



RESEARCH PAPER

Islamisation of Land Reforms: The Case of Pakistan

¹Mazhar Abbas and ²Muhammad Yasin Shafique

1. Lecturer, History, Government College University Faisalabad, Punjab, Pakistan

2. M. Phil Scholar, History, Government College University Faisalabad, Punjab, Pakistan

Corresponding Author: yasincheema92@gmail.com

ABSTRACT

Pakistan is the only Islamic country to impose a ban on land reforms following a split judgment (3-2) by the Supreme Court's Shariat Appellate Bench (SAB) on August 10, 1989. This decision has led to divided opinions among judges, religious clerics, politicians, and academics, with arguments for and against it drawn from Islamic sources such as the Quran and the Hadith. The landlords resisted reforms to protect their power, but the reasons behind the clerics' opposition remain unclear. In this context, this research study aims to examine and analyse land reforms in Islamic principles, the discussions surrounding land reforms in Pakistan, land reforms in other Islamic countries, and the classification of land reforms as un-Islamic in Pakistan. These questions are answered through qualitative content analysis of primary and secondary archival data. The analysis suggests that land reforms are not un-Islamic, as stated by the SAB in its 1989 ruling. It is essential to revisit this judgment to eliminate landlordism, redistribute land to cultivators, increase productivity, reduce poverty, and address the food crisis.

KEYWORDS: Land Reforms, Islamisation, Un-Islamic, Qazalbash Waqf, Shariat Appellate Bench

Introduction

Islam recognises a dual ownership of land, considering Allah as the ultimate owner and humans as trustees or temporary custodians (Abbas et al., 2016; Abdul-Rauf, 1979). This belief system also embodies a spirit of redistribution. However, numerous land ownership tenures and management systems exist across Muslim societies globally, primarily shaped by varying interpretations of Islamic principles regarding land ownership, holdings, and reforms. Pakistan is no exception, where these diverse interpretations of the tenets of Islam on land ownership have also influenced land reforms. Notably, Pakistan stands out as the only Islamic country to impose a ban on land reforms, a decision stemming from a 3-2 split judgment by the Supreme Court's (SC) Shariat Appellate Bench (SAB) on August 10, 1989 (Shariat Appellate Bench Pakistan, 1990). This ruling aimed at the Islamisation of land reforms has sparked contested and debatable opinions among judges, religious clerics, politicians, and scholars. Both supporters and opponents of the ban cite Islamic texts, including the Quran and the Hadith, to bolster their arguments, underscoring the complexities and varying interpretations of Islamic law (Muzaffar, et. al., 2017). The debate encapsulates legal, religious, social, and economic implications for the country's agricultural sector and rural communities.

Islamisation of land reforms in Pakistan has received limited attention from the academic community, leaving the question largely unaddressed (Karamat, et. al., 2019). Following the creation of Pakistan in 1947, demands for land reforms and the establishment of ceilings on landholdings were raised (USAID, 2018). However, efforts to impose such ceilings encountered resistance from the landed elite and religious clerics.

Leaders of various religious organisations, including Jama'at-i-Ahmadiya's Khalifa Mirza Bashir Ud Din Mahmood Ahmad, Jama'at-i-Islami's (JI) Syed Abul A'la Maududi, and Tehreek-i-Tulu-i-Islam's Ghulam Ahmad Parvez, published their works on landownership in Islam, arguing that land reforms were not aligned with Islamic principles. In contrast, advocates for the reforms, such as Muhammad Masud (popularly known as Khaddarposh), Mian Mumtaz Muhammad Daultana, and Zahid Hussain (the Chairman of the Pakistan Planning Board), were labelled communists (Ullah, 2003). Additionally, judges from the Shariat Benches of High Courts and the SAB rendered landmark judgments stating that land reforms contradicted Islamic tenets—e.g., a historic judgment on the Qazalbash Waqf case closed the doors for future land reforms in Pakistan (Shariat Appellate Bench Pakistan, 1990). In this context, this study aims to address the following questions: What is the concept of land reforms in Islam? Why have land reforms been declared un-Islamic in Pakistan? If land reforms are un-Islamic, why have they been implemented in other Islamic countries?

The resistance to land reforms from landlords can be understood within the context of potential threats to their power and influence. However, the reasons behind the opposition from Islamic clerics and judges require further exploration. To fill the gap in the existing literature, this paper aims to explore and analyse the influence of Islamic principles, particularly the interpretations provided by religious clerics, on land ceilings in Pakistan. It seeks to elucidate the concept of landownership in Islam and its implications in Pakistan, focusing on the compatibility of land reforms with Islamic principles. To address these issues, the study utilises data from various sources, including the Quran, the Hadith, statements from early Caliphs, religious decrees, court judgments, and reports from land reform committees. Along with this, secondary sources such as books, academic journal publications, and newspaper writing are also consulted. These primary and secondary sources are analysed through a directed approach of qualitative content analysis, aiming at validating, nullifying, or complementing the judgment of the Supreme Court's Shariat Appellate Bench, declaring land reforms repugnant to Islamic injunctions.

The Concept of Landownership in the Indian Subcontinent

The following text outlines three subparts: land tenure systems in pre-Muslim India, patterns of landholdings in Muslim India, and the concept of landownership in post-Muslim India.

Land Tenure Systems in pre-Muslim India

In pre-Muslim India, the rural population of the Indus region settled predominantly along rivers, contributing to the development of Harappa and Mohenjo-Daro. Following the Indus Valley Civilisation, the Aryans introduced a social structure that the Rigveda described as consisting of four classes: *Brahmanas* (priests), *Kshatriyas* (warriors), *Vaisya* (agriculturists), and *Shudra* (the lowest caste) (Thapar, 2014). The organisation of society demonstrated significant variation, with landlords maintaining complex hierarchical structures.

Land, especially during the Vedic era, was viewed as belonging to society since there was no concept of state ownership under Hindu kings, and land grants were prohibited, reinforcing the idea of communal ownership. As agriculture became more settled in the post-Vedic era, private land ownership emerged, with the king (referred to as *Bhumidah*) recognised as the ultimate owner of the land. Landholders were obligated

to share a portion of their produce with the king in exchange for the protection of their land tenures (Jha, 1987).

During the Mauryan period, two types of landholdings existed: *Rashtra* and *Sita*. *Rashtra* holders paid taxes associated with tribal oligarchies, whereas *Sita* holdings were strictly regulated, granting cultivators leases contingent upon farming and tax payments (Sahu, 1997). In the Gupta era, the state asserted rights over much of the land, and the increase in land grants to priests indicated that ownership ultimately rested with the king (Jha, 1987). This led to more frequent land transactions and the emergence of an agrarian economy. The proliferation of land grants contributed to the early development of feudalism, resulting in a growing landlord class among the Brahmins. This shift prompted migrations among peasants, although many remained influenced by local princes and faced economic pressures.

Patterns of Landholdings in Muslim India

The period called Muslim India was marked by significant changes in the feudal structure and agrarian relationships, resulting in the formation of a landed aristocracy responsible for managing village revenues (Gopal, 1989). Revenue collection was overseen by royal officers who had the authority to modify practices related to land assessment and management (Habib, 1995).

During the Muslim rule of the Delhi Sultans, land distribution occurred through mechanisms such as *jagirs*, *waqfs*, and *imams*, which affected government revenue as significant income was directed towards private nobles and *jagirdars*, predominantly Hindu *zamindars* (Qureshi, 1944). Sultan Ala al-Din Khalji (r. 1296-1316) implemented reforms by abolishing many of these grants, converting them into crown lands known as *khalsa* (Niazi, 1990). Sultan Firuz Tughluq (r. 1351-1388) introduced hereditary revenue collection for troops, effectively solidifying royal control over land, with the king asserting ownership and peasants functioning as labourers within this framework (Abbas et al., 2016).

Landownership was integrated into the agrarian system, with the king and officials serving as primary indexers. The territory was segmented into *iqtas*, which were small land units managed by governors (*muqtis*), while crown lands directly contributed to the Sultan's treasury (Qureshi, 1944). Throughout the rule of the Delhi Sultans, the management of *iqtas* underwent several changes, transitioning from commanders using *iqta* revenue to maintain their troops to a system where officers received fixed salaries (Habib, 1995).

Unlike the Sultans of Delhi, who relied on the *iqtdari* system, the Mughals turned towards the *Mansabdari* system, introduced and established by Jalal al-Din Muhammad Akbar (r. 1556-1605) in 1574, the grandson of Zaheer al-Din Muhammad Babur (r. 1526-1530), the founder of the Mughal dynasty. *Mansabdari* system categorised the Empire functionaries into military (*ashab al-Sayf*), clerical (*ashab al-Qalam*), and religious scholars (*ashab al-Amamah*) (Aziz, 2002). The *mansabs*, or ranks of office, indicated obligations, precedence, and pay, typically not hereditary and assigned for life. Initially, Akbar established 66 ranks, later reduced to 33, with military commanders overseeing contingents ranging from 10 to 10,000 soldiers. The emperor possessed the authority to modify ranks based on performance, allowing military command to be open to individuals regardless of their prior experience (Allami, 2004).

Mansabdars were responsible for managing *jagirs* to sustain their troops and were typically compensated for only eight to ten months each year. They were permitted to retain five per cent of the *jagir* income or subordinate salaries (Habib, 1995). The financial management was intricate, with many incumbents borrowing funds to cover expenses; upon death, any outstanding debts could result in the seizure of property.

During the latter Mughal period, the term *zamindar* became prevalent, denoting various hereditary landholders, including powerful chieftains and village intermediaries, categorised into three groups: (a) autonomous chieftains, (b) intermediary *zamindars*, and (c) primary *zamindars* (Hasan, 2005). The chieftains retained sovereign powers, while intermediary *zamindars* were tasked with collecting revenue for the imperial treasury.

The Concept of Landownership in post-Muslim India

During the post-Muslim India, the social and economic structures were adapted to facilitate revenue collection. Initially, the British subdued local populations, but over time, they sought political alliances with local landowners to strengthen their control (Ullah, 2003). The British modified the existing land revenue system by introducing the concept of private property, particularly through the implementation of the Permanent Settlement in Bengal in 1793. This reform created a more streamlined governance structure and established a legislative system (Alavi, 2000). Although Indians were granted the right to private landownership through the Permanent Settlement, the primary beneficiaries were the *zamindars* and *jagirdars*. This ultimately led to challenges for peasants concerning debt and property rights. Overall, the system disadvantaged the peasant class while favouring local landowners.

In contrast to Bengal, land in Madras and Bombay was allocated for cultivation but was not inheritable. Revenue was collected from *zamindars* who aligned themselves with British interests (Sharma, 1985). The land revenue was based on a percentage of the crop, which varied by region, and was paid to local rulers or revenue officials. Unlike the Mughal system, the British collected revenue in cash and employed Mughal practices for administration and irrigation (Merillat, 1970).

After the permanent settlement in Bengal, the *Ryotwari* System was introduced in Punjab, which aimed to reduce the influence of tax collectors, village headmen, and moneylenders, but ultimately presented challenges to poor peasants (Gilmartin, 1988). In conjunction with the *Zamindari* System, it allowed for British control over land in Punjab, with village men overseeing administration. The British, as landowners, prioritised revenue collection and utilised intermediaries like *zamindars* and *jagirdars* as facilitators. Over time, these intermediaries began to assert claims of hereditary rights over the properties.

The Issue of Land Reforms in Pakistan

This section is organised into four subsections: an analysis of the need for land reforms in Pakistan, a review of the efforts made by successive governments towards land reforms in Pakistan, an examination of the responses from religious circles regarding government land reform initiatives, and an assessment of the judiciary's role in declaring land reforms incompatible with Islamic injunctions.

An Analysis of the Need for Land Reforms in Pakistan

The British established a landed elite in the subcontinent through land grants and policies that supported their colonial interests. This elite helped reinforce British rule in exchange for power and privileges (Subrahmanyam, 2006). In the 1940s, big landlords in Punjab and Sindh shifted their allegiance to the All-India Muslim League (AIML), fearing the Indian National Congress's (INC) socialist agenda aimed at dismantling landlordism. After Pakistan's formation, the new state sought support from the landed class, leading to policies that favoured them and strengthened their social and political power. This relationship, rooted in the colonial era, continued to sustain landlordism in Pakistan (Nasr, 1996).

Regarding land distribution, the 'Agrarian Committee Appointed by the Working Committee of the Pakistan Muslim League' in 1949 reported that at the time of Pakistan's inception in 1947, approximately 50 per cent of cultivated land in the North-West Frontier Province (now Khyber Pakhtunkhwa – KP), over 60 per cent in Punjab, and more than 80 per cent in Sindh was owned by big landlords (Hassan, 1949). These significant landholdings had been allocated or granted by the British colonial administration. Following the establishment of Pakistan, conversations surrounding land reforms and potential limitations or ceilings on land ownership emerged, influenced by the concerns of immigrants from India, as well as peasants, urban populations, and professionals.

A Review of the Efforts Made by the Successive Governments towards Land Reforms in Pakistan

Successive governments in Pakistan undertook efforts towards land reforms. In March 1946, the AIML established the "Sindh *Hari* Enquiry Committee" to investigate the grievances of *haris*, or peasant cultivators. The committee's report, published in July 1948, proposed moderate reforms, particularly in relation to tenancy, but did not advocate for land ceilings or redistribution. Masud Khaddarposh presented a radical proposal for the reform of landlordism. Initially, the government did not release his dissenting note; however, after significant controversy and pressure, it was published in 1950 (Masud, 2007).

Also, an "Agrarian Committee," chaired by Mumtaz Muhammad Daultana, was assigned to investigate agrarian issues on a national scale in 1948. This committee proposed land ceilings and further reforms, which were largely disregarded in West Pakistan, where only minimal tenancy reforms were enacted. In contrast, East Pakistan implemented stricter land ceilings and effectively redistributed surplus land among tenants (Hassan, 1949). In response to the Agrarian Committee's recommendations, the provincial governments of Khyber Pakhtunkhwa (KP, previously known as North-West Frontier Province – NWFP), Punjab, and Sindh enacted the Provincial Tenancy Acts of 1950 to enhance tenant conditions. Nonetheless, due to the enduring influence of landlords, these acts exerted limited impact, as tenants continued to encounter significant obstacles in securing permanent tenure.

Additionally, the Punjab Abolition of *Jagirs* Act of 1952 aimed to abolish *jagirs* (Government of Punjab, 1952), with similar initiatives proposed in the NWFP/KP. However, a legal challenge against the actions of the Sindh government in 1955 was upheld by the High Court. Moreover, Zahid Hussain recommended land ceilings during the initial five-year plan (1955-1960), proposing limits of 150 acres for irrigated land, 300

acres for semi-irrigated land, and 450 acres for unirrigated land. Furthermore, General Muhammad Ayub Khan established a Land Reform Commission in January 1959 that suggested redistributing land exceeding 500 acres of irrigated land and 1,000 acres of unirrigated land (Naqvi & Khan, 1987).

Equally, the government under Zulfikar Ali Bhutto introduced land reforms in two phases. The initial phase, enacted under Martial Law Regulation No. 115 in 1972, established ceilings at 150 acres for irrigated land and 300 acres for unirrigated land, without compensation for landowners. The second phase, implemented through the Land Reforms Ordinance of 1977, further reduced ceilings to 100 acres for irrigated land and 200 acres for unirrigated land, while providing compensation to landowners (Abbasi et al., 2016).

Besides, the Ayub administration introduced regulations about endowments with the West Pakistan *Waqf* Properties Ordinance of 1959, which conferred authority upon the government over mosques and shrines. Subsequently, Bhutto's government expanded this authority through the *Auqaf* (Federal Control) Act of 1976 (Abbasi, 2019).

An Examination of the Responses from the Religious Circles Regarding Government Land Reform Initiatives in Pakistan

Efforts by governments to introduce land reforms faced considerable opposition from landlords and various religious groups. The JI, a fundamentalist party, endorsed this perspective, emphasising the significance of private property rights. Some religious clerics dismissed the ideas proposed by Masud Khaddarposh, condemning both him and his recommendations as un-Islamic through formal decrees. Reports indicated that a minister associated with the landed class allegedly offered bribes to religious leaders, prompting Khaddarposh to file a defamation lawsuit. However, he later withdrew the lawsuit under pressure from Prime Minister Liaquat Ali Khan (Masud, 2007). Furthermore, they criticised the proposals put forward by Zahid Hussain, labelling him a communist (Ullah, 2003).

Additionally, some noteworthy Islamic leaders produced literature defending landownership and contesting land reform initiatives. Significant works included "Islam aur Malkiyat-i-Zameen" by Khalifa Mirza Bashir Ud Din Mahmood Ahmad (Ali, 2019), "Masla Malkiyat-i-Zameen" by Syed Abul A'la Maududi (Maududi, 1950), and "Quran-i-Majeed Ka Mu'ashi Nizam" by Ghulam Ahmad Parvez (Parvez, 1989), each aimed at countering the proposals set forth by the Agrarian Committee of the Pakistan Muslim League.

Mirza Bashir opposed these proposals to limit land ownership, arguing that Allah grants individual property rights and that land ownership should be treated like business ownership to avoid negative impacts on commerce. He asserted that Pakistan's land ownership aligns with Islamic principles, allowing practices like sharecropping and leasing. Bashir, from a prominent landowning family in Chiniot, distinguished between *zamindari* and *jagirdari*, claiming only the former is permissible under Islamic law (Ullah, 2003).

Maududi supported agricultural landownership in line with Islamic principles, highlighting relevant Quranic verses. He opposed restrictions on individual landownership, arguing that such limits would also apply to industrial properties, which Islamic law does not restrict. While recognising the challenges of concentrated land

ownership, he advocated for temporary caps rather than permanent restrictions, promoting reforms in tenancy legislation, cooperative farming, and sharecropping. Maududi maintained that tenancy aligns with Islamic principles, noting that most of the Prophet's (PBUH) companions accepted it. He contested the authenticity of a Hadith from Abdullah bin Umar regarding the prohibition of land rentals, arguing that tenancy is permissible if it does not lead to exploitation, which he equated with usury (Maududi, 1950). However, he did not offer solutions for exploitative practices like *begar* (free labour) and *haboob* (illegal taxes) prevalent in Pakistan's agriculture.

Ghulam Ahmad Parvez engaged in a discourse concerning landownership in his publication, particularly in the chapter titled "A Basic Objection: Right to Ownership" and the subsequent section "There Could Not be Individual Property of Land." He cited Quranic verses to assert that Allah is the ultimate proprietor of the earth and that land serves all living beings. Parvez underscored the necessity of equal access to livelihoods for all individuals, proposing that any landowner could only claim a share of the crop proportional to their labour input. He criticised peasant revolts as un-Islamic, advocating for landlords to utilise their wealth to assist the needy instead of engaging in conflict (Parvez, 1989). Nonetheless, his arguments presented inconsistencies, as he claimed that individuals who do not toil upon the land possess no right to its produce while simultaneously asserting that peasants should not demand land from landlords.

An Assessment of the Judiciary's Role in Declaring Land Reforms Incompatible with Islamic Injunctions

A total of 67 petitions concerning land reforms were presented in the Shariat Benches in provincial High Courts and the Federal Shariat Court (FSC), established by General Muhammad Zia Ul Haq in 1979 and 1980, respectively. The courts upheld the land reforms as compliant with Islamic law and the constitution, highlighting the redistributive tenets of Islam.

Conversely, a Shariat Bench ruling from the Peshawar High Court in 1979 and a subsequent decision from the SAB of the SC in 1986 declared tenants' pre-emption rights as un-Islamic (Shariat Appellate Bench Pakistan, 1986), arguing that state intervention could not restrict individual property rights. This development resulted in the suspension and reversal of land reforms initiated during Bhutto's administration, a change that General Zia publicly acknowledged in a televised address on October 16, 1979 (Ullah, 2003).

The principle of welfare and redistributive tenets of Islam were addressed in a judgment issued by the FSC in December 1980 in the case of Qazalbash Waqf vs. Chief Land Commissioner Punjab. Following the implementation of the Land Reforms Ordinance of 1977, several landlords, including Nawab Muzaffar Ali Khan Qazalbash, the custodian of the Qazalbash Waqf, sought resolution through the FSC, aimed to reclaim properties lost due to land reforms. In December 1980, the FSC dismissed their claims, determining that an Islamic state has the authority to appropriate privately held property for the public good (Shariat Appellate Bench Pakistan, 1981). Subsequently, the custodian of the Qazalbash Waqf and others submitted a review petition to the SAB. In 1989, the SAB overturned the FSC's decision, declaring that the land reforms were inconsistent with Islamic law by a 3-2 majority (Shariat Appellate Bench Pakistan, 1990). Subsequently, the previous judgments, including those from the Lahore High Court and the FSC, were overturned. Under the leadership of Taqi Usmani, the majority opinion

emphasised the importance of absolute private property rights in Islam, effectively bringing an end to any future land reforms in Pakistan.

A Debate on Land Reforms: Whether Islamic or Un-Islamic?

This unit consists of three subunits: an examination of the concept of landownership and land reforms in Islam, an analysis of land reforms in various Islamic countries, and a discussion of the Qazalbash Waqf versus Chief Land Commissioner Punjab case.

An Examination of the Concept of Landownership and Land Reforms in Islam

Islam typically promotes peasant proprietorship over landlordism; however, the historical implementation of these principles among Muslims has been inconsistent. Various factions, including capitalists and socialists, have often misinterpreted Quranic verses to align with their interests. This misinterpretation has contributed to economic challenges in numerous Muslim countries, including Pakistan. The core of these economic difficulties is frequently attributed to the (mis)interpretation of Islamic laws rather than the laws themselves.

Islamic law underlines the sanctity of land, divine ownership, and responsible stewardship, advocating for the redistribution of land to prevent concentration. The dual nature of land ownership—held by both humans and God—affirms a redistributive approach to its utilisation (Abdul-Rauf, 1979). This dual ownership concept is a distinctive aspect of Islamic economic doctrine. While Islam recognises and protects the personal right to ownership gained through legitimate means, it also maintains that true ownership ultimately resides with God, establishing a framework of trusteeship concerning property management (Sait & Lim, 2006). The Quran emphasises this dual ownership in Surah An-Nisa (4:126), stating, “All that is in the heavens and on the earth belongs to Allah.” Other verses consistently reaffirm Allah’s dominion and the responsibility of humans to use land in accordance with Islamic principles. While individuals possess the right to own property, this right comes with limitations. Ownership is permitted; however, land use must be productive. Unutilised land cannot be claimed, and practices such as excessive exploitation or accumulation of land conflict with Islamic teachings (Quran 2:188). Thus, the Quran connects the generation of wealth to the productive use of land.

The teachings of the Prophet Muhammad (PBUH) state that individuals who cultivate uncultivated land have a rightful claim to it, and that unused land should be shared freely for cultivation. Hadiths discourage leasing land for profit and promote self-cultivation or sharing with others. An example from Hadith relates that when asked about their farming practices, the Prophet (PBUH) advised against renting land for yield but encouraged either self-cultivation or allowing others to farm for free, or leaving it uncultivated (Sahih Bukhari: Volume 3, Book 39, Number 532). Additionally, in his last address (Khutba Hujjatul Wida), the Prophet (PBUH) highlighted the importance of life and property sanctity for all Muslims, while prohibiting hoarding, interest, and land exploitation.

Following these teachings of the Holy Prophet (PBUH), the four Caliphs—Hazrat Abu Bakr (R.A), Hazrat Umar (R.A), Hazrat Uthman (R.A), and Hazrat Ali (R.A)—implemented principles of land management, including equitable tax structures. During Hazrat Umar (R.A)’s era, after the Islamic conquests, he established principles for land

management by declaring conquered lands as collective property for all Muslims instead of distributing them among soldiers. He allowed original inhabitants to stay as *Zimmis* and imposed *Jiziya* and *Kharaaj* taxes for the welfare of Muslims, while recognising the rights of the original owners. Concerned about land division and disputes over resources, he asserted that uncultivated land belongs to those who revive it, with neglected land reverting to the state after three years. Caliph Umar (R.A) also revised land grant policies to prevent misuse, reclaiming unused land from individuals like Bilal bin Harith for redistribution among Muslims (Sait & Lim, 2006).

Islamic Fiqh recognises that individuals who cultivate barren land are entitled to ownership, although there is scholarly debate regarding the necessity of government approval for such ownership. Imam Abu Hanifah argued in favour of requiring government approval, while Imam Abu Yusuf and Imam Shafi'i asserted that ownership rights stem from religious teachings, independent of government consent. Imam Malik specified that government permission is necessary for land adjacent to settlements, but not for more remote areas (Salasal, 1998).

The topics of sharecropping and tenant farming are subjects of debate in Islamic jurisprudence. Imam Abu Hanifa opposed both practices, while his students, Imam Muhammad and Imam Abu Yusuf, supported them under certain conditions. Imam Malik opposed these practices but acknowledged that if landowners and tenants shared harvesting costs and profits equally, such arrangements could be permissible. Otherwise, he and other Maliki scholars generally considered them illegal, as noted in his work, *Al-Muwatta*. Imam Shafi'i deemed all forms of sharecropping and tenant farming illegal, allowing only *Masaqaat*. His book, *Kitab al-Umm*, explicitly prohibits the cultivation of land for a share of the produce. Imam Ahmad bin Hanbal permitted tenant farming only if the landowner provides the seed; if the cultivator supplies the seed, such arrangements are considered illegitimate (Sait & Lim, 2006).

An Analysis of Land Reforms in Various Islamic Countries

If land reforms were anti-Islamic, Islamic countries like Iran, Iraq, Egypt, and Turkey would not have introduced and implemented them. Except for Iran, none of these countries faced resistance from religious circles. In Iran, formidable opposition emerged during the 1960s land reforms. Initially, clerics remained reticent due to concerns regarding potential state reprisals; however, some, such as Ayatollah Khomeini (a landlord and a religious scholar), later voiced opposition to the reforms. They characterised these reforms as un-Islamic (Majd, 2000). In Egypt, three phases of land reforms (i.e., 1952, 1961, and 1969), introduced under President Gamal Abdel Nasser, encountered no religious resistance (Ikram, 2006). Similarly, Iraq's Agrarian Reform Law, enacted by Abdul Karim Qasim in 1958, imposed limits on landholdings and facilitated the redistribution of land to the landless without any opposition from the religious circles (Goldman, 2015). Equally, in Turkey, land reforms were successfully instituted in three phases, i.e., 1945, 1973, and 1984 (Parvin & Hic, 1984). Notably, in East Pakistan, land reforms that established ceilings and effectively redistributed surplus land among tenants were successfully implemented in the 1950s (Abbas et al., 2016).

A Discussion of the Qazalbash Waqf vs. Chief Land Commissioner Punjab Case

The SAB's ruling in the case of Qazalbash Waqf vs. Chief Land Commissioner Punjab has significant implications for land reforms in Pakistan. The decision has faced criticism for not fully considering the historical development of Islamic land law and the

changes in property tenure that occurred during colonial rule. Mufti Taqi Usmani, who authored the principal judgment, asserted that property rights in Islam are protected only if the property was acquired legally. He emphasised that in cases of illegal acquisition, the government is obligated to return the property to the rightful owners or redistribute it to individuals in need. The land holdings of the Qazalbash family and other petitioner landlords were derived from grants or gifts received for their services to the British. This context was completely overlooked in the ruling (Ullah, 2003).

Additionally, the ruling did not analyse the practices of Hazrat Umar (R.A) regarding conquered lands. He established principles for land management by designating conquered lands as collective property for all Muslims, rather than distributing them among soldiers. Original inhabitants were allowed to remain as *Zimmis*. They were subject to *Jiziya* and *Kharaaj* taxes, which were used for the welfare of the Muslim community, while also recognising the rights of the original owners.

Moreover, the judgment may not fully align with Islamic property rights, which are based on the Quran and Sunnah and emphasise limitations and redistributive principles. Islamic teachings stress philanthropy through *Zakat* and *Khairat* for poverty alleviation, supported by institutions like *Baytul-Maal* and *Waqf* (Sait & Lim, 2006). The Quran highlights both individual and state responsibilities in aiding the needy. Additionally, Islamic inheritance laws aim to prevent the concentration of land ownership by ensuring property is divided among descendants (Abbas, Fazal, et al., 2025; Abbas, Javed, et al., 2025), with the state overseeing equitable resource distribution and land reforms. The judgment should have contended that all lands in Pakistan are state-owned, which permits the government to redistribute land for social welfare purposes, including the establishment of mosques and schools.

Furthermore, Mufti Taqi Usmani acknowledged being influenced by Maududi's teachings and preaching. While compiling the judgment, he cited Maududi multiple times (Abbasi, 2018; Shariat Appellate Bench Pakistan, 1990). However, he did not include or mention the land ceiling proposals put forth by Maududi's JI in its manifesto for Pakistan's first general elections in 1970 in the judgment (Abbas, 2015; Aslafi, 1970).

Equally, Mufti Taqi Usmani led judges issued the judgment declaring land reforms inconsistent with Islamic principles, emphasising the importance of private property rights. They referenced the Quran and the Hadith to support their arguments regarding the sanctity of individual ownership. However, the distinction between individual property and organisations like Qazalbash Waqf, which was operating as a welfare entity, appeared to have been overlooked in their assessment. A consideration of this distinction may have impacted the outcomes of land reforms in Pakistan.

Conclusion

To conclude, the SAB ruling in the case of Qazalbash Waqf vs. the Chief Land Commissioner of Punjab has closed the doors to future land reforms in Pakistan and has invited criticism on multiple fronts. First, the judgment lacks consideration of the historical context of Islamic land law and colonial property tenure changes. Mufti Taqi Usmani, the chief architect of the ruling, stated that property rights in Islam are legitimate only if acquired legally, implying that the government should return illegally acquired property to rightful owners or redistribute it. While the Qazalbash family's land was tied to colonial grants, this connection was overlooked. Second, the decision failed to address Hazrat Umar's (R.A) principles on conquered lands, which emphasise collective

property rights for Muslims alongside rights for original inhabitants. Third, it overlooked Islamic teachings on redistributive property rights, philanthropy, and inheritance, which aim to prevent land concentration, and did not assert state ownership of all lands in Pakistan, which would allow for redistribution for social welfare. Fourth, while Usmani acknowledged Maududi's influence, he ignored Maududi's proposal for land ceilings from the 1970 JI manifesto. Fifth, the judgment's focus on individual property rights, backed by Quranic references, blurred the distinction between personal ownership and welfare entities like Qazalbash Waqf. Sixth, before this 1989 SAB judgment, the FSC had already upheld land reforms as compliant with Islamic law and had ruled in favour of public good appropriations in 1980, dismissing claims from landlords.

Islam generally promotes peasant proprietorship over landlordism, although its application has varied historically among Muslims primarily due to misinterpretations of Quranic verses by different ideological groups. Islamic property rights, derived from the Quran and Sunnah, are characterised by limits and a focus on redistributive principles. Islamic teachings emphasise the importance of philanthropy, specifically through mechanisms such as *Zakat* and *Khairat*, aimed at poverty alleviation via institutions like *Baytul-Maal* and *Waqf*, which serve social welfare purposes. The Quran underscores the responsibility of individuals and the state to support the needy. Additionally, Islamic inheritance laws are structured to promote the redistribution of resources, preventing the concentration of land ownership by ensuring property is divided among descendants. This framework assigns the Muslim state a role in overseeing equitable resource distribution, including the implementation of land reforms.

If land reforms were anti-Islamic, Islamic countries like Iran, Iraq, Egypt, and Turkey would not have introduced and implemented them. Except for Iran, none of these countries faced resistance from religious circles. In Iran, formidable opposition emerged during the 1960s land reforms. Initially, clerics remained reticent due to concerns regarding potential state reprisals; however, some, such as Ayatollah Khomeini (a landlord and a religious scholar), later voiced opposition to the reforms. They characterised these reforms as un-Islamic. In Egypt, three phases of land reforms (i.e., 1952, 1961, and 1969), introduced under President Gamal Abdel Nasser, encountered no religious resistance. Similarly, Iraq's Agrarian Reform Law, enacted by Abdul Karim Qasim in 1958, imposed limits on landholdings and facilitated the redistribution of land to the landless without any opposition from the religious circles. Equally, in Turkey, land reforms were successfully instituted in three phases, i.e., 1945, 1973, and 1984. Notably, in East Pakistan, land reforms that established ceilings and effectively redistributed surplus land among tenants were successfully implemented in the 1950s.

In conclusion, the findings nullify the 1989 judgment of the SAB, declaring land reforms repugnant to Islamic injunctions. Land reforms are aligned with the Islamic tenets. Therefore, it is essential to revisit this judgment to eliminate landlordism, redistribute land to cultivators, increase productivity, reduce poverty, and address the food crisis.

References

- Abbas, M. (2015). Landed Aristocracy and the General Elections 1970. *Pakistan Journal of History & Culture*, XXXVI(2), 85–107.
- Abbas, M., Fazal, M., & Shafique, M. Y. (2025). Women's Land Rights in Pakistan: Laws, Policies, and Practices. *Pakistan Social Sciences Review*, 9(1), 433–444.
- Abbas, M., Javed, M., & Shafique, M. Y. (2025). Women's Land Rights across Major Religions in Pakistan: A Comparative Analysis of Islam, Hinduism, Christianity, and Sikhism. *Annals of Human and Social Sciences*, 6(3), 531–542.
- Abbas, M., Nadeem, A. M., Hassan, B., Rafique, M. Z., & Huang, S. (2016). A Study on Historical Development of Landownership and Landed Aristocracy in Pakistan. *Pacific Rim Property Research Journal*, 22(3), 217–230.
- Abbasi, M. Z. (2018). Judicial Islamisation of Land Reforms Laws in Pakistan: Triumph of Legal Realism. *Islamic Studies*, 57(3–4), 211–232.
- Abbasi, M. Z. (2019). Waqf in Pakistan: Rebirth of a Traditional Institution. SSRN, 1–13. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3327092
- Abdul-Rauf, M. (1979). *The Islamic Doctrine of Economics and Contemporary Economic Thought: Highlight of a Conference on a Theological Inquiry into Capitalism and Socialism*. American Enterprise Institute for Public Policy Research.
- Alavi, H. (2000). *Jagirdari Aur Samraj [Feudalism and Imperialism]* (T. Kamran (Ed.)). Fiction House.
- Ali, L. (2019, May 30). All India Muslim League, Jagirdari aur Zar'ai Islahat [All India Muslim League, Feudalism and Agrarian Reforms]. *Niazamana*. <https://nyazamana.com/2019/05/land-reforms-in-pakistan/>
- Allami, A.-F. (2004). *The Ain-i Akbari* (C. D. C. Phillott (Ed.)). Sang-e-Meel Publications.
- Aslafi, M. S. (1970). *Manshoor Jama'at-i-Islami Pakistan 1970 [Manifesto of Jama'at-i-Islami Pakistan 1970]*.
- Aziz, A. (2002). *Mughal Court and its Institutions*. Al-Faisal.
- Gilmartin, D. (1988). *Empire and Islam: Punjab and the Making of Pakistan*. I.B. Tauris.
- Goldman, M. E. (2015). *Domestic Conquest: Land Reform and Bounded Rationality in the Middle East* [University of Washington]. <https://digital.lib.washington.edu/server/api/core/bitstreams/0b26beea-bce1-4b8a-b3e9-9a5dc0206152/content>
- Gopal, L. (1989). *The Economic Life of Northern India, C. A.D. 700-1200*. Motilal Banarsidass Publishing House.
- Government of Punjab. (1952). *The Punjab Abolition of Jagirs Act, 1952*. [http://punjablaws.gov.pk/laws/68.html#:~:text=— \(1\) All jagirs not,into force of this Act.](http://punjablaws.gov.pk/laws/68.html#:~:text=— (1) All jagirs not,into force of this Act.)

- Habib, I. (1995). *Essays in Indian History: Towards a Marxist Perception*. Tulika.
- Hasan, S. N. (2005). *Religion, State, and Society in Medieval India*. Oxford University Press.
- Hassan, S. (1949). *Report of the Agrarian Committee Appointed by the Working Committee of the Pakistan Muslim League*. The Pakistan Muslim League.
- Ikram, K. (2006). *The Egyptian Economy, 1952-2000: Performance Policies and Issues*. Routledge.
- Jha, D. N. (Ed.). (1987). *Feudal Social Formation in Early India*. Chanakya Publications.
- Karamat, S., Muzaffar, M., & Shah, A. S. (2019). Politics of Religious Extremism in Pakistan: An Analysis, *Review of Economics and Development Studies*, 5 (2), 315-322
- Majd, M. G. (2000). *Resistance to the Shah: Landowners and Ulama in Iran*. University Press of Florida.
- Masud, M. (2007). *Note of Dissent to the Hari Report (Reproduced by Dr. Fauzia Masud Javaid)*.
- Maududi, S. A. A. (1950). *Masla Malkiyat-e-Zameen [Issue of Landownership]*. Islamic Publications Private Limited.
- Merillat, H. L. (1970). *Land and the Constitution in India*. Columbia University Press.
- Muzaffar, M., Khan, I., & Karamat, S. (2017). The Politics of Religious Legislation: A Case Study of Pakistan 1979-2000, *Pakistan Social Sciences Review* 1(2), 76-90
- Naqvi, S. N. H., & Khan, M. H. (Eds.). (1987). *Land Reforms in Pakistan: A Historical Perspective*. Pakistan Institute of Development Economics.
- Nasr, S. V. R. (1996). Pakistan: State, Agrarian Reform and Islamization. *International Journal of Politics, Culture, and Society*, 10(2), 249-272.
- Niazi, G. S. K. (1990). *The Life and Works of Sultan Alauddin Khalji*. Institute of Islamic Culture.
- Parvez, G. A. (1989). *Quran-i-Majeed Ka Mua'shi Nizam: Nizam-i-Raboobiyyat [The Economic System of the Quran: The System of Lordship]* (Third). Tulu-i-Islam Trust.
- Parvin, M., & Hic, M. (1984). *Land Reform Versus Agricultural Reform: Turkish Miracle or Catastrophe Delayed?* Cambridge University Press.
- Qureshi, I. H. (1944). *The Administration of the Sultanate of Delhi*. Sh. Muhammad Ashraf.
- Sahu, B. P. (1997). *Land System and Rural Society in Early India*. Manohar.
- Sait, S., & Lim, H. (2006). *Land, Law, and Islam: Property and Human Rights in the Muslim World*. Zed Books.
- Salasal, S. M. M. S. (1998). The Concept of Land Ownership: Islamic Perspective. *Buletin Geoinformasi*, 2(2), 285-304.
- Shariat Appellate Bench Pakistan. (1981). *Hafiz Muhammad Ameen vs. Islamic Republic of*

Pakistan (PLD 1981 Federal Shariat Court).

Shariat Appellate Bench Pakistan. (1986). *Government of NWFP vs. Malik Said Kamal Shah (PLD 1986 Supreme Court 360).*

Shariat Appellate Bench Pakistan. (1990). *Qazalbash Waqf and others vs. Chief Land Commissioner Punjab Lahore and others (PLD 1990 SC 99).*

Sharma, I. (1985). *Land Revenue Administration in the Punjab 1849–1901.* Atlantic Publishers and Distributors.

Subrahmanyam, G. (2006). Ruling Continuities: Colonial Rule, Social Forces and Path Dependence in British India and Africa. *Commonwealth and Comparative Politics*, 44(1), 84–117.

Thapar, R. (2014). Can Genetics Help Us Understand Indian Social History? *Cold Spring Harb Perspect Biol*, 6(11), 1–9.

Ullah, M. N. (2003). *Pakistan Jagirdari Zamindari Nizam Ke Shikanje Mein [Pakistan in the Clamps of Feudalism]*. Jumhoori Publications.

USAID. (2018). *USAID Country Profile: Property Rights and Resource Governance.* USAID