

Women's Inheritance Rights in Pakistan: Bridging the Gap Between Islamic Mandate and Cultural Practice

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Abstract

*This article provides a comprehensive examination of the inheritance rights of women in Pakistan through the dual lenses of Islamic jurisprudence and national legislation. While the Qur'an and Sunnah established a revolutionary system of female inheritance fourteen centuries ago, pervasive cultural norms and misconceptions in various Pakistani regions systematically deprive women of their rightful shares. The study delineates common social misconceptions, elaborates on the precise mathematical principles of Islamic inheritance law (*Ilm al-Faraid*), and critically analyzes the Pakistani legal framework, including the Muslim Family Laws Ordinance, 1961, the Women's Property Rights Act, 2020, and the role of NADRA inheritance certificates. The article concludes with pragmatic recommendations aimed at enhancing public*

awareness, strengthening legal enforcement mechanisms, and achieving gender justice as ordained by Islamic principles.

Keywords: *Women's Inheritance, Islamic Law, Pakistan, “Ilm al-Faraid”, Gender Justice, Legal Rights, Cultural Misconceptions*

Introduction

Inheritance rights constitute a cornerstone of economic empowerment and social justice for women in an Islamic society. Pakistan, constitutionally an Islamic Republic, is mandated to govern its citizens, particularly in personal matters, according to the tenets of Sharia. The Qur'anic verses on inheritance are remarkably detailed and explicit, leaving little room for ambiguity. Despite this divine clarity, a deep chasm exists between Islamic doctrine and its practical application in Pakistan. Societal customs, patriarchal structures, and deliberate misinterpretations often override religious and legal statutes, leaving countless women economically disenfranchised. This article seeks to dissect these contradictions, reaffirm the Islamic position, and evaluate the legal mechanisms in place to protect women's inheritance rights in contemporary Pakistan.

Common Misconceptions and Cultural Practices Depriving Women

The denial of women's inheritance in Pakistan is often rationalized through culturally ingrained misconceptions that directly contradict Islamic teachings.

1. Dowry as a Substitute for Inheritance:

A prevalent practice involves families giving a dowry at the time of a daughter's marriage on the condition that she forfeits her future inheritance rights. Islam treats dowry (Mahr) and inheritance (Mirath) as two distinct,

non-interchangeable entities. The “Mahr” is a mandatory gift from the husband to the wife, symbolizing respect and financial security. Inheritance is a pre-ordained right from Allah, bestowed upon all eligible heirs, irrespective of any prior gifts.

2. Primacy of Male Heirs in Agricultural Land:

There is a strong bias, particularly in rural and agrarian communities, that land, especially agricultural land, must remain with male heirs to preserve the family's patrimony. Daughters are often coerced into relinquishing their shares or are compensated with minimal cash amounts. This practice has no basis in Sharia, which makes no distinction between types of property.

3. Forced Relinquishment (*Haq Tyag*)

Women are frequently subjected to immense social and emotional pressure to sign relinquishment deeds (*Talaq-e-Milkiyat*), formally giving up their share in favor of their brothers. Islamic law is clear that any transaction under duress is null and void. The Prophet Muhammad (peace be upon him) said, *****"The blood, wealth and honour of a Muslim is inviolable upon another Muslim."**** (¹)

Forcing a woman to give up her wealth is a violation of this principle.

4. Disinheriting Widows and Orphans:

Upon the death of a man, his male relatives sometimes seize control of the entire estate, leaving the widow and her children destitute. The Qur'an explicitly allocates

(1) **Sahih Muslim**, Book of Righteousness, Hadith **2564** .

shares for the widow, and the children are primary heirs. Depriving them is a grave sin.

5. Discrimination in Polygamous Families:

In families with multiple wives, the children of the first wife may collude to exclude the children of subsequent wives from their inheritance. Sharia law mandates that all children, regardless of which wife they are from, inherit equally from their father.

3. The Islamic Foundation: Quranic and Prophetic Guidance on Inheritance

The science of inheritance (*Ilm al-Faraid*) is one of the first branches of Islamic knowledge to be emphasized due to its precision and divine origin. The primary sources leave no doubt about women's entitlements.

A. The General Principle of Entitlement:

The Qur'an establishes the fundamental right of women to inherit in a verse that was revolutionary for its time:

"For men is a share of what the parents and close relatives leave, and for women is a share of what the parents and close relatives leave, be it little or much—an ordained share" ⁽²⁾

This verse unequivocally establishes the right of women to inherit, making it a God-given decree (*Fareedatan min Allah*).

B. Specific Shares for Female Heirs

Surah An-Nisa (Chapter 4) details the specific shares, removing any ambiguity.

1. The Daughter's Share:

If the deceased has only one daughter, she receives one-half of the estate. If there are two or more daughters, they collectively

(2) (Surah An-Nisa, 4:7)

receive two-thirds . If the deceased has both sons and daughters, the principle of "a male shall have twice the share of as female applies. This is often misinterpreted as ⁽³⁾ injustice, but scholars explain it in the context of the male's financial responsibilities in Islam, where he is obligated to provide for his family, including his sisters before their marriage.

2. The Wife's Share:

If the deceased has no children, the wife receives one-fourth of the estate.

If the deceased has children, the wife's share is one-eighth. "And for you is half of what your wives leave if they have no child. But if they have a child, for you is one-fourth of what they leave... And for the wives is one-fourth if you leave no child. But if you leave a child, then for them is one-eighth of what you leave." ⁽⁴⁾

3. The Mother's Share:

If the deceased has no children or siblings, the mother receives one-third.

If the deceased has children or siblings, the mother's share is one-sixth.

"And for his parents, to each one of them is a sixth of what he leaves, if he has children. But if he has no children and his parents are his heirs, then his mother shall have a third..." ⁽⁵⁾

C. Prophetic Emphasis and Prohibitions:

The Prophet Muhammad (peace be upon him) rigorously enforced these divine rules.

(3) (Surah An-Nisa, 4:7)

(4) (Surah An-Nisa, 4:12)

(5) (Surah An-Nisa, 4:11)

On the Invalidity of Bequests to Heirs: To prevent people from distorting the fixed shares through bequests, the Prophet said: "Allah has given every rightful person their right. So, there is no bequest for an heir." This means one cannot will ⁽⁶⁾ property to a legal heir beyond their fixed share, preventing favoritism that could disinherit others.

On the Importance of Learning Faraid The Prophet said, Learn the laws of inheritance and teach them to the people, for they are half of knowledge." ⁽⁷⁾

He also warned "The one who deprives an heir of his inheritance, Allah will deprive him of his inheritance in Paradise on the Day of Resurrection." ⁽⁸⁾

4. The Pakistani Legal Framework

Pakistan has codified these Islamic principles into its national legal system to provide a formal mechanism for enforcement.

1. The Constitution of Pakistan, 1973:

Article 23: Guarantees the right to acquire, hold, and dispose of property.

Article 24: Provides protection of property rights.

Article 34: Directs the state to take steps to ensure full participation of women in all spheres of life.

2. Muslim Family Laws Ordinance, 1961 (MFLO):

This was a landmark legislation that reformed personal laws. While it primarily addresses marriage and divorce, its

(6) Sunan Abi Dawud, Book of Wills (Kitab al-Wasaya), Hadith 3565

(7) Sunan Ibn Majah, Hadith no. 2719 .

(8) Sunan Ibn Majah, Book of Wills (Kitab al-Wasaya), Hadith 2703

provisions reinforce the Islamic inheritance system by legally recognizing the shares of all heirs, including females.

3. The Women's Property Rights Act, 2020 (Punjab & Sindh):

This is a significant step forward. It explicitly criminalizes the act of depriving women of their property rights through coercion, fraud, or forgery. It provides for imprisonment and fines for those who force women to sign relinquishment deeds.

4. NADRA Inheritance Certificate:

The National Database and Registration Authority offers a mechanism to obtain a formal Inheritance Certificate. This document, based on Islamic law, legally identifies all legal heirs and their respective shares. It serves as a crucial tool to prevent fraudulent transfers of property after the death of the owner.

5. Discussion: Analyzing the Disconnect

Despite a robust Islamic and legal framework, implementation remains the core challenge.

Social Resistance: Deeply entrenched patriarchal norms and the social cost of claiming their rights deter many women from pursuing legal action. The fear of severing family ties is a powerful deterrent.

Legal Lacunae and Enforcement:

While laws exist, the judicial process can be slow, expensive, and inaccessible, especially for women in rural areas. Corruption and local power structures often side with male heirs.

Misinterpretation of Religion:

A critical issue is the conflation of local custom (urf) with religion (deen). Many individuals, including some local

religious figures, inadvertently or deliberately uphold un-Islamic practices in the name of tradition.

6. Recommendations

To bridge the gap between law and practice, a multi-pronged approach is essential.

1. Comprehensive Awareness Campaigns:

The government and civil society must launch nationwide campaigns using mosques, madrassas, schools, and media to educate both men and women about the unalterable inheritance rights granted by Islam.

2. Empowering the Judiciary:

Establish dedicated, gender-sensitive courts for speedy disposal of inheritance disputes. Training judges and lawyers specifically in Ilm al-Faraid is crucial.

3. Leveraging Technology:

Make the NADRA Inheritance Certificate mandatory for the mutation of any property after death. This process should be simplified and promoted aggressively.

4. Engaging Religious Leaders: Ulama and Khateeb (preachers) should be mobilized to deliver sermons and lead workshops that unequivocally condemn the denial of women's inheritance as a sin, citing the clear Quranic verses and Hadith.

5. Support Systems for Women:

Provide free legal aid and counseling services to women pursuing their inheritance claims to help them navigate the social and legal challenges.

7. Conclusion

Islam, through the precise science of Faraid, bestowed upon women economic rights and agency that were unimaginable in

7th-century Arabia. The continued deprivation of these rights in Pakistan is not a failure of Islamic law, but a failure of its implementation, overshadowed by cultural accretions and patriarchal interests. Upholding women's inheritance rights is not merely a legal obligation but a religious imperative and a test of faith for the Muslim society of Pakistan. By realigning societal practices with the unequivocal commandments of the Qur'an and Sunnah, and by rigorously enforcing the protective legal statutes, Pakistan can ensure the economic justice and dignity that Islam guarantees to every female heir.

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