



## Cultural Paradigms And The Evolution Of Women's Inheritance Rights In Pakistan: A Trajectory Analysis

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**Abstract:** *This paper explores the complex interactions between cultural paradigms and the development of women's inheritance rights in Pakistan and illustrates the historical lineage, legislative reforms, and issues that have impacted the trajectory of women's inheritance rights within the larger framework of Pakistani society with special attention on the legal aspect. The study clarifies the nuanced history of women's inheritance rights in Pakistan by examining the roles played by cultural norms, legal systems, and societal views. Despite being protected by law, the denial of women's inheritance rights continues to be a complex issue that has a negative impact on Pakistan's sociocultural and economic landscape. The systematic exclusion of women from public life in Pakistan results from deeply ingrained patriarchal norms woven into the fabric of traditional and social structures*

**Key Words:** Women Rights, Inheritance, Pakistan, Religious laws, Genders

### Introduction

Cultural paradigms and women's inheritance rights frequently clash in Pakistan, creating a challenging environment. Despite legal protections, societal norms and practises make it difficult for women to inherit wealth and resources. Lack of knowledge and education, as well as the predominance of patriarchal attitudes, are factors that make this problem worse. Initiatives to support gender-sensitive inheritance laws and question conventional gender roles are just two ways this problem is being addressed (Butt, 2016). In the landscape of Pakistani society, a conspicuous portrayal of disparities emerges in terms of property ownership, accentuated by a pronounced predilection for favouring male offspring in matters of inheritance over their female counterparts (Hannah, 1971). The entrenched grip of patriarchy on customary legal systems perpetuates a paradigm wherein males, across a spectrum of social domains, subordinate females.

Beyond its monetary worth, agricultural land is significant as a cherished possession in Pakistan. In addition to guaranteeing a long-lasting and independent source of income, which acts as a crucial barrier against poverty, owning land also plays a crucial role in determining influence and social standing, shaping interpersonal dynamics in familial and communal spheres. Nevertheless, a few people still hold a disproportionate amount of land and continue to exercise control over the vast majority of landholdings (Hussain, 2015). The uneven distribution of land ownership is a significant factor in the disproportionate stratification of sociopolitical power and poverty in rural regions.

Nowhere is the current imbalance in terms of land possession more obvious than in familial contexts, where it has also taken the form of gender distinctions in the allocation of land. Women are typically excluded from various sociological classes because statistical representations of the land ownership sector frequently ignore this fact (Jejeebhoy, 2001). In a nutshell, women from "landless" social segments lack

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opportunities to acquire land, and even women from "landed" tiers face a lack of options for property ownership. One key element in determining dominant authority is control and dominion over territory. As a result, in the years following partition, the State saw a need for action to lessen the dominance of the land-owning elite and reform the existing rural power dynamics. Land reform was clearly politically motivated, but its motivation went beyond just political goals because it had the potential to have a significant impact on society's social, cultural, and economic fabric. Although it was believed that redistributing land ownership through reform could undermine landlord dominance, this effort was met with fierce hostility (Kalshian, [2011](#)).

### Cultural Paradigms and Gender Dynamics

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Deeply ingrained cultural paradigms and prevailing gender dynamics significantly impact women's inheritance rights in Pakistan's complex sociocultural landscape. These cultural paradigms, which have their roots in historical customs, religious interpretations, and social customs, have historically supported a preference for male inheritance, thereby influencing the division of property along gender lines. The complex interplay of familial structures, societal norms, and traditional values upholds a narrative in which women's roles are frequently restricted to domestic spheres, casting them in dependent roles. Women face significant barriers when trying to assert their legitimate claims to inherited property in this context because inheritance practises have been designed to support the maintenance of patriarchal authority (Mehdi, [2002](#)). The distribution of material resources is governed by cultural norms, which are ingrained in society's fabric and also have an impact on people's aspirations, interactions with others in the community, and even how laws are interpreted. Women's inheritance rights intersect with historical ideas and current issues in a complex landscape created by the interaction between cultural norms and legal frameworks. The idea that changing inheritance patterns would disrupt traditional family dynamics and erode the power traditionally vested in male lineage supports the idea that challenging these norms is often seen as a confrontation with established power structures (Mumtaz, [2013](#)).

In addition, gender dynamics are deeply ingrained in Pakistani society and frequently serve as a proxy for societal attitudes towards the roles and autonomy of women. These forces continue a system in which women are frequently left out of economic decision-making and placed in inferior roles when it comes to

inheritance. There is a self-sustaining cycle of gender disparity in property ownership due to the prevailing cultural standards, which are frequently upheld through successive generations (Rao, [2005](#)).

### The Legal Evolution

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#### The Constitutional framework

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In Pakistan, where tradition, individuality, and formal legal structures all coexist, women's property rights are intricately shaped by a confluence of statutory laws and non-statutory influences. Examining the Constitution, a normative text outlining the fundamental values necessary for the operation of the State, is invariably the first step in a thorough analysis of these rights (Rehman [2010](#)). The Constitution acts as a fortress of protection for citizens' fundamental rights in addition to outlining the duties and powers of the State. This constitutional framework serves as an effective conduit for the effective enforcement of legal provisions and serves as the anchor on which the legal system secures citizens' entitlements. In accordance with Article 8 of the Pakistani Constitution, any legislation, custom, or established practise having a definite legal status that conflicts with the freedoms guaranteed by the Constitution is declared null and invalid to the degree of the inconsistency. The right of every citizen to own, acquire, and dispose of property in any part of Pakistan is also affirmed by Article 23. A comparable statement is made in Article 24, which states that taking away someone's property is only permitted when it is in accordance with the restrictions imposed by the legal system (Rubab, [2018](#)). The Constitution's Article 25 further protects the idea of impartial legal protection while reaffirming the equality of all people and outright forbids any kind of discrimination based on gender. This article also explicitly grants the State the authority to implement specific safeguards for the protection of women and children, highlighting the acknowledgement of the necessity for specialised defence measures.

### National Laws

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#### The Muslim Personal Law (Shariat) Application Act of 1937

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The Muslim Personal Law (Shariat) Application Act of 1937 the starting point for this paper's examination of Pakistan's domestic legal system within the parameters set forth by the Constitution. During the time when the subcontinent was governed by the British, a piece of legislation was passed whose scope included the regulation of Muslim community-specific matters involving marriage, divorce, and succession.

The Muslim Personal Law (Shariat) Application Act of 1937 is of critical importance to Pakistan's legal system because it defines how Islamic principles should be applied to various facets of personal law, including the area of inheritance among Muslims. Although this legislation primarily follows accepted interpretations of Islamic law, it includes specific provisions intended to grant women inheritance rights, though these are potentially influenced by prevailing cultural and societal norms (Law, Muslim Personal. "Muslim Personal Law (Shariah) Application Act." Enacted by the Government of India in (1937)).

Both daughters and sons are recognised as legitimate heirs in the complex web of inheritance procedures under this legal framework. Daughters, who are referred to as "sharers," are given a share of their father's or mother's estate, which is typically equal to half of what a son receives. This concept derives from the fundamental principles of Islamic inheritance law, according to which different distributions are required for various inheritors depending on their kinship with the deceased and the specifics of the inheritance. Additionally, the act recognises widows' rights to inherit property. The "dower" or "mehr," as it is commonly known, is a portion of a deceased husband's assets that widows are entitled to. This requirement aims to prevent a situation where widows face destitution after their husbands pass away by providing a minimal level of financial support. The Muslim Personal Law (Shariat) Application Act aims to grant women inheritance rights within the framework of Islamic principles, but it is important to recognise that due to cultural norms and familial dynamics, the actual realisation of these rights may differ (Rubab,2018). In some cases, traditional interpretations might be accepted, which might result in a more restricted inheritance distribution for women. However, this legislative action is an important step towards the recognition and protection of women's inheritance rights under Pakistani Islamic law.

### The Family Courts Act 1964

Despite not being solely focused on inheritance-related issues, the Family Courts Act of 1964 plays a critical role in giving women certain rights and avenues to resolve inheritance-related disputes in the context of their families. This legislation establishes specialised family courts that are created with the express purpose of resolving a wide range of family-related issues, including inheritance-related disagreements. The act greatly strengthens the guarantee that women have a designated platform to assert their rights when involved in inheritance-related disputes by creating a

specialised arena for these issues. The Family Courts Act perceptively emphasises the need to address these challenges within a contextually appropriate manner in cases where women encounter obstacles in defending their legitimate claims because of prevailing traditional biases or a lack of awareness. When faced with circumstances where their inheritance rights are being restricted or infringed upon, the act gives women a way to pursue legal remedies and protections (Munir, 2006).

The provisions of the act cover a wide range of rights, including the ability to present evidence to support claims, hire legal counsel, and take advantage of a fair and impartial legal system. The act also places a strong emphasis on alternative dispute resolution methods like reconciliation and mediation, which can help women resolve inheritance-related disputes in a less combative environment. The Family Courts Act does not intricately create new inheritance rights for women, but its implementation creates a system that validates their access to legal recourse and creates a fair forum for resolving inheritance disputes. This legislative action plays a critical role in amplifying the agency of women by including inheritance issues within the larger field of family law (Rubab,2018). This allows them to assert their rights and navigate the complexities of inheritance-related obstacles with more effectiveness.

### The Punjab Partition of Immovable Property Act 2012

The Punjab Partition of Immovable Property Act 2012, enacted as part of the Punjab Women Empowerment Package 2012, was drafted by the Provincial Assembly with the goal of expediting the resolution of partition cases and proposing mechanisms to alleviate the difficulties caused by prolonged litigation, particularly among joint property owners. Prior to the introduction of this change, the Act had a provision that allowed a single co-owner to request the appointment of a referee for dividing jointly owned property (Munir, 2006). However, this clause has been removed to guarantee that the appointment of a referee requires the unanimous permission of all co-owners, so protecting against the partition of jointly held property without the knowledge of women co-owners.

### The Punjab Land Revenue (Amendment) Act of 2012

The Punjab Land Revenue (Amendment) Act of 2012 imposes a legal responsibility on the Revenue officer upon the acceptance of inheritance mutation,

requiring the issuing of notices to all co-owners of jointly owned land without the need for a formal application. This instruction is intended to promote the submission of a private partition plan that has been unanimously agreed upon by all co-owners within thirty days. Failure to submit such a scheme within the specified deadline compels the Revenue officer to commence proceedings for common property partition. Furthermore, a 2012 revision to the Punjab Land Revenue Rules of 1968 emphasises the required character of the Revenue Officer's duties. This amendment requires the Revenue Officer to painstakingly document the statements of at least two people of good standing, preferably Lambardars or members of local government, referring to the deceased's lawful heirs. This paperwork comprises securing the deceased's and their legitimate heirs' signatures or thumb imprints on the Register of Mutation, as well as copies of relevant papers such as Computerised National Identity Cards, Form B, or equivalent records. The primary goal of these steps is to ensure the appropriate depiction of all legal heirs within the inheritance mutation, hence ensuring the accuracy of the information presented (Yaseen,2022).

### **Contemporary Challenges and Socioeconomic Implications**

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Land rights can be acquired through a variety of processes, including land acquisition, gifting, or following succession regulations. In Pakistan, the most common way for women to acquire property is through inheritance; yet, this right is inextricably connected with familial relationships and lacks autonomy from family dynamics. In Pakistan, agricultural land is generally kept as private property, a realm controlled by men who both own and supervise land, eventually passing it down via inheritance, while women's presence remains noticeably marginalized (Rao, 2005).. This situation exemplifies a hierarchical family system in which those with higher influence within the family, primarily male members, exercise control over property holdings, relegating others in lower tiers to obscurity as legal claimants. This lowered position limits meaningful participation in family asset choices, adding to the existing gender inequities in resource access and control between men and women. Men's unrivalled domination over land within familial and community realms acts as a tool to perpetuate gender-based supremacy, as seen by the routine exclusion of women in succession proceedings, since male family members invariably decide the division of family property.

These distorted configurations of land ownership both foster and exacerbate existing disparities, and it is imperative that this disparity be addressed not only for the sake of land ownership, but also for the potential to significantly transform women's societal and economic standing. Women might more successfully manage and negotiate the prevalent power relations within the family structure if they gained access to land (Butt, 2016) . However, the path to realising this right has been beset with significant prejudices and hurdles that have persisted. While it is indisputable that Islam grants women the ability to inherit property, as is usually stated in talks about women's rights, it is critical to recognise that significant processes obstruct the realisation of this right in practise. Despite the historical setting in which this privilege was given upon women at a time when no other legal framework or social order recognised it, actual execution is hampered by multiple processes that prevent women from claiming their lawful inheritance.

The topic of women's land ownership and authority has long been fraught with complexity and disputes, seen both at the macro level of the State and in the microcosms of families and communities. Despite women's legal right to property ownership, this concern has not been met universally across the range of State-led initiatives aiming at establishing redistributive land reforms. Furthermore, the road of inheritance as a method of gaining access to property is usually avoided by using cultural and customary restrictions. As previously stated, women's access to land is often regulated and governed by male family members. This reliance is used as power to force women to give up their proper share. This practise is further sanctioned under the guise of 'honourable' behaviour, since it assures the woman's biological family's enduring support, particularly her brothers (Hannah, 1971) . The natal family is viewed as a critical safety net, especially for married women, giving instant refuge and aid. As a result, women frequently surrender their rights in order to maintain this network, maintaining a system in which they bargain away their rights.

Asserting one's proper portion of inheritance entails rejecting what the natal family has provided, and this action is interpreted as causing a schism within that connection. This schism causes the woman to be excluded from the family fold, depriving her of the ability to rely on their support if her marital or in-law relationships deteriorate. Women frequently accept this compromise not simply to avoid being regarded as self-centered, but also because they believe that giving up their entitlement is an honourable option. This

phenomenon highlights the pervasiveness of patriarchal constructions and ideals of respectability. Women who do not demand their land rights are put up as models of 'respectability,' their compliance held up as the ideal norm for women of integrity.

Whatever lens is used to look at this issue, there is an underlying expectation that women would give up their entitlement in exchange for something that can never fully equal the monetary value of what they have given up. Furthermore, the practise of endowing daughters with dowries is interpreted as a way to balance their claim to inheritance (Hannah, 1971). Daughters are traditionally gifted with a dowry upon marriage, as is usual in South Asia, and this contribution is seen as a substitute for whatever inheritance they may possess in the family estate. This is true even when the real monetary worth of the daughter's part frequently exceeds the dowry's valuation.

One element contributing to this opposition is the reluctance to reduce land holdings via fragmentation. Allocating women's proper portion would undoubtedly decrease total land holdings, limiting the land available to male family members. Concurrently, practises such as discouraging female family members from marrying, forcing them to marry within the family, or encouraging their commitment to religious vows (marrying them to the Quran) are socially sanctioned techniques for keeping land within the family's domain. Giving a share of property to a married sister or daughter is practically transferring land title to the son-in-law or another family unit. This has ramifications not just for the size of the land holding, but also for the family's social standing and influence in the community. Women's illiteracy, lack of legal understanding, and limited access to state institutions and courts all contribute to this problem. Women's reluctance to initiate legal processes can be linked not just to their lack understanding of how the legal system works, but also to the resource-intensive nature of legal activities. Pursuing a lawsuit generally takes significant money, and women may not be able to continue a prolonged legal struggle over an extended period of time (Kalshian, 2011).

Furthermore, women's illiteracy and lack of legal awareness prevent them from understanding the complexities of legal processes and the available options for expressing their rights. The lack of access to State institutions and courts exacerbates the problem, making it difficult for women to navigate the legal terrain successfully. These complex constraints cumulatively limit women's ability to participate effectively in legal procedures and protect their land

ownership rights. When women resist these profoundly rooted cultural conceptions and defend their right to land, they risk becoming society outcasts. Such behaviours frequently result in threats and, in severe circumstances, violence. Furthermore, women navigating these conditions must struggle with their relatives using illegal means to keep land inside the family's domain.

Furthermore, it is critical to understand the distinction between property ownership and real control over it. Women usually migrate from their biological family after marriage, making it difficult for them to exercise effective control over the property, even if it has been properly given to them (Hussain, 2015). While they may be formal owners on paper, eliminating male family members who continue to work the property and see it as their own is a difficult undertaking. This circumstance fosters a system in which women's nominal ownership is greatly separated from their physical authority over the property. The effort to establish women's land ownership is predicated on the assumption that the institutions and authorities in charge of enabling ownership transfers are easily accessible to women. However, public places are embedded within a cultural framework that prioritises men. This gendered delineation of spaces results in a situation in which women are unfamiliar with engaging with the administrative system, including determining which State institutions to approach, identifying the appropriate individuals to converse with, and even basic aspects such as locating the relevant office. This weak relationship with State institutions is a significant impediment to achieving this entitlement.

## Conclusion

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Finally, the complicated interplay between cultural paradigms and the growth of women's inheritance rights in Pakistan creates a rich tapestry that indicates both persisting problems and prospective avenues to gender equality. The evolution of these rights has been characterised by a complex interplay of historical legacies, legislative frameworks, and deeply established society norms, all of which have together created the landscape of women's inheritance in the nation. Cultural paradigms have had a major impact on women's inheritance rights, frequently limiting their realisation within the complicated web of familial and societal interactions. Traditional conventions, reinforced by patriarchal structures, have pushed women to the margins of land ownership, resulting in discrepancies that persist. Women's marginalisation within inheritance practises has been

reinforced by the inherent assumption that women's tasks are restricted to domestic domains, which is interwoven with the view of land as a male-dominated domain (Kalshian, 2011). Though laudable in meaning, the goal of upholding family honour and stability has ironically been used to limit women's inheritance claims, casting a lengthy shadow over the trajectory of these rights. Women's inheritance rights have evolved in a nonlinear and nonuniform manner, reflecting the complex interplay between legal frameworks and cultural forces. The passage of legislation, such as the Muslim Personal Law (Shariat) Application Act of 1937, attempted to incorporate Islamic precepts into inheritance practises, giving women a footing in a largely male-dominated arena. However, these legal measures frequently contradict with deeply ingrained norms, resulting in a complicated dichotomy between conventional interpretations and modern legal changes. The delicate interaction between state-driven reforms and traditional practises has created an environment in which implementation is still a struggle, and the outlines of women's inheritance rights continue to change as a result of this interplay.

Women have shown endurance and agency along this trajectory, attempting to question traditional assumptions and assert their appropriate place within the sphere of inheritance. Women's refusal to accept a submissive position has been met with opposition, as

they fight the deletion of their inherited privileges. Grassroots movements, lobbying activities, and projects aimed at increasing legal literacy have all contributed to a progressive shift in perspectives, creating more understanding and challenging to the status quo. Recognising the interconnectedness of women's experiences is critical in the quest of equal inheritance rights. Factors such as socioeconomic inequality, regional location, and educational access all influence the realisation of these rights, adding to the trajectory's complexity. As women negotiate the maze of cultural expectations, legal requirements, and individual autonomy, it becomes clear that no one strategy can handle the numerous issues at hand. In Pakistan, the evolution of women's inheritance rights demonstrates the inextricable relationship between cultural paradigms, legal frameworks, and societal dynamics (Hussain, 2015). Gender equality demands not only the reformation of laws and regulations, but also the alteration of deeply ingrained norms and views. Initiatives that raise women's legal awareness, expand their agency, and promote a nuanced debate on cultural constructions are critical in charting a path towards a more equal landscape. Women's inheritance rights are a painful reflection of Pakistan's continual battle to reconcile tradition with the quest of justice and equality as cultural paradigms continue to shift in tandem with social progress.



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