

Understanding Perceptions about the Role of Traditional Practices of Inheritance With Relation To Feud Settlement

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Pakistani society depicts a vivid picture of inequality in property ownership with prenatal preference to inheritance for sons over daughters. The customary law under the clutches of patriarchy is only meant for male dominating female in all social spheres. The main purpose of this study is to explore the extents of traditional approaches to feud settlement regarding inheritance as the main reason of dysfunctional legal system in the study area. A sample size of 182 respondents was randomly selected of those respondents who had at least 10 acres of land. Frequency distribution of data was observed to have a comprehensive data layout. Moreover, Chi square (χ^2) statistics was used to determine the level of association between dependant variable (Feud Settlement) with the independent variables (Customary Practices of Inheritance). Majority (78.0%) of the respondents believed that Jirga played an important role in transformation of inheritance while curtailing the chances of inheritance feuds through application of traditional practices. Most (89.6%) of the respondents disclosed that patriarchal system favors male members of the family in respect of transferring of property. At bi-variate level, Jirga played a vital role in the transformation of inheritance in case of conflict and had a significant association ($p=0.039$) with feud settlement. Moreover, dowry to be considered as a share in inheritance of family had a significant association ($p=0.005$) with feud settlement. The study depicted that strong patriarchal system was influencing the inheritance practices in favor of male gender. In addition, Pakhtoon culture, being conservative and prejudice, was found to be the core impediment in the smooth transmission of equal property rights to both the gender. Women's participation in the traditional mechanism of resolving the issue of inheritance and speedy court system could lead to the mitigation of inheritance related feuds at family level.

Keywords: Customary, Patriarchal, Inheritance, Family, Feuds, Settlement

Introduction

The mode of transformation with regard to the movable or irremovable property in a particular heresy, throughout the world, enters the field of inheritance. It is a constant right of man to his legal heirs over property ownership, usually by the ancestral hierarchy in the parameters of the defined law. It justifies the transfer of ownership or otherwise the exclusion of the heirs of the property belongs to a line of decent in both ways. The inheritance system is mainly controlled and regulated by well-defined cultural norms in the shadow of the specific roles of family ties which also dedicate the social differentials between members of various societies in the overview of the relative cultural explanation of inheritance, i.e. transfer material assets with family-related associations with goods and other property belonging to a well-defined material assessment such as jewelery, livestock, cash, etc (Aydin & Damgaci, 2017; Faltis, 2014). It is a phenomenon responsible for social cohesion within the generations at the level of the family. These inherited links, interpreted by the relation of blood, are an indication of the degree of variation of paternal affection. It is considered a permanent communication base at the micro level, such as a family with birth identification as well as income and other cultural associations (Abbas & Yigit, 2015; Accurate Reliable dictionary, 2008;

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Awaz foundation, 2010; Derre & Cheryl; & Kosman, 1988; Yigit, 2015a,).

Customs law is enshrined in the provision of property, although women are denied just that. However, it is often replaced by the provision of dowry, as revealed by Dascopoulous (1990), that the civil rights of 1804 in France explored the place of enjoyment of civil liberties and religious freedom. Even then, the husbands had the dominant role over their wives. But England witnessed the inheritance of women's rights by securing their access to property (Ahmet, 2016; Shah, 2016). By contrast, in 1840 women were legally subordinated to their husbands and prevented from controlling their own property. The scenario changed when the French and the women of the United Kingdom received the same rights and powers as men. The same was done in the US and China. It has also promulgated the law of equality regarding the right to female and male inheritance (World Bank, 2010). Andikrah (1990) has examined the distribution of property among the Swazi tribes, who are sinking from the older members to the daughter and minor sons of the family. The denial of the right to women led to the emergence of a phenomenon in which sons who had their parents' only inheritance had a moral duty to look after their sisters until their marriages. Widows with low stature were also the social and economic obligation to their brothers on the condition of allocating certain shares to older widows who have no chance to marry (Citamak & Yigit, 2012; Nicoletti, 2007) or on the other hand, the legal regulations had complications in the exemption of the widow right inheritance in a marriage seat, where man rules over land and property (Ahmed, 2016; Asimwe, 2006; Derre & Cheryl, 2006; Kameri-Mbote, 2001; Kanabahita, 2006; Munalula, 1995; Matere-Lieb, 1995; & Narayan et al, 2000).

Patriarchal practices were one of the major disadvantages for women, such as the denial of access to property for their heritage (Abbas & Yigit, 2016; Narayan et al., 2000). Some other practices, such as resistance to the division of property, refer to Malaysia, but it is based on a common consensus between the descendants of the deceased (Strange & Heather 1980). Banks (1976) disclosed the division of property, which often consists of two phases, shortly after the death of the owner, i.e. one is informal, which usually benefits children in the household and spouses, while sons and daughters receive equal rights to the property. The second stage relates to the distribution of official law which is often done under the shadow of Islamic law. Afghan customs with reference to women's heritage are subject to consideration of ethnic and regional background. Willy and Alden (2004) describe in the Faryab region (Afghanistan) the official record for women's heritage among the Tajiks. However, this procedure is lacking among Arabs and Pashtun with a clear denial to women in Uzbekistan as well. On the contrary, land ownership for women is a common practice in Laghman. In Bangladesh, a woman does not claim her share in the father's heritage but uses it as a direct contact with the father's household (World bank, 1990). It has also been noted that most women give their rights to their citizens for security if divorced or widowed. Sudanese women have limited access to land as government directors and to register land for connection services, which are often regarded as male activities with the sole purpose of participation in men and women (See Badri, 1986)

Pakistan becomes a Muslim state and is subjected both by the patriarchal family system and by religious rules that are strictly followed up with the idea of showing certain characteristics necessary for the structural and functional integration of society. Pakistani society vividly displays an image of inequality in ownership with prenatal reference to inheritance for sons, while daughters are deprived of their prenatal property. The ordinary law under the strong platform of patriarchy is only intended to let male dominion over the functional system of social life. In addition, the tribal vet experts across the country have also led to the murder of women while they indicted them as honor killings. Shah, (1997) has an in-depth study of honor killings and has reflected this in the possession of money, property and inheritance. Land is an important determinant of power and is considered a sacred element for the honor of the family (Eglar, 1960). Pakistani society, although religious in its ideology, also denies the good transfer of property to daughters. A non-functionality of social dynamics with regard to the distribution of property of the common ancestor among his descendants has led to the development of the very famous concept of TAR Borwali, which means the division of property between paternal relatives under Pakhtun (See Barth, 1981).

This study will endeavor to discover the effects of patriarchal system with customary law and traditional practices regarding division of property. Moreover, it will also explore the extend of success of traditional approaches to feud settlement related to inheritance as the main reason of dysfunctional legal system in the study area.

Objectives of the Study

1. To assertion the opinion of sampled respondents regarding feuds over the inherence
2. To explore socio-cultural factors affecting division of inheritance share

3. To measure the association between independent variable and depended variable.
4. The suggested policy recommendations on the bases of study findings..

Methodology

Research Design

In present study correlation design was used. It is most commonly used design in social sciences especially when the data are based on survey research. In this design collected data are used for developing casual relationship between independent variable and dependent variable and also given a "snapshot" of the data regarding phenomenon in a population at a specific point in time (Suliman et al., 2016).

Sampling

The present research study was carried out in District Mardan to measure the relationship between patriarchal practices of inheritance with family feud settlement. The main reason for selecting Tehsil Mardan was the availability of large portion of agriculture land with respect to ownership of local community. Only those population was selected whose land was not less than Ten acre (10 acres) and the owners must had at least on sister or brother . A sample size of 181 respondents with the above mentioned characteristics was randomly selected for data collection through the criteria set out by Sekaran (2003) from a Total population of 319.

Conceptual Framework

The conceptual frame work was designed with the independent variable (customary and patriarchal practices of inheritance) and dependent variable (family feud settlement).

Table 1:

Conceptual Frame Work

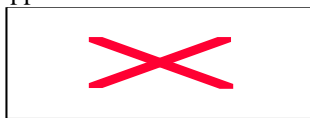
Independent variable	Dependent variable
Customary and Patriarchal Practices of Inheritance	Family Feud Settlement

Tool for Data collection

An interview schedule on Likert scale was used while keeping into considerations the aforementioned objective of the study.

Analysis of Data

Collected data was converted on to SPSS 20 version. The data was analyzed in frequency and percentages. Moreover, to find out the association between independent variable (customary and patriarchal practices of inheritance) and dependent variable (family feud settlement), the Chi-Square test statistic was applied at bi-variate level. The formula for this application is as below;



Where χ^2 =Chi-square for two categorical variable.

$$\sum_{i=1}^r \square = \text{Total of ith row}$$

$$\sum_{j=1}^r \square = \text{Total of ith Colum}$$

O_{ij} and e_{ij} =represent the observation and expected value shown by Chaudray and Kamali(1996)

Result and Discussion

Customary & Patriarchal Practices of Inheritance

Table 2 summarizes the respondent's perception regarding customary & patriarchal practices of

Inheritance. The study explored that almost (54.4%) of the sampled respondents were of the view that Pukhtun custom was one of the major barriers for women to inherit property but a large number of respondents did not support it. It is an outcome of patriarchy, however, women were not denied of their due rights rather bestowed on them as per religious injunctions. Wisal and Inam (2006) have explained Pakhtunwali (a set of codes of pakhtun's life) also in favor of inheriting women practices are going in contrast for the perceived reason of women having no bread earning in the community. Furthermore, in traditional tribal customs in Pakistan, sons tend to enjoy the right of receiving almost all the assets left by their parents, while women generally do not receive or are obliged to surrender their legal share in inheritance. Being daughters, women are often also expected to forego their rights to inheritance in favor of their brothers. Their claim to get their inherited share in property may result in their desertion by their parental side. (Ahmad *et al.*, 2012). However, most of the respondents (81.9%) were of the view that women felt hesitation in demanding inheritance while half of the respondents (56.6%) unearthed that women are not married to keep land in family besides a large number (44.0%) believed that in some families women were married to Quran to deny her inheritance' rights and keeping the family assets within the family premises. In Pakistan feudal families didn't allow their women to marry in some cases but were supposed to wed to Quran to stop the division of inheritance or to keep family land within family (Awaz Foundation, 2010). A sizeable number (36.3%) of the respondents in study area disclosed that dowry was considered family's inheritance share in our community while majority had no agreement to this effect. Customary law had a provision of share in land but the people denied such right of women and somewhere in the same communities people substituted it with dowry. The inheritance rights of daughters were significantly limited even when a daughter was only a child. However Swazi women are culturally not entitled for their share in lands (Andikrah, 1990; Dascalpoulos, 1990; and Erez, 2006). The above findings are closely in line with Ahmad (2013) that in Pakistan Land is divided as inheritance only among the males on the basis of equality. The eldest brother is generally given an extra share to be used for the upkeep of the family guest house (hujra).

Table2:

Frequency Distribution of Responses about Customary /Patriarchal Practices of Inheritance

S.N	Attributes	Agree	disagree	Don't know	Total
1	Jirga played a vital role in the transformation of inheritance to heirs/area hose in cases of dispute	142(78.0)	34(18.7)	6(3.3)	182(100)

2	Inheritance is divide more peacefully through customary practice than legal system	132(72.5)	42(23.1)	8(4.4)	182(100)
3	Inheritance practices are generally patriarchal or favor male as cultural obligation	142(78.0)	29(15.9)	11(6.0)	182(100)
4	In patriarchal system male make decision regarding the division of inheritance	104(57.1)	69(37.9)	9(5.0)	182(100)
5	Patriarchal practice transfers the inheritance to the male member of the family	163(89.6)	9(4.9)	10(5.5)	182(100)
6	In patriarchal system inheritance given to daughter in the absence of son	88(48.4)	75(41.2)	19(10.4)	182(100)
7	It is actually the Pakhtoon custom and tradition that help denying women share in family inheritance	99(54.4)	75(41.2)	8(4.4)	182(100)
8	In Pakhtoon society women feel hesitation in demanding inheritance share from brothers	149(81.9)	31(17.0)	2(1.1)	182(100)
9	In traditional set up to keep land and property in the family women are denied from marriage	103(56.6)	66(36.3)	13(7.1)	182(100)
10	Women in some family are married to Quran to keep the inheritance in the family	80(44.0)	70(38.5)	32(17.6)	182(100)
11	Dowry is considered share in inheritance in your family	66(36.3)	110(60.4)	6(3.3)	182(100)

Note. Values in table present frequency while values in parenthesis represent percentage proportion of respondents.

Family Feuds Settlement

Feud over the land in both countryside and metropolitan Pakistan are frequent and covering all other immovable property is one of the major factor of internal conflict as explored by Barth (1959) that land is one of the major root of dispute among intra and inter tribal composition. In Pakhtun society blood kin i.e. Sons, and cousins of the same family have enmity on the family inheritance share (Tribal Analysis Center, 2010). Table-3 disclosed information's regarding the respondent's outlook about family feuds on family inheritance. More than half of the respondents (61.5%) had opined that there was no feud in our family over the inheritance and that it has been divide peacefully among legal heirs. Out of (100%), (68.7%) of the respondents stated that due to non-transformation of inheritance family land remain, which further led to disturbances of family structure as answered by more than two third of sampled respondents (73.6%). in addition, nearly all of the respondents stated that the major cause of family disputes among legal heirs was the non transformation of Family inheritance property. Furthermore, more than half of the sample size (54.9%) stated that often conflicts are aroused after the distribution of family inheritance share among legal heirs. This may reflect the fact the negligence in smooth transformation of property was one of the key cause of quarrel. As explore by Nagata (1976) mostly divisions of property are contributing factor of other disputes. Out of (100%), (96.2%) reveal that on time allocation of inheritance share was a appropriate way of circumvent inheritance share problems. Similarly, almost all (92.3%) of the sample size had opined that smooth transformation lead to good relation among blood kin. As Finch and Jennifer (1990) stated that equal distribution of family shares by parents vanishing disputes on family inheritance property. in addition, half of the sample size stated that culture had no way to solve disputes on land while some of the respondents (50.5%) deny this statement. Though, nearly everyone in sample size (90.7%)

stated that current laws needed to be changed for provision of remedy. As explored by Business Anti-Corruption Portal (2009) that in Pakistan judiciary system was not functions properly and being corrupt only serving the interests of the elite segment of the society only.

Table 3:
Frequency Distribution of Responses towards Family Dispute over the Inheritance

S.no	Attribute	Agree	Disagree	Don't know	Total
1	There is no feud in the family	112(61.5%)	70(39.5%)	0(0.0%)	182(100%)
2	Inheritance has been transferred very peacefully	129(70.9%)	47(25.8%)	6(3.3%)	182(100%)
3	Inheritance is divide unequally in your family	47(28.8%)	129(70.9%)	6(3.3%)	182(100%)
4	Family lands are always at stable due to non-practices of inheritance	125(68.7%)	44(24.2%)	13(7.1%)	182(100%)
5	Denial to inheritance, instable family structure co-exist together	134(73.6%)	35(19.2%)	13(7.1%)	182(100%)
6	Non transformation of property right are the main cause of conflict	169(92.9%)	11(6.0%)	2(1.1%)	182(100%)
7	Strong conflict refaced within the family after distribution after inheritance	100(54.9%)	74(40.7%)	8(4.4%)	182(100%)
8	Timely distribution of inheritance is the suitable way of avoiding inheritance	175(96.2%)	6(3.3%)	1(0.5%)	182(100%)
9	Smooth transformation of inheritance brought good relation among family member	168(92.3%)	12(6.6%)	2(1.1%)	182(100%)
10	Local cultural has no remedy to settle dispute over land	57(31.3%)	92(50.5%)	33(18.1%)	182(100%)
11	Judiciary laws need to be amended for just provision of remedy	165(90.7%)	14(7.7%)	3(1.6%)	182(100%)

Note. Values in table present frequency while values in parenthesis represent percentage proportion of respondents.

Relationship between Customary and Patriarchal Practices of Inheritance and Family Feud Settlement

Feud over the inheritance land is considered as one of a common phenomenon in Pakistani society but due to political influence and time consuming as a legal trial, are hardly resolved. These conflicts are rather resolved through customary law such as in Pakhtun society, land disputes are handled by the traditional *Jirga* system. While in the provinces such as Punjab and Sindh, local leaders and *Panchayat* members often hear and resolve land disputes (Ali and Javid, 2001). Table-4 provides information on the relationship between customary practices of inheritance and family feud settlement. A significant association between *jirga* plays a vital role in transformation of inheritance in case of conflict was detected with interacting variable ($=0.039$) i.e. Family Feud Settlement. However, Pakhtun customs and traditions always deny women's share in family inheritance as indicated by a significant ($=0.022$) relation with Family Feud Settlement. Similarly, in pakhtoon society women feel hesitation in demanding Inheritance' share from brothers ($=0.011$) was also found significant with Family Feud Settlement. It is eminent from these findings that law pertaining to inheritance over male and female as co-sharing entities, however, pakhtoon culture restricts them in availing this right. World Bank (2011) has also spelled out in consistence to such findings that local justice tends to be more accessible to the poor, relatively quick and cheap for example in Kenya where traditional institutions are widely held to be more reliable in resolving conflicts than the state. At the same time study showed a male dominance and denying of women inheritance right that had

significant association with family feud settlement. Likewise, Patriarchal practice transferred the inheritance to the male member of the family, was found significant ($=0.033$) to family feud settlement. This clearly indicated the fact that male's dominance was prevalent in the study area. In Punjab usually conflicts over the inheritance amongst male heirs are easily resolved (Holden & Azam, 2013). Similarly, the study also provided information about the drawbacks in customary practices such as in traditional set up women were denied from marriage to keep land and property in the family as was found significant ($=0.007$) with family feud settlement in relationship. Moreover, dowry was considered a share in inheritance of family and was significantly associated ($=0.005$) with family feud settlement. Thus, a number of petty means have been explored and designed by the male in the study area for restricting women to have access to property rights; which was an obvious outcome of patriarchy.

Human right (2003) and Ersoy and Ugur (2015) explained in its report that patriarchal practices over the inheritance where man controls and inherits family property while women have lesser opportunity. Unlike above, the study explored a non-significant association between family feud settlement with Inheritance is divided more peacefully through customary practices than legal system ($=0.601$). It is almost in line with the earlier findings where women were found incapable of asking for their rights due to the highly restricted culture (Damgaci & Aydin, 2013). Business Anti-Corruption Portal (2009) observed that Often *Panchayat* cannot settle down the disputes or give more importance to wealthy etc so that the case were taken to a formal court. Likewise, inheritance practices are generally patriarchal or favor male as cultural obligation ($=0.283$). This indicated for a subtle and transparent legal system, however, women had little liberty to gain an access due to her secondary position. An addition, in patriarchal system male made decision regarding the division of inheritance ($=0.782$) and was found non-significant with family feud settlement, along within patriarchal system inheritance was given to daughter in the absence of son ($=0.060$). These finding were in line to Desmarais and Lerner (1994) who disclosed that conflict over the inheritance usually occurred when the family members denied or did unfair with legal heirs at the time of distribution of family inheritance. Moreover, women in some families were married to Quran to keep the inheritance in the family and was found non-significant ($=0.590$) to Family Feud Settlement. These results indicated toward the existence of these practices as myth and had no relation to legal obligation as these were devoid of such activities (Ersoy & Deniz, 2016). Awaz Foundation (2010) explained the chain of relationship among close siblings that in Pakistan mostly women keep strong relation with their brother and that's why they relinquish their inheritance to avoid family feuds over the inheritance property. Because inheritance conflict can cause separation in families, creating cut-offs and other destructive family dynamics (Lustbader, 1996; Stum, , 2000; and Titus et al., 1979).

Table 4:
Relationship between Customary and Patriarchal Practices of Inheritance and Feud Settlement

S.N O	Attributes	Response	Feud Settlement		Total	Chi-square
			Agree	Disagree		
1	Jirga played a vital role in the transformation of inheritance to heirs/area hose in cases of dispute	Agree	138(79.8%)	4(44.4%)	142(78.0%)	=6.486
		Disagree	30(17.3%)	4(44.4%)	34(18.7%)	
		Don't	5(2.9%)	1(11.1%)	6(3.3%)	
		Know				
2	Inheritance is divide more peacefully through customary practice than legal system	Agree	126(72.8%)	6(66.7%)	142(72.5%)	=1.019
		Disagree	40(23.1%)	2(22.2%)	42(23.1%)	
		Don't	7(4.0%)	1(11.1%)	8(4.4%)	
		Know				
3	Inheritance practices are generally	Agree	136(78.6%)	6(66.7%)	142(78.0%)	

	patriarchal or favor male as cultural obligation	Disagree	26(15.0%)	3(33.3%)	29(15.9%)	=2.528
		Don't	11(6.4%)	0(0.0%)	11(6.0%)	=0.283
		Know				
4	In patriarchal system male make decision regarding the division of inheritance	Agree	99(57.2%)	5(55.6%)	104(57.1%)	
		Disagree	66(38.2%)	3(33.3%)	69(37.9%)	=1.080
		Don't	7(4.0%)	1(11.4%)	8(4.4%)	=0.782
		Know				
5	Patriarchal practice transfers the inheritance to the male member of the family	Agree	157(90.8%)	6(66.7%)	163(89.6%)	
		Disagree	7(4.0%)	2(22.2%)	9(4.9%)	=6.813
		Don't	9(5.2%)	1(11.1%)	10(5.5%)	=0.033
		Know				
6	In patriarchal system inheritance given to daughter in the absence of son	Agree	84(48.6%)	4(44.4%)	88(48.4%)	
		Disagree	73(42.2%)	2(22.2%)	75(41.2%)	=5.612
		Don't	16(9.2%)	3(33.3%)	19(10.4%)	=0.060
		Know				
7	It is actually the Pakhtun custom and tradition that help denying women share in family inheritance	Agree	94(54.3%)	5(55.6%)	99(54.4%)	
		Disagree	73(42.2%)	2(22.2%)	75(41.2%)	=7.676
		Don't	6(3.5%)	2(22.2%)	8(4.4%)	=0.022
		Know				
8	In Pakhtun society women feel hesitation in demanding inheritance share from brothers	Agree	143(82.7%)	6(66.7%)	149(81.9%)	
		Disagree	29(16.8%)	2(22.2%)	31(17.0%)	=9.054
		Don't	1(0.6%)	1(11.1%)	2(1.1%)	=0.011
		Know				
9	In traditional set up to keep land and property in the family women are denied from marriage	Agree	100(57.8%)	3(33.3%)	103(56.6%)	=10.02
		Disagree	63(36.6%)	3(33.3%)	66(36.3%)	
		Don't	10(5.8%)	3(33.3%)	13(7.1%)	=0.007
		Know				
10	Women in some family are married to Quran to keep the inheritance in the family	Agree	75(43.4%)	5(55.6%)	80(44.0%)	
		Disagree	68(39.3%)	2(22.2%)	70(38.5%)	=1.055
		Don't	30(17.3%)	2(22.2%)	32(17.6%)	

		Know				
						=0.590
11	Dowry is considered share in inheritance in your family	Agree	63(36.4%)	3(33.3%)	66(36.3%)	
		Disagree	106(61.3%)	4(44.4%)	110(60.4%)	=10.71
		Don't	4(2.3%)	2(22.2%)	6(3.3%)	=0.005
		Know				

Conclusions and Recommendations

This study concluded that Jirga, an informal institution for dispute settlement in Pakhtun culture, plays vital role in the dispute settlement related to inheritance matters. It may reflect the truth that legal (Judicial) system of the country is not functioning properly. Patriarchy was found having a leading role in practices pertaining to inheritance. This study further explored the incapability of male regarding divisions of property resulting in feuds among the real heirs. This ultimately leads to the nonproduction of land. Pakhtun culture was found a major obstacle in transformation of these rights due to strong traditional control which denies women of their due right. Furthermore, the arrangement of dowry by the bride's family was considered a share of heirs within the property from their ancestor. Women participation in traditional dispute settlement mechanism, revising the patriarchal system in terms of gender based consideration were some of the recommendations extended in light of this study

Limitations of the Study

The study focuses on the inheritance matters majorly but it limits a focus on the cultural aspects of Pakistani society. It lacks a deep insight into the dysfunctional characteristics of the judicial system in the country. In connection to the above, it lacks a peer look on the inefficient role of the family and educational setup that finally results in denial of female share in the property.

Direction for Future Research

Future research must be conducted on the female liberty regarding their economic empowerment. Women economic dependency must be sorted out in the legal and social spheres. Patriarchy patterns must be revised giving due importance to female participation in property matters. Research on traditional clutches hampering women involvement in social welfare activities must be made functional. Patriarchy patterns must be revised giving due importance to female participation in property matters. Research based education that focuses on inheritance matters and property rights must be given utmost importance at secondary levels of education.

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