

# **Women's Land Rights: Policy Brief**

**Sustainable Development Policy Institute**

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## About the Project

Women's land ownership and control have important connections with their empowerment in Pakistan's agricultural context. However, the link between these has largely remained unexplored; and there has been negligible research to determine how many women own or control land in Pakistan. SDPI carried out a multiple part research to fill this knowledge gap and to examine the causality behind women's land ownership and empowerment. This research focuses on women's rights vis-à-vis the inheritance framework of private agrarian land; it does not encompass private residential or commercial property, neither does it cover other possible means of land acquisition by women like purchase or gift.

The research spans rural areas across all four provinces of Pakistan, drawing on national laws, existing policies, literature review and field work. The qualitative data has been gathered through interviews, surveys, focus group discussions, life histories, narratives and case studies. The research publications include:

- Women's Land Rights in Pakistan: Consolidated Research Findings
- Women's Land Rights – A Review of Policy and Law (Summarized version is available)
- Gender and Land Reforms in Pakistan (Summarized version is available)
- Peasant Movements in the Subcontinent (Summarized version is available)
- Policy Brief: Summary of Research Findings and Recommendations for Future Course of Policy.

This policy brief presents the key findings of the research carried out by SDPI. It situates women's rights to land in the current legal, social and policy context; and puts forth recommendations for future policy interventions that would help develop an equitable solution to the issue of unequal rights of women to own and control agricultural land.

## Women's Ownership and Control of Land: Research Findings

### *An Overview*

- Women's ownership and control of land have positive linkages with sustainable development, reduction of poverty, food security and environmental concerns. The control and ownership of land are also integral to the independence and security of women that they cannot derive from elsewhere.<sup>1</sup> Despite the wide recognition of the link between gender balanced land policy and development, the mention of women's land rights has been absent from the general discourse regarding land in Pakistan.

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<sup>1</sup> For supporting arguments, please see the project publications, Gender and Land Reforms in Pakistan (2008) by Nazish Brohi and Women's Land Rights in Pakistan: Consolidated Research Findings (2008) by Saba Gul Khattak and Nazish Brohi.

- The question of land rights is assumed to be related to an undifferentiated homogenous category of landless poor peasants, ignoring the power relations and hierarchies within the poor.
- Women's empowerment is mostly perceived to be limited to welfare in terms of their improved access to education, health and non-farm assets; and their economic status is only measured in terms of employment. Women's ownership and control of land has always been mediated through their male relatives, which makes them dependent.

### ***Legal Context***

- The Civil Laws in Pakistan do not discriminate against women. But matters related to succession and inheritance are dealt with in pursuance of West Pakistan Muslim Personal Law, which stipulates that women be accorded half the share of a male sharer.
- There have been three State-led land reforms in Pakistan under different governments but none of these recognized women as a separate group or stakeholders in property rights. However, as an unintended outcome of the 1959 land reforms, some women did receive land when land owners transferred land to women within their families in order to escape redistribution of land to the landless.
- The part of Islamic law that accorded women some rights albeit unequal, was not enforced and the ownership and transfer of land continued to be governed by customary laws that exclude women altogether.
- Even if women wanted to claim their rights, they could not receive land because they were not enrolled on revenue records as tenants; and no legal mechanisms were developed to acknowledge women's economic contribution inside and outside home and the agricultural labor that they provide.

### ***Field Research Findings: Male and Female Perceptions***

The research gauged the perceptions of both men and women regarding the issue of women's rights to own and control land:

- There was a wide stated acceptance among men about women's rights to own and control land on the basis of religious rights or sometimes on the basis of fundamental human rights. Most men also expressed faith in women's ability to manage and control land either on their own or through male help. However, the general trend of verbal acceptance does not translate into corresponding actions and none of the men had taken any steps to ensure property share for women in their families.
- The arguments given by men against women's rights to land included women's inability to manage land because of purdah, immobility and lack of exposure; the threat of rupturing social structure and gender roles; women being compensated for the lack of rights to land through dower, other occasional gifts that they receive from their natal family and security that they receive from their male relatives. Some men saw the deprivation of women's land rights as a part of the overall plight of the poor and vulnerable landless peasants facing asymmetrical power relations.
- Women are fully cognizant of the importance of rights of ownership and control of land. Most women feel that dower or other gifts that they receive do not compensate for the lack of these rights.
- Despite this realization, women rarely seek help from state institutions to claim their right to inheritance because firstly, due to the absence of strong state institutions and

social protection systems, they are entirely dependent on the informal family or community-based security that they receive from their male relatives and cannot risk jeopardizing the only support system available to them. Secondly, they feel that the legal system is complex and beyond their reach; and thirdly, they do not have faith in the state institutions' ability or willingness to dispense justice.

- Compared to other state institutions, there is a relative degree of willingness among women to approach nazims and councilors for the resolution of their issues as a last resort, because these people are drawn from the local communities.

### ***Policy Analysis***

The issue of women's ownership and access to land has been largely absent in the policy discourse:

- The Report of the Commission of Inquiry, 1997 and the Research study commissioned by the National Commission on the Status of Women both highlight the deep-rooted patriarchal system legitimated by a biased interpretation of divine directives as the main factors that thwart any possibility of the socio-economic and political empowerment of women. But this realization remained at the rhetorical level with no corresponding concrete corrective measures.
- National Plan of Action for the Advancement of Women under the Beijing Platform 1998 dealt with some issues related to land rights but these were omitted in the revision of the National Policy in 2002.
- The National Policy for Development and Empowerment of women 2002 highlights the need of removing inequities and imbalances in all sectors of socio-economic development through measures like ensuring access of poor rural women to land, agricultural and livestock extension services and micro-credit etc. However, women's inheritance rights or issues created by customary laws have not even been mentioned.
- Pakistan is a signatory to CEDAW, which sets up an agenda for national action to end all forms of discrimination against women; but according to the Constitution, the national laws supersede those dictated by the International covenants. Thus women's unequal rights to land governed through the national laws could not be rectified.
- Currently, Pakistan is committed to the efforts of achieving the development targets set by the Millennium Development Goals. Goal 3 is to promote gender equality and women's empowerment. In reviewing challenges and constraints towards the achievement of this goal, the Government of Pakistan report (2005)<sup>2</sup> recognizes the link between access and ownership/ inheritance to land and female empowerment. However, the government has not formulated any programs and projects to address this issue.

### **The Way Forward: Policy Recommendations**

1. **Land Reforms:** There is no doubt about the significance of the intervention of government for land redistribution. There is a need to ensure that these redistributive laws and policies target the poor population and are gender sensitive. Women must be recognized as constituting a separate group and must be accorded rights as such. Once pro-poor and gender-balanced policies are in place, there is a need for effective

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<sup>2</sup> Pakistan Millennium Development Goals Report 2005: Published by the Government of Pakistan (Planning Commission) as an annual reporting process.

follow-up and monitoring to ensure that any possible loopholes in the policy and law are not exploited to keep the less privileged categories of the landless poor and women deprived of the possible advantages.

2. **Islam and Women's Land Rights:** Since Shariat is the most widely accepted means of granting women the rights to own land through inheritance, one option could be to rely upon religion to demand women's equal rights to land, for example, in Turkey and Somalia, male and female children inherit equally from the father's estate. An alternate option could be to bring inheritance and other family laws under a secular Civil Code which would enable the State to enact gender neutral laws.
3. **The Right to Forego Rights:** The Pakistani Courts accept the concept of Tanazul whereby a woman would have the right to relinquish her share of inheritance. Whilst the practice of relinquishment is fairly common, very few challenges to this have been taken up in the Courts. The court does not question the surrender of inheritance or dower by a woman on the suspicion of family pressure, which falls short of coercion but at the same time sabotages independence in decision-making. Policy should dictate that cases of Tanazul be examined rigorously to ensure the decision is not made out of duress.
4. **Land to the Landless:** Joint titling system should be introduced to give land to landless women. This would enhance women's status and position in their families and society and would be a significant step towards acceding land rights to women.
5. **Women with Land:** Though small in number, women do hold titles to land but generally do not exercise control over it. The government should provide training/awareness opportunities and infrastructure support to facilitate women so they can control and manage land on their own.
6. **Agricultural Labor:** Agricultural work should be brought into the fold of formal economy so it could be regulated and workers could be protected. Women's contribution would thus be recognized and valued, and the multiple issues of agricultural labor could be addressed more effectively.
7. **Targeting Women by Agricultural Services as Farmers:** Women should be provided extension services such as loans, credits, fertilizers, seeds etc. One of the factors that emerged from the site analysis which in popular perception was weakening the relation between women and land was the mechanization of agriculture and redundancy of manual labor. There is a need to train women and equip them with the latest technologies to ensure their continued contribution in the field of agriculture.
8. **Food Security and Women's Traditional Agricultural Knowledge:** The current global food crises is likely to bring the focus of the world economy to agriculture. There is also a growing realization that local and indigenous farming practices are integral to sustainable agricultural output. Given the present out-migration phenomenon arising out of the intensification of poverty and lack of livelihood options in rural areas, rural to urban migration may imply a complete loss of entire knowledge systems. Since women form a major part of the traditional agricultural system, it is important to ensure that women's knowledge about agricultural systems is not only preserved but also transferred to others. Therefore steps should be taken to preserve and build upon this knowledge.
9. **Devolution and Local Bodies:** Elected local government officials such as the nazims are the only arms of state machinery that women felt they could reach out to as a last resort. Local councilors could be used to play a role in land disputes or for ensuring equitable distribution of inheritance and minimizing fraudulent methods of land capture.

10. **Social Protection Systems and Strengthening State Service Delivery Institutions:** The absence of strong protective state institutions that women can turn to make them rely solely on family and community-based security systems. The government should institute social protection systems for women and the existing legal institutions should be reformed for better accessibility, affordability, lesser complexity and improved willingness and ability for provision of justice. In the event of a divorce women should be provided maintenance for a minimum period of five years and there should be equal division of immovable property acquired during the validity of the marriage.
11. **Birth and Marriage Registration and Land Revenue Records:** There is an urgent need to revise and maintain birth and marriage registration records to ensure registry protection. All national policies are targeted at tenants who are recorded in the revenue record, thereby clearly discriminating against the unregistered landless peasants and women. There is a need therefore, to introduce a comprehensive land record system at the national level such to ensure that women are registered and a gender disaggregated data is maintained.