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## **A Comparative Analysis of Women's Inheritance Rights: Legal Frameworks and Social Realities**

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### **ABSTRACT**

This paper reviews the legal systems of Islamic and non-Islamic countries with a historical and theological foundation and contemporary issues with a specific focus on the framework regarding the successful innovations of women in the 7th century. The gender (injustice) at that era and ever since, was constructed greatly at the Sharia standards by incorporating the Qur'anic reforms, and advancing gender justice by attributing women with a guaranteed fixed share of Inheritance. It is the first time in history that a legal instrument attached value to a woman. Regardless of the achievements in the area of Inheritance, the reality in most countries is that cultural limitations and modest contemporary interpretations of Islamic law still prevail and restrict the legal access to property, a reflection of a deeper social gender bias. Islamic law, for the first time in history, and outside the cultural context of despair, apportioned value to women. In modern times, the Islamic apolitical legal systems in Sharia-based countries have an entirely negative, even reactionary, perspective about the role and contribution of women. Unlike many other legal systems that rest upon the structure of the society, the Islamic apolitical legal systems pay even less attention to the social and cultural barriers that limit the social mobility of women, notwithstanding the so-called gender neutral succession laws that equally apply to men and women. This is an important starting point of the paper. The issues of legal barriers that women specifically face, such as patriarchal customs, the impact of legal loopholes, weak legal structures, and politically motivated legal systems that preserve women at the periphery of the positive financing principles, are the primary focus of the paper. The Sharia framework of the Ijtihad, as well as the Human Rights laws of the International Community, such as CEDAW, along with SDG 5, stand as examples of critical support for the concept of women apportioning value. The findings call for an inclusive multi-folded approach that balances religion and modern justice principles for value. Women's active participation in the lineage possesses the right of Inheritance and constitutional economic decision-making from the perspective of positive financing, which is multi-fold and deeply appreciated.

### **Introduction**

The women's inheritance rights remain one of the sensitive points of discussions having to do with gender equity, social justice, and the need for legal reforms. Traditionally, inheritance laws have been a reflection of a particular society's morals, religion, and socio-economic conditions. In most of the pre-modern societies, women had no clear rights to Inheritance, especially Inheritance in relation to property, because such Inheritance was viewed through the 'women are subordinate to men' prism, or rather the patriarchal prism (Silalahi et al., 2024). Property was a means of family wealth and power, shifted from a male parent to a male child, and to retain the patriarchal system,



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continuity was important. Hence, women had no chances of ever having economic independence and thus had to rely on the male member of the family for their livelihood. The implementation of Islamic law by the seventh century brought about an epoch-defining shift with respect to the legal and economic rights of women. The Qur'an allocated women specific portions in Inheritance, a salient shift from women in pre-Islamic Arabian society, where they were viewed as property and not as heirs (Ma'mun, S. & Maliki, 2023).

Verses such as Surah An-Nisa (4:7) affirm that "For men there is a share in what their parents and close relatives leave, and for women there is a share in what their parents and close relatives leave—whether it is little or much. 'These are' obligatory shares." This directive institutionalized women's right to inherit and control property, underscoring Islam's commitment to social justice and economic balance (Hirschon, 2023).

Recognizing the importance of property ownership as a means of empowering women is crucial. Acquisition of property enhances financial capability, even leading to the lifting of the household financial threshold as well as the additional capability to negotiate, thereby improving social status (Gaddis et al, 2022). Despite the concrete religious texts and legal frameworks, cultural barriers, patriarchal assumptions, and lack of implementation continue to obstruct women from achieving these rights. Therefore, studying women's rights within the framework of Inheritance from Islamic and non-Islamic jurisdictions is critical to developing instruments of just legal reform as well as achieving enduring gender justice.

### **Problem Statement**

Although legal systems, Islamic and secular, have comprehensive legal systems aimed at promoting gender equity, women still face discrimination, especially concerning Inheritance. In some societies, women cannot access their Inheritance due to social customs, strained religious interpretations, and poor enforcement. Inheritance is sanctioned directly to women by Islamic law, and secular systems affirm gender equity, but the gap for working implementation is too wide. This gap shifts the existing legal and institutional frameworks to the periphery, for it adds to the systemic discrimination against women, which fuels poverty and inequality, adds to the economic disparity, and puts the rule of law to the test.

### **Research Questions**

How do Islamic and secular legal systems differ in regulating women's inheritance rights?

What are the challenges in implementing equitable inheritance laws?

### **Historical and Theological Foundations**

Women did not enjoy the right to Inheritance in most tribal and customary systems long before the introduction of Islam. The practice of Inheritance in the pre-Islamic region of Arabia was inheritable only to the lineage of men who were physically capable of wielding weapons and protecting the interests of the tribe (Simonen, 2021). Women, minors, and enslaved people were regarded as the property of men and fully deprived of Inheritance. Women's property status was depicted as broader sexism, which denied women the right to have an economic and legal identity. This situation was not unique within the ancient civilizations of the world, in Greece and Rome, and in Europe during the early Christian times. Inheritance was used to consolidate men's lineage and power (Maurer, 2023).

The Qur'an, which was given unto Muhammad in the 7th century, comes with radical shifts which set the Reception of the Qur'an apart from other practices of the time.



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Through divinely commanded Islamic statutes, women came to be identified with fixed shares of Inheritance. Surah An-Nisa (4:11–12) describes the various proportions to be allocated to sons, daughters, parents, and spouses, portraying equity in the distribution. These portions of the Qur'an brought about an entire system that appreciated women's property rights, which was a monumental change during that time.

“Allah commands you regarding your children: the share of the male will be twice that of the female. If you leave only two ‘or more’ females, their share is two-thirds of the estate. But if there is only one female, her share will be one-half. Each parent is entitled to one-sixth if they leave offspring. But if you are childless and your parents are the only heirs, then your mother will receive one-third.<sup>3</sup> But if you leave siblings, then your mother will receive one-sixth after the fulfilment of bequests and debts. ‘Be fair to’ your parents and children, as you do not ‘fully’ know who is more beneficial to you. ‘This is’ an obligation from Allah. Surely Allah is All-Knowing, All-Wise.” Surah An-Nisa (4:11–12)

Prophet Muhammad (PBUH) reinforced these principles through the practical implementation of a women's Inheritance. Historical accounts (hadith) tell that he personally settled disagreements in which women were not given what was due to them and insisted that to withhold an inheritance was to commit an act of injustice (Ahmed et al, 2023). His guiding authority brought out the Islamic principles of justice (‘adl) and sympathy (rahmah) in an innovative manner, which served the subsequent Islamic legal scholarship.

In the earlier stages of Islamic law, some experts from the Hanafi, Maliki, Shafii, and Hanbali schools of thought worked to develop the rules of Inheritance, which was called ‘ilm al-faraid’. They came up with complex techniques for calculating shares, settling disputes between heirs, and ensuring fairness in the distribution of property Hisham et al, 2025. While their interpretations differed in finer points of technicalities, all acknowledged the Qur'anic principle that women, no matter their marital or social class, have the right to inherit.

### **Legal Framework of Women's Inheritance in Islamic Law**

Islamic Inheritance (‘Ilm al-Farā'id) is one of the most structured details of Sharia law, and it aims to accomplish equity, clarity, and social justice balance. Every heir is entitled to their respective share, which is categorized as a divine commandment (fard) and is mentioned within the Qur'an and Sunnah. These legal realities demonstrate social responsibility as well as equity. They intend to safeguard the social equilibrium within families without compromising on moral and social obligations, which is the underlying wealth distribution principle (Haspatel, 2024).

Islamic inheritance laws guarantee certain shares to direct heirs, which are sons, daughters, spouses, and parents. As stated in Surah An-Nisa (4:11–12), sons are usually allocated a share that is double the share of the daughters. Widows and widowers are allocated specified shares depending on whether there are children. Also, to parents, a fixed share of Inheritance is given, which preserves intergenerational continuity and family cohesion (Gaol, 2024). Unlike secular legal systems, which focus on equality in number, Islamic inheritance law focuses on equity. The division of shares goes beyond social and financial obligations to include gender, but not exclusively (Mahfuz et al., 2025). In Islam, Inheritance is not merely a transfer of wealth but a restoration of equity and balance in the family.

The difference between the shares of Inheritance that the two genders are allotted has been a topic of discussion. Detractors tend to think of it as a manifestation of social



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inequity. Still, both older and more recent scholars contend that it must be appreciated in the context of social and economic aspects of Islam. ‘The Muslim man has the financial responsibility for the family that includes maintenance (nafaqa), the dowry (mahr), and the various financial responsibilities that are more broadly defined’ (Haleem, 2021, p. 309) Thus, the more a man is burdened, the more he is justified in his financial obligations. The inheritance rules in the Qur’an, therefore, appear to be a system of moderation, balanced justice for all. “Women are assured of independent proprietary rights, and men are held to depend financially” (Ubaidilah & Husna, 2023).

The unchanging character of Islamic law retains some flexibility with wills (wasiyyah) and gifts (hiba). It allows a Muslim to bequeath up to. One-third of their estate to non-heirs, which a will allows, extending moral sympathy and kindness during extraordinary circumstances. Similarly, lifetime gifts during one’s lifetime may be utilized to aid one’s daughters or other dependents, thereby achieving contextual equity and more in accordance with Sharia law (Alfida & Azhari, 2024). Such provisions demonstrate Islam’s flexibility and concern for social justice.

The inheritance system is diverse and somewhat complex within jurisdictions governed by Islam. Pakistan’s inheritance system, along with Sharia law, is moderated by the Muslim Family Laws Ordinance (1961) and the Qanun-e-Shahadat Order (1984). These laws, while supporting Qur’anic principles, are still complied with — largely due to deeply entrenched patriarchal practices (Sajida & Sabreen, 2025). In contrast, Egypt’s Civil Code incorporates the principles of Sharia Inheritance into a fully codified system of law with the classical ratios and a restricted right of judicial Wali (Polymenopoulou, 2024). Other countries, like Saudi Arabia, unabashedly practice the Hanbali School of jurisprudence, whilst Malaysia’s dual legal system — Sharia law for Muslims, other legal systems for non-Muslims — demonstrates a more pluralistic approach (Algahtani, 2021).

### **Women’s Inheritance Rights in Secular Legal Systems**

The principles of equality, autonomy of individuals, and human dignity justify the right to own or inherit property irrespective of gender and make secular inheritance law non-discriminatory. Unlike the religious legal systems, which rely on command from God, secular law is the product of reason and human thinking, the social contract, and the degree of development of the society (Asrafuzaman, 2025). The change from patriarchal systems of Inheritance to gender equal systems of succession in most secular legal systems is indicative of changes in the frameworks of justice and equality.

Two primary legal traditions form the basis for secular frameworks for Inheritance—civil law and common law. In civil law jurisdictions, for instance, France and Germany, the legal inheritance frameworks are captured in detailed legal documents such as the Code Civil of France of 1804, which espouses gender neutral succession principles (Limbong, 2025). In common law jurisdictions such as the UK and the USA, gender inheritance biases within the legal frameworks were, and, in some cases, are still being addressed through reforms and judicial activism. In both systems, the individual is granted, subject to claims of dependents and public policy, the freedom to dispose of the estate by will and to determine the beneficiaries, within the estate, at the individual’s discretion. All heirs, irrespective of gender, have the same legal status in both intestate and testate succession. Equality before the law ensures that there is no discrimination against any of the successors in primary succession (Enakireru & Igbineweka, 2022).

In many Western countries, the succession laws no longer have a gender bias. In the absence of a will, the United Kingdom’s Administration of Estates Act (1925) and its



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later modifications provide for equal division among the heirs, whether male or female. Similarly, the United States Constitution guarantees equal gender rights under the Equal Protection Clause of the Fourteenth Amendment, thus prohibiting discrimination against women with respect to property and succession. France's Code Civil has been, for a long time, a standard of equal Inheritance, was the first to remove the discrimination of heirs based on legitimacy as well as sex (Agarwal, 2022).

Secularization reforms in post-colonial societies have tried to modernize and equalize inheritance rights while relaxing tensions between religion and constitutional guarantees. The Hindu Succession (Amendment) Act, 2005, for instance, legally segregated ancestrally shared property equally between sons and daughters, thus achieving a milestone in gender equity in India (Singh, 2024). Like India, Tunisia also embraced radical—but still partial—equality in Inheritance in its 1956 Code of Personal Status, a reflection of its break with traditional Islamic legal thinking inspired by secularist reformism (Ali, 2025). These cases support the argument that secular states, be they Western or post-colonial, seek to expand and adjust their systems to social and human rights realities.

The third-wave feminist movements have been instrumental in archival feminism by constitutionally redefining the sphere of Inheritance and the ownership of property. Through the paradigm of women's patriarchal legacies, International constitutional documents like the CEDAW have empowered the state's adherence towards the promulgation of equitable Inheritance and gender-neutral property laws (Alvarez & Bauder, 2024). Feminists have further argued that economic independence is necessary for the empowerment of women (Kuenkel, 2025).

All such advances, however, still keep the rift between religious ethics and secular legal philosophy alive and well, especially in pluralistic societies. While religious systems assume an overarching moral order and justice, secular systems are systems of rights and freedom of choice. Reconciling between these opposing values is still a challenge, no matter the appearances of the region and the sway of religion in the public and its legal systems. In all effects, the secular systems of Inheritance that observe equality, dignity, and autonomy of the human person have achieved a certain sophistication in the removal of gender discrimination in property rights.

### **Comparative Analysis: Islamic vs. Secular Systems**

Islamic inheritance laws rely on divine command theory principles, and the Qur'an and Sunnah are indisputable sources for instruction (Kamali, 2011). Divine justice ('adl) and moral balance, rather than mathematical equity, are what the Faraid system underlying fixed shares to heirs exemplifies. Considerations for sons to receive double the share of daughters have to do with the economic obligations of men for supporting the family, dowry, and other expenses (Saujan et al., 2022). In contrast, secular systems are anthropocentric and based on the principles of autonomy, equality, and social contract. They are developed through democratic policies and court reasoning, exercising individual freedom of thought and action and rejecting the notion of divine control (Deneulin & Sedmak, 2023). In contrast to the Islamic legal framework, which views Inheritance as a social duty, secular legal systems consider Inheritance as an individual right that a person has control over.

The practice of applying inheritance laws shows differences from one jurisdiction to another and usually within the legal Islamic systems, which tend to have the least interpretive variation. Textually, they tend to differ even within schools of thought. Hanafi, Maliki, Shafi'i, and Hanbali. These schools allocate shares to claimants with



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Assess. Within these systems, Civil systems allocate more discretion and visible interpretation, which allows them to construct legal systems that consider the specific context around deproective family structures, Ervius claims, and policy needs. Moran 2024. Unfortunately, even with these differences, there are still gaps in enforcement on both sides of the spectrum system within Islam of making law whole, implementing, and disregarding law, especially in developing India (Arsad, 2024).

Formal legislation can guarantee inheritance rights to women, but patriarchal traditions will always undermine legal systems to continue the suppression of women. In many Muslim countries, women are coerced into renouncing their shares of Inheritance in favor of the men. This is typically done under a misplaced cultural justification, not a religious one (Saif, 2022). Similarly, in secular countries, systemic forms of power, an imbalanced social and economic structure, make owning property a privilege for women, even when laws protecting their rights to own property exist. Legal and Substantive disparity interdependence is not a positive border for the cultural and household dynamics (Tyagi, 2021).

Pakistan, Indonesia, and Nigeria are examples of countries with hybrid legal systems incorporating both Islamic and secular elements. For instance, in Pakistan, the Qanun-e-Shahadat Order (1984) and constitutional provisions supporting Islamic Inheritance also courts citing constitutional guarantees of non-discrimination and equality, which tend to protect women's property rights (Abbasi, 2022). Indonesia's dual system permits citizens to opt for religious or civil courts, resulting in varying outcomes shaped by local culture and religious devotion (Neo, 2021). Such hybrid systems illustrate the art of balancing religious and contemporary constitutional values, striving to integrate sacred laws with fundamental rights.

Both systems have their upsides and downsides when they are looked at from human rights and gender equality perspectives. For example, an Islamic contract provides a legal protection for women for an inalienable portion, which, historically, was a major advancement. However, the recent gender equality principles are vastly lacking in contemporary terms. Most secular systems at least ensure formal legal equality, but structural inequalities, which are meant to be addressed to ensure women can exercise their rights, are still very common. Therefore, the most just approach is an Islamic ethic approach combined with secular frameworks, which tackle equality and welfare to uplift women's inheritance rights in contemporary societies (Akbaba, 2025).

### **Challenges and Barriers**

In relation to the Islamic and secular legal frameworks that guarantee women's ownership of Inheritance, there are various socio-cultural, institutional, and economic obstacles to full access to Inheritance. These barriers do not only stem from the legal frameworks and processes, but from Neoleian structures of domination and inequalities within systems of access to property and legal recourse of the women.

The impact of women's cultural systems, which regard Inheritance as a female negative, within the context of overly dominant family and cultural systems, is the most damaging of all aspects of women's inheritance options. Within the Islamic mind of the majority of the world, religious factors are missed and used again, when omitted from the context, when women's rights are extended (Ullah et al, 2023). These cover moe customs of advising daughters not to claim their Inheritance because there will have to be ecommended. These actions of Islam discriminate against women (Ward 2023). The regard for religion and the effort to enforce a convenient legal order disappear.

The reality of the problem is that protective legal documents are insufficient, coupled



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with the lack of protective legal documents, enabling circumvention of a law regarding a woman's right to Inheritance Through the inter vivos gifts custom, a female is systematically expropriated (placed in a position of disadvantage) during her father's lifetime (Yeboah-Appiah, 2023). Women are still forced, under the pretext of working for the family, to forgo their patriarchal Inheritance to their male family members (Rubab, 2023). The lack of a transparent legal process and a lack of casual and formal approaches to address these phenomena only add to the already existing outrages.

Ineffective management across the board only silos a woman's right to Inheritance. Lack of information, coupled with systemic low literacy and aggressive censorship, combined with the lack of accessible legal frameworks, results in a deficiency of awareness among women about their rights. The interface with the law, her pursuit of it, and the court without legal representation, the legal processes, the assumption of cost, and the overshadowing reality of discriminatory administrative attitudes, all serve to plant disincentives for women to fight for fellowship. When within the phenomena of social administrative arrangements, there exist processes for the resolution of family conflicts, settlement arrangements such as the njeer. Over the family social structure in the gheto, the uneven and insufficient shadowing of social arrangements leads to women only within the discriminated of Inheritance, even without effective protective means available to them (Abid, 2025).

Women's economic dependence on male relatives amplifies the problem. In settings where social status and safety come from a husband or a male relative, a good number of women are reluctant to defend themselves in a court of law for the fear of being ostracized and or being financially victimized (Standing, 2022). The inability to secure a job, coupled with restricted access to financial institutions, makes the right to and the necessity for economically empowering property ownership — a right still denied to many.

Evidence from Pakistan, Egypt, and Bangladesh showcases these hurdles best. Research indicates that a significant proportion of women in rural Pakistan are denied their due legal shares, even when jurisprudence provides the framework that rests on Islam, statutory law, and case law (Akhtar, 2022). Reliably, Khodary (2022) states that 'in some parts of Egypt, informal family settings and the prevailing patriarchal system of land ownership still manage to place women in a subordinate position. These are the scant instances that emphasize deeply the disconnection that still exists between the law and the actual day-to-day living, demonstrating that achieving real social justice means more than just the legal amendments. These changes must be socioculturally deep-rooted.

### **Contemporary Reforms and Global Perspectives**

In the last couple of decades, the conversation around safeguarding Inheritance has changed progressively with the civil reformist movements in Islamic law, along with the international campaigns on basic human rights, promoting further the equality of the genders. Such frameworks attempt to address the adjustment of everywhere and religiously based notions of discrimination for justice, equity, and the dignity of a human being in today's world.

As has been noted by many Islamic scholars and jurists, the exercise of *ijtihad*—independent reasoning—has been equally important in the practical re-interpretation of Islamic legal documents. The contemporary school of Islamic thought increasingly posits that the spirit of Sharia has 'ad and *maslahah* (public good) that take precedence over literalism (Akyol, 2021). Scholars such as Amina Wadud and Ziba Mir-Hosseini defend



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the contextual reading of the Qur'an and argue that the socio-economic rationale for gender-differentiated shares in the Faraid system. Affandi 2025 These Islamic writings 'aiming at the restoration of Islamic spirit' are processed in such a way as to vilipend 'the Patriarchy' without losing the religious justification.

At an international level, copyright on the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the International Covenant on Civil and Political Rights (ICCPR), and the United Nations Sustainable Development Goal 5 (SDG 5) all touch on gender equity regarding ownership and Inheritance (Onie, 2024). CEDAW Article 16 extends marriage and divorce parity rights to women on an equal basis, and property ownership, which is a fundamental marriage right, is not excluded. Most Muslim-majority countries have acceded to these treaties, although with 'Sharia Compliant' reservations (Hasan 2024). There is international advocacy, and women's rights activists also seek to enforce the unification of religious law with international standards of human rights.

Some nation-states have begun working toward gender-inclusive inheritance policies. Take Tunisia, for instance: it started national discussions on equal Inheritance for men and women in 2018, which illustrates a deepening reform movement within the Islamic context (Al Hassanieh, 2023). The 2004 Moudawana (Family Code) in Morocco introduced significant reforms on family and inheritance law, which enhanced the legal and proprietary capacity of women in the country (Vandermeulen, 2024). Al Kadumi (2024) argues that within the dual legal system in Indonesia, customs law has incorporated a gender sensitive interpretation of Islamic law that allows for social equity distribution. These cases provide evidence that the re-interpretation of Islamic law for the benefit of gender justice is theologically plausible and socially affirming.

### **Conclusion**

Though Islamic and secular legal systems approach the issue of women and property inheritance from divergent angles, the Inheritance of property, along with the right to own property, held as a stake, traces and crystallizes over time the unique dimension of reform, the intermingling of tradition, legal evolution, and social evolution, and Islamic law. Faraid set up the most astonishing and unique legal social systems of the time, defining and fragmenting the ownership of feminine shares of Inheritance and eminently dignifying the place of women across the socially divided societies of the world. Such principles, as revolutionary as they could get, do not hold much efficacy in the realities of gender inequality across the world, as more women are experiencing in the contemporary socio-economic trench. This makes salient the need to approach them from a neoteric context, an evolved interpretation of the now.

### **Recommendations**

After October 2023, reforming the legal system while holding dialogues across nations and cultures will be critical to advancing the right of women to inherit property. It requires collaboration of policymakers, religious intellectuals, and civil society to secure the convergence of faith and values with international human rights norms. Only with such integrative approaches can societies ensure that the laws of Inheritance are in compliance not only with divine justice but with the universal promise of equality, dignity, and empowerment of all women.



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