

Draft Version

Women's Land Rights in Pakistan: Consolidated Research Findings

Women's Land Rights

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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.

Women's Land Rights in Pakistan: Consolidated Research Findings

Introduction

There is no knowledge in Pakistan about how many women own land and how many control land. With the understanding that deprivation from and unequal opportunity to land ownership is a structural and systemic gender barrier, that is both, the cause and effect of women's marginalization, this research examines the causality behind women's landlessness, poverty and status.

This report is based on pioneering research in the area of women's land rights; as such, it attempts to span an array of issues that touch both the technical/policy and political aspects of the issues involved. It contains analyses from different field sites across the four provinces of Pakistan and also captures different geographical zones, given that agricultural land value increases or decreases depending upon arable or non-arable land. The research explores women's landlessness, both the process and the outcome, and systemic barriers in place. Simultaneously, it explores the conditions under which the system provides 'opportunities' to women to own as well as exercise control over land.

Justification

Land is the single most important source of security against poverty in rural Pakistan. In the country, agriculture accounts for 42 % of full time employment and 23% of GDP. 60% of Pakistan's population lives in rural areas and 67.5% of the rural population depends on agriculture for sustenance.¹ However, landownership is highly skewed in Pakistan. Based on HIES 2001-02 data, approximately 10.36% of the rural population is landless; 32.67 % owns under 1 hectare of land; 0.046% owns between 1 and 2 hectare of land; only 0.0309% owns 2-3 hectares of land while only 0.0293% owns 5 or more hectares of land. This means that a large majority of rural households do not own land at all or do not own enough for subsistence. Approximately 1% households own subsistence and above land holdings. This implies that rural poverty is extremely high.² In fact, almost 57% households are involved in non-agricultural work in order to survive. Given this situation, looking at women's ownership, access and control over land is a critical area for investigation if any progress is to be achieved to ensure social protection.

Land defines social status and political power in local contexts, and it structures relationships both within and outside the household. Land is a productive asset in that it creates wealth and

1 (source: Pakistan Economic Survey 2004-5, Government of Pakistan)

2 For details, see Talat Anwar, Sarfraz A. Qureshi and Hammad Ali, Landlessness and Rural Poverty in Pakistan, available on <http://www.pide.org.pk/pdf/psde20AGM/Landlessness%20and%20Rural%20Poverty%20in%20Pakistan.pdf> (accessed 20 May 2008).

sustains livelihoods. Unequal command over property, arguably, is the most severe form of inequality between men and women today.

Without secure access to land and means of production, the paradigm of daily survival compels the poor, due to circumstances beyond their control or influence, to live within short-term horizons that degrade resources and fuel a downward spiral of poverty. Poverty is thus exacerbated and entrenched by the unequal power relations that the poor experience in their daily lives.

In the face of overwhelming evidence of the power of land in agrarian countries like Pakistan, the right to and control of land by women has not merited attention. Despite the investments made for 'gender balancing' and women's 'empowerment', employment is taken as 'the' principle measure of women's economic status, ignoring that economic status of men and households is measured through property ownership and control. Development focus for women seems to have been primarily on employment, education and health. It's obviously not enough. Over and above the fear of eviction which women experience as members of families whose housing lacks secure tenure, they are also subject to the insecurity of tenure in case of divorce or widowhood.

An IFAD report³ notes that it is easier to shift education, health and non-farm assets to women rather than give them land rights, because giving these will improve well being and welfare, whereas giving land would mean giving power. The impact on social, economic and political power can be almost immediate. Benefits of land are direct such as control of produce, indirect like access to credit and structural like change in gender relations within families. Agarwal, in her seminal work on land rights for women in South Asia posits that supporting women's legitimate share in landed property can prove to be the single most critical entry point for women's empowerment in South Asia.

Context

Historically, in subsistence production systems, land was not formally owned, but usage rights were vested in men and women who produced food for their kin. With formal land ownership, especially titling of land, the predominant pattern of men controlling the allocation of land and this right being passed from father to son led to the current ownership pattern.

With the decline of subsistence farming and increased cash cropping and larger land holdings, the emotional and spiritual connection to land (that allowed communal ownership) has been outstripped by its monetized value, and has increasingly come to be seen as capital. There is a plethora of research that shows poverty to be inversely correlated to land ownership⁴, so it could be inferred that women's lack of equal property rights could be a cause of feminization of poverty. Whereas there are significant variations between regions, it can be generally observed that women's access to land is mediated by men - tied with her role as a daughter, sister, wife or mother. Because of the derivative character of these rights, access to land depends on a woman's

3 Rural Poverty Report 2001: The Challenge of Ending Rural Poverty. Oxford University Press, IFAD 2001

4 Most recently in the SPDC report 2005 (give full citation)

fulfilling or negotiating a constantly changing set of obligations and expectations defined by the men who hold the rights.

Islamic Law, Shariah, stipulates that women be accorded share in inheritance, albeit lower than that of male heirs, though this remains, predictably, a portion of Islam relegated to oblivion. The State sees it as a ‘private concern’ vis-à-vis inheritance, seeing no bearing on its land reforms and redistribution policies; religious parties that undertake implementing Shariat throughout Pakistan ignore this aspect, and in the past have declared land reforms ‘UnIslamic’; ethnic groups invoke cultural relativity and claim women’s land rights threaten family and kinship structures; the landed class counters with arguments of land fragmentation and inefficiency, and other national and local power wielders ensure that such claims are denied moral legitimacy, and when made, are met with violence.

Women need to be accorded their basic right to own and control land – the value is intrinsic. Article 17 of the Universal Declaration of Human Rights states, “Everyone has the right to own property alone, as well as in association with others. No one shall arbitrarily be deprived of property.”

Article 16 of CEDAW provides that State Parties must take all appropriate measures to eliminate discrimination and ensure same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property. Article 14 of CEDAW protects the rights of rural women to equal treatment in land and agrarian reform as well as in land resettlement schemes.

The International Covenant on Social, Economic and Cultural Rights, in Article 11 guarantees to all persons an adequate standard of living, including housing. Notably, in its General Comment on the right to adequate food, the Committee has called on States to ensure women have guarantees of full and equal access to economic resources, including the right to inheritance and the ownership of land and other property, credit, natural resources and appropriate technology. The International Covenant of Elimination of all forms of Racial Discrimination, under Article 5, requires State Parties to guarantee the right of everyone, to equality before law, notably in the enjoyment of the right to own property alone as well as in association with others, and the right to inherit.

The constitution of Pakistan also ensures all citizens can own property. As mentioned earlier on, the Shariah also stipulates land rights for women. Thus, international covenants as well as national laws provide for women’s land ownership; yet, very few women own land and even fewer effectively control land.

This report outlines why this is the case. It does so by providing the detailed results of the different site surveys that were conducted by the project.

Methodology

The methodology consisted of a combination of desk review, accessing relevant historical literature, legal review of court judgments, interviews with key resource persons involved in land rights issues and fieldwork in selected union councils within each selected district.

In this section we describe how we collected the qualitative and quantitative data for the analysis. We start with a brief review of the debate on research methods, next we describe our survey design and follow that with a description of instruments used for the qualitative and quantitative data collection. Finally, we discuss the specific sites we selected and the different groups of people we focused on for purposes of fieldwork.

Quantitative and qualitative research methods have been used by different disciplines such as economics, demography, business schools, political science, sociology, anthropology and so on. The comparative advantages of quantitative methods lie in their ability to furnish a broad macro picture that may cover a large number of people based on a representative sample. Such surveys are scientifically designed and are useful for analyzing and predicting trends, e.g., pre-election polls or marketing surveys for products. These are carefully designed in a measurable format according to the purpose for which they are being conducted. The design is quite complex to ensure the findings can be generalized using statistical packages. The data so produced has multiple uses as it contributes both to social theory, policy planning and business strategies.

While quantitative data analysis provides many advantages, it is critiqued for its inability to get to the heart of issues due to its restrictive format like close-ended questions. The quality of data is considered suspect, as it may not generate truthful answers from the respondent, e.g., if a survey is addressing sensitive issues like child abuse, marital rape or contraceptive use in conservative societies, it may not be easy to obtain truthful answers from respondents for whom the surveyor is a stranger. Quantitative data is also expensive and not thoroughly utilized. It is also considered to be more 'extractive' as the researcher is not accountable to the respondent and is more concerned with furthering the purposes of the survey rather than the well being of the respondent. Thus social knowledge is not being produced for the benefit of the people who are being used for generating that social knowledge.

In contrast, qualitative research methods that focus on acquiring in-depth information over a longer term within a smaller universe are considered more sensitive and reliable. Anthropological research emphasizes the need to understand communities, build trust to gather information on different contexts of people's lives. Although the data so generated is extremely detailed and reliable, it takes a long time to generate and is specific to the site of fieldwork. In view of this, alternative quasi-anthropological research methods, such as RRA/PRA (Rapid Rural Appraisal/Participatory Rural Appraisal) and semi structured questionnaires have emerged as popular tools for capturing complex situations on the ground. These tools use local knowledge for local use and emphasize knowledge for social change.

The debates over quantitative and qualitative research methods have sensitized the research community to the advantages and pitfalls involved in the two types of data collection. In general, both kinds of tools are utilized for generating data so that the best of both types of research can be used to obtain a comprehensive picture. Although there are limitations of time and resources, a combination of quantitative and qualitative research tools sensitize us to the local situation and enable us to theorize about the larger context. We used both semi-structured and structured questions and other instruments such as case studies, life history interviews, and focus group discussions with men and women, in-depth qualitative interviews for women's perceptions and, a survey for male public perceptions.

Site Selection

The study covered all four provinces of Pakistan, focusing on two areas per province. Within each province, we focused on two union councils each within the two identified districts of a province. We covered all four provinces in order to capture ethnic variations across provinces; in addition, we also chose different geographical zones (mountainous, coastal, plain, dessert, canal irrigated) to provide insight into the linkage between land value and women's ownership of land. The study ensured that it encapsulates the following four significant factors:

- Arable and arid land, to assess if value of land impacts premium placed on ownership
- Topographic differences to see if coastal and mountainous zones have critical variations
- Dynamics of subsistence, micro level, small and large landholdings
- Land dynamics and inheritance patterns across Pakistan's major ethnic communities.

We covered the following sites:

Sindh

- **Hyderabad:** The main city is a central point for the province, whereas the larger district is agricultural, though this has suffered in the past decade because of reduced water flow in Indus River. It has the largest concentration of freed '*haris*', the bonded laborers of feudal lords, most of who have escaped from lower Sindh, and hail originally from Thar Desert. It has a sizeable Hindu community as well.
- **Khairpur:** Part of agricultural belt of the province with high productivity, feudal structure.

Balochistan

- **Gwadar:** Would cover coastal communities, as it is located on the sea. Low livelihood options and also high out-migration for employment.
- **Noshki:** Arid zone close to Afghan border, mountainous region.

NWFP

- **Swabi:** Fertile zone that provides tobacco to country. Rigid hierarchical structure, for example, bans placed on women's political participations.
- **Swat:** Mountainous zone that is fertile, and extends to Malakand division, known for its orthodox conservatism.

Punjab

- **Multan:** The district is indicative of Southern Punjab, culturally, linguistically and ethnically varied from Central Punjab, where large landholdings and a feudal system are still firmly in place.
- **Lahore:** The district constitutes the heart of central Punjab. It is the provincial capital; we covered the outskirts of Lahore, the agricultural areas. Land value is high as it is canal irrigated and highly productive.

We kept urban property deliberately outside the scope of our work, as we wanted to focus on agricultural land and not urban property.

Survey Instruments and Design

We designed different sets of questions and identified broad themes that were to be used in the fieldwork. Initially, we identified key persons in each district whose input into the issues we were exploring would be useful and who would be able to give us access into the communities we were trying to access. In addition, the presence of Action Aid partners in each district was also considered to be significant as these organizations could help ensure that the field team was facilitated.

The constitution of the field team was such that we ensured that all team members knew the local language as it would be difficult to conduct interviews with landless peasants in any language but their own. Language was considered key for easy communication. Due to this aspect, our field team changed in each province. While this may not have resulted in uniform quality of data, it certainly helped us access local communities with more sensitivity.

Each field team consisted of two men and two women with one SDPI researcher who was to oversee the quality of data collected as well as herself/himself conduct part of the research. All field team members had training up to master's level in various social science disciplines except the team in Noshki and Gwadar where it was difficult to find members with a Masters degree, therefore, this criterion was relaxed as language/communication was deemed more important. All team members received training about the data collection techniques, the purpose of the project and the importance of survey results.

The male members were to interact with men to gather male perceptions through semi structured interviews and focus group discussions as well as interview the local land administration representatives, police, intellectuals, lawyers, local councilors and rights activists. Women were to collect similar information from women. In addition, they were to contact women who had initiated proceedings in the court to claim their land rights, conduct life history interviews with women who had successfully claimed land or suffered violence. Women were also to conduct qualitative interviews about women's perceptions about women's land rights and violence against women.

Interviews and Case Studies

A total of 5 case studies were conducted at each site which were identified by the key informants or other community members. Detailed life histories of women with land (spanning all holding sizes), including process of claim, and contestations and probes into future such as who they would deed their land to were also planned and conducted. A total of 5 life history interviews with women who had instituted court proceedings were conducted with the exception of Noshki where only two cases of women's land claims could be identified.

The information collected for the case studies included general information, relationship between spouses and household members, conflict over land or land claim, dowry and violence, women's status and mobility in the community, women's access to the police and courts and other representatives of the state.

Focus Group Discussions

Focus Group Discussions (FGD) were our second source of qualitative information. These were held with women and men at each site. Since the team spent between 10 days to two weeks in each site, they were able to access participants for FGDs through key informants and later accessed other men and women in the community through the FGD participants. The method adopted in conducting FGDs was such that the women team members would conduct the FGD with women and the men would conduct the FGD with men of the area. One member asked questions about the broadly identified themes while the other took notes and intervened if clarifications or explanations were required. Since one or two persons can dominate discussions, therefore, the team was fully briefed to ask each and everyone's views and record these, especially if opinions differed.

A total of 6 male FGDs and 2 female FGDs were conducted at each site with the exception of Lahore where the number of total FGDs had to be cut down due to missing class and occupational categorization that is found in a typical rural setting. Three FGDs were planned in each union council with men and one FGD with women. A total of three FGDs with women were planned per district but since the landed women were not available for an FGD, the team had to bring the number of female FGDs down to one per UC and two per district. The breakdown was such that separate FGDs were held with landless peasants, subsistence farmers and large landowners. Each category of FGDs was held separately with women and men. There were approximately 8-10 participants in each discussion. However, the team often did not find any women belonging to the category of large land owners within a union council; sometimes there were one or two women who were large land owners but they would not agree to join FGDs. Though not as acute, the situation with men was not too different as the scale of a union council is not so large that the team could identify more than 2-3 male large land-owners in a union council. The main themes discussed in the FGDs touched upon the importance of land, women's land rights, their status, mobility, ability to control land, marriage and dower.

Semi-structured Questionnaires

We utilized a semi-structured questionnaire covering the same key themes to capture male perceptions. In each site we administered approximately 40 such questionnaires. Specifically, these asked men about the importance of land, about women's right to land, women's control over land, whether women's claim to land was acceptable to them, family and community response to women claiming land, and preference for marriage within or outside the family. These questionnaires were randomly administered in different parts of each union council. The results were tabulated and are discussed separately.

Semi-structured Interviews with Women

Two main themes were discussed with women. The first was women's perceptions about women's land rights. It included women's views on their right to land, the importance of land as well as their changing relationship with land. It encapsulated women's views about dower as compensation for land and the issue of *purdah*, mobility and control over land, and related concerns to access rights and their life chances. This theme was similar to the semi-structured questionnaire with men. While the questions were somewhat similar, women's responses were recorded in greater detail and stand in stark contrast to the answers provided by male respondents.

The second theme pertained to women and violence and delved into the possibility of violence against women at several levels: whether women laying claim to property resulted in violence, whether childlessness was considered a reason for violence, whether women could access the police and courts for redress and finally whether women could depend upon the institution of the family and traditional dispute resolution methods, specially the *jirga*, for any corrective action.

Fifteen women were interviewed in each category. They were also asked about their educational qualification, their ownership of wealth and assets, their education level, marital status, age, etc.

Summary

Distribution of sample across union councils of the eight districts in four provinces:

| Activity Site | Focus Group Discussions Male and Female | Semi-structured Interviews (male) | Case Studies per site | Interviews with Key Informants | Women's perceptions on women's land ownership | Women's perceptions on VAW | Other Interviews-lawyers, officials of the land admin. Structures, local govt. and the Police journalists and intellectuals |
|---------------|---|-----------------------------------|-----------------------|--------------------------------|---|----------------------------|---|
| Lahore | 5 | 40 | 10 | 2 | 15 | 15 | 6 |
| Multan | 8 | 40 | 10 | 3 | 15 | 15 | 7 |
| Khairpur | 7 | 40 | 8 | 2 | 15 | 15 | 6 |
| Hyderabad | 7 | 40 | 10 | 2 | 15 | 15 | 9 |
| Gwadar | 8 | 40 | 7 | 2 | 15 | 15 | 14 |
| Noshki | 8 | 40 | 2 | 2 | 15 | 15 | 6 |
| Swat | 8 | 40 | 4 | 2 | 15 | 15 | 8 |
| Sawabi | 8 | 40 | 7 | 2 | 15 | 15 | 4 |
| Total | 59 | 320 | 58 | 17 | 120 | 120 | 58 |

Women and Land Rights: Male Perceptions

This section, a synopsis, summarizes the findings of the surveys conducted to inquire into and understand men's perceptions of the issue of land and women's rights. These were gathered through a series of structured, open-ended questions. The data was collected, and on examination it was clear that the answers were common and fell in post-survey defined categories. The quantification of the data format was done after the data was collected through free form answers.

The site reports of each research area examine this data to bring forward the local and regional nuances and dynamics around the issue. This section reads into the commonalities across a national context and does not trace the regional variations, captured in site reports.

Combining all research site responses, of the total three hundred and twenty respondents, a majority of 89.3% of men said that women should have land, answering affirmatively. Only 10.7% said that women should not have land.

Considering that women's landholdings do not reflect this support base, the answers warrant closer scrutiny.

Out of the percentage who did not agree that women should have land, the highest concentration was in Swabi with 27.5% followed by Multan with 26.5%. Both lie in the heartland of the rural agricultural belt in their respective provinces, NWFP and Multan. Conversely, in Lahore all men acknowledged women's right to own land, and Hyderabad had a low 2.4%. Gwadar, which has seen a nascent real estate market emerge, traditionally has no agriculture of significance, and

none of the respondents interviewed refuted women's right to land. This establishes that resistance to women's land rights is highest where agrarian land premium is the highest.

The respondents were also asked why they thought women should own land. Interestingly, zero percentage of respondents across Punjab and NWFP invoked laws of the country; the ones who did were in Sindh and Balochistan, possibly signaling a higher level of awareness and politicization. This however, may be misleading because 54% of the total respondents cited it as a 'haq', a fundamental right, without qualifying whether this perception of a right was grounded in laws, religion, or a universal entitlement. 35.4% of total respondents directly attributed this right to religion. . Of these, 10.6% were from Sindh, 22.1% from NWFP, 26.5% from Punjab and 40.7% from Balochistan. 11.3% of total respondents felt custom prevented women from owning property even in name.

In addition to ownership, the respondents were separately asked if women should have the right to control land. 80.2% of total respondents felt that women should have the right to control land compared to 89.3% who felt women should be allowed ownership. 19.8% felt women should not have the right to control land, compared to the 10.7% who said women should not be allowed to own land. When asked whether women are capable of managing land, 70.5% of total respondents replied affirmatively, whereas 29.5% disagreed and challenged women's competence. It is evident that as we move from symbolic or 'just-in-name' ownership of land by women to exercising control over the land, the number of men supporting the initial proposition effectively dwindles. The responses men gave to the question whether women were capable of controlling land corroborates this. 22% said it was a religious right to control land, compared to the 35.4% who said religion allowed women to own land. The power of social sanction becomes more evident as 16.4% said custom did not allow women to control land, in contrast to the 11.4% who said custom did not allow women to own land. 13.9% said that traditional constraints of purdah and mobility prevented women from exercising control over land. When asked about women's ability to manage land (as distinct from control), 19.7% cited customs and traditions such as restrained mobility and culture as factors that would prevent women from doing so.

41% of total respondents affirmed their belief in women's competence in managing land based on women's competency in other things and track record of land management. An additional 35.7% felt that women could capably manage lands with the help of other men, whether family members, contractors, overseers or agricultural workers.

88.4% of total respondents said they personally accepted women's rights to land, with 11.6% dissenting. 53.3% derived their personal acceptance of this from religion, with an additional 39.7% citing their belief in the entitlement as a fundamental right, 'haq'. 11.4% said they did not personally accept this entitlement because it was unacceptable by society and its customs and norms, and only 1.3% rejected it because they did not believe in women's ability of owning, controlling and managing land.

Based on their experiences, 38.6% of total respondents said women made a claim for general inheritance, whereas 61.4% said they did not. De-linking inheritance from land, then, provides an

interesting contour of women's agency. For instance, while in Noshki there is no possibility of a woman claiming land because of the 'mardbakshi' tradition where a father of daughters has to pass on land to his nephews, 25% of the men said that women claimed their inheritance (other than land). 87.5% of men in Gwadar said women claimed their inheritance, as did 61% of the men in Hyderabad and 44.7% in Khairpur. 57.5% in Lahore also replied in the affirmative and 22.5% in Swabi. The lowest numbers were in Multan at 2.5% and Swat at 7.5%. Unfortunately, the survey design did not probe into the other forms of inheritance women claim, which could have explained how women 'work the system'.

Out of the 61.4% who said women did not claim land, 50% attributed this to societal reasons, such as customs, traditions and norms. 32.4% said it was due to societal reasons such as honor and respect of family and reaction of male relatives. 29% said it was due to ignorance about laws, entitlements and methods of accessing and implementing.

Male respondents were asked what they observed or anticipated the reaction are/ would be if women placed a claim on familial land and insisted/ fought for it. Of the total respondents, 36.1% said that the reaction is/would be negative, encapsulating anger, outrage, hostility, ostracism and pariah status. 37.4% said the reaction is positive, in that women are supported. 21% said that the reactions are mixed, both negative and positive, and varied case to case. This data signals that there are no clear cut positions and that the reactions are highly context-specific. Other data from the project, read together with this indicates a social contract in operation that governs the reaction to women's claims.

88% of the total respondents felt that women should have a share in their natal family's property/ land, with a low 12% disagreeing. Claim on natal family seems to have a higher degree of acceptability than the possibility of women claiming land from their marital family. 82% of total respondents felt that women should have a share in their marital family's property, with 18% disagreeing; stating women should not be so entitled.

Of those who supported women's claim to natal family property/ land, 42% felt they were so entitled because they were an integral part of the family and 30% stated they concurred because women were accorded this right in religion. Of those 12% men who were against women's entitlement to natal family land, the reasons given were primarily that women were already well taken care of by family members and because it is socially not accepted.

Regarding marital family's property, of those total respondents who supported women's entitlements, 64.4% said they did so because it was a woman's fundamental right, and 20% said that a woman gets this automatically on her husband's death, if not directly than through her children. It is interesting to note that with these respondents, there was an automatic assumption that a woman's welfare is synonymous with that of her sons, and that her sons getting land share is equivalent of a woman getting the share herself. There was also no notion of her entitlement during her husband's lifetime, and that this right should be conferred upon his death. From those who disagreed, the main reasons cited were that the husband's family continues to care for her and her children upon his death and that there was no cultural acceptance of such claims.

Men respondents were asked about what they felt regarding women marrying outside the extended family. 78% of total respondents felt that this was acceptable and 22% felt that this would not be acceptable. It should be noted that the question concerned extended family and they were not asked how they would feel about women marrying outside the tribe/ clan/ village. Separately, 48% of total respondents said it did not matter either way. The reasons mentioned for its acceptability were that religion allowed it, that it was medically beneficial, and that it did not matter either way. Of those who disagreed, the primary justifications were that it became a source of conflict, feuds and shame; that customs and tradition do not allow it; and that they would be marrying into unknown families, and strangers would not offer security or comfort for women.

The survey results show that though men articulated a high degree of personal acceptance of women being entitled to own land, there was a huge disparity in personal opinions and personal practices in the public sphere. Very few of the respondents had given land/ planned to give land to women of their households. This may possibly be so because women are entitled to land through inheritance in Islam, and it was difficult for men to refute religious edicts. They are cognizant that society often places insurmountable hurdles for women to make such a claim, and even when highlighting personal acceptability for themselves, they outline the difficulties women would face in exercising such options. Nor did they see any role for themselves in rectifying this.

Women and Land Rights: Focus Group Discussions with Men

This is a synopsis of the discussions held with men in the project areas in Focus Group Discussions (FGD). The men were invited to the discussions from the union councils after profiling them with regard to class. The categories were that of landless peasants; subsistence farmers; medium scale farmers and large landowners. It was not possible to do group discussions with large landowners, as there were intense rivalries and positioning issues (such as who would walk to whose locality/ territory) and many local dynamics were involved. They were interviewed separately through one-on-one sessions.

For a fuller understanding on how men view the issue of women and land and how they understand women's entitlements, it is necessary to read this in conjunction with the section on Male Perceptions, which includes a qualitative and quantitative analysis of interviews and surveys conducted with men in the relevant union councils.

This particular FGD format was developed and used for a more generic reading of commonalities; for understanding how opinions voiced in groups may differ from individual understandings, and most importantly, to understand people's responses as shaped and defined by the socio-economic class they belong to and identify with.

Importance of Land

The association of land with respect and power was a leitmotif throughout all the research areas, even where land value was low and its viability contingent on other factors. Where the landless and subsistence farmers underlined the continual importance of land as a socio-political marker, the medium and large scale landowners highlighted its diminishing importance because of rising influence of industrial sectors and decreasing agricultural productivity. Yet where medium scale farmers in Hyderabad district and Gwadar dwellers across all class lines emphasized the availability of water and irrigation as being the critical determinant between fertile land and unproductive wasteland, they pointed out the social capital associated with land ownership. This is reflected in possibilities of providing bail for tribe/ clan people, signing undertakings and political representation.

And the value added is not just socio-political. While the landless farmers in both, Sindh and Punjab identify lack of land as the single most important determinant of poverty, those with little / small landholdings point to the perpetual indebtedness because of high interest rates in the informal credit market. Land also allows for collateral that allows large farmers to access formal credit institutions.

In the more agrarian communities, it was interesting to note that land ownership provided economic mobility but could not ensure a corresponding upward social mobility, whereas this was more possible in the urban and peri-urban localities.

The fact that the relationship with land and agriculture is changing was prominently outlined in all research sites. The two main themes that emerged were the mechanization of agriculture, which has happened over decades, and the water shortage, that has accelerated to critical proportions in recent times. Combined, this has led to urban-bound migration and disinvestment from agriculture. This has evidently resulted in critical introspection and not just castigation of others – medium scale farmers were more conscious of the need for sustainability of environment and ecology, regretting the earlier generations' decisions of installing tube-wells that lowered the underground water table levels. They pointed out three strong indicators of rising levels of rural poverty: a) that land owners were using agricultural land for setting up brick kilns instead of cropping; b) men were picking cotton (earlier done only by women); and c) migration to urban areas was rising.

The landless agricultural workers have felt the consequences of mechanization with the most immediacy. The devaluation and redundancy of their work has led to livelihood insecurity as increasing numbers are now wage workers and no longer get *batai* (crop share) and seasonally migrate in search of work. Along with rising inflation and stagnant wages, the workers were vociferous about deepening rural poverty and rising levels of desperation.

The subsistence level farmers have also been directly impacted by the deteriorating agricultural conditions such as decreased water availability; the perpetual indebtedness that they identify is a result of trying to cultivate staple foods on small land sizes. They said that it is viable only with economies of scale, and for small holdings, cash cropping/ commercial production is the only way of making ends meet – but that this leaves them vulnerable to market forces as they cannot

provide for their own food security. Even the medium scale farmers say that land fragmentation was making farming increasingly unviable for them. They were more inclined to hold the governments responsible as opposed to market developments.

The evidence of this changing landscape due to water shortages and increasing mechanization was more pronounced in Punjab, where people mentioned that despite the political power that landlords still wield, their economic pincer grip on communities was lessening, and their position has weakened as compared to the past. Also, that people's search for alternative sources of income has led to increasing premium placed on education, and that school enrollment ratios had increased, for both the sexes.

The evolving relationship was also experienced by NWFP, where the landless peasants felt that over a period of time, their status and relationship with landowners had become a little more balanced, and increasingly symmetric. Men from across all classes in the province reiterated that class structures had undergone change, compounded by wider access to education and the media.

With the exception of the fishing community representatives in Gwadar, throughout every research site in every province, when asked about how people have attempted to organize and fight for land rights, every respondent spoke about court cases or tribal settlements (jirgas). Even when asked about land rights movements or peasant movements in their locality, no respondents except those in Gwadar could recall such movements.

Gwadar in Balochistan emerged as a special case with regard to the dynamics of the recently emerged land market. Reflecting the trends emerging in Hyderabad in Sindh, Gwadar is a case study of traditionally (and extra-laboriously) farmed land acquiring a higher worth for commercial enterprise use. Agricultural disinvestment has led to the acceleration of land value and corrosion of farmers and agricultural work. The lack of rainfall and absence of irrigation systems has collapsed agriculture whereas the construction of the Gwadar deep sea port has driven up land's value, causing a huge speculative market to emerge, bringing in external investors, driving out local communities and also making space for real estate mafias to prop up. The impact of this is being felt across all classes of landless peasants and farmers – the only ones who have benefited are owners of large tracts of land, though some of them have also fallen victim to the land mafias.

Relationship between Women and Land and Status of women

Across all research sites, men drew analogies between women and land, the metaphoric connection signaling to the nurturing qualities of both, and both being building blocks of masculine honor and pride.

In Sindh, the landless peasants and subsistence farmers were willing to accord women some direct relationship with land, but generally and specifically in the upper classes, men said women had no direct role, contribution and therefore no direct relationship with land, and that it was mediated by men. For instance, women went to farms to carry food for men, or that women

needed men to do important tasks related to land, and that even if women had ownership of land, they would be paralyzed without male involvement and support. In Sindh and Balochistan, men who were farmers of varying scales pointed out that fewer women worked on fields than earlier because as a direct result of economic upward mobility, women were no longer needed to work on land, and men could afford to provide for them. In NWFP, the medium scale farmers observed a strong indicator of such change: that women no longer grinded flour and purchased it from the market instead. Their manual involvement in agricultural production has changed.

Across all research sites and in all provinces, men were aware about and acknowledged that Shariat allows women the right to own, inherit and possess land. There was also broad based consensus that what the Shariat denotes is theoretically correct. This was however qualified by presenting cultural, economic and logistical factors as constraints. In Balochistan, men across all classes openly discussed how customs and traditions were offsetting entitlements given in religion, and that culture was customarily given supremacy over religious edicts. Common in all sites, what emerged was a circular logic: that women do not have the ability to manage and negotiate land, and that they cannot learn or build this capacity because of *purdah*, which has cultural as well as religious endorsement. Similarly, women could not oversee land because they were not literate or mobile, and they could not be accorded literacy or mobility because of women's role and status, which would change if they were given land, but for outlined reasons, could not be given land. This was very apparent in the case of Swat, for example. There, the landless peasants said that if the Shariat was implemented, it would invert the social order as women would rebel against male authority. It is interesting to note that such strong perceptions are held by a group that does not even own land to give to women. In Noshki, the pronouncement is far more rigid – men who do not have sons lose the right over their own land, in that they cannot deed it to their daughters even should they desire to. The land must necessarily only be passed on to a family that has sons, in a tradition referred to as 'mardbandi'. The subsistence level farmers of Swat, while endorsing the arguments for giving women land due through inheritance as in accordance with Shariat, also said that the control and management of the land should remain with the men. This could also reflect the fear expressed by landless peasants, hence the need for guiding and controlling economic empowerment options. So in Noshki and Swat, even the question of giving women land in inheritance does not arise, whereas in Gwadar, men in local communities as well as the local officials insisted that women were granted inheritance rights in the Makran coastal belt, and were given the land. Where views of men in these two communities are in diametric opposition, yet the effect is the same – that women have no control over and cannot and do not manage land.

In Sindh, the economic groups were inclined to push this concern away towards other groups: the landless peasants said since they had no land, it was not their issue, not seeing women's role in asset ownership. The subsistence farmers said they had land that could barely feed them, and that women were needed for critical tasks and responsibilities in the home and with the livestock so women's land ownership was not 'their' issue. The medium scale farmers said women were overburdened with housework, their landholdings were too fragmented, and this was an option only for large landowners who had enough tracts of land and for whom class privilege allowed *purdah* to be an option not a necessity. The perception was that the rich are entitled to choices on

whether to function as per custom or not, whereas the other classes are pressurized more heavily by the weight of tradition and social approval, as wealth reduces dependence on the larger community. Similarly, the medium scale farmers in Sindh also 'othered' the discriminators against women. They felt that the most violent customs emanated from ethnic groups such as the Baloch and the Pathan, and that the violence against women in Sindh was primarily either where different ethnicities held sway or where their influence was disproportionately strong.

Only in Khairpur was *karokari* mentioned as a land control mechanism to coerce women out of their claim to land. In Sindh, men who were landless peasants acutely felt the exploitation women faced, but deplored the phenomenon within the larger, generalized context of class politics, positioning the discrimination they faced more on account of class than on account of gender. They felt that the poor suffered as a whole, and till the position of the poor was changed, the poor women in particular could not be helped, because many of the crimes against them could be accounted for by chronic poverty.

The slightly better off lower middle class – the subsistence farmers were more inclined to blaming society at large, excluding themselves from this framework.

The medium scale, well off farmers had the sophisticated political acumen to package their views in a way that allowed and endorsed women's landholdings, yet to regard it as a policy formula which would increase women's suffering as it would be at the cost of their respect in the community.

In Punjab, there was a greater readiness to acknowledge women's role in managing and cropping land, though they also emphasize that this relationship is mediated through men. The landless peasants referred to women's traditional role in sowing, weeding and harvesting, and said women have always been part of the agricultural worker force. The more upward class of farmers recognized women's role as well, while they said it was in the process of change, because fewer numbers of women were directly working on the land. Tenancy farming has declined over the years and the trend is that of self-cultivation and hiring of agricultural workers. Generally, now it is only women belonging to the families of agricultural workers who are involved in tilling the land. While some expressed a concern about changing gender roles as a cause for alarm, a minority also suggested that economic independence of women would also decrease their vulnerability to violence.

Farmers of higher economic groups were more critical of society and social traditions in holding back women's rights, while also providing a rationale for not giving rights: they said that since women get married and move to other areas, it is more practical for them to be given moveable assets rather than non-moveable ones like land. However, this is in a context where most marriages take place within the larger family and are endogamous, as in women usually do not relocate to other areas after marriage since the larger family stays geographically in close proximity. They also gave other arguments such as that women are taken care of by the family and that they get compensations like protection from natal family through gifts on special occasions such as Eid or a child's birthday. So outlining the expected adverse reactions of the

family and the consequent loss of social status in case a woman makes a claim, they gave reasons as to why women should abstain from such a claim.

Men's reactions to women's ownership of land ranged from hostility to non-committal ambiguity. They expressed reservations about women's ability to administer and manage land; they doubted it as a solution to women's issues; and above all, their opinions collectively dominated the meso-level 'community' that seemed to determine what is acceptable. And it seems that the lower the person is located in the socio-economic rungs, the higher their dependency on the community and its approval. So poor rural women will not find a constituency of support for owning and managing land, even if they scrape together the means of acquiring it, and their ownership and management of land would have to be in spite of the community, and obviously not because of it.

It is also evident that there is a serious crisis in the agricultural sector and all those whose lives are directly or tangentially involved, are feeling its brunt. It seems that apart from large scale land owners, dependency on agrarian economies is resulting in livelihood insecurity for all.

Read together, the points highlighted in the FGDs raise questions about the viability of land acquisition as a subscription for raising the status and position for poor women. Though it would undoubtedly raise them out of the levels of poverty they currently experience, it may not be as effective for offering them a form of empowerment that leaves them autonomous and secure vis-à-vis the men in their families, in their community and society.

Women's Land Rights: Women's Perceptions

This section summarizes the main themes and trends for women's land rights emerging from the eight sites where fieldwork was conducted in the four provinces. It is based upon four categories of field interviews: a) semi-structured interviews with women regarding their perceptions about women's land rights; b) semi-structured interviews with women about violence against women in connection with land claims or ability to bear children, especially son/s, so land inheritance may be assured; c) life history interviews with women about their land claims and/or land ownership; and d) focus group discussions with women who were either landless peasants or subsistence land owners. As discussed in the section on methodology, the themes that we probed pertained to women's land rights, women's relationship with land, women's mobility and *pardah* and access to state and informal institutions for resolving issues, violence, community and family perceptions about women's land claims and women's faith in various mechanisms for redress.

Importance of Land

Women's perceptions with regard to the importance of land in all field sites were common. Land was valued as an asset that served multiple purposes ranging from sustenance to livelihood, respect and honor to power and prestige and, from provision of shelter and security needs to one's status.

Women emphasize the importance of land; however, their reasons and arguments revolve around the central theme of marriage. Women feel they are not accorded the status of a permanent

family member in either family – natal or in their in-laws and that is one of the reasons why they are denied the right to land.

Some women felt that those who financially contribute to the house warrant higher respect, and expressed a desire to work in this manner. For women it is irrelevant who makes the decisions regarding the spending of money; they felt their status is enhanced when they contribute to the family income. Many women expressed their desire to work because they thought they suffered because of their economic condition and if they had livelihood options, they all would be fine. They pointed out that the main reason for preference of boy is that boys earn. Thus for many, land was important as it could be a source of income; however, they were clear that so long as they could contribute financially, they would be in a strong position.

Women's Ownership of Land/ Inheritance

Two major streams emerge from our field data: the first indicates the denial of land to women on the basis of customs or the lack of land available to a family. The second data indicates that in some of the rich landed families, women are given land as part of huq mehr (dower) for a variety of reasons including to honor the girl and her family or to prevent the state from redistributing land.

A majority of women know that women have a right to land, however they point out that sharia is not observed with regard to women's land rights or other rights. Some explained the lack of women's rights to land in the context of culture. Some said that women do not claim their right to land out of the fear of antagonizing their family, which in most cases is their only support or safety net. Many women across sites stated that land claim by a woman is perceived as a source of discord within families, inviting hostility from the husband's family or brothers and other male members on the father's side.

Generally women accept and reproduce such arguments because neither does culture encourage land ownership claims by women nor does the economic position of an average family support their claims.

Noshki district displays completely different dynamics of land ownership where the question of giving land to a girl does not arise at all due to the prevalence of the custom of 'mard bakhsh'(literally: willed to a man) that is exclusively practiced in this part of Balochistan province. The formula for the distribution of land and inheritance is based this local custom and as the term itself indicates, the land of the tribe or a sub-tribe is only given to a man who has sons. The more sons a person has, the more land he would be entitled to obtain whereas, a man without a male issue does not qualify to possess any land of the tribe or a sub-tribe. A man already in possession of land having daughters and no son, can only pass it (land) on to his nephews because a woman does not have any share in this land. This custom is commonly found in Jamaldini and Badini tribes and is only practiced in District Noshki.

In contrast to Noshki, we find that some of the landed families in Southern Punjab, where landholdings are fairly large, give women land. The reasons are varied: The socio economic class of a woman and the educational level of a woman as well as her and the family may play an important role in making exceptions to the cultural norms governing society by according women their right to inheritance. Our findings from Multan district indicate that women belonging to the landed families (with big land holdings) do inherit land. The change in the old tradition of denying women land can be attributed to the land reforms that incidentally benefited women of the landed class. To prevent their land (which exceeded the ceiling fixed by the government) from being redistributed by the state, men transferred the ownership of this ‘extra’ land to the women in the family. Although the intent was not to accord women their rights of inheritance and ownership, the impacts of these measures have given women unexpected advantages. The fear of land redistribution by the state through land reforms ignited the fear that landless tillers would gain entitlement to land. Landless tillers’ entitlement would not only have taken the latter out of poverty and powerlessness but would also have changed social relations in the area permanently in favor of the tillers. This was totally unacceptable and in comparison the idea of transferring land to women was less offensive. This laid the foundation for something positive that women were able to cash in on later. A woman from the Marral family in Multan said: “I am the fourth wife of my husband and I have two sons. In fact, my husband had children from all his wives and that was the reason for marrying four times because more wives and more children meant saving more land from being redistributed among others. My husband gave me 20 *murabas* (squares) of land as *haq mehr* during the land reforms which I claimed later and got from the government in a landmark judgment which ordered that land given in *haq mehr* has to be given to the woman even if it had been redistributed”. She further added: “Interestingly, my husband named my sons even before they were born because he needed to give names of his children for transferring his land, after the land reforms.”⁵

Dowry Instead of Land

Almost all women reject the argument that women are compensated for the lack of land rights through dowry because the respect and power that land ownership brings is not comparable to petty gifts that women receive in the shape of dowry or later, on occasions like Eid etc.

Some women feel that decisions related to marriages are primarily dictated by the concerns about land ownership and inheritance: the amount of land a woman is likely to bring with her is the criteria for marriage; similarly, women are made to marry within family to ensure that land stays within the family. Poor women prefer inter-family marriages because they believe that there is a basic understanding about the family problems and the pressure for dower is less.

A few women who argue against women’s right of land ownership echo the reasons given by men: they assert that dowry and other forms of gifts are compensation enough for women because they do not have the responsibility to economically support families. The other justification given by women is the protection they receive from their men and natal family,

5 According to information shared by a respondent during an interview, Marrals were one of the three biggest landholding families of Multan before the Land reforms were introduced, Bappis and Dairs being the other two.

which they would have to forego if they claim land. Most women were unwilling to risk forgoing that support and protection, which they believe would be lost if they claim their right to land. This set of women also asserts that the denial of land does not equal the level of compensation, it is justifiable by inferring the logic of the religious rules of inheritance, which do not give women an equal right to land as men.

Noshki, where a majority of women are neither given dowry nor a share in inheritance, presents an aberration to this pattern as a woman in Noshki cannot even claim the 'lub' or bride price which is received by her parents at the time of her wedding.

Control and Management of Land

While a majority of the male as well as the female respondents across sites did not argue against the right of women to own land, its control and management was widely perceived to fall in the purview of men on the premise of women's purdah, mobility, lack of practical knowledge, marketing and negotiating skills.

Managing land through leasing it out to men came out as the most acceptable and viable form of arrangement for land management according to the perceptions of a majority of women interviewed at all sites.

Most women, when asked who they would give/will land to land if they were to inherit it, said that they would give it to their sons or their children. Some said that they would use it to go for Haj (pilgrimage to Mecca).

Interfamily Marriages

Marriage is related to security regardless of the concern whether the husband is a good person or not; early marriages are preferred among many people because they assert that girls can then grow according to the wishes of the husband. Early marriage also reduces the risk of elopement or marrying of girls of their own choice. Early marriages are a norm in most field sites. Considerations of dower and not land entitlement dictate the decision of marrying the girl within or without the family. That is because not many women are entitled to land.

A significant number of women in the selected sites were married within their extended families and clearly favored interfamily marriages in general for reasons such as familiarity with the family and the man, more security for the woman, more regard for each other's family and, common customs and traditions making the adjustment easier for the girl in her new life. On the other hand, a few women (like some men) said that marriage outside the family was preferable due to medical reasons.

A majority of the respondents did not indicate any connection of land with interfamily marriages neither did the respondents in general know of such cases where land was given or exchanged in

a marriage. However, Multan was an exception where women from the landed class especially the Gardezis, have the tradition of exchanging land in marriages.

In Lahore, a considerable level of flexibility was observed with regard to marriage preferences, as many women believed that the success of a marriage depends on girl's luck, the education and conduct of the husband and his family as well as on the compatibility of the couple. The majority however, still favored inter-family marriages for reasons such as: biradari (caste) pressures and compulsions, familiarity with the family and the boy, strengthening of family bonding and, the emotional and moral support provided by both families to the couple in difficult times.

Exposure to the urban environment, class and educational levels also seem to play an important role with regard to the level of flexibility, openness and acceptability shown for marriages outside the family. For example, as opposed to the landed class or the affluent business community in Lahore, women belonging to the middle and low income group families seemed more open and flexible in considering good proposals for their daughters whether they were within or outside the family.

Somewhat similar patterns were observed in Gwadar as well. All the women in Gwadar were convinced that interfamily marriage is the best option for a woman because it gives them a high degree of protection and security; ensures a check and balance system of influence; accommodates intervention by natal family; allows women uninhibited access to natal family; lowers probability of conflict and has a built-in process of mediation should conflict occur.

Poor women also echoed similar preferences for inter-family marriages across sites, stating that both sides understand the problems related to poverty and therefore the pressure for dower is less.

There was an interesting contrast between male and female perceptions in Noshki with regard to interfamily marriages where women strongly favored inter marriages but men were found to be quite flexible when asked whether women should be able to marry outside the family. Men's perceptions carried significant weight as they are the real decision makers in their homes. It was surprising to know that unlike other sites where a majority of men supported interfamily marriages while associating them with customs and traditions, honor, security and purdah, an absolute majority of the men in Noshki said that it did not matter to them whether women of their families marry within or outside the family. Such a high degree of acceptability for the outsiders by the men in Noshki points either to a contradiction in their theoretical and practical positions or may actually mean that they are flexible and open to proposals even from outside the extended family or the tribe, provided that the groom's family pays a handsome amount as 'lub'/wulwar (bride price). Hence, the flexibility shown by men may be linked to the local custom of 'lub' (bride price) where this, becomes the major consideration for a woman's marriage.

Also, as women do not inherit land in Noshki, it does not matter if they are married within the tribe or outside. The political economy of marriage changes as bride price appears to be the decisive factor. Therefore, if another tribe pays a higher bride price, it is acceptable to men.

Purdah, Mobility and Freedom

Most women felt that degrees of *purdah* were instituted for the protection of women so it would be counter-productive to resist it, and mobility was also curtailed for their own benefit. Some even say they value respect more than autonomy.

Mobility or lack thereof particularly in rural areas is associated with a woman's class position as it is a marker of social respectability and the wealth at the disposal of her family. Women belonging to higher classes are not allowed to move freely; chores that require going to the bazaar are left for women of lower classes. In higher classes, mobility and *purdah* are conflated. Although this is changing in urban contexts, in that women go to bazaars in the cities yet in their own local communities they do not venture out. They depend upon women from the lower strata who are relatively more mobile, to do their chores in the local bazaars. The extent of the latter's mobility varies, depending upon their caste and related social role.

Mostly arguments that women cannot access public space as they cannot negotiate with men or supervise them, that they cannot deal with the outside world, that their lack of knowledge about agriculture and specific tasks like watering land at night puts them at a disadvantage, are forwarded as a means of demonstrating that women are incapable of managing and controlling land. Men assert that *purdah* does not allow them to learn or acquire this experience.

Our fieldwork analyses indicate that women who own land are disallowed to acquire the requisite knowledge of agriculture under the label of *purdah* and respectability and those who have knowledge of tilling, harvesting, seed preservation etc are poor and the possibility of owning land is non-existent. Thus women are systematically prevented from acquiring the necessary knowledge to manage and control land if there is a possibility of owning land; on the other hand, women who do have the necessary knowledge have no hope of ever owning land.

Most women were acutely aware that it was not *purdah* that deterred them from achieving their goals and aspirations (whether to attend school and college or to have careers and employment) but male control that hampered them. They blamed the men in the family for disallowing them from accessing the public sphere and said that women can do anything while observing *purdah*. Observing *purdah* was not seen to be a hurdle in the way of mobility or freedom.

Overall, there were different responses of women regarding their perception of freedom. For most freedom includes personal, social, economic and non-material dimensions. Most of the women pointed out that old age is the time when women are the most free in their lives in terms of mobility, interaction with the outsiders, fewer restrictions, more relaxed codes of *purdah*, and, higher decision-making authority. Education and age are the two factors that seem to affect

women's mobility. Those who are more educated have higher level of mobility; older women also have more mobility.

Older women are mostly consulted regardless of education level and their opinions are given respect; younger women/ girls are consulted regardless of education but opinions are not given much importance. Educated women express disagreement but defer to opposing collective wisdom.

Most of the women felt that they were the freest when they were children younger than ten years of age, or when they enter old age, post-fifty. Younger women think women are free at the age of 40; older women say 50-60; a 70-year old woman distinguishes between freedom and power: 'Relatively speaking women acquire some power in decision-making when she has children but they can never be free', she said.

Violence Against Women in Connection with Women's Claim to Land

While talking about violence in connection to women's land claims, most of the women generally spoke about psychological violence experienced in the form of social ostracism or indirect violence by the state institutions administering justice. However, many women in Multan and Lahore who had taken their cases to the courts reported that they had also experienced serious forms of direct violence that were as serious as life threats and assassination attempts.

Our case study interviews in Punjab reveal multiple forms of violence that women, who fought legal battles in order to obtain their share in inheritance, experienced. Aside from the psychological violence and the social ostracism that a woman often has to face, the other forms of violence women complained about were: judicial bias, unnecessary delays in court proceedings, sexual harassment by the police and other officials and, threats by the opponent party and the land mafia.

Unlike Punjab, in N.W.F.P and Balochistan, no clear patterns between women's claim to land and violence against women emerge from the data. No specific link between levirate and violence emerges; in fact, from the one example that emerged in Swat, it appears that levirate works for the advantage of women. It is clear that levirate is practiced but is not driven by the intention of excluding women from access to land because the possibility of giving her the husband's land does not even arise. However, if a woman obtains her share of land pledged as her *huq/mehr* (dower), levirate may come in handy to pre-empt the possibility of the land going to an outsider.

The lack of data connecting land claims with violence against women in the NWFP and Balochistan may be the case because very few women are eligible to inherit land, and of these, very few would put in a claim to land due to customary practice, therefore, there are very few cases of violence aimed at divesting women of their land rights. In addition, even if there are

such cases, they are seldom reported anywhere. Further, less violence against women in rural areas takes places probably due to interfamily marriages.

Across the country where women have gone to court in pursuit of their land rights with the help of a husband or brother/father, they have received this support due to the perception of being wronged. For example, when a widow was pushed out of her house along with her four daughters as she had no male issue, there was widespread condemnation. In the rare cases where women have been subjected to violence regarding land, family and community help. However, if a woman is not perceived to have been wronged, and she still goes to court, the family and community do not approve.

The above does not mean that no violence against women exists. Violence against women was reported in all sites. The reasons of violence against women include dower, infertility, score-setting by the in-laws. The rationale for having children is not primarily perceived to be about the guardianship of land. Many women (including poor women) do not even know why they are subjected to violence; they bear it quietly because they think it is their religious obligation. A common perception is that if a woman is being beaten, she must have done something to deserve it; even women believe this.

Many women said that while infertility does not lead to violence in most cases, husbands do marry a second time to have children. They termed second marriage as violence on the first wife. They explained that if a woman cannot have children, the husband often remarries; but if the husband is infertile, the woman has no choice. Women on the other hand are taunted; taken to doctors whereas for other more serious health issues, they are never given medical attention. Children for women mean her identity, security and status. The sons she bears are integral to her identity and security.

Thus violence against women included discriminatory processes and attitudes. Psychological as well as physical violence were both pointed out by women. Women were also aware of systematic discrimination due to the patriarchal control of men.

Accessing Formal Institutions (Police, Courts)

For women across all sites, to approach formal institutions means on the one hand, rupturing the familial support and foregoing their safety nets, and on the other hand, not having any assurance that the formal state institutions will support them either.

The local police officials in different field sites said that cases for land dispute go to courts; there are no reported cases of violence against women because culture is humane towards women; also, the natal family takes care of women. For women, going to police or court is not an option because of the connotations of loss of honor, and respect.

The data from Punjab indicates and the case studies from Lahore and Multan confirm that though the decision of approaching the formal institutions is a very difficult one in the beginning in our

cultural setting but women, who do muster up the courage to take that bold step once, get enough stimulus to fight their case till it is decided.

Not a single female respondent said they would opt for the court or police as the first option, in fact, that they would chose to avoid those. Their choice would be family elders, waderas, autaq, jirga whatever the people's institutions are, and not state institutions, because the state appears distant and peripheral, and cannot implement anything, whereas local solutions will be implemented. We assume that aside from not reposing too much trust in state institutions, the prohibitive financial and time costs involved prevent women from accessing the state as a first resort.

There is a higher degree of willingness to approach representatives of the local government such as the nazims and councilors (local government representatives), probably because these people are drawn from the local communities, and there is no real sense of going 'outside' for help. This was especially the case in Sindh and Punjab.

Women liked the thought of possessing land but were very well aware of the social cost that such a claim on their part would entail. Antagonizing the male members of family and risking the support they had from them is not considered the preferred option. The only conceivable circumstance in which they could own land and have family men's support as well was when one side of the woman's family supports her claims against the other side.

Preferred Choices for Conflict Resolution

Across all sites and all socio-economic classes, family elders were the preferred choice for land related disputes or any other kind of conflict resolution for women. Then came the local *jirga*, the punchayat committee or the local government representatives and if all else failed, only then would women resort to the courts. However, a woman who took her case against her stepson to the *jirga* expressed reservations about male dominated *jirgas*, that she said are unfair. A lawyer reported that more cases of divorce come to courts than earlier because people have lost faith in *jirgas*.

Conclusion

We began this research on the premise that if women are able to obtain their share of land as a right, it would solve not only their individual problems in terms of empowerment but also address the issues of poverty and vulnerability that women and men face at the collective level. We assumed that land as a resource as well as a source of power and status would contribute significantly to women's empowerment if the state were to distribute it in an equitable manner. Aware of the multiple issues involved, we decided that it would be important to go to different communities across the four provinces of Pakistan and in different geographical zones where land is valued differently to understand the complex dynamics involved in pushing for policy reform and change. We thus sought the opinion of men and women, of lawyers and elected local government representatives, intellectuals and women who had instituted cases in courts for their

land rights. We also sought the opinion of different categories of men and women who either had no land, or were subsistence farmers or large landowners. By comparing the data so gathered, we are able to reach some conclusions that could lead the way forward for policy specific measures.

Male Attitudes: From Support to Opposition

Men view land as important not only as a source of livelihood but also as a marker of status, respect and honor in society. They emphasize that owning a small piece of land enables them to be guarantors or to act as sureties for bail or to acquire credit. Some men do not view land as a source of livelihood or subsistence but as a passport for solving other issues. For example, they could sell it or use it for commercial purposes. Thus there are changing values that are put on land in agricultural contexts.

On the question of women's right to own land, over 89% men across field sites said that women have the right to own land as Islam/Sharia gives them this right and some believed that it is a fundamental right that women should have, while 80% said that women should also control land. Around 20% men explained that women could not control and manage land due to customs and traditions, or that they lacked the competence, knowledge and skills to manage land. A majority believed that women could control land directly or through help from men. On surface it seemed that a significant majority of men were in favor of women's land rights. However, this does not translate into action and they have not acted on their beliefs in ensuring property share for women in their families. Further, a breakdown of the sites indicates that men belonging to areas where land is valued for its high productivity were against women's right to land while areas where land was not a premium commodity, men were more supportive of women's right to land.

A nuanced analysis of the focus group discussions indicated that men who belonged to the category of large landowners were generally against giving land rights to women. Acknowledging that Sharia gives women the right to own land, they argued that Sharia in this regard should only be implemented when it is being implemented in its entirety across the whole country. Therefore, while they supported women's land rights in principle, they said that they had no intention of giving land to their sisters/daughters/wives as it would unbalance social relations whereby men are providers and women are the responsibility of men.

Interestingly, some of the landless peasants also opposed giving land to women and expressed anxiety about women's sexual agency and the fear of reversed gender power relations. They felt that once women have land, women would mistreat them (the men) and that they may leave them to marry a big landowner. In contrast, most other men, including landless peasant, were supportive of women's right to land. For the landless peasants, women's deprivation was within the overall context of the poor and vulnerable facing asymmetric power relations, and women were entitled to land as the male tillers were in a positioning of class politics. Some even pointed out that women have increasingly begun to ask for compensation for not receiving land in the form of gold or silver jewelry or cattle or other moveable property.

Women's Perceptions and Experience

While all women would like to own land and acquire or keep the associated status respect, honor and economic power that land brings, almost all are cognizant that such a situation may not turn into reality. As such, many explained the bargain with patriarchy/ male power: by not claiming land, they receive protection and care/love for the rest of their lives. They also ensure respectability, as people often do not approve of women who claim their right to land, perceiving them as selfish and greedy, bringing dishonor upon their family by weakening the power position of the father and brothers. Social disapprobation is intense in such situations hence women lose status when they demand land. Thus monetary gains do not necessarily outweigh the gains emanating from the social status conferred upon women who do not demand their land.

It appears that an unwritten charter regulates commerce in male/female familial relations that gives men more power, via patriarchy, but that also imposes certain conditions on the exercise of that power, for example acts of benevolence. Women are expected to forsake (constitutional and religiously sanctioned) rights and entitlements, and in return they are granted protection and security by male family members. The terms of this contract seem to be upheld by both sides and when either party breaches it, the aggrieved party cries foul and approaches other courts of appeals – either formal state institutions or appeal to societal regulators such as family elders, clan leaders, wadero, faislo etc. In terms of land holdings, this means that men control land and women do not attempt to claim it. In return, women are given identity, physical protection, financial security and their needs are taken care of. If she claims land, she foregoes her 'protection' and society rises against her and she is met with rejection, ostracism, character slander, and social legitimacy is revoked. Alternately, if her uncles or in-laws do not take care of her after her father or husband passes away, she demands land for her survival (or that of her children) and society and custom rise to assist her and condemn the man in question. Communities react against the aggressors to restore equilibrium. Separately, this bargain seems to be the most effective where alternates such as state institutions are the weakest.

Women across class and literacy groupings articulated a high level of awareness of the lack of social protection systems that left them dependent on kinship ties. So where they express an alienation from state institutions, it stems not from ignorance about the existence of such institutions, but is predicated on the perception that these institutions would not be able or willing to offer them protection, reprieve or justice. Indeed, they suggest that even informal, traditional systems such as the jirga favor the men and the rich and powerful, leaving them little choice but to accommodate patriarchies.

The 'bargain' with patriarchy is not a simple affair. Often, it is perceived as an unfair arrangement with which women have to live and make the best of. For example, a significant majority of women said that dower and gifts that they receive from the natal family are not tantamount to compensation for land. They are convinced that receiving land would be worth more both in economic and non-material (status, honor) terms.

The imposition of *purdah* and restrictions of mobility were not experienced by any of the women

interviewed as violence. Most women felt that degrees of *purdah* were instituted for the protection of women so it would be counter-productive to resist it, and mobility was also curtailed for their own benefit. Although there were a few who highlighted its repressive-ness (mostly older women who had given up *purdah* in old age and had greater mobility), no one felt it oppressive or violence.

Varying notions of *purdah* and mobility are determined by women's class position as the perception of respectability in a community is directly tied to her class and caste. While many women, whether poor, well off or rich observe forms of *purdah*, their mobility varies according to class and caste. We can thus speak of *spheres* of mobility. It is clear that *purdah* does not hamper mobility of the poor but mobility and *purdah* become conflated as one climbs up toward the upper rungs of the community.

The data underscores the insidious manner in which patriarchy operates: Women who have knowledge of tilling and agriculture do not belong to the class that can own land and those who could own land are systematically distanced from acquiring the knowledge of tilling and managing land due to restrictions upon their mobility. So women's mobility becomes a function of class and patriarchy. Thus, poor women who have no land to claim and no hope of ever owning land may work on the land; they can have restricted mobility but as soon as they become better off, their mobility is socially restricted as a marker of so-called respectability. Mobility is thus inversely proportional to women's social position vis a vis land ownership.

While it is obvious that women's *purdah* and mobility are not one and the same in women's experience and views, male views on women's *purdah* and mobility reproduce the rationale of patriarchy. They conflate the two and based on that logic assert that women's ability to control and manage land is virtually non-existent due to restrictions imposed by *purdah* and lack of mobility. For example, they assert that it is not easy for women to water the fields or supervise the laborers on the fields therefore, it is impractical for them to own land. They ignore the fact that many poor women till the land or help with crops and the process of food production and seed preservation. Managing and controlling land is male purview due to class and caste.

The decision pertaining to women and men's marriage, especially whether they should be married within or outside the family is often connected to their social class but is not directly related to considerations of land. This may be due to the fact that landownership is not widely spread out and land holdings are small and therefore do not play a critical role.

For women, the family is a comfort zone that is not breached by marriage. Interfamily marriages as a tool of local governance (local to livelihood community) since extended family (and joint family systems) largely persist on joint economic structures and livelihood systems, like farming and agriculture, where there is inter-dependence. Blood and family bonds need to be strengthened because it seems all other bonds are tenuous at best. And where this joint livelihood is coming apart, joint family systems are also collapsing. Men were more receptive to women marrying outside the extended family, and women were more insistent on its importance.

All women say interest of their family comes before their personal interest, and they would never prioritize their self-interest over family. The women interviewed could not even hypothetically separate their personal interest from that of the family, and could not consider conflict between the two. Many women said if they had land, they would want to give control over to their husbands and deed it to their sons. It was this attitude and logic perhaps that led many men, large landowners, to put large tracts of land in their wives' and daughters' name to prevent land from being re-distributed to the landless tillers. While this was not perceived to be a threat to social relations or societal status quo, over the years we find that women have become assertive about their land rights and some control and manage the land that they received from their husbands.

We find that land ownership or the claim to land by women is not linked directly with violence against women. This is not to say that there is no violence against women—indeed, many women testify to violence within the home, but few connect direct physical violence with the claim to land. There are other 'punitive' measures such as cutting off relations by brothers or the natal family and societal displeasure but no incidents of violence are reported as a result of possible claims to land. On the other hand, people have pointed out that men usually kill or can be killed as a result of dispute over land.

Interestingly, many women whose husbands had remarried said that husband's second marriage should also be counted as violence against women. Many women respondents' husbands had remarried, or the respondents were themselves second wives. In fact (in departure from the Indian experience) there was no connection found between infertility of women and direct violence experienced by them – that many women attributed to the permissiveness of four marriages. Infertility (of women) was not regarded as a major societal issue, and most people said that women would probably suffer taunts for it, but nothing 'stronger' than that, because the man could marry another woman and procreate.

The women were mostly unaware of laws, rights and protections guaranteed to them in the Constitution, and significantly, nor was there much curiosity about or interest in the provisions. Women felt laws and policies operated in a sphere independent of and unrelated to the one they lived in, so invocation of laws would have no relevance in their contexts. None of the women said that formal institutions would be their first recourse, and would use conduits of jirga, appeal to wadero or pillars of community for justice. Only when these avenues have been tried (and failed) and a woman was desperate, not having any avenues of support left would she turn to either the police, the judiciary or district management officials. These latter institutions do not seem to have penetrated as options into lives of women and they felt removed and disconnected from them. Because of the inability of formal institutions to assert their writ and extend their protection to women, community based alternative safety nets have been developed such as the accord with patriarchy. For women to approach formal institutions means on the one hand, rupturing support and foregoing these safety nets, and on the other hand, not having any assurance that the formal state institutions will support them either.

The one exception seems to be the local governance bodies. There is a higher degree of willingness to approach nazims and councilors, probably because these people are drawn from the local communities, and there is no real sense of going 'outside' for help.

Women largely were more cynical about the possibility of land conferring power/ autonomy on them. They said the hostility towards women's empowerment was far more systemic than actual land in itself would be able to offset.

The Way Forward

Given the picture that emerges from the data, we believe that there are windows of opportunity, gaps and spaces that can be utilized effectively by the state, the parliament, the judiciary, and development practitioners to push for women's rights to land.

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 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 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. **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.
4. **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.
5. **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.
6. **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.
7. **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.

8. **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
9. **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.