affect people's domestic behavior within the family.

My answer to the research question actually opens up multiple aspects of family life which are based on material resources (inheritance) through gender ideologies which have power dynamic between men and women and are political which is historically, socially, culturally, and religiously defined and distributed between men and women and exploit one over the other and this exploitation is prevailing in the public life which is in fact an extension of the inequalities started in the family.

## 6.4 Summary of the Chapter

This chapter includes the results of the study as part II under public sphere which is themed as an extension of family inheritance inequality. These results are divided into themes and sub-themes as the meaning of inheritance in society, land as a male domain, transfer of immovable and movable property (inheritance), documentation of the transfer inheritance, the language of the documentation, court culture, making fake documentation, taking power of attorney, getting help from selfish sources, repercussion of demanding inheritance and participant's resolve to improve the situation regarding inheritance property share. In the end, a discussion was carried out which was based on the theoretical frame which has developed for this study.

## CHAPTER 7

### CONCLUSION, LIMITATIONS & SUGGESTIONS

#### 7.1 Introduction

This part of the study consists of conclusion based on findings and analysis, limitations and suggestion to improve the situation of women in Pakistani society.

#### 7.2 Conclusion

The Constitution of Pakistan 1973 granted women the right to own and dispose of the property independently. Islam, the religion of the majority of people in Pakistan also describes the share of inheritance property for women. Besides these legal and religious granted rights, there is a huge disparity in ownership of property between men and women in Pakistan and the question for this study was about the denial of women in their inheritance share from the property. A qualitative research approach was used to get the answer to the question because it best suited for the exploratory question. The research was carried out in two districts of the Pothohar region of Punjab Province namely Rawalpindi and Chakwal. Thirty men and women participated from rural and urban areas of these districts. Besides this, ten male and female lawyers were also included as participants in the study to get legal insights into the issue. Exploratory semi-structured interviews were conducted and audio recordings of the interviews were done with their permission. The interviews were then transcribed and a line to line coding was made, based upon the coding, categories were developed and final results presented in themes and subthemes.

The results indicated that inheritance is not merely a transfer of assets within the family but is rather a politics that work through gender ideologies. The findings revealed the politics of inheritance through the prevalence of multiple meanings of inheritance in society, creating confusion for women to understand the meanings but also traditional definitions exclude women from inheritance in public life. As the distribution of inheritance in the family is not the starting point of inequality but the outcome of what women learn throughout their lives as a gender person. The nature of the relationship between men and women is the determining factor that is based on gender ideologies within the families. These gender ideologies produce and reproduce inequalities to keep these material resources (inheritance) among men in the families.

Answering my sub-questions one by one shed light on it and answered my first sub-question about the practices that discourage women from getting their inheritance share. The data discovered a number of social and legal practices that happened in the domestic and public life to deny women's share of the inheritance and one of the practices is the arrangement of marriages within the family which is the base of establishing relation by birth or marriage constitutes a mean to control material and social resources which structured marriages where husbands possess more power and economic privilege over wives. Marriage for women in Pakistani society is the source of fulfillment and for men, authority and freedom and that gives wives the dependency on husbands as well as responsibilities of domestic activities. The findings further showed marriages as arrangements done by elders or the men in the family who always kept their interest in retaining the inheritance in the family in the custody of men.

Another practice is to keep women economically dependent on men and a grim picture of widows/ single women regarding inheritance property. Even though like everyone, widows have their own religious and legal share in the inheritance, they are more vulnerable than other groups within women concerning inheritance. In Holy Quran, there is a clear inheritance share of a widow and is not conditional with her remarriage but culturally, if a widow decided to remarry outside the in-laws' family, she is forced to withdraw her inheritance share. Furthermore, if she is living with her brothers as a widow, her brothers do not provide her share because she is economically dependent on them. The widows are at mercy of men in the family for economic resources and also bearing a stigma in a case for the inheritance share.

One more practice is the gender socialization of children for inheritance purposes as women in the family are responsible to nurture, socialize children on the basis of gender. From the very early ages, gender role socialization and gender division of labor in the family established and is the foundation of creating inequality that tells men that material resources and land which is a source of power belongs to them. Gender is produced and reproduced through gender parenting and particularly female parenting, mothers are the one who trained both girls and boys about different role identifications, taking care of the family and material resources. Boys are trained about land, agricultural crops, and breadwinners of the family that benefits them in their public life. Girls are trained to take care of the family and depend on men for economic gain and mobility in the public places and reflect in their later life that girls are unable to handle property matters and handicapped in public life that becomes a source of exploitation in terms of getting an inheritance.

Furthermore, these gender ideologies are reinforced through different social practices through gender stereotypes which are designed to maintain gender order in society. The data about gender stereotypes mentioned by the participants is a clear depiction of reinforcement of gender ideologies related to material resources. So stereotypes are one of the popular ways of reinforcing gender ideology which helps perpetuate discrimination and exclude women from inheritance.

The findings revealed a number of beliefs regarding getting or withdrawing inheritance property which people spread in case of demanding or leaving the property as good and bad that actually reinforced women to compliance with the system. Beliefs surround inheritance are also gendered and operate like a system that builds on the norms prevailing in the society in a systematic way. As with stereotypes, gendered beliefs also play a role to become a hurdle for women to get the inheritance. If women comply with them, they are considered good and if not they labeled as bad that pushes women to think differently. People make and spread opinions about women regarding getting or withdrawing inheritance that creates an effect on women who listen to these opinions. These beliefs, opinions may not directly stop women from getting their rights but they influence the actions of people around them which results in their own actions.

The results also showed different techniques that are used to change the perception of women about inheritance property and in that way control the women emotionally in favor of male members of the family as well as convincing and pressurizing them to get the share of their inheritance. If women still resist, then they are being rewarded with some monetary or non-monetary compensation but not giving them the share in their inheritance.

The data also depicted some social practices which are very common in the area to keep their inheritance share within male members of the natal family and these are *Habba* (gift her inheritance share in favor of brother), considering dowry as a substitute, and giving women higher education while writing them off 'WILL' is another way to not give women inheritance.

The outcome of these gender ideologies through beliefs, opinions, and social practices that retain the inheritance with men by manipulating, dominating, and controlling women, are ways of establishing the inequalities between men and women in the family which is a place where one connects with love, care, and sacrifices.

The results of the study reveal that the inequalities present in the family are extended in the public sphere that women face. The division of labor in the family and the assigned role of men as breadwinner, land in rural areas is the first interaction of men as a source of income by selling crops in the market and in urban areas, land in the shape of housing schemes and construction of commercial buildings.

Getting the answer to my second question about the understanding of implantation procedures and processes to transfer inheritance property. The data showed a complex system of agricultural land which is difficult to understand. Measuring, demarcating, and partitioning land is different in rural and urban settings. Even the person who is dealing with urban land cannot understand the complexity of rural agricultural land. The outcome of this complex system of measurement, demarcation, and division of land in rural areas

excluded women from this domain and hence out of inheritance as they lack this knowledge.

Further, the findings indicated that transferring agricultural landed property through inheritance requires a number of documents depending upon the relationship with the deceased. Land Revenue Department is responsible for making, keeping, and maintaining agriculture records. There are different registers used to make and maintain records with different names according to the nature of the record. Inheritance is difficult to acquire for women due to many difficulties in the public offices due to the bureaucratic nature of these offices as women are not trained to interact and communicate with men in the public sphere and the hegemonic culture of the public offices that women could not comprehend its processes which increased difficulty for women.

The same data showed that inheritance distribution through the movable property is not totally a different phenomenon from the immovable transfer of property. The movable property includes all the money deposited in banks, bonds, saving certificates, and jewelry in banks or at houses. The property which is in the personal custody of the deceased and after his/her death is distributed according to the will of the person or the person who knows the custody of the property keep it with her/him but the property which is saved in the bank or in saving certificates that is distributed according to the law of inheritance. The basic document required for transferring movable property is a succession certificate that is issued through civil court. Women are not trained to move independently in the public sphere so it is difficult for them to understand the nature of different

documents and they depend on men or lawyers for understanding them, hence could not get inheritance share.

Answering my third question about awareness of existing inheritance laws, data showed that women are aware of the inheritance laws about their share in it but they are not aware of the laws related to the transfer of the property. Although, the Government of Punjab has made a number of changes in recent years to facilitate women. First of all, the government has linked the land record through the Punjab Land Records Management and Information System (LRMIS) with the computerized database of the National Database Registration Authority for the easy registration and transfer of property. This online registration and transfer of property process completed within 15 days on three online phases and every phase contains different steps and by following these steps one can get a transfer of property. Though the government has tried to streamline the land record system, computer literacy with respect to women still depend on the family sources, and getting help from the selfish sources from the family keep the women dependent and lack inheritance share.

Answering my fourth research question about improving the situation of women to get their due share, a three-tier strategy is developed. The findings revealed procedural changes at the state level such as the offices where property transfer happens as well as recommended to set up a monitoring cell to see the record of the court decisions about women inheritance. Moreover, the findings highlighted community-level changes like to spread awareness through various means like media, social media, Friday sermons, and seminars at union council levels about the inheritance rights of women. Furthermore,

findings also indicated changes at the family level as a combination of state decisions to make a change in the family headship, changing mindset through awareness as well as the training of boys and girls on equal footing at home.

### **7.3 Limitations of the study**

This study is limited in a number of ways as it is limited to the small geographical area with less number of participants. I have collected from this region is limited to the northern part of Punjab which is close to the capital of the country where land ownership through inheritance is highest in the country.

The men or women participants were highly educated and the literacy rate in the area is also high and it was my deliberate decision to include those participants who have a minimum education of matriculation and the participants included in the study were professionals and highly educated.

All the participants belong to middle-class families. As the people in this area have small landholdings so it was also a conscious decision to include participants belonging to middle-income groups.

Other potential limitation comes from the research design that was a qualitative research design which always poses questions about transferability, the extent to which findings can be applied to other settings. Although practices are different in this part as compare to other remote parts of the city, however, there are some aspects of the experiences of participants that are relevant to the other areas of the country. For example,

my analysis of inheritance as politically constructed through gender ideology create inequality on material resources and hold power relations in the family and that inequality extended in the public offices where the transfer of inheritance occurred.

In the scope of the study, there are main limitations like my analysis of inheritance as political focused on gender power relations and there may be many other dimensions which I have not explored like religion, caste, age, etc. It was also my deliberate decision to focus on gender because this study is rooted in the debate of inheritance rights of women with a feminist perspective in which gender power relations in the domestic and public sphere are the key concern.

## **7.4 Suggestions**

The study is based on a problem related to the inheritance rights of women and after going through various stages to find the answer to the question. A number of suggestions are given based on the findings and analysis of the data. The problem is complex and it is not easy to overcome the problem with a single solution. The problem required to get an answer by using a multidimensional strategy to get a share of women in inheritance property. A three-tier strategy is used for the solution of the problems and the following is the insight to view:-

### **7.4.1 Suggested Changes at the State Level**

First of all, inheritance is distributed according to the religious and legal shares and decisions on inheritance disputed cases are made in the Pakistani courts accordingly. There is no monitoring system present to see whether women are getting their legal and religious shares. As

Urban Female 3 said that Implementation of these laws should be made and all those brothers/fathers, who deny women's share in inheritance must held responsible. It is recommended by the participants that the government should established a cell to monitor and record whether women are getting their legal and religious inheritance share.

"Unless there are changes in procedures of law and strict monitoring, women cannot have their due share" (Male Lawyer 5, Exploratory Semi Structured Interview)

Secondly, there is a clear stated share of a widow in the inheritance property of her husband in the Quran and this is not conditional with her remarriage. In Pakistani society, if a widow before getting her share from her deceased husband's inheritance property remarries outside the family, she loses her share from inheritance property (Narrated by Urban Male 5). Further, if she is able to get her share before the second marriage outside the family, then she is forced to withdraw her share from the deceased family.

"A widow who lives with her brothers and they do not give her natal inheritance share because she is living with them" (Urban Male 2, Exploratory Semi Structured Interview)

It is recommended to monitor this practice so the vulnerability of women can be reduced as widows by making changes in the legal procedures.

Thirdly, inheritance is distributed according to stated shares in the Holy Quran, and courts in Pakistan uphold this principle of inheritance while making decisions. In reality, there is no inquiry system to see whether women are getting their share according to the

Quran or not. There is a need to set up a monitoring and implementation cell to keep a record of women getting their stated share according to the Islamic principles of inheritance.

Fourthly, the lengthy documentation in the public office related to the transfer of inheritance property and the difficult language that is used in those documents are the key factors that create obstacles for women to handle the property matters independently. There is a need to simplify these documents and reader-friendly to get benefit from the changes that the government had made in recent years.

“It should be available in an easy language which is understandable for people”

(Urban Male 5 & Male Lawyer 3, Exploratory Semi Structured Interviews)

Another suggestion to improve this situation is to introduce inheritance as a topic in the curriculum at the school, College and university level so that people especially women can be familiar with the terms used in landed property.

“Women’s knowledge about inheritance property can make a difference in getting inheritance property” (Rural Female 2, Exploratory Semi Structured Interview)

“Schools can play a role in disseminating knowledge about inheritance as children can learn about property rights during this time” (Rural Male 3, Exploratory Semi Structured Interview)

“Inheritance property rights must be included in the curriculum at all levels of education by the state”. (Rural Male 7, Exploratory Semi Structured Interview)

Further, with reference to women who take risks to file an inheritance case in court for getting their rights to face a delay in decisions, and sometimes, it extended more than thirty years.

“Courts should take less time and not extend thirty years to give their decisions in property cases”. (Rural Male 4, Exploratory Semi Structured Interview)

There is a need to make a timeframe for making decisions of these cases and it must be not more than a year. The participants suggested as:

“There must be a time limit for making decisions of property cases and should be fixed in five to six months”. (Male Lawyer 1, Exploratory Semi Structured Interview)

Currently, these places are a hub of corruption and bribe is the norm in the transfer of the property cases. There is a need to look into these matters and take action to eliminate this practice.

“Strong system of justice is needed to stop corruption” (Rural Male 2, Exploratory Semi Structured Interview)

“The people who take bribe in inheritance matters should be imprisoned”. (Male Lawyer 5, Exploratory Semi Structured Interview)

Another obstacle is the lawyer’s fees which is hard to pay as women are financially dependent on men, so fighting for her right is a dream for most women. One solution could

be to make a list of volunteer lawyers at the district level who can provide women with legal assistance free of cost.

“There should be some concession in fees of lawyers if women are fighting for their inheritance rights” (Urban Female 1, Exploratory Semi Structured Interview)

Public places like government offices and courts are men specific and women are not trained to interact and communicate with men in public so there is a need to appoint more women in these offices and moreover, men working in these places must be trained in terms of dealing with women.

Denying inheritance of women and the power dynamics present in the family due to the political decision of the state, assigned men as head of the family has power implications on women and this is seen through the different narrative of participants.

“After the death of the father, the eldest son is the owner of inheritance” (Rural Male 2, Exploratory Semi-Structured Interview)

The findings indicated that decisions of marriages are made by the head of the family and how they bargain property is another narrative of the Urban Male 1 who shared his views like that

“The responsibility of parents is over when they married their daughters and they do not need to give their property to their daughters who are already going to someone else’s house” (Urban Male 1, Exploratory Semi-Structured Interview)

Moreover, Urban Female 6 pointed out

“The reality as most of the time marriages consciously arranged because of keeping the property within men of the natal family” (Urban Female 6, Exploratory Semi-Structured Interview)

It is suggested to assign both men and women as head of family instead giving men as sole right of head of the family. This will help women in absence of men and act as an opportunity to reduce their vulnerability and develop their agency to act independently so to make decisions in the family.

#### **7.4.2 Suggested Changes at the Community Level**

Inheritance is a complex system to understand, it is divided into two parts, the first part deals with the distribution of inheritance share among the heirs and the second part is the transfer of those shares according to the shares among the heirs. First part is easy to understand as most of the time, people know the religious and legal share but the difficult part is to transfer those part which is not described in the Quran but it is according to the laws of the land. It is the duty of the government to aware people about the legal procedures of transferring the inheritance property.

“Half of the population does not have any awareness regarding inheritance at all”  
 (Urban Female 2, Exploratory Semi Structured Interview)

“People in the rural area are less aware of the law of inheritance” (Female Lawyer, Exploratory Semi Structured Interview)

“Men need to be aware of women rights as they are the ones who make most of the decisions” (Rural Female 1, Exploratory Semi Structured Interview)

There is a need to mobilize public opinion so that people leave their conservative mindset and adopt positive changes and focus on providing education to both men and women as education plays an important role in bringing change in society. The following specific measures also required to change the mindset of the people:-

A. Awareness seminars at the union council level for both men and women can be organized.

“Seminars at the union council level in rural areas should arrange to aware them of their rights” (Urban Male 1 & Rural Male 3, Exploratory Semi Structured Interviews)

B. Media can be used to spread awareness on the inheritance rights of women and specific messages can be spread through social media

“Social media can be used to spread awareness about the inheritance property of women” (Urban Female 1, Urban Male 1 & 3, Female Lawyer 3 & 4, Exploratory Semi Structured Interviews)

C. Awareness can be provided through Friday sermons

“Seminars at the union council level in rural areas should arrange to aware them of their rights” (Urban Male 1 & Rural Male 3, Exploratory Semi Structured Interviews)

#### **7.4.3 Suggested Changes at the Family Level**

Family is the first place of socialization for boys and girls where they learn exploitation, injustice, and inequality. There is a need to alter the family as a school of justice where both are trained according to their ability to move in the life, not through rigid gender structured division of labor.

“People think that sons are the owner of family property and they only tell their sons about property matters so it is essential to train both boys and girls about property matters” (Rural Female 8, Exploratory Semi Structured Interview)

In the contemporary Pakistani society, fathers can play a major role in changing socialization by not making decisions on behalf of their children and specifically for daughters and they should also start giving inheritance rights to daughters so rituals of gifting property to sons could end.

“Practice of giving property as a gift to son should be changed and women should not withdraw their share and parents are forced to give their daughters due share”.  
(Rural Female 5, Exploratory Semi Structured Interview)

There is a need to change the mind-set of the parents who view women as outsiders in the family and leave the house after marriage, basically this restricts daughters as they have nothing to do with a place where they have spent their lives before marriage.

“Changing mindset is required by considering daughters as one of the member of the household even after marriage as this can help the women as worthy member in the family” (Rural Female 1, Exploratory Semi Structured Interview)

“Fathers can play a role in changing mindset by involving daughters in decision making of their lives” (Urban Male 4, Exploratory Semi Structured Interview)

In the end, it is suggested that women should come forward by themselves for their own rights in their families rather than stay quiet and wait for the brothers to include them. By changing their own mindsets, women can create an atmosphere in the family where they can take their inheritance share as a sister, daughter, wife, and mother.

## **7.5 Summary of the Chapter**

The last chapter of the study includes a conclusion, limitations, and a set of strategies designed to improve the situation of women in the context of inheritance property in Pakistani society.

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**Appendix A****INTERVIEW GUIDE****Inheritance Rights of Women: Laws and Practices in Punjab****Demographic Information**

Age

Location: village, union council, thesil, district

Marital status

Siblings

Children

Education

Type of Family

Status of Parents (Alive or Dead)

Status of grandparents (Alive or Dead)

**1. Existing laws of inheritance in Punjab**

1.1. Do you know how inheritance is defined by law?

1.2. Do you know which laws deals moveable and immovable property in Pakistan? If yes, explain.

1.3. Do you know the law about registration of descendent? Do you know the link between registration and inheritance? If no, have you ever needed to find out or thought about finding out about certain law? If yes, what happened when you did?

1.4. Do you know what the law says about succession certificate regarding inheritance?

If no, have you ever needed to find out or thought about finding out about certain law? If yes, what happened when you did?

1.5. Do you know the laws about transfer of inheritance property? if no, have you ever needed to find out or thought about finding out about certain law? If yes, what happened when you did?

1.6. Do you know about Stamp Act? If no, have you ever needed to find out or thought about finding out about that law? If yes, what happened when you did?

1.7. Do you think existing laws related with the property adequately protect women's right of inheritance? (Anti practicing laws related with women)

1.8. Do you know about the recent changes in land Revenue Act, 1967 in Punjab? if no, have you ever needed to find out or thought about finding out about certain law? If yes, what happened when you did?

1.9. Do you think, there is any difference between inheritance laws used here for agricultural and non-agricultural land (residential, commercial)?

## **2. Procedures/process of implementation to transfer inheritance property**

2.1. Do you know about the documentations and certification do women require in order to get their share? If yes, who told you about this, if no, why did you think to ask?

2.2. In your opinion, the procedural/legal formalities facilitate women? If no, what do you think are reason behind it?

2.3. What according to you hinder the process of implementation of legislation for women to get inheritance property?

2.4. Do you think women are deprived of their lawful share on false documentation? If yes then why if no, also ask why is it like that

2.5. Do you know how families keep inheritance within the male members like making a Will or transfer property as a Gift

### **3. Practices that deter inheritance share**

3.1. What are the inheritance norms followed in Pothohar region generally?

3.2. How many people around you (within family, neighbourhood, and workplace) believe that the women should be given their right of inheritance?

3.3. Do the parents support their daughter's right of inheritance? If no, then what are their justification of denying their inheritance share? If yes then why do they need to do it?

3.4. To what extent, do you think that dowry is considered as substitute of inheritance for women?

3.5. Do you know the women around you who forego their inheritance property in favour of their brothers or parents? Why it happens?

3.6. What do you think, if married daughters demand their share from inheritance, how, will it affect their relationship with the parental family?

3.7. In your opinion what are factors which bring violation of women's right of inheritance?

3.8. In your opinion, do parents think about inheritance while selecting marriage proposal for their daughters?

3.9. Do you know about legal practices that deny women their rightful share? If yes, what are they, if no, why not?

3.10. Have you ever observed, any women of your area who opted for litigation to get her share? If yes, are their male relatives helpful in this process?

3.11. Do you know any woman faced violation because they refused to relinquish their right? What happened to them? If no, what do they think about this link of violence with inheritance? Have anyone try to protect them? Who?

#### **4. Awareness on inheritance laws**

4.1. Do you think that there is adequate awareness of legal property rights among women?

4.2. Do you know women get their inheritance share in general?

4.3. Why do you think, there are no/few women who got their share in inheritance?

4.4. If no then do you think women access court to avail their right?

4.5. If yes, who facilitate them in the process of acquiring property?

4.6. Who create issues/ difficulties for acquiring the share?

4.7. Do you think are there any difficulties/issues for a widow to access her share from her husband's property? Please specify

Do you think, society accepts women's rights of inheritance? If no, then why?

#### **5. Suggestions for Improvement**

5.1. Do you consider that strict implementation of the laws enable women to enjoy equal rights in property and inheritance?

5.2. Do you feel that legislation on property rights needs to be improved? If yes, mention the areas that need improvement.

5.3. What are the hindrances in this regard?

5.4. Your suggestions to make it possible for women to get their share.

5.5. What changes are required and how?

## Appendix B

### INFORMATION LETTER AND CONSENT

Dear,

This letter is an invitation to consider participating in a study I am conducting as part of my Doctoral degree in the Department of Sociology at the International Islamic University Islamabad under the supervision of Dr. Amber Ferdoos. I would like to provide you with more information about this project if you decide to take part.

The purpose of the study is to explore practices prevailing in the area that deprive women their right to inheritance. In Pakistan, women are denying from their rights in general and specifically the right to inheritance is one which is not given while it is legally and religiously granted to them. I would like to include you as one of the participants in my research study.

Participation in this study is voluntary. It will involve an interview of approximately **(1-2 hours)** in length to take place in a mutually agreed upon location. You may decline to answer any of the interview questions if you wish so. Further, you may decide to withdraw from this study at any time without any negative consequences by informing me. With your permission, the interview will be audio-recorded to facilitate collection of information, and later transcribed for analysis. All information you provide is considered completely confidential. Your name will not appear in my thesis or report results from this study, however, with your permission anonymous quotations may be used. Data collected during this study will be retained for **(Three years)** in locked in my supervisor's office. Only researcher associated with this study will have access. There are no known or anticipated risks to you as a participant in this study.

If you have any questions regarding this study and about your participation, please contact me at **(0300-40007961)** or by e-mail at **(shahlasuhail@hotmail.com)**. You can also contact my supervisor, Dr. Amber Ferdoos at **(0092-9178890 ext. 223)**.

I look forward to speak with you and thank you in advance for your assistance in this project.

Sincerely,

(Shahla Tabassum)  
Ph.D. Scholar ,  
Department of Sociology  
IIUI

