

Islamic Thought and Gender Justice in Pakistan: Reassessing Legal and Ethical Foundations

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ABSTRACT

Gender justice remains a central concern in contemporary Muslim societies, particularly where legal systems are influenced by Islamic thought. In Pakistan, despite constitutional guarantees and progressive legal provisions, gender disparities persist in areas such as personal status law, inheritance, and access to justice. This article examines the extent to which Islamic ethical and jurisprudential principles can support a more equitable gender framework in Pakistan. Specifically, it addresses the disconnect between the normative values of Islamic thought—rooted in justice, dignity, and equality—and the patriarchal interpretations often embedded in Pakistan's legal and socio-cultural practices. The key research question guiding this study is: How can Islamic thought be reinterpreted to promote gender justice within Pakistan's legal system? The study adopts a qualitative methodology, employing content analysis of primary Islamic legal sources (Qur'an, Sunnah, and classical *fiqh*), relevant statutes (e.g., Muslim Family Laws Ordinance 1961), and judicial decisions, alongside contemporary gender-focused Islamic scholarship. It also integrates *maqāṣid al-sharī'ah* and *qawā'id fiqhiyyah* as analytical tools to frame a reform-oriented perspective. By offering a critical reassessment of both legal texts and interpretive frameworks, this article contributes to the ongoing discourse on gender equity in Muslim contexts and proposes policy-level and educational reforms rooted in Islamic epistemology and responsive to Pakistan's socio-legal realities.

Introduction

The question of gender justice occupies a central place in contemporary legal, social, and religious discourses in Muslim societies. As the global conversation on women's rights intensifies, Muslim-majority countries face the dual challenge of aligning legal reforms with universal human rights norms while preserving the religious and cultural ethos grounded in Islam. Islamic thought—understood as a dynamic and multi-faceted intellectual tradition derived from the Qur'an, Sunnah, classical jurisprudence, and interpretive methodologies—offers both the foundation for ethical guidance and a framework for legal development. Within this paradigm,

concepts such as justice ('adl), mercy (raḥmah), and dignity (karāmah) form the bedrock of social relations, including those concerning gender (Auda, 2008; Esposito & DeLong-Bas, 2001).

However, despite these normative ideals, the lived realities of many Muslim women remain constrained by structural inequalities and legal interpretations that do not always reflect the spirit of justice espoused by foundational Islamic sources. In Pakistan, where Islam is constitutionally enshrined as the religion of the state and influences many areas of personal law, the gap between ideal and practice is striking.

While legal provisions exist that recognize women's rights in matters of marriage, divorce, maintenance, and inheritance, implementation remains uneven, and patriarchal norms often overshadow both statutory law and ethical principles (Jilani, 2010; Shirkat Gah, 2006). The persistence of gender discrimination within both formal and informal legal systems raises critical questions about the role of Islamic thought in promoting or obstructing gender equity in contemporary Pakistan.

This article seeks to address the disconnect between Islamic ethical-legal ideals and gendered social practices by reassessing the role of Islamic thought in shaping and reforming legal structures in Pakistan. The central concern is not simply whether Islam supports women's rights—an already well-explored question—but rather how Islamic legal theory, ethical norms, and jurisprudential tools can be mobilized to support a more just and equitable legal framework in the Pakistani context. While secular legal reform approaches have contributed to some positive changes, their impact remains limited in societies where religion plays a critical legitimating role. Therefore, reform grounded in Islamic epistemology is essential to ensure both societal acceptance and religious authenticity (Wadud, 1999; Barlas, 2002).

The key research question guiding this article is: *How can Islamic legal and ethical frameworks be reinterpreted to advance gender justice in Pakistan's socio-legal environment?* To address this question, the study adopts a qualitative, doctrinal approach, engaging in close textual analysis of the Qur'an, Hadith, classical fiqh literature, and Pakistani legal instruments such as the Constitution, the Muslim Family Laws Ordinance (1961), and landmark judicial rulings. It further integrates maqāṣid al-sharī'ah (higher objectives of Islamic law) and qawā'id

fiqhiyyah (Islamic legal maxims) as conceptual tools to evaluate how principles such as justice, welfare, and dignity can guide contemporary legal reasoning (Kamali, 2008; Hallaq, 2009). In addition to primary sources, the article also draws on contemporary scholarship in Islamic feminist hermeneutics and critical legal studies to offer a multidimensional and reform-oriented analysis.

The relevance of this study lies in its interdisciplinary and contextualized approach. It does not merely critique the status quo but builds a framework rooted in Islamic legal theory that is both reformist and faithful to Islamic tradition. By focusing on Pakistan, a country that uniquely blends constitutional Islam, common law heritage, and colonial legal influences, this study provides insight into how Islamic thought can serve as a bridge between faith-based legitimacy and gender-sensitive legal reform. Importantly, this research contributes to a growing body of literature that seeks to deconstruct patriarchal jurisprudence and reimagine Islamic law through the lens of justice, equity, and public interest (maslaḥah) (Fazlur Rahman, 1982; Mir-Hosseini, 2006).

Literature Review

The relationship between Islam and gender justice has been examined from multiple perspectives. Early orientalist and liberal critiques often characterized Islamic law as rigid and inherently patriarchal, portraying Muslim women as victims of an unchanging religious tradition (Mernissi, 1991). Such narratives were challenged by Muslim reformists and scholars who emphasized the flexibility and ethical core of Islamic legal thought. Scholars such as Fazlur Rahman (1982) and Mohammad Hashim Kamali (1998) have advocated for dynamic interpretations that reflect contemporary realities while remaining rooted in Islamic sources.

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In the domain of feminist Islamic scholarship, thinkers like Amina Wadud (1999), Asma Barlas (2002), and Riffat Hassan (1999) have pioneered reinterpretations of Qur’anic texts from a gender-inclusive perspective. These scholars argue that gender inequality is not a consequence of the Qur’an itself, but of its patriarchal interpretation over centuries. They emphasize that key Qur’anic values—such as justice (‘adl), consultation (shūrā), and mutual responsibility (tawāzun)—must inform legal rulings and social structures. Furthermore, they advocate for an ethical hermeneutic that transcends literalist or formalist readings of scripture.

Contemporary scholarship on gender justice in Pakistan offers critical insights into the interplay between Islamic legal thought, patriarchal state structures, and socio-cultural norms. Farida Shaheed (1999) highlights how Pakistan’s Islamization policies have selectively drawn upon religious texts to reinforce patriarchal norms, sidelining more inclusive interpretations of Sharī‘ah. Ziba Mir-Hosseini, Mulki Al-Sharmani, and Jana Rumminger (2015) further challenge these patriarchal readings by deconstructing the theological basis of male authority in Muslim legal traditions and advocating for egalitarian reinterpretations rooted in Islamic epistemology. Asifa Quraishi (1996–1997) provides a woman-sensitive Islamic critique of Pakistan’s rape laws, arguing that cultural patriarchy—not authentic Islamic teachings—has distorted the implementation of justice, particularly in the realm of sexual violence. She demonstrates that a gender-affirming interpretation of Islamic sources reveals the egalitarian spirit of the Qur’an, which condemns the very injustices now prevalent in law and practice. Bukhari and Akhtar (2024) likewise revisit Hadith literature to argue that universal human rights principles resonate with

Islamic moral and legal frameworks when interpreted contextually and with consideration of maqāṣid al-sharī‘ah. Recent empirical studies by Ahmad (2022) and Khan (2022) affirm that legal reforms and interpretive plurality are gaining traction among emerging scholars and practitioners in Pakistan, suggesting a shift toward a more ethical, inclusive, and rights-based understanding of Sharī‘ah. Collectively, these works mark a critical turn in the literature toward harmonizing Islamic thought with contemporary gender justice imperatives.

Specific to Pakistan, several legal and policy scholars have examined the challenges of aligning Islamic law with gender equity. Research by Hina Jilani (2010) and the work of advocacy groups such as Shirkat Gah (2006) have documented legal and institutional barriers to women’s access to justice. These include discriminatory laws, lack of gender-sensitized judicial practices, and social pressures that inhibit women from seeking legal redress. Moreover, conservative religious factions continue to resist reform by appealing to traditionalist jurisprudence, thereby curtailing efforts aimed at progressive legal change.

Yet, other studies underscore the capacity of Islamic jurisprudence to evolve. For instance, Ziba Mir-Hosseini (2006) introduces the concept of “gender justice” as a moral imperative within Islamic legal theory, arguing that legal norms must evolve in line with changing societal needs and ethical standards. The use of tools such as ijtihād (independent reasoning) and maqāṣid (higher objectives) is especially relevant in this regard, as they offer a pathway to reinterpret outdated rulings in the light of new challenges, including those posed by modern understandings of gender rights.

Despite this robust body of scholarship, a gap remains in literature specifically focusing on

how Pakistan's hybrid legal system—which fuses Islamic and Anglo-colonial traditions—can operationalize gender justice through Islamic ethical frameworks. This article fills that gap by proposing a jurisprudential model grounded in maqāṣid-based reasoning and fiqh maxims, with practical implications for family law, court practices, and policy development.

The article is organized into five sections. Following this introduction, the second section lays out the conceptual and theoretical framework, defining key terms such as gender justice, Islamic thought, maqāṣid al-sharī'ah, and qawā'id fihiyyah, and justifying their relevance to legal reform. The third section provides a critical analysis of Pakistan's legal landscape, particularly in areas related to family law, constitutional protections, and judicial practices, highlighting contradictions between law and practice. The fourth section presents an Islamic ethical and legal reinterpretation of key issues, applying maqāṣid and fiqh maxims to selected areas of law and illustrating their reform potential through case studies and comparative insights. The final section offers a synthesis of findings and puts forward concrete recommendations for gender-just reform in legal policy, religious education, and institutional practices, all within an Islamic legal and ethical framework.

Conceptual and Theoretical Framework

This section clarifies the key concepts, jurisprudential principles, and analytical tools that underpin the study. It provides the foundational definitions and theoretical lenses through which gender justice and Islamic thought are examined in the Pakistani legal context.

1. Defining Gender Justice

Gender justice refers to the fair and equitable treatment of individuals of all genders, ensuring the protection of rights, access to opportunities,

and equal participation in legal, social, and economic spheres. It goes beyond formal equality to include the dismantling of discriminatory norms, institutional barriers, and socio-legal practices that disproportionately affect one gender—typically women and gender minorities (UN Women, 2017).

In the Islamic tradition, gender justice is rooted in the Qur'anic ethos of balance (mīzān), justice ('adl), and compassion (raḥmah). The Qur'an affirms the moral and spiritual equality of men and women in several verses: "Indeed, the most noble of you in the sight of God is the most righteous of you" (Qur'an 49:13) and "Never will I allow to be lost the work of any worker among you, whether male or female" (Qur'an 3:195). These verses, among others, form the moral core of Islamic commitments to equity. Therefore, any interpretation or implementation of Islamic law that results in systemic injustice is not in harmony with the broader maqāṣid of Sharī'ah.

2. Islamic Thought: Text, Tradition, and Reason

Islamic thought, for the purpose of this study, refers to the intellectual tradition encompassing the Qur'an, Sunnah, classical jurisprudence (fiqh), theology ('ilm al-kalām), philosophy (falsafah), and ethical inquiry (akhlāq). It includes both normative teachings and interpretive frameworks developed by Muslim scholars over centuries. This body of knowledge is not monolithic; rather, it reflects a plurality of views across schools of thought, regions, and time periods (Kamali, 2008).

In this article, Islamic thought is approached as both a repository of legal norms and a living tradition capable of self-renewal through tools like ijtihād (independent reasoning), ta'līl (legal reasoning), and takhayyur (selection of rulings across schools). These

interpretive mechanisms allow scholars and policymakers to adapt Islamic principles to contemporary challenges while remaining faithful to core scriptural values.

3. Maqāṣid al-Sharī‘ah: A Normative Ethical Framework

Maqāṣid al-sharī‘ah, or the higher objectives of Islamic law, constitute a core component of reformist legal thinking in the Muslim world. Classical scholars such as al-Juwaynī, al-Ghazālī, and later al-Shāṭibī developed this concept to emphasize that the ultimate purpose of Islamic rulings is to secure human welfare (maṣlaḥah) and prevent harm (mafsadah). Commonly accepted maqāṣid include the preservation of religion (dīn), life (nafs), intellect (‘aql), progeny (nasl), and property (māl), with modern jurists adding dignity (karāmah), justice (‘adl), and rights (ḥuqūq) (Auda, 2008; Kamali, 2008).

When applied to gender justice, maqāṣid provide an ethical lens for evaluating whether a legal norm or ruling serves the public good, preserves human dignity, and aligns with the Qur’anic spirit of equity. For example, restrictive interpretations of women’s legal capacities in marriage or divorce that lead to harm or dependency can be reevaluated in light of the maqṣad of protecting human dignity and welfare.

4. Qawā‘id Fiqhiyyah: Legal Maxims for Equity

Qawā‘id fiqhiyyah are general legal principles distilled from the broader corpus of Islamic jurisprudence. They serve as guiding rules that help jurists resolve cases in a flexible and principled manner. Some relevant maxims for gender justice include:

- “**Al-ḍarar yuzāl**” (harm must be eliminated)

- “**Al-‘ādah muḥakkamah**” (custom is authoritative in legal rulings)
- “**Al-umūr bi-maqāṣidihā**” (acts are judged by their objectives)
- “**Al-mashaqqah tajlib al-taysir**” (hardship brings about ease)

These maxims are particularly useful for evaluating laws or customary practices that result in unjust burdens on women. For example, the excessive financial and procedural hurdles for khul‘ (woman-initiated divorce) in Pakistan could be reassessed using the principle of hardship and ease.

5. Integrating Feminist Hermeneutics and Critical Legal Theory

While rooted in Islamic jurisprudential traditions, this article also draws from Islamic feminist thought and critical legal theory. Islamic feminists such as Wadud (1999), Barlas (2002), and Mir-Hosseini (2006) advocate for reading the Qur’an through an ethical and contextual lens, challenging centuries of male-dominated tafsīr and legal codification. Their work emphasizes that the text of the Qur’an is divine, but its interpretation is human—and thus, fallible and open to re-evaluation.

Additionally, critical legal theory contributes a sociological dimension, recognizing that law is often shaped by power structures, including gender. In the Pakistani context, where patriarchal social arrangements intersect with state law and religious authority, a critical lens is essential to uncover how legal norms are produced, legitimized, and contested.

6. The Relevance of Contextual Ijtihād in Pakistan

Pakistan presents a unique case for the application of contextual ijtihād. As a

postcolonial state with an Islamic constitutional identity and a hybrid legal system, Pakistan simultaneously adheres to English common law and Islamic legal principles. However, the state has yet to fully develop a jurisprudential methodology that bridges its Islamic commitments with the imperatives of gender justice. This article proposes a maqāṣid-oriented, principle-based approach as a viable model for developing such a framework.

Pakistan's Gender-Related Legal Landscape: A Critical Review

The legal framework governing gender relations in Pakistan reflects a complex interplay between constitutional ideals, statutory provisions, Islamic legal norms, and deeply entrenched patriarchal customs. The Constitution of the Islamic Republic of Pakistan provides a formal commitment to gender equality, particularly through Article 25(1), which guarantees that all citizens are equal before the law and are entitled to equal protection. Article 25(2) explicitly prohibits discrimination based on sex, while Article 34 obliges the state to ensure the full participation of women in all spheres of national life. Additionally, Article 35 affirms the state's responsibility to protect the marriage, family, mother, and child. However, these provisions are juxtaposed with Article 227, which mandates that all laws be brought in conformity with the injunctions of Islam as laid down in the Qur'an and Sunnah. Although this article offers potential for aligning legal reforms with Islamic ethics, in practice, it has created space for conservative interpretations to prevail, often at the expense of gender-equitable outcomes (Lau, 2006).

In the domain of personal status law, the Muslim Family Laws Ordinance (MFLO) of 1961 remains one of the most significant legislative reforms in Pakistan's post-independence history. It introduced notable

provisions aimed at safeguarding women's rights, such as the mandatory registration of marriages, regulation of polygamy through the requirement of arbitration and prior consent, the formalization of women's right to initiate divorce through khul', and improved provisions for child custody and maintenance. Nevertheless, the progressive spirit of the MFLO has been weakened over time due to implementation challenges, limited public awareness, and sociopolitical resistance from traditionalist factions. For instance, the provision that mandates prior approval from an Arbitration Council for a man seeking a second marriage is frequently ignored, and enforcement mechanisms are either weak or inconsistently applied (Jilani, 2010). Similarly, despite jurisprudential backing within Islamic law for a woman's autonomous right to khul', Pakistani courts often impose procedural or financial burdens that reflect patriarchal biases rather than Islamic legal ethics (Ali, 2016).

Another critical area of concern is women's inheritance and property rights. The Qur'an explicitly guarantees women specific shares in inheritance, with verses such as 4:7, 4:11, and 4:12 laying down detailed entitlements. Yet, in many parts of Pakistan, especially in rural and tribal regions, women are often denied their rightful shares through customary practices and familial pressure. Daughters and sisters are frequently persuaded or coerced into surrendering their claims in favor of male relatives, a practice that contradicts both Islamic teachings and national law. Although courts have occasionally intervened to uphold women's inheritance rights through public interest litigation or suo motu actions, such rulings tend to remain symbolic in the absence of sustained policy enforcement and judicial consistency. Moreover, the gap between formal legal provisions and customary practices is exacerbated by the limited accessibility of

women to legal remedies, lack of awareness, and the continued influence of informal justice mechanisms operating outside the state system (Asian Development Bank, 2016).

Legal responses to gender-based violence have also evolved significantly in the past two decades. Legislative developments such as the Protection of Women (Criminal Laws Amendment) Act 2006, the Domestic Violence (Prevention and Protection) Acts passed by various provinces, and the Anti-Rape (Investigation and Trial) Act 2021 represent a growing acknowledgement of the need to address violence against women through comprehensive legal means. These laws attempt to shift the narrative from victim-blaming toward accountability for perpetrators, and introduce procedural reforms including gender-sensitive investigations and special courts. However, despite these legal advancements, structural barriers continue to impede justice. Victims often face police apathy, evidentiary challenges, social stigmatization, and intimidation. In many instances, the lack of proper training among police officers and judges results in inadequate application of the law. Furthermore, the lingering effects of the Zina Ordinance and blasphemy laws still create a legal climate where women can be wrongfully accused, detained, or silenced under the guise of morality or religious honor (Zia, 2009).

The judiciary has played a critical yet inconsistent role in advancing gender justice. On one hand, landmark judgments in cases such as *Khadija Siddiqi* and *Mukhtaran Mai* have highlighted the potential of the judiciary to uphold women's rights and challenge patriarchal norms. On the other hand, many court decisions—particularly in family law—continue to rely on traditionalist interpretations that prioritize male authority and minimize female

autonomy. These inconsistencies reflect the broader epistemological dilemma of Pakistan's legal system, which is a hybrid of Anglo-common law, Islamic jurisprudence, and colonial-era norms. In the absence of a unified jurisprudential philosophy on gender justice, judicial discretion often becomes the site where ideological tensions are negotiated, leading to legal unpredictability and doctrinal fragmentation (Lau, 2006).

Adding to the complexity is the phenomenon of legal pluralism in Pakistan, where customary practices ('urf) often operate alongside, and sometimes against, formal legal systems. In many rural and tribal regions, informal justice mechanisms such as *jirgas* and *panchayats* continue to adjudicate disputes, including those related to family, marriage, and property. These forums frequently endorse practices that violate both Islamic principles and state law—such as the giving of women in marriage as dispute settlement (*swara* or *vani*), honor-based punishments, and denial of property rights. Although declared illegal by the courts, these practices persist due to the weakness of state institutions, lack of legal literacy, and the social legitimacy accorded to customary norms. Their persistence underscores the need for a jurisprudential strategy that not only challenges these practices on legal grounds but also delegitimizes them through Islamic ethical reasoning that resonates with local communities (Wasti, 2010).

In conclusion, the gender-related legal landscape in Pakistan reveals a disjunction between formal commitments to gender justice and the realities of legal practice. While statutory provisions exist that promise equality and protection, their inconsistent implementation, judicial conservatism, and the persistence of patriarchal customs hinder progress. This situation necessitates a critical reassessment of

the legal system's foundational values. The subsequent section of this article argues that Islamic legal theory—particularly through the tools of *maqāṣid al-sharī'ah* and *qawā'id fihiyyah*—offers a principled, context-sensitive framework for advancing gender justice in a manner that is both theologically grounded and legally viable.

Doctrinal and Ethical Analysis: Applying Islamic Legal Principles to Gender Justice in Pakistan

This section applies Islamic jurisprudential tools—including *maqāṣid al-sharī'ah*, *qawā'id fihiyyah*, and feminist hermeneutics—to critically examine selected areas of Pakistani law that directly affect gender justice. It focuses on three core domains: marriage and divorce, inheritance and financial autonomy, and legal capacity and guardianship. Each is explored through both classical jurisprudence and reformist interpretations, offering a principled framework for rethinking gender justice from within the Islamic legal tradition.

1. Marriage and Divorce: Reassessing Rights and Responsibilities

Marriage (*nikāḥ*) in Islam is traditionally conceptualized as a solemn contract (*'aqd*) rather than a sacrament, founded on mutual consent, responsibility, and compassion (*mawaddah wa rahmah*). The Qur'an repeatedly emphasizes reciprocity and justice within the marital bond (Qur'an 30:21; 2:228). However, in the Pakistani legal framework and societal practice, this balance is often disrupted, particularly in the regulation of polygamy and access to divorce.

The Muslim Family Laws Ordinance (1961) attempted to address some of these issues by regulating polygamy and formalizing *khul'*, a woman's right to seek dissolution of marriage. Yet courts in Pakistan have frequently interpreted

khul' through the lens of male consent or the return of the full dowry, even when not required under Islamic law. This undermines a woman's agency and misrepresents the Qur'anic principle that marital relationships should not be coercive (Qur'an 2:231). Through the lens of *maqāṣid al-sharī'ah*, such interpretations violate the higher objectives of preserving dignity (*karāmah*), mental well-being (*'aql*), and justice (*'adl*) (Auda, 2008).

Legal maxims such as "*al-ḍarar yuzāl*" (harm must be eliminated) and "*al-mashaqqah tajlib al-taysir*" (hardship invites ease) provide additional grounds for advocating reforms. These principles support interpretations of *khul'* that do not impose undue burdens on women or require arbitrary male consent. Reformist scholars such as Wadud (1999) and Mir-Hosseini (2006) argue that legal practice must center the Qur'anic value of justice rather than perpetuate patriarchal control under the guise of divine law. Courts in Pakistan could, in principle, adopt these interpretations to develop a jurisprudence that upholds ethical norms while remaining rooted in *Sharī'ah*.

2. Inheritance and Financial Autonomy: Rights Versus Realities

Islamic inheritance law is one of the most clearly codified areas in the Qur'an, with precise shares allocated for both men and women (Qur'an 4:7, 4:11–12). Nevertheless, the lived reality in Pakistan reveals a consistent marginalization of women's economic rights. Cultural norms often encourage women to relinquish their shares in favor of brothers or male relatives, under the pretext of family unity or customary practice. Such waivers are frequently the result of coercion or misinformation, rather than genuine consent (Jilani, 2010).

While Islamic law recognizes the right to voluntarily waive one's inheritance, the principle of "*al-umūr bi-maqāṣidihā*" (acts are judged by their objectives) requires that such waivers be made freely, with full knowledge and no duress. Moreover, *maqāṣid* reasoning underscores the importance of economic justice and the protection of vulnerable members of society—principles that are clearly undermined by coerced disinheritance. Reform-minded jurists argue that if customary practices lead to widespread injustice, the state is religiously obliged to intervene (Kamali, 2008).

In Pakistan, this could involve strengthening probate procedures, launching public awareness campaigns, and penalizing false affidavits or coercive family settlements. More importantly, framing women's financial autonomy not merely as a legal entitlement but as a *Shar'ī* obligation could shift public perception, particularly if supported by religious institutions and jurists using Islamic terminology and reasoning.

3. Legal Capacity and Guardianship: Beyond Paternal Control

Another area that demands critical reassessment is the legal capacity of women in matters of marriage, education, and custody. Under classical Islamic law, women possess legal personality and can enter contracts, own property, and make decisions independently upon reaching maturity. However, many Pakistani legal and social practices still treat adult women as minors, particularly in relation to *walī* (guardian) authority in marriage.

While some schools of Islamic law (e.g., Ḥanafī) permit a woman to contract her own marriage without a guardian, others require *walī* consent. In practice, Pakistani courts have adopted a fluctuating approach. In landmark

cases such as *Hina Jillani v. Punjab* (PLD 1994 Lahore 343), the right of an adult woman to marry of her own choice was upheld, affirming her legal capacity. Yet, in other cases, particularly involving class and rural contexts, courts have accepted *jirga*-based annulments or punishments on the basis of so-called 'un-Islamic' marriages.

Such inconsistency violates the Qur'anic principle of adult agency and mutual consent (Qur'an 4:3; 24:32). The legal maxim "*al-ʿādah muḥakkamah*" (custom is authoritative) applies only when customs do not contradict clear scriptural guidance. Therefore, the persistence of paternal control in adult women's decision-making contradicts both *fiqh* and Islamic ethics. Reforming legal interpretations to uniformly affirm women's legal capacity, supported by *ijtihād* and *maqāṣid* analysis, would ensure greater gender justice without contravening Islamic law.

4. Ethical Hermeneutics and Tafsīr Methodology

Beyond specific legal domains, gender justice also requires a shift in interpretive methodology. Classical tafsīr was overwhelmingly authored by men operating within patriarchal societies, and their interpretations often reflected the gender norms of their time. While their contributions are foundational, they must be critically examined through the ethical objectives of the Qur'an itself. Islamic feminist scholars such as Barlas (2002) and Hassan (1999) argue that returning to the Qur'an with an ethical and justice-oriented lens reveals a fundamentally egalitarian message.

For instance, Qur'anic verses addressing men's and women's roles in marriage, divorce, testimony, or leadership must be interpreted in their legal-historical contexts, taking into account evolving social norms and ethical priorities. The *maqāṣid*-based framework enables jurists to

transcend surface literalism and extract the universal values of justice, dignity, and mutual respect—values that are timeless and adaptable. Adopting such an ethical hermeneutic would empower courts, legislators, and religious authorities in Pakistan to realign Islamic law with its original moral thrust.

This doctrinal and ethical analysis demonstrates that Islamic law contains within it the tools for transformative gender justice. By revisiting key areas such as marriage, inheritance, and legal capacity through *maqāṣid al-sharīʿah*, *qawāʿid fiqhīyyah*, and justice-based tafsīr, a principled reinterpretation is not only possible but religiously mandated. Far from opposing reform, Islamic jurisprudence—when understood as a dynamic and ethical tradition—offers legitimacy and depth to the project of gender equity.

In the next section, the article synthesizes these insights and proposes practical recommendations for legal, policy, and educational reforms in Pakistan that align with both Islamic values and contemporary human rights standards.

Conclusion and Policy Recommendations

This article has explored the complex relationship between Islamic thought and gender justice in Pakistan, arguing for a jurisprudential model grounded in *maqāṣid al-sharīʿah*, *qawāʿid fiqhīyyah*, and ethical hermeneutics. It has shown that, despite formal constitutional commitments and scattered legislative reforms, Pakistan’s legal system continues to be shaped by patriarchal interpretations of Sharīʿah, customary norms, and institutional inertia. This disjunction between ethical ideals and socio-legal practice demands not only legal reform but a conceptual shift in how Islamic law is interpreted, applied, and internalized within Pakistani society.

The analysis has demonstrated that Islamic jurisprudence—far from being static or inherently patriarchal—possesses the ethical and methodological tools to support a transformative gender justice agenda. The Qur’anic emphasis on justice (*ʿadl*), dignity (*karāmah*), and mutual responsibility, when integrated with interpretive tools like *ijtihād*, *maslaḥah*, and legal maxims, enables a robust and internally coherent framework for reform. By revisiting key areas such as marriage and divorce, inheritance, and legal capacity, this article has shown that current laws and practices can be brought into alignment with Islamic ethical imperatives without compromising religious authenticity.

Importantly, this study has proposed that reform must begin not merely with statutory change, but with a paradigm shift in legal education, religious discourse, and public awareness. A truly Islamic model of gender justice is not imposed externally but developed organically through reinterpretation of texts, re-engagement with ethical norms, and revitalization of the legal imagination. This approach also challenges the false binary often constructed between “Islamic” and “feminist” legal reasoning, demonstrating instead that justice is a shared moral objective that transcends disciplinary boundaries.

Policy Recommendations

In light of the findings, the following recommendations are proposed to advance gender justice in Pakistan within an Islamic legal framework:

1. Reform of Family Law with a Maqāṣid-Based Approach:

The state should initiate a review of the Muslim Family Laws Ordinance (1961) and related statutes using a *maqāṣid*-oriented framework. Key areas requiring urgent reform include

women's access to khul' without male veto, elimination of discriminatory procedures in polygamy regulation, and enhancement of women's guardianship and custody rights.

2. Judicial Training in Islamic Legal Methodology:

Judges in family and Shariat courts should receive specialized training in classical jurisprudence, *maqāṣid al-sharī'ah*, and Islamic feminist hermeneutics. This will enable them to move beyond literalist and patriarchal readings and engage with more ethical, justice-oriented interpretations.

3. Public Awareness Campaigns on Women's Islamic Rights:

Government bodies, religious institutions, and civil society organizations should collaborate to educate the public about women's rights in Islam, particularly in areas of inheritance, consent in marriage, and financial autonomy. Framing these rights as *Sharī'ah* obligations can counter resistance based on cultural misconceptions.

4. Regulation of Informal Justice Mechanisms:

Parallel systems such as *jirgas* and *panchayats* that adjudicate family disputes must be brought under legal oversight to ensure they do not violate fundamental rights or Islamic ethical standards. Clear punitive measures should be enacted against extra-legal rulings that harm women.

5. Inclusion of Gender-Sensitive Islamic Content in Curricula:

Educational institutions—especially madrāsahs and law faculties—should revise curricula to include gender-sensitive readings of the Qur'an and Hadith, alongside critical engagement with classical and contemporary jurisprudential debates. This would foster a new generation of scholars, judges, and muftis capable of ethical legal reasoning.

6. Engagement with Ulama and Religious Leaders:

Constructive dialogue with the religious establishment is essential. By involving respected '*ulamā*' in reform discussions framed within Islamic epistemology, the state can build broader consensus and mitigate political resistance.

7. Establishment of a Gender Justice Council under the Council of Islamic Ideology:

An independent body comprising Islamic legal scholars, gender experts, and human rights practitioners should be constituted to review existing laws, issue ethical guidance, and recommend legislative improvements based on the higher objectives of *Sharī'ah*.

This article affirms that Islamic thought, when approached through a justice-centered and ethically grounded lens, can offer powerful resources for gender equality in Pakistan. The challenge lies not in the religious texts themselves but in how they are interpreted, codified, and enacted in a society shaped by colonial legacies and patriarchal traditions. By returning to the Qur'anic ethos and reviving the tools of *ijtihād* and *maqāṣid*, Pakistan can craft a gender justice framework that is both faithful to Islam and responsive to contemporary realities.

The road to reform is neither short nor simple. However, with principled scholarship, institutional will, and community engagement, it is possible to chart a path forward—one that honors both divine guidance and human dignity.

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