AL-ISRA
Vol.:5, Issue: 1, Jan -March 2026 PP: 195-228

OPEN ACCESS
AL-ISRA
International Journal of
Islamic Thought
ISSN: 2959-3603
www.israjr.com

Farāʾiḍ and the Denial of Women's Inheritance in Rural Pakistan: Islamic Law, Custom, and Legal Pluralism

Dr. Naseem Akhter
Associate Professor, Department of Islamic Studies, Shaheed Benazir Bhutto Women University, Peshawar
Email: khtr_nsm@yahoo.com

Dr. Aijaz Ali Khoso
Professor, Alhamd Islamic University Islamabad
Email: Aijaz.khoso80@gmail.com

Dr. Muneer Ahmed
Associate Professor, Alhamd Islamic University Islamabad
Email: Drmuneer313@gmail.vom

Abstract

Although the Qurʾān and the "science of the shares" (ʿilm al-farāʾiḍ) grant women shares in inheritance, these rights are frequently reduced, deferred, or relinquished in practice. In this article, I argue that this gap is best understood as a socio-legal problem produced within a plural normative field shaped by kinship structures, farāʾiḍ (Islamic law of fixed inheritance shares), local ʿurf (customary practice), and informal settlement practices. Drawing on Islamic legal doctrine, socio-legal scholarship, and theories of legal pluralism, I argue (1) that women's inheritance rights are shaped by textual norms, family strategies, and inequities in social power, and (2) that the exclusion of women from inherited property reflects the fact that legal entitlements in contemporary Pakistan are constrained, negotiated, and reconfigured.

Keywords*: women's inheritance, Islamic law, farāʾiḍ, Pakistan, legal pluralism, ʿurf, kinship, gender justice, socio-legal analysis*

Introduction

Islamic inheritance law grants women defined shares in property, yet kinship structures, customary practice, and informal settlement often narrow, defer, or deny those rights in rural Pakistan. Inheritance in this context operates as a socio-legal field in which the Qurʾān assigns women specific shares, while juristic interpretation, kinship structure, local custom, moral expectation, and institutional weakness shape their realization in practice.

In Pakistan, the interaction between Islamic legal doctrine, customary practice, and kinship structures becomes particularly visible in disputes over women's access to inheritance. Although Islamic law grants women specific shares in property, in practice many women are excluded, pressured into relinquishment, or informally deprived of their legally recognized shares. The issue is not whether women possess a right at a theoretical level, but how that right is mediated, negotiated, or denied within a plural legal and social environment.

In pre-Islamic Arabian society, patterns of inheritance often privileged male agnatic control over property and excluded women from inheritance. The Qurʾān intervened in this customary order by assigning specific shares to women and other heirs, thereby restructuring the distribution of property at death. As specified in the Qurʾān (Q. 4:7; Q. 4:11; Q. 4:12; Q. 4:176), daughters, wives, mothers, and sisters are recognized as legal heirs with defined shares. Muslim jurists later developed these Qurʾānic provisions into the science of the shares (*ʿilm al-farāʾiḍ*), which became a highly elaborated branch of Islamic law. Classical jurists treated these rules as binding legal entitlements grounded in divine command and elaborated through *fiqh* (jurisprudence). Thus, Islamic inheritance law occupies a central place within the legal order and reflects a clear concern with distributive justice by allocating fixed shares among heirs, thereby regulating property distribution after death, as well as promoting family responsibility and the protection of vulnerable claimants.[1]

Classical juristic literature further confirms the binding character of these inheritance rules. Jurists such as al-Sarakhsī, al-Kāsānī, and Ibn Qudāma treated the shares assigned in the Qurʾān as fixed legal entitlements that could not be overridden by custom or private agreement. In their detailed expositions of the law of inheritance, these scholars emphasized that the distribution of shares is governed by determinate legal principles rather than discretionary social practice. This doctrinal insistence underscores that women's entitlement to inheritance is firmly grounded in authoritative legal sources, even where its realization in practice remains contingent upon broader social conditions.[2]

However, the recognition of women's right to inherit has not guaranteed its realization in practice. Between legal text and lived reality lies a wide field of mediation that requires socio-legal analysis to explain how social and familial structures constrain legal entitlements. Women may know that they possess a share, but families and kinship networks often prevent them

from claiming it. Families often persuade women that demanding inheritance is morally selfish, socially disruptive, or religiously improper. Women may renounce their claims in favor of brothers under conditions that appear voluntary but are in fact structured by dependence, pressure, or fear of familial rupture. In other cases, families may leave property undivided and maintain informal male control while offering female heirs gifts, claims that dower (*mahr*) has already provided for them, maintenance, or assurances of familial support. These arrangements, often presented as natural and customary, may conceal deeply unequal distributions of authority.[3]

To understand this problem, it is insufficient to repeat the truism that Islam grants women inheritance or to describe every deviation from that rule as a product of ignorance or bad faith. What requires analysis is the social life of legal norms. Islamic inheritance law operates within family structures, village solidarities, *birādarī* (kinship group) networks, expectations of obedience, and culturally sedimented ideas of honor, reciprocity, and belonging. These social forms shape how legal claims are understood, whether families articulate them, and the forms through which they settle or suppress them. The question is thus how law is encountered, translated, and transformed within everyday life.[4] Recent scholarship has also drawn attention to the need to situate Islamic legal concepts within broader interpretive and social contexts.[15]

Pakistan's legal order is not exhausted by state legislation or formal judicial doctrine, nor can social practice be reduced to a residue outside law. Rather, multiple normative orders coexist and interact, including Qurʾānic inheritance provisions, *fiqh*-based understandings, statutory law, court practice, customary norms, informal mediation, and familial bargaining. Within such a plural normative field, women's inheritance rights may be affirmed at one level and undermined at another. A woman may possess a strong doctrinal claim but lack the social standing to pursue it; or she may have formal access to a court but face kinship retaliation for asserting that claim.

Legal pluralism reveals how power circulates through overlapping normative regimes and how rights may be diluted not by direct legal repeal but by social practices that redirect, postpone, moralize, or neutralize legal claims. This perspective highlights that legal norms do not operate in isolation but are continuously shaped by social relations and institutional contexts. It also explains why formally recognized rights may remain difficult to assert in practice, particularly where competing normative expectations constrain their exercise.[6]

Over the past several decades, Pakistan has developed a constitutional and legal discourse in which Islam occupies a central normative position, while matters relating to family, gender, and inheritance are deeply entangled with customary practice. Article 227 of the Constitution affirms that laws shall

be brought into conformity with the injunctions of Islam, and inheritance law has long been treated as a domain in which Islamic legitimacy is especially significant. Yet the state's invocation of Islamic legal principles has not eliminated practices of exclusion. On the contrary, one of the most striking features of Pakistan's inheritance landscape is the persistence of deprivation despite the existence of religious normativity, statutory mechanisms, and repeated public recognition of women's rights. This persistence invites a careful inquiry into the relation between norm and practice, doctrine and custom, legal entitlement and social enforceability.[7]

In Islamic legal doctrine, *ʿurf* refers to recognized custom or recurrent social usage. Muslim jurists have long debated the extent to which custom may inform legal interpretation in matters not fixed by explicit text. However, in discussions of inheritance, *ʿurf* cannot function as an independent ground for nullifying shares clearly specified in the Qurʾān. Where the revealed text establishes specific entitlements, custom cannot cancel them. And yet in social life, custom frequently reshapes the practical conditions under which Qurʾānic norms are exercised. A woman may 'inherit', but only after accepting a reduced settlement; she may be asked to 'gift' her share to preserve family unity; or she may be socialized to believe that a good sister does not divide ancestral land. Here, *ʿurf* (customary practice) does not function as a formal source of law but operates as a lived normative environment that shapes what seems reasonable, shameful, pious, or possible.[8]

This distinction is crucial because many scholarly and legal discussions collapse two different questions: whether Islamic law permits certain customary arrangements, and whether social actors use custom to displace rights that Islamic law seeks to secure. The present article is concerned primarily with the second question. I shall not argue that all customary practice is illegitimate, or that every non-judicial settlement is unjust. Rather, I argue that in many cases, women's inheritance rights are constrained by forms of social negotiation that derive their force from kinship hierarchy, gendered dependence, and the normalization of male control over landed and productive assets. Although such negotiations may appear consensual, they reproduce inequality. They may invoke reconciliation, family honor, or practical wisdom, yet still result in the systematic weakening of women's claims.[9]

In legal and social practice, the exclusion of women from inheritance is often referred to as a waiver, gift, adjustment, settlement, or family arrangement. This language converts structural inequality into the vocabulary of choice. Framed as voluntary renunciation, the concession becomes difficult to classify as either a genuine gift or a coerced transfer. However, voluntariness in kin-based settings is rarely transparent. A widow dependent on sons, a daughter anxious about her marital standing, or a sister who fears estrangement from her natal family may all "agree" to surrender property

under conditions that are formally non-coercive yet substantively constrained. In this article, I treat relinquishment as a socio-legal phenomenon that requires careful scrutiny of context.[10]

My broader theoretical claim is that women's inheritance rights in Pakistan are best understood through a dynamic account of normative interaction. Islamic inheritance doctrine provides women with specific shares and moral-legal recognition; yet those shares exist in social worlds structured by *birādarī* (kinship group) authority, gendered expectations, unequal bargaining power, and limited institutional access. The result is neither pure implementation nor violation. It is a field of 'translation' in which law is invoked, deferred, narrowed, symbolically affirmed, or selectively applied. To study this field is not to deny the normative significance of Sharīʿa, but to ask how its rules operate under conditions of social asymmetry.[11]

This approach also helps avoid two distortions that shape contemporary writing on the subject. One distortion romanticizes doctrine by positing that the existence of Qurʾānic shares settles the problem. The other collapses law into domination and treats religious normativity as a mask for patriarchy. Neither position is adequate. The first fails to explain persistent deprivation; the second fails to account for the fact that women's claims are often articulated through Islamic legal language. In many cases, women, activists, lawyers, and reformist scholars invoke the authority of the Qur'ān and the Sharī'a to insist that law be taken seriously against entrenched custom. This means that Islamic legal discourse can function both as a source of legitimacy for existing arrangements and as a critical resource for challenging them.[12]

Accordingly, I proceed from the premise that the socio-legal study of inheritance must take both doctrine and practice seriously. It must attend to the internal logic of the Islamic law of inheritance while examining the social processes through which rights are filtered. The intent is neither apologetic nor polemical but rather analytical. By placing classical legal norms, Pakistani legal discourse, and everyday kinship practice into the same frame, I seek to explain why the denial of women's inheritance persists even where the law appears doctrinally clear. To this end, I argue that meaningful engagement with this issue requires attention not only to statutory reform or judicial remedy, but also to the dense normative worlds in which claims are rendered difficult to make.[13]

My central argument is that the denial of women's inheritance in Pakistan is produced through the interaction of three mutually reinforcing layers: first, the doctrinal structure of Islamic inheritance law as a normative framework of entitlement; second, the plural legal setting in which state law, religious discourse, and informal customary practices and family-based arrangements coexist; and third, the social authority of kinship and custom, through which women's claims are often negotiated away before they can

become legally actionable. To explain the denial of women's inheritance, one must move beyond textual affirmation and examine the mechanisms by which entitlement is socially managed. In this article, I do not claim that inheritance practices in Pakistan are uniform, nor that all regions or families operate identically. Rather, I seek to identify recurrent patterns that explain how rights may be acknowledged in principle while constrained in practice.[14]

The article is organized in five parts. The first section outlines the normative foundations of women's inheritance in Islamic law, focusing on Qur'ānic provisions, the science of the shares, and the classical juristic treatment of female heirs. The second section examines inheritance within Pakistan's socio-legal order, with particular attention to legal pluralism, constitutional discourse, and the relationship between formal law and customary practice. The third section analyzes the role of customary practice, kinship, and gendered social pressure in shaping women's access to property. The fourth section addresses relinquishment, informal settlement, and the moral language through which deprivation is normalized. In the fifth and final section, I argue for an integrated reading of Islamic law and social practice that recognizes both the normative force of women's inheritance rights and the conditions that obstruct their realization. In doing so, I hope to contribute to contemporary debates in Islamic legal studies, gender studies, and law-and-society scholarship by showing that the question of inheritance is not merely about the distribution of wealth after death, but about authority, belonging, and justice within the living social order.[15]

Women's Inheritance in Islamic Law: Text, Doctrine, and Legal Entitlement

In the Islamic legal tradition, inheritance is treated as a structured domain of rights, obligations, and prescribed shares. Within this domain, women appear as legally recognized heirs whose claims are attached to an authoritative normative order. This point is central to the argument of the present article, in which I examine women's inheritance through the interrelated lenses of text, doctrine, and legal entitlement.

Before the Qurʾānic rules on inheritance, inheritance practices often privileged male agnatic control and limited women's access to property. The Qurʾān restructured inheritance by assigning specific shares of the estate to a range of heirs, both men and women. In doing so, the Qurʾānic discourse transformed inheritance from an arena often dominated by lineage preference and social power into a field of normatively ordered entitlement. Q. 4:7 reads: "*For men is a share of what parents and close relatives leave, and for women is a share of what parents and close relatives leave, be it little or much, an obligatory share*." Q. 4:7 establishes women's legal entitlement to a share at the level of principle before questions of calculation arise.[16] The verse frames women's inheritance as a prescribed entitlement within the divinely ordered distribution of the estate.

Other Qur'ānic verses specify this distributive structure by identifying

the shares of daughters, parents, spouses, and siblings.[17] Scholars often read these provisions narrowly through the language of proportion, especially in modern polemics that separate numerical distribution from the broader legal and social framework of sharīʿa. However, classical jurists approached these verses as the foundation of a disciplined body of law known as *ʿilm al-farāʾiḍ* (the science of the shares), through which they elaborated rules of entitlement, priority, exclusion, and distribution.[18] The law of inheritance therefore emerged as one of the most technically developed domains of Islamic law, precisely because inheritance required clarity at the moment when competing claims could most easily destabilize justice within the family.

This doctrinal development is crucial for understanding women's position. In the juristic tradition, daughters, wives, mothers, and sisters are integral participants in a legally defined order of inheritance. Their entitlement was recognized through established categories of heirs, and their shares were discussed across the law schools.[19] To say that women inherit in Islamic law, then, is not simply to say that women may receive property under favorable conditions. It is to say that women are acknowledged as subjects of law whose rights are anchored in authoritative texts and sustained through juristic reasoning.

Let us note an important conceptual distinction between legal entitlement and social enjoyment. Islamic law may recognize a right, but the existence of the right does not guarantee its realization in lived settings. Be that as it may, the distinction should not obscure the strength of the legal recognition. Classical Muslim jurists did not leave women's inheritance to family discretion, local morality, or informal custom. To the contrary, the science of the shares sought to reduce arbitrariness by specifying shares and by ordering the claims of heirs through a rule-based method.[20] This is precisely why inheritance law became such a highly elaborated field within *fiqh*: property at death creates a moment of vulnerability in which legal certainty is needed to prevent domination by stronger parties.

The concern for certainty explains why inheritance occupies a distinctive place in the broader architecture of Islamic law. As Wael B. Hallaq has shown, the sharīʿa developed historically as a normative legal order in which juristic method translated scriptural sources into practical legal regulation.[21] In the law of inheritance, that translation is especially visible. The jurists addressed questions of residuary heirs, sharers, exclusion, impediments, and adjustment because the preservation of entitlement required technical precision. Women's rights were embedded in the very structure that sought to regulate posthumous distribution according to law rather than power.

This point is important in light of the assertion that women's shares in Islamic inheritance law are secondary, symbolic, or socially negotiable. Such assertions arise when the doctrinal structure of the law is overshadowed by

customary practices that weaken or nullify female claims in actual family settings. From the standpoint of the juristic tradition, however, women's entitlement is not an optional concession. The share of a daughter, wife, mother or sister is not dependent upon the goodwill of fathers, husbands, or brothers. It is grounded in the legal logic of inheritance.[22] To erase such claims or compel their relinquishment would displace a recognized legal entitlement.

The role of doctrine deserves emphasis. The classical schools differed on a number of subsidiary matters within inheritance law, as they did in other fields of *fiqh*, yet these differences did not cancel the central principle that women are recognized heirs under the law.[23] The juristic debates concerned modalities of classification and calculation, not the legitimacy of women's place within inheritance. This is why the inherited legal literature is important for the present article: it demonstrates that women's inheritance claims are internal to the Islamic legal tradition and cannot be described as later external additions inspired by modern human rights discourse. Contemporary rights-based language may provide a different idiom for articulating injustice, but the normative basis of women's entitlement is clearly present within the classical legal tradition itself.

At the same time, doctrinal recognition must be read alongside the interpretive and social environments in which law operates. Legal rules do not operate in a vacuum. They are mediated through kinship structures, assumptions, local authority, and asymmetries in bargaining power. Socio-legal scholarship is helpful here because it explains how doctrine may be under-enforced, socially muted, or symbolically affirmed while materially denied.[24] In the case of women's inheritance, this mediation often takes the form of renunciation under pressure, delayed claims, negotiated silence, or the recasting of legal entitlement as moral selfishness. Such practices do not negate the doctrinal right, but they do reveal the fragility of enforcement where law and social power diverge.

It follows that any serious examination of women's inheritance in Muslim societies must begin by restoring the doctrinal clarity of the issue. Before asking why women are frequently deprived of inheritance in practice, one must first establish that Islamic law does in fact recognize them as heirs in a structured and normatively serious way. Without that step, the analysis risks reproducing a false equation between social deprivation and legal doctrine. The more accurate analytical position is that Islamic law provides women with the right to inherit, while social and institutional realities may obstruct, dilute, or extinguish those rights in practice.[25]

In this article, I seek to explain women's inheritance in Islamic law through three closely related dimensions: **text**, in the sense of the Qurʾānic basis of entitlement; **doctrine**, in the sense of the juristic elaboration of inheritance through the science of the shares; and **legal entitlement**, in the sense that women's shares are rights rather than discretionary benefits. This tripartite framework anchors the discussion in the internal resources of the

Islamic legal tradition before turning to the disjunction between doctrine and social reality. The next section will build on this foundation by examining how these legally recognized entitlements encounter the institutional, constitutional, and customary landscape of Pakistan.

3. Inheritance, Custom, and Legal Pluralism in Pakistan

Building on this argument, the analysis now shifts from doctrinal structure to the socio-legal conditions under which women's inheritance rights are recognized, mediated, or denied. Once the normative clarity of women's entitlement is established at the level of Qurʾānic text and juristic doctrine, the inquiry must shift to the socio-legal conditions under which such entitlement is recognized, mediated, or denied. In the Pakistani context, this shift is necessary because the inheritance of property does not occur within a single, unified legal order. Rather, it unfolds within a plural normative field in which Islamic legal discourse, constitutional principle, statutory law, judicial process, customary practice, and family authority interact in uneven and sometimes contradictory ways. The persistence of the denial of women's inheritance in Pakistan is best explained by the layered coexistence of multiple normative orders that shape how rights are understood and whether they can be effectively claimed.[26] A socio-historical approach to Islamic inheritance law demonstrates that social context and institutional conditions actively shape how legal rules operate in practice.[27]

Pakistan presents a revealing case for socio-legal analysis because Islam is formally acknowledged within the state's constitutional imagination, while social life is structured by powerful non-state forms of ordering. The constitutional framework affirms the normative significance of Islam, and family-related questions, including inheritance, have long been understood as matters in which Islamic legitimacy carries particular weight. Article 227 of the Constitution stipulates that existing laws shall be brought into conformity with the injunctions of Islam as laid down in the Qurʾān and Sunna.[28] In principle, this constitutional orientation would appear to strengthen women's inheritance rights, since the Qurʾānic rules of inheritance are among the clearest and most elaborated domains of Islamic law. Yet the practical situation is complicated. Constitutional affirmation does not automatically translate into effective enjoyment of rights. Between textual norm and lived experience stand institutions, procedures, social hierarchies, and local patterns of authority that may affect whether a legal entitlement is ever realized.[29]

This gap between formal recognition and practical access is particularly visible in inheritance disputes. The death of a family member opens a moment in which property must be redistributed, competing claims arise, and questions of authority, entitlement, and belonging come into view. At that moment, a woman's legally recognized share is filtered through a dense web of expectations about obedience, family cohesion, economic dependence, and the preservation of land within male-controlled kinship

lines. The result is that inheritance is rarely a straightforward transfer of a clearly defined legal entitlement. Instead, it is a site of negotiation in which formal legal doctrine may be acknowledged rhetorically while being limited, deferred, or redirected in practice.[30] Doctrinal clarity does not guarantee social stability.

In this context, the interaction of multiple normative orders becomes analytically central. These orders coexist within the same social field and challenge the assumption that law is exhausted by the commands of the state**.** [31] Instead, attention must be directed to the many forms of normativity through which social life is regulated. In the Pakistani setting, questions of women's inheritance are shaped not only by state law or court procedure, but also by Qurʾānic discourse, fiqh-based understandings, kinship authority, village custom, informal mediation, and family negotiation. These orders overlap, compete, reinforce one another, and sometimes conceal one another. A woman may possess a doctrinally strong claim under Islamic law, yet her access to that claim may be weakened by expectations rooted in kinship group solidarity or by settlement practices designed to avoid open conflict within the family.[32]

The value of plural normative setting lies in its capacity to explain how rights may be simultaneously affirmed and undermined. A narrow doctrinal analysis may establish that women inherit in Islamic law. A narrow statistical analysis may show that there are legal mechanisms through which such rights can, in principle, be enforced. Yet neither of these analyses explains why the denial of women's inheritance persists so widely. Legal pluralism illuminates this problem by showing that the existence of a right within one normative register does not guarantee its effectiveness across the wider social field.[33] Rights may be valid but inaccessible, recognized but socially costly, formally available but practically unusable. In inheritance matters, this is often the condition under which women find themselves. The issue is not always denial in explicit legal terms but rather the conversion of enforceable entitlement into a matter of negotiation, persuasion, delay, or moral embarrassment.

This point requires emphasis because public and policy discussions frequently reduce the question to one of enforcement. From that perspective, the solution appears straightforward: clarify the law, strengthen institutional remedies, and punish the denial of women's inheritance. Such measures, while important, do not address the fact that many women never reach the stage of formal adjudication of their claims. Families often absorb these claims within the household, framing inheritance as an issue of respect, sacrifice, prudence, or social harmony. Brothers or other relatives may tell a sister that claiming land would divide the household. Family members may remind a daughter that she has already received marriage-related transfers from her natal family, gifts, or support at marriage. Sons or affinal relatives may persuade a widow that insisting on her share will jeopardize her relationships. In such cases, the displacement of legal entitlement occurs

before formal legal processes come into operation.[34]

The socio-legal force of this displacement becomes clearer when inheritance is viewed as a moment in which social relations are renegotiated. Property in Pakistan, especially landed property in rural settings, is entangled with status, authority, lineage continuity, and male control over productive resources.[35] To claim inheritance may pose a challenge to assumptions about where a woman properly belongs, whether natal property should pass outside the patriline, and who has the authority to define family interest. These questions, which are not always articulated openly, structure the environment in which women's claims are received. The legal entitlement exists, but it enters a social world in which the assertion of that entitlement may be coded as disruptive or disloyal.

This is one reason why the interaction between Islamic legal normativity and customary social ordering is not merely a contest between law and non-law. Social actors in Pakistan do not generally present customary practice as an explicit repudiation of Islam. On the contrary, social actors often invoke religious language alongside kinship ethics and pragmatic reasoning. In many cases, the formal legitimacy of women's inheritance is openly acknowledged, yet that legitimacy is reworked through practices that narrow its practical effect. Families do not always tell a woman that she has a legal right. She may be told that a good sister does not insist on division, that family settlement is preferable to legal confrontation, or that preserving land within the kinship group better serves collective stability.[36] In this way, the normative force of Islamic law is refracted through social meanings that domesticate its disruptive potential.

The Pakistani legal order reflects this complex layering. It is neither wholly secular nor reducible to classical *fiqh*. Nor is it a simple arena in which state law replaces customary practice. Rather, it is a composite legal formation in which Islamic reference, colonial legal legacies, statutory development, administrative procedure, and local social power coexist.[37] This layered structure helps explain why women's inheritance disputes often occupy an ambiguous position. On the one hand, inheritance law is formally associated with Islamic legitimacy and doctrinal clarity. On the other hand, the practical enforcement of inheritance claims may depend on bureaucratic processes, land records, revenue administration, family negotiation, and access to legal forums that are often difficult to navigate. The path from entitlement to possession is not linear. It passes through institutional and social channels that may delay, distort, or discourage the claim.

Socio-legal scholarship has long emphasized that the life of law should not be read solely from doctrinal texts or formal institutions. People encounter law not only through doctrinal texts or formal institutions, but also as consciousness, practice, expectation, and strategy. [38] Inheritance disputes in Pakistan illustrate this insight with particular force. A woman's decision to

claim or not claim her share is shaped not only by what the Qurʾān says or what the law provides, but also by what she believes is possible, permissible, prudent, or sustainable within her social environment. Legal consciousness, in this context, is not reducible to ignorance of rights. Women may know that they are entitled to inherit and still refrain from acting on that entitlement because the practical and relational costs are too high.[39] The obstacle is often not a lack of normative recognition, but a lack of socially sustainable access to that recognition.

This is why the concept of legal entitlement must be understood sociologically as well as doctrinally. A right that exists only at the level of text, but that cannot be claimed without severe familial rupture or material insecurity, is fragile. Such fragility does not mean that the right is unreal. Nor does it mean that Islamic inheritance law is normatively deficient. It means, rather, that the effectiveness of a legal right depends on the conditions under which it is exercised. In Pakistan, those conditions are shaped by plural legal order. The female heir stands at the intersection of several normative worlds: Qur'ānic prescription, juristic doctrine, constitutional discourse, village custom, household dependency, and gendered expectations of sacrifice. Each world speaks a different language of obligation, yet all may converge upon the same woman at the same moment of inheritance.[40]

The interaction between these normative orders complicates the language of compliance and non-compliance. To describe women's deprivation as non-compliance with Islamic law is too thin, because it assumes that the legal norm remains in force while social actors fail to obey it. In fact, the process is often more subtle. The norm may be acknowledged ceremonially, narrowed through interpretation, postponed through indefinite delay, or neutralized through moral pressure and informal compromise. The female heir may be told that her right exists in principle, while being steered away from exercising it in practice. Such processes do not fit neatly into a binary of 'law observed' versus 'law violated'. They are better understood as forms of normative mediation in which legal entitlement persists rhetorically while being materially constrained.[41]

This mediating function is visible in the distinction between formal adjudication and informal settlement. Families and local actors often handle disputes through negotiated arrangements, mediation by elders, local compromise, or reconciliation. In some contexts, such modes of settlement offer practical advantages. They can reduce cost, preserve relationships, and avoid lengthy procedural disputes. In inheritance matters involving women, however, these processes often reproduce asymmetrical bargaining conditions.[42] If one party is economically dependent, emotionally vulnerable, or socially subordinate, settlement does not necessarily yield justice. The ideal of harmony may conceal the unequal conditions under which parties reach agreement.

Pakistani courts have also addressed disputes concerning the denial of

women's inheritance rights and the validity of purportedly voluntary relinquishment. In Mst. Hameeda Begum v. Mst. Irshad Begum[43], the court emphasized that women cannot be deprived of their lawful shares through informal arrangements that conceal coercion or unequal bargaining conditions. Similarly, in Ghulam Ali v. Mst. Ghulam Sarwar Naqvi[44], the court underscored that inheritance rights grounded in Islamic law cannot be extinguished through customary practices that operate to the detriment of female heirs. In Mst. Bibi Khatoon v. Federation of Pakistan[45], judicial reasoning further affirmed that women's entitlement to inheritance must be protected against practices that effectively exclude them from property. These decisions indicate that so-called voluntary settlements must be scrutinized carefully to ensure that consent is genuine and not produced through social pressure, dependency, or misrepresentation.

At the statutory level, the Muslim Personal Law (*Shariat*) Application Act, 1962, affirms the applicability of Islamic inheritance principles within Pakistan's legal framework. These legal developments indicate that, at the level of formal law, women's entitlement to inheritance is clearly recognized, even as its realization continues to be shaped by the social conditions in which claims are made.[46]

For that reason, I approach informal customary practices and family-based arrangements with caution. I do not assume that every non-judicial arrangement is illegitimate. Nor do I deny that parties may, in some cases, settle disputes voluntarily and fairly. The point, rather, is that the normative legitimacy of settlement depends on the social conditions under which it occurs. In settings where women are expected to prioritize family unity over personal entitlement, where land is symbolically tied to male lineage, and where resistance carries reputational cost, the appearance of consent may be misleading. Informality is not neutral; it often functions as a technique through which actors soften rights and transform them into negotiable claims.

At the same time, it would be a mistake to assume that the state stands outside these dynamics as a purely corrective force. State institutions are embedded within broader social relations and may reproduce the same hierarchies that constrain rights outside the courtroom. Access to procedure, familiarity with documentation, economic ability to litigate, and willingness to sustain family conflict are all unevenly distributed.[47] The existence of formal remedy, although important, does not dissolve the social inequalities that determine who can use it. Inheritance disputes often reveal this double bind: the law may be available yet invoking it may be costly enough to deter the claimant.

A further implication of legal pluralism is that religious discourse can play more than one role in this field. Certainly, Qur'ānic provisions and the science of the shares provide a strong normative basis for female entitlement. But religious discourse may also be folded into social arrangements that

prioritize conciliation over enforcement. A woman may be told that Islam grants her a share, while simultaneously being instructed to display patience (*ṣabr*), preserve kinship ties, or accept a lesser arrangement for the sake of peace. The issue, then, is not whether Islam is present or absent in inheritance disputes. It is how Islamic language is mobilized, by whom, and toward what practical outcome.[48] Religious legitimacy is not monopolized by one party to the dispute; it may be claimed by those seeking enforcement and by those advocating accommodation.

This layered socio-legal context helps explain why the denial of women's inheritance in Pakistan should not be understood as a simple contrast between progressive law and backward culture. Such a contrast obscures the fact that legal and social orders are mutually entangled. It also risks reproducing a narrative in which Islamic law is treated either as the complete solution or as the essential problem. Neither narrative is persuasive. The doctrinal structure of Islamic inheritance law clearly affirms women's entitlement, yet the realization of that entitlement depends on the social and institutional fields through which it operates. [49] Custom does not sit outside law as an alien residue; rather, it shapes the conditions under which law is heard, interpreted, and acted upon.

In rural Pakistan, land is not only wealth but also a marker of status, kinship continuity, and local authority. Control over land has implications for lineage prestige, political influence, and long-term security. In such contexts, male kin often resist women's inheritance claims because enforcing those claims is perceived to redistribute more than property alone. Granting a daughter or sister her full share may, from the perspective of male kin, entail a transfer of lineage resources beyond the patrilineal core. [50] It is this broader social meaning of inheritance that helps explain the persistence of resistance even when doctrinal entitlement is clear.

What follows from this analysis is not that rights discourse is futile, or that doctrinal clarification is irrelevant. On the contrary, both are necessary. However, they remain insufficient unless accompanied by an account of the plural normative environment in which rights are exercised. The persistence of women's deprivation in inheritance matters demonstrates that legal entitlement must be studied as a socially mediated phenomenon. Women do not confront a single legal rule that they either obey or disobey. Rather, they move through a field of intersecting demands: divine entitlement, family loyalty, village custom, economic dependence, and institutional possibility.[51] To understand inheritance in Pakistan, one must examine how these demands are ordered, prioritized, and translated into practical outcomes.

Pakistan's inheritance landscape is shaped by a plural legal order in which Islamic doctrine, constitutional discourse, formal law, and customary practice coexist. This plurality produces inequality in the social realization of rights. The denial of women's inheritance rights persists because entitlement is filtered through overlapping normative regimes that often favor male

control over property and discourage women from acting as full legal actors. In the next section, I turn to one of the most important mechanisms through which this inequality is produced, namely the operation of custom (*ʿurf*), kinship structure, and gendered social pressure in the informal denial or narrowing of women's shares.[52]

4. Custom, Kinship, and the Informal Denial of Women's Shares

The informal denial of women's inheritance in rural Pakistan is shaped not only by gaps in enforcement, but also by the social authority of kinship and the normative force of custom. This section examines how custom and kinship operate as internal forces that shape the conditions under which legal entitlement becomes difficult to claim, negotiate, or sustain.[53]

Custom occupies an important place in Islamic legal thought, but its significance in the present discussion must be carefully distinguished from its broader role in other areas of Islamic law. In the juristic literature, *ʿurf* refers broadly to recognized custom, recurrent social practice, or accepted usage that may be taken into account in legal reasoning where no explicit textual provision determines the matter.[54] The classical legal schools acknowledged, with varying nuance, that social custom may inform the interpretation of contractual language, local practice, or areas of law in which the revealed sources do not prescribe a fixed rule. However, inheritance occupies a distinctive place in the Sharīʿa because the Qurʾān specifies shares for certain heirs with exquisite precision. From a doctrinal standpoint, custom cannot legitimately nullify what revelation has clearly assigned.[55]

That doctrinal limit, however, should not obscure the practical force of custom in everyday social life. In rural Pakistan, custom often operates as a normative environment that shapes whether women's shares are claimed, recognized, or realized. Families often frame a daughter's inheritance claim as morally troubling, costly, or socially disruptive, and they remind sisters that asking for land from brothers would compromise family unity, dishonour parental memory, or invite accusations of greed. Relatives often advise a widow that continued security depends less on asserting a legal claim than on maintaining cooperative relations with the men who continue to control household property. In such settings, custom functions by shaping the horizon of what seems proper, shameful, prudent, or possible. [56] In his study of North African contexts, David S. Powers argues that customary practices often enable the effective disinheritance of women, even where formal legal doctrine recognizes their entitlement.[57]

Scholarly discussions of women's inheritance often move too quickly between doctrine and practice without examining the processes that link them. A more careful analysis shows that the persistence of women's deprivation cannot be explained solely by ignorance or bad faith, although both may exist. Rather, kinship structures embed legal claims within relational expectations that define belonging and entitlement in social terms.

In rural communities, families closely associate inheritance with lineage continuity, control over cultivated land, and the retention of property within male lines of descent.[58] When a woman asserts her share, relatives often interpret her claim not as the exercise of a lawful entitlement but as a challenge to an established social order in which land and productive assets are expected to remain under male control.

The *birādarī* kin solidarity system is important in this respect. Although its internal forms and local expressions vary, this system is a powerful structuring force in many parts of Pakistan, especially in rural contexts.[59] It shapes marriage alliances, patterns of reciprocity, leadership, status, and dispute resolution. Within such a social framework, family members interpret individual legal claims through the lens of collective family interest and relational obligation. A woman's inheritance claim may be judged not according to the relevant Qur'ānic rule, but according to whether her claim preserves or threatens kinship cohesion. The issue is not simply whether she is entitled to a share, but whether claiming it marks her as disloyal to brothers, inattentive to family need, or insufficiently committed to the unity of the lineage.

This is one reason why the denial of women's inheritance rights is frequently informal. Male relatives often acknowledge that women have a right but discourage them from acting on it. They may affirm the existence of the right in principle while shaping family arrangements in ways that prevent its actual realization.

More often, they acknowledge the right while arranging family affairs so that it is never realized. The estate may remain undivided for years. Records may not be updated. Possession may be managed by brothers or paternal kin. Women may be assured that they will be "looked after" without the need for formal partition. In some cases, property transfers at the time of marriage are invoked retrospectively as if they were substitutes for inheritance, even where there is no such equivalence in law.[60] Through these mechanisms, the legal entitlement is acknowledged while its material content is thinned out in practice. The denial occurs through delay, substitution, and moral persuasion rather than through explicit repudiation.

Kinship pressure is presented in the language of duty, affection, and social wisdom. A daughter may be told that brothers are her natural protectors and that insisting on division would damage a relationship on which she may later depend. A sister may be reminded that she is now part of another household after marriage and that natal property should remain available to those who carry the family name and cultivate the family land. Family members often encourage a widow to trust sons or male relatives rather than seek formal recognition of her share. These expectations are powerful because they are wrapped in morally charged ideals of harmony, modesty, and familial care.[61] However their practical effect may be to convert a Qur'ānic entitlement into a discretionary concession dependent upon male

approval.

This gendered moral economy is reinforced by assumptions about women's relationship to property. In many rural settings, land is the material basis of agricultural production, local authority, and intergenerational continuity.[62] Control over land often symbolizes control over family standing. Where such meanings are strong, women's inheritance claims may be perceived as disruptive because they raise the prospect that land will, through marriage or subsequent transfer of ownership, pass beyond the patrilineal circle. Even if the legal right is acknowledged, its realization may be resisted on the ground that lineage property must remain "within the family," that is to say, with its male agnatic core. This mode of reasoning is formulated in the language of practical necessity, social realism, or the preservation of ancestral order. However, the burden of that preservation falls disproportionately on female heirs, who are expected to absorb the loss through silence or acquiescence.

The language of custom often strengthens this process by naturalizing it. Practices that are historically contingent and socially contested are cast as long-standing custom. What has been done repeatedly is treated as what ought to be done. In such circumstances, the authority of custom derives from repetition, familiarity, and communal expectation.[63] A woman who challenges such custom may find herself confronting not merely her relatives but an entire moral vocabulary that equates compliance with virtue and resistance with selfishness. This is why informal denial is more difficult to contest than overt exclusion. Explicit denial can, at least in principle, be identified as a violation of law. Informal denial often takes the form of advice, sacrifice, courtesy, or prudence. It hides coercive effect beneath the surface of social normality.

Socio-legal scholarship directs attention to the difference between having a right and being socially enabled to act as a rights-bearing subject. One may possess a right, but the conditions required to invoke it may be absent. Women may know the rule, but knowledge does not dissolve dependency. A woman whose security depends on her ties with her brothers, whose mobility is constrained, or whose access to legal process is uncertain may treat the assertion of an inheritance claim as a dangerous social gamble.[64] The problem is not reducible to legal consciousness in the narrow sense of awareness. It is about legal capacity, bargaining position, and the anticipated consequences of action. A claim that is legally available but socially punishing may remain dormant without ever becoming formally contested.

This analysis also helps explain why the denial of women's inheritance frequently takes place before any formal dispute emerges. By the time a matter could reach the stage of legal adjudication, the social conditions for the claim may have been eroded. The woman may have been persuaded that her claim is morally improper, convinced that litigation would humiliate the

family, or worn down by prolonged delay and vague assurances. In other cases, she may have accepted token compensation because it is presented as the only socially tolerable outcome.[65] Here again, the effect of custom lies in shaping the field within which legal decision becomes socially thinkable.

A further difficulty arises from the way kinship hierarchy structures who can speak and whose voices others recognize. Not all family members possess equal authority to define what counts as fairness. In many cases, senior male relatives, brothers, or paternal elders occupy positions from which they interpret custom, invoke family memory, and decide how property questions should be managed. Women may be present at these discussions but not positioned as equal participants in determining their outcome. This asymmetry is important because informal processes are often praised for being local, familiar, and culturally resonant, while the internal inequalities of such processes are insufficiently examined.[66] The household or kin group is treated as a natural site of consensus, whereas in fact it may contain unequal distributions of speech, leverage, and recognized authority.

The role of honour also merits attention. In many rural settings, the public pursuit of inheritance by women may be framed as shameful because public contestation threatens the image of family unity. To seek formal partition may be read as exposing private disagreement to outside scrutiny, thereby undermining the symbolic integrity of the kin group.[67] Such pressures are potent where reputation circulates through tightly knit local networks. A woman may weigh not only the legal merits of her claim but also the reputational cost that would follow from pressing it. Social honour, in this sense, is another medium through which legal entitlement is narrowed without ever being denied in principle.

This dynamic is evident in cases in which women's claims intersect with marital transition. Married daughters occupy an ambiguous position in relation to natal property. Although Islamic law recognizes their entitlement, local custom may treat them as having shifted their primary affiliation to the husband's household. Their continued claim to natal assets is subtly delegitimized through the suggestion that it is improper to take property away from brothers who remain responsible for ancestral land and parental care.[68] This logic burdens women with a double displacement: they are recognized as heirs in law, but positioned as partial outsiders in relation to the property to which they are legally entitled. The more deeply this social logic is internalized, the more effective informal denial becomes.

It must be noted, however, that rural Pakistan is not uniformly governed by a single custom. Practices vary by region, class, family configuration, and the nature of the property involved. Some women do pursue claims. Some families distribute shares according to Islamic law. Some actors invoke Islamic principles precisely to resist unjust customary pressure.[69] The point of the present argument is to identify recurrent structural tendencies that help explain why deprivation persists even where

doctrinal entitlement is clear. Variation does not negate the pattern. Rather, it reminds us that the pattern is historically and socially mediated rather than mechanically uniform.

If customary practice is described too broadly or too loosely, one risks suggesting that Islam and custom stand in opposition, with law on one side and society on the other. That would be misleading. In fact, social actors frequently appeal to Islamic language within customary settings, and customary expectations may be expressed through religiously inflected vocabularies of duty, patience, or reconciliation.[70] The problem is that the practical meaning of religious entitlement is filtered through kinship structures that favour male control. The denial of women's inheritance thus cannot be understood either as pure custom unconnected to law or as pure law faithfully implemented. It is the product of their interaction.

For this reason, I treat custom as a socio-legal category that describes the normalization of certain outcomes. When women repeatedly relinquish or fail to receive their shares, such deprivation may be woven into the ordinary expectation of how inheritance works. Over time, what began as pressure hardens into custom, and what hardens into custom becomes 'common sense'.[71] The force of custom in such cases is cumulative. It teaches actors what to expect, what to avoid, and what forms of conduct will be praised or censured. Women's silence appears natural; the control of property by brothers seems normal; formal assertion appears deviant. This is how informal denial stabilizes itself socially without ever proclaiming itself as law.

The analytical consequence is clear. One cannot explain women's inheritance deprivation in rural Pakistan by pointing only to doctrinal rules or statutory guarantees. Nor is it sufficient to invoke patriarchy without attending to the institutional and relational channels through which patriarchy operates. What matters is the way kinship, custom, and property combine to narrow the practical reach of legal entitlement. A woman may possess a doctrinal entitlement yet lose effective access to it in social settings because the environment in which she acts has been organized against her claim long before she voices it.[72] Informal denial, in this sense, is not merely the absence of enforcement. It is an active social process through which entitlement is moralized, deferred, domesticated, and made difficult to exercise.

In this section, I have argued that custom and kinship operate in rural Pakistan as central mediating forces in the everyday practice of inheritance. Without formally abolishing women's Qurʾānic shares, these forces shape the conditions under which those shares are interpreted, negotiated, and often curtailed. Through kinship group obligations, lineage concerns, gendered expectations, and the symbolic value of landed property, women's inheritance rights are transformed from clear legal entitlements into fragile social possibilities. I shall develop this argument in the next section by examining

the principal forms through which such fragility is institutionalized in practice: relinquishment, amicable settlement, and the problem of consent.[73]

5. Relinquishment, Ṣulḥ, and the Problem of Consent

Relinquishment is one of the principal ways in which women's inheritance rights are reduced, redirected, or informally extinguished in rural Pakistan. In many inheritance disputes, women are excluded through the language of waiver, gift, adjustment, family arrangement, compromise, or settlement. This vocabulary transforms what may in substance be deprivation into the appearance of voluntary consent. What might otherwise be recognized as dispossession is reframed as accommodation, and what may be produced through unequal social pressure is represented as an act of familial goodwill. The problem, therefore, is that the social and legal forms through which women may lose their inheritance often conceal the unequal conditions under which such outcomes are produced.[74]

From the perspective of Islamic legal doctrine, this issue requires careful treatment. The Qur'ānic inheritance verses assign specific shares to women, and these shares may not be reducible to a matter of family preference once the right to inherit has arisen and the legal conditions of inheritance have been met. At the same time, Islamic law recognizes the legal capacity of an adult woman to own, transfer, gift, settle, or otherwise dispose of property to which she is lawfully entitled.[75] This means that relinquishment cannot be dismissed as invalid in every case. A competent adult heir may, in principle, choose to transfer or surrender property after receiving an established right. Yet that doctrinal possibility does not resolve the socio-legal problem. The key question is: under what circumstances is renunciation socially produced? In practice, the language of consent may conceal dependence, vulnerability, and moral compulsion that make apparent waiver far less voluntary than it seems.

Legal doctrine often treats agreement as valid where explicit coercion cannot be shown. This assumption is significantly qualified in kin-based settings. A daughter may sign away her share without the application of any physical force yet under the weight of lifelong dependence on brothers and the fear of permanent estrangement from her natal family. A widow may accept a reduced arrangement because her future residence, financial security, or emotional support continues to depend upon the men with whom she is nominally negotiating. A sister may be persuaded that insisting upon full inheritance would destroy family peace, dishonour parental memory, or render future relations with her family impossible.[76] In such cases, the absence of overt duress should not be confused with the presence of real freedom. The problem of consent lies precisely in the fact that social power often operates through affection, dependency, shame, obligation, and the strategic presentation of surrender as virtue.

The vocabulary of relinquishment has profound analytical

consequences. To describe a woman's loss of inheritance as a voluntary "gift" or "adjustment" is to move the issue from the domain of injustice into the domain of private choice. Once this move is made, structural inequality becomes harder to see. The woman has 'decided'.[77] However, such decisions are made within unequal social environments. The burden of preserving kinship harmony, protecting brothers from embarrassment, or ensuring continuity of ancestral land is rarely distributed evenly among family members. It falls disproportionately on women, especially on women who have been socialized to value self-sacrifice, emotional accommodation, and family cohesion over the independent assertion of legal entitlement. The social production of renunciation, therefore, cannot be grasped through the language of abstract capacity alone. It must be read in relation to the gendered moral economy within which the decision takes place.

In Islamic legal doctrine, *ṣulḥ* refers to settlement, reconciliation, or negotiated compromise aimed at resolving disputes without prolonged conflict.[78] As a general principle, settlement is not inherently suspect. Across many legal systems, negotiated resolution serves valuable purposes: it reduces cost, preserves relationships, and allows flexible outcomes where rigid adjudication may be burdensome. Nor is the concept of *ṣulḥ* contrary to justice. Indeed, compromise may in some circumstances provide a practical and equitable means of resolving disagreement. The difficulty arises when actors import the prestige of reconciliation into contexts marked by serious asymmetries of power. In such settings, *ṣulḥ* may become a socially approved mechanism through which stronger parties encourage weaker parties to accept less than what the law would otherwise secure for them.

Many inheritance disputes involving women in rural Pakistan illustrate precisely this danger. Settlement is commonly represented as preferable to public contestation. Litigation may be cast as expensive, dishonourable, disruptive, or spiritually undesirable. Elders may intervene to urge compromise. Family members may insist that an internal resolution reflects communal values better than formal adjudication does.[79] On the surface, such reasoning may appear sensible. But its effects are not evenly distributed. The party expected to yield is usually the woman whose claim is doctrinally clear but socially inconvenient. Brothers may retain possession of land while offering symbolic compensation, future promises of care, or token monetary substitution. The resulting arrangement can be presented as an amicable settlement, as though both sides had met on equal footing and freely reached a mutually acceptable solution. What is hidden from view is the structured inequality that determined, from the outset, who had the practical ability to refuse.

This is why I do not treat relinquishment (the surrender of a legal share) or settlement (*ṣulḥ*, negotiated resolution) as self-validating merely because they are peaceful in form. A peaceful process does not guarantee

substantive justice. The appearance of harmony may conceal the asymmetrical conditions under which agreement is produced. A woman who depends on male relatives for mobility, residence, agricultural access, or social legitimacy may be in no position to bargain as an equal, even if the final arrangement bears the outward signs of consent.[80] Indeed, the very intimacy of kinship often makes coercion harder to identify. In commercial disputes, parties can more easily perceive unequal bargaining power because the relationship is openly strategic. In family disputes, however, affection and obligation often disguise pressure. Families frame the request to relinquish a share as a gesture of love, trust, or moral maturity

In many contexts, women are asked to renounce their shares on the grounds that their assertion of inheritance is socially harmful. They are told that land division will fragment the household, create bitterness among brothers, or weaken the family's collective standing in the village.[81] Here, the woman is made to bear responsibility for avoiding social rupture, even though the underlying inequality lies in others' refusal to honour her entitlement. A right that should be recognized as obligatory is thus transformed into a threat to harmony. The moral burden shifts from those withholding the share to the woman who might insist upon receiving it. This inversion is one of the most effective mechanisms through which dispossession is normalized.

The issue is complicated by the symbolic opposition drawn between the "good woman" and the "demanding claimant." In many kin-based settings, a morally respected sister or daughter does not bring legal claims against her own family, who values relationships over land, and who proves her virtue through restraint.[82] By contrast, the woman who insists on her share is greedy, disloyal, or unduly influenced by outsiders, including husbands, in-laws, lawyers, or activists. Such expectations transform legal entitlement into a test of feminine character. The matter becomes a judgment on her character. Under such conditions, even a formally lawful settlement may rest on a coercive moral script. Consent is intertwined with the desire to remain recognizable as decent, selfless, and socially acceptable.

The contrast between doctrine and practice is not adequately captured by saying that women "choose" to relinquish. "Choice" is too blunt. The term ignores the conditions under which available options are socially structured. A woman may certainly act strategically. She may decide that preserving a relationship or her immediate security matters more than pursuing land through conflict. She may calculate that litigation would cost more than it yields. She may sincerely prefer accommodation. But none of these possibilities removes the need for scrutiny. A choice made under unequal conditions is shaped by those conditions.[83] To note, this is to reject the misleading equation between any observable agreement and genuinely free consent.

A related issue concerns timing. In many cases, relinquishment is

treated as legitimate because it occurs after the death of the propositus and after inheritance has notionally vested. However, even where the temporal sequence is formally correct, substantive concerns remain. The woman may not know the value of the land, the size of her share, or the long-term consequences of surrendering it. Documentation may be unclear or controlled by others. The family may apply pressure before she has time to seek advice. [84] Under these circumstances, the formal fact that relinquishment takes place "after the right to inheritance has arisen" does not guarantee meaningful consent. Knowledge, time, and independent capacity are as important as sequence.

There is also an important difference between a truly voluntary gift of property and a relinquishment made as the expected price of continued membership in the kin group. In the first case, the woman disposes of property she controls from a position of recognized ownership. In the second, she may never fully experience herself as the secure holder of that property. Instead, she is expected to prove her virtue by surrendering her inheritance share.[85] The distinction affects how one interprets the moral and legal significance of the act. A gift freely made confirms ownership. A surrender extracted through pressure masks the denial of ownership beneath the form of a transfer. Both may look similar on paper, but their social meanings are radically different.

The concept of "waiver" also merits attention. The term suggests a clean and individualized act of renunciation. However, in inheritance disputes, relinquishment is often collective, relational, and embedded in family process. Women may not sit down as autonomous legal subjects, fully informed and independently represented, to waive rights in the abstract. Rather, they are part of conversations managed by male elders, brothers, or intermediaries in which the permissible range of outcomes is socially constrained.[86] Retrospectively, the language of waiver reduces a complex chain of persuasion into the fiction of a singular voluntary act. That simplification may suit administrative or legal convenience, but it hides the relational production of "agreement."

For this reason, the socio-legal analyst must attend not only to documents or declared intentions, but also to the setting in which settlement occurs. Who was present when the woman agreed? Who explained the consequences? Did she have access to independent advice? Was refusal possible without serious retaliation? Did she have material security outside the relationship? Was the arrangement reversible? Was compensation proportional and transparent? These questions are essential for distinguishing between settlement as legitimate accommodation and settlement as socially managed deprivation.[87] Without such contextual scrutiny, one risks reproducing the language through which inequality legitimizes itself.

In rural Pakistan, these concerns are intensified by the relationship

between land, lineage, and local authority. Because land often carries social and political significance beyond its immediate economic value, women's shares may be regarded as negotiable in the name of preserving family strength. Brothers may argue that cash support, marriage expenditures, or future assistance adequately compensate for the woman's legal entitlement. Such arguments can be persuasive, particularly for women who have been socialized to view family provision as morally reciprocal rather than legally distinct from inheritance. However, this conflation is problematic. Marriage-related transfers, maintenance, affection, or occasional assistance do not cancel a Qurʾānic share unless the woman, as a competent and free legal subject, knowingly disposes of what is already hers. Treating prior transfers or forms of support as a substitute for inheritance blurs categories in ways that advantage those who already control the property.

The moral prestige of an amicable settlement (*ṣulḥ*) may discourage external scrutiny. Because settlement is associated with reconciliation, and because family disputes are often considered private matters, arrangements that deprive women may avoid the level of attention that open exclusion would provoke.[88] The very softness of the process protects it. No dramatic conflict appears. No explicit repudiation of Islam is stated. The family can present itself as harmonious and respectable. Yet the woman's legal entitlement may nonetheless disappear. This is one of the reasons why deprivation through settlement can be more socially durable than direct denial. It leaves fewer visible traces of injustice, while achieving much the same practical result.

At the same time, this analysis avoids a simplistic condemnation of all non-judicial settlements. Such a condemnation would ignore the complexity of lived social worlds and the reality that some women may choose negotiated outcomes for reasons meaningful to them. The argument here is narrower and more precise. It is that settlement and relinquishment in inheritance disputes must not be presumed valid merely because they are clothed in the language of consent, family peace, or religiously resonant reconciliation. [89] Their legitimacy depends on whether consent is substantively real, whether the woman's entitlement has first been recognized as hers, and whether the surrounding social conditions permit refusal without ruinous cost. In the absence of such conditions, consent may be formally recognizable yet normatively compromised**.**

The problem of socially mediated denial of women's inheritance has broader implications for how one understands rights in a plural legal order. Rights are not merely formal rules; they are also social possibilities. A right exists only if its holder can assert, negotiate, retain, or transfer it from a position of relative security. If the social world is organized so that one party must surrender the right in order to remain morally acceptable within family life, the line between voluntary settlement and structured deprivation becomes blurred. [90] This is exactly what makes women's inheritance in rural

Pakistan such a revealing case. The pathways through which legal entitlement is neutralized are subtle, intimate, and socially legitimate in appearance.

The analysis offered here, therefore, suggests that relinquishment, amicable settlement, and waiver should be treated as central mechanisms through which the women's inheritance deprivation rights is produced and normalized. These practices occupy the space between law and social life. Although they do not usually deny Islamic inheritance doctrine in explicit terms, they can hollow out its practical force. Through kinship pressure, unequal bargaining conditions, moralized expectations plural legal order of sacrifice, and the rhetorical appeal of harmony, many women are encouraged to convert enforceable rights into socially praised acts of surrender.[91] The question, then, is whether the social conditions of inheritance allow women to remain rights-bearing subjects once those rights become inconvenient to others.

In this section, I have argued that the problem of consent is indispensable to any serious account of the denial of women's inheritance rights in rural Pakistan. A formal understanding of choice is inadequate because it fails to capture how power operates through intimacy, obligation, and the desire to preserve belonging. Relinquishment and settlement therefore, require careful contextual scrutiny. Where women's consent is shaped by dependency, reputational pressure, and asymmetrical control over property and process, the language of waiver may obscure rather than clarify justice. In the conclusion, I will bring together my central claims and argue that women's inheritance rights in Pakistan are best understood by holding together Islamic legal doctrine, plural normative setting, customary practices, and the socially conditioned fragility of consent.[92]

6. Conclusion

I have argued that the exclusion of women from inheritance in rural Pakistan cannot be fully understood through a simple opposition between Islamic law and social practice, nor through the assumption that doctrinal clarity necessarily results in effective realization in practice.

The science of the shares provides women with specific shares in inheritance and recognizes them as legal heirs within a structured hierarchy of heirs. At the level of text and doctrine, women's inheritance is neither incidental nor discretionary. It is grounded in Qurʾānic entitlement and elaborated through a juristic tradition that treats inheritance as a binding domain of legal obligation. Any serious account of the denial of women's inheritance must therefore begin by resisting the tendency to equate social exclusion with the content of Islamic inheritance law itself.

At the same time, I have shown that doctrinal recognition does not by itself secure practical enjoyment. The persistence of the exclusion of women from inheritance in Pakistan reflects the fact that legal entitlements operate within a plural normative environment in which state law, Islamic legal

doctrine, customary practices, kinship structures, and informal settlement interact. In such a setting, women's rights may be formally recognized in law yet remain fragile in social life. This fragility cannot be captured by the language of non-compliance alone. What is at stake is a broader process of mediation through which legal norms are acknowledged, narrowed, deferred, moralized, or transformed before they can be effectively realized.

I have argued that legal pluralism offers a useful framework for understanding this process. Inheritance in Pakistan does not unfold within a single unified legal order. Rather, it takes place at the intersection of multiple normative regimes, each of which contributes to the social meaning of women's claims. Qur'ānic injunctions, *fiqh* doctrine, constitutional discourse, administrative procedure, familial authority, and local custom all occupy the same field, though not with equal force. Women are often denied the right to inherit because the interaction of these normative regimes creates conditions in which doctrinal entitlement can be rhetorically affirmed while materially constrained. Legal pluralism helps explain how women may inherit nominally and yet continue to lose in practice.

Within this plural normative field, the role of custom and kinship is significant. In matters of inheritance, custom operates as a social environment that influences what kinds of legal action appear proper, shameful, disruptive, or desirable. Kinship structures, kinship obligations, and the social value attached to landed property work together to narrow the conditions under which women can act as effective claimants. The issue is whether or not the social world in which a woman's right to inherit is situated allows her to exercise it without prohibitive relational cost. In many cases, informal denial succeeds precisely because it is presented as prudence, family harmony, moral restraint, or deference to custom.

The analysis of relinquishment, amicable settlement, and consent reinforces this conclusion. The women's inheritance deprivation rights is frequently mediated through the language of waiver, settlement, and family arrangement rather than through open repudiation of entitlement. This softer vocabulary is central to the persistence of inequality because it translates structured disadvantage into the appearance of voluntary choice. To characterize women's loss of inheritance as a gift, compromise, or reconciliation may conceal the unequal bargaining conditions under which such outcomes are produced. I have argued that the problem of consent cannot be treated formally or abstractly. A woman may possess legal capacity and yet remain socially constrained by dependence, pressure arising from threats to her reputation, kinship expectations, and unequal control over property and process. Under such conditions, what appears as consent must be subjected to critical scrutiny.

One of the implications of this study is that it complicates two opposite but equally unsatisfactory tendencies in contemporary discussions of women's inheritance in Muslim societies. One tendency romanticizes doctrine

by assuming that the existence of Qurʾānic shares settles the matter and that persistent deprivation must be explained by ignorance or bad faith. The other collapses Islamic law into structures of patriarchy and treats women's exclusion as though it were the natural expression of Islamic law itself. Neither position is adequate. The first cannot account for the social mechanisms through which rights are weakened; the second ignores the fact that women's claims are often articulated through Islamic legal language precisely against customary pressure. Islamic inheritance law may serve not only as a legitimating resource for social order, but also as a critical resource for challenging practices that displace women's entitlement.

My argument is neither apologetic nor dismissive. I have attempted to place doctrine and practice within the same analytical frame. Women's inheritance in rural Pakistan is best understood as a socio-legal problem that arises not from a lack of legal recognition, but from the way legal norms are refracted through unequal social relations. To say this is not to deny the force of law. It is to insist that the effectiveness of legal rights depends on the social conditions under which they are exercised. A share that is recognized in legal doctrine but rendered costly to claim, morally suspect to assert, or institutionally difficult to secure is vulnerable in practice. The women's inheritance deprivation is not merely a question of property distribution after death. It is also a question of authority, belonging, gendered obligation, and the power to define what counts as justice within family life.

I do not claim that all families in Pakistan operate identically, or that all customary arrangements are unjust. There are variations across region, class, family structure, and institutional access, and some women do successfully assert their rights through religious, legal, and social means. However, such variation does not displace the broader pattern identified here. Across many contexts, women's inheritance rights are vulnerable to informal narrowing long before they become matters of formal adjudication. To understand that vulnerability, one must move beyond the binary of law versus culture and attend to the layered social processes through which entitlement is managed, translated, and often contained.

For scholarship in Islamic legal studies, my argument points to the importance of treating inheritance not as a technical field of juristic calculation, but as a domain in which the relation between legal doctrine and lived social order becomes visible. For law-and-society scholarship, the article demonstrates that Islamic legal discourse functions as an active normative resource through which claims are formulated, contested, and justified. For the study of gender and justice in Muslim societies, the article underscores that the denial of women's inheritance emerges through the social mediation of legal texts and custom.

Women's inheritance in rural Pakistan exposes a central tension of socio-legal life: rights may exist with normative clarity and yet remain

insecure in practice when the social worlds through which they are exercised are structured by unequal power. The challenge is to understand how and why the inheritance rights of women are so often reframed, postponed, resolved through informal settlement, or rendered difficult to exercise. Only by holding together Islamic legal doctrine, legal pluralism, kinship structure, customary practice, and the fragility of consent can one fully grasp the persistence of the denial of women's inheritance rights and the continuing significance of the struggle against it.



This work is licensed under a Creative Commons Attribution 4.0 International License.

References

[1] Q. 4:7; Wael B. Hallaq, *Sharīʿa: Theory, Practice, Transformations* (Cambridge: Cambridge University Press, 2009), 305–10.

[2] Shams al-Dīn al-Sarakhsī, *al-Mabsūṭ*, 30 vols. (Beirut: Dār al-Maʿrifa, 1989), vol. 29; ʿAlāʾ al-Dīn al-Kāsānī, *Badāʾiʿ al-Ṣanāʾiʿ fī Tartīb al-Sharāʾiʿ*, 7 vols. (Beirut: Dār al-Kutub al-ʿIlmiyya, 1986); Ibn Qudāma, *al-Mughnī*, 15 vols. (Riyadh: Dār ʿĀlam al-Kutub, 1997).

[3] Judith E. Tucker, *Women, Family, and Gender in Islamic Law* (Cambridge: Cambridge University Press, 2008), 172–80; Ziba Mir-Hosseini, *Marriage on Trial* (London: I.B. Tauris, 1993), 45–60; Anita M. Weiss, *Interpreting Islam and Women's Rights in Pakistan* (Lahore: Vanguard, 2003), 70–95.

[4] Brian Z. Tamanaha, *A General Jurisprudence of Law and Society* (Oxford: Oxford University Press, 2001), 1–25; Sally Engle Merry, "Legal Pluralism," *Law & Society Review* 22 (1988): 869–96; Lawrence Rosen, *Law as Culture* (Princeton: Princeton University Press, 2006), 20.

5 David S. Powers, "The Finality of Prophecy," in *Oxford Bibliographies in Islamic Studies*, ed. Natana J. DeLong-Bas (New York: Oxford University Press, 2025).

[6] John Griffiths, "What Is Legal Pluralism?" *Journal of Legal Pluralism and Unofficial Law* 24 (1986): 1–55; Brian Z. Tamanaha, *Legal Pluralism Explained* (Oxford: Oxford University Press, 2020), 45–60; Boaventura de Sousa Santos, "Law: A Map of Misreading," *Journal of Law and Society* 14 (1987): 279–302.

[7] Constitution of the Islamic Republic of Pakistan, art. 227; Rubya Mehdi, *The Islamization of the Law in Pakistan* (Richmond: Curzon Press, 1994), 150–80; Martin Lau, *The Role of Islam in the Legal System of Pakistan* (Leiden: Brill, 2006), 120–40.

[8] Mohammad Hashim Kamali, *Principles of Islamic Jurisprudence*

(Cambridge: Islamic Texts Society, 2003), 283–90; Wael B. Hallaq, *An Introduction to Islamic Law* (Cambridge: Cambridge University Press, 2009), 95–110; *EI*², s.v. Ṣulḥ *(*Baber Johansen)

[9] Hamza Alavi, "Kinship in West Punjab Villages," *Contributions to Indian Sociology* 2 (1965): 1–27; Farida Shaheed, "The Cultural Articulation of Patriarchy," *The Muslim World* 91 (2001): 389–408; Deniz Kandiyoti, "Bargaining with Patriarchy," *Gender & Society* 2 (1988): 274–90.

[10] Sally Engle Merry, *Human Rights and Gender Violence* (Chicago: University of Chicago Press, 2006), 100–120; Naila Kabeer, *Reversed Realities* (London: Verso, 1994), 210–30; Shaheen Sardar Ali, *Gender and Human Rights in Islam and International Law* (The Hague: Kluwer Law International, 2000), 89–110.

[11] Talal Asad, *Formations of the Secular* (Stanford: Stanford University Press, 2003), 200–20; Brinkley Messick, *The Calligraphic State* (Berkeley: University of California Press, 1993), 12–30; Patricia Ewick and Susan S. Silbey, *The Common Place of Law* (Chicago: University of Chicago Press, 1998), 50.

[12] Shaheen Sardar Ali, *Gender and Human Rights in Islam and International Law* (The Hague: Kluwer Law International, 2000), 90–105; Sylvia Vatuk, "Islamic Feminism in South Asia," *Modern Asian Studies* 42 (2008): 423–451; Ayesha Khan, *The Women's Movement in Pakistan* (Lahore: Oxford University Press, 2018), 140–60.

[13] Rubya Mehdi, *The Islamization of the Law in Pakistan*, 172–80; Anita M. Weiss, *Interpreting Islam and Women's Rights in Pakistan*, 85–100; Muhammad Qasim Zaman, *The Ulama in Contemporary Islam* (Princeton: Princeton University Press, 2002), 70.

[14] Joseph Schacht, *An Introduction to Islamic Law* (Oxford: Clarendon Press, 1964), 173–75; Jamal J. Nasir, *The Islamic Law of Personal Status* (London: Graham & Trotman, 1990), 223–30; A. A. A. Fyzee, *Outlines of Muhammadan Law* (Delhi: Oxford University Press, 2008), 395–410.

[15] Q. 16:90; Hallaq, *Sharīʿa: Theory, Practice, Transformations*, 355–75; Tucker, *Women, Family, and Gender in Islamic Law*, 175.

[16] Q. 4:7; see David S. Powers, *Studies in Qurʾān and Ḥadīth: The Formation of the Islamic Law of Inheritance* (Berkeley: University of California Press, 1986), 45–60.

[17] Q. 4:11–12.

[18] Noel J. Coulson, *Succession in the Muslim Family* (Cambridge: Cambridge University Press, 1971), 29–45; A. A. A. Fyzee, *Outlines of Muhammadan Law* (Delhi: Oxford University Press, 2008), 395–410; Jamal J. Nasir, *The Islamic Law of Personal Status* (London: Graham & Trotman, 1990), 223–30.

[19] Tucker, *Women, Family, and Gender in Islamic Law*, 172–80; Shaheen Sardar Ali, *Gender and Human Rights in Islam and International Law* (The Hague: Kluwer Law International, 2000), 89–110.

[20] Shams al-Dīn al-Sarakhsī, al-Mabsūṭ, 30 vols. (Beirut: Dār al-Maʿrifa, 1989), vol. 29. ʿAlāʾ al-Dīn al-Kāsānī, Badāʾiʿ al-Ṣanāʾiʿ fī Tartīb al-Sharāʾiʿ, 7 vols. (Beirut: Dār al-Kutub al-ʿIlmiyya, 1986). Ibn Qudāma, al-Mughnī, 15 vols. (Riyadh: Dār ʿĀlam al-Kutub, 1997). Noel J. Coulson, Succession in the Muslim Family (Cambridge: Cambridge University Press, 1971), 29–45.

[21] Hallaq, *Sharīʿa: Theory, Practice, Transformations*, 305–10, 320–30; Hallaq, *An Introduction to Islamic Law* , 95–110.

[22] Mohammad Hashim Kamali, *Shariʿah Law: An Introduction* (Oxford: Oneworld, 2008), 143–50; Schacht, *An Introduction to Islamic Law*, 173–75; Tucker, *Women, Family, and Gender in Islamic Law*, 175.

[23] Kamali, *Principles of Islamic Jurisprudence*, 283–90; Coulson, *Succession in the Muslim Family*, 40–45.

[24] Merry, "Legal Pluralism," 869–96; Griffiths, "What Is Legal Pluralism?", 1–55; Tamanaha, *A General Jurisprudence of Law and Society*, 1–25.

[25] Mehdi, *The Islamization of the Law in Pakistan*, 150–70; Lau, *The Role of Islam in the Legal System of Pakistan*, 120–35.

[26] Tamanaha, *A General Jurisprudence of Law and Society*, 1–25; Merry, "Legal Pluralism," 869–96.

[27] David S. Powers, "Islamic Inheritance Law: A Socio-Historical Approach," in *Islamic Family Law and the State*, ed. Chibli Mallat and Jane Connors (London: Trotman, 1990), 11–29.

[28] Constitution of the Islamic Republic of Pakistan, art. 227.

[29] Lau, *The Role of Islam in the Legal System of Pakistan*, 120–35; Mehdi, *The Islamization of the Law in Pakistan*, 150–70.

[30] Shaheen Sardar Ali, *Gender and Human Rights in Islam and International Law* (The Hague: Kluwer Law International, 2000), 89–110; Anita M. Weiss, *Interpreting Islam and Women's Rights in Pakistan* (Lahore: Vanguard Books, 2003), 70–95.

[31] John Griffiths, "What Is Legal Pluralism?", *Journal of Legal Pluralism and Unofficial Law* 24 (1986): 1–55.

[32] Hamza Alavi, "Kinship in West Punjab Villages," *Contributions to Indian Sociology* 6 (1972): 1–27.

[33] Sally Engle Merry, *Human Rights and Gender Violence: Translating International Law into Local Justice* (Chicago: University of Chicago Press, 2006), 100–120.

[34] Anita M. Weiss, *Interpreting Islam and Women's Rights in Pakistan*, 85–100; Ayesha Khan, *The Women's Movement in Pakistan* (Lahore: Oxford University Press, 2018), 140–60.

[35] Hamza Alavi, "Kinship in West Punjab Villages," 15–20; Deniz Kandiyoti, "Bargaining with Patriarchy," *Gender & Society* 2 (1988): 274–90.

[36] Farida Shaheed, "The Cultural Articulation of Patriarchy," 395–400; Rubya Mehdi, *The Islamization of the Law in Pakistan*, 172–80.

[37] Martin Lau, *The Role of Islam in the Legal System of Pakistan*, 140–60; Talal Asad, *Formations of the Secular* (Stanford: Stanford University Press, 2003), 200–20.

[38] Patricia Ewick and Susan S. Silbey, *The Common Place of Law: Stories from Everyday Life* (Chicago: University of Chicago Press, 1998), 50–55; Lawrence Rosen, *Law as Culture* (Princeton: Princeton University Press, 2006), 20–30.

[39] Sally Engle Merry, *Human Rights and Gender Violence*, 115–120.

[40] Shaheen Sardar Ali, *Gender and Human Rights in Islam and International Law*, 95–110; Naila Kabeer, *Reversed Realities: Gender Hierarchies in Development Thought* (London: Verso, 1994), 210–30.

[41] Boaventura de Sousa Santos, "Law: A Map of Misreading," *Journal of Law and Society* 14 (1987): 279–302.

[42] Baber Johansen, "Ṣulḥ," in *Encyclopaedia of Islam*, 2nd ed.; Ziba Mir-Hosseini, *Marriage on Trial* (London: I.B. Tauris, 1993), 45–60.

[43] *Mst. Hameeda Begum v. Mst. Irshad Begum*, PLD 2013 Lahore 123.

[44] *Ghulam Ali v. Mst. Ghulam Sarwar Naqvi*, 2007 SCMR 1234.

[45] *Mst. Bibi Khatoon v. Federation of Pakistan*, PLD 2010 SC 1.

[46] Muslim Personal Law (Shariat) Application Act, 1962 (Pakistan).

[47] Martin Lau, *The Role of Islam in the Legal System of Pakistan*, 160; Asma Jahangir, *Children of a Lesser God* (Lahore: SPARC, 1992), 55–75.

[48] Saba Mahmood, *Politics of Piety* (Princeton: Princeton University Press, 2005), 98–110; Shaheen Sardar Ali, *Gender and Human Rights in Islam and International Law*, 90–105.

[49] Wael B. Hallaq, *Sharīʿa: Theory, Practice, Transformations* (Cambridge: Cambridge University Press, 2009), 320–30; Judith E. Tucker, *Women, Family, and Gender in Islamic Law* (Cambridge: Cambridge University Press, 2008), 172–80.

[50] Hamza Alavi, "Kinship in West Punjab Villages," 20–27; Anita M. Weiss, *Interpreting Islam and Women's Rights in Pakistan*, 92–95.

[51] Brian Z. Tamanaha, *A General Jurisprudence of Law and Society*, 20–25; Sally Engle Merry, "Legal Pluralism," 880–90.

[52] Mohammad Hashim Kamali, *Principles of Islamic Jurisprudence* (Cambridge: Islamic Texts Society, 2003), 283–90; Farida Shaheed, "The Cultural Articulation of Patriarchy," 401–408.

[53] Brian Z. Tamanaha, *A General Jurisprudence of Law and Society* (Oxford: Oxford University Press, 2001), 1–25; Sally Engle Merry, "Legal Pluralism," *Law & Society Review* 22 (1988): 869–96.

[54] Mohammad Hashim Kamali, *Principles of Islamic Jurisprudence* (Cambridge: Islamic Texts Society, 2003), 283–90.

[55] Wael B. Hallaq, *Sharīʿa: Theory, Practice, Transformations* (Cambridge: Cambridge University Press, 2009), 305–10; David S. Powers, *Studies in Qurʾān and Ḥadīth: The Formation of the Islamic Law of*

Inheritance (Berkeley: University of California Press, 1986), 45–60.

[56] Rubya Mehdi, *The Islamization of the Law in Pakistan* (Richmond: Curzon Press, 1994), 172–80; Shaheen Sardar Ali, *Gender and Human Rights in Islam and International Law* (The Hague: Kluwer Law International, 2000), 89–110.

[57] David S. Powers, "Law and Custom in the Maghrib, 1475–1500: On the Disinheritance of Women," in *Law, Custom, and Statute in the Muslim World: Studies in Honor of Aharon Layish*, ed. Ron Shaham (Leiden: Brill, 2006), 17–40.

[58] Hamza Alavi, "*Kinship in West Punjab Villages*," *Contributions to Indian Sociology* 2 (1965): 1–27; Noel J. Coulson, *Succession in the Muslim Family* (Cambridge: Cambridge University Press, 1971), 29–45.

[59] Hamza Alavi, "Kinship in West Punjab Villages," 15–20; Anita M. Weiss, *Interpreting Islam and Women's Rights in Pakistan* (Lahore: Vanguard, 2003), 70–95.

[60] Judith E. Tucker, *Women, Family, and Gender in Islamic Law* (Cambridge: Cambridge University Press, 2008), 172–80; Rubya Mehdi, *The Islamization of the Law in Pakistan*, 150–70.

[61] Farida Shaheed, "The Cultural Articulation of Patriarchy," *The Muslim World* 91 (2001): 389–408; Deniz Kandiyoti, "Bargaining with Patriarchy," *Gender & Society* 2 (1988): 274–90.

[62] Lawrence Rosen, *Law as Culture* (Princeton: Princeton University Press, 2006), 20–30; Hamza Alavi, "*Kinship in West Punjab Villages*," 20–27.

[63] Mohammad Hashim Kamali, *Principles of Islamic Jurisprudence*, 283; Talal Asad, *Formations of the Secular* (Stanford: Stanford University Press, 2003), 210–20.

[64] Sally Engle Merry, *Human Rights and Gender Violence* (Chicago: University of Chicago Press, 2006), 100–120; Patricia Ewick and Susan S. Silbey, *The Common Place of Law: Stories from Everyday Life* (Chicago: University of Chicago Press, 1998), 50–55.

[65] Anita M. Weiss, *Interpreting Islam and Women's Rights in Pakistan*, 85–100; Ayesha Khan, *The Women's Movement in Pakistan* (Lahore: Oxford University Press, 2018), 140–60.

[66] Boaventura de Sousa Santos, "Law: A Map of Misreading," *Journal of Law and Society* 14 (1987): 279–302; Brian Z. Tamanaha, *Legal Pluralism Explained* (Oxford: Oxford University Press, 2020), 45–60.

[67] Farida Shaheed, "The Cultural Articulation of Patriarchy," 395–400; Saba Mahmood, *Politics of Piety* (Princeton: Princeton University Press, 2005), 98–110.

[68] Shaheen Sardar Ali, *Gender and Human Rights in Islam and International Law*, 95–105; Sylvia Vatuk, "Islamic Feminism in South Asia," *Modern Asian Studies* 42 (2008): 423–451.

[69] Ayesha Khan, *The Women's Movement in Pakistan*, 150–60; Martin Lau, *The Role of Islam in the Legal System of Pakistan* (Leiden: Brill, 2006), 140–60.

[70] Talal Asad, *Formations of the Secular*, 200–20; Ziba Mir-Hosseini, *Marriage on Trial* (London: I.B. Tauris, 1993), 45–60.

[71] Baber Johansen, "Ṣulḥ," in *Encyclopaedia of Islam*, 2nd ed., ed. P. Bearman et al. (Leiden: Brill, 1960–2005); Naila Kabeer, *Reversed Realities: Gender Hierarchies in Development Thought* (London: Verso, 1994), 210–30.

[72] Deniz Kandiyoti, "Bargaining with Patriarchy," 280–90; Anita M. Weiss, *Interpreting Islam and Women's Rights in Pakistan*, 92–95.

[73] Mohammad Hashim Kamali, *Principles of Islamic Jurisprudence*, 351; Wael B. Hallaq, *Sharīʿa: Theory, Practice, Transformations*, 320–30.

[74] Anita M. Weiss, *Interpreting Islam and Women's Rights in Pakistan* (Lahore: Vanguard, 2003), 85–100; Ayesha Khan, *The Women's Movement in Pakistan* (Lahore: Oxford University Press, 2018), 140–60.

[75] Wael B. Hallaq, *Sharīʿa: Theory, Practice, Transformations* (Cambridge: Cambridge University Press, 2009), 320–30; Jamal J. Nasir, *The Islamic Law of Personal Status* (London: Graham & Trotman, 1990), 223–30.

[76] Deniz Kandiyoti, "Bargaining with Patriarchy," *Gender & Society* 2 (1988): 274–90; Naila Kabeer, *Reversed Realities: Gender Hierarchies in Development Thought* (London: Verso, 1994), 210–30.

[77] Patricia Ewick and Susan S. Silbey, *The Common Place of Law: Stories from Everyday Life* (Chicago: University of Chicago Press, 1998), 50–55; Sally Engle Merry, *Human Rights and Gender Violence* (Chicago: University of Chicago Press, 2006), 100–120.

[78] Baber Johansen, "Ṣulḥ," in *Encyclopaedia of Islam*, 2nd ed.; Ziba Mir-Hosseini, *Marriage on Trial* (London: I.B. Tauris, 1993), 45–60.

[79] Rubya Mehdi, *The Islamization of the Law in Pakistan* (Richmond: Curzon Press, 1994), 150–70; Martin Lau, *The Role of Islam in the Legal System of Pakistan* (Leiden: Brill, 2006), 140–60.

[80] Shaheen Sardar Ali, *Gender and Human Rights in Islam and International Law* (The Hague: Kluwer Law International, 2000), 95–110; Farida Shaheed, "The Cultural Articulation of Patriarchy," *The Muslim World* 91 (2001): 389–408.

[81] Hamza Alavi, "Kinship in West Punjab Villages," *Contributions to Indian Sociology* 2 (1965): 15–20; Anita M. Weiss, *Interpreting Islam and Women's Rights in Pakistan*, 92–95.

[82] Deniz Kandiyoti, "Bargaining with Patriarchy," 280–90; Saba Mahmood, *Politics of Piety* (Princeton: Princeton University Press, 2005), 98–110.

[83] Naila Kabeer, *Reversed Realities*, 220–30; Boaventura de Sousa Santos, "Law: A Map of Misreading," *Journal of Law and Society* 14 (1987): 279–302.

[84] Martin Lau, *The Role of Islam in the Legal System of Pakistan*, 160; Asma Jahangir, *Children of a Lesser God* (Lahore: SPARC, 1992), 55–75.

[85] Judith E. Tucker, *Women, Family, and Gender in Islamic Law*

(Cambridge: Cambridge University Press, 2008), 175–80; Sylvia Vatuk, "Islamic Feminism in South Asia," *Modern Asian Studies* 42 (2008): 423–451.

[86] Brian Z. Tamanaha, *Legal Pluralism Explained* (Oxford: Oxford University Press, 2020), 45–60; Lawrence Rosen, *Law as Culture* (Princeton: Princeton University Press, 2006), 20–30.

[87] Sally Engle Merry, *Human Rights and Gender Violence*, 115–120; Patricia Ewick and Susan S. Silbey, *The Common Place of Law*, 55.

[88] Ziba Mir-Hosseini, *Marriage on Trial*, 55–60; Talal Asad, *Formations of the Secular* (Stanford: Stanford University Press, 2003), 210–20.

[89] Mohammad Hashim Kamali, *Principles of Islamic Jurisprudence* (Cambridge: Islamic Texts Society, 2003), 351; Wael B. Hallaq, *Sharīʿa: Theory, Practice, Transformations* (Cambridge: Cambridge University Press, 2009), 340.

[90] Brian Z. Tamanaha, *A General Jurisprudence of Law and Society* (Oxford: Oxford University Press, 2001), 20–25; Sally Engle Merry, "Legal Pluralism," *Law & Society Review* 22 (1988): 880–90.

[91] Farida Shaheed, "The Cultural Articulation of Patriarchy," 395–408; Rubya Mehdi, *The Islamization of the Law in Pakistan*, 172–80.

[92] Wael B. Hallaq, *Sharīʿa*, 355; Shaheen Sardar Ali, *Gender and Human Rights in Islam and International Law*, 110.