

# Overview of Women's Land Rights in PAKISTAN

Pakistan is confronted with several critical issues that stand in the way of land rights for women. Their empowerment is mostly perceived as limited to welfare. Their improved access to education, health and non-farm assets are considered indicators of women's empowerment. Women's economic status is only measured in terms of employment.

Secondly, women's relationship with land has always been mediated through their relationship with their male relatives, a situation which has rendered women dependent. On this note, pursuing women's land rights would most likely mean compromising their relationships with men, and rendering them dependent on men for food and shelter.

Furthermore, in the tribal social arrangement, women are kept in with strict *pardah* (hiding). This is something specific to Pakistan. The practice of *pardah*, which entails wearing a veil, is restrictive for women in terms of mobility and freedom.

In terms of legal issues, Pakistan's Civil Laws do not discriminate against women. However, matters related to succession and inheritance are guided by the West Pakistan Muslim Personal

Law, which stipulates that women be accorded half the share of a male sharer. This in itself is discriminatory against women.

There have been three State-led land reforms in Pakistan, under different governments, none of which recognised women as a separate group of stakeholders where property rights are concerned. The 1959 land reforms, which aimed to redistribute land to the landless, imposed a land ceiling. Rather than give up surplus land, land owners circumvented the law and transferred land to their female relations. The inadvertent outcome of these land reforms was that women began to have land in their names.

Islamic law accords women some rights, although these rights are unequal to that of men – but this section of Islamic law has not been enforced. Land transfer and ownership continue to be governed by customary laws that exclude women altogether.

## Opportunities for CSOs to advance women's land rights

At the national level, the National Policy for Development and Empowerment of Women, crafted in 2002, highlights the need to remove inequities and

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imbalances in all sectors of socio-economic development, by ensuring access of poor rural women to land, agricultural and livestock extension services and micro-credit. However, this policy does not even mention women's inheritance rights and the issues arising from customary laws.

International laws could be used to improve national laws to benefit women. For example, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) is an international law that sets an agenda for national action, and as its name implies, to end discrimination against women. Pakistan is a signatory to CEDAW, but its Constitution dictates that national laws supersede those dictated by international covenants. This completely undermines the opportunities offered by international law to improve women's conditions. Women's unequal

rights to land, governed through national laws, cannot be rectified.

The third Millennium Development Goal (MDG) is to promote gender equality and women's empowerment. The Government of Pakistan's report in 2005 recognises the link between land access, ownership and inheritance and women's empowerment, but the government has yet to develop and implement programs that effectively address women's issues.

### **What needs to be done?**

Given that land ownership enhances women's status within their families and society, land redistribution laws and policies must be gender-sensitive and pro-poor. Joint titling for married couples should be introduced to give women access to land. It is important to note that men must be recognised as a separate group, and therefore

accorded rights as such. As long as they are not recognised as a distinct group with distinct needs, efforts will remain inadequate. Effective and regular follow-up and monitoring are thus needed to ensure that any possible loopholes in the policy and law are not exploited at the expense of landless poor and women.

While it is true that some women do hold titles to land, they generally exercise little control over it. This signals a need to develop women's capacity, through training and awareness-raising to help women manage land on their own.

Agricultural work should be brought into the formal economy so it could be regulated and workers could be protected. Then, women's contribution would be more recognised and valued, and the multiple issues of agriculture labour could be addressed more effectively. Corollary to that is targeting women as farmers, providing women extension services like access to agricultural loans and inputs. Knowledge building is essential to women farmers and this needs to be enhanced.

Taking into account religion and women's land rights, *Shari'a* law is practised and the most widely accepted means of granting women the rights to own land through inheritance. Therefore, religion can be relied on to demand women's equal rights, as are the cases in Turkey and Somalia, where both male and female children inherit equally from the father's estate.

Finally, the Pakistani Courts accept the widely practised *Tanazul*, whereby a woman has the right to forgo her share of inheritance. This is also called the "good sister" concept, under which a sister is almost expected to willingly give up her share. Due to familial pressure, this is rarely challenged in the Courts. Policy should dictate that cases of *Tanazul* be monitored and examined rigorously to ensure women are not relinquishing their land under duress. ■

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