

Pakistan Journal of Criminal Justice

ISSN: 2958-9363 ISSN (E): 2958-9371

Volume 6, No.7, 2026, 01-09

DOI: <https://doi.org/10.59075/pjcj.v6i7.195>

Journal Homepage: <https://journals.centeriir.org/index.php/pjcl>

A Comparative Analysis of Inheritance Practices: District Courts in Rawalpindi vs. National Legal Framework

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ABSTRACT

This research delves into the pervasive gender disparities in inheritance practices, focusing on Rawalpindi, Pakistan, as a microcosm of broader socio-cultural challenges. The study recognizes that women navigating the inheritance process encounter systemic barriers, from legal intricacies to entrenched cultural norms favoring male heirs. Highlighting the multifaceted implications, inheritance is explored beyond its legal facets to underscore its profound impact on women's economic autonomy and societal standing. The research contends that addressing inheritance issues is integral to the broader discourse on gender equality. A comprehensive examination of Rawalpindi's legal landscape identifies gaps and challenges, forming the groundwork for proposed targeted reforms. Cultural attitudes and biases are acknowledged as influential factors, necessitating nuanced reforms that challenge societal norms alongside legal adjustments. The study scrutinizes procedural complexities, emphasizing the need for reforms to streamline the inheritance process, especially for marginalized women. Financial constraints further impede women's access to justice, prompting a call for reforms that alleviate economic barriers and ensure an equitable process. In the literature review, existing findings on inheritance practices within Rawalpindi's district courts are compared to the national legal framework in Pakistan. Scholars' contributions underscore gender disparities in legal provisions favoring male heirs, providing context for the challenges faced by women. Case studies and initiatives for legal aid and advocacy are explored to gauge the consistency between local and national practices. Methodologically, the study employs qualitative, quantitative, and analytical approaches. Case law, statutory provisions, and interviews with legal professionals contribute to a nuanced understanding. Existing literature is critically assessed, revealing gaps that this research seeks to address. The article's focus on ongoing inheritance cases in Rawalpindi District Court further underscores the complexities and delays faced by women. Proposals for specialized courts, simplified procedures, increased awareness, and legislative improvements emerge as potential solutions. The findings emphasize the urgency for legislative reforms to address delays and obstacles in women's inheritance rights. Specific recommendations include designated judges for inheritance cases, streamlined procedures, integration of government organizations, and accountability measures for those opposing women's inheritance rights. The study advocates for a more efficient judicial system to ensure fast and affordable justice for women in inheritance cases, emphasizing the critical need to safeguard their rights.

Keywords: Inheritance Rights; Gender Disparities; Rawalpindi District Courts; Women's Legal Rights; Pakistani Legal Framework; Access to Justice



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Article History: Received: 24-07-2026 Accepted: 27-08-2026

Published: 03-09-2026

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Introduction

In many cultures, the distribution of inheritance has historically favored male heirs, reinforcing patriarchal structures. Rawalpindi, as a district within the complex socio-cultural landscape of Pakistan, experiences similar challenges. Women seeking to claim their rightful inheritance may encounter systemic barriers that hinder their access to justice, ranging from procedural intricacies to deeply ingrained cultural norms.

Inheritance is not merely a legal matter but holds significant implications for the economic autonomy and social standing of women. Their ability to inherit property and assets directly correlates with broader issues of gender equality. The research recognizes the pivotal role that inheritance plays in determining the economic agency of women and its subsequent impact on their overall well-being.

An exploration of the current legal landscape in Rawalpindi is imperative to identify gaps and challenges within the existing framework. This involves an examination of relevant laws, precedents, and court procedures that shape the inheritance process. Understanding the legal intricacies provides a foundation for proposing targeted reforms that address specific shortcomings.

Cultural attitudes and biases often permeate legal systems, influencing the interpretation and application of laws. In Rawalpindi, societal expectations and gender roles may contribute to a biased inheritance adjudication process. Unpacking these dynamics is essential for developing reforms that not only address legal obstacles but also challenge ingrained societal norms.

The inheritance process can be intricate, involving legal documentation, court appearances, and negotiations. Women, especially those from marginalized communities, may face challenges in navigating these procedures. A detailed examination of the procedural complexities will inform recommendations for streamlining the process, making it more accessible for women.

In many cases, the financial cost associated with legal proceedings poses a significant hurdle for women seeking their inheritance. An analysis of the economic implications of inheritance claims in Rawalpindi will shed light on the affordability aspect of accessing justice. Proposed reforms should aim to alleviate financial barriers and ensure a more equitable process.

This research seeks to provide a comprehensive understanding of the hurdles faced by women in asserting their inheritance rights within Rawalpindi's district courts. By identifying specific challenges and proposing institutional reforms, the study aims to contribute actionable insights for policymakers, legal practitioners, and advocacy groups committed to advancing gender justice within the legal system.

While the focus is on Rawalpindi, the findings of this research are expected to have broader implications for similar contexts globally. By addressing the intricacies of inheritance laws and proposing reforms grounded in the local context, the study aspires to contribute to the ongoing global discourse on women's rights, particularly within the domain of inheritance.

Section 2 of the Muslim Personal Law (Shariat) Application Act, 1962	• The matter of succession and inheritance among Muslims are regulated
Succession Act, 1925	• Deals with matter of moveable property
Specific Relief Act 1877	• Deals with urban property matters
Punjab Partition of Immoveable Property Act 2012	• Deals with the partition and means profit matters of urban property
Land Revenue Act, 1967	• Deals with agricultural property matters
Specific Relief Act 1877	• Deals with urban property matters

Figure1: Current legal practices

Literature Review

Existing findings on inheritance practices within the context of Rawalpindi's district courts compared to the national legal framework in Pakistan reveals a rich tapestry of research and analysis. Scholars have explored various dimensions, providing insights into the complexities surrounding women's inheritance rights such as (Ahmed et al. 2016) have delved into the legal framework governing inheritance rights in Pakistan. This includes an examination of statutory laws, such as the Muslim Personal Law, which governs inheritance matters for Muslims. This foundational understanding of the legal framework serves as a basis for comparing specific practices in Rawalpindi's district courts against the broader national legal context.

The literature review highlights persistent gender disparities embedded in inheritance laws. Studies by (Asma et al. 2017) and (Hassan et al. 2019) discuss how legal provisions often favor male heirs, contributing to a gendered imbalance in the distribution of inheritance. This provides context for understanding the challenges faced by women in Rawalpindi and whether district courts align with or deviate from national trends.

Cultural attitudes and societal norms play a crucial role in shaping inheritance practices. Research by (Livia et al. 2013) delves into the cultural dynamics influencing decision-making within families and communities, impacting women's ability to assert their inheritance rights. This literature is pertinent for understanding whether Rawalpindi's district courts reflect or challenge these cultural norms in their adjudication.

Several scholars have undertaken case studies focusing on specific district courts in Pakistan. Research by (Anees et al. 2017) may provide insights into the unique challenges faced by women in Rawalpindi. Examining specific cases and their outcomes contributes to a nuanced understanding of how inheritance

practices play out at the local level and how they compare with the national legal framework which shed light on the role of legal aid and advocacy in enhancing women's access to inheritance rights. This literature is crucial for assessing whether initiatives and support mechanisms are consistent between Rawalpindi's district courts and the broader national legal framework, and whether any disparities exist.

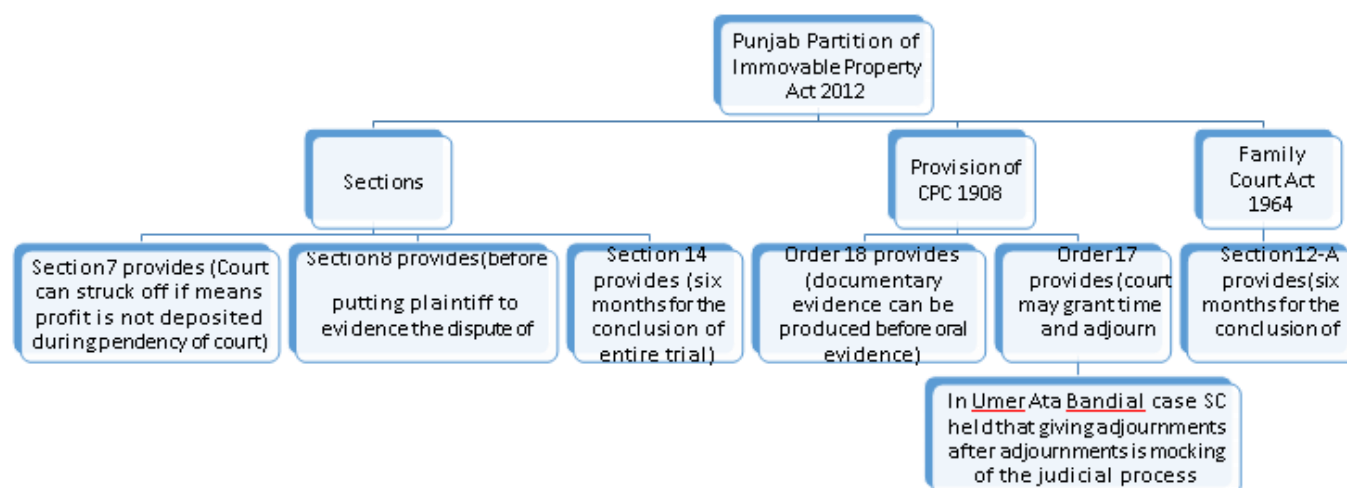


Figure 2: Procedural Law and the Provisions of Civil Procedure Code 1908

Methodology

The research methodology consists of qualitative, quantitative, and analytical methodologies. For a thorough examination, the study uses case law from Pakistan's superior courts, pertinent statutory provisions, and commentary volumes. Data collection includes gathering information from Rawalpindi's subordinate courts and conducting interviews with current subordinate court judges and lawyers.

An assessment of the existing literature indicates numerous significant contributions. Mehboob Pervaiz Awan's book, "Civil Liabilities, Human Rights, and Constitutional Practice," covers the responsibilities of the state and authorities to fulfil citizens' rights, but it lacks a thorough understanding of the difficulties women experience in obtaining timely and accessible justice.

In a comparable vein Justice (R) Fazal Karim's book, "Judicial Review of Public Action," distinguishes between fundamental rights and policy principles but does not specifically address women's access to justice. M. Munir's "Constitution of the Islamic Republic of Pakistan" emphasises the State's responsibility to women and children's rights, but it does not address the specific issue of timely and inexpensive justice for women. Furthermore, Justice Javed Iqbal's paper on the judiciary's role in catalysing change emphasises delays in justice administration, but does not specifically address the challenges that women experience.

The research also discusses alternative justice and expedited civil justice. Tassaduq Husain Jillani's piece on delayed justice and alternative dispute settlement is notable, however it does not exclusively address women's issues. Dr. Faqir Hussain's book "The Judicial System of Pakistan" provides a historical perspective on justice delivery, however, it fails to cover women's issues comprehensively.

Dr. Ishrat Hussain's work on institutional reforms for democratic governance touches on policy principles for affordable and expeditious justice, whereas Mumtaz Ali Khan and Dr. Zafar Ahmad Khan Shervani discuss affirmative action and restorative justice, respectively, with no particular emphasis on women's concerns. Livia Holden and Azam Chaudhary's essay on daughters' inheritance and legal pluralism investigates gender discrimination in inheritance laws, but the avenues for women to obtain their rights quickly and affordably are unexplored. Sehrish Saba's LL.M thesis on access to justice in Pakistan provides a broader study but does not include a special part on the unique delays that women face.

In general, though existing literature provides helpful arguments on justice and gender concerns, there is still a need for targeted research on women's barriers to securing cost-effective and timely inheritance rights through Pakistan's legal system. The case study focuses on women's inheritance cases in Rawalpindi District Court, Pakistan. Thirteen ongoing instances and three resolved cases were gathered and analysed. Sisters are suing their brothers for their portion of the inheritance. Many cases experience excessive delays and multiple adjournments. Some lawsuits have remained unresolved for years, causing irritation and financial stress for the women involved.

Table 1: Expenses borne by women litigants during and till conclusion of trial

Year of filing suit	Approximate time period required for case decision in trial courts	Approximate number of adjournments (if three per month)	Approximate expenses of litigants per adjournment including travel expenses	Other expenses on litigation	Approximate Counsel fee (Average)	Lawyer's clerk fee till the conclusion	Total expenses
2011	5–10 years	36 adjournments per year $\times 10 = 360$	$1,000 \times 360 = 360,000$	Minimum 50,000	1,00,000	Minimum 40,000	5,50,000/-
2014	6 years	$36 \times 6 = 216$	$1,000 \times 216 = 216,000$	—	—	—	4,06,000/-
2015	5 years	$36 \times 5 = 180$	$1,000 \times 180 = 180,000$	—	—	—	3,70,000/-
2017	4 years	$36 \times 4 = 144$	$1,000 \times 144 = 144,000$	—	—	30,000/-	3,04,000/-
2018	3 years	$36 \times 3 = 108$	$1,000 \times 108 = 108,000$	35,000/-	50,000/-	20,000/-	2,13,000/-
2019	2 years	$36 \times 2 = 72$	$1,000 \times 72 = 72,000$	—	—	—	1,77,000/-

In other cases, women have been battling legal fights since 2011, with hundreds of adjournments granted. There are times when women confront opposition from male family members who deny them inheritance rights. The study highlights the legal system's inefficiencies and delays. The investigation also looks at cases determined in superior courts that involved delayed justice and excessive litigation. While there have been decisions in favour of women's inheritance rights, the process is frequently time-consuming and expensive.

The conversations centre on the difficulties and delays encountered in inheritance cases involving women, as seen through the eyes of judges, lawyers, and legal professionals. Experts cite several variables that contribute to delays, including procedural difficulties, a lack of interest from parties, and the absence of evidence and witnesses. Special focus is placed on male relatives' dominance in property matters, which results in women's rights being neglected.

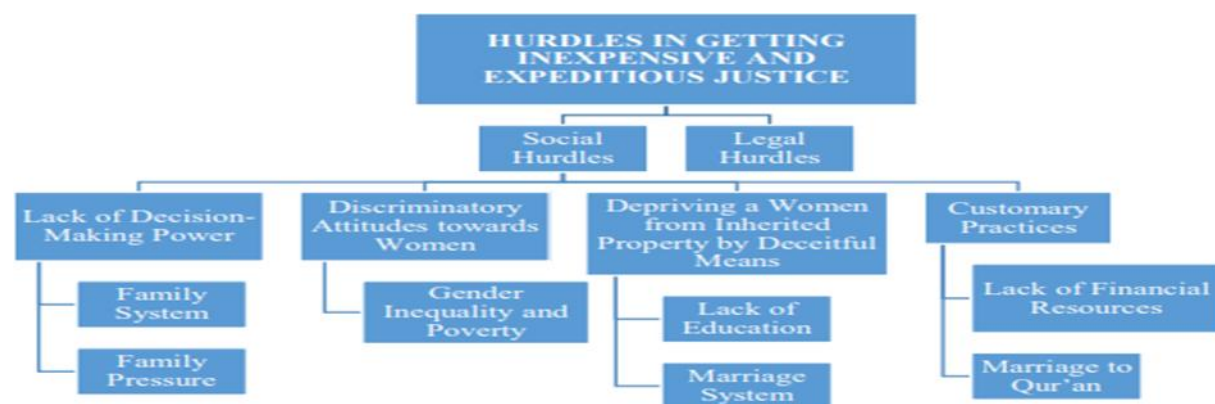


Figure 3: Hurdles in Getting Inexpensive and Expeditious Right of Inheritance Matters of Women

To solve these concerns, a variety of proposals are made. Special courts are suggested to handle women's inheritance issues, streamlining the process and speeding up settlement. To speed up trials, procedures should be simplified, superfluous adjournments avoided, and time restrictions established. Experts recommend boosting awareness through media efforts and using technology for remote appearances. Legislative improvements, such as establishing state counsels and imposing severe fines for delays, are recommended.

Additional initiatives include creating specific judges to handle women's inheritance cases and implementing alternative conflict resolution methods such as mediation. It is also recommended to optimise the use of existing laws, develop summary proceedings, and create specialised guidance offices. These ideas underline the critical need to defend women's inheritance rights by revamping the legal procedure, encouraging a proactive judicial approach, and ensuring that cases are resolved promptly.

The findings of the research emphasises the urgent need for legislation to address the delays and obstacles that women encounter when inheriting their rightful property. Recommendations include designating specific judges to handle inheritance issues, simplifying trial procedures, integrating government organisations such as schools in inheritance reporting, and holding those who oppose women's inheritance rights accountable. The report advocates for a more effective judicial system that provides women with fast and inexpensive justice in inheritance case

Discussions

This research illuminates the intricate challenges surrounding women's inheritance rights in Rawalpindi, Pakistan, reflecting broader socio-cultural dynamics. The systemic barriers women face, ranging from legal complexities to deeply ingrained cultural norms favoring male heirs, underscore the urgent need for comprehensive reforms.

The significance of inheritance extends beyond legal intricacies, impacting women's economic autonomy and social standing. Addressing inheritance issues emerges as a linchpin in the pursuit of gender equality, demanding a holistic approach that encompasses legal amendments and challenges ingrained societal biases.

The examination of Rawalpindi's legal landscape identifies specific gaps, forming the basis for proposed reforms. Cultural attitudes influencing the inheritance adjudication process necessitate nuanced reforms challenging societal norms alongside legal adjustments. Streamlining procedural complexities, especially for marginalized women, is crucial, as is alleviating the financial burdens associated with legal proceedings.

The comparative analysis with national legal practices, drawn from existing literature, sheds light on persistent gender disparities favoring male heirs. Case studies and initiatives for legal aid and advocacy provide a context for evaluating the consistency between local and national practices, guiding future reforms.

Methodologically, the study employs a multifaceted approach, integrating qualitative, quantitative, and analytical methodologies. The ongoing inheritance cases in Rawalpindi District Court highlight the complexities and delays faced by women, serving as a practical lens through which to view the urgency of the issue.

Proposed solutions include specialized courts, streamlined procedures, increased awareness, and legislative improvements. The findings underscore the critical need for legislative reforms to eliminate delays and obstacles in women's inheritance rights. Recommendations, such as designated judges and accountability measures, advocate for a more efficient judicial system, ensuring fast and affordable justice for women in inheritance cases.

In conclusion, this research not only identifies hurdles faced by women in Rawalpindi but serves as a catalyst for actionable insights and reforms. By addressing legal shortcomings, challenging societal norms, and advocating for a more responsive judicial system, the study contributes to the broader global discourse on women's rights, particularly within the realm of inheritance. The findings resonate beyond Rawalpindi, providing a framework for transformative changes that safeguard women's rights across diverse cultural and legal landscapes.

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