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RESEARCH PAPER

The Judicial Role in Protecting Women's Property Rights Under Pakistani Law

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Abstract

This research examines the transformative role of judiciary of Pakistan in protecting women's property rights through constitutional interpretation, Islamic jurisprudence, and institutional innovation. The study analyzes how courts have elevated women' s inheritance from a familial matter to a fundamental right protected by both constitutional guarantees (Articles 23,25) and divine command as enumerated in the Holy Quran. Through examination of landmark rulings, including the Federal Shariat Court's March 2025 declaration against customs like Chaddar (چادر), Parchi,(پرچی) and Haq Bakhshwai حق) (بخشوائی and the Supreme Court's November 2025 judgment imposing state responsibility for proactive enforcement, this paper assesses the judiciary's impact on dismantling patriarchal practices. The research evaluates institutional mechanisms, particularly FOSPAH's alternative dispute resolution model. Gender disaggregated data from provincial land records reveals progress, with Khyber Pakhtunkhwa showing 27% women's land titles and Punjab reaching 31%. However, significant barriers persist: bureaucratic resistance, cultural stigma, and the implementation gap between judicial pronouncements and ground reality. The study concludes that while courts have established robust legal frameworks, translating precedents into practice requires coordinated action from executive institutions, civil society, and religious leadership.

Keywords:

women's property rights, Pakistan, Islamic inheritance law, Constitutional guarantees, Surah Al Nisa, Section 498 (A) PPC, sociocultural barriers, enforcement gap, legal enforcement.

Introduction

Protecting women's property rights has become a defining chapter in Pakistan's legal history, where courts have pushed back against traditions that kept women from their rightful inheritance. Even though Islamic law and the Constitution guarantee these rights, women continue to suffer from widespread disinheritance due to cultural practices, ignorance, and poor in situational enforcement. Much of Pakistan, particularly rural and tribal areas, considers inheritance a "man 's privilege," and women's access is actively obstructed. Pakistani judges have grounded women's inheritance rights in both constitutional guarantees and explicit Qur'anic commands, giving these claims a force that is both legal and profoundly moral. The Holy Quran has explicit and detailed commandments concerning shares of inheritance that women receive. Surah Al-Nisa (Chapter 4), referred to as the "Chapter of Women," specifically lists shares for femalee heirs, such as daughters, wives, mothers and sisters. These instructions are not put forward as recommendations or compromises but as divinely established edicts. In Islam, a legal structure exists for allocating portions of inheritance to female relatives, including daughters, mothers, wives, and sisters (Qur'an 4:7-12). Surah Al-Nisa (4:11-12) defines the portions of in heritance about children, spouses, and parents. A daughter inherits half if she is an only child, and two or more daughters share two-thirds. Mothers obtain one-third of the children's time when they are absent and one-sixth when they are present. Wives acquire one-fourth in the absence of children and one-eighth if there are children. This powerful blend, constitutional guarantees backed by religious authority, has enabled the judiciary to hand down decisions that are difficult to ignore. However, this synergy faces ongoing constitutional tension, as illustrated by the Federal Shariat Court's review of the Transgender

Persons (Protection of Rights) Act, 2018, where statutory protections for minority groups were invalidate ed for being repugnant to Islamic injunct ions, highlighting the complex interplay between fundamental rights and Shariat review. The Federal Shariat Court's March 2025 ruling struck down customs that deprived women from inheritance. Later that year, the Supreme Court made clear that the State itself bears responsibility for enforcing women's property rights. Alongside these decisions, bodies like the Federal Ombudsperson Secretariat for Protection Against Harassment (FOSPAH) have demonstrated that women can obtain justice without protracted litigation. However, the suspension of the Punjab Ombudsperson Office and ongoing implementation problems show that legal victories only matter if they change daily reality for women.

Objectives

1. Examine how Pakistan's constitution and Islamic law shape women's property rights and how courts have blended these principles.
2. Analyze landmark court decisions, particularly the Federal Shariat Court's March 2025 ruling against harmful customs and the Supreme Court's November 2025 judgment on state responsibility.
3. Evaluate institutional mechanisms, focusing on FOSPAH's alternative dispute resolution system.
4. Analyze gender disaggregated data from provincial land records across Pakistan's four provinces.
5. Identify persistent obstacles blocking real progress.

6. Recommend specific actions to close the gap bet ween judicial decisions and ground-level implementation.

1. Constitutional and Islamic Foundations of Women's Property Rights

1.1 Constitutional Guarantees

The Pakistani judiciary's assertive stance on women's property rights is deeply rooted in the Constitution of Pakistan, adopted in 1973, which provides a comprehensive legal framework safeguarding the rights of all citizens. Article 25 contains the principle of equality before the law and prohibits discrimination on grounds of sex, explicitly stating that "There shall be no discrimination based on sex alone." This constitutional provision renders the denial of women's inheritance solely based on gender unconstitutional. Other constitutional provisions contribute to this protective regime: Article 4 protects against arbitrary dispossession of property; Article 23 guarantees every citizen the right to acquire, hold, and dispose of property; Article 34 requires the State to ensure wo men's active participation in all aspects of national life, including economic participation; and Article 227 mandates that all laws conform to the injunctions of Islam as laid down in the Holy Qur'an and Sunnah, thereby supporting Islamic inheritance rights. The right to freedom of movement, assembly, association, and speech under Articles 15, 16, 17, and 19, together with equality before the law under Article 25, are fundamental rights guaranteed to all citizens, including women. As observed in Bisma Noreen vs. Federation of Pakistan (2023 CLC 2038 Karachi Sindh High Court), while these rights are subject to reasonable restrictions, they form the bedrock of women's entitlement to the full measure of freedoms enshrined under the Constitution.

1.2 Divine Command and Inheritance

Even more powerfully than constitutional guarantees, Pakistani courts have consistently articulated inheritance rights as a divine command. The Islamic system of inheritance was a significant advancement in 7th century Arabia, granting women the right to own, inherit, and transfer property at a time when they were treated as chattel in Western societies. The Holy Qur'an contains explicit commandments concerning inheritance shares for women. Surah Al-Nisa (4:7) articulates:

لِّلرِّجَالِ نَصِيبٌ مِّمَّا تَرَكَ الْوَالِدَانِ وَ الأَقْرَبُونَ وَ لِلنِّسَاء نَصِيبٌ مِّمَّا تَرَكَ الْوَالِدَانِ وَ الأَقْرَبُونَ مِمَّا قَلَّ مِنْهُ أَوْ كَثُرَ نَصِيبًا مَّفْرُوضًا

"For men is a share of what the parents and close relatives leave, and for women is a share of what the parents and close relatives leave, be it little or much, a share ordained (by Allah)." Similarly, Surah Nisa' 4:1

يُوصِيكُمُ اللهُ فِي أَوْلاَدِكُمْ لِلذَّكَرِ مِثْلُ حَظِّ الأُنثَيَيْنِ فَإِن كُنَّ نِسَاء فَوْقَ اثْنَتَيْنِ فَلَهُنَّ ثُلُثَا مَا تَرَكَ وَ إِن كَانَتْ وَاحِدَةً فَلَهَا النِّصْفُ وَ لأَبَوَيْهِ لِكُلِّ وَاحِدٍ مِّنْهُمَا السُّدُسُ مِمَّا تَرَكَ إِن كَانَ لَهُ وَلَدٌ فَإِن لَّمْ يَكُن لَّهُ وَلَدٌ وَ وَرِثَهُ أَبَوَاهُ فَلأُمِّهِ الثُّلُثُ فَإِن كَانَ لَهُ إِخْوَةٌ فَلأُمِّهِ السُّدُسُ مِن بَعْدِ وَصِيَّةٍ يُوصِي بِهَا أَوْ دَيْنٍ آبَآؤُكُمْ وَ أَبناؤُكُمْ لاَ تَدْرُونَ أَيُّهُمْ أَقْرَبُ لَكُمْ نَفْعاً فَرِيضَةً مِّنَ اللهِ إِنَّ اللهَ كَانَ عَلِيما حَكِيمًا

"Allah charges you in regard with your children: a son's share is equal to the share of two daughters; if the [children] are [only] daughters and two or more, their share is two thirds of the legacy, and if there is only one daughter, her share is half [of the legacy]; and each of the parents inherit one-sixth of the legacy if the deceased had children, and if the deceased had no children and the parents are the only heirs, the mother inherits one-third; if the deceased had brothers, the mother inherits one-sixth; [all this is] after executing the will

and settling the debts of the deceased. You do not know which of your parents and children benefit you the most. This is Allah's injunction; surely Allah is All-knowing, All-wise."

The spiritual significance of adhering to inheritance laws is emphasized by Hadith chronicled in Ibn Majah: *"Whoever deprive s an heir of his (or her) share of the inheritance, Allah will deprive him of his share in Paradise"* (Ibn Majah, Hadith No. 2703). This potent spiritual caution highlights the importance, from a religious perspective, of recognizing women as legal beneficiaries. This principle was powerfully enunciated by the Supreme Court in Abrar Hussain vs. Mst. Bibi Shahida (2026 PLD 42 Supreme Court), holding that women's inheritance right is not a concession granted by human law but a divinely ordained command. The Court declared that any denial or obstruction of this right is not merely unlawful but transgression against Divine Will. Cultural or societal practices that deprive women of their rightful inheritance are rooted neither in faith nor in justice, they are remnants of ignorance which the message of Isla m came to abolish. The Court imposed a sacred constitutional duty upon the State to uproot such practices by ensuring every woman is informed of, and enabled to claim, her rightful share without delay, fear, or lengthy litigation.

1.3 Synergy Between Constitutional and Islamic Law

One of the standout aspects of Pakistani law regarding women's property rights is how seamlessly it blends constitutional and Islamic principles. The courts have crafted a cohesive framework benefiting from both perspectives. This synergy faces challenges when legal definitions intersect with religious injunctions. In Hammad Hussain vs. Federation of Pakistan (2023 PL D 301 Federal Shariat Court), the Court examined the definition of

"transgender person" under the Transgender Persons (Protection of Rights) Act, 2018. Regarding inheritance, the Court declared Section 7(2) of the Act repugnant to Islam, holding that all directions of Islam regarding distribution of inheritance shares are based on the sex of legal heirs. The right to inherit based on gender declared on CNIC was found to be against the injunctions of Islam.

2. Landmark Judicial Rulings and Their Impact

2.1 Federal Shariat Court's Ruling on Harmful Customs (March 2025)

In March 2025, the Federal Shariat Court issued a groundbreaking decision challenging traditional justification for denying women inheritance. The case originated from a constitutional petition filed by Syeda Fouzia Jalal Shah, highlighting struggles faced by women in Banu District, Khyber Pakhtunkhwa, where jirgas would completely deprive women of inheritance or coerce them into accepting less valuable property. The Federal Shariat Court declared several long-standing customary practices illegal. Chaddar (the veil) pressure women to let male relatives take inheritance under the guise of protection. Parchi (the slip of paper) involves handing over a token property while the real inheritance is denied. Haq Bakhshwai (forgiving one's right) coerces women into signing away their shares under family or jirga pressure. Another notorious example is Haq Bakshwana, symbolic marriage of a woman to the Qur'an, practiced in parts of Sind and southern Punjab, which permanently removes a woman from marriage to keepp property within the paternal line. The court prohibited these customs under Section 498A of the Pakistan Penal Code, declaring them un-Islamic and illegal, and directed the State to prosecute those responsible.

The court made clear that a woman's choice to renounce inheritance only counts if done freely, without pressure or coercion.

2.2 Supreme Court's Ruling on State Responsibility (November 2025)

The Supreme Court of Pakistan issued a landmark ruling in November 2025 in a case involving Bibi Shahida, who had been entangled in a legal battle with her brother for 22 years. After their father died, her brother took over everything, leaving his sisters with nothing. The Court termed the brother's appeals an "abuse of process" meant to stall and levied a Rs. 500,000 penalty. The Court spelled out the State's duty: the State must ensure every woman knows her inheritance rights and can claim them without delay, fear, or endless court battles. The court also clarified that upon death, ownership transfers instantly to all legal heirs including women. If a brother witholds his sister's share, he is taking property that already belongs to her.

2.3 Foundational Judicial Precedents

Several foundational precedents have shaped women’s inheritance rights. Ghulam Rasool vs. Mst. Samandri (PLD 1968 Lahore 1325) upheld women's absolute rights to inherit under Islamic law. Mst. Nisar Fatima vs. Molvi Abdul Qayyum (1994 SCMR 28) rejected patriarchal interpretations not based on Qur'an and Sunnah. Mst. Sakina Bibi vs. Districtt Collector (PLD 2005 SC 69) held that revenue functionaries must ensure accurate land records. State vs. Muhammad Shafique (2021 P.Cr.L.J 123) established that denial of inheritance is a criminal offense under Section 498A PPC. Additional precedents reinforce this jurisprudence. In Mst. Bashiran vs. Muhammad Akhtar (2008 SCMR 864), the august Supreme Court annulled genealogical documents aimed at excluding women from

inheritance and directed alteration of official records. Sughran Bibi vs. State (2020 SCMR 2014) addressed misuse of limitation laws, holding that inheritance rights come into being upon death and continue actionable unless legally relinquished. Zahida Sattar vs. Farooq Sattar (PLD 2021 Lahore 546) nullified a waiver procured under social coercion, stating that consent given uunder duress is invalid both legally and ethically.

A significant procedural precedent is Mohsin Ali Khan vs. Federal Ombudsman Secretariat (2022 CLC 1955 Islamabad), clarifying jurisdictional boundaries between family courts and the Ombudsperson. When a property matter is pending before a Family Court, the Ombuds person complaint is not maintainable. Similarly, Muhammad Umar Farooq vs. Irshad Bibi (2024 YLR 2629) established mandatory protections for pardanashin, old, and illiterate women in property transactions. The Court outlined conditions: the lady must be cognizant of the transaction, have independent advice, witnesses must be close relatives with no conflict, sale consideration must be duly paid, and the transaction must be explained in a language she understands. Old and illiterate ladies are entitled to the same protection as pardanashin ladies.

3. Institutional Innovation in Enforcement

3.1 Statutory Framework

Beyond constitutional and Islamic provisions, Pakistan has implemented statutory laws enforcing women's inheritance rights. The Muslim Personal Law (Shariat) Application Act, 1962, stipulates that inheritance matters for Muslims are governed by Muslim Personal Law, rejecting customary laws biased against women. The Prevention of Anti Women Practices (Criminal Law Amendment) Act, 2011, punishes denial of inheritance withh imprisonment

up to ten years or a fine of one million rupees, and bans forced marriages and Quranic marriages.

3.2 Enforcement of Women's Property Rights Act, 2020

Significant institutionall progress stems from the Ombudsperson’s office under the Enforcement of Women's Property Rights Act, 2020. This provides an informal, cost-effective forum for complaints about denial of inherited property. The Ombudsperson holds authority to grant possession, punish offenders, and call for aid from revenue and police departments. Cases move fast with clearr deadlines, and decisions carry the force of court orders.

FOSPAH employs settlement-focused conciliation, preserving family relationships while resolving disputes quickly. Open Courts (Khuli Kacheri) in neighborhoods and villages bring the process to women, with revenue officials and police present to assist.

Case Studies: FOSPAH resolved a 17-year G-9/1 dispute in Islamabad, distributing approximately Rs. 10 crores to female heirs. In another case, Mehwish Tahir, a widow who did not even know where her property was located, received assistance from FOSPAH staff who tracked records, identified the relative who had taken over, and secured her property’s return. In Fahmida Bibi's case, she lost possession of her land in Nilore Village despite legal ownership; local police turned a blind eye. The FOSPAH intervened, issued orders, and worked with the Deputy Commissioner Office, resulting in the land being measured, marked, and returned within months. Fakraz Bibi's family spentt 34 years waiting for revenue authorities to record a mutation; FOSPAH ordered action, and the mutation was finally recorded.

3.3 Punjab Ombudsperson Suspension

Following the Federal example, the Punjab Assembly passed its own law in 2021. Before suspension, Punjab's Ombudsperson Office resolved 5,000 cases, restoring over 6,000 kanals of property. However, the Lahore High Court suspended the office for creating a " parallel judicial regime." As of early 2026, the office remains shut, leaving thousands of women with unresolved cases.

4. Measuring Progress: Gender-Disaggregated Data

By November 2025, the National Assembly Special Committee on Gender Mainstreaming reviewed gender-disaggregated land records from all four provinces:

Province	Women's Land Titles	Key Observations
Khyber Pakhtunkhwa	27%	Province where Chaddar & Parchi customs were first challenged
Punjab	31%	Significant achievement given large population and complex land records
Sindh	21% overall, 37% joint industrial	Joint ownership rates for industrial property reach 37%
Baluchistan	Data collection challenges	Rural terrain and underdeveloped administrative systems

Inheritance rights denial varies across Pakistan, being more pronounced in rural and tribal areas compared to urban centers. Women in cities tend to be better educated, more employed, and aware of their rights.

5. Persistent Challenges and Barriers

5.1 Gap Between Courts and Actual Change

Courts strike down harmful customs and declare women's rights, but implementation lags. During the Federal Shariat Court's hearing on Chaddar and Parchi, the Khyber Pakhtunkhwa government flatly denied these customs existed. Courts can declare customs illegal, but without executive action, nothing changes for women on the ground.

5.2 Socio-Cultural Barriers

Socio-cultural norms, patriarchal systems, and structural discrimination are the root causes of the gap between law and practice. Women are often relegated to subordinate roles, with property ownership considered an exclusively male domain. Parents consider daughters as guests who will marry into another family, justifying that property must remain within male ancestry.

Customary laws remain strong, particularly in Baluchistan, Sindh, and southern Punjab. Tribal traditions like Pashtunwali govern inheritance, and women inheritance property is frowned upon as it upsets male-dominated kinship structures. Women are subjected to informal disinheritance through abuse of Hiba (gift), where parents give property to sons during theirr lifetime to eliminate daughters and widows from consideration. Coerced renunciations and oral settlements force female heirs to sign documents surrendering claims under social pressure without informed consent.

Parallel justice systems such as Jirgas, Panchayats, and village councils operate beyond the official judicial system, disregarding statutory and Shariah-based inheritance laws in favor of patriarchal norms. These informal courts, composed exclusively of male elders, issue rulings that carry significant social weight. Women's participation is minimal, and their

presence is only accepted when grievances are branded as "honor disruption." Frequently, Jirga rulings privilege male inheritance rights and pressurized women to accept settlements far below their legal entitlements. The State has historically tolerated these parallel systems, effectively sanctioning the very customs courts have declared illegal.

5.3 Bureaucratic and Administrative Hurdles

The justice system is disreputable for case backlogs, frequent adjournments, and poor case management. Outdated land records and unverified documents further delay adjudication. Women face endless delays, impossible paperwork demands, arbitrary denials, corruption, and officials ignorant of the law. Police often view these issues as "civil matters." Additionally, some judicial officers show lack of gender sensitivity; prejudicial aattitudes toward women litigants lead some court practioners to ignore or unreasonably settle claims, pressuring women to abandon their claims.

5.4 Lack of Awareness and Enforcement

In rural and slum regions, women's literacy is particularly low, rendering them unable to know their rights under Islamic and statutory law. Control of land records and legal documents is often held by men, ensuring women remain ignorant of information needed to navigate property issues. Many women do not know their rights under Islamic law, have no idea what property the family owns, and are unaware that customs holding them back are illegal. Despite vibrant laws, the Muslim Personal Law (Shariat) Application Act 1962, the Enforcement of Women's Property Rights Act 2020, and Section 498-A PPC, enforcement remains weak and ineffective. Courts delay, officials hold old beliefs, and police rarely act.

6. The Path Forward: From Precedent to Practice

6.1 Immediate Priorities

- First, resolve the Punjab Ombudsperson suspension through corrective legislation or new mechanisms.
- Second, standardize gender-disaggregated data collection across provinces with uniform methods.
- Third, launch mandatory training for police, revenue officials, and judges on constitutional and Islamic bases of women's property rights, illegality of customs, criminal penalties, and duty to facilitate claims.
- Civil and family courts must be empowered to expedite inheritance petitions with a defined resolution timeline of six months.

6.2 Medium-Term Reforms

Complete land records digitization with women-friendly access protocols enabling independent verification and simple mutation procedures. Land officials who engage in malpractice enabling fraudulent dispossession must face strict punitive action. Launch community awareness campaigns using religious leaders and media communicating inheritance as religious obligation and deprivation as illegal. Collaboration with media is essential to transform public perception of women holding property as anti-family or disgraceful.

Religious leaders hold unique influence in Pakistani society. When respected scholars and imams speak against harmful customs and affirm women's inheritance rights as Islamic obligations, they reach audiences that secular institutions cannot. Systematic engagement of

religious leaders, providing accurate information, theological arguments against practices like Chaddar and Haq Bakhshwana, and platforms to reach reach large audiences, can fundamentally shift community attitudes.

Build legal literacy programs teaching women their shares, property identification, claiming procedures, document protection, and resistance to pressure. Women should receive specialized outreach services at the district level through Women's Property Rights Cells within Ombudsman or Human Rights offices.

6.3 Long-Term Structural Changes

1. Reform Revenue Administration by reducing official discretion, setting legal deadlines, creating accountability, and simplifying processes.
2. Following the death of a property holder, registration of inheritance partition should be compulsory and completed within a specified deadline.
3. Strengthen criminal enforcement through specialized police units, prosecutor training, meaningful sentencing, and protected reporting channels.
4. Seek constitutional clarity on specialized women's forums through amendments or judicial guidance.

6.4 Reforming Customary and Informal Practices

Existing legal frameworks must be reformed to remove particular customary practices infringing women's rights, including coerced oral relinquishment, Haqq Bakhshwana, and Jirga-imposed settlements. Such practices should be legally prohibited, and any attempt to impose them should be punishable by law. Judges must guard against invocation of culture or religion as a facade.

6.5 Collaborative Action

Government and judiciary should partner with civil society organizations providing legal aid, education, monitoring, advocacy, and support. Organizations such as AGHS Legal Aid Cell, Aurat Foundation, and Legal Aid Society have provided free legal aid, legal literacy workshops, counseling, and mediations, filling gaps caused by weak state structures. NGOs require funding for documentation of success stories, provision of legal advice, and implementation of mobile awareness campaign in rural areas.

Systematic engagement of religious scholars with accurate information and theological arguments against harmful customs is essential. A permanent coordination body comprising judiciary, executive agencies, specialized forums, civil society, and religious leaders should monitor progress and ensure legal victories translate into daily reality for women.

Recommendations

Immediate:

1. Resolve Punjab Ombudsperson suspension through corrective legislation or establish alternative accessible mechanisms.
2. Standardize gender-disaggregated data ccollection across provinces with uniform methods, addressing Baluchistan's gaps.
3. Launch mandatory training for police, revenue officials, and judges on constitutional and Islamic bases of women's property rights, illegality of customs, criminal penalties, and duty to facilitate claims.
4. Empower civil and family courts to expedite inheritance petitions with defined resolution timeline of six months.

Medium-Term:

1. Complete land records digitization with women-friendly access protocols enabling independent verification and simple mutation procedures.
2. Launch community awareness campaigns using religious leaders and media communicating inheritance as religious obligation and deprivation as illegal.
3. Build legal literacy programs teaching women their shares, property identification, claiming procedures, document protection, and resistancee to pressure.
4. Establish Women's Property Rights Cells within Ombudsman or Human Rights offices at provincial level with trained oofficers handling complaints.

Long-Term:

1. Reform Revenue Administration by reducing official discretion, setting legal deadlines, creating accountability, and simplifying processes.
2. Strengthen criminal enforcement through specialized police units, prosecutor training, meaningful sentencing, and protected reporting channels.
3. Reform customary practices by legally prohibiting coerced relinquishment, Haq Bakhshwana, and Jirga-imposed settlements, with clear penalties for violation.
4. Create permanent coordination body comprising judiciary, executive agencies, specialized forums, civil society and religious leaders to monitor implementation and ensure legal victories translate into daily reality for women.

References

The Holy Qur'an & Hadith

- Surah Al-Nisa (Chapter 4) 4:7-12

- Ibn Majah, Hadith No. 2703

Key Legislation

1. Constitution of Pakistan, 1973 (Articles 23, 25, 34, 227)
2. Enforcement of Women's Property Rights Act, 2020
3. Muslim Personal Law (Shariat) Application Act, 1962
4. Pakistan Penal Code, Section 498-A
5. The Prevention of Anti-women Practices (Criminal Law Amendment) Act, 2011

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- Bisma Noreen vs. Federation of Pakistan (2023 CLC 2038 Karachi Sindh High Court)
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- Sughran Bibi vs. State (2020 SCMR 2014)
- Zahida Sattar vs. Farooq Sattar (PLD 2021 Lahore 546)

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- National Assembly Special Committee on Gender Mainstreaming Proceedings (November 2025)
- National Commission on the Status of Women Reports