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# The relational analyses of *Pakhtun* social organization (*Pakhtunwali*) and women's Islamic rights relegation in Malakand division, KPK Pakistan

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A hefty relation has been observed between Islam and *Pakhtunwali* (*Pakhtun* social organization) for as long as *Pakhtuns* are among those who wholeheartedly accept Islam as a religion. Both (Islam and *Pakhtunwali*) serve as the basic pillars and tend to bring social harmony and integrity through the socio-cultural, economic, religious and political aspects of *Pakhtuns* living in their demarcated territory. The current study focuses on those misconceptions that are prevalent among the inhabitants about Islam as an ideal type religion that has affinity to *Pakhtunwali*. Particularly, the research study emphasizes over relegation of those rights, which have evenly been scribed for both men and women in Islam, while on the contrary, *Pakhtun* social organization through the adherence of ideal traditional social structure looks down upon women. The information utilized in this study was collected during a PhD research survey in 2008 from 4425 households through anthropological techniques including participant observation, case studies and in-depth interviews from 775 respondents (both male and female of age 25 and above in *Chakdara* Town, District Dir Lower). Furthermore, the secondary information (relevant literature and Islamic scripts) have been utilized for the relational analysis of both the ideal types. The study patently summarizes clear disparity between the implementation of ideal Islamic *Sharia* and *Pakhtunwali*. Almost all the internal and external activities of *Pakhtuns* are overseen under the traditional system of *Pakhtunwali* (*Pakhtun* social organization) while Islam as an ideal type religion has no such role in the indulgence of women's rights in many aspects of life.

**Key words:** *Pakhtunwali*, relegation, rights to divorce, remarriage, property, spouse selection, ideal type.

## INTRODUCTION

History witnesses *Pakhtuns* as the true Islamic believers where they have recognition for acceptance of Islam as a whole (Naz, 2011). The social structure and ideological formation of *Pakhtuns* is almost thoroughly dominated by Islam throughout the course of their social and religious life as they strictly abide to the Islamic law (*Sharia*) along with their own code of life known as *Pakhtunwali*.

*Pakhtunwali* governs all the matters of *Pakhtun* social organization that strive to drive the daily routine activities as well as the resolution of their conflict both in major and minor issues (Khan, 2011). *Pakhtun* social organization may be unstable and unjustifiable without the influence of *Jirga*, which is regarded as the major political institution and organization (Caroe, 1977). *Pakhtun* society is more stable in terms of law and order and administration is highly effective as compared to formal courts and other law enforcement agencies. The social networking between culture and *Pakhtun* social organization play a pivotal role in bringing social control. In this context,

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Rubin (2002) argues that in Pakistan and Afghanistan, the tribal governance structure has traditionally filled the vacuum left by the absence of state. It may be that tribalism today exists more as a strategy of social resistance to state control than as a culture based on kinship.

The social organization of *Pakhtun* society works under the principles of *Pakhtunwali* that primarily revolves around generosity, hospitality, courage, obligation to take revenge, and to other warrior oriented virtues (Lindholm, 1996; Naz, 2011; Khan, 2011) although, there is no written and defined record for *Pakhtun* code of life yet they are regularly practiced and strictly obeyed (Naz, 2011 and Khan, 2011). The local maxims, myths, proverbs, folklores and folkways are the sources, which streamline the boundaries of *Pakhtunwali*, which reside in the minds of people who give stability to such code in shape of its obligatory practice (Ahmad, 1980). The major themes of *Pakhtunwali* as discussed by Dupree (1980) are *melmastia* (being a genial host: giving lavish parties), *mehramapalineh* (hospitality to guests), *nanawate*, (the right of asylum, and the obligatory acceptance of truce offer), *badal* (blood revenge), *tureh* ("sword" that is bravery), *meranah* (manhood: chivalry), *isteqamat* (persistence: constancy), *sabat* (steadfastness), *imandari* (righteousness), *ghayrat* (defense of property and honor), *namus* (defense of the honor of women) (Naz, 2011; Khan, 2011).

In relation to the analyses of *Pakhtun* social organization (*Pakhtunwali*) and its hold over *Pakhtuns*, Glatzer (1998) patently expresses the expectation from its young members in shape of *tura* that is, the readiness to fight at the slightest provocation. Besides, girls and boys are exposed to working as per *Pakhtun* culture from an early age and thus they internalize *Pakhtunwali*. Further, *Pakhtun* consider *Pakhtunwali* and Islam as identical and see the former as an expression of a true and practical form of the later (Glatzer, 1998; Naz, 2011; Khan, 2011). *Pakhtunwali* is inherent among *Pakhtuns* and the ethnic and emotional attachment with tribal identity is mainly linked with it. During conflict among tribes and with other alien groups *Pakhtunwali* is an instrumental factor in provocation of emotions of a particular group. Glatzer (2002) and Khan (2011) are of the opinion that due to its inherent primordial connotations ethnic and tribal identity is connected with strong emotions and therefore easily leads to particular aggression when conflicts arise.

*Pakhtunwali* and Islam are ideally treated as same; however, the former is embedded in long historical context and traditions that have been in practice among Afghan tribes living in Afghanistan, *Khyber Pakhtunkhwa* (former N-WFP) and *Baluchistan* (Khan, 2011). In *Pakhtun* dominated areas, the tribal laws that are practiced in *Pakhtun* belt are widely accepted as components of customary law where its practice is more overt while controlling all the socio-cultural, economic,

religious and political activities (Naz, 2011).

## THE PROBLEM WITH THE DERIVED ARGUMENT

The illuminated factual information best exemplifies the status of women's rights as bestowed by *Pakhtun* social organization and code of life through the enforcement of customary laws, which are mostly male dominated and patriarchic in nature. The social structure of *Pakhtun* society is highly un-congregational and women are tended to reside within the ideological domain of four walls (Naz, 2011; Khan, 2011), which is said to be her religious as well as moral space. Besides, the patriarchic structure of *Pakhtun* social organization is traditionally governed where the hold of customs and traditions endeavor the socialization process and value orientation (Naz et al., 2010). The current research study is an elucidation of the relational analyses of *Pakhtun* social organization (*Pakhtunwali*) and tribal customary laws with Islamic Sharia, where the former expresses women's Islamic rights relegation. In order to address the issue, it is necessary to make an ideal type of both Islamic Sharia and *Pakhtunwali*. However, if law is a system of enforceable rules governing social relations and legislated by a political system, it might seem obvious that law is connected to ideology (Sypnowich, 2001) and thus it becomes true because it is *Pakhtunwali*, which not only governs ideology, legislation, political authority and private and public domain of *Pakhtuns* but also provides stability to social structure in an ideal type legislation in society. Similarly, Islamic Sharia further governs the socio-cultural and political aspects of the people and provides them a recognition and religious identity of being Muslims. In this context, *Pakhtunwali* and Islamic Sharia are two ideal systems of enforceable rules governing social relations and label them with two distinct identities.

The nature of *Pakhtunwali* is not as similar to formal laws while practicing legislative authority drove from *Pakhtunwali* rather the elders look into customary laws, community councils, local customs, tribal laws, Islamic law, and state laws for enactment (Naz, 2011). They try to reach a decision mostly acceptable and shall not be against customs of community. Through normative structure of community, they practice *Pakhtunwali* and other prospects that is, honor hospitality, gender boundaries, and institution of *Jirga*, *Nang* and *Qalang*, *Tarboorwali* etc. *Pakhtuns* maintain their unique social order and sustain their own religious-ethnic and cultural identity. The discussion so far leads to an argument that the social organization, structure and pattern of relationships of *Pakhtuns* are maintained by two kinds of principles including religious (Islamic Sharia) and customary laws (*Pakhtun* code of life). However, religious laws are more ideological and customary laws are used dominantly to maintain social order and bring conformity in social relations and existing social system run under

### *Pakhtunwali.*

As a religion, Islam has dominancy in affairs of *Pakhtuns*, but in its manifestation the two systems have wide distinction from each other in their implementation and utility. Historically, it has been inculcated in the minds of *Pakhtuns* that *Pakhtunwali* has a religious identity and Islam itself is *Pakhtunwali* (Glatzer, 2002) and according to Hussain (2005) *Pakhtuns* managed to retain a distinct cultural affinity based on the unwritten but ancient code of *Pakhtunwali* (or, *Pashtunwali*). This kind of perception affects tribal code and its relationship with true spirit of Islam. In this connection, the current study analyzes the prevalence of misperceptions between the two ideal systems i.e. *Pakhtunwali* and Islamic Sharia, which treat women as subordinate citizens in bestowing upon their Islamic rights. Besides, an attempt has been made to explain situational analysis of those factors, which obstruct *Sharia's* (Islam) enactment among *Pakhtuns* in its real spirit. Besides, the paper looks into *Pakhtun* code, which provides a clear division of labor to both male and female in terms of their rights and duties and critically examines *Pakhtunwali* and its ideological relationship with Islam and its practical implementations. To understand the issue more palpably, it is important to know about the two ideal systems that is, Islam and *Pakhtunwali* and to pin-point the areas where women's rights are exploited.

### ***Pakhtun social organization or Pakhtunwali: (The Tribal Code of Honor)***

*Pakhtunwali* is considered as "the way of life of the *Pakhtuns*," and it is said to be the identity and communal way of people belonging to *Pakhtun* belt including the unwritten but defined centuries old static rules and customs (mentioned earlier). Besides, the two other types of socio-economic settings exist in *Pakhtun* society; the *Qalang* (tax) group, which are large landowning persons, and the *nang* (chivalrous) group including pastoral, nomadic, hilly *Pakhtuns* and all of them constitute meanings of *Pakhtunwali* and concepts relevant to their social contexts (Ahmad, 1976). *Pakhtunwali* includes the central concept of *nang*, which signifies honor and shame, as well as other various sub-components including *namus*, *tura*, *aqaletc* (Glatzer, 1998). He further argues that personality of a young man is expected to be an outcome of *tura* i.e. to fight and to obey their elders (Glatzer, 2002). Young boys and girls internalize *Pakhtunwali* and from very early time, boys and girls are socialized in cultural pattern.

Among these codes: *Ghayrat* and *nang* (chivalry) are the main forces to hold and create conflict among *Pakhtuns*. Chivalry, in a sense: an act of bravery and honor in relations to performance of a person in a battle and secondly is to defend honor of family (Ahmad, 1976).

Similarly, chivalry is to make a defense of honor

against any kind of shame done by any person including an insult, act of shame, women dishonor or condition, which is against *Pakhtunwali*. Such acts are prohibited where defense then becomes compulsory and requires a show of superior force by insulted person (Barth, 1965). The defense in such an honor is *badal*, translated as revenge, feud and vendetta, forms primary law of *Pakhtunwali* (Ahmad, 1980). Besides, there is no such council to interfere in this regard and to Ahmad, 1975), "he is not a *Pakhtun* who does not give a blow for a pinch and "for every man killed the code demands compensatory *badal*," that *badal* may even be a deterrent in homicidal tendencies.

Another pillar of *Pakhtunwali* is *Melmastia* (hospitality) and it is reflected from the fact that in every village there is a *Hujra*, and every house has a guestroom (Naz, 2009). Hospitality to Barth (1969) includes the feeding of strangers and friends, both in guest house and in home, gift-giving, and defending guest. *Hujra* also plays its role in defense of a guest as well as resolution of conflicts called *Nanawati* (literally: to enter into the security of a house) and sometimes women often go to the house of their family's feuding enemy and ask for conflict to stop, whereupon the host must accept (Ismati, 1987), and by the same token, a woman can "call out" (*nariqawal*) the man she wants to marry, when she is being married to another against her wishes, by presenting herself as a guest in house of a man she wishes to marry. He is obliged to marry her and settle matter with her father (Knabe, 1974). Similarly, *Purdah* and *Namus* are compulsory components of *Pakhtunwali* that are related to honor (*Izzat*) of family and particularly to women. The veil or a curtain is often used as a boundary and segregation applied to both men and women space. Further in *Pakhtunwali*, *Purdah* and *Namus* are signs of dignity and is basically true for defense of honor of women (Dupree, 1978), while for men; *Purdah* is a controlling agent and a weapon in the hands of men to control women. *Purdah* is not only compulsory for females among relatives but gender boundaries tend to be more strict when families live mostly among strangers rather than relatives, as those who moved to cities do (Rubin, 1995).

The most important among the components of *Pakhtun* social organization is *Jirga* i.e. council of elders and main political institution having legislative power and authority in *Pakhtunwali* and to Spain (1963), *Jirga* has been called 'the closest thing to Athenian democracy' that has existed since the original. *Jirga* plays a pivotal role because it deals in matters of land and family conflicts. A *Jirga* carries out their decisions both in Islamic and traditional way (Naz, 2009). However, women are invisible and their views are honored through male members and to Lelwellyn (2006), women do not participate in *Jirga*, although they may be influential behind the public arena. *Tarboorwali* is worth mentioning as a code of *Pakhtunwali*

that refers to agnatic rivalry involving patrilineal parallel male cousins who belong to the same generation.

*Tarboor* (son of father's brother) is carrying a connotation of an enemy among the *Pakhtun* (Naz, 2011). Conflictarises during distribution of land and other assets and they become agnatic rivals of each other. It is a fact that *Pakhtun* cannot tolerate success of their brother and even sometime their family members. *Tarboorwali* takes a severe shape in conflicts over land, water and famous *Zar* (Gold), *Zan* (Woman), *Zamin* (Land) because they are main sources of rivalries among the people (Naz, 2009).

The discussion made so far, palpably expresses that Islam being a religion and *Pakhtunwali* being code of life are influencing the lives and affairs of *Pakhtuns* in their own domains. It has been observed that both are running side-by-side with each other, where the former is more culturally perceived, interpreted and practiced. Obviously, the fact is not dormant that *Pakhtunwali* is directing the religious well-being of the citizens in the area through its traditionalistic interpretation. Although *Pakhtuns* are universally recognized as true Muslims where they strictly adhere to the Islamic obligations, yet they are also renowned for their *Pakhtunwali* and true *Pakhtuns*. In this context, there occurs a conflict between both codes, as for them, neither deviance from religious code is not easy nor from cultural, which leads to an internalized conflict at the time of decision-making at different occasions. It has been observed in most cases that religion has been overtaken by culture because cultural violation is regarded as a stigma while religious violation as a sin, where stigma is unaffordable for *Pakhtuns*.

### The relational analysis of *Pakhtun* social organization and Islamic *Sharia*

Islam and *Pakhtunwali* have their own independent status while comparing the two; *Pakhtuns* have their own tribal nature, which is above all and even to some extent above the religion. This makes a complexity in practice of both Islam and *Pakhtunwali*, which is an outcome of a long historic process because most of the *Pakhtun* rulers including Ahmed Shah Durrani got ruled through a coalition of a number of *Pakhtun* tribes under one leader (Kakar, 2007). His legitimacy to Olesen (1995) was not through religious means, which was a tradition in past but he was appointed by following tribal genealogical heritage (Singh, 1959). The long historic practice by *Pakhtun* leadership, *Pakhtunwali* became driving force and most of decisions were taken by following these traditions. Although, dialects may differ and traditions and customs may vary from tribe to tribe but a scarlet thread of broad commonly shared social norms remain unaltered (Hussain, 2005).

Besides, religion and its scripts are also divine in nature

and decisive sources of authority for *Pakhtuns* and both passes from generation to generation. However, considering importance of *Pakhtunwali*, it is more important than religion because the identity of *Pakhtun* is directly associated with the practice of *Pakhtunwali* and for a *Pakhtun*, there is no contradiction being *Pakhtun* and practicing *Pakhtunwali* and being Muslim adhering to Islamic law (Naz *et al.*, 2011). Religion is dominant in playing its role in shaping lives of the *Pakhtuns* but in decisions of many aspects related to communal life, hold of religion becomes secondary in implementation.

Religion often came in conflict with *Pakhtuns'* customs and traditions but they still perceive *Pakhtunwali* as having no such separate identity from Islam. Even though much of the elements overlap, *Pakhtuns* are very much conscious and they consider the two as one and the same, that is *Sharia* represents God's will for humanity on earth and is practiced because it is a moral code, whereas *Pakhtunwali* is seen as a matter of honor, which to a *Pakhtun* is defined by a person's integrity in upholding and practicing concepts that make up *Pakhtunwali* (Roy, 1985).

### OBJECTIVES OF THE STUDY

The present study is based on the following objectives:

1. To analyze relational glimpse of women's Islamic rights (defined in Holy Scriptures) relegation through *Pakhtun* social organization.
2. To illuminate the affinity and triviality between Islamic *Sharia* and *Pakhtun* social organization with respect to women's rights in *Pakhtun* society.

### METHODOLOGICAL PROCEDURE AND THEORETICAL FRAMEWORK

The current study is a qualitative and descriptive approach towards the events and issues related to women's Islamic rights and their violation under *Pakhtun* social organization. With respect to the mentioned purpose; the researchers have ethnographically selected *Chakdara* town of District Dir (Lower), *Khyber Pakhtunkhwa*, Pakistan. In this connection, a survey of 4564 households has been analyzed which was conducted during the PhD field study in 2008, where data was collected through participant observation, in-depth interviews and case studies from a total of 345 persons including religious scholars, educated males and females (having qualification up-to graduation and above) and *Jirga* members of the community. Besides, the researchers have enumerated the issue under the extensive study pertaining to relevant community literature, worldwide literature dealing with *Pakhtun* culture and further extracts have been taken from the Holy Quran and *Hadeeths* (Sayings of the Holy Prophet) in respect of women's rights. The collected data has been analyzed qualitatively and discussion of both religion and *Pakhtunwali* in respect to women's rights' relegation has been made in detail keeping the ideal type of Islam and *Pakhtun* social organization in consideration.

The research study has been approached through an integrative perspective on religion and is analyzed in the functional aspects of religion with respect to *Pakhtun* community under study. Society requires social solidarity to a certain degree, value consensus, harmony and integration between its component parts. The contribution of religion is to bring social solidarity, integration and collective conscience in community. To analyze such aspects of religion, researcher has taken the work of Emile Durkheim (1858 to 1917), Bronislaw Malinowski (1884 to 1942) and Talcot Parson (1902 to 1979) into consideration. In Durkheim's famous work, *The Elementary Forms of Religious Life*, published in 1912, where he has presented an influential interpretation of religion from a functional perspective and has divided religion into sacred and profane. Sacred represent things having emotional attachment of actor and mostly form beliefs system and is symbolic while profane are daily use items, which are comparatively less important (Durkheim, 1912 to 1965). He further, argues that religion is a relationship between both sacred and profane as both have functional utility and bring integrity and solidarity. To him, social life is impossible without shared values and moral beliefs, which form 'collective conscience', and in their absence, there would be no social order, social control, social solidarity and cooperation and in short, there would be no society and thus it reinforces collective conscience through collective worshipping (Ibid).

Bronislaw Malinowski (1884 to 1942) in his study of small scale non-literate societies has developed his own thesis on religion. Like Durkheim, he also sees religion as reinforcing social norm and value which promoting social solidarity but unlike Durkheim, however, to him, religion does not reflect society as a whole, nor does he sees religious ritual as worship of society itself. According to him, there are few areas of social life with which religion is concerned that reflects situations of emotional stress, anxiety, crises of life (including birth, puberty, marriage, and death), which threatens social solidarity and disrupt social life (Malinowski, 1922). Malinowski argues that these life crises are surrounded with religious rituals and people have strong personal attachment to these and religion is dealing with these situations to minimize threats and increase social solidarity (Malinowski, 1922).

Talcott Parsons (1951) in his work believed that human actions are directed and controlled by norms provided by social system. The cultural system provides more general guidelines for action in the form of beliefs, values and system of meaning. Thus, these norms and behaviors of people are integrated and patterned. In this regard, to Parsons, religion is a part of cultural system and as such, religious beliefs provide guidelines for human action and standard against human conducts can be evaluated. Furthermore, religion provides general guidelines for conduct, which are expressed in a variety of norms and once we establish general guidelines, principles and moral beliefs, religion then provides consensus, which Parsons believes is necessary for order and stability of the society. Here Parsons also addresses particular areas in which religion has an effective role like that of Malinowski. According to him as a part of cultural system; religion gives meaning to life and it also answers to various questions of men about themselves and the world in which they live around. While concluding the earlier mentioned perspectives, they are focusing on integration, unity, cohesion and solidarity of society that are much associated to religion. In the perspective of religion, human beings give response to a particular situation of crises while considering a particular ritual in mind. The role of religion is thus dominant in most of relationship of human being and same is the case of research community under study e.g. *Pakhtun* society. However, in area under study the role of religion is more ideally dominant because people share collective sentiments in time of crisis, tensions, anxiety and they are adhering to obedience of religious rituals in their happiness and sorrows. Most of the cultural and economic activities of area are associated with religion that is, sowing and reaping and a collective conscience and solidarity is found in this regard. Besides, in days of troubles

and sorrows people share their collective sentiments and communal life is observable. However, in regard to women's rights, the role of religion becomes secondary and customary and traditional laws of *Pakhtunwali* become guiding principles for sharing communal sentiments and bringing solidarity. In purely religious perspective, *Pakhtunwali* reinforces collective conscience among local people and religion stands secondary in this regard.

## RELATIONAL INTERPRETATION OF FIELD DATA

The results and discussion of the current study is purely based on anthropological methodology that is, following the ethnographic details with participant observation and in-depth interviews. The field data has been analyzed in the form of qualitative discussion along-with a relational textual analysis of secondary information about women's rights mentioned in Islamic *Sharia* and sayings of the Holy Prophet (PBUH). The major concern of the discussion is upon women's basic and domestic rights' violation found in the ideal *Pakhtun* social organization. A separate discussion has been enumerated on the selected rights as ordained by religion.

## WOMEN'S MATE SELECTION, ISLAM AND PAKHTUN SOCIAL ORGANIZATION

The choice of a marriage partner is one of the most serious decisions people face. In contemporary world, this decision usually follows a long learning period during which people engage in more informal and often polygamous relationships (Fisman et al., 2006). Likewise, spouse selection is one of the serious matters in the life of a female in the area that is traditionally male dominated where females can hardly express their opinion in this regard. The process of mate selection in a traditional society has almost all the time been dominated by male members in the family, who decides in favor of endogamous marriages (Naz and Rehman, 2011). The analysis shows that it falls under the jurisdictions of elders among family members (mostly males) to choose a right person for young females of the family. Marriage, which is allowed in every world's religion, is totally a private matter among *Pakhtuns* of the locality. Many people believe that spouse selection is not a social process. Spouse selection is the right of both male and female. It is a universally accepted phenomenon as noted by Nock (1992) that there is no permission to people to marry whoever they wish. There are always methods of ensuring that certain individuals pair with certain others, which is known as mate selection in the cultural context. Mate selection as a process starts once we limit the fields of eligible spouses from a list of persons. It is not only social but the religious right of male and female as well. Religion has strong influence upon the person who marries; religious teachings define the domain of marriage as to whom one is allowed to marry. Religion is dominant in human life and to quote Wilson (1978),

though religion may be important in many areas of the person's life, religious rules governing marriage and family life are the most demanding part of religious' ethical system. With some minor variations, the entire world's religions support marriage and family system.

As a religion, Islam provides rights of spouse selection to men and women before marriage. Marriage is based on mutual consent of men and women and it gives peace, love, compassion and reflects demand and satisfaction of both male and female. In this regard, The Holy Qur'an says "And among His signs is that He created for you mates from among yourselves that you may well in tranquility with them and He has put love and mercy between your (hearts); verily in that are signs for those who reflect" (Qur'an, 30: 21; John, 1978, 238). It is Allah Who made pairs from the human beings and of all other animals living in this universe. For marriage contract, the acceptance and consent is a prerequisite for both males and females. Only such marriage is valid, based on the approval of both partners. Arranged marriages without the consent of a woman have no status in Islam. According to one of the *Hadeeth*, the Holy Prophet says, "Ibn Abbas reported that a girl came to the Messenger of God, Muhammad, and she reported that her father had forced her to marry without her consent. The Messenger of God gave her the choice ... (between accepting the marriage and invalidating it) (Musnad, 1950: 55). In the said context and reference in Sunan Ibne Majah (1952) the girl said: "Actually I accept this marriage but I want to let women know that parents have no right to force a husband on them".

In purely Islamic perspective, spouse selection is the right of both males and females but in the context of the research area as the data depicts; the role of tradition is dominant and sometimes both men and women are deprived of their natural and religious rights of spouse selection. The cultural traditions are more obeyed in comparison to religion. It is against *Pakhtunwali* to ask a female about her choice in marriage. The rigid cultural traditions stress upon arranged marriages and it virtually discourages marriage of choice or the concept of love marriage. Furthermore, caste, class and tribal relations are pivotal to local people and religion is treated as secondary in this regard. The local people belong to various ethnic groups. They believe mostly in exchange or arranged marriages (*Wada Pa Badal*) and it is a well known practice. Intra-castes marriages are preferred because upper castes do not favor mixing with lower ethnic groups as analyzed from ethnographic details. This has made the situation more personal and usually upper ethnic groups in the area are afraid of transfer of property to lower castes. In this connection, they get their children engaged to be married in a very early age. From the very childhood, marriages are arranged and consent of male and female has no meaning for them. Once the children reach the age, suitable for marriage, they have then no way to escape, because they are then

pressurized for marriage where the denial then becomes impossible. The common cultural maxim that '*Khalaq Ba Sa Wai (what will the people say?)* and '*Da Stargo Garawalo Na Ba Woozo (we would not be able to face the people)* results in an unhappy marriage for both males and females.

The ethnographic details indicate that marriage of daughter is a primary and basic task for parents among *Pakhtuns* in the area. It is in fact the traditional system of patriarchy that most of the marriages are arranged and the concerned female has to blindly obey the orders of male members. During the *Nikah* process, female is asked for her choice and acceptance, but at the same time she forfeits this right (*Wake Ektyar*) to a male. Even at this important junction of her life, she cannot make any excuse as it would lead to utter defamation of family such that the honor of the family is destroyed.

Religion dominates in personal and impersonal affairs of people of the area; however, there is a general misconception that women are religiously weak and have no intellectual wisdom (*Naqisul Aqal*). Further, the misinterpretation of religion in terms of women's rights does not allow women to practice their right to choice at least in their personal lives. Women's rights, as mentioned in the Holy Qur'an, if not prohibited, are at least not propagated with as much intensity as male dominancy has done particularly in male dominated traditions. Furthermore, women access to religious sermons or religious teachings are demoted, which could provide them with a chance to know at least their rights.

### **Divorce, *Pakhtun* social organization and Islam**

The traditional structure of the area generally prohibits frequent occurrence of divorce because it is against *Pakhtun* code of life. However, such term is mostly exploited for taming women and keeping them under their control. Divorce occurs mostly due to the imbalance in gender roles as to Kitson and Rashke (1983: 168), when the rewards for maintaining a relationship are lower and the costs higher than those available in another relationship or by living alone then it results in divorce. Psychologists have their own views about divorce as noted by Levinger (1976), when intimate relations do break up, they already seem to have declined to a point where one or both partners see an alternative state that is more attractive. This is not necessarily with another lover: it may be going alone or living in groups other than the nuclear family. Islam encourages a happy life and stresses upon both genders to resolve familial and marital disputes within the private spheres. Things shall not be made public; both shall remain careful and reluctant towards extreme actions. Divorce seems to be a last option, which is permissible in Islam but shall not be encouraged. The Holy Qur'an under no circumstances does allow family violence including physical abuse or

cruelty. The procedure of divorce in Islam further encourages reconciliation, as a woman has to wait for three monthly cycles in her husband house before divorce formally takes effect. The rationale is to enhance chances of reconciliation between couple and to provide maximum opportunity of reconciliation to both. The Qur'an says: "And if you fear a breach between the two, then appoint judge from his people and a judge from her people; if they both desire agreement, Allah will affect harmony between them, surely Allah is Knowing, Aware (Qur'an, 4: 35). Islam is not one sided in giving right of divorce, where both can dissolve marriage through mutual agreement and proceedings can be initiated both by husband as well as wife. When proceedings for dissolution of marriage are initiated by wife, it is called "*Khulla* (Divestiture) in Islam. Allah Almighty says in Qur'an "And if you fear that they may not be able to keep the limits of Allah, then there is no sin for either of them, if the woman redeems herself with that (Qur'an, 2:229)". Islam is also careful about custody rights of both male and female and there are clear rules to define the spheres of both male and female.

Although, divorce is allowed in Islam but culturally, it is considered as a social stigma in the area. In the context of target area as the data indicates that women cannot initiate the process to take or decide about taking divorce. Such kind of initiative if taken from women's side is opposite to *Pakhtunwali* and cultural traditions. According to the local traditions as elucidated by the collected information, during PhD survey in 2008 through participant observation, case studies and interviews) that such initiative may lead to stigma of *Tor* or *Peghore* (satire) not only for female, but for whole of the family. Thus, women mostly do not opt for divorce as it deprives her from re-marriage and it stigmatizes her for the rest of her life, which makes both the sexes reluctant about divorce. Repetition of the word *Talaqi* (divorced) is considered traditionally a sin and is synonymous with abuse (*Kanzal*). No one in a family is even allowed to repeat the same even when gossiping. Being a rare phenomenon in the area, it is mostly preferred by male members and those among males who want to leave their wives are culturally prohibited and the term *Khaza Prekhe* (Those who left their wives) is labeled to such persons. Instead of giving divorce, the local people prefer second marriage and most of the time it is used as a threat to keep wives under pressure.

There are rare cases of divorce in the area but the threats of second marriage are more frequent. However, the researcher observed seven cases of divorce (during research from ethnographic including case studies, in-depth interviews etc), where the divorced women were residing in their parents' house and had restricted mobility. These women then have rare chances of second marriage because re-marriage for such women is culturally restricted. Women after marriage have no way other than to live in husbands' house and can hardly think

of divorce from their husbands for the reasons mentioned earlier. The research information shows that a culturally approved norm that is "a woman leaves the house twice; firstly, during her marriage and secondly, as dead" works prominently in the area. In addition, the information reflects that divorce is a social stigma not only for male, but also for females. Such kind of traditional thinking prohibits local people from formally separating from their spouses. Furthermore, those women who get divorced or opt for divorce are not allowed to remarry or no one wants to marry such women because it becomes a source of future conflicts among families. It is to be noted that the divorced woman usually cannot claim bride price and is even barred from seeing her children, as she is blamed for it. Even women community does not give proper place to such women because such women are considered as bad omen (*Speera*) in future endeavors.

### Women's property and inheritance rights' demotion

Worldwide women have suffered tremendous exclusion mainly due to cultural beliefs that contribute to gender stereotypes. Women in many societies face higher risks of poverty and social exclusion as compared to the general population (Benschop, 2004). The problems they experience have been translated into homelessness, low education, unemployment, and subsequently further exclusion from property and inheritance decision-making process that ultimately leads to exclusion from most of the societal matters (Mategeko, 2011). Traditionally, there are no clear rules for inheritance of female in the area. The *Pakhtun* code of life is a source of reference in dividing the property and other assets among family members. The research and ethnographic details show that property is a symbol of power and authority and it is mostly associated with male members. Females do not have such equality in inheritance rights as compared with males. In addition, there is difference in religious practices and cultural traditions of the area. The Islamic *Sharia* recognizes inheritance and property rights of males and females. Qur'an first talks about the property rights of women and provides them more financial and moral security as compared to men. Women before and after marriage and even after death of her husband or divorce can claim her share and property from either of the party. The research study depicts that during marriage, women have the right to receive marital gifts, for which she is the only possessor. She has the right reserved with her to keep the present and future properties and income. Even during marriage, a woman has right of full financial support from both the father and husband's sides. After divorce, and even in the waiting period (*Iddah*), it is the responsibility of the husband to provide financial support to both mother and child.

The collected information reveals that provision of property rights is relative according to cultural traditions.

According to Nichols (2001), religious injunctions often had little influence on specific customs such as inheritance exclusively by male heirs. In most of the cultures, inheritance and property is usually owned by males. In pure Marxist perspective, it is the concept of property, family and private ownership, which provide superiority to male in terms of inheritance and this also gives birth to patriarchy. In the context of *Pakhtun* culture, the importance of *Zar* (gold), *Zan* (women) and *Zamin* (land) are the core values of *Pakhtunwali*, which further shape the local ideology where the inheritance and property rights go in favor of males.

*Pakhtuns* in the area are *Sunni* Muslims; however, they follow the traditional guidelines. The property and inheritance rights are given to children after the death of their father; however, in few of the cases, father decides it in advance (before his demise). Social organization of the area shows that a female is traditionally dependent on her father (*plar*) or elder and after marriage, over her husband. In many cases, dowry and marital gifts are counted to be given in place of property or inheritance. The common notion that "women do not need property (*Khaza Pa Jaidad Sa Kawi*) prevails and it prohibits women's access to property and inheritance. Further, people who are prone towards female property and inheritance become the target of people and they usually talk-down about such people in streets. Besides, after marriage, traditionally the responsibility of looking after falls on husband's shoulders. However, the property and inheritance remain with parents of bride and if by chance, a father transfers it to groom; such kind of shift is usually treated as against *Pakhtunwali*.

### **Widows' remarriage *Pakhtun* social organization and Islam**

Globally women are empowered in egalitarian decision-making power related to the health, education and marriage of their children while they are strictly deprived of the lucrative and worthy decisions like participation in political affairs, holding an authoritarian status, masculine-oriented decision like sale and purchase of property and the most significant decision of deciding their own mate (Jan and Akhtar, 2008). The ethnographic details of the research community and collected information expound that there are no such defined traditions for re-marriages of widows in the area. Widows are treated differently; however, traditionally a kind of sympathy exists for her among relatives and in general public. With the passage of time, this sympathy gets diluted and finally the situation normalizes while such treatment with widows can be widely observed and manifested in different cultures. It is a factual reality that most of the cultures preserve the right of mate selection for both male and female. Ideally, a marriage is a divine institution as argued by Eshleman (1997), as the most

traditional social norm, which represents one extreme of ideal type construct, views marriage as a sacred phenomenon, that is to say, the family and marriage are divine and holy institutions, created and maintained by God, Yahweh, or some supreme greater than men and women. The phrase "couples are made in heaven and marriages are celebrated on earth" where *Pakhtuns* in many ways seem consistent with this perspective. By definition, a marriage is a relationship between husband and wife according to social approval of prevalent culture.

To define marriage, Skolnick (1978) comments that marriage has always a dual aspect that has puzzled students of marriage as well as ordinary folk: Marriage is a relationship between two people, but more than a relationship – it is an institution. Marriage is an intensely private affair but it is public as well. "Marriage" seems to lead its own separate existence, quite apart from particular married couples. Indeed, many people today experience "marriage" as a lien presence, an unwelcome third party, intruding it into what may be an otherwise delightful relationship.

However, the pattern of marriage and the choice depends upon the nature of marriage (whether endogamous or exogamous), environment (situation and conditions of marriage settlement) and prevailing customs and traditions (whatever deemed necessary by customs and demanded in accordance to the traditions). Some cultures give such right to males to decide fate of female and vice versa. From Islamic viewpoint, women have the privilege to select their spouses. Marriage is based on mutual agreement to promote peace, love, and compassion as stated in The Holy Qur'an "and among His signs is that He created for you mates from among yourselves that you may well in tranquility with them and He has put love and mercy between your (hearts); verily in that are signs for those who reflect (Qur'an, 30: 21)". Marriage is the foundation of family system; the major source of human generation as stated in the Holy Qur'an "(He is) the Creator of the heavens and the earth: He has made for you pairs from among yourselves and pairs among cattle: by this means does He multiply you: there is nothing whatever like unto Him and He is the One that hears and sees (all things) (Qur'an, 42: 11). Islam imposes no restriction on re-marriage with a widow, which is quite evident from life of the Holy Prophet (P.B.U.H) because his first marriage was with a Widow Hazrat Khadija (RA).

This research reflects the fact that the tradition of re-marriage of widows in the area remains a controversial issue. The traditional structure and *Pakhtun* code of life sometimes discourages the trend of widow's remarriage. A widow among local people is considered as an ominous (*Badnaseeba*) and the title, that is, *Speera* (ill-starred) becomes part of her life. Those who approve widow's remarriage in the area do not allow it outside their kin and close relatives. Their first choice is a brother of the deceased husband (*Jyver*) and then another



member of the same family. However, female's consent in re-marriage is only important during the *Nikah* and it is believed that she would not reject the proposal in this regard. *Pakhtun* code of life revolves around female honor and for the *Pakhtuns* a widow is one of their family members. However, her choice in second marriage is treated traditionally. In addition, they (*Pakhtuns*) discourage re-marriage of widow because such marriage becomes a source of contempt for agnatic rival (*Tarboor*) and usually they think that the claimants can not look after their women. Such kind of thinking on part of agnatic rival is known as *Peghore* (satire) and *tor* (stigma), which is unbearable; sometimes, to the extent that it becomes a boon of contention.

Among the local people, various superstitious beliefs are attached to widows. The traditional structure and research information elucidates that widows are considered as responsible for the death of their husbands, which develops a superstitious belief that if married to someone else would cause the same again. Thus, widows remain unlucky (*Badqismata*) and no one desires to marry her for the reason that the same misfortune may then fall over him. In addition, widows sometimes do not want to marry and in most of the cases they spend their life looking after her children. In addition widows, who have children and have spent years in one family prior to their husband's demise, find it hard to re-adjust to another family and usually prefer widowhood over remarriage. The sacrifice of her own life is just for the sake of her children and such women are traditionally praised for their widowhood.

### **Exogamy and polygamy and ideal Pakhtun social organization**

The research evidently reveals that as a tradition, the local people mostly believe in purity of their blood and they prohibit mixing with other ethnic groups. The prevailing customs and traditions to some extent prohibit the trends of exogamy and *polygamy*. There are different kinds of opinions towards family formation in the world. Family system and forms of marriages remain different in different cultures. A type of polygamy known as polygyny is practiced in most of the Muslim World and in the research community.

Analysis of the collected data explicitly shows that cultural pattern of the area preserves the ways and means of marriage pattern. Exogamy does not occur frequently and culturally one's own caste is a yardstick and all the others are ranked with it. Changes in tribal structure and caste system occur with extreme difficulty. Inter-caste or exogamous marriages usually do not occur because of higher and lower status continuum. In addition, females from the upper caste are usually married within their own castes while males from lower caste practice the same. However, for a male in upper

castes there is no hard restriction to marry within lower caste, but among religious castes the practice of exogamy is strictly prohibited. They are very much reluctant about their caste and purity of blood because they have a hold over religious assets and are financially in a strong position. The research information indicates that some of the castes are willing to marry outside their own castes and they have more exogamous marriages on record. Furthermore, such people are observed to be more careless in such matter, which is due to their exposure and migratory position in the area. However, they have their own criteria for selection of a family and women outside their castes. Usually intra-caste marriages are preferred and the trend of exogamy is prohibited because such marriages give birth to future violence and ethnic enmity. Furthermore, marriages are mostly status oriented in research communities where intra-caste marriages are supported because sharing of blood within the same tribe gives strength to brotherhood and unity.

In the arrangement of marriage, the financial position and differences in economic status is culturally taken into consideration. People are weighed on the basis of their familial affiliations (*Hasab Nasab*) rather than their capabilities. Marriages consummated against this mindset result in inconvenience for both the partners, which in many cases may become a sort of shameful act (*Peghore*) for both the families. During the arrangement of marriage, much care is taken in the selection of caste. Along-with exogamy, the practice of polygamy (particularly polygyny) is controversial and contradictory to the local culture. The collected information explicitly reveals that traditionally this practice is used for taking revenge and such revenge may arise because of conflict with family of the bride or any member thereof. After second marriage, it is a common practice that the first wife becomes socially isolated and no justice is done to her in the context of financial and social support where she is thoroughly dependent over husband. In addition, the basic needs of wife (first) are rarely fulfilled while her external mobility is restricted. In this regard, restrictions are put on her (first wife) and she is virtually imprisoned in confinements of house compelled to live a pathetic life. It is observed rarely in very few cases that a second marriage becomes a happy life for both the wife and husband. The research shows that two cases of polygamous marriages have occurred in the research community. The use of the word 'Polygamy' (*Dwayam Wada*) is not an approved custom but it is used as a weapon to keep women obedient. Traditionally, the word "second marriage" is like a sword and is unbearable for women.

The trend of polygamy is an outcome of cultural and religious traditions in the area. The local people follow traditions of polygamy as a part of Pakhtunwali because it has been done by their ancestors. In religious context, the local people exercise polygamy because it is religion,

which gives men the right to have more than one wife at a time. People support polygamy on religious grounds but at the same time, they forget the holy script, which stresses justice among all the wives on equal basis. In addition to the above facts, failure to give birth to a male child also encourages *polygamy* and if a male has no male issue, he is labeled as issueless (*Meerat*), which is unbearable for a male and in such a condition the female herself asks her partner to re-marry. This kind of marriage also gives him power and status among his agnatic rivals, that is, *Tarboors* and to keep them (*Tarboors*) under pressure and to avoid the stigmatic comments of *Tarboors*.

### **Bride price fixation, marriage contract (*Nikah*), Islam and Pakhtun social organization**

The research information expounds that traditionally, women in marriage contract (*Nikah*) and bride price are dependent over male members in the area. During marriage contract, women have no chance for refusal and mostly, the bride price is symbolic in nature. Most of the matters in this regard are decided by an elder (male). Contrary to the spirit of religion, most of the women do not know about their marriage and bride price. Engagements (*Koggdan*) mostly occur without the consent of females and their likes-dislikes have no such importance. Many of the cases reflect that bridegroom accepts choices made by the father or elder where their chances to escape or reject such settings are comparatively higher than females.

The cultural traditions are more acceptable to local people as compared to religious knowledge depending upon the arrangements, sometimes, a heavy bride price (dowry) is imposed to exploit other family (this kind of dowry is known as '*Toyana*' and is negatively perceived by people). This nature of taking revenge also strengthens the negative conformity of *Pakhtun* code of life. The consent of bride is asked in letter and not in spirit. It is done during *Nikah* process when all the arrangements of marriage have been finalized. At that very time, such consent loses its significance because it becomes difficult for bride to reject the proposal as such rejection would disgrace (*Poza Prekawal*) the family in community. Besides, only few of the women have open choice in process of *Nikah* and bride price (dowry or *Maher*) in research community. These families have relatively more education and they know the importance of consent elegantly. However, the final decision still rests with male members. At the time of *Nikah*, men decide among themselves that what shall be an actual amount of *Maher* and who will be attorney (*Da Nikah Rore*) for women. During the endorsement process of contract, women are not asked to sign, as it has no meaning. However, a trend towards written marriage contract (*Nikahnama*) is becoming popular as a

government is stressing the same. A shift has been found and presently most of marriage contract (*Nikahnama*) has the signature of *Nikah* Registrar and even a record in local *Tehsil*.

### **CONCLUSION**

The major international commitments have resulted in setting a far-reaching global policy agenda on gender equality and empowerment. In particular, it became widely accepted that promoting gender equality and women's empowerment is essential to human development and poverty eradication. In this context, the current study factually concludes that male and female in the area have their own relative gender roles and are culturally segregated to perform their own tasks. The study elucidates that social, cultural and religious atmosphere of *Pakhtun* society is male dominated and patriarchic in most of its components. Egalitarianism or equality in power relations, decision-making and in religious practices is an uphill task where most of these aspects are male oriented. Male members have advantage in relative prestige, education, health, politics, economic activities and religious affairs. Male members decide issues in family, neighborhood, mosque, *Hujra* and in formal and informal justice system (*Jirga* and courts). Further, the role of religion is dominant and society in which the study has been conducted is an ideal *Pakhtun* religious society, however, in its practical utility, the role of *Pakhtunwali* is more dominant, where its principles and codes are practiced and followed with high zeal. In addition, the religion is perceived and interpreted more culturally and traditionally than its real essence, which not only brings disharmony among the roles played by both the sexes but also brings a vast segregation between them. Such segregation further impinges the social structure of community adversely, which affects the process of social adjustment and causes deprivation and discrimination. The fact is undeniable that people hold religion in high esteem but it is a miscalculation to place it at the forefront in male domination as the data collected during the study indicates that it is not religion but the centuries old traditions or *Pakhtun* codes, which are hindering the way of women's empowerment.

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