

Disinheritance

A Form of Discrimination Against Women

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"According to our customs and traditions, women have no right to inherit, because they are not responsible for the expenses of the house and the children, even their own allowance. So, why do they inherit?"

Ms. Wadha (pseudonym) from the western countryside of Deir Ezzor, 37 years old married with children, wonders about reasons why families in Deir Ezzor inherit women. From her point of view, inheritance has its causes and conditions and are not available in women, so not having a share of the inheritance is normal. Ms. Wadha adds:

“ My parents do not believe in women's inheritance. We have been raised that women are not inherited and are not even entitled to intervene in this matter. ”

According to her point of view, which she explained to the researcher of Justice for Life¹, her husband will inherit from his family as well as her brother, and if she inherits, her share of the estate will go to her husband or children, i.e. she will not enjoy inheritance, and therefore her brother will inherit better than her, so she does not support the woman's inheritance.

Women's inheritance is one of the issues that has long been the subject of debate across Syria, as prevailing customs and traditions prevent her from being inherited despite the legislations. This has been confirmed by Ms. Wadha, whose story shows the impact of local customs, which can be considered the primary driver if it is not the

¹ www.jfl.ngo

only one in depriving women of their right to inheritance, and the decision is made in many cases without consulting the woman with the right.

Inheritance is defined as the money, in-kind or financial belongings left by the deceased. Whereas, legally, there is no clear definition of inheritance in the Syrian personal status law, but some have defined it as "the set of legal rules and positive laws, by which those entitled to the inheritance are distinguished and are judged, by the amount and share of each heir²."

In previous months, Justice for Life has highlighted a number of abuses³ against women⁴ in the eastern Syrian province of Deir Ezzor, including inheritance, which is sensitive⁵ issue that civil society organizations and local media have put again on the table.

The basis of the debate is that women do not receive their right of inheritance despite the Syrian law, in addition to the text of Islamic law, "which has long been voted to respect its rules", but through what the researchers of Justice for Life have obtained, local customs contradict all this and entrench the deprivation of women from such right.

The waves of displacement and the loss of thousands of families to their breadwinners caused women to face additional difficulties and increased their need for financial resources more than ever before, in addition to the inability of women to access

² Abdah, Mohammad, Definition of Inheritance and its Pillars, Al Hiwar Al Mutamadden, 2014.
<https://www.ahewar.org/debat/show.art.asp?aid=424299>

³ The Endless Tunnel, Justice for Life, 2021.
<https://jfl.ngo/en/the-endless-tunnel/>

⁴ They Exploited My Need, Justice for Life, 2020.
<https://jfl.ngo/en/they-exploited-my-need/>

⁵ I Felt Wronged Twice, Justice for Life, 2020.
<https://jfl.ngo/en/i-felt-wronged-twice/>

sources that help them identify their rights established in Syrian law and international laws.

Social reasons are behind not enjoying this right. Women who do not receive their share of inheritance avoid taking any legal route for fear of social stigma. Ms. Khadija (pseudonym), 28, from the western countryside of Deir Ezzor, is married with children says: "The overwhelming local custom in our society has deprived me from my right to inheritance. I consider that what my brothers have the right to do is also my right without separation. I have talked to my brothers and sisters and asked them for my full share, since then our relationship is no longer good."

The stereotype of women claiming their right to inheritance has been experienced by Khadija. who is socially disabled, prevents women from claiming their right both within the family and before the courts⁶, and some inheritance disputes have led to murders. Khadija adds:

“ My brothers considered my claim to my right a scandal and stressed their position that women are not inherited. "We have been working and making a lot of efforts, especially on agricultural land. Women should be able to obtain their inheritance without conflict. ”

The stories of Wadha and Khadija reflects the problem inside Deir Ezzor society. One of them believes that inheritance is a right that should not cause any conflict, while the

⁶ Syrian courts were unfunctional in areas out of the Syrian government-controlled areas. SDF affiliated courts are currently the functional ones in these areas. To know more about judiciary in the SDF held areas, please see the related report issued by Justice for Life.

<https://jfl.ngo/en/the-trial-of-the-islamic-states-members-fundamental-proceedings-for-justice/>

other considers that it is the duty of women to waive this right for the benefit of the family.

Despite the disagreement over the laws in force in Syria between two points of view, the first calls for their change and having a civil personal status law, explaining that this is inequality between women and men in inheritance. The second adheres to the religious reference, stressing that this reference is the most detailed document for the inheritance system and has established a fair system for it, but the parties recognize the right of women to inheritance.

The Syrian Personal Status Act No. (59) of 1953 specified the conditions for inheritance entitlement and inheritance in articles (260) and (264) and did not address the inequity of women in inheritance⁷.

Fatima (pseudonym) got a property from her brothers, but her sisters got nothing. Fatima tells Justice for Life:

“ The property I got was not part of the inheritance, it was the help of my brothers being a widow and having children, one of whom suffered from some diseases. ”

In paragraph (a) of Article 5 of the Convention on the Elimination of All Forms of Discrimination against Women⁸, "To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and

⁷ The Syrian Personal Status Act Article 305 made the basis for whatever not supported by a text to be supported by Hanafi doctrine.

<https://bit.ly/3b2azOp>

⁸ Syria ratified on The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 2003.

<https://www.ohchr.org/en/professionalinterest/pages/cedaw.aspx>

customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women ".

Fatima, 40, did not claim her right to inheritance: "I did not claim inheritance, my parents do not believe in the inheritance of women. For me, my relationship with my brothers and the permanence of love is the most important." So did Ms. Nahla (pseudonym), who told Justice for Life:

“ My material condition is good, even if my brothers decide to give me my share of the estate, I will not accept. Asking women for their inheritance generates a lot of problems and conflicts. ”

Depriving women of their inheritance in Deir Ezzor does not deny the fact that there are women who have their full inheritance by family agreement and sometimes by resorting to the rulings of the competent courts.

The Committee on the Convention on the Elimination of All Forms of Discrimination against Women appealed to the Syrian Government to withdraw its reservations on articles 2⁹ and 15 (4) of the Convention¹⁰. It should be noted here that paragraph (f) of Article II, which Syria has reserved, states that " (f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and

⁹ Syria removed its reservation to Article 2 by Decree No. (230) issued by the Presidential decree dated July 16, 2017, which stipulated that the reservation should be revoked in accordance with Islamic law.

<https://2u.pw/rYn3n>

¹⁰ Universal Periodic Review Second Cycle - Syrian Arab Republic.

<https://www.ohchr.org/EN/HRBodies/UPR/Pages/SYIndex.aspx>

practices which constitute discrimination against women;" and paragraph (c) of the same article, which stipulates that " To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;". In the same report, the Committee also recommended in paragraph (14) the abolition of all discriminatory provisions in the Personal Status Act and the guarantee of equal rights between men and women.