

## **Women's Inheritance Rights in Pakistan: Barriers in Implementation Despite Statutory Protections**

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### **ABSTRACT**

*Women's inheritance in Pakistan is formally protected under Islamic injunctions, constitutional commitments to equality, and statutory reforms made to discourage deprivation and promote implementation. Yet, both in urban and rural contexts women remain excluded from inherited property - in particular land - through practices that take advantage of social pressure, administrative opacity and procedural delay. This paper argues that the best way to understand the problem is as an "implementation gap": the availability of the right in principle and in law but its routine neutralization at the points where property changes from entitlement to possession - death registration, mutation, record maintenance and partition. Using a doctrinal and desk-based socio-legal methodology, the paper first lays out the Islamic normative basis of women's inheritance in the form of a binding entitlement (fara'id) and then charts the constitutional and statutory framework in Pakistan, including the criminal preclusion of depriving women of inheritance and enforcement mechanisms at the provincial level. It then identifies the key barriers: coercive "consent", family led bargaining which constructs claims around dishonour, capture of revenue processes, the economics of litigation, and poor accountability. The paper finally looks at recent judicial and Shariat-court arguments rejecting customs that deny women inheritance and placing an increasing positive burden on the state to safeguard women's shares. The conclusion suggests focused reforms grounded in proactive state facilitation, revenue governance safeguards, and evidentiary scrutiny of waivers, legal aid, and meaningful enforcement of criminal law to transform formal rights into lived entitlements.*

**Keywords:** *Women's inheritance, Pakistan, fara' id, Islamic law, land records, mutation, partition, implementation gap, coercion, Section 498-A PPC, Federal Shariat Court, Supreme Court.*

### **INTRODUCTION**

Inheritance is one of the most important means by which generational wealth, security, and social power is transferred. In Pakistan, where land and housing are still the dominant store of value, denial of inheritance to women is not just a family dispute; it is an institutional cause of women's economic dependence. Property ownership has a much wider impact than just on assets: it is linked to bargaining power in household, resilience after divorce or widowhood, ability to access credit, housing security and autonomy in decision-making. When women are systematically excluded from inheritance, the effect is a persistent gender gap that can only be closed by law and effective institutional support.

A striking feature of the inheritance of women in Pakistan is that formal legitimacy is unusually strong. The right finds moorings in Qur'ani allotment of shares and classical juristic structure, in constitutional norms of equality, and in statutory provisions that regard deprivation as punishable wrongdoing. Yet, in many communities, inheritance is still told as a story of "family arrangement" where women claims are seen as negotiable, shameful or disruptive. This results in the existence of a dual order, where the state recognizes women's right as lawful heirs, but social practice frequently treats women's shares as something to be waived for harmony.

The contradiction remains due to the fact that, rarely, does dispossession occur by one dramatic act. Instead, it is played out by a series of pressures and procedural maneuvers. A woman may be talked out of seeking information altogether; if she does seek, she may be told she has already received her "share" through dowry or wedding expenses; if she does insist, she may be bullied into signing a "relinquishment" or informal settlement; if she persists, land records can be juggled, and possession consolidated by male relatives. If she goes to court, the process can drag out for years and exhaustion becomes a tool of delay. Each step appears in isolation to be "normal." Together they constitute architecture of dispossession that turns a clear legal entitlement into an expensive confrontation.

This paper argues that the solution should be commensurate with the structure of the problem. If women are losing inheritance in the junction between the social pressure and administrative procedure, then the enforcement must be active, not just reactive. Women should not have to go through years of litigation before they can get what the law already gives them. The analysis therefore moves in three steps, first, providing clarity of the Islamic position to respond to the common argument that disinheritance is a reflection of religion, second, reviewing the constitutional and statutory safeguards afforded to the right of inheritance in Pakistan and the institutional pathways for implementation, and third, identifying the major barriers to implementation, illustrated through judicial reasoning that has come to link women's right to inheritance as both a legal right and a responsibility of governance.

With the stakes and the nature of dispossession now delineated, the next section identifies why Islamic law, which has often been invoked as the justification for exclusion, actually offers some of the strongest normative protection for women's inheritance.

## **METHODOLOGY**

This study uses a doctrinal and desktop socio-legal approach. First, it makes doctrinal analysis of the principles of Islamic inheritance (*fara'id*) and the extent to which these principles are used in Pakistan's constitutional and legal discourse. Second, it examines the constitutional provisions in Pakistan pertaining to equality and property rights and statutory provisions that criminalize deprivation of women's inheritance and providing enforcement mechanism. Third, it employs the analysis of case law and the reporting of judgments: whereas one could simply list a number of cases, instead, the recurring themes in the judicial decisions - e.g. condemning "custom" as a pretext for illegality, recognizing delay as abuse of process, framing inheritance by women as a right which must be actively protected by the state - are extracted. Finally, the paper uses process-mapping to identify the points where implementation breaks down in practice: succession opening, documentation, revenue entries, possession, partition and litigation. The purpose is one of explanation and reform: to demonstrate why a right that enjoys strong normative and legal protection is often unrealized and which interventions are the most disruptive to the mechanisms of dispossession. Transition: Since the gap lies between entitlement and enforcement, the discussion in this section starts with the normative basis of women's inheritance in Islam-did you see that the real-life problems are still far from what the basic code of inheritance in Islam is?-and then moves to deal with the legal architecture of Pakistan as well as some real-world barriers to achieving implementation.

## **ISLAMIC PERSPECTIVE: WOMEN'S INHERITANCE IS A BINDING ENTITLEMENT**

Islamic inheritance is organized around fixed shares (*fara'id*) which convert kinship into enforceable entitlements. The basic ethical principle is not that men are "owners" and women dependents, but that wealth must be dispensed after death according to some divinely inspired scheme which acknowledges multiple heirs, including women. This scheme is important for Pakistan because customary practices that deem women subservient often pass as "tradition" and occasionally insinuate religious legitimacy. Clarification of the Islamic position is thus a corrective - to distinguish faith-based entitlement from culture-based exclusion.

Within the Qur'anic framework women's shares are not shown to be optional gifts from male relatives. They are allocated as rights which result from the opening of succession. This distinction is important because many practices of deprivation are based on subverting the idea that inheritance is an obligation into the notion that it is generosity. Where inheritance is being considered as a favor, it is socially acceptable to bargain it away, whereas where inheritance is considered a right, withholding it is morally blameworthy. In juristic terms the estate is the bearer of claims of heirs; it is no pool for powerful relatives to distribute according to their preference.

A typical social rationalization is that men "provide" and thus women can sacrifice inheritance for the sake of family harmony. Yet Islamic law does not make women's inheritance subject to whether or not men provide maintenance. The issues of maintenance and inheritance are on different moral and legal tracks. A duty to maintain cannot extinguish an heir's entitlement. Another rationalization is the language of "forgiveness" - women are said to "forgive" their shares to brothers. Islamic ethics loves giving but only voluntarily giving. Where economic dependence, threats or social boycott are used to shape "consent," what looks like forgiveness may be coerced surrender. In that sense, repetitive occurrences of women giving up shares - not least without independent legal advice - should point to serious doubts of free will rather than being hailed as virtue.

The Islamic framework thus provides a strong normative critique of the customs of disinheritance. But moral clarity is not enough to bring down administrative and procedural exclusion. A woman can be entitled in principle and be deleted in practice if institutions fail to record her, inform her or protect her from coercion. This is why this next section shifts from norms to enforcement: how Pakistan's legal system turns the right into remedies-and why these remedies often come too late or are still out of reach.

### **STATUTORY & CONSTITUTIONAL SAFEGUARDS IN PAKISTAN**

Pakistan's constitutional structure gives an overriding commitment to equality before law and protection of property rights. Inheritance deprivation, particularly when it applies to women in a systematic and systematic manner, is incompatible with the constitutional guarantee that the citizens have the right to equal protection and cannot be deprived of rights on the basis of discriminatory practice. Constitutional protections, however, are quite at the high level. In the ordinary case of inheritance disputes, results are less determined by constitutional rhetoric and more by who controls the records, possession and procedure. The effectiveness of constitutional commitments therefore depends upon whether the institutions of ordinary people operationalize them.

A major step forward in the statute books has been the explicit criminalization of depriving women from inheritance by deceitful or illegal means. Criminal law is relevant here because it turns deprivation from being a matter of purely "private" dispute to a public wrong. In theory such is capable of discouraging coercion, fraud and engineered dispossession, especially where women are pressured into waivers or left out of the documentation of succession. In practice, the deterrent effect is dependent on the realities of enforcement: reporting, investigation, prosecution, and protection against retaliation - conditions that are often weak in cases of intra-family dispute and issues of social sensitivity.

Alongside criminalization, Punjab has implemented a special mechanism of enforcement, which is focused on protecting women's property rights from coercion, fraud and harassment, as well as complaint-based remedies. This is important because it indicates a step away from the passive adjudication and move towards administrative protection. Instead of expecting women to fight lengthy civil battles, however, such laws intend to bring a more expedited route to relief where women's ownership or possession is being undermined. Still, there are aspects to effectiveness: awareness, accessibility, institutional capacity and coordination with such revenue machinery where many deprivations of inheritance are executed.

At the center of the implementation of inheritance is land administration. In Pakistan the meaning of ownership tends to be very much dependent upon revenue records and mutation processes. If a woman isn't registered as an heir-or is registered, but is soon pressured into "adjustment"-her legal claim is weak. When the official and possession match up against her, she is burdened with the task of reversing an established reality. Thus, although Pakistan's legal framework provides a good "rights" narrative, implementation requires the prevention of administrative exclusion at the earliest point of implementation.

Transition: If they have access to rights in drawing, why are women losing in practice? The next section maps out the barriers - not as isolated issues, but as interlinked mechanisms that together create dispossession.

## **BARRIERS TO IMPLEMENTATION: HOW IMPOVERISHMENT OCCURS IN PRACTICE**

### **1. Social pressure and the "good daughter" ideology**

The most effective mechanism of deprivation, however, is in silence. Many women are taught that it is morally improper or greedy or disloyal to ask for inheritance. Where marriage takes women into other household, natal families may respond as though she is betraying her inheritance claim; in-laws may also discourage conflict in order to maintain social ties. This presents a no-win situation, in which claiming rights involves punishing the reputation; and failing to claim results in the retention of social belonging but the sacrifice of economic security. Legal rights that rely on the victim of conflict initiating conflict will predictably fail under such norms.

### **2. Dowry as "substitute inheritance"**

A common argument is that the cost of the wedding or dowry already amounted to a woman's share. This practice is particularly harmful as it takes a legally-merchantable post-death entitlement and turns it into a nebulous pre-marriage story that is controlled by the same family members that profit from disinheritance. It also overlooks the fact that often dowry is an asset for the marital household and not the woman as a separately controlled asset. Treating dowry as inheritance replaces a legally accountable process to inform of an informal and non-verifiable claim.

### **3. Forceful waivers and manufactured consent**

Women can be coerced into signing "relinquishment" documents or accepting informal settlements. Even where paperwork seems valid, the context may be determined by fear of violence, emotional blackmail, threats of severed relations or economic dependence. Courts and administrators can also accept documents as evidence of consent, failing to investigate for coercion. The habits of the legal system in dealing with evidence - what counts more than context is the signature - can convert coerced waivers into legally-enforceable surrender.

### **4. Administrative exclusion - mutations and land records**

The mutation stage is a repeat point of failure. If women are not informed or are absent, records may be updated in ways that do not include them or make quick re-consolidation of property to male relatives. If it is corrected later, it is slow and expensive. Administrative opacity also provides a power to intermediaries who can "manage" files and outcomes. Where women lack mobility, are without documentation or have not been used to offices they are structurally disadvantaged precisely at the point where early inclusion would preclude later conflict.

## **5. Delay tactics and litigation as punishment**

If a woman goes for a civil remedy - partition, declaration, canceling fraudulent entries - she may have to go through years and years of proceedings. Delay is in favour of the party in possession. It raises the cost of legal proceedings, takes up time, and puts pressure on women to compromise. Inheritance litigation becomes therefore less a matter for legal merit, and more a matter of stamina and resources. Where there is an accommodation of repeated adjournments and procedural objections by the system, then delay is a strategy of dispossession.

## **6. Weak enforcement of criminal law & fear of retaliation**

Even in the presence of criminal law, complaint against brothers, uncles or other close relatives is explosive from the social point of view. Women are afraid of violence, eviction or loss of family support. Police may consider inheritance "civil" and discourage registering. Prosecutors may be under no incentive and witnesses unwilling. Without an enabling enforcement environment, criminal provisions are merely symbolic and not transformative.

Transition: These barriers are becoming more obvious in judicial reasoning. Recent decisions demonstrate courts rejecting "custom" and denouncing abusive litigation practices as well as - most important - instituting affirmative responsibility on the state to secure women's inheritance.

## **CASE LAW AND JUDICIAL TREND: FROM PASSIVE ADJUDICATION TO THE STATE DUTY**

Recent reporting of Supreme Court reasoning emphasize that women's inheritance is not just their private entitlement and it is a right with constitutional and Islamic weight which the state must protect. The importance is not only on its consequences to individual litigants but in the frame: courts are increasingly speaking about deprivation as a social evil, and condemning delay as abuse of process, and calling for proactive mechanisms instead of waiting for women to fight case by case.

In a landmark judgment of the Supreme Court dated 2025 authored by Justice Athar Minallah, the Supreme Court has stated that "the permissibility of depriving women of their share in the inheritance amounts to violation of not only the principles of constitution but also Islamic command and it is the need of the hour to establish a concrete and accessible mechanism for the facilitation of women to obtain their share in inheritance rights without being mired in abusive litigation". One important aspect of this reasoning is that institutional design is seen as part of the remedy: if the design of the system systematically disadvantages women, the state cannot sit back and do nothing.

Parallel to this, the ruling of the Federal Shariat Court in the year 2025 dealing with the customs like 'Chaddar' and 'Parchi' is significant for a different reason: it deprives custom of any religious legitimacy, and describes such practices as un-Islamic and illegal with action to be taken against the violators under the concerned penal provision. This is significant because many communities protect their dis possessions by arguing that it is tradition or religion justified. When Shariat reasoning rejects that claim and it strengthens the moral and legal foundations for enforcement, it limits the room for "culture" to override rights.

Together these judicial developments signify a shift: rights no longer are perceived as being satisfied by mere availability of civil litigation. Courts are shifting towards the position that the state must be guaranteed access, prevent procedural abuse and recognize the deprivation of women's inheritance as a grave violation and not an acceptable family arrangement.



Transition: If the problem is systemic and the courts are increasingly recognising it to be so, the challenges for reform is to target the specific points in which women are excluded. The following section sets out some practical recommendations that are in line with the pathways of dispossession identified above.

#### **RECOMMENDATIONS: FILLING THE GAP IN IMPLEMENTATION**

1. Mandatory heir notification and verified inclusion at mutation stage: Whenever a death triggers a succession, all legal heirs - particularly women - should be notified and their presence or verified consent ensured before mutation entries are finalized.
2. Evidentiary safeguards for waivers: Any relinquishment by women should be subject to heightened scrutiny: Independent legal advice, explanation of consequences in writing and cooling-off periods in where feasible.
3. Strengthen and publicize complaint-based enforcement mechanisms: Provincial enforcement pathways should be accessible, time-bound and integrated with revenue offices in order to avoid "paper remedies", which do not alter records.
4. Legal aid and mobility support: Women need practical support: legal aid, stipends for transport to hearings, facilitation desks at courts and revenue offices.
5. Accountability for abusive litigation and record manipulation: Courts should have realistic costs imposed for delay; impose sanctions for fraud and false claims; revenue officials should be held accountable by having consequences imposed for unlawful entries.
6. Enforcement of criminal prohibitions with survivor-centered safeguards: Police training, complain registration supervision and protection from retaliation are all critical so that the criminal law is usable in practice.
7. Community and religious education to fit with Islamic entitlement: Given the fact that many deprivations are socially rationalized, there should be messaging through public channels that deny women inheritance is not "family honor" but injustice.

#### **CONCLUSION**

Women's inheritance rights in Pakistan enjoy a rare position of strong normative and legal legitimacy: Islamic injunctions provide for women's shares, constitutional principles promise equality and statutes condemn deprivation and provide for possibilities of enforcement. Yet deprivation continues because implementation fails in the places where the entitlement becomes reality - at the point where records are changed, possession is consolidated, and women are intimidated into silence or waiver. The implementation gap is preserved through interrelated forces: patriarchal bargaining, narratives of dowry, administrative exclusion, delay of litigation, and weak accountability.

Recent judicial and Shariat-court reasoning is important because it strikes at the ideological shield of 'custom' and increasingly gives the state a proactive role to ensure inheritance for women. But lasting change will require shifting from a model where women must fight alone to one where institutions notify, record, protect and impose as a part of routine governance. When the state approaches women's inheritance as an administrative duty rather than an individual private squabble, the room for coercion is reduced and the promise of the law becomes lived law.

## REFERENCES

- The Express Tribune, “State must ensure woman’s inheritance right” (Nov 16, 2025). [The Express Tribune](#)
- Dawn, “State must ensure every woman receives her rightful share in inheritance” (Nov 2025). [Dawn](#)
- Pakistan Today, report on Supreme Court ruling urging proactive mechanism and condemning abuse of process (Nov 16, 2025). [Pakistan Today](#)
- The Nation, “State responsible to secure women’s inheritance right: SC” (Nov 17, 2025). [The Nation](#)
- Federal Shariat Court coverage: The Nation, “FSC declares denial of women’s inheritance un-Islamic” (Mar 20, 2025). [The Nation](#)
- The News, “Shariat court outlaws ‘Chaddar’ and ‘Parchi’ custom in landmark ruling” (Mar 19, 2025). [The News International](#)
- Dunya News, “Federal Shariat Court declares denial of women’s inheritance un-Islamic” (Mar 2025). [Dunya News](#)
- National Assembly of Pakistan (PDF), “Chapter XXA Offences against Women—Section 498A PPC (prohibition of depriving woman from inheriting property)” (legislative text). [National Assembly of Pakistan](#)
- Punjab Commission on the Status of Women (PCSW), “Prevention of Anti-Women Practices Act, 2011” (overview and penalties). [Punjab Government Service Portal](#)
- The Punjab Enforcement of Women’s Property Rights Act, 2021 (official Punjab Laws page). [Punjab Laws](#)
- Women Development Department Punjab (PDF), “The Punjab Enforcement of Women’s Property Rights Act, 2021” (full text). [WDD Punjab](#)
- National Assembly of Pakistan (PDF), “The Constitution of the Islamic Republic of Pakistan (9th edition, Dec 2024 compilation)” (fundamental rights and property/equality provisions). [National Assembly of Pakistan](#)
- Pakistancode.gov.pk (PDF), “The Constitution of the Islamic Republic of Pakistan” (consolidated text). [Pakistan Code](#)
- Federal Judicial Academy (FJA), “Enforcement of Protective Legislation for Women” (discussion of protective laws including inheritance-related provisions). [FJA](#)