

GENDER EQUITY, ECONOMIC TRANSFORMATION OF WOMEN AND FAMILY LAW: A SOCIO-LEGAL ANALYSIS

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The study of economic rights of women is never analysed in detail. Specifically it is never analysed that enforcement of family law can empower women and give them economic freedom. This article is an endeavor to concentrate on all the property rights of women provided under Muslim personal laws of Bangladesh which are dower, maintenance and inheritance.¹ It is generally accepted that women's rights of property are already granted in the Sharia law and under official law but what is not thought of is that women are actually deprived of those rights which can empower them and bring about the economic transformation sought by the new millennium.

Women are generally portrayed as poor and powerless and who faces discrimination in every aspects of life.² These misconceptions are blocking women's access to property and other valuable resources. The most valuable economic resource is regarded as land where competition for scarce resources are fierce.³ The economic position of women in a society are reflected according to an eminent author as the ability to own, or inherit and control, income earning assets;

Ability to participate in economic activities; Control over their husband's income, which is usually determined by the level of their

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¹ See for details Monsoor, Taslima: 'In search for security and poverty alleviation: Women's inheritable entitlements to land, the untapped resources.'" 4:2 (1998) Journal of International Affairs, pp.42-57.

² Huda Shahnaz: 'Womens property rights in Bangladesh: Effect of religion and custom'. In Development issues across regions: Women, land and forestry 1999, pp.294-308, at p.294.1998

³ Jansen, G.Eirik; Rural Bangladesh: Competition for Scarce Resources. Oslo 1986.

education, the age and pattern of their marriage, family structure and residential status; And right and ability to control property.⁴

Female employment in Bangladesh did not provide women control over production, land ownership or income earned.⁵ Moreover, women in the labor market are being marginalised in a double jeopardy as they are being used as cheap labour with the false notion that this will give them emancipation and enhanced status in the society. Thus, women are sacrificing their life and labor in the workplace and home to strive for gender equality in a society which does not even allow for gender equity. Although women have greater control of certain forms of production, these are usually not significant enough to transform the core relations of male power and female subordination within household structures.⁶ Thus, the economic involvement of women by wage labour or otherwise could not create any dent in the patriarchal norms of society.⁷

Recent economic pressures have the effect that more husbands can not maintain their wives and both partners have to work for the survival of the family. However, in accordance with Muslim law and religion, men have full responsibility for the maintenance of their wife and children (see for details below). In this context it should be emphasised that more women in Bangladesh should insist that men should fulfil their normative obligations and make them free from economic deprivation. There is no male right in Islam to grasp a wife's income; whatever she earns is her own to dispose of, either she can use it herself or may contribute it to the family budget if she wishes.⁸ But in the patriarchal society of Bangladesh, a wife's income is regarded as the husband's or her in-laws' property.

⁴ Ahmad, Alia: Women and Fertility in Bangladesh. New Delhi, Newbury Park and London 1991, at p.31.

⁵ Khan, Zarina Rahman: Women, work and values: Contradictions in the prevailing notions and the realities of women's lives in rural Bangladesh. Dhaka 1992, at p.198.

⁶ Kabeer, Naila: 'Gender, production and well-being: Rethinking the household economy'. In Institute of Development Studies Discussion Paper. No. 288, May 1991, pp.1-50, at p.20.

⁷ Supra note 5 at p.198.

⁸ Lemu, B. Aisha and Fatima Heeren: Women in Islam. Leicester 1976 p.18.

Islamic law allows women the right to inherit and own property in their own right.⁹ However, a Muslim woman is entitled to less than a Muslim man.¹⁰ The alleged reasoning behind this is that men are maintaining women. There are misconceptions that as women are maintained they are not to be provided of their landed entitlements granted under Islamic and official law but Muslim women's right to maintenance is a separate and independent right¹¹. A recent study showed that by the patriarchal influence and allowance men are depriving women of their rightful share of inheritance to protect the patriarchal system of the society.¹² A study of the metropolitan city of Dhaka found that although the Muslim family laws in Bangladesh require husbands to give dower to their wives, 88% of the women in the survey did not receive any dower.¹³ A study of Lahore women found that 85% of the wives in the survey received little or no maintenance.¹⁴ Thus, the patriarchal argument that women are subordinated by religion is not completely true, as even the rights, which are granted in the religious law, are often not enforced in a male-dominated patriarchal society. Rather, it seems, the patriarchs of the society use religion to preserve their dominance.

⁹ Lateef, Shaheeda: 'In a community'. Paper presented at the seminar on the status of women, held in Dhaka. May 1973, pp.29-34; Serajuddin, Alamgir Muhammad "Muslim family law and the legal rights of Muslim women in South Asia", 32:2 (1987) Journal of Asiatic Society of Bangladesh (Hum). Vol. xxxii, pp.128-147.

¹⁰ On Islamic succession law see Ali, Syed Ameer: Mahommedan Law. Vol.i, 4th ed. Calcutta 1917 pp.65-116; Baillie, Neil B.E.: The Mohummudan law of Inheritance. London 1874.

¹¹ Monsoor, Taslima: 'Muslim women's right to maintenance: The legal connotations'. 6 (1996) Dhaka University Studies-Part F.

¹² Supra note 1.

¹³ Akhter, Shaheena, How far Muslim laws are protecting the rights of the women in Bangladesh, Dhaka 1992, p.35.

¹⁴ Zia, Shehla et al, "Muslim family laws and their implementation in Pakistan." unpublished Research Report, Research Wing, Women's Division, Islamabad, May 1984; Korson, Henry J. and Michelle Maskiell: 'Islamization and social policy in Pakistan'; 25:6 (1985) Asian Survey, pp.604-609.

THE SOCIO-LEGAL ANALYSIS

The socio-cultural setting of Bangladeshi women which indisputably affects their legal position needs to be analysed through imperial research. As this study primarily deals with the rights of Muslim women, the position of women under Islamic Law is given some consideration. There are major social factors which in their totality and also individually restrict women and assign them a role in Bangladeshi society. This discussion of social reality also lays open the tensions in family law about sexual equality and argues that improving gender equity is a feasible strategy for enhancing the freedom of women from economic deprivation or providing them economic freedom by not depriving their rights. The socio-legal analysis of this article centers around two imperial research. One study deals with the issues related with the *Kabinnama*, delegated divorce, dower and maintenance. The other study deals exclusively on the issue of inheritance in two comparative rural and urban setting.

DIVORCE, DOWER AND MAINTENANCE

Bahula a village in Habiganj district near the Habiganj town is situated 168 Kilometer away from Dhaka City. Most of the people of the village are poor and the main occupation is agriculture. We made a study¹⁵ on 25 families investigating whether they are receiving their rights of dower, maintenance and exercising their right of delegated divorce. The survey also found whether they had *kabinnama* (contract of marriage) and what percentage of women had their right of delegated divorce.

***Kabinama*:** The contract of marriage, which is legally known as the *Kabinnama* was before hardly recognised in rural Bangladesh. *Kabinnama* is a document which contains the conditions of a marriage. When the contract of marriage is registered the marriage itself is regarded as registered.¹⁶

According to Islamic law marriage is a civil contract and not a sacrament, but it is a solemn, religious and a sacred covenant for

¹⁵ In this study I was assisted by Arif Jamil a first year student of LL.B(Hons), 1997-98 batch of Dhaka University.

¹⁶ Huda Shahnaz: Registration of marriage and divorce: A study of law and practice. Dhaka 1999, p.12.

life.¹⁷ Oral marriages are also valid and legitimate under Muslim Law. The Quran recommends important transactions to be in writing and marriage can also be considered as such.¹⁸ Although registration of marriage is not made obligatory in the original sources of Muslim Law it gives various kinds of protection, including prevention of denial of marriage, establishment of paternity and inheritance rights.¹⁹ It was decided by Justice Abu Muhammad Abdullah that the non-registration of marriage causes a doubt on the solemnisation of the marriage itself.²⁰ The contract of marriage must be registered in accordance to the statutory law of Bangladesh i.e., the Muslim Marriages and Divorces Act, 1974. Registration of marriages strives to check child marriages, polygamy and also confirms the ability of the parties to marry .

Table 1:

KABINNAMA

	N	Percentage
<i>Got Kabinnama</i>	13	52.0
<i>No Kabinnama</i>	11	44.0
<i>Don't know about Kabinnama</i>	1	4.0
<i>Total</i>	25	100.0

The media coverage of especially the radio brought a great change in this respect, as people are more aware or conscious that their marital rights should be protected. The imperial investigation found that 52% of the 25 families interviewed has got the contract of marriage. This shows that if it has the right type of publicity people can be made responsible. However, 44% of the families did not make any contract of marriage and 4% did not have any knowledge of the contract itself.

¹⁷ Nasir, Jamal J, The Status of Women under Islamic Law and under Modern Islamic Legislation. London 1990, at p.3; Esposito, John L, Women in Muslim Family Law. New York 1982, at p.16; Jung, Mahomed Ullah Ibn S, A dissertation on the Muslim law of marriage, Allahabad 1926, at p.1; Mahmood, Tahir; The Muslim law of India. 1st ed. Allahabad 1980, at p.47.

¹⁸ Esposito, *ibid.*, at p.16.

¹⁹ Mahmood, Tahir; The Muslim Law of India. 2nd ed. Allahabad 1982, at p.57.

²⁰ *Dr. A.L.M. Abdullah .v. Rokeya Khatoon 21*, DLR(1969), 213.

Kabinnana gives protection to women as their rights are expressly prescribed in such a contract as for example clause 18 of the *Kabinnana* deals with delegated divorce which is a right women has to dissolve their marriage. *Kabinnana* is a documentary proof, for which the husband can not escape paying of dower and maintenance, or it could stop the divorce itself. But the above study reveals that women in rural areas of Bangladesh are simply not aware of those facts.

DELEGATED DIVORCE

The device of delegated divorce or *talaq-e tahweed* provides Muslim women the right to dissolve their marriage without sacrificing their dower and maintenance in *iddat*. In fact some authors believe that it is one of the most potent legal weapon of Muslim women.²¹ However, it depends on the husbands delegation to the wife in the contract of marriage itself. The deligated divorce or *talaq-e-tahweed* is more beneficial to women as she may exercise the right at her discretion if the contingency arises and is effective only after *iddat* is over. The Muslim Family Laws Ordinance of 1961 has provided the provision to delegate the right of divorce in the form of the *kabinnama*.. The stipulations or conditions for such contingency of dissolution to arise are hand-written in the *kabinnama* by the guardians of the parties. The usual conditions of the delegated power, states that it could be exercised 'if there is maladjustment at any time' ('moner omil hoile jokhon ichcha') or if the husband does not provide her the maintenance. However, conditional delegation was always recognised to be perfectly valid if the condition or contingency specified in the *kabinnama* was fulfilled.²² The device of delegated divorce with more broad and creative use of stipulations in the marriage contract could protect women from economic deprivation.

Out of 25 families women of only 1 family got the right of delegated divorce. This shows that 96% of rural women do not have the right to dissolve their marriage by delegated divorce and only 4% of women have that right.

²¹ On the new study of the subject see Shaham, Ron, "Judicial divorce at the wife's initiative: The Sharia Courts of Egypt, 1920-1955", 1:2 (1994) Islamic Law and Society, pp.217-257.

²² Ali (1917), *Supra* not 10, at p.556.

Table 2:

<i>Right of Delegated Divorce</i>		
	N	Percentage
<i>No right of Talaq</i>	24	96.0
<i>Got right of Talaq</i>	1	4.0
<i>Total</i>	25	100.0

This survey of a rural village highlights that more awareness, education and legal literacy is needed to make women aware of their right to dissolve their marriage which might be delegated to them at the time of their marriage by their husbands in the *Kabinnama*.

MAHR OR DOWER

Dower under Muslim Law is a right of the wife to a certain sum of money or property given by the husband as a token of respect to the wife. Where there is marriage there is dower under Muslim Law. Dower is classified as specified and unspecified. The specified dower is again classified as Prompt which is payable on demand by the wife and Deferred which is payable on the dissolution of marriage by death or divorce. It has been argued before that the division of dower into prompt and deferred creates anomalies and sometimes reduces the amount of dower if the husband can falsely prove that the prompt dower has been paid.

Islamic law does not fix any maximum amount of dower, but makes it obligatory for the husband to pay whatever amount has been specified and whatever amount is assessed if not specified.²³ Fixing of excessive amounts of dower is being used as a means to control and check the husband's unilateral and unlimited power of divorce, as he has to pay the full amount of dower at the time of divorce.

Under Islamic law, a wife can forego or gift her dower which is known as *hiba al-mahr* and the husband can increase the dower after marriage.²⁴ The customary tradition suggests that if the wife foregoes her dower in the wedding night it is good for the couple. It is significant to point out that there is no customary tradition putting pressure on the

²³ The Quran, ii:29.

²⁴ The Quran, ii:29.

²⁴ The Quran, ii:29.

husband to increase the dower. However, under Islamic law the wife making the remission must act freely and must not be influenced.

The cases on dower in Bangladesh highlights that there is hardly any payment made as dower unless the marriage is dissolved. This shows the contrast between law and practice. Sometimes the social position of female litigants who are economically dependent influences the claim for dower as the last financial support. Thus, the theoretical right of women's potential power of demanding dower does not exist in practice. We saw earlier that it was found in a study of the metropolitan city of Dhaka that 88% of Muslim wives did not receive any dower at all. If this is the situation in the capital city, one can anticipate an alarming situation in the rural remote areas. Why are women not receiving their legal right of dower? To know this we made a survey in the same village to assess the percentage women who are deprived of their granted rights.

Table 3

DOWER

	N	Percentage
<i>Dower unpaid</i>	19	76.0
<i>Dower is paid</i>	1	4.0
<i>50% of the dower is paid</i>	1	4.0
<i>Don't know about Dower</i>	4	16.0
<i>Total</i>	25	100.0

The imperial investigation found that out of 25 families the women of 19 families did not receive any dower i.e., 76% of women are deprived of their right and only 4% did receive dower and 4% of women did only receive half the amount of dower. 16% of women did not know about the right of dower. This projects that women specially in rural Bangladesh are still not aware of their rights and are easily deceived and deprived from their rightful claim.

MAINTENANCE OR NAFAQA

Maintenance is the lawful right of the wife to be provided at the husband's expense food, clothing, accommodation and customarily

extends to other necessities of life.²⁵ The authorisation of the wife to maintenance derives from the injunctions of the Holy Quran, Prophets Tradition and Consensus of the jurists.

Once it is due the maintenance of the wife is deemed a debt on the husband from the date of withholding it. Only on payment, such debt is settled under the *sharia*. Maintenance of a wife during the subsistence of the marriage is a legal obligation of the husband in Islam.²⁶ Maintenance of a wife during the subsistence of the marriage is a legal obligation of the husband in Islam.²⁷ But the *sharia* provision of maintenance of the wife from her husband is conditional. The maintenance is only due to the wife, if she is under a valid marriage contract, if she allows her husband free access or *tamkeen* to herself at all lawful times and if she obeys his lawful commands in the duration of the marriage.²⁸

Islamic law grants a Muslim wife right to maintenance from her husband not only during the subsistence of the marriage but also reasonably after dissolution of the marriage.²⁹ There is no controversy that the husband is bound to maintain the wife during the three months of *iddat* period, but there is a significant debate whether the maintenance extends beyond the *iddat* period. It has been precisely provided in the Holy Quran that the divorced women shall wait for remarriage for three monthly periods and that for divorced women maintenance should be provided on a reasonable scale.³⁰ Conventional Muslim juristic opinion is to the effect that the injunction of the Quran does not go beyond the *iddat* period.³¹ This was, perhaps, because in Islam after dissolution of marriage the parties are entitled to remarriage

²⁵ The Quran

²⁶ The Quran, ii: 29.

²⁶ The Quran, 2:228 and 2:241. Supra note 17, at pp.

²⁶ See for details, Nasir (1990), supra note 17, at pp.60-65.

²⁷ The Quran, ii:29.

²⁸ Supra note 17.

²⁹ Supra Note 17.

³⁰ The Quran, 2:228 and 2:241.

³¹ Fyzee, Asaf A.A.; Outlines of Muhammadan Law. (4th ed.) New Delhi 1974, p.186; Diwan, Paras, Muslim Law in Modern India. Allahabad 1985, p.130.

and the woman returns to her natal family.³² Moreover, according to Islamic law, the deferred dower is seen as the safeguard for divorced women. Nevertheless, women in Bangladesh are usually deprived of their deferred dower.

In cases on maintenance, the courts did not previously provide for past maintenance unless stipulated in the *kabinnama*, nor would they recently allow post-*iddat* period maintenance to divorced Muslim wives. The Appellate Division of the Supreme Court in *Jamila Khatun vs. Rustom Ali*³³ held that the wife is entitled to past maintenance even in the absence of any specific agreement.

In *Hefzur Rahman vs. Shamsun Nahar Begum*³⁴ it was held that a person after divorcing his wife is bound to maintain her on a reasonable scale beyond the period of *iddat* for an indefinite period till she loses the status of a divorcee by remarrying another person. However, the judgment providing for post-divorce maintenance in *Hefzur Rahman vs. Shamsun Nahar Begum*³⁵ has been recently overturned by the Appellate Division of the Supreme Court of Bangladesh.³⁶

There are no legal provisions by which the amount of maintenance could be resolved. The amount of maintenance to be paid was to be ascertained by the Arbitration Council by the Muslim Family Laws Ordinance, 1961. If not paid in due time, it could be recovered under Section 9(3) of the above statute as arrears of land revenue. In practice the execution of maintenance decrees is very hard as the husbands escape to pay maintenance, conceal and cannot be found. It is recommended that the sanctions of the Family Courts could be strengthened by providing them with a criminal court's power to attach the property of husbands to pay maintenance to the wife. It is suggested that the powers of the Family Courts should be enhanced in this regard.

³² Mahmood, Tahir, Personal Laws in Crisis. New Delhi 1986, at p.87.

³³ 16 BLD (AD)(1996) 61.

³⁴ 47 DLR (1995) 54.

³⁵ 47 DLR (1995) 54.

³⁶ 51 DLR (AD) (1999) 172

Table 4

MAINTANANCE

	Frequency	Percentage
<i>Husband does not maintain</i>	14	56
<i>Husband maintains</i>	11	44
<i>Total</i>	25	100

INHERITANCE

In Islamic law great deal of prominence is given to the law of inheritance³⁷. It is reported that the prophet of Islam Muhammed (s.m) advised to learn the law of inheritance and to teach them to the people as it is half of useful knowledge. Islamic Family law and women in different jurisdictions are considered by plenty of authors³⁸but specific study on the law of inheritance and women is hardly found. An attempt is made here to analyse the reality of the problem.

In *sharia* law females and cognates are included as sharers of the property of the propositus who were not allowed to inherit before. However, as a general rule, a female is given half the share of a male this has aroused considerable amount of controversy. But the women in Islamic family law clearly aim for gender equity rather than absolute

³⁷ Rahim, Abdur, Muhammadian Jurisprudence. Lahore, 1911; Jung, Mohamed Ullah ibn Jung; The Muslim Law of Inheritance. Lahore, 1934; Mulla, Dinshah Fardunji, Principles of Mahomedan Law. Calcutta 1933; Fyzee, Asaf A.A., Outlines of Muhammadian Law, Delhi, 1974; Rashid, Syed Khalid, Muslim Law. Lucknow 1979; Doi, Abdur Rahman I, Sharia: The Islamic Law, Kuala lumpur , 1984; Verma, B.R.; Islamic Law- Personal; 6th ed. Allahabad, 1986; Jhabvala, Nashirvan H., Principles of Muhammadian Law, Bombay, 1986; Hussain, Syed Athar, Muslim Personal Law. Lucknow, 1989.

³⁸ For details see Nasir (1990), supra note 17, Jamal J., The status of women under Islamic Law, London 1990; Esposito, John L., Women in Muslim Family Law, New York 1982; Layish, Aharon, Women and Islamic Law in a non- Muslim State- a study based on the decision of the Sharia Courts of Israel, Jarusalem 1975; Mir-Husseini, Zeba, Marriage on trial- a study of Islamic family law, Iran and Morocco compared, London and New York 1993.

sexual equality. As women are to be maintained from their birth to their end of life by their fathers, brothers or their husbands with all necessities of their life. Moreover, they have to be provided with dower. Women of Bangladesh does not even enjoy their granted rights of inheritance under the Islamic and Official law of the land. Women's right of inheritance here are regulated by customs and conventions which does not even allow them to realise their lawful rights. As for example men do not give their property to women on the belief that if the woman dies earlier he will not get any share of the property. In fact the husband shall get half of her estate if there are no issues and one-fourth of it if there are issues. On the other hand if the man dies earlier the woman gets one-fourth of the deceased husband's estate if there are no issues and if there are issues the woman gets one-eighth of her husband's estate.³⁹

It is alleged that there has been hardly any reforms in the law of inheritance⁴⁰. But as all the specific details of law of inheritance is expressed though roughly in the Holy Quern there is always a chance of imbalance if reforms are made. Although in some Muslim majority countries state law has deviated from Sharia inheritance as in Turkey or Albania and they have ousted themselves from the Islamic personal laws itself.

The issues of dissolution of marriage, restitution of conjugal rights, dower, maintenance, guardianship and custody of children are dealt in the Family Courts Ordinance 1985 but not inheritance, which is still involved in the Civil Courts with its overburdened load.⁴¹

Social Implications: The law of Muslim inheritance ruled absolutely for over a millennium from ninth to nineteenth century. The impact of it was so much that the legal scholars and historians in pre-modern Muslim societies restricted themselves in understanding the specific

³⁹ Rahman, Tanzil-ur, A Code of Muslim Personal Law. Vol.I, Karachi 1978, pp. 476-478.

⁴⁰ For reforms in Muslim Family Law see, Mahmood, Tahir, Family Law Reform in the Muslim world, Bombay 1972; Monsoor, Taslima, From patriarchy to gender equity :Islamic Family Law and women, Dhaka 1999.

⁴¹ See for details Monsoor, Taslima, "Family Courts and women: Problems and perspectives" in 2:2 (1998) Journal of International Affairs,

details and intricacies of the law of inheritance.⁴² Thus the focus was exclusively on legal rules and there were no interaction with the social process⁴³. On the other hand the anthropologists tend to highlight the social process rather than the legal intricacies.⁴⁴ In modern Muslim societies there are interdisciplinary studies of law and society. But there is rarely any study on Muslim Law of inheritance and its practical applications in society, which is the primary aim of this article.

For this article we have also collected data⁴⁵ of two local areas of urban and rural settings. The urban area is of the metropolitan Dhaka, and the rural area is *Raipura* in Narsingdi district, 78 kilometers from Dhaka. These two diverse setting were chosen to fallow whether a similar interpretation and understanding of the law of inheritance is followed or whether women are deprived of their property rights and the prevalent mode of division of their share. Out of 26 families interviewed extensively, 15 were in rural area and 11 in urban area. We found that 53.3% of rural women were totally deprived of their share of inheritance, 13.3% of rural women received less than the share prescribed by Sharia Law while the proportion of such women in urban settings were 54.5%. It was also found in the study that none of the rural families went to the court of law for their distribution and merely 9.1% of urban families divided their shares through legal procedures. By enforcement of the law one can give access to women to their property rights and can empower and enrich them, strengthen their hands to win poverty and ensure their development in every sphere of their lives. By and large the central point of the article on the law of property and its practical application on women's life show the

⁴² See for details, Powers, S. David, "Islamic inheritance system: A socio-historical approach" in Mallat, Chibli and Jane Connors (eds.), Islamic Family Law, London 1993, pp.1-29.

⁴³ For example see Sacht, Joseph, The Origins of Muhammadan Jurisprudence. Oxford 1950; Coulson, Noel J., A History of Islamic Law, Edinburgh 1964; Coulson, Noel J., Succession in Muslim Family Law., Cambridge 1971.

⁴⁴ See for details Mundy, Martha: "Women's inheritance of land in Highland Yemen", 56 (1979) Arabian Studies, pp.161-188.

⁴⁵ In this study I was assisted by Mohammad Iqbal Hussain a fourth year student of LL.B(Hons) , 1995-96 batch of Dhaka University.

dichotomy of living and the official law and offer ways to empower women by realising their granted rights.

Table 5

Shares Received by the female members of the family in Urban & Rural areas

	PLACE				Total	
	Rural		Urban			
	N	%	N	%	N	%
<i>No share received</i>	8	53.3	0	0.0	8	30.8
<i>Less than the Sharia law</i>	2	13.3	6	54.5	8	30.8
<i>According to Sharia law</i>	5	33.3	5	45.5	10	38.5
Total	15	100.0	11	100.0	26	100.0

Out of 26 families interviewed 15 were in rural area and 11 in urban area of Bangladesh. We found that 53.3% of rural women were totally deprived of their share of inheritance, 13.3% of rural women received less than the Sharia Law in comparison to 54.5% of urban women. In fact in urban areas there was no female members out of the 11 families interviewed who did not receive any share. In the rural families 33.3% of female members received shares according to Sharia Law whereas 45.5% of female members of urban families received shares according to Sharia Law. This does highlight that economic transformation is more in urban than rural areas.

Table 6:

Distribution of Share

	PLACE				Total	
	Rural		Urban			
	N	%	N	%	N	%
<i>By Family</i>	15	100.0	10	90.9	25	96.2
<i>Court</i>	0	0.0	1	9.1	1	3.8
Total	15	100.0	11	100.0	26	100.0

The survey found that the procedure of distribution is through family compromise or father's wish or the propositus desire. The study revealed that 100% of rural property was distributed by compromise between the sharers whereas 90.9% of urban families divided their share by the same method. It was also found in the study that none of the rural families went to the court of law for their distribution and merely 9.1% of urban families divide their shares through recourse to court.

Table 7:

Share Received by the Female Members of the Family

	Frequency	Percentage
<i>Got No Share</i>	14	29.8
<i>1 to 50 percent</i>	2	4.3
<i>51 to 80 percent</i>	12	25.5
<i>81 to 90 percent</i>	1	2.1
<i>Got 100% share</i>	18	38.3
<i>Total</i>	47	100.0

The detailed analysis of the case studies of inheritance indicated that women are being deprived of their rights to inherit. It seems, generally, that there is a great deal of reluctance to accept women's rights of inheritance within the Islamic framework our case studies and the survey show that often patriarchy and male members of the families are not allowing women their rights of inheritance. The analysis of the cases also suggest that women are not getting equal access and treatment when realising their rights and persuasive notion of patriarchy are influencing in giving their shares. The Sharia Law is not being practiced in reality of a woman's life. Another important aspect of this study suggests that women, specially rural ones do not have knowledge of the means by which they can realise their proprietary rights. The devolution on women of their inherited entitlements and other property rights can only be achieved by showing them ways by which they could exercise control over their rights.