

Introduction

Of the multiple axes of gender discrimination that play a role in systemically excluding women from power, access to land has arguably impacted the socio-economic status of women the most. Control over land and property has historically been critical enough to determine hierarchies of citizenship. Especially in South Asia where most of the countries are agrarian economies, land is the most critical property influencing one's socio-economic status. However, there is no gender equality in the distribution of land in the region, which continues to be guided by strong patriarchal values. Statistics around distribution of agricultural land reveal that only 12.8% of agricultural land is held by women in India, 4.6% in Bangladesh, 8.1% in Nepal, 16.3% in Sri Lanka¹ and while there have been no comprehensive studies, the numbers range from 3%-10% in Pakistan². Further, if the women in question are from ethnic or religious minorities, the probability of them acquiring access to land is even lower. Given these concerns, it becomes important to understand the ways and means through which women acquire land, and the challenges they face in exerting control over their land.

In this paper, the author has chosen to focus on the question of how women acquire land through inheritance under Islamic law. An attempt has been made to compare the state of affairs in the two major players of the region, namely India and Pakistan. This analysis hopes to reveal differences between a state which is dominated by Hindus and has an ostensibly secular state policy³, and a state which is constitutionally defined as an Islamic republic⁴. Women are a minority in both these countries, but Muslims are only a minority in India. Thus, through this paper, the author seeks to understand

¹ "Statistics | Gender and Land Rights Database | Food and Agriculture Organization of the United Nations." Food and Agricultural Organization of the United States. Accessed March 14, 2019. <http://www.fao.org/gender-landrights-database/data-map/statistics/en/>.

² "Women Inheritance Rights: Rhetoric or Resurgence? - I." Daily Times. December 07, 2018. Accessed March 14, 2019. <https://dailymtimes.com.pk/330689/women-inheritance-rights-rhetoric-or-resurgence-i/>.

³ Preamble, The Constitution of India 1950.

⁴ Preamble, The Constitution of Pakistan, 1973.

the trajectories that both countries took around the question of Muslim women's right to inherit after the end of colonialism in 1947.

Colonial Legacy

When the British set up a legal framework in India, they placed strong reliance on the customs and practices of people belonging to different religious communities.⁵ There was thus no single official policy with respect to land inheritance, which, for Muslims, could be contingent on Sharia, as well as local custom.⁶ As per these local/tribal customs, women were either excluded from intestate succession altogether, or placed very low in the hierarchy of heirs.⁷ Their interest in the ownership of land was often limited, and not total. Given that there was no uniform Islamic law that the British utilized to direct court rulings on the matter, there were regional disparities in how land was handed down to women. The Shari'a recognises inheritance by women⁸ as well as their right to *mehr*,⁹ or the pre-determined amount that is the sole right of the women decided before any *nikaah*. The British respected this right to some extent, granting widows control over their husbands' property till the *mehr* was paid. However, their tendency to prioritize 'indigenous local customs'¹⁰ or *rivaj-i-am* often meant that in societies where women had systemically been excluded from property, their status did not improve.¹¹ For instance, in Punjab, the British argued that the population did not follow Hindu or Muslim personal law, and relied on the general code of tribal custom, which meant that land only went

⁵ Nelson, Matthew J. *In the Shadow of Shari'ah*. New York: Colombia University Press, 2011. 30-32.

⁶ Agarwal, Bina. *A Field of One's Own: Gender and Land Rights in South Asia*. New Delhi: Cambridge University Press India, 2008. 227.

⁷ Id. 227.

⁸ 4:11, The Quran.

⁹ 4:4, The Quran.

¹⁰ Rankin, George. "Custom and the Muslim Law in British India." *Transactions of the Grotius Society, Problems of Peace and War, Papers Read before the Society in the Year 1939* (1939): 89-118. Accessed March 14, 2019. <https://www.jstor.org/stable/742815>.

¹¹ For instance, Shari'a law was not considered as being applicable to agricultural land in the early 20th century, which meant that exclusionary statutes such as the Punjab Land Alienation Act subordinated the rights of women. See Saiyid, Dushka. *Muslim Women of the British Punjab: From Seclusion to Politics*. London: Palgrave Macmillan, 1998.

to male agnatic descendants, and only allowed inheritance to a female if she was a widow.¹² Even if land was passed on to the woman, chances were high that she would not be allowed control over the property, and this was the general direction in which courts adjudicated as well.¹³

This eventually began to draw criticism from Muslim women's organizations, which were strongly against customary law.¹⁴ Under Shari'a law, shares of women are fixed, with specific shares to certain individuals.¹⁵ The residue transfers to the agnatic heirs¹⁶, and failing them to uterine heirs¹⁷, and only one-third of the property can be willed.¹⁸ Women can inherit as wives, daughters or parents, but if a woman is at the same standing as a customary male heir, she can claim only half of the share of the male.¹⁹ The case was made that transition to sharia law would reform women's access. In 1937, the Muslim Personal Law (Shariat) Application Act (hereinafter 'Shariat Act') was introduced, which created an illusion of equity for Muslim women.²⁰ Debates around this Bill focused specifically on the codification of inheritance rights for Muslim women. There was a high level of controversy around the notion of extending these rights. On one hand, agriculturalists from Punjab and Awadh were articulated opposition, while another section (including Jinnah) wanted to include land inheritance for women.²¹ The representative from Amritsar noted that while the expectation had been that Hindus

¹² Chowdhry, Prem. "Contesting Claims and Counter-Claims: Questions of the Inheritance and Sexuality of Widows in a Colonial State." *Contributions to Indian Sociology* 29, no. 1-2 (1995): 65-82. doi:10.1177/0069966795029001005.

¹³ Id.

¹⁴ Saiyid, Dushka. *Muslim Women of the British Punjab: From Seclusion to Politics*. London: Palgrave Macmillan, 1998. 30.

¹⁵ Fyzee, Asaf Ali Asghar. *Outlines of Muhammadan Law*. 5th ed. Delhi: Oxford University Press, 2008. 316

¹⁶ Male relations on the male line. See Esposito, John L., and Natana J. DeLong-Bas. *Women in Muslim Family Law*. Syracuse, NY: Syracuse Univ. Press, 2004. 41.

¹⁷ Relative who is neither a sharer nor a residuary. Id.

¹⁸ Pandey, Shruti. "Property Rights of Indian Women." Accessed March 14, 2019. <https://www.womenslinkworldwide.org/en/files/1290/property-rights-of-indian-women.pdf>.

¹⁹ Fyzee, *supra* note 15.

²⁰ Section 2, Muslim Personal Law (Shariat) Application Act, 1937. Application of Personal law to Muslims.— Notwithstanding any custom or usage to the contrary, in all questions (save questions relating to agricultural land) regarding intestate succession, special property of females, including personal property inherited or obtained under contract or gift or any other provision of Personal Law, marriage, dissolution of marriage, including *talaq, ıla, zıbar, lian, kbula* and *mubaraat*, maintenance, dower, guardianship, gifts, trusts and trust properties, and *wakfs* (other than charities and charitable institutions and charitable and religious endowments) the rule of decision in cases where the parties are Muslims shall be the Muslim Personal Law (Shariat).

²¹ Mathew Nelson, *supra* note 5, at 98.

would eventually be able to follow Islamic principles to grant property to women, it was surprising that the discussion around the Shariat Act centred around limiting the enshrined rights of Muslim women.²² Finally, the bill was passed with the support of the government. However, since agricultural land was excluded from its ambit, this effectively meant that the prospect of actual land ownership by women remained an illusion. The British were more concerned with maintaining their political relationship with the powerful landlords than with achieving any substantive equality. In practice, it was not rare to find women giving up property in favour of their brothers out of societal pressure.²³ The other piece of colonial legislation that emerged was the Succession Act of 1925, which codifies procedures for succession among people of different communities, and gives directions on implementing and enforcing wills.²⁴ Thus, the inheritance of the British legal system effectively created a system that continued to be unfavourable to Muslim Women.

Post-Colonial Framework in India:

In India, there is no single codified legislation governing inheritance for Muslims. The provisions of the Shariat Act, the Succession Act, and the principles of Islamic law form the framework under which property devolves. This act continues to exclude agricultural land from its purview²⁵, implying that in effect there are no strong guarantees for ensuring that women get their Sharia-mandated share of arable land. It is pertinent to note that this is not uniform in all the provinces – agricultural land is explicitly included in Andhra Pradesh, Tamil Nadu and Kerala²⁶, and has been included in practice in Assam, Maharashtra, Gujarat, and West Bengal as well since there was never a presumption of exclusion in customary law in these regions.²⁷

²² Saiyid, *supra* note 14, at 14.

²³ Saiyid, *supra* note 14, at 41.

²⁴ Succession Act, 1925.

²⁵ Section 2, Muslim Personal Law (Shariat) Application Act, 1937.

²⁶ Section 2, Shariat Act, 1937 contains a savings clause to inheriting agricultural land for these particular states.

²⁷ Agarwal, *supra* note 6, at 234.

Though the Shariat Act recognizes that women have clearly defined shares of property, in actual practice, women are consistently denied their rights. A study in Uttar Pradesh revealed that many Muslim women accept the idea that there is a religious privilege that men enjoy over land, and therefore they often relinquish their title to land.²⁸ Moreover, after marriage, women rely on the stability of their natal home as a place to come back to in the event that the marriage collapses, and feel that they will be assured protection in exchange for giving up their claim over property.²⁹ An interview with a lawyer who works at a collective that carries out legal advocacy for women in UP has also corroborated this, revealing that in many instances women may not directly claim their share, but use it as a bargaining chip with their family, and moreover, to preserve the inheritance for their sons and other male relatives.³⁰ Thus, socialization into traditional beliefs silenced women and prevented them from claiming their inheritance. Further, in a Hindu-dominated country, issues like encroachment are not uncommon. For instance, in U.P., a case study revealed that many Muslims, including women, lost out land due to purchase/encroachment by dominant Hindu castes, who do not allow opposition.³¹ The situation is perhaps much worse since Muslim women in India fall at the intersection of being a minority due to gender as well as religion. Threats of violence and societal stigma can therefore bar these women from approaching enforcement mechanisms against such practices. Moreover, different states have their own mutation processes to convert title into the name of the heir, and these are often tedious. For instance, in U.P, there is an extensive list of documents necessary to prove one's status as an heir³², most of which can never be accessed by most of the

²⁸ Saxena, Niti, and Soma K. Parthasarathy. "Claiming Space, Claiming Rights: Inheritance and Land Rights for Muslim Women in Uttar Pradesh, India." In *Land, Labour and Livelihoods: Indian Women's Perspectives*, edited by Gopal, Meena, Ruthven, Orlanda and Fernandez, Beena. 89-108. Cham: Palgrave Macmillan, 2016.

²⁹ Saxena *et al*, id, at 95.

³⁰ Singh, Shubhangi, Programme Coordinator, AALI. Telephone interview by author. March 10, 2019.

³¹ Supra note 28, at 99.

³² The list goes as follows: Death certificate, Copy of Succession Certificate, Affidavit on stamp paper, Up-to-date property tax payment receipt in case of Power of Attorney, Copy of Power of Attorney, Application for mutation with stamp affixed Registration deeds (Both current & previous), Sale deeds, Affidavit on stamp paper of requisite value, Receipt of current property tax payment, Ration Card, and Aadhaar Card! See "Uttar Pradesh Land Mutation - Application Procedure."

population in their lifetime in ordinary circumstances. This is followed by a lengthy application process at the nearest block/sub-registrar/patwari office.³³ This practice also has a digital version, but given that most women in India do not have access to the internet³⁴, it is unlikely that this has seen much use by the segment under consideration in this paper.

It is not as though challenges have not been raised. However, the courts have also not been vanguards guaranteeing the rights of women in this regard. In *Khuran Sunnath Society & Others v. Union Of India And Another*³⁵, a Public Interest Litigation petition was raised requesting the court to declare that the gender imbalance in inheritance laws for women under the Shariat Application Act was unconstitutional. The petitioners argued that the exclusion of women from inheritance was violative of the equality provisions under the constitution while also being based on a misinterpretation of the Quran. The Court shied away from making any declaration to that effect, and instead phrased it as the duty of the legislature. In the currently ongoing case of *Sahara Kalyan Samiti v Union of India*³⁶, Sahara Kalyan Samiti, an NGO based out of Delhi, has made a challenge before the Delhi High Court arguing that the denial of inheritance rights for Muslim women is tantamount to a violation of Articles 14, 19 and 21 of the Constitution. It is not a coincidence that the advocate who filed this petition, Raghav Awasthi, is a known member of the RSS.³⁷ Another argument the petitioners made was that Article 13 of the Constitution³⁸ must apply to personal laws. While the government is yet to respond, it is

IndiaFilings. March 05, 2019. Accessed March 14, 2019. <https://www.indiafilings.com/learn/uttar-pradesh-land-mutation/>.

³³ "Uttar Pradesh Land Mutation - Application Procedure." IndiaFilings. March 05, 2019. Accessed March 14, 2019. <https://www.indiafilings.com/learn/uttar-pradesh-land-mutation/>.

³⁴ Gordon, Kyle. "Internet Usage in India." Statista. Accessed March 14, 2019. <https://www.statista.com/topics/2157/internet-usage-in-india/>.

³⁵ *Khuran Sunnath Society & Others vs Union Of India And Another*, WP(C).NO. 31299 OF 2008 (S), High Court of Kerala, 2008.

³⁶ *Sahara Kalyan Samiti v Union of India*, W.P.(C) 1892/2017, High Court of Delhi, 2017.

³⁷ Awasthi, Raghav. "Raghav Awasthi (@raghav355)." Twitter. Accessed March 14, 2019. <https://twitter.com/raghav355?lang=en>.

³⁸ Article 13, The Constitution of India, 1950. (1) All laws in force in the territory of India immediately before the commencement of this Constitution, in so far as they are inconsistent with the provisions of this Part, shall, to the extent of such inconsistency, be void. (2) The State shall not make any law which takes away or abridges the rights conferred by this Part and any law made in contravention of this clause shall, to the extent of the contravention, be void.

pertinent to note that much like the Triple Talaq judgment³⁹, the fundamental rights argument was used to make a case for amending Muslim personal laws exclusively.

Therefore, in inheritance issues for Muslim women, patriarchy, caste hegemony, and religious discrimination prevail in India despite India's secular constitution upholding fundamental rights.

Post-Colonial Framework in Pakistan:

While there is no exclusive policy governing the right of women to inherit, the current legal framework governing inheritance in Pakistan draws from multiple legislations, prominently the West Punjab Muslim Shariat Application Act, the Muslim Family Laws Ordinance, and the Succession Act⁴⁰. Implementation of inheritance of land is regulated under the West Pakistan Land Revenue Act. The Constitution does not directly mention inheritance but guarantees some form of justice without discrimination.⁴¹

The direction of the law after the creation of the state of Pakistan did move towards better inheritance rights for women. Women organized and gathered outside the Punjab Assembly in 1948 in order to push for the adoption of the West Punjab Muslim Shariat Application Act, which was eventually adopted⁴²; in 1951, the Muslim Personal Law of Shariat finally gave women the right to inherit agricultural property. However, this did not mean that there was any actual reform on the ground – deep-rooted custom guaranteed that women continued to be denied their inheritance on a regular basis, and in most instances, customary law prevailed.⁴³ In 1962, the West Pakistan Muslim Personal Law (Shariat) Act was passed. This act reiterated that agricultural law would be a part of intestate succession for women.⁴⁴ The Act also did away with limited estates with respect to immovable

³⁹ Shayara Bano v. Union of India, Writ Petition (C) No. 118 of 2016, Supreme Court of India, 2017.

⁴⁰ The provisions of the Succession Act of 1925 have been amended post-independence to ensure that they are compatible with the Islamic laws of inheritance.

⁴¹ Article 25, The Constitution of Pakistan, 1973.

⁴² Jalal, Ayesha. "The Convenience of Subservience: Women and the State of Pakistan." In *Women, Islam and the State*, edited by Deniz Kandiyoti, 77-114. Philadelphia: Temple University Press, 1991.

⁴³ Mumtaz, Khawar, and Farida Shaheed. *Women of Pakistan: Two Steps Forward, One Step Back?* London: Zed, 1987. 57.

⁴⁴ Id.

property held by women under customary law.⁴⁵ However, both versions of the statute did not specify the strict provisions of Islamic law that would be applicable.⁴⁶ In 1955, after strong lobbying on the part of the All Pakistan Women's Association, the government established a Commission to look into the reform of family law to favour the rights of women.⁴⁷ The recommendations of the Commission went into the formulation of the Muslim Family Laws Ordinance, 1961. This granted rights to the children of pre-deceased heirs, including those of pre-deceased daughters, which is a revolution in its own right, given that the daughter's children have traditionally been excluded as they are considered to be distant kinspeople.⁴⁸

As per a survey, 40.81% of women do get their share in their inheritance, but do not necessarily have a stake in controlling it.⁴⁹ This number is a far cry from the 3-10% ownership identified earlier in this paper, implying that there have likely been barriers in the way of enforcing inheritance. This has been corroborated by interviews with lawyers from Pakistan – one who works at the level of the lowest courts⁵⁰, and one who is a partner in a larger law firm⁵¹. The first one works with a feminist lawyers' collective and handles inheritance claims by women. He believes that when the woman does approach the court, their rights will always get enforced, since there has to be compliance with Shari'a. However, there are challenges – one of the cases he handled saw an outcome where the court-ordered mutation was conducted, but the plaintiff's brothers continued to occupy her land. Such circumstances were also corroborated by the second lawyer. He says that ambiguity arises only when the prescriptions of the Quran or the Sunna are not clear. Further, even if the government abolishes tribal customs that

⁴⁵ Section 3, West Pakistan Muslim Personal Law (Shariat) Act, 1962.

⁴⁶ Lau, Martin. *The Role of Islam in the Legal System of Pakistan*. Leiden: M. Nijhoff, 2006. 139.

⁴⁷ Pearl, David S. "Family Law in Pakistan." *Journal of Family Law* 9 (1969): 165-89. Accessed March 14, 2019.

⁴⁸ Carroll, Lucy. "The Muslim Family Laws Ordinance, 1961." *Contributions to Indian Sociology*. 13, no. 1 (January 1, 1979): 117-43. doi:10.1177/006996677901300105.

⁴⁹ National Commission on the Status of Women. *Women's Rights of Inheritance and Its Implementation*. Report. Accessed March 14, 2019. <http://www.ncsw.gov.pk/downloadpublication/3>.

⁵⁰ Liaqat Mian, Advocate, Lahore (AGHS). Telephone interview by author. March 11, 2019.

⁵¹ Khan, Taimoor Aslam, Partner, Sardar Muhammad Aslam Khan Law Associates, Islamabad. Telephone interview by author. March 11, 2019.

prohibit inheritance by women, they do not get enforced. The enforcement mechanism is long and cumbersome. The patwari at the most local level keeps records of all the legal heirs. The woman has to file a declaratory decree in the civil court to get herself a place as a legal heir, after which she can apply to have the register of land mutated. Once the declaration is made in the name of the woman, the patwari mutates the land records. Getting this declaration is no easy task, since most women don't litigate, and often only become aware of their rights after the limitation period has passed. This entire process is only accessible to elite women who occupy certain privileges of class, as societal stigma and poverty, along with the fear of being alienated act as barriers in the way of women accessing bureaucratic and legal institutions.

The courts of Pakistan have shown progressive signs in adjudicating such cases. *Islam-ud-Din (deceased) and ors. v. Noor Jahan (deceased) and ors.*⁵², the daughter of the deceased filed a suit claiming 1/12th share over the property of her late father, per shari'a law. She had filed a suit before the local court in SWAT, where the qazi gave her rights over agricultural land but not over other properties. In appeal, the appellants, who were her brothers argued that the father had made a gift of his properties to them, and that they had maintained possession over them for a long time. The court ruled in favour of the woman, stating that, "*A sister, to claim her rightful inheritance, was compelled to go to court and suffered long years of agony. However, before [she] could get what was rightfully hers, she too departed from this world...A quarter of a century has elapsed since the death of Haji Sabraney (the deceased father). Such a state of affairs, to say the least, is most unfortunate.*" In *Khalida Shamim Akhtar v. Ghulam Jaffar*⁵³, the Lahore High Court decided on the issue of whether a childless widow can inherit from her husband under Shia law. The brothers of the deceased argued that Shia law prohibits an 'issueless widow' from inheriting. However, a member of the Council of Islamic Ideology testified that such a widow could inherit 1/4 of the share of the estate.

⁵² *Islam-ud-din and ors. v. Noor Jahan and ors.*, Civil Appeal No. 94-P Of 2012 and Civil Appeal No. 1445 Of 2013, Supreme Court of Pakistan, 2016.

⁵³ *Khalida Shamim Akhtar v. Ghulam Jaffar*, PLD 2016 Lahore 865, Lahore High Court, 2016.

The court ruled in favour of the widow, and in an obiter suggested that the government move towards codifying this into law. In the author's interview with the lawyer from Islamabad, he mentioned that judges tend to rule based on their own personal bias. For instance, in *Ghulam Ali v. Sarwar Naqvi*⁵⁴ the Supreme Court set strong precedent against relinquishment by the women, holding that this was against public policy. Even if the sister had herself waived the right of inheritance, this agreement would not be valid. The court point out that, "...it might be very rare that a male co-heir would relinquish his right for a female heir. Experience shows that is has always been the reverse. The flow of love cannot be so unnatural." The interviewee believed that the fact that one of the judges had daughters influenced the outcome of this case.

Therefore, in Pakistan, the courts have leaned towards preserving the rights of inheritance codified under Sharia law. While the extent to which women can inherit is not equal to that of men, the fact that inheritance is a right fixed in the Quran makes it relatively easier for courts to uphold whatever rights do exist. Yet, socialization and the challenges of navigating the bureaucracy seem to act as obstacles in the path of women claiming their rights.

A final note must be made with respect to Pakistan and their recent move to digitize land records. Through initiatives such as the Land Records Management and Information Systems programme in Punjab, a move has been made to digitize title to land⁵⁵, which also leads to a separate mutation procedure.⁵⁶ A report found that at least in Punjab, digitised land records made land titles accessible, and have done away with uncertainty and reduced corruption, helping poor farmers and women whose

⁵⁴ Ghulam Ali v. Sarwar Naqvi, PLD 1990 SC 1, Supreme Court of Pakistan, 1990.

⁵⁵ Home Page - LRMIS. Accessed March 14, 2019. <https://www.punjab-zameen.gov.pk/HaqooqEAraaziSearch>.

⁵⁶ See Punjab Commission on the Status of Women. . *Evaluating 2015 Legal Reforms Related to Land Inheritance and Their Impact on Women*. Report. March 2016. Accessed March 14, 2019. <https://pcsw.punjab.gov.pk/system/files/Evaluating2015LegalReformsrelatedtoLandInheritanceandtheirimpactonWom en.pdf>. "After the death of a land owner, a succession certificate is issued by the Union Council. The heirs can bring this succession certificate to any Service Centre of the LRMIS. 2. The SCO receives the succession certificate and deploys a field team to verify the rightful heirs. 3. The field team has 15 days to complete their verification. Without verification, the process cannot move forward. 4. Once the legal heirs have been verified, the SCO office calls the rightful heirs to their office to transfer the land and record their thumbprints and CNIC numbers."

rights could not be protected in the absence of title.⁵⁷ However, the question of title can only arise once the rights get transferred to the woman, and it remains to be seen how far the consequences of digitization actually impact land ownership by women in the absence of structural reform.

Conclusion

This paper has attempted to analyse the legacy of colonial rule, the content of the law and the ways in which women have engaged with it in two jurisdictions – India and Pakistan. In the former, the position of Muslim women stands at the intersection of two minority identities – gender and religion. In many instances, the woman also occupies an underprivileged class position. Moreover, India is on paper a secular state, but with a dominant Hindu population. This implies that in terms of entrenched societal hierarchy, the rights of a woman who is Muslim and also from a lower class/historical lower caste are unlikely to be prioritized. In contrast, in Pakistan, Muslim women are a part of the majority religious community, given that Shari’a law is protected in the Constitution. This implies that there is much more implicit acceptance of the fact that women have fixed, albeit unequal, shares in land. Yet, this has not translated into equality in terms of actual possession and ownership. Patriarchy and fear of alienation from the natal family seem to guide the decisions women take about staking claims over their inheritance on both sides of the border.

A comparative between the two states with respect to the actual enforcement of inheritance rights over land may be captured in the following table:

India	Pakistan
Agricultural land excluded except in some states.	Agricultural land included.
No clear codification.	No clear codification.
Non-equal rights to men.	Non-equal rights to men.

⁵⁷ Punjab Commission on the Status of Women. *Punjab Gender Parity Report 2018*. Report. 2018. Accessed March 14, 2019. https://pcsw.punjab.gov.pk/system/files/PGPR-2018_0.pdf. 153

Women not protected from ‘voluntary’ relinquishment.	Judicial decree protects women from ‘voluntary’ relinquishment.
Constitutional challenge pending.	Constitutional challenges have not yet been mounted.
Inaccessible and complicated enforcement process.	Inaccessible and complicated enforcement process.

Thus, we see that while both countries have much left to desire, Pakistan seems to have performed better on multiple indicators. This could have something to do with the fact that the status of women as inheritors of land is firmly codified in the Shari’a, which has to be upheld per the courts of the country. The same compulsion does not exist in India, which has disadvantaged Muslim women.

Historically, the lesson from the colonial era debates on this issue may be that legislative change can be affected with the power of popular movement and support from a few politically influential individuals. The legislature in both countries may benefit from clearer codification of the rights of inheritance for Muslim women. While this paper has not examined the Uniform Civil Code debate in India, future work must consider how the *de-facto* Hindu state may be able to bring legislative change for the minority community, whatever their motivation. Any effort towards reform must go beyond the usual rhetoric of awareness campaigns, whether conducted by the state⁵⁸ or by NGOs⁵⁹. Ensuring that title is registered in the name of the women who have inherited their share is the need of the hour. As seen from the example of LRMIS, digitization and e-governance have the potential to be powerful tools in this regard, once the first step of having succession declared in the name of the woman has been achieved. Muslim women’s right of inheritance has been established since the seventh century, and neither nation should be proud of its failure to uphold this right up until today.

⁵⁸ "Human Rights Ministry Launches Awareness Drive about Women's Right to Inheritance." *Dawn*, September 14, 2018. Accessed March 14, 2019. <https://www.dawn.com/news/1432901>.

⁵⁹ India Today Web Desk. "Save the Girl Child's Right to Inheritance, Join the HerShare Campaign!" *India Today*, October 13, 2017. Accessed March 14, 2019. <https://www.indiatoday.in/education-today/featurephilia/story/hershare-girlscount-campaign-1064103-2017-10-13>.

BIBLIOGRAPHY:

Cases

Ghulam Ali v. Sarwar Naqvi, PLD 1990 SC 1, Supreme Court of Pakistan, 1990.....	11
Islam-ud-din and ors. v. Noor Jahan and ors., Civil Appeal No. 94-P Of 2012 and Civil Appeal No. 1445 Of 2013, Supreme Court of Pakistan, 2016.....	11
Khalida Shamim Akhtar v. Ghulam Jaffar, PLD 2016 Lahore 865, Lahore High Court, 2016.....	11
Khuran Sunnath Society & Others vs Union Of India And Another, WP(C).NO. 31299 OF 2008 (S), High Court of Kerala, 2008.	7
Sahara Kalyan Samiti v Union of India, W.P.(C) 1892/2017, High Court of Delhi, 2017.....	7
Shayara Bano v. Union of India, Writ Petition (C) No. 118 of 2016, Supreme Court of India, 2017..	8

Statutes

Muslim Personal Law (Shariat) Application Act, 1937	3
West Pakistan Muslim Personal Law (Shariat) Act, 1962.	8

Constitutions

The Constitution of India 1950.	1
The Constitution of Pakistan, 1973.....	1

Websites

"Statistics Gender and Land Rights Database Food and Agriculture Organization of the United Nations." Food and Agricultural Organization of the United States. Accessed March 14, 2019. http://www.fao.org/gender-landrights-database/data-map/statistics/en/	1
"Uttar Pradesh Land Mutation - Application Procedure." IndiaFilings. March 05, 2019. Accessed March 14, 2019. https://www.indiafilings.com/learn/uttar-pradesh-land-mutation/	6

Awasthi, Raghav. "Raghav Awasthi (@raghav355)." Twitter. Accessed March 14, 2019. <https://twitter.com/raghav355?lang=en>.....6

Gordon, Kyle. "Internet Usage in India." Statista. Accessed March 14, 2019. <https://www.statista.com/topics/2157/internet-usage-in-india/>.....6

Home Page - LRMIS. Accessed March 14, 2019. <https://www.punjab-zameen.gov.pk/HaqooqEAraaziSearch>.....10

Newspapers

"Human Rights Ministry Launches Awareness Drive about Women's Right to Inheritance." *Dawn*, September 14, 2018. Accessed March 14, 2019. <https://www.dawn.com/news/1432901>.....12

"Women Inheritance Rights: Rhetoric or Resurgence? - I." *Daily Times*. December 07, 2018. Accessed March 14, 2019. <https://dailytimes.com.pk/330689/women-inheritance-rights-rhetoric-or-resurgence-i/>.....1

India Today Web Desk. "Save the Girl Child's Right to Inheritance, Join the HerShare Campaign!" *India Today*, October 13, 2017. Accessed March 14, 2019. <https://www.indiatoday.in/education-today/featurephilia/story/hershare-girlscount-campaign-1064103-2017-10-13>.....12

Books/Book Chapters

Agarwal, Bina. *A Field of One's Own: Gender and Land Rights in South Asia*. New Delhi: Cambridge University Press India, 2008. 227.....2

Esposito, John L., and Natana J. DeLong-Bas. *Women in Muslim Family Law*. Syracuse, NY: Syracuse Univ. Press, 2004. 41.....3

Fyzee, Asaf Ali Asghar. *Outlines of Muhammadan Law*. 5th ed. Delhi: Oxford University Press, 2008. 3

Jalal, Ayesha. "The Convenience of Subservience: Women and the State of Pakistan." In *Women, Islam and the State*, edited by Deniz Kandiyoti, 77-114. Philadelphia: Temple University Press, 1991.7

Lau, Martin. *The Role of Islam in the Legal System of Pakistan*. Leiden: M. Nijhoff, 2006.....8

Mumtaz, Khawar, and Farida Shaheed. *Women of Pakistan: Two Steps Forward, One Step Back?* London: Zed, 1987.7

Nelson, Matthew J. *In the Shadow of Shari'ah*. New York: Colombia University Press, 2011. 30-32.....2

Saiyid, Dushka. *Muslim Women of the British Punjab: From Seclusion to Politics*. London: Palgrave Macmillan, 1998.2

Saxena, Niti, and Soma K. Parthasarathy. "Claiming Space, Claiming Rights: Inheritance and Land Rights for Muslim Women in Uttar Pradesh, India." In *Land, Labour and Livelihoods: Indian Women's Perspectives*, edited by Gopal, Meena, Ruthven, Orlanda and Fernandez, Beena. 89-108. Cham: Palgrave Macmillan, 2016.....5

Miscellaneous

National Commission on the Status of Women. *Women's Rights of Inheritance and Its Implementation*. Report. Accessed March 14, 2019. <http://www.ncsw.gov.pk/downloadpublication/3>.....8

Pandey, Shruti. "Property Rights of Indian Women." Accessed March 14, 2019. <https://www.womenslinkworldwide.org/en/files/1290/property-rights-of-indian-women.pdf>. ...3

Punjab Commission on the Status of Women. . *Evaluating 2015 Legal Reforms Related to Land Inheritance and Their Impact on Women*. Report. March 2016. Accessed March 14, 2019. <https://pcsw.punjab.gov.pk/system/files/Evaluating2015LegalReformsrelatedtoLandInheritanceandtheirimpactonWomen.pdf>.10

Punjab Commission on the Status of Women. *Punjab Gender Parity Report 2018*. Report. 2018. Accessed March 14, 2019. https://pcsw.punjab.gov.pk/system/files/PGPR-2018_0.pdf.11

Rankin, George. "Custom and the Muslim Law in British India." *Transactions of the Grotius Society, Problems of Peace and War, Papers Read before the Society in the Year 1939*25 (1939): 89-118. Accessed March 14, 2019. <https://www.jstor.org/stable/742815>.2

The Quran.....2

Journal Articles

Carroll, Lucy. "The Muslim Family Laws Ordinance, 1961." *Contributions to Indian Sociology*. 13, no. 1 (January 1, 1979): 117-43. doi:10.1177/006996677901300105.....8

Chowdhry, Prem. "Contesting Claims and Counter-Claims: Questions of the Inheritance and Sexuality of Widows in a Colonial State." *Contributions to Indian Sociology*29, no. 1-2 (1995): 65-82. doi:10.1177/0069966795029001005.....3

Pearl, David S. "Family Law in Pakistan." *Journal of Family Law* 9 (1969): 165-89. Accessed March 14, 2019.8

Interviews

Khan, Taimoor Aslam, Partner, Sardar Muhammad Aslam Khan Law Associates, Islamabad. Telephone interview by author. March 11, 2019.8

Liaqat Mian, Advocate, Lahore (AGHS). Telephone interview by author. March 11, 2019.....8

Singh, Shubhangi, Programme Coordinator, AALI. Telephone interview by author. March 10, 2019.5