Gender Representation (Women’s Rights) in Islam and Pakhtun Code of Life (Pakhtunwali) in Pakistan

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ABSTRACT
The current study is an anthropological investigation into the two ideal systems (Weberian concept); that is the Islamic Sharia’h and Pakhtunwali (Pakhtun code of life). The study is based on the first hand field oriented ethnographic information (about the ideal type system i.e. Pakhtunwali) obtained during a PhD study in 2009-10 using anthropological techniques including household survey, case studies, in-depth interviews and participant observation. In addition, the empirical data has been supported with the authentic secondary information in shape of books, journals, articles and newspapers etc. Similarly, the ideal type system of Islam has been comparatively analyzed with the culturally approved pattern of Pakhtuns in light of Islamic literature including the Holy Qur’an, the Hadeeth, Islamic literature, books, articles etc written by both religious scholars and anthropologists. The data has been collected during survey of 4425 households from 775 respondents on different issues related to women’s empowerment in Pakhtun society. However, the data related to women’s Islamic rights have been taken under consideration for analysis of the current study. A pure qualitative research approach and ethnographic design of writing is adopted to link the two ideal systems. The study concludes that there is a huge gap in the practice of Islamic Sharia’h and Pakhtun code of life among Pakhtuns where lives of the people are governed under traditional system of Pakhtunwali (including Pakhtun code and Riwaj) while Islam as an ideal type religion has been placed in the ideal form.

Key words: Pakhtunwali, Violation, Socio-Cultural, Implementation, Traditions, Ideal Type

BACKGROUND OF THE STUDY:
Multi-dimensional approach in researches tends to explore the issues of narrow essence and concerns. The current study has been approached from two directions included the historical context of Pakhtun social structure; its various components and the organization of such components perform and function as a system. Secondly, the analysis has been framed under the secondary sources in relation to the Islamic Sharia’h and Pakhtunwali while comparison is derived with the field information. Studies show that Pakhtuns and their origin are generally based on conjecture and theories. Pakhtuns in Pakistan mostly belong to the orthodox Sunni sect of Islam. Historically, Pakhtuns in the world are recognized as a tribe who

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embraced Islam as a whole. Literature related to Islamization of Pakhtuns reflect that at the time of the Prophet Hazrat Muhammad (SAWS) the ancestor of Pakhtun with the name of Qais Abdur Rashid along-with Pakhtun tribes accepted Islam as whole (in group). Relationally, religion is dominant in their deeds and culture and they mostly adhere to two kinds of laws i.e. the general Islamic laws and laws of culture or 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. The institution of Jirga serves as main political organization among Pakhtuns and to Pakhtun tribal society is unstable and could not be justified without law and the stability is clearly observed in terms of law and order, administrative structure, Jirga system, Riwayj and formal police force. In this context also argues that the tribal governance structure has been traditionally filled the vacuum left by the absence of state in Pakistan and Afghanistan.

The organizational structure and the social life are highly dominated by the principles of Pakhtunwali. The social structure of Pakhtun belt is based upon 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" i.e. bravery), mermah (manhood: chivalry), isteqamat (persistence: constancy), sabat (steadfastness) imandari (righteousness), ghayrat (defense of property and honor), namus (defense of the honor of women) and generosity. Research and anthropological literary scholarships express that the tribal Pakhtun code is un-deciphered till yet as the Pakhtun civilization may be traced back to thousands of years; yet the customary law is in regular practice in the form of local maxim, myths, proverbs, folklores and folkways, although unwritten and precisely undefined as argued by yet they are in the form of songs, proverbs, metaphors and parable and never from men's mind: like most codes it is part-fiction and part-reality.

Continuing with the adherence to traditional laws; studies reflect that the transformation of such codes has been handed down by word of mouth from generation to generation as a basic part of family training. Furthermore argues that personality of a young man is expected to be dominated by tura i.e. the readiness to fight at the slightest provocation and the child is so carefully taught the principles of such code that it becomes the integral part of his character at an early age and young boys are taught to respect and obey their elders. 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 provoking of emotions of a particular group that shows their integrity, expression of 'we-feeling', aggression and attachment with their parental tribe.

Keeping in view the above discussion it can be easily assumed that Pakhtunwali and Islam among the Pakhtuns are ideally considered as same because for the Pakhtun,
there is no contradiction between being Pakhtun and practicing Pakhtunwali and being Muslim and adhering to Islamic law. However, the former is embedded in long historical and traditional context that have been in practice among Afghan tribes living in Afghanistan, Khyber Pakhtunkhawa (former N-WFP) and Baluchistan. Tribal laws and other codes as practiced within Pakhtun belt are widely practiced as a component of customary law and particularly in those areas where Pakhtuns are in majority, its practice is more overt and it controls all socio-cultural, economic, religious and political activities of the inhabitants.

CONCEPTION OF PAKHTUNWALI AND THE SHARIA'H (ISLAM)
Through the idealistic approach, both Islam and Pakhtunwali have their own independent statuses, while comparing the two; Pakhtuns have their own distinct tribal nature, which they perceive is above all and even to some extent above the religion. In this context, the situation remains in complexity as the practice of both Islam and Pakhtunwali remain in antagonism. Further, it is argued that the complexity shall be referred to the outcome of a long historic process because most of the Pakhtun rulers including Ahmed Shah Durrani got rule through a coalition of a number of Pakhtun tribes under one leader and his legitimacy was not through religious means rather through tribal genealogical heritage. The transformation of such heritage from Pakhtun leadership, Pakhtunwali thus became a driving force and most of decisions were taken by following these traditions, although the dialects and customary law vary from tribe to tribe yet the social norms are commonly shared.

The above discussion weigh much in relation to the practice of Pakhtun code, however; religion and its scripts are also divine sources and they are the ultimate sources of authority for Pakhtuns and both passes from generation to generation. Pakhtunwali is a signified pattern among Pakhtuns because their identity is directly associated with the practice of Pakhtunwali. It is true that religion is dominant in shaping lives of Pakhtuns but in decisions of many aspects related to communal life, hold of religion becomes secondary in its implementation and religion often came in conflict with Pakhtuns' customs and traditions but still perception is firmly based on the notion of analogy between Pakhtunwali and Islam.

PAKHTUNWALI: (THE TRIBAL CODE OF HONOR)
Pakhtunwali; “the way of life of the Pakhtuns,” the identity and communal way of people belonging to Pakhtun belt, that includes honor (izzat), chivalry (ghayrat or nang), hospitality (elmastia), gender boundaries (purdah or namus) and council (Jirga). The Personality of a young man is expected to be an outcome of tura i.e. to fight and to obey their elders where the boys and girls are socialized in a cultural pattern.

Chivalry is an act of bravery and honor in relations to performance of a person in a battle and secondly is to defend honor of family including an insult, act of
shame, women dishonor or condition which is against Pakhtunwali[44]. Besides, it is also related to the defense of honor i.e. badal (revenge) in the form of primary law of Pakhtunwali immunized with the intrusion of any council[45][46]. Pakhtunwali also includes melmastia (hospitality) and it is reflected from the fact that in every village there is a Hujra, and every house has a guestroom that is characterized by the feeding of strangers and friend along-with gift-giving. Hujra is a multidimensional pattern that also plays the role of conflict-resolution in shape of Nanawati (acceptance of one's own guilt and fault in front of the victim followed by apology)[47][48].

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. 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[49].

The most important among the components of Pakhtun code is Jirga i.e. council of elders and main political institution having legislative power and authority in Pakhtunwali.[50] reveals that Jirga the closest thing to Athenian democracy’ that has existed since the original that plays a pivotal role to deal matters of land and familial conflicts. However, women are invisible and their views are honored through male members, though they do not participate yet they may be influential behind the public arena.[51]

The discussion made so for palpably expresses that Islam as a religion and Pakhtunwali as a code of life are influencing the lives and affairs of Pakhtuns in their own domains. It is observed that both are running shoulder-to-shoulder 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.

ARGUMENTS OF THE STUDY

The current study attempts to analyze and find the lacuna that exists in the practical application of Islamic Sharia’h and Pakhtunwali. Particularly in relation to women’s rights, most of the Pakhtun codes and customary law seems male dominated and patriarchic in nature. The social structure and social relations are segregated and women mostly reside within their ideological domain of four walls and that is perceived as her religious as well as moral space[52]. Keeping in view the parameters of the culture and traditions; the study is framed to analyze and compare the practice of Pakhtunwali and tribal customary laws and their impacts upon women’s Islamic rights provision.

In relevance to address the questions mentioned above; it is necessary to make an ideal type of both Islamic Sharia’h and Pakhtunwali that is compulsory for a
sociologist and anthropologist working in the field (Derived from Max Weber as Quoted in\textsuperscript{[53]}. However, if law is a system of enforceable rules governing social relations, legislated by a political system that connects law with ideology\textsuperscript{[54]}, it thus becomes true for Pakhtunwali because it governs ideology, legislative-political authority and private and public domain of Pakhtuns. Thus Islam and Pakhtunwali are two ideal systems of enforceable rules governing social relations in the area under study\textsuperscript{[55]}.

The nature of Pakhtunwali is rarely analogous to formal laws in the course of practicing legislative authority; elders look into customary laws, community councils, local customs, tribal laws, Islamic law, and state laws for enactment\textsuperscript{[56]}. In this connection, mostly the accepted and pro-customary decisions are accessed. Besides, through normative structure of community, Pakhtuns practice Pakhtunwali and other prospects including honor, hospitality, gender boundaries, and institution of Jirga, Nang and Qalang, Tarboorwali etc\textsuperscript{[57][58]} and thus Pakhtuns maintain their unique social order and sustain their own religious-ethnic and cultural identity\textsuperscript{[59]}. The discussion so far leads to an argument that the social structure and social relationships of Pakhtuns are maintained by two kinds of principles, religious (Islamic Shariah) 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.

The present paper focuses on an anthropological and religious perspective to make an analysis of religious teachings and its obedience as well as hold of Pakhtunwali among Pakhtuns of Chakdara District Dir Lower, Khyber Pakhtunkhawa. The researchers primarily focus on idealism in religion, its practice among the natives and its comparison with traditional social system of the locality. In pure ideal form, Islam has dominance in most of the affairs of Pakhtuns; however one could observe a wide distinction in manifestation of the two systems instead of the discrepancies exist between both. The researchers have linked the gap to the long historic practices, which have been inculcated in minds of Pakhtuns that Pakhtunwali has a religious identity and Islam itself is Pakhtunwali\textsuperscript{[60][61]} where Pakhtuns managed to retain a distinct cultural affinity based on the unwritten but ancient code of Pakhtunwali (or, Pashtunwali)\textsuperscript{[61]}. The perception thus based upon such notions affects tribal code and its relationship with true spirit of Islam and create a lacuna between the two systems.

The current paper thus presents a comparative analysis (based on ethnographic research and textual analysis) of those misperceptions, which are framed and inculcated by the prevailing traditional system that tend to treat women as subordinated and compel them to reside inside the four walls that bestow upon women’s Islamic rights. Similarly, the study attempts to explain those factors, which obstruct the implementation of Shariah (Islam) among Pakhtuns in its real spirit. Besides, the paper looks into Pakhtun code, which provides 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 inflictions. To understand the problem, it is important to know about the two ideal systems i.e. Islam and Pakhtunwali and to pin-point the areas where women’s rights are exploited.

OBJECTIVES OF THE STUDY:
The present study is based on the following objectives:
1. To know about Pakhtunwali (Pakhtun code) and record women’s rights violation as bestowed by religious scriptures (Holy Qur’an and Hadeeth)
2. To assess specifically women’s domestic rights given by Islam and their violation under tribal and traditional system of Pakhtunwali

METHODS, PROCEDURES AND THEORETICAL FRAMEWORK
The current study is an anthropological investigation into the two ideal (Weberian concept) systems; that is the Islamic Sharia’h and Pakhtunwali (Pakhtun code of life) and to find out the lacunas in the practical application of the Islamic Sharia’h with that of Pakhtunwali. The nature of study is purely qualitative where narration of the field data and literature are discussed in detail. The first hand field oriented ethnographic information (about the ideal type system i.e. Pakhtunwali) is obtained during a PhD study in 2009-10 using anthropological techniques including household survey, case studies, in-depth interviews and participant observation in Chakdara town of District Dir (Lower), Khyber Pakhtunkhawa, Pakistan. In addition, the empirical data has been supported with the authentic secondary information in shape of books, journals, articles and newspapers etc. Similarly, the ideal type system of Islam has been comparatively analyzed with the culturally approved pattern of Pakhtuns in light of Islamic literature including the Holy Qur’an, the Hadeeth, Islamic literature, books, articles etc written by both religious scholars and anthropologists. The data is collected during the household survey of 4425 and collected the data through participant observation and in-depth interviews from 775 respondents on different issues related to women’s empowerment in Pakhtun society. However, the data related to women’s Islamic rights is taken under consideration for analysis of the current study.

The study works under the integrative perspective on religion as a theoretical framework to analyze the functional aspects of religion with respect to Pakhtun community under study. Religion predominantly aims to bring social solidarity, integration and collective conscience in community and to analyze such aspects of religion; researchers have taken the work of\textsuperscript{[64]} \textsuperscript{[65]} \textsuperscript{[66]} into consideration. The social scientists emphasizes over the functional aspects that are divided into sacred and profane, which provide emotional attachment to the followers of the religion\textsuperscript{[67]}. Thus 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 worshiping.
Besides, extracts are drawn-out from Bronislaw Malinowski (1884-1942) in his study of small scale non-literate societies and Talcott Parsons (1951), argue that religion is a part of cultural system and as such religious beliefs provide guidelines for human actions and standards against human conducts can be evaluated. While concluding the above perspectives, they are focusing on integration, unity, cohesion and solidarity of society that are much associated to religion that is one of the major concerns of the current study.

COMPARATIVE ANALYSES AND DISCUSSION
The analyses of results are purely based on anthropological methodology i.e. following the ethnographic details as performed in the field. A qualitative discussion over the field data along-with making a comparison of textual analysis of secondary information about women’s rights mentioned in Islamic Sharia’ah and sayings of the Holy Prophet (PBUH) and other related sources. The empirical data is sorted in relation to major concern of the discussion that focuses on women’s basic and domestic rights’ violation found in Pakhtun culture. As the researchers are trained in Sociology and Anthropology, and they have no thorough knowledge of the religious scripts that is why the information from the Holy Qur’an, Hadeeth and Fiqah are meager, which have been incorporated for exemplification. A separate discussion has been enumerated on the selected rights ordained by religion as are under:

Women’s Rights in Spouse Selection, Familial Relations; and Pakhtunwali and Islam
In the context of 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." Similarly, Allah made pairs from the human beings and of all other animals living in this universe to run the system and continues the races. The Holy Qur’an says: “(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).

Similarly, Islam allows women to accept or reject marriage proposals or choice and her acceptance and consent is prerequisite for a marriage. Arrange marriages, without the consent of a woman has no status in Islam. A Hadeeth of the Holy Prophet supports the argument and says: "Ibn Abbas reported that a girl came to the Messenger of Allah, Muhammad (SAWS), and she reported that her father had forced her to marry without her consent. The Messenger (SAWS) of Allah gave her the choice ...(between accepting the marriage or invalidating it)" (Ahmad, Hadeeth No. 2469). In the said context and reference in Ibne-Majah, the
girl said: "Actually I accept this marriage but I wanted to let women know that parents have no right to force a husband on them".[71]

Further, during familial life, Islam recognizes the rights and duties of both men and women and makes it compulsory for women to give milk to her baby for the two whole years. On men, it is then compulsory the bear all the expenses of her food, clothe and other necessaries as stated in the Holy Qur’an "The mothers shall give suck to their offspring for two whole years if the father desires to complete the term. But he shall bear the cost of their food and clothing on equitable terms. No soul shall have a burden laid on it greater than it can bear. No mother shall be treated unfairly on account of her child neither father on account of his child. Heir shall be chargeable in the same way if they both decide on weaning by mutual consent and after due consultation there is no blame on them. If you decide on a foster mother for your offspring there is no blame on you provided you pay (the mother) what you offered on equitable terms. But fear Allah and know that Allah sees well what you do" (Qur’an 2:233).

It is compulsory for the husband that remains kind and gentle to their wives. They did not treat women harshly with crudity, because, women have the same rights as with men. Even if a husband does not love her wife, in such condition, he shall obey these boundaries as the Holy Qur’an declares: “O you who believe! You are forbidden to inherit women against their will. Nor should you treat them with harshness that you may take away part of the marital gift you have given them except where they have been guilty of open lewdness; on the contrary live with them on a footing of kindness and equity. If you take a dislike to them it may be that you dislike a thing and Allah brings about though it a great deal of good. (Qur’an 4:19). It is also a fact that how nicely the Holy Prophet treated his wives and that is an example for the whole Muslim community. In this respect the Prophet Muhammad taught: "I command you to be kind to women ..." Moreover, "The best of you is the best to his family (wife) ..."

From the idealism of religion, spouse selection and familial relations are the rights of male and female as proved from the various verses of the Holy Qur’an and Hadeeth. However, the ethnographic details of the research area depict that the role of traditions is more powerful in relation to the selection of spouse and duties distributed among Pakhtuns.[72] The Holy Scriptures (Holy Qur’an and Saying of the Prophet) clarifies the equality granted in spouse selection and familial relations and the same has been guaranteed for men and women in Islam. However, in most of the cultural practices in the community under study, both men and women are sometimes deprived of their natural and religious rights of spouse selection. Adherence to the cultural traditions is more in comparison to ideals of Islam.[73] Besides, asking a female about her choice in marriage is unnatural and its manifestation is depicted as negative among the local people.[74]

There is a “glass ceiling” to women’s achievements as argued by[75] that is culturally relative instead of absolusion. The information as obtained during field
study shows that the rigid cultural traditions stress upon arranged marriages and it virtually discourages marriage of choice or the concept of love marriage.\textsuperscript{[76]} Further, caste, class and tribal relations are pivotal to local people and religion is treated as secondary in this regard\textsuperscript{[77]}. The analyses further disclose that spouse selection falls under the jurisdictions of elders among family members (mostly males). It is believed that such elders will choose a right person for female of the family. Marriage, which is allowed in every world's religion, is totally a private matter among Pakhtuns and many people believe that spouse selection is not a social process. Spouse selection is the right of both male and female that is a universally accepted phenomenon as noted by\textsuperscript{[78]} that in no society people are permitted to marry whoever they wish. There are always methods of ensuring that certain individuals 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. 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\textsuperscript{[79]}, though religion may be important in many areas of the person's life, religious rules governing marriage and family life are the most demanding parts of religious ethical system and some minor variations, the entire world's religions support marriage and family system.

The information further elucidate that Pakhtuns of the locality are living under the patriarchic system of family and many of the economic power relations are held by male. This not only influences the power relations but also give power to male to arrange the marriage of concerned female and to influence her for blind acceptance. During the Nikah process, female is asked for her choice and acceptance, but at the same time she forfeits this right to a male and even at this important junction of her life, she can not make any excuse as it would lead to utter defamation of family and honor of family would be destroyed.

**Women's Rights in Family disputes, divorce, Islam and Pakhtunwali**

Islam is the religion of prosperity and harmony and makes it compulsory for both the genders to resolve familial and marital disputes within the private spheres of life. Disputes of any nature are prohibited to be made public and male/female shall avoid extremism in such cases. Similarly, cruelty and threats of all kinds must be avoided and in case of no resolution and severity of the disputes, family mediation can be resorted to settle-down the matter with elegance and cooperation. Sometimes, the disputes exceeds to limits where divorce is deemed as the ultimate option, which is permissible but discouraging in Islam. The Holy Qur'an clearly says about the types and consequences of divorce as stated by Allah Almighty: "Divorce is twice; then either to retain in all fairness, or to release nicely. It is not lawful for you to take back anything from (Qur'an, 229).

The Holy Qur'an under no circumstances does allow family violence including physical abuse or cruelty. Maximum punishment in case of severity is just a gentle
slap that does not even leave a mark on the body and stresses on the maximum harmony of the family life and does not favor any separation where the process of reconciliation is encouraged. A woman after divorce has to wait for three monthly cycles in her husband’s house as Allah Says in the Holy Qur’an: “When you have divorced women, and they have reached (the end of) their waiting period, do not prevent them from marrying their husbands when they mutually agree with fairness. Thus the advice is given to everyone of you who believe in Allah and in the Hereafter. This is more pure and clean for you. Allah knows and you do not know (Qur’an, 2:232). Besides, if divorce occurs, still Islam provides the chances of reconciliation as The Holy Qur’an says: “Thereafter, if he divorces her, she shall no longer remain lawful for him unless she marries a man other than him. Should he too divorce her, then there is no sin on them in their returning to each other, if they think they would maintain the limits set by Allah. These are the limits set by Allah that He makes clear to a people who know (that Allah is alone capable of setting these limits)” (Qur’an, 2:230).

In the mentioned period, her husband will remain responsible for her welfare and maintenance e.g. food, cloth, medication etc. The husband has no right to take her away from home while woman is advised not to leave the house of the divorcing husband. The rationale is to enhance the chances of reconciliation between the couple and to protect her right during that period. The three-month period also provides maximum opportunity of reconciliation and other family members could help in this regard to improve better understanding. The Qur’an says: “And if you fear a breach between the two, then appoint a 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).

In case of separation and marriage dissolution, Islam gives rights to both men and women. Various forms of marriage dissolution include mutual agreement in which the initiatives of both the husband and wife are equally allowed. If wife takes, the initiative then part of the marital gift shall be returned to husband that is called "khulla" in Islam. A confrontation in the life of the Prophet (SAWS) exemplifies where a women exclaimed that her husband was a gentle person and she had smooth relations with him, yet she disliked her. The Holy Prophet directed the women and told her that she must return the husband a garden, which he had presented to her in dowry and then take divorce from him. In this regard, 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). Also, if the divorce occurs before marriage still then Islam favors women as stated in the Holy Qur’an: “If you divorce them before you have touched them, while you have already fixed for them an amount (of dower), then there is one half of what you have fixed, unless they (the women) forgive, or forgives the one in whose hand lies the marriage tie, and it is closer to Taqwa

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1 Khulla is allowed in Islam, which is called Divestiture.
(righteousness) that you forgive, and do not forget to be graceful to one another. Surely, Allah is watchful of what you do” (Qur’an, 2:237).

In comparative and relative analyses of the mentioned Islamic values, Pakhtunwali has been taken into consideration to address the issue traditionally. In this regard, the traditional structure of the area generally prohibits frequent occurrence of divorce because it is against Pakhtun code of life. Divorce occurs mostly due to the imbalance in gender roles where⁸⁰ argue that 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 by⁸⁰, 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 nuclear family. Although Islam encourages a happy life and stresses upon both the genders to resolve familial and marital disputes within the private spheres and shall not be publicized yet the culture seems reluctant to some extent in this regard.

Keeping the two ideal systems i.e. Islam and Pakhtunwali and comparing them with the field data; culturally, divorce is considered as a social stigma in the area. Women in a traditional setup cannot initiate the process to take or decide about taking divorce. Such kind of initiative if taken by women is opposite to Pakhtunwali and cultural traditions. According to the local traditions as elucidated by the collected information that such initiative may lead to stigma of Tor or Pehgore (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 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). Even no one in family is allowed to repeat the same even in gossiping. Divorce as 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 person.

The Right to Inheritance, Widows’ Remarriage and Polygyny
Islam as a complete code of life refers and preserves each and every right of the individual. The Holy Qur’an and the Hadith have strong recommendations regarding the individuals’ fundamental rights. Inheritance; among the strongly debated and highly exploited rights throughout the globe is a matter of concern in each society. In this connection, Allah, the Exalted, stated in the Glorious Qur’an: Allah commands you as regards to your children’s (inheritance); to the male, a portion equal to that of two females. (Qur’an, 4:11). In addition, Almighty Allah offered a full and detailed method of women’s inheritance in the Qur’an and Sunnah, and if an unbiased student of knowledge reflects on the details, he or she will discover the fault of this opinion. To begin with, Allah has determined all the
shares of all the relatives in respect to their relationship to the deceased. As He the Most Wise said: There is a share for men and a share for women from what is left by parents and those nearest related, whether the property is small or large, an obligatory share (Qur’an, 4:7).

Furthermore, Allah has stated three types of shares for a woman’s inheritance as ‘a woman’s equal share as to man’, ‘a woman’s equal share as to man, or a little or less’, and ‘a woman’s half share as to man’. In the famous tradition; the companion Sa’ad ibn Abi Waqqas was ill and requested to bequest the majority of his wealth as charity, or a half of it since he was wealthy and only had one daughter. The Messenger of Allah forbade him and only allowed him to give a third and expressed that it was better to leave your heirs wealthy rather than needy and begging. Furthermore, in his book “Arab Civilization”, mentions the principles of inheritance that are determined in Qur’an have a great deal of justice and fairness in terms of inheritance. Gustave has presented a comparison of British, French and Islamic Laws of inheritance and found that Islam grants the wives the right of inheritance, which the other systems lack while Westerners consider them to be ill-treated by the Muslim men.”

Similarly, as discussed earlier, that Islam is a complete code of life that covers each and every aspect of social and communal life. The vulnerable and victimized masses have been specifically focused such as widows. In most of the cultures, the pattern of marriage and the choice depends upon the nature, environment and prevailing customs and traditions. Some cultures give such right to males to decide fate of female and vice versa. In contrast, Islam privileges women 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.

Islamic teachings and literature have embellished and enriched directives regarding the issues mentioned above. Continuing with the Islamic perspective on remarriages of widows the Prophet of Allah said “An ‘ayyim’ (a divorcee or a widow) must not be wedded unless she is asked, and gives her approval. And a virgin must not be wedded unless she is consulted.” It was asked: “O messenger of Allah, How is her permission?” He said: “If she remains silent.” (Bukhari #4843 & Muslim #1419). Different events exemplify the issues of remarriages
like the case of Al-Khansa bint Khadam, who had been previously married (and was now divorced or widowed), came complaining to the Messenger of Allah that her father had forced her to marry a person she despised. He disapproved and invalidated it (Bukhari #6546).

Relationally to the right of widows’ remarriage in Islam, the debatable and controversial issue of polygyny has also been addressed under Islamic Sharia‘h and codes. Marriage to more than one wife at the same time – polygyny- is a practice as old as the history of man, and is allowed in Islamic law where many of the prophets of Allah (before Muhammad-SAWS) remained in plural marriages. In this regard, Allah, the Most Beneficent, said: “And if you fear that you shall not be able to deal justly with the orphan-girls, then marry (other) women of your choice, two or three, or four but if you fear that you shall not be able to deal justly (with them), then only one or (the captives and the slaves) that your right hands possess. That is nearer to prevent you from doing injustice (Qur’an, 4:3). Further, The Messenger of Allah warned against favoritism saying: “He who has two wives and is not just between them, he will come on the Day of Resurrection with one of his sides fallen”[84][85].

Besides, Allah, the Most Beneficent, said: “You will never be able to do perfect justice between wives even if it is your ardent desire (i.e. emotions of the heart), so do not incline too much to one of them (by giving her more of your time and provision) so as to leave the other hanging (i.e. neither divorced nor married). And if you do justice, and do all that is right and fear Allah by keeping away from all that is wrong, then Allah is Ever Oft Forgiving, Most Merciful (Qur’an, 4:129). In addition, Hazrat Aishah, the mother of the believers and the wife of the Prophet narrated: “The Prophet of Allah would distribute everything justly amongst his wives, then say: O Allah! This is my division for what I possess, O Allah! Do not blame me for what You alone possess while I do not (i.e. emotions of the heart) (Abu Da’wood, Tirmidhi).

Islam has always been found in connection with Pakhtunwali as the history is witness that Pakhtuns in the every age had been the strong followers of Islam[86]. Due to such strict adherence to Islam, there has been the conception of conflict between Islam and Pakhtunwali. There are some aspects in one’s social life where the individual face contradiction in both the Islamic values and Pakhtunwali. In relation to the mentioned aspects such as rights to inheritance, widows’ remarriage and Polygyny, the ethnographic details of the area and empirical information reveals that provision of inheritance and property rights is relative among Pakhtuns and to, religious injunctions often had little influence on specific customs such as inheritance exclusively by male heirs where in most of the cultures the property is usually owned by males. Application of the Nichols perspective can be rightly employed on Pakhtuns because the concept of property, family and private ownership, which provide superiority to male in terms of inheritance that gives birth to patriarchy is not the outcome of religion rather the cultural setup. The
ethnographic structure reflects the importance of Zar (gold), Zan (women) and Zamin (land) as the core values of Pakhtunwali, which further shape the local ideology where the inheritance and property rights go in favor of males.

Similarly, the collected information expound that there are no such defined traditions for re-marriages of widows in the area and are treated differently; however, traditionally she is sympathized by the co-members. Ideally, a marriage is a divine institution and the most traditional social norm with the ideal type construct that views marriage as a sacred phenomenon, that is to say, the family and marriage are divine and holy institutions, created and maintained by God. While 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 itself into what may be an otherwise delightful relationship. The research reflects that tradition of re-marriage of widows in the area remains a controversial issue that is mostly discouraged by Pakhtun code of life. A widow among local people is considered as an ominous (Badnaseeba) and the title, i.e. 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 brother of the deceased husband (lywer) 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.

Besides, the inheritance and remarriage of the widow; the most common and controversial practice among Pakhtun is ‘polygyny’. Instead of the Islamic conception (discussed earlier), in Pakhtunwali; the practice of polygamy (particularly polygyny) 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. The trend of polygyny is an outcome of cultural traditions in the area where they follow traditions of polygamy as a part of Pakhtunwali because it has been done by their ancestors. In religious context, the local people exploit the exercise of polygyny because it is religion, which gives men the right of more than one wife at a time.

CONCLUSION
The secondary sources utilized in the form of Qur’an, Hadeeth, anthropological literature, Weberian model in the form of Ideal Type, the theoretical framework and ethnographic details along-with discussion conclude and reflects a transparent gap between the religious ideals and cultural practices of the local people in shape of their relative gender roles. 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 masculine in their formation and application. Male members have relatively more prestige because of access and control over education, 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) where such tasks are prohibited for females. Further, the study reveals that both the ideal systems; i.e. Pakhtunwali and Islam are prevalent since very long and the society seems to be ideally Islamic but in 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. The fact is undeniable that people hold religion in great 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 rights provision.

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