AUL AND RADD IN CONTEMPORARY MUSLIM INHERITANCE LAW: A COMPARATIVE ANALYSIS OF INDIA, PAKISTAN, EGYPT, AND INDONESIA

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ABSTRACT

Inheritance law in Islam is frequently considered the most exact and mathematically rigorous sector of Islamic law. It gives a detailed structure for the apportionment of the estate of a deceased individual amongst specified heirs using prescribed Qur'anic proportions. In practice Yet practice sometimes diverged from the letter of the law. Sometimes the shares of heirs prescribed by the law exceeded the estate, and sometimes some part of the estate went undistributed on the death of the testator. Islamic legal scholars of the Classical period devised the Aul and Radd doctrines to deal with precisely such situations.

Both these principles are still applicable in current Muslim inheritance law. Aul doctrine may be invoked when the aggregate of fixed shares is over the estate, and a proportional reduction of the shares of all heirs who are entitled becomes necessary. Whereas the doctrine of Radd applies where a residue remains after fixed shares are distributed among the heirs, and there is no residuary heir, so that the surplus is distributed among the residual heirs. While these doctrines of Radd and Aul are derived from similar principles of traditional Islamic law, their application has not been uniform in practice.

This article aims to compare the doctrines of Aul and Radd in the four jurisdictions of India Pakistan Egypt and Indonesia, illustrating the way in which each jurisdiction has interpreted and practiced these doctrines. Despite sharing a common basis in the basic rules of Islamic inheritance, they have all, to differing degrees, incorporated the doctrines of Aul and Radd into the justice system in their own particular manner, through codification and the development of different interpretation.

Some jurisdictions stay more closely to doctrinal principle while other jurisdictions have legislated for the doctrines of Radd and Aul to be practiced in a more modern manner. Drawing from these four jurisdictions, the article considers how classical Islamic principles of inheritance are continually developed in different legal systems, even while applying to the same problem how to balance specified doctrinal shares against actual devolution.

1. INTRODUCTION

Inheritance has been a significant area of Islamic law since long, not just as a mode of passing on estate, but also as a system to maintain family organization and finances, and ensure equitable treatment of heirs. Islamic inheritance law differs Much from most contemporary systems of law that give freedom to individuals to freely decide the manner in which their estate will be divided after death; under Islamic law the estate of a deceased is apportioned among heirs by referring to specific Qur'anic directives, to be followed by Prophetic traditions and juristic inference (ijtihad), to become one of the most meticulous and scientific studies of Islamic jurisprudence. Yet, even with all this detail, Islamic law about inheritance is not always a straightforward matter.

There are circumstances in which the shares predetermined by law to which members of a descending group are entitled are either more than the estate will support, or exactly the size of the estate. In other words, the exactness of the law gives rise to gaps to which the law must be adapted. It is for these reasons that the jurists created the theories of Aul and Radd, both of which remain central to the application of succession law today.

The doctrine of Aul. If the fixed shares, when added together, are more than the estate being divided, the doctrine of Aul applies instead of By Maqbul. In this event, each heir still takes his/her fixed share as before, but everyone receives it proportionately reduced so that each heir can have a respective share in the estate remaining. By contrast, the doctrine of Radd applies in cases where the fixed shares available are so distributed, and there is a residue, but there is no residuary heir to inherit it, so the last remaining estate is proportionately redistributed among the other heirs.

One juristic distinction is whether or not the spouse can be Aul through the fixed allocations of shares. While Aul and Radd are rooted in classic Islamic law, each do not function equally in practice in all jurisdictions, depending of the degree of statutory codification and interpretation, a function Like that to how traditional Muslim Personal law does in certain systems. As we will see, there are some jurisdictions where traditional form Aul/Radd proceedings are retained with little legislative change, while others have adopted statutory reform, Because of this making them an interesting study of comparative law, as they can.

This article seeks to review the doctrines of Aul and Radd with a comparative study of India Pakistan Egypt and Indonesia. Each of these systems offers a different model of application returning to the more traditional school-based operation, or functioning as part of a system which draws on codification and a measure of legal reform.

The article begins with an overview of the Indian system, in which Muslim inheritance law still predominantly operates per doctrinal principles which are approved by, and incorporated into, the Muslim Personal Law(Shariat) Application Act 1937 since the system retains a significant measure of traditional doctrinal operation while working within the system of a secular legal system, it is an appropriate starting place for the study of the doctrinal operation. Such evaluations of Aul and Radd in India Next provide the base for this more general comparative structure.

2. INDIA

Islamic personal law is not a relic existing in some musty archive. We can see it in action in Indian courtrooms every day. It draws from traditional Sunni and Shia jurisprudence, and the system by which it orders successions has been adapted from centuries' worth of doctrinal writing. The doctrines were promulgated onto national law by the 1937 Muslim Personal Law (Shariat) Application Act. Islamic inheritance doctrines that are, codified principles that inform the law of inheritance in Islam have been in practice in India since the 1600s. Underlying all Islamic inheritance rules are fixed shares precise benefits specified to particular kin directly by the Quran. In theory, these divisions are simple: one-sixth to the deceased's father (Q.4:11), twenty-five percent to the spouse (Q.4:12), etc. But in practice these fixed shares do not always reconcile. Sometimes they will sum to a total greater than 100percent of the estate. Sometimes the total will add to less than 100percent (Q.4:9), requiring substantial liquid considerations and adjustments. This is exactly where Aul and Radd come into play. In situations where the sum exceeds 100percent, Aul proportionally reduces each share. In situations where the sum is less than 100percent...

Aul and Radd; did not arise from a sober scholar, secluded theorising about law. They originated of actual disputes at the formative period of Islam and endured for more than a hundred years, because they genuinely were useful. Their foundations are the authentic practice more than the conceptual design. The concept of Aul originated in the time of the Caliph Umar ibn al-Khattab. He was faced with a case where the shares of the Quranic heirs exceeded the estate.

There was not enough to go round. Umar found a solution suitable for all parties (without damaging the balance) - cuts down each inheritor's share uniformly by the same ratio, so that no one has be saddled with the entire shortfall. This was a practical and reasonable resolution, and it persisted. It disseminated among Sunni fiqh and finally became part of the Hanafi fiqh which formed part of Muslim family law in India.

Radd encountered the other problem namely, if the fixed shares did not exhaust the estate and no residuary heir existed who would take the remaining estate. Classical legal writers would not allow the surplus to fall to the state; they devised a solution whereby the excess was redistributed pro-rota among those who had shares in the estate in proportion to the share estate. The various schools of law differed in practice and there was no general consensus about the position, in particular on whether spouses should be included in the this Re-tro action and constitute debate within India.

2.1. AUL AND RADD IN INDIA

In the manner by which these doctrines found their way into Indian law, we can see the Indian Evolution of Muslim personal law for what it was. Not a legislative process, but a steady architectural build up, of case law.

When the colonial state established itself over the administration of Islamic law, the code was not the product of colonial authorship. Colonial judges did not entrust themselves with an endeavour as demanding or as complicated as that. Rather classical Islamic texts served as models, most Worth noting the classic Hedaya authored by Burhan al-Din al-Marghinani and the endeared collection, The Fatawa-i-Alamgiri, complied "under the patronage of Aurangzeb" (Miura, 1994) they then began their work of applying them in court, often citing such sources when defining what the jurisprudence was, when codifying Muslim rules of inheritance was once again bypassed in Favor of naturalized jurisprudence as a class of decisions Sure, 1937 was a milestone though not in the way most would think. It was not a reformative an Act of new rules.

Instead, it was a reaction solidification of who was right. Old regional methods, which had long since deviated from classical notions, ploughed back to this personal law as the ruling body. Where existed recent, selective alteration of agreeable provisions, the Act was an improvement.

And yet Neither Aul nor Radd figure in that Act. Neither are given a statutory definition. Both continue to live in Indian law only by judicial fiat. Jurisprudentially, the courts have accepted the doctrines as a matter of Islamic law, and continued its validity under the system of 1937. What today operates as law was never enacted by legislatures it was created Even so, in decision after decision, decade after decade. This can tell us something very interesting about the inheritance law of Indian Muslims: that it is based in judicial decision making, not in statutory law.

The 1937 Act obscures Muslim personal law but does not give rules for how Aul and Radd are to operate in practice. That means the courts continued to turn to classical texts; in particular, Ameer Ali for the principles of Mohammedan law and Mulla for the principles of Mohammedan law. This led to an extraordinary consistence. The classical Hanafi arithmetic scheme for inheritance survived with minor legislative intervention. In all other Muslim countries, the twentieth century was the century of the inheritance code; in India, classical Hanafi law survived.

The divergence in approach is in particular notable in the treatment of Radd. Based on Sunni Hanafi law in India, spouses are never entitled to claim any share out of the estate remaining after satisfied Radd: they are only entitled to their fixed Quranic share. Indian courts neither regard this as a matter of policy worthy of discussion nor treat it as an optional choice of law. Rather, they recognize it to be an established articulation of Muslim personal law felt to be part of the Hanafi system.

2.2. THE DOCTRINE OF AUL EXPLAINED

Aul occurs when the total is more than 1that is, when the individual shares sum to more than one. Indian courts do not cut anyone out, but reduce each share proportionately, with a new denominator following the original to the sum of all claims.

Worked Example

- Husband: 1/2 → 3/8
- Two sisters: 2/3 → 4/8
- Mother: 1/6 → 1/8

(The original base is 6, but the shares total 8/6, so the base shifts to 8)

All heirs get something. Aul pounds. The ratios work out. That is the settled learning in India, spread without variation so reliably by the solemn courts that have heard the case.

Mulla and Ameer Ali are steadfast as ever, though the times may change everything about us while system and rule remain unchanged. Islamic law from the Sunni and Shia schools of jurisprudence both identify Aul as a permissible scheme of distribution, but litigation in India clearly reveals a predilection for usage of the Hanafi method of splitting up estates (namely, two thirds and a quarter) since it is so popular. Whenever Shia principles are the rule, the amounts due differ slightly, though apparently less Shia cases go before courts in India.

2.3. THE DOCTRINE OF RADD EXPLAINED

If the fixed shares do not exhaust the whole of the estate and no residuary heir remains to take the residue, then Radd intervenes: he orders the excess to be paid to those persons entitled in proportion to their original shares.

Worked Example

- Husband: 1/2 → 3/8
- Two sisters: 2/3 → 4/8
- Mother: 1/6 → 1/8

(The original base is 6, but the shares total 8/6, so the base shifts to 8)

The application of Radd to spouses is definitive and uniform. For older Hanafi principles deprive spouses of redistribution altogether a spouse is only allocated his or her fixed share as laid down in the Quran, and not redistributed amongst the heirs. Because of this where the heirs are a widow and a daughter, the widow is allocated a quarter and the daughter a quarter.

It is not a judicial figment, but a direct result of unflinching adherence to Hanafi doctrine: In the absence of a residuary heir, or a person entitled to take Radd, the estate will escheat to the state. Indian courts have Though always held that escheat is a measure of last resort, and have always preferred to apply Radd.

2.4. EVOLUTION AND ONGOING SIGNIFICANCE

Aul and Radd have had a long journey through India. The British courts enforced the strict application of classical sources. The 1937 Act imposed a modern uniformity and extinguished all other indigenous practices. Independence came and went but Muslim personal law was not codified in a Muslim inheritance code. Judicial arguments continued to appeal to Mulla and Ameer Ali and the law largely remained frozen at their classical states.

Still, this does not mean that these doctrines are not relevant to the current time on the contrary. Most of the inheritance issues of Muslims in India are still governed by unenacted procedures. Succession certificates, partition suits, divisions of estate all routinely involve calculations based on fractions by the use of Aul and Radd. Over countless generations, legal professionals in courts continue to do the calculations which are already over four centuries old, and they still have validity.

But the courts' central role here is something to pause over. Because of absence of code, they are not simply exercising power. They are the mechanism Aul and Radd be damned through which classical doctrine is kept breathing. That both introduces stability, and imposes limits, permanent limits. An agnostic litigant who hasn't studied the matter and yet has no access to a knowledgeable advocate will find the rules of the game resting in classical commentaries and case reports from the last thirty-five years, rather than in a clear statute that is the limitation.

This lack of reform in legislation also raises thornier questions for gender justice. One of the flaws with Aul and Radd as mathematical mechanisms is that they simply apportion whatever shares have already been allocated. But these shares are themselves a product of a particular system that is not gender-neutral. In a number of situations daughters, widows and mothers receive reduced shares compared to men under substantive Islamic inheritance practice. This poses the question of whether it is tenable to continue to determine inheritance through an unlegislated local custom without constitutional amendment, considering Articles 14 and 15 of the Constitution. The debate has become racier Lately, mainly after the Shayara Bano v. Union of India (2017) case. The case concerned instant triple talaq and not inheritance. Yet, the Court's willingness to revisit the constitutionality of Muslim personal law reignited debate about in which inheritance should also be included.

2.5. CONCLUSION

Aul and Radd are there because Muslim shares and property do not always match and they are devices by which Islamic succession law has sought to cope with that discrepancy. In India, these devices are fully borne by the judiciary, not the legislature. And that is the key to Indian Muslim inheritance law: it is, in a very real sense, yes personal law forced to survive alone in the courts, grounded in classical doctrine, and on the edge of still determining what heirs actually take home.

3. EGYPT

3.1. APPLICATION AND EVOLUTION OF AUL AND RADD IN EGYPTIAN MUSLIM INHERITANCE LAW

Islamic inheritance law is precise in intent---the classic case where the Quran preserves fixed shares for named beneficiaries. But precision in the rules of division does not mean that implementation always turns out straightforwardly. Over what is assigned to heirs exceeds the estate at hand, or under what is not assigned is missing something. When this happens, the logic had to be restored. The answer for which the classical rules of inheritance offered two complementary solutions, one for excess shares, the other for residual shares. The classic case of Egypt attempts to determine what happens when a state attempts to anchor these classical solutions into a statutory inheritance law---how the classical inheritance law is altered by the state and how it remains.

3.2. HISTORICAL ORIGINS

The principle of Aul was formulated during the rule of Caliph Umar ibn al-Khattab, when he faced a court case whereby the shares of the heirs of the Quran exceeded the estate, his solution was not to do away with one of the heirs, but divide the estate by the number of heirs, so each got a proportional but lesser share than in the original Quranic division. This reasoning resonated throughout the Sunni jurist 's debates and it became a part of the paper work set up by the laws of Egypt.

Radd tackles the other side of the coin- when specific bequests fail to exhaust an estate and there is no residuary heir, the excess is distributed to the bequested heirs share in the estate. Egypt has Later amended this process Really, especially for surviving spouses, this way differentiating present estate practice A lot from earlier doctrinal discussion.

3.3. RECEPTION AND CODIFICATION IN EGYPT

Inheritance law was not a finished product in Egypt. It was introduced under the Ottomans, when Hanafi law rendered Aul and Radd usefully accessible to the judiciary in everyday cases. They were not merely notions that achieved recognition because the government conceded the authority of Islamic family law. With the twentieth century looming, reform became a genuine aspiration and its need for standardisation increased. Law No. 77 of 1943 stood out. With the new rules in place, the Aul and Radd shifted from mere speculation to formal reading in even a judge's mind.

No longer was an attorney required to rely on ancient commentaries: the written law was binding, and proceedings became more certain. This is the clearest difference between Egypt and a country like India. India entrusted these principles to the courts of law; Egypt codified these principles.

Equally important, in a practical sense, Egyptian courts do not have to sift through numerous classical texts to determine the calculation of an inheritance. They simply follow the law. In doing so, they foster a system that is more uniform, more accessible and maintains the premodern doctrinal rationale, though in a contemporary legal system that the common manis able to relate to.

3.4. USING AUL IN EGYPT

Each two or more of the assigned shares together are greater than the estate, then each share is reduced by the same ratio so that the distribution is proportional.

Example:

- Husband: 1/2 → 3/8
- Two sisters: 2/3 → 4/8
- Mother: 1/6 → 1/8

(Base shifts from 6 to 8 as shares total 8/6)

Egyptian courts use Aul using traditional Sunni principles, supported by the statutory authority of Law No. 77 of 1943, which is what makes application uniform in the various tribunals.

3.5. RADD USED IN EGYPT

In case of the fixed shares devesting in a surplus and there being no residuary heir, the remainder is divided between the share-holders based on the share-holders who had before received a proportion.

Example:

- Daughter: 1/2; Mother: 1/6
- Combined fixed shares: 4/6; Surplus: 2/6
- Redistributed proportionally — Daughter receives 3/4 total, Mother receives 1/4 total

A significant divergence from Hanafi classical law in Egypt concerns the spouses. In India the classical priority about spouses is insisted upon and they are wholly excluded from Radd and awarded their fixed proportion of the Quranic legacy alone. But the statutory law does something else providing on certain conditions (and mainly where there are no residuaries) for remodification, through Radd, to the advantage of widows.

This is not a broad-denial, but precise. This margin mirrors something purposive about how Egypt deals with inheritance law; the doctrinal base remains unaltered, but where the classical statutes give results that feel too severe in practice, the statute intervenes to lighten them up without dismantling the doctrinal scheme.

3.6. CHANGES IN RELIGIOUS TEACHINGS OVER TIME

There was, under the Ottomans, a mechanical enforcement of the classical juristic reasoning. No Hanafi teaching was modified, and the authority was in effect absolute. There was just no room for it to be otherwise a decision was down directly from the classical interpretation of a scholar.

That relationship was altered by the 1943 codification. Displacing interpretive flexibility, norms enshrined in writing replaced those relied on to make learned arguments. What at one time had been left to the secretary of state on their knowledge of classical material, was now found within the statute.

The alterations were cautious and restrained rather than revolutionary. The Radd extension to husband and wife was exemplary an important corner of the institution was altered, but the central process still remained unaltered. Egypt was not reconstructing Islamic inheritance law all of it; it was smoothing its external corners. The principles are now in statute, and the efficiency of their application is borne out by the simplicity and consistency of their application to various cases in Egyptian courts today.

3.7. CRITICAL OBSERVATIONS

While the codification Of course helps clarify, it does not make anything 'easy' causing an inheritance to flow smoothly through the Aul and Radd processes still remains a technical challenge, once beyond the workplace, the layperson finds herself lost in the details of the system. Some have suggested that the remaining rigidity of the system indicates that the rules are never quite flexible enough to adapt to any given situation. And, the debate remains between scholars as to how far the system must go to be what we would today recognize as fairly applied Sharia. That debate remains, and I expect it will for some time.

3.8. COMPARATIVE PERSPECTIVE

Compare India and Egypt, and you will find two very different responses to the same question as to how to accommodate classical Islamic inheritance laws in a modem legal system. India's solution has been to let them alone. It isn't well defined it’s legally preserved through judicial stability, done through the judiciary, based on classical Hanafi principles.

Cultures aren't full participation in Radd. There isn't a law court Yetthe system operates because of judge bloodlines. Be that as it may, the reply has been to 'codify'.

All the old school doctrines remain but, these doctrines have now been giving statutory implementation, made available by legislation and clarified at some points where the orthodox rules had become overly mechanical, including the spousal extension of Radd. Statutory provision has simplified procedures, eliminated unpredictability, eased administration of estates and diminished scope for varying interpretation under Law No. 77 of 1943.

Both countries have maintained the doctrinal tradition of Islamic inheritance law. The difference is in how much structure each country has chosen to put around it and that choice has created profoundly different experiences of the law for its recipients.

3.9. CONCLUSION

Aul and Radd are not museum pieces in Egypt. They are effective legal instruments, used in courts everyday under the weight and logic of a statute designed to clarify rather than blur their meaning. Egypt has demonstrated that updating the classical Islamic inheritance doctrines is possible while preserving their core logic. It is the foundation Umar ibn al-Khattab was reasoning toward centuries ago. What Egypt has introduced is enough structure to support a modern legal system. The outcome is adaptation without rupture and to achieve so much in the field of religious law reform is an accomplishment in and of itself.

4. INDONESIA

Indonesia represents one of the more progressive approaches to Islamic inheritance law in the contemporary Muslim world. While the classical Sunni doctrines of Aul and Radd are still formally recognised, their application has gradually evolved through codification, judicial interpretation, constitutional values, and the continued influence of local customary law (adat). Rather than treating inheritance rules as rigid mathematical formulas, Indonesian law increasingly views them as tools for achieving fairness, family welfare, and social harmony.

4.1. HISTORICAL DEVELOPMENT

Islamic inheritance law in Indonesia developed through a long interaction between classical Sunni jurisprudence, indigenous customary practices, and later state reforms. The spread of Islam brought strong influence from the Shafi'i school, which became the dominant basis for Muslim personal law. However, Islamic rules never fully displaced local inheritance customs. Many communities continued to follow bilateral inheritance systems rooted in adat, creating a pluralistic legal culture where Islamic and customary laws coexisted.

During Dutch colonial rule, Religious Courts handled Muslim family and inheritance matters, though their authority was often limited in favour of customary law. After independence, judges relied on different classical fiqh texts, leading to inconsistent decisions. To address this problem, Indonesia introduced the Compilation of Islamic Law (Kompilasi Hukum Islam or KHI) in 1991 to standardise Islamic family law while adapting it to Indonesian social realities.

4.2. COMPILATION OF ISLAMIC LAW (KHI)

The KHI marked a major turning point in Indonesian inheritance law. It formally codified the doctrines of Aul and Radd through Articles 192 and 193. Aul applies when the total fixed Quranic shares exceed the estate, requiring proportional reduction, while Radd allows any remaining residue to be redistributed among eligible heirs when no residuary heir exists.

However, the importance of the Indonesian model lies not merely in codifying these doctrines but in interpreting them flexibly. Indonesian courts often emphasise justice, welfare, and family harmony rather than strict technical adherence to classical formulas.

One of the most significant reforms under the KHI is Article 209, which introduced wasiat wajibah (mandatory bequest) for adopted children and adoptive parents. Under classical Sunni law, adopted children cannot inherit because adoption does not create blood lineage. Indonesian law, however, recognises the social and emotional reality of adoption by allowing adopted children to receive up to one-third of the estate through a compulsory bequest.

4.3. ROLE OF RELIGIOUS COURTS

Indonesia's Religious Courts (Pengadilan Agama) have played a major role in shaping inheritance jurisprudence. Judges are not limited to mechanical application of legal rules; they often consider broader principles such as justice (keadilan), welfare (maslahah), and family harmony.

Courts also encourage settlement through musyawarah (consensual discussion), allowing families to arrive at fair arrangements instead of strictly enforcing mathematical divisions. This has often provided greater protection to women, widows, daughters, and economically vulnerable family members.

A leading example is Putusan Mahkamah Agung RI No. 368 K/AG/1995, where the Supreme Court granted inheritance protection to an adopted child through wasiat wajibah. The Court focused on the emotional and economic relationship between the child and adoptive parents rather than strictly applying biological lineage rules.

Similarly, in Putusan PTA Palembang No. 35/Pdt.G/2018/PTA.Plg., the Court recognised the rights of an informally adopted child even though formal adoption procedures had not been completed. The Court prioritised the actual family relationship and social reality over procedural technicalities.

These decisions reflect Indonesia's shift toward a more humanitarian and welfare-oriented interpretation of Islamic inheritance law.

4.4. INFLUENCE OF ADAT AND EGALITARIAN TRENDS

The continued influence of adat remains one of the most distinctive features of Indonesian inheritance law. Many Indonesian communities historically followed bilateral inheritance systems where both maternal and paternal family lines were recognised. This differs from classical Sunni law, which generally prioritises agnatic male lineage.

As a result, Indonesian inheritance practices have become more flexible and balanced. Courts increasingly acknowledge social dependency, family contribution, and customary family structures while resolving disputes.

Modern Indonesian jurisprudence also shows egalitarian tendencies. Although the KHI formally preserves traditional Quranic shares, courts frequently support consensual arrangements where sons and daughters receive equal shares, especially when all children contributed equally to family welfare. This reflects a broader effort to align inheritance law with contemporary ideas of social justice and gender equity.

4.5. ACCOMMODATION OF WOMEN AND ADOPTED CHILDREN

Indonesia's approach toward women and adopted children highlights the humanitarian character of its inheritance system. Religious Courts often uphold family settlements that provide widows and daughters with greater financial protection than strict classical application would allow.

The recognition of adopted children through Article 209 KHI is particularly significant. Through wasiat wajibah, Indonesian law acknowledges that family relationships are not defined solely by blood lineage but also by care, dependency, and social responsibility.

Cases such as Putusan Mahkamah Agung RI No. 368 K/AG/1995 and Putusan PTA Palembang No. 35/Pdt.G/2018/PTA.Plg. clearly demonstrate how Indonesian courts prioritise fairness and welfare over rigid formalism.

4.6. CONCLUSION

Indonesia provides an important example of how Islamic inheritance law can evolve within a modern pluralistic society while still retaining its doctrinal foundations. Although Aul and Radd remain formally recognised, their practical application has been shaped by judicial interpretation, constitutional values, customary law, and concerns of social justice.

Through the KHI, the influence of adat, and progressive judicial decisions, Indonesia has developed a more flexible and welfare-oriented inheritance system. Rather than abandoning classical Islamic principles, Indonesian law reinterprets them in a way that better responds to contemporary family realities and the broader goals of justice and social harmony.

5. PAKISTAN

Pakistan follows a largely traditional Sunni approach to Islamic inheritance law. The doctrines of Aul and Radd continue to operate mainly according to classical Hanafi jurisprudence, and courts generally apply these rules through established fiqh principles and traditional legal authorities. At the same time, Pakistan has introduced limited statutory reforms in areas where strict application of classical rules created social hardship. The most important reform is the recognition of inheritance rights for orphaned grandchildren under the Muslim Family Laws Ordinance, 1961 (MFLO).

As a result, Pakistan's inheritance system reflects a balance between preserving classical Islamic doctrine and allowing selective legislative intervention for social welfare.

5.1. HISTORICAL DEVELOPMENT

Islamic inheritance law in Pakistan developed through the influence of classical Hanafi jurisprudence, colonial administration, and post-independence reforms. During British rule, Muslim personal law was administered under the Anglo-Muhammadan legal system, where colonial courts relied on classical Hanafi texts such as Hedaya and Fatawa-i-Alamgiri to resolve inheritance disputes.

After the creation of Pakistan in 1947, the state largely retained the traditional Hanafi framework, including the doctrines of Aul and Radd. However, concerns about hardship caused by certain succession rules eventually led to selective reforms, particularly through the Muslim Family Laws Ordinance, 1961.

5.2. INHERITANCE UNDER THE MUSLIM FAMILY LAWS FRAMEWORK

Inheritance law in Pakistan is governed through Muslim personal law principles along with statutes such as the Muslim Family Laws Ordinance, 1961 and the Muslim Personal Law (Shariat) Application Act, 1962. Sunni inheritance disputes are generally decided according to Hanafi law unless legislation provides otherwise.

The doctrine of Aul applies where the fixed Quranic shares exceed the estate, requiring proportional reduction of all shares. Pakistani courts continue to apply this doctrine according to classical Hanafi calculations.

Similarly, Radd applies where some residue remains after distribution and no residuary heir (asabah) exists. The residue is redistributed among eligible heirs according to traditional Hanafi principles. Courts frequently rely on classical authorities while resolving such disputes, which shows the continued strength of orthodox Sunni jurisprudence within Pakistan's legal system.

5.3. REFORM UNDER SECTION 4 OF THE MFLO

The most important statutory reform in Pakistan's inheritance law is Section 4 of the Muslim Family Laws Ordinance, 1961, which protects orphaned grandchildren.

Under classical Hanafi law, grandchildren whose parent died before the grandparent were usually excluded from inheritance by surviving sons of the deceased. This often caused financial hardship for orphaned grandchildren.

To address this issue, Section 4 introduced the principle of representation. It provides that if a son or daughter of the deceased dies before succession opens, that person's children will inherit the share their parent would have received if alive.

This reform significantly modified classical Hanafi doctrine and became one of the most debated provisions of the MFLO.

In Mst. Farishta v. Federation of Pakistan (PLD 1980 Lahore 120), the Lahore High Court upheld the validity of Section 4 and recognized that legislative reform in Muslim personal law was permissible where necessary to promote justice and social welfare.

Similarly, in Allah Rakha v. Federation of Pakistan (PLD 2000 SC 225), the Supreme Court affirmed the inheritance rights of orphaned grandchildren and observed that the law aimed to protect vulnerable descendants from economic hardship.

These decisions are important because they validate Pakistan's major inheritance reform while still preserving the broader framework of Sunni succession law.

5.4. CONTINUED HANAFI INFLUENCE

Despite reforms relating to orphaned grandchildren, Pakistani inheritance law remains strongly rooted in classical Hanafi jurisprudence. Courts generally continue to apply traditional fiqh principles wherever no statutory modification exists.

The doctrines of Aul and Radd therefore still operate largely according to orthodox Hanafi rules. Courts apply them through technical calculations and established juristic methodology.

An important example is Mst. Hameeda Begum v. Mst. Murad Begum (PLD 1980 SC 1), where the Supreme Court reaffirmed that inheritance disputes among Sunni Muslims should ordinarily be resolved according to settled Hanafi principles unless expressly changed by legislation. The Court stressed the need for consistency and certainty in Muslim personal law.

This decision reflects the judiciary's broader approach: reforms are accepted where clearly enacted by Parliament, but the underlying structure of inheritance law remains traditional.

5.5. JUDICIAL APPROACH AND WOMEN'S RIGHTS

Pakistani courts generally adopt a doctrinal and conservative approach in inheritance matters. Judges frequently rely on classical Hanafi texts while deciding disputes relating to shares, exclusion of heirs, and succession rights.

At the same time, courts have shown willingness to enforce statutory reforms and protect vulnerable family members where necessary.

In Ghulam Mustafa v. Additional District Judge (1990 CLC 1437), the Court upheld the inheritance rights of orphaned grandchildren under Section 4 MFLO despite objections based on classical exclusion rules. The judgment recognised that the legislature intentionally modified traditional doctrine to prevent hardship.

Courts have also repeatedly emphasized the protection of women's inheritance rights. In Mst. Khurshid Bibi v. Baboo Muhammad Amin (PLD 1967 SC 97), the Supreme Court strongly condemned practices that deprived women of their lawful entitlements under Islamic law.

Pakistani courts have consistently criticised customary practices, fraudulent transfers, and coercive arrangements used to deny women their inheritance rights.

5.6. POSITION OF WOMEN AND FAMILY WELFARE

A major concern within Pakistani inheritance law has been the practical enforcement of rights, especially for women and economically vulnerable family members.

Although Islamic law grants women fixed inheritance shares, social and customary practices have often prevented them from receiving those shares in practice. Courts have therefore increasingly intervened to ensure that women obtain the rights guaranteed under both Islamic law and statutory law.

The reform concerning orphaned grandchildren under Section 4 MFLO also reflects a broader concern for family welfare. It shows Pakistan's willingness to introduce targeted reforms where strict application of classical rules produced unfair or socially harmful outcomes.

5.7. CONCLUSION

Pakistan's inheritance system largely preserves the traditional Hanafi structure of Islamic succession law. The doctrines of Aul and Radd continue to be applied according to classical Sunni principles, and courts generally rely on established juristic authorities while resolving inheritance disputes.

At the same time, Pakistan has introduced selective reforms, particularly through Section 4 of the Muslim Family Laws Ordinance, 1961, which protects orphaned grandchildren through the principle of representation. Judicial decisions such as Mst. Farishta v. Federation of Pakistan, Allah Rakha v. Federation of Pakistan, and Ghulam Mustafa v. Additional District Judge have upheld this reform and recognised its importance in protecting vulnerable descendants.

Overall, Pakistan represents a legal system that maintains strong doctrinal continuity with classical Hanafi jurisprudence while allowing limited legislative intervention to address specific concerns of social justice and family welfare.

6. COMPARATIVE ANALYSIS

Although India, Egypt, Indonesia, and Pakistan all derive the doctrines of Aul and Radd from classical Islamic inheritance law, the way these doctrines operate in practice differs significantly because of each country's legal history, political structure, and approach toward reform. The comparison reveals how the same foundational principles can evolve in very different directions depending on whether a legal system prioritises doctrinal continuity, codification, judicial flexibility, or social welfare.

India represents the most traditional and judge-driven model among the four jurisdictions. The doctrines of Aul and Radd continue to function almost entirely through uncodified Muslim personal law and judicial interpretation. The Muslim Personal Law (Shariat) Application Act, 1937 recognised Muslim personal law as governing inheritance, but it did not define or codify these doctrines. As a result, Indian courts still rely heavily on classical Hanafi authorities such as Hedaya, Mulla, and Ameer Ali. The system therefore preserves strong continuity with classical doctrine, especially in matters such as the exclusion of spouses from Radd under Sunni Hanafi law. India's approach reflects minimal legislative intervention and strong dependence on judicial preservation of classical jurisprudence.

Pakistan follows a similar Hanafi foundation but differs from India because it permits selective statutory reform where social hardship becomes difficult to ignore. While Aul and Radd continue to operate according to classical Hanafi principles, Pakistan introduced a major reform through Section 4 of the Muslim Family Laws Ordinance, 1961, which grants inheritance rights to orphaned grandchildren through the principle of representation. Unlike India, where courts mostly preserve traditional doctrine without legislative modification, Pakistan demonstrates a willingness to intervene through legislation while still retaining the broader Sunni inheritance structure. Pakistani courts therefore balance fidelity to classical law with limited welfare-oriented reforms.

Egypt presents a more codified and state-regulated model. Unlike India and Pakistan, where courts continue to engage directly with classical fiqh authorities, Egypt formally incorporated inheritance rules into statutory law through Law No. 77 of 1943. The doctrines of Aul and Radd remain grounded in classical Sunni principles, but codification has simplified and standardised their application. Egyptian law also introduced measured reform by allowing spouses, in certain circumstances, to benefit from Radd, departing from strict Hanafi doctrine. Egypt therefore represents a middle path between preservation and reform, classical principles remain intact, but the state has reorganised and adjusted them through legislation to improve clarity and practical fairness.

Indonesia differs most significantly from the other three jurisdictions because it treats inheritance law not merely as a technical system of fixed shares, but as an instrument for achieving social justice and family welfare. Although Aul and Radd are formally recognised through the Compilation of Islamic Law (KHI), Indonesian courts apply them within a much broader framework shaped by constitutional values, customary law (adat), and humanitarian concerns. Religious Courts frequently emphasise fairness, consensual settlement, and protection of vulnerable family members. Indonesia has also gone much further in recognising adopted children through wasiat wajibah, despite their exclusion under classical Sunni doctrine. Compared to India and Pakistan, Indonesia adopts a more purposive and socially responsive interpretation of inheritance law.

Another major difference between the four jurisdictions lies in the role of the judiciary. In India, courts function mainly as preservers of classical doctrine because of the absence of codification. In Pakistan, courts remain largely conservative but enforce targeted statutory reforms enacted by Parliament. Egyptian courts operate within a codified legislative framework that leaves less room for doctrinal uncertainty. Indonesian courts, by contrast, play an active interpretive role and frequently prioritise welfare, equity, and family harmony over strict formalism.

The treatment of women and vulnerable family members also reflects differing legal priorities. India and Pakistan generally retain classical Sunni structures, though courts increasingly condemn social practices that deny women their lawful inheritance rights. Egypt introduces limited statutory adjustments to soften rigid outcomes. Indonesia goes furthest by openly encouraging equitable settlements and recognising social dependency relationships beyond biological lineage.

Ultimately, these four jurisdictions demonstrate that Islamic inheritance law is not static. Even though all four systems recognise the doctrines of Aul and Radd, their practical operation depends greatly on each country's legal culture, relationship with classical jurisprudence, and willingness to accommodate social realities through reform.

7. CONCLUSION

The doctrines of Aul and Radd emerged within classical Islamic jurisprudence as practical solutions to problems that naturally arose in the distribution of inheritance. Although they originated centuries ago, their continued relevance across modern legal systems shows the adaptability and durability of Islamic inheritance law. At the same time, the comparative study of India, Egypt, Indonesia, and Pakistan demonstrates that these doctrines do not operate in isolation from society, politics, or legal development. Their application has evolved differently in each jurisdiction depending on the balance struck between doctrinal fidelity and contemporary social needs.

India continues to preserve the classical structure of Sunni inheritance law largely through judicial practice and uncodified personal law. Pakistan similarly retains strong Hanafi foundations but permits selective statutory reform where traditional rules produce hardship. Egypt illustrates the benefits of codification by incorporating classical inheritance doctrines into a modern legislative framework while introducing measured reforms for practical fairness. Indonesia, meanwhile, represents the most flexible and welfare-oriented model, interpreting inheritance law through broader principles of justice, family harmony, and social responsibility.

What becomes clear from this comparison is that Islamic inheritance law is neither entirely rigid nor entirely uniform across Muslim-majority and pluralistic societies. The doctrines of Aul and Radd remain rooted in classical jurisprudence, yet their interpretation and operation continue to evolve through courts, legislation, and changing social realities. Some jurisdictions prioritise certainty and doctrinal continuity, while others place greater emphasis on equity, welfare, and humanitarian concerns. The comparative study also highlights an important broader point: legal systems rarely abandon inherited traditions altogether. Instead, they reinterpret and adapt them in ways that reflect their own constitutional values, historical experiences, and social conditions. In that sense, the evolution of Aul and Radd across these four jurisdictions demonstrates not the decline of classical Islamic inheritance law, but its continuing ability to respond to new realities while retaining its foundational principles.

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