

Gender and Land Reforms in Pakistan

Nazish Brohi

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Mailing Address: PO Box 2342, Islamabad, Pakistan.
Telephone + (92-51) 278134, 278136, 277146, 270674-76
Fax + (92-51) 278135, URL: www.sdpi.org

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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.

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Gender and Land Reforms in Pakistan

Nazish Brohi

1. Background

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The demand for Independence from both colonial rule and communal majority of united India was a result of convergence of diverse, often conflicting ideas and aspirations, and these contradictions festered in the post-Independence national developmentalist state. The push and pull of high politics following 1947 had to mediate between survival in face of inadequate resources and infrastructure and perceived threat from India; to maintain legitimacy by delivering on promises and actualizing people's visions that fuelled the demand for separation; while simultaneously tempering people's aspirations and allowing structural continuity. The need for the latter was primarily a consideration of those who came into political power and formed its core elite – those who owned the most resources, namely the large landowners and the armed forces. In the backdrop was a State (by no means a neutral arbiter) struggling with scant, overstretched resources attempting to form and develop a government, an economy and a nation.

Land was the key, for crisis mitigation (whether of rural peasantry or migrants following Partition) as well as of status and status quo. Since Independence was as much a spatial demarcation as political severance, land took on more than physical attributes and became a metaphor for citizenship and belonging, sustenance, nationalism, ethnicity, identity, religion and spiritualism. Land became an allegory for independence itself.

For the landowning class, independence also promised them freedom from the Hindu moneylender, from the colonial administrator, from allegiance and land revenue pledged to rulers. For the rural landless, it also meant social justice (or its religicized equivalent), which included ownership of land.

Structural adjustments from the development state to a neo-liberal one has in practice provided policy mechanisms – privatization, financialization, state withdrawal, liberalized trade – that have allowed the private sector to engage in predatory forms of accumulation, whereas the 'adjustment' formula has allowed traditional power structures such as *zamindari* to remain intact till more effective mediators of capital are institutionalized.

Current wisdom seems to indicate that for landless people to do well, they should be educated, trained, capacitated and enabled to move out of agriculture. The possibility of bettering their situation from 'within' is generally not perceived as a viable option and hence, almost no attention is paid to changing tenancy arrangements. This perception is reflected not just in official policy, academic publications, donor approaches and discourse of intelligentsia, but seems to also have trickled into the consciousness of landless workers themselves.

Comment [WA1]: Whose?

Legislative imposition of land reforms by the state has met with institutional inertia and significant political opposition. With accelerating globalization and sweep of capitalism, multiple loci of influence, power and money and extreme, systemic inequalities, the return to state mandated redistribution seems increasingly unimaginable. The general failures of 20th century state-led reforms to change the balance of social power, which enables dominant groups to monopolize land holdings as a source of accumulation and key indicator of status and political power, and in particular, to make a significant change in the conditions of the landless has led to discounting the possibility of significant pro-poor change in agrarian relations.

2. Mapping the Research

As the land question stages a comeback in development discourse, this time ensconced in the rubric of the market, not equity, it is important to reflect on past efforts at its mediation. This paper will attempt to do so by tracing the evolution of the organizing of land to examine the context, direction and underlying objectives of the three State-led land reforms in Pakistan. It will do so with a specific focus on the interface of land politics and gender relations, with the understanding that land, among other resources, has been one of the key components for maintaining patriarchal control of women; that rural women's lives are intimately connected to land, on which they are direct stakeholders; and that there is a semiotic connection between the symbolic value of land and discourses around women's symbolism.

The paper will follow a chronological order, while weaving in reflections on issues as they emerge linearly. Owing to the paucity of literature specifically on the woman question with regard to land reforms, this study in places attempts to read horizontally between the political trends around land, and women's movements.

Bangladesh was part of Pakistan till 1971 as West Pakistan, and after a culmination of serious grievances against the East Wing that remained un-addressed, declared Independence after a civil war. Its political development with regard to land reforms evolved on a separate trajectory, and with the East Pakistan Land Acquisition Act of 1951, and East Pakistan Estate Acquisition and Tenancy Act of 1951, abolished landlordism and feudalism. Although it would make an interesting comparative research with regard to its gendered impacts, it has not been included in the scope of this study.

With regard to land, opinions have varied on what constitutes exploitation and therefore what social justice would require. Broadly, there have been two schools of thought: one which problematizes the exploitative power relationship between the tiller and the landlord, and the other which problematizes the feudal landholdings as exploitative per se. In the former category have been the reformists who have advocated changes within the system to provide greater security of tenure to tenants and reducing burden of extortionate levies. These are adherents of change of condition.

In the latter have been the revolutionaries that have advocated changes in the structure itself such as abolition of tenancy contracts and replacement by a system of peasant-proprietorship,

equating physical labor with a moral claim of ownership. These adhere to the need of change of position.

Those pressing for improved conditions insist that if ceilings are placed on private landholdings and sharecropping system made more just, and if revenue courts are authorized to adjudicate disputes, the creases in the agrarian system would work themselves out. They oppose the other 'camp' on grounds that there is not enough land to redistribute to all land workers and whatever would be parceled out would not be economically viable; additionally that such moves would cause rupture in the economic and social structure of society.

Those pressing for systemic overhaul say the asymmetry of relations is inherently unjust to the laborers, that there are few incentives for either party to raise productivity and that the structure needs to be ruptured to pave the way for a just working system that will transform power relations.

The economic efficiency arguments of either side, redistribution of land versus free market enterprise versus feudal atavistic claims, were built up to support corresponding political or moral positions. For instance, a plethora of economic evidence supports the case of giving land parcels to tillers, citing the inverse relationship between farm size and efficiency. There is also abundant data showing the economic inefficiency of land fragmentation and adverse impact on agriculture. Then there is copious material on private property as incentive, the disincentive of the possibility of resumption by state and failure of collectivized farming. But all these view land single dimensionally as a commodity. This paper will deliberately not examine the economic efficiency arguments, both for free holding or for interventionist restructuring of land, and will focus on the objective of social justice and equity that had informed land reform movements and legislations.

This paper limits its focus on legislated reforms and their gendered implications without looking at plurality of legal systems that impinge on women's access and control of land, without looking at people's movements and positioning of political parties vis-à-vis land (except that which legislated on land reform) nor would I even begin to build the case for women's rights to land. These would be examined in other components of the larger project of which this paper is a part.

3. Historic Overview

3.1. *The Indian Subcontinent*

The land tenure system inherited by Pakistan in 1947 was in many ways a symbiosis of the structural relationships that permitted economic and social exploitation of tenant by landlord¹. The inequitable and unproductive land regime was created by the British to create a class-based constituency of collaborators of colonialism by creating significant benefits in return for support. Central to the anti-colonial struggle were questions of land reforms and food self-sufficiency that

1. Land Reforms in Pakistan: A Historical Perspective, Haider Naqvi, Mahmood Hassan Khan & Ghaffar Chaudhry, Pakistan Institute of Development Economics, Islamabad 1987

sought to overturn the regressive property regimes and gross misuse of agricultural resources that were constitutive of colonial rule².

Prior to colonization under the British Empire, the sovereign rights of ownership of the land rested with the sovereign of the land, the King. Nobles called Mansabdars were responsible for tax collection (in kind) and upkeep of peasant army of the Mughal Empire. The area of jurisdiction of each mansabdar was called a jagir, and within it, he was called the jagirdar – entire sub-continent under Mughal rule was the ruling king's property. Peasants were given heritable cultivating rights, for which they paid an amount to the king, usually half or one third of gross produce. It was in the reign of Emperor Akbar that an elaborate land revenue system was established, assessing taxability by creating four categories/grades of fertility. The form of payment and amount varied, which was collected by designated people to take to the king, and these agents were called zamindars. Their importance in society was symbolic, because of the connection to the monarch, but not economic because Mughal tax either exceeded or was equal to the rent received from the peasant³. However, they did have judicial powers, as an element of state authority conferred status with attendant power, which made them the lords of their domains. They held regular courts, called zamindari adalat. The courts fetched them not only power and status but some income through imposing fines. The other variant of intermediaries were jagirdars, who were awarded revenue collection rights for themselves in return for providing services such as troops for the army. So there was no private ownership of land in the absolute sense. Hamza Alavi summarized this economic superstructure as consisting of un-free labor; extra-economic coercion; fusion of economic and political power at the point of production; self-sufficient village economies and simple production that did not involve capital accumulation⁴.

This land structure was widely contested. In the late sixteenth century, for example, the Roshaniah movement led by Bayazid Ansari was propagating collective farming and challenging the very concept of private property and King's property by saying all land belongs to God and since He says people are created as equals, its benefits should also be equitable (detailed by Ahmed Saleem in Peasant's Resistance paper). Eventually, the leadership of this movement was passed onto Ansari's daughter-in-law, Bibi Alai, who launched her struggle against the British Empire from Tirah valley. During Emperor Akbar's time, in an uprising against his rule, three generations of Bijli Bhatti, his son Farid Bhatti, and grandson Bulla Bhatti, farmers refused to pay taxes. The fierce clampdown resulted in forced evictions, scuffles, arrests and execution of its leaders, including the persecution of Mai Laddi, Dulla Bhatti's mother.

The disintegration of traditional land systems started even before the British conquest. Inter-dynastic wars, unraveling of centralized authorities, chaotic arbitrariness and shifting power centers characterized the period towards the end of the Mughal rule. Traditional rights of ownership and cultivation corroded. So in the latter stages of Mughal rule, occupancy rights had

2 For further detail on land based/ peasant movements against colonialism, see Ahmed Saleem's paper of this research project.

3 The Political Economy of Pakistan: An Agenda for Reforms, Akhtar Ali, Royal Books, Karachi, 1996

4 Hamza Alavi, Capitalism and Colonial Production, Croom Helm, London, 1982

assumed the attributes of private ownership in practice, mainly because of the erosion of central authority and with it the rise of contending claims to power.

After the disintegration of the Mughal Empire and the establishment of colonial administrations, India's traditional land use and ownership patterns changed to ease the acquisition of land at low prices by British entrepreneurs for mines, plantations, etc. Introduction of the institution of private property and introduction of Land Tax under the Permanent Settlement Act 1793 entrenched zamindari as a system. Settlement signified the collection of revenue from peasantry and conferred proprietary rights on the intermediaries. The 'Crown' also awarded estates, jagirs to those who colluded with the colonists.

The British fixed revenue demands from cultivators at rates lower than the rent, and through this surplus amount, created private rent interests which were then kept by the *zamindars*. By introducing money taxes to replace the in-kind economy and developing a revenue collection bureaucracy, the cumulative pressure to pay money redirected agriculture towards cash cropping, hence land assumed commercial value. So this class of revenue collectors and intermediaries was turned into a land owning elite through collusion, as this ensured for the British stable revenue collection plus the promise of local level governance. The zamindars and jagirdars then began supervision of cultivators (*haris* or *muzaraeein*) through agents called *kamdars* or *ahalkars*. Most held temporary tenure at the will of the landlord and were charged levies such as *abwab* and *huboor*, and also extracted *begaar* – forced labor from cultivators, all of which added to the landowner's share.

After securing the firm support and collaboration of this land 'owning' class, over a period of time, the British took some legal and administrative steps to improve the tenurial rights of tenants, because of the rising friction between the owners and tillers.

The volatility of relations between landlords and tenants came into prominence first in Bengal. A number of political parties in Bengal other than the Congress represented tenants of *zamindars*. Legal struggles for tenant rights took off with 1859 reform acts in Bengal, and escalated in 1873 when tenants formed Agrarian League Pabna District to resist rent increases, illegal cesses and threats to occupancy rights. Led by wealthy tenants (*jotedars*) and social reformers, the Agrarian League fought landlords in courts to create perpetual leases. A more sweeping tenant reform act appeared in 1885. In decades that followed, tenant representatives carried their struggles into regional politics; in the 1920s, they sat in government. Because many tenants were Muslims, communal representation benefited politicians. The same trend became evident a few years later in what is now Pakistan.

After the construction of irrigation infrastructure in the 1880s, necessary to increase agricultural production to meet the demand in both, India and Britain, the Raj allocated plots of land to thousands of peasants to establish canal colonies in what were till then, crown-lands⁵. These peasant proprietors were seen as the principle economic actors for agricultural productivity in the

5 Structural Change in Pakistan's Agriculture, Haider Naqvi, Mahmood Hassan Khan & M. Ghaffar Chaudhry, Pakistan Institute of Development, 1989

previously water-deprived area. But these peasants soon accumulated debts which led to alienation of land in favour of the non-cultivating money lenders, who became the new owners.

This transfer of land from agriculturists to non-agriculturists created a new layer of intermediaries whose only interest in land was to maximize profits via share in total produce in the form of rent. Tensions between landlords and tenants started to grow and fester, such as between indebted Maratha cotton farmers and Marwari moneylenders in the 1875, leading to small-scale rebellions. When the religious precepts seemed inadequate for profiling (and containing natives), British administrators turned to focus upon custom as a source of law. After the Punjab Laws Act of 1872, revenue collectors in the Punjab were directed to conduct surveys to ascertain customary practices in each village, which focused on landholding rights since their main function was to assist in revenue collection⁶.

In the context of the upheaval in Punjab and also committed by their own official tradition to the people they called “martial races” in Punjab, legislation regarding land ownership was enacted – the Punjab Tenancy Act (XVI) of 1887 – that stipulated that a tenant could assume the status of an owner if he could prove continuous possession and cultivation on a particular piece of land for over 20 years.

Equipped with the detailed survey of customs for profiling groups, the government then passed the Land Alienation Act (XIII) in 1900. The Act prohibited the transfer of land for debt default to what it called “non-cultivating tribes,” who were mostly Hindus. This law expelled merchants from markets in agricultural credit and enriched the landed groups who moved into money lending, the land owning group being mostly Muslims and Sikhs. Landowners large and small rallied around the law; merchants opposed it. Yet in a significant effort at social engineering, the Act also took away the landowner’s right to sell or mortgage the land without approval of the district officer – this would be given upon proof that the landowner belonged to a tribe designated in the government gazette as ‘agricultural’. For numerous Sikhs and Muslims, communal electorates protected economic interests. The fact that official ethnic identities coincided with religious identities made religious leaders more influential.

The analysis of colonial bureaucracy and structures held the image of a male peasant farmer as the definitive ‘native’. But their functioning was a highly gendered process, since the colonial administration realized the value of women’s contribution to land and agriculture, yet denied them the rights that are implicit in responsibilities. Prem Chowdry traces a colonial administrative report on the revised land revenue settlement of Rohtak district in 1880, which states, “Enquiry from people themselves, in almost every village of the district has shown that as long as a family has its proper complement of workers, male and female, it is well-to-do ... where there is no woman in the family, the house is certain to fall into difficulties.”⁷ Chowdry illustrates that the Rajputs were regarded the worst cultivators in the Punjab because the honor

6 N. Bhattacharya. ‘Custom and rights: a conflict of interpretations’, Oxford University Centre for Indian Studies, 1987

7 Prem Chowdry, Customs in a Peasant Economy, Kali for Women, 1989, quoting W.E Purser and H.C Fanshawe, Report on the Revised Land Settlement, Lahore 1880

code forbade them to utilize women's labor, and that for the same reasons, the Pathans were considered 'bad cultivators and bad revenue payers', and because the Baloch did not actively involve women in agrarian work, were seen as 'poor cultivators and heavily indebted'⁸ to point out that non-utilization of female labor was considered to be one of the chief determinants of poverty. Whereas a widow's right to control land had been legalized under the Land Revenue Act that held widows responsible for payment of government revenue dues, land-related officials appealed and complained that widows were alienating their property 'without necessity'. J.M Douie, compiler of the Punjab Land Administration Manual advised revenue officials that the widow's attempts to partition land holdings "should be disallowed".

From very early on, land has featured in the region as a tool for mediating and conferring power and has been dealt with as a project of disciplinarian governance, and all changes in configurations have been to diffuse adverse conditions, not to create favorable ones. Land discourses are also among the earliest indicators of how economic interest groups found articulation in communal/ religious identity politics.

Twenty five years after the organized resistance in Punjab, Sind was the next site of ferment. A peasant movement for rights of farmers by 1930 coalesced into an organization, Sind Hari Committee and six years later, the separation of Sind from the Bombay Presidency offered opportunity for change. The emphasis of the Central Muslim League Committee on guaranteeing Islamic justice to peasants and passing of land reform legislation in other parts of India brought the issue to center-stage⁹.

The Sind provincial assembly appointed a group, the Tenancy Legislation Committee, to examine the problems and grievances of haris and to suggest ways of improving their working condition, the report of which was submitted in 1945.

The recommendations included:

1. Making tenancy rights permanent and heritable, for those who had cultivated a land for eight consecutive years.
2. Encouraging cash payments instead of crop sharing but without abolishing sharecropping (batai).
3. Providing certain conditions a hari must observe to retain his tenure on land.
4. Recognizing the importance of giving haris a vested interest in land to secure more efficient cultivation.

The Committee had a strong representative of the hari cause in G.M. Syed, who authored a note of dissent from the recommendations. He urged that tenancy rights be granted to haris without qualifying further, that tenancy be regulated and controlled by the state, and that land be nationalized without paying compensation to owners. He argued that "The tiller of the soil is the rightful owner of the land and (that) in this there is no room for middlemen".

Comment [WA2]: Just a reminder for this reminder.

⁸ Prem Chowdry, *Peasant Economy in Recasting Women: Essays in Colonial History*, Zubaan, 2006, citing M.L Darling, *The Punjab Peasant in Prosperity and Debt*, Manohar Book Service, New Delhi 1978

⁹ Naqvi, Khan and Chaudhry, 1987

There was another note of dissent of Djalma Daulatram who had a diametrically opposed position. He said patronage and supervision of landlord was critical for haris to work properly, otherwise they would thieve. "It is a recognized fact that haris generally steal crop up to 10 to 15%. [it is a] forlorn hope to expect a landless hari to be more efficient left without supervision of the zamindar." He warned against disturbing the rural economy.

So while the report was a critical documentation of the differing views present in officialdom and approaches to peasant's issues, its findings were mostly ignored by the provincial government in face of other pressing concerns such as polarized politics in the build-up to Partition. However, the report and notes of dissent highlighted the deep division of opinion that existed before the creation of Pakistan even on the issue of giving limited tenancy rights to tenants¹⁰.

It is important to note that by this time, the British had passed a law declaring inheritance would be governed by Shariat law over prior superiority of customary law, which meant that giving inheritance to women was now mandated by law. In 1937, the Central Legislature enacted the Muslim Personal Law (Shariat) Application Act (XXVI of 1937), which extended the application of Muslim Personal Law to Muslims all over India. This meant all inheritance would be according to Shariat, in which women also have a claim and right over family resources, albeit a smaller share than male heirs. This law covered all marriage, divorce and inheritance. Yet there is no mention in the Tenancy Legislation Committee report on women's right to inherit either land or tenancy options. There is reason for that: the Shariat Application Act 1937 categorically exempted agricultural land from governance through Islamic Shariat.

As the nationalist movement started to take hold with the formation of All India Muslim League, there was a marked mobilization around the marker of Muslim identity. One means of promoting the idea of the unity of Muslims was to prove they are governed by the same set of laws – so began the push to replace customary laws with Shariat Acts.

According to customary practices, women did not inherit property although Islamic Law specifically gives women the right to inherit. Agricultural land continued to be governed through customary law. The Committee chose not to use the space created by this law to situate women on the continuum of land politics. So the religious authorities did not press for Shariat to be applicable on landholdings, neither did the landowners demand it. This selective invocation of religious laws underlines the importance of patriarchal control of property as key to patriarchal control of women, and signals the common interests of these two sections of society. Landed interests dominated the West Punjab Legislature even after independence, and resisted the pressure to adopt Muslim laws giving women inheritance rights in agricultural land because it was not just a wealth asset, but served a larger politics.

Published literature is silent on the condition of women and their lives under varying land administrative systems. But it is clear that the British colonial administration was careful not to cause social ruptures that could potentially threaten the indigenous social orders and hierarchies,

10 Naqvi, Khan and Chaudhry 1989

specifically anything that could impinge on women, land and agrarian society. As early as 1772, when the first attempts at writing canons and institutionalizing laws were made, the Hastings Plan established civil and criminal courts to apply indigenous legal norms (in this case, the Anglo-Muhammadan law) in all cases regarding inheritance, marriage, caste, inheritance and other religious institutions. Though courts followed British processes and models of adjudication, they had maulvis and pandits to advise them on implementing laws. This favored the local and regional elite over agrarian producers and they thrived under new legal rights. The administration of family law played a role in mediating wealth and power at the local level, regulating property and labor, through charting division of labor according to sex and age, marriage and its dissolution and inheritance and ultimately governing community-based forms of surplus extraction. The colonial power secured its native collaborators partly through endorsing local and regional patriarchies. Allowing the personal domain to be governed by personal laws invested in the domestic sphere values of purity – un-compromised turf, un-colonized space.

While some have made the case that the colonial regime intervened only in areas where their authority was threatened, they also took legal initiatives to correct what constituted ‘moral wrongs’ for the colonial administration. For instance, slavery was abolished in 1843, Child Marriage Restraint Act was passed and Sati – widow burning was outlawed. Yet in 1875 when Islamic criminal laws, procedures and canons of evidence were replaced by colonial codes, family law and property transactions were exempt.

3.2. Pakistan: Post-Independence

The major attributes of the land system in Pakistan at the time of Independence were concentration of land ownership; absentee landlordism; insecurity of tenure of agricultural workers; sharecropping in kind with levies and perquisites¹¹.

This was in the backdrop of intense political activity, in which *zamindars* were the single largest group in the Central Muslim League Council with 50 percent of council members from Punjab and over 60 percent of those from Sindh. In the elections of 1951, 80 percent of seats were taken by large landlords. In 1953 elections in Sindh, 90 percent of the seats were occupied by *zamindars*¹². In the National Constituent Assembly in the mid-fifties, about 70 percent of West Pakistani members were landlords.

Despite the stronghold of the landholding class, there was simmering unrest in the lower classes. The Muslim League had promised that an independent country would solve many social ills, and no longer had an imperial presence or Hindu majority to blame for the sufferings of the masses. Before the 1946 elections in Punjab, the Muslim League had promise radical land reforms, but then watered its version down. In 1949 the Muslim League Agrarian Reforms Committee planned to fix land ceilings at 150 irrigated acres or 300 non-irrigated acres, while providing compensation to landlords from whom the land is resumed. But the Bill that was introduced in the legislative assemblies did not even refer to the ceilings, and only tried to educe the landlord’s

11 Underdevelopment and Agrarian Structure in Pakistan, Mahmood Hassan Khan, Vanguard, 1981.

12 Mushtaq Ahmad, Government and Politics in Pakistan, Praeger, 1963.

crop share from fifty to forty percent. Even these mild measures were met with vehement protests in the Assembly.

The Sindh government's non-action on the report of the Tenancy Legislation Committee gave impetus to the *hari* movement, which was accelerating both in membership and support and with public activities. The success of tenant's activism in Bengal and limited progression in Punjab provided fuel for further agitation. The surrounding was already very politically charged with the date of Independence approaching. There was fear that any permutation in the channeling of public power could challenge the dual axis of the movement (independence from colonizers and separation on basis of religious nationalism) and lead to fragmentation of the demand of collective communal rights.

Hamza Alavi's 'salariat' thesis postulates that the movement for Pakistan was essentially one of the salaried classes of Muslims who felt their position of privilege would be threatened in a united India. So where one privileged class was demanding separation, there was a perception that a deprived class could also coalesce around revolutionary demands¹³. Landlords were already playing up the 'red threat' in Punjab and advocating an official clampdown, alleging the Kisan Committee was a Communist front.

In this context, in March 1947, the Sindh government appointed the Government Hari Enquiry Committee to "examine all alleged grievances of haris, whether express or implicit"¹⁴. The motivation was suspect from the start because the chairman was himself an English Landlord, Sir Roger Thomas; the committee was given only three months to investigate the issue and submit its report; and it was divided from the start into a majority of four and minority of one.

Comment [WA3]: Another reminder for a reminder.

The report warned that the haris would "lose more than they will gain by revolutionary tactics", vehemently refusing radical change that could 'disturb rural society'. Echoing the position of Daulatram in the earlier TLC, the report was of the view that the landlords were not responsible for the dire conditions of the haris; in fact, the landlords were friends who were willing to help in their time of need. The severe situation faced by haris were of their own making (dishonesty and bad habits), further aggravated by natural factors of soil and climate.

The report recommended that shares of hari and landlord in the produce should be regulated according to the source of irrigation, varying with the type in use, and that *abwab*, *begaar* and *haboob* should be abolished. While the committee admitted serious faults with the *batai* system and absentee landlordism, it did not recommend their abolition, stating it should be retained - reversing the progress in stance of the TLC. It suggested that haris should not be granted permanent rights of tenure except as an experiment in some *talukas* after the refugee claims on lands are settled. Even though the Tenancy Legislation Committee conceded this principle, this Majority report was against granting permanent tenancy rights to the haris.

Comment [WA4]: Glossary of terms is needed.

13 In July 1948, two hundred policemen called a strike in protest to delays in receipt of pay. The army was called in to 'stamp out the revolt', there was an exchange of fire and was charged as having been 'fomented by the local Communist Party'.

14 Government of Sind, report of GHEC, Government Hari Enquiry Committee, Karachi 1948, reproduced by Pakistan Law Society, 1965

The person in minority in the Committee authored a Note of Dissent that has reached a near canonical status in leftist Sindhi writings. M. Masud, popularly known as Masud Khadarposh brought on record the lived experiences of the haris. He expounded on the deplorable conditions of haris, calling them and landlords the two extremes of humanity - one of depravity and misery, the other of luxury and extravagance – calling *zamindari* the worst curse a country can collapse under, incompatible with freedom and responsible for creating poverty.

He wrote, “These evils do not result from any special ignorance or ill conduct of individuals but are inherent in the system itself. The great zamindar is necessarily a monopolist and a despot..... In every step he takes to secure this end he is supported by the power and the majesty of the law.” Encouraging the appropriation of lands of landlords, he stated “By expropriating them, we shall lose only the experience of 7000 *zamindars* while we shall gain the experience, interest and initiative of twenty lakh *haris* who would take immensely greater interest than the *zamindars* were ever capable of.” Writing on the majority recommendations of the committee, he wrote “The entire system is vicious and deserves to be abolished these recommendations savor the slave traders of the medieval ages!”

The class and interest group composition of the majority reflected throughout the report and its recommendations, for example in the proposal to define as offence and penalize a hari for leaving the landlord if under debt to the landlord. “The penalty should be the attachment and sale of livestock owned by the hari conviction before a magistrate simple imprisonment not exceeding one month.” This is the blueprint for the bonded labor faced in the country today, its endorsement coming from a government-mandated body. The report was perhaps the most serious setback to the progress made in other parts of Pakistan towards reform¹⁵.

It is significant that the provincial Muslim League government disallowed the publication of M. Masud’s Minutes of Dissent. Naqvi *et.al* write that “It was perhaps the first clear indicator of the power of landlords in the regional politics of the new state of Pakistan.”¹⁶ The minutes were published in 1949 because the report of the Agrarian Committee had been published, which expressed similar sentiment and proposed radical solutions and the then chief minister of Sindh – Yusuf Haroon - was a friend of Masud and an urbanite, having no roots in the *zamindari* system.

The government of Sindh took no action on the recommendations of either the committee or the note of dissent. In the backdrop, Partition and its attendant crisis had happened and the newly established state was dealing with nation-building, survival with extremely scarce resources, struggling to develop infrastructure as well as dealing with the problems of a population moving both to and from the country. Equally significant was the political climate in the province. In fact, “Landlords countered by unleashing a reign of terror. Larkana and Nawabshah were among the worst affected districts. Private armies could perpetuate heinous crimes including murder, secure in the knowledge of being protected, if not rewarded for helping restore rural Sindh to its traditional quiescence.”¹⁷

15 Naqvi, Khan & Chaudhry, 1987.

16 Naqvi, Khan & Chaudhry, 1989.

17 Hassan Askari Rizvi, *The State of Pakistan*, citing Nawa-i-Waqt, 8th June 1950.

A decade before the formation of the Hari Enquiry Committee, in the early thirties, the Muslim League had passed a resolution ‘favoring suffrage, representation and equality for women.’ Yet this found no resonance in the concern for peasants and land rights initiatives.

The women were by now cognizant of importance of land for power equilibrium, and the earliest post-independence record of women’s protest and agitation was on women’s rights to inherit. Women from the relatively privileged classes (those with agricultural land) thought that the only way they would be able to claim right to land was by pushing a line of argument that was hard to counter – religion. Islamic law allows women to inherit, whereas the law of the country at that point restricted them from inheriting agricultural land (through Act of 1937). To gain this right, they advocated Islamic Law to be declared unconditionally supreme authority. The first legislature of the nation had two women representatives, Jahan Ara Shahnawaz and Shaista Ikramullah, who tried to present a bill, but it was taken off the agenda. It was not until women protested and hundreds of them demonstrated outside the Assembly building that the law was passed, the West Punjab Muslim Personal Law (Shariat) Application Act (IX of 1948).

The debate of whether women’s rights should be demanded from within a religion-based framework or whether to appeal to the universality of human rights has been argued globally within women’s politics, both activist and academic, and currently between ‘mainstream’ feminism and Islamic feminism. The strategy to press for women’s rights within the Islamic framework has also been hotly contested within the Pakistan’s women’s movement, each side having solid adherents.

The group that supports this framework feel in a context that offers very few opportunities to women, and where secularism holds neither mass appeal nor official patronage, it is politically convenient to claim whatever spaces are available, and that the religious idiom is one that can press for implementation with moral authority. The alternate argument proposes women’s rights as human rights, therefore embedded in a universalistic human rights discourse and that resorting to qualifications and limitations compromises this logic, that feminism must critique all domination without selectivity and accepting parameters of religion closes off options.

This action over inheritance is a case in point: where women’s groups were initially advocating imposition of Sharia throughout the land as an empowerment measure, since then the country has undergone a process in which religion was used to repress women’s rights and disempower them, and now, women’s groups stand to lose the most by moves towards Islamizing the country.

There have also been recent critiques of invoking religion as strategy, in which the good will indemnity of early actions of women’s groups have been challenged. Ayesha Jalal, for example, writes that many strategies were predicated on maintaining class privilege, which she calls the ‘Convenience of Subservience’. Certain advantages then, were offered to women for accepting the system, which they availed, such as ownership of agricultural land, without pressing for generic rights of women to land that could have encompassed poor rural women for whom the question of inheriting fertile farmland does not arise.

Comment [WA5]: I think the debate has not been mentioned so far. I think the debate has not been prefaced enough to be introduced as ‘this debate’. The debate of demanding women’s rights in religious idiom or as human rights??

A year after the Sindh Government Hari Enquiry Committee published its report; in 1949 the Muslim League Agrarian Committee at the federal level also went public with its findings. This was the first official commitment to land reforms by the Pakistan Muslim League. The country's first food conference, which was called in an emergency in face of food shortage had emphasized the need for agrarian reform to increase production to cope with rising food demands.

In the follow up to Independence, the League had promised Islamic notions of justice and that Muslims would have their rights in Pakistan, so it could not afford to leave the issue of land rights unaddressed for long, more so since League leaders had promised reform. In India, the Congress had widely been promising land reform, Nehru had adopted the socialist creed and was openly dismissive of *zamindars* as redundant liabilities – this populism had mass appeal for people. In fact, in 1931, the Karachi Resolution of the Indian National Congress had adopted the slogan 'Land to the Tiller, Power to the People'. At parallel with the Muslim League Agrarian Committee, the Congress Agrarian Committee in India also published its findings in 1949.

The Muslim League Committee, led by Mian Mumtaz Khan Daultana acknowledged that land concentration and tenure systems were asymmetric and 'inconsistent with principles of Islamic justice'. This radical document articulated drastic change to ensure social justice, such as dismantling feudal structures and described peasant-proprietorship as the ideal tenurial arrangement. It suggested that keeping this vision as the end objective, the reforms should be two-phased, the first of which should alleviate immediate problems of share croppers and landless workers like substituting *batai* arrangements with cash rent, fixing minimum wages, fixed working hours, insurance, pension, medical aid and such. In the next phase, it suggested that feudalism be replaced with peasant-proprietorship, regulated and monitored by the State, in which further acquisition of land would be prohibited. This document virtually ended the official hostility to the very idea of land reforms, like the negative stand taken by Sindh Government Hari Inquiry Committee¹⁸.

Though the findings of the committee were not translated into law at this point, it provided impetus to provinces to legislate their tenancy acts, which they did the following year. The report of the Muslim League Agrarian Committee was a progressive document, which outlined far-reaching measures for laying the foundations of social justice. For this reason, its overlooking of women in the equation is more intriguing than the disregard of women in the previous bodies.

Earlier, the Pakistan Muslim League had acknowledged women as integral to the struggle for independence, and many women had been attending various meetings of the Party, even participating actively and speaking, such as in the September 1920 session in Calcutta. As early as 1912, this political group had emphasized the need for women's education as 'the most vital contribution to the cause of national regeneration.' Muhammad Ali Jinnah, as President of the Pakistan Muslim League had made a landmark speech in Aligarh in 1944 reaffirming the pivotal place of women: "No nation can rise to the height of glory unless your women are side by side with you.....There is no sanction anywhere for the deplorable condition in which our women live. You should take your women along with you as comrades in every sphere of life." Women

18 Naqvi, Khan and Chaudhry 1989.

were in the Parliament as members, and at that time had recently fought for and won the right to inherit agricultural land.

Why then would they not merit a consideration in a progressive document of a progressive political group willing to talk of injustices? The answer could possibly lie in exploring class dimensions. It is possible that it was not women per se that were unrecognized but a lack of recognition that issues of tenancy, share cropping, farm labor, debt bondage and landlessness directly concerned and impacted women. Through this document, genuine sympathy for and a desire to help bring notions of justice and equity in the lives of the poor and powerless seems evident. But the poor landless peasants are seen as an undifferentiated mass.

This bird's eye view obscures the power relations and hierarchies within the poor and that within this group there are configurations that place women below men, single women below married women, low caste Hindus below Muslims and so on. Women in more privileged positions were acknowledged because they were visible, whether as comrades in the national liberation movement, as wives/ sisters/ daughters, as writers, teachers or societal acquaintances. The marginalized, poorest women were invisible, subsumed within the larger category of 'the poor'. This invisibility links not just with the fact that poor women struggled harder to claim spaces that warranted recognition, but also with unfamiliarity with lived reality of the very landless peasants the Committee was to help. While land titling inordinately favors the de jure tillers, de facto workers are often different. The *batai* may be in the name of the male head of household but women work equally on land, often more exploited, for one because their work remains unrecognized.

Beyond this Committee's report, as laws regarding land reforms were consolidated and passed, this neglect became less 'benign'.

A year after the Muslim League Agrarian Committee's report was published, a rising public momentum led to provincial legislation to regulate tenurial relations on land.

Historically, former East Pakistan was always considerably ahead of West Pakistan in the field of land reform¹⁹. The recommendations of the Land Revenue Commission (1940) and the Bengal Administrative Enquiry Committee (1944) and the East Bengal Estate Acquisition and Tenancy Act (1950) embodied a number of radical changes in the land ownership and tenure system. All sub-tenancies and subletting were prohibited, rent receiving interest between the cultivating tenants and the state was abolished, a ceiling of 33 acres was fixed for self cultivation and tenants were given full occupancy rights including the right of transfer. Recent evidence from Bangladesh shows that there was general, broad based implementation.

In Punjab and NWFP, the Provincial Tenancy Acts (1950) sought to provide greater security of tenure, reduce *batai* share, and increase grounds for self-cultivation and award ownership rights to occupancy tenants. The share of the landlord was reduced from 50% to 40% in Punjab and NWFP, and landlords were forbidden from imposing extra levies and demanding forced and free

19 Viqar Ahmed and Rashid Amjad, Management of Pakistan's Economy 1947 – 82, OUP 1984

labor from tenants. A small minority category of occupancy tenants were granted ownership rights, free of charge in NWFP and with nominal payments in Punjab. However, zamindars could evict tenants if they decided to do self-cultivation, a loophole that was increasingly used by landlords in their favor. There is evidence that there were mass evictions on these grounds and landowners replaced occupancy tenants with wage labor. This led to a rise in debt bondage and seasonal migrant labor, and as self-cultivation was declared, these workers were hired season to season or for a year and then passed on to other landowners.

Even these modest reforms were met with strong resistance in Punjab. After extreme efforts of Mumtaz Daultana among others, the tenancy reform bill was passed. The big landlords met this with a hostile show of strength: they refused to sell wheat in the market, preferring instead to smuggle it across the border to India²⁰. This precipitated a crisis and attempts to institute rationing were disastrous. The government could not call for emergency supplies because the suppliers were the big landlords who had initiated the hoarding, breaking down the provincial distribution machinery. As Ayesha Jalal observes, “The politics of a province – once the ‘bread basket’ of India – had left it facing a man-made famine.”²¹ As a result, implementation remained highly selective. These acts did not produce any significant change in the status of tenants because of domination of the landlord and their control over state machinery. The wheat situation in present-day Pakistan therefore has historic precedents.

The Sindh Tenancy Act (XX) of 1950 granted permanent tenancy rights to *haris* who cultivated four acres of land for three consecutive years. It retained cropping share at 50% for the landlord and prescribed abolition of *abwab*, *begaar*, *haboob* and other levies. Unlike the Punjab and NWFP Acts, eviction of tenants was made conditional on order of revenue courts, besides having to serve them a one-year notice. It instructed *haris* to register their place of residence in the Record of Rights, so the Government of Sindh tried to offer peasants more protections than the other provinces.

Even before the Act was passed, landlords began pre-emptive eviction of tenants and would not allow a *hari* to cultivate the same piece of land continuously for three years to be entitled to permanent tenancy rights. The state machinery at this point felt it could not alienate the feudal support since the country was already enmeshed with multiple crisis and lack of resources. Apart from the political leadership that had immigrated recently from India, all the local political players were landlords. Without a middle class and an industrial constituency, the bureaucracy felt it best not to threaten the local structure too much without alternatives, so there remained a highly disproportionate bargaining power of the landlords vis-à-vis the tenants. Many recorded people’s narratives claimed that despite these changes, the old *batai* shares remained applicable, that even when land was deeded to occupancy tenants, they continued to pay rent to the old owners. So attempts to regulate and protect peasants turned into an instrument of further exploitation.

20 The Politics of Violence and Development in South Asia, Policy Studies 6, Regional Center for Strategic Studies

21 Ayesha Jalal, *The State of Martial Rule*, Vanguard, Lahore 1991

The implementation of revised tenurial relations and later of land redistribution was relatively smoother in NWFP. This was in part because the legislation there was more defined with respect to rights of the landlord and tenant. The explanation may also possibly lie in the historic patterns of relatively lesser land concentration in individual holdings and the tribal kinship nature of societal relations where (landholding) tribal chiefs commanded more respect, deference and status than other, at times bigger, landowners. The collective decision-making processes that governed this society in the form of *jirga*, despite being exclusionary and therefore against the norms of social justice, still curtailed the individual, personal force commanded by zamindars. In Swat, for example, the *wesh* system prescribed the circulation of land ownership after a given period of time, within a tribe. Even today, in Mohmand division, among other, the rotational informal land management formula requires different branches of families overlooking land in different years, leaving them free in the other years to have a secure land based income as well as move to urban areas to look for options or invest elsewhere. The Pashtun honor code dictum of protecting 'zan, zar, zameen' (woman, gold, land) did not indicate the necessity of protecting only personal wealth, honor and land, but that belonging to the entire tribe.

The relative ease of land reform implementation in NWFP may also in part be traced back to methods of colonial management. The colonial power, when collecting land revenue used three different systems depending on the area in question. These were the landlord based system (*zamindari*), the individual cultivator based system (*raiyatwari*) and the village-based system (*mahalwari*). In the zamindar areas, the landlord was in charge of revenue collection and the British administration had no direct dealings with the cultivating peasants. In the *raiyatwari* system, the revenue settlement was made directly with the cultivator. In the village-based *mahalwari* system, village bodies that collectively owned the village were responsible for land revenue. While in some places the village body comprised of a single family, like the *zamindar* system, in others, it was larger, and each person was responsible for a fixed share. This share was determined either by ancestry or on actual possession of land²², which did not allow for anyone person to gain importance through claims of proximity to rulers. The NWFP in Pakistan was governed as per the *mahalwari* system, whereas most of Sindh and Punjab had either the *zamindari* or *raiyatwari* system. It would seem that colonial administration legitimized and institutionalized governing systems that persist to date, the *zamindari* system in reference to political and social domination of landlords and the *mahalwari* system in reference to today's *jirga* system where the collective decision-making councils are the key social and political determining factor, while acknowledging that the tribal decision-making system predated the British administration.

The logic of these arrangements still prevails, as evinced in a report of the World Bank, which states about feudal land lords, "Insofar as the local elites are the only interlocutors with the government that the rural poor have at their disposal, their potential marginalization under non-elected governments may not benefit the poor, since the poor have no other way of exerting

22 The Imperial Legacy: Colonial Land Tenure Systems and Independent India, Abhijeet Bannerji & Lakshmi Iyer, MIT 2001.

leverage on national level policy makers and officials, whether elected or military.”²³ While the Bank makes the point to suggest landlords should not be alienated unless there is a functional democratic dispensation, a highly contentious statement, this also highlights that local feudal lords are still the intermediaries now as they were under colonial administration, and it was and still is, their proximity to ruling dispensations and financial regimes that assures their political domination at the local level.

3.3. Legislation on Land Reforms in Pakistan

After Independence in 1947, Pakistan faced the stresses of survival; coping with the world’s biggest mass migration, poor infrastructure, severely limited resources and little economic strength. It was nine years before the first constitution of the country was written. The land question was prominent because of the claims of migrants moving in from India who had to be compensated in Pakistan, while dealing with the evacuee property of those who had migrated to India. The consolidation of the political power of the landowning classes, on the basis of their economic power required State-led rationalization, which it attempted to institute through land reforms, first in 1959 by General Ayub Khan. The first general elections were not held till 1971. Ayub Khan came to power through a military coup, and as such did not need the feudal class’s electoral support, which may have played an enabling role in undertaking this initiative. While his name is synonymous with the development of an industrialist class clique commonly referred to in Pakistan as the ‘22 Families’, he is also attributed the introduction of the agricultural Green Revolution, which boosted agricultural productivity significantly in the short term, albeit with varied, contested long term effects. However, the next round of land reforms in Pakistan were instituted by Zulfikar Ali Bhutto, the first democratically elected Prime Minister of Pakistan, a populist leader who had a substantial support base in and drew cadres from the landholding class, so independence from support of feudal class cannot be the only explanation. In fact, ZA Bhutto was able to theoretically design and pass a more effective land reform program, in spite of the dominance of landlords in his political party.

3.3.1. Land Reforms 1959

A martial law regime was imposed in October 1958, a joint decision of President Iskandar Mirza and the Chief of armed forces, General Ayub Khan, who then assumed office of President. As President, he appointed a land reforms commission to “recommend measures for ensuring better production and social justice as well as security of tenure of those engaged in cultivation.” The report acknowledged “an institutional monopoly of land in a primarily agrarian society” in which landless workers are “relegated to a socially inferior position with all the disabilities of that position.”

The report of the Land Reform Commission for West Pakistan (1959) specifically recommended that all jagirs and revenue free grants be abolished without compensation; that ceiling be placed on the maximum land holding allowed for each person; that permanent property rights be given

Comment [WA6]: reminder

23 Pakistan Poverty Assessment, Poverty in Pakistan: Vulnerabilities, Social Gaps and Rural Dynamics, World Bank Report No. 24296-PAK, October 2002.

to occupancy tenants and legal protection extended to all other forms of tenants; and that fragmentation below a particular size, by way of inheritance, gift or sale be disallowed.

The ceilings recommended by the Commission were high, at five hundred acres of irrigated land or a thousand acres of non-irrigated land. It also allowed for many exemptions such as for private stud and livestock farms, for religious and charitable institutions, allowed an additional 150 acres for orchards, and allowances for transferring limited area to family members. These were measured not through acreage but Productive Index Units (PIUs). The commission recommended that efforts should be made to maintain economic or subsistence units at their current status (to avoid fragmentation) and a limitation should be put on further subdivision or alienation. It suggested cooperatives as a solution, citing the examples of Japan and Germany.

The ceiling was fixed, as the report members claimed, in a way that will “Eradicate feudalistic elements by causing minimum necessary disturbance of the social edifice leading to a harmonious change over and at the same time, by providing incentives at all levels, conduce to greater production.”

A member of the Commission pointed out a glaring feature that would invalidate any effort to ‘eradicate feudalistic elements’: The ceilings were applicable to individual land holdings, and dismantling of land concentration could be (and was) circumvented simply by transferring property to other family members. In his Dissenting View, Ghulam Ishaq Khan suggested lowering ceiling to 300 irrigated acres or 900 non-irrigated acres as a maximum holding for a *family* (without defining family as nuclear, extended etc.), and wrote that the current proposed features would ensure “society remains indefinitely stratified.” According to the calculations of Naqvi, Khan and Chaudhry [1987] Ghulam Ishaq Khan’s proposals, if implemented, would have yielded four times as much land as was actually resumed under the 1959 land reforms.

The martial law government accepted most of the (majority-led) recommendations of the Land Reforms Commission. The government promulgated the Martial Law Regulation No.64, called the West Pakistan Land Reforms Regulation on 7th Feb 1959.

It abolished jagirs without compensation and established limited individual holdings for the first time. Under this regulation, about 2.5 million acres were resumed and 2.3 million acres redistributed among over 150,000 (183,371) tenants and small owners, constituting 4.5% of total farm area in the country²⁴.

Mahmood Hassan Khan has calculated that the ceiling of individual landholding at five hundred acres, along with exemptions would allow a landlord to retain in his family three thousand acres of irrigated land, at a conservative estimate, premised on a landlord having one wife and two daughters. [See Khan 1994]

Prior to this limitation on personal holding, the person holding the title deed in name was almost invariably the man who was the head of the family. In the rare cases where women inherited land, there was hardly ever a change in the title deed documents, but more of an operative

24 Naqvi, Khan & Chaudhry 1987.

ownership that was passed from men in the natal family to men in the marital family. With this law, the family suddenly assumed importance as a caveat through which to keep landholdings secure, and women warranted mention. The law stated that the owner could transfer up to 18000 PIUs to 'heirs' and a further 6000 PIUs to his 'dependent female relations', with the understanding that the heirs would be male and the dependents, women, and the justification that women's needs are half of those of men since they have other men to rely on.

At this time, women already had the legal sanction to inherit agricultural land. The Commission acknowledged that women belonging to landed families could be and would be given agricultural land, acceptable and validated by the Land Reform Commission. Yet poor women as recipients of redistributed land still do not feature in either the discourse or the legislation.

The usual arguments of needing the support of the local feudal population and not wanting any more ruptures in society after the Partition had torn it apart held less weight now. The State had begun to consolidate its position. The regime did not have either a constituency or legitimacy issue because it was a martial law that had temporarily dispensed with democracy and therefore with representation and therefore did not need to walk the tightrope of zamindars.

Ayub Khan, a liberal, secular, Sandhurst trained army man had reportedly gotten a go-ahead from the USA before organizing the coup, and had the support of Washington in order to 'save Pakistan from becoming a fanatical theocracy'. The General, on becoming President had firmly placed Pakistan in the pro-US camp, signed treaties, requested and secured substantial military aid from Washington which had started arriving – without stressing too much about reactions of conservatives.

Two years after these reforms, the regime would take what has been described as the among the boldest step for women's rights so far, by passing the Muslim Family Laws Ordinance (MFLO). These set of laws governed 'personal' issues like marriage, divorce, separation and maintenance and such, securing for women more rights in these matters than before. Grave resistance from the religious right wing forces and vociferous protest by traditionalists met this initiative, but the regime felt it could weather that storm, and did.

In this context, granting landless peasant women area to till for themselves would not have seemed that insurmountable a barrier had there been recognition and the will to do it. It seems the possibility was less remote then than it is now.

An obvious reason for this not happening was that it did not serve the best interest of 'anyone' at that time (anyone meaning men who were in power). The feudal elements and religious right wing lobby would clearly have condemned it. The peasant movement itself was not asking for it (it is possible they may not have welcomed it anyway). And the *hari* women did not demand it.

With variations in the protraction, strategies and intensities of struggles, women had been managing to achieve whatever demands they had struggled for in the past. Another reading of rights accorded to women could emphasize that there was a selectivity that raised only those

issues that concerned a particular privileged class so that women agreed to reform within established and accepted parameters²⁵.

This theme continues into the MFLO as the law was based on a report of the Rashid Commission 1955, which was constituted not to empower women in general but was necessitated by a particularity. The Prime Minister Muhammad Ali Bogra contracted a second marriage, as polygamy was legal and freely practiced. His first wife was member of the All Pakistan Women's Association, which rallied behind her as she made public her discontent and disapproval. Public protests drew censure against him, after which he commissioned a report for documentation concerning family matters and women. Only some of the recommendations were translated into law and that too, after a lapse of six years. More than a pro-active, pro-women measure, it was a reactionary move to divert attention and save the government from embarrassment²⁶.

Yet another analysis of women's achievements would show that till the 1980s, women's achievements were predicated more on men in key power positions finding taxonomy of women's rights to serve a different political project²⁷, than on the strength of the women's movements and popularity of its demands. For example, in the earlier colonial period, it was the British who legislated to prohibit sati and proscribe marriage of children via the Child Marriage Restraint Act of 1929, without a large-scale movement demanding it. A few years later, it was the religious right wing and ulemas who pressed the British to introduce laws to allow Muslim women limited grounds on which they could get a divorce, previously an option closed to them. This was premised on the growing concern that women were converting out of Islam into other religion to escape from marriages since customary law prohibited divorce²⁸. This resulted in the colonizers legislating the Dissolution of Muslim Marriage Act 1939. Similarly, the first girl's schools were set up by communal religious organizations in Punjab (Anjuman-e-Himayat-i-Islam for Muslims and Arya Samaj for Hindus); later an emphasis evolved on Muslim women needing a modern education to be 'befitting' wives to the increasingly educated, westernized and modern Muslim men from the salaried class; and Jinnah's insistence on involving women more fully in the national liberation project and all other spheres of life, understanding them as 'wealth' and under-developed 'community resources'²⁹.

The project of land rights and entitlements for peasant women failed to draw support on all these three counts: the hari women's voices were subsumed within the larger hari movement; the prominent women with class privilege in whatever semblance of a women's movement ignored the issue and thirdly the cause did not find a male patron or champion whose politics the issue could serve; and nor were there strong indicators that they would have demanded this had they been given the space to do so, if other things remained constant. The research conducted with women across provinces in Pakistan through the SDPI Women and Land Rights study shows that

25 Ayesha Jalal, *Convenience of Subservience*

26 This is not to detract from the significant benefit women have derived from this law, cutting across all class barriers.

27 Shahnaz Rouse, *Shifting Body Politics: Gender, Nation, State in Pakistan*, Women Unlimited, 2004

28 Asma Jehangir in *Shaping Women's Lives*, (eds.) Shaheed, Warraich, Balchin and Gazdar, ShirkatGah 1998.

29 Shahnaz Rouse, 2004

women understand that unless the state institutes support structures that would assist with technical trainings, agricultural extension services and provide credit, women's landholding would not be viable; and recognize that their claim to familial land would rupture whatever social protection systems they informally access. So it seems women trade off their entitlements in favor of the males of their families in return for privileges and male support, while understanding that it is not a fair bargain.

It became fairly clear a few years after the 1959 land reforms that the reforms had not made a significant dent in rural power structures. Land records and reports, revenue accounts and title deeds were skewed and inadequate. The loopholes offered by the law had been utilized to the maximum by the landed classes. The bureaucracy was not ready to challenge the stakeholders in land politics. Most haris who wanted and deserved land were not registered in any official records, so could not give proof of tenancy.

The Ayub Khan regime's emphasized on economic growth without the simultaneous development of political institutions, hence its dependence on civil administration had limited integrative value.

Land reforms would logically be constructed as an attempt to dismantle the power of a ruling clique – the landlords, but what actually happened was an expansion of the ruling elite to include smaller landowners and diffuse political strength to a parallel constructed civil and military elite. General Ayub Khan's Decade of Development passed, but many rural poor felt it had passed them by.

Progress of 1959 Land Reforms up to 30 June 1980 Under MLR 64³⁰

	Area Resumed (acres)	Area Allotted (acres)	Balance (acres)	Persons benefited
Total	2,547,833	2,216,250	331,583	183,266

3.3.2. Land Reforms 1972

Zulfiqar Ali Bhutto armed himself with populist slogans such as '*roti, kapra aur makaan*' (food, cloth and house), pursued a policy of 'Islamic Socialism', carried out a program of nationalization and undertook land reforms again, while condemning the ones undertaken by the prior regime. On 1st March 1972, Z.A Bhutto announced the outline of his land reforms via Martial Law Regulation No 115 in a national broadcast, declaring 3rd March a public holiday in commemoration of the Act.

The law prescribed a landholding ceiling of 150 acres of irrigated land and 300 acres of non-irrigated land or an area equal to 15000 PIUs. This was considerably lower than that allowed in earlier reforms, though it was still applicable to individuals, not families. It resumed excess land without compensation, distributed resumed land without charge to tenants and small owners and

30 Viqar Ahmed and Rashid Amjad, Management of Pakistan's Economy 1947 – 82, OUP 1984

redefined contractual conditions between landlords and tenants, including protection against eviction and freeing tenants from all responsibility for paying land revenue, water rate and cost of seed. A waiver was announced from future payments on land bought by tenants under the 1959 reforms. Additionally, restrictions were placed on eviction of tenants; it was made subject to the decisions of the revenue courts; and the right of preemption for tenants on the land being sold by owners was introduced. Civil servants were to surrender all land in excess of hundred acres, though military officials were not subject to this limit.

The law also revoked all earlier exemptions, making no allowances for stud & livestock farms, orchards and shikargahs. With the exception of universities, all other exemptions to private charitable and religious institutions were also rescinded.

There is an interesting contrast in this particular clause. Where General Ayub Khan and Z.A. Bhutto were both personally secular, liberal individuals, they both took different positions vis-à-vis the religious rightwing. General Ayub played up the potential 'theocratic state' scare internationally to keep himself in power and generally dealt with them as adversaries³¹, but did not challenge them economically and allowed them exemption from land confiscation. Bhutto on the other hand, engaged with them and accepted many of their demands by Islamizing socialism, declaring Ahmedis as non-Muslims, closing down bars, prohibiting alcohol consumption and declaring Friday as holiday. Yet he threatened their economical assets and support by refusing to allow them leeway in landholdings, making the limits applicable. Additionally, land confiscated from orchards, livestock farms, shikargahs and religious institutions was to be used by the government at its discretion, and were it to be leased, the former owners would have the first option on the lease, a stipulation which the government leadership used to favor or penalize.

To make the land reforms viable for recipients, the government in the following year passed the Loan for Agricultural Purposes Act 1973, under which small land owners were issued a 'Pass Book' containing details of the land and its value in produce index units, to be used as a title deed by banks for giving loans.

To give a brief examination of the effectiveness of the 1972 reforms, I will draw on the findings of Mahmood Hassan Khan:

- According to the revenue records, at the end of 1971, there were almost 18,000 people in the Indus Basin (11,000 in Punjab and 7000 in Sindh) who had holdings of over 150 acres, who together owned 3.9 million acres of land. Of this, only 12 % in Punjab and 19% in Sindh was resumed.
- The 1972 Regulation required everyone owning more than the prescribed limit to submit declarations to the provincial land commissions. The number of these declarations in the Punjab and Sindh together was 12,925.
- Those who were 'affected', as in those whose land was resumed were 1064 in Punjab and 690 in Sindh, that is ten percent of total owners with land above prescribed limit.

31 Except when he needed them, like issuance of fatwa against Fatima Jinnah disqualifying her from holding office, on grounds of being a woman.

- Of this resumed area, 52% was allocated to beneficiaries by the end of 70s, and 67% of land resumed in Punjab and 60% of land resumed in Sindh was declared unfit for allotment.

A closer gender-based examination of the phenomenon of Pakistan People's Party would add value, but within this space, it may suffice to say that PPP was not just a political party, but symbolized a space and ended up being a repository of people's aspirations. After Independence, it was the only space that was couched in a pro-people idiom from where one could challenge the mainstream. This could be why people's expectations from the party exceeded even the party's own commitments and people credited its rhetoric with intent – a leap of faith whereas the promises of other political groups were met with skeptic cynicism.

Public statements like 'land to tiller' were very much in keeping with Bhutto's populist rhetoric. It was met with a fervent mass response, which could be why increasingly landlords joined the PPP around this time. The loopholes allowed the administrators to exercise selectivity so many of the landed class could have gravitated to the party to use proximity to avail those gaps as a form of protection. A cynical reading could signal the possibility that they would have desired to be part of that change process also in part to mould it, so the changes respond to and improve only the condition of the landless workers, not their position. I surmise that many landowners cast themselves as 'friends of the poor' not to bring about radical change but to either control it or forestall it. To illustrate, the political opposition to Bhutto condemned the land reforms, not for being radical, but for not going far enough. In the East wing (present Day Pakistan), he criticism was that the reforms did not meet expectation of the haris, and in West Pakistan (present day Bangladesh), the President of the National Awami Party, Ghaus Baksh Bizenjo said they would not benefit eighty per cent of the peasants of the country. The Muslim League praised the reforms as a 'charter of emancipation'. No political force in the country publicly rejected the need or rationale of land reforms.

Support for Bhutto's stated agenda must also be understood in the wider international context, of resurgent post-colonial nationalisms and prominence of third world-ist leftist leanings, non-alignment, anti-imperialism, casting off former shadows of tradition and general iconoclasm. Student movements, labor unions, workers' associations and women's movements were charged globally. Bhutto packaged the 'edge of chaos' theory for Pakistan, but within the parameters of a traditional, statist discourse, which is inherently masculinist. This qualification rendered unintelligible alternate voices, such as that of women, and more specifically, the most marginalized among the women. The masculinist nature of state and embedded-ness of regimes in gendered discourses was of course, not specific to the PPP and common in all ruling dispensations, but Bhutto focused more than others on 'people power'. This should have connoted *all* people, but the populist rhetoric continued to address the male as the normative, as both, oppressed and oppressor, victor and loser.

Consider for example an extract of Z.A Bhutto's speech of March 1st 1972, in which he announced the land reforms:

"The reforms I am introducing are basic, affecting the life and fortunes of the common man more than any other measure that we may introduce in the future.

They will bring dignity and salvation to our rural masses who from today will be able to lift their heads from the dust and regain their pride and manhood, their self respect and honor.”

The image of the feudal lord popularly evoked through various media (speeches, films, fiction novels etc.) is that of the alpha-male: aggressive, violent, and physically overbearing (big built, bearded, often with a symbolic turban, chador or cap), territorial and sexually hyperactive. The peasant meanwhile is generally regarded in ‘feminized’ terms: the repressed, submissive, humble, weak, dependent and in need of guidance and assistance. So here, Bhutto offers salvation via restoration of dignity (considered absent) because of an assumed missing pride, self-respect and honor, all intrinsically tied to the concept of manhood. Because of subjection to whims of the landlord, the laborer’s manhood is in absentia; therefore Bhutto takes on a messianic quality as he revives the masculinity in the common *man*, allowing him to lift his head from the dirt (of femininity).

3.3.3. Land Reforms 1977

Bhutto’s views on land ownership were widely publicized prior to the announcement of reforms, and many landlords had transferred land among relatives in advance to preempt possibility of confiscation. Within a few years, it was evident that desired results were not achieved. The Bhutto-led government promulgated another Land Reforms Ordinance on 5th Jan 1977 with three new significant features. The Ordinance reduced ceiling to 100 acres of irrigated land; allowed compensation to land owners in the forms of bonds; and made provision for distribution to tenants without charge. An additional area of 1.8 million acres was resumed of which 0.9 million was redistributed among 13,143 persons³².

But the military government that took charge in July that year halted the implementation of this Act. It amended the Act in 1982 to exempt corporate livestock farms from ceilings. Though the 1977 Act is still on statutes, no subsequent government, including PPP’s two governments led by Bhutto’s daughter, Benazir, has revived the implementation process.

The records confirm that the various land reforms did not redistribute a significant portion of land and that the number of beneficiaries was a fraction of the peasant population. Even though the three major land reforms in post-Independence Pakistan were couched in the rhetoric of rights and entitlements of the tiller, in each case, the relevant regimes through law retained ‘absolute discretion’ in the selection of grantees. The exact phrasing was “The government is prepared to grant land free of charge, but no person shall be entitled as by right to receive a grant under this statement and the government retains absolute discretion in selection of grantees.”³³ So despite the ‘land to tillers’ rhetoric, the populist, self-avowedly people’s party did not ground its land to the poor program in the framework of rights and did not see it as an entitlement the Party was facilitating but as a gift it was granting.

32 Naqvi, Chaudhry and Khan 1987.

33 Statement of Terms and Conditions For The Grant of Available Land Under West Pakistan Land Reforms Regulation 1959, and Terms and Conditions for Grant of Land No DSL 16/73/363-LC (II), Gazette of Punjab Part 1, March 1973

Shiekh Muhammad Rashid, a former minister and Chairman of Federal Land Commission in explaining why the land reforms program was almost impossible to implement, points out that at the time of the imposition of the 1977 martial law, fourteen out of twenty two federal ministers and three of the four chief ministers of the provinces were from the major landowning class. He also claimed that the imposition of martial law and coup against ZA Bhutto was to preempt effective implementation of land reforms because there were clear signs that this time, the implementation would be thorough, and many were not prepared for such radical change³⁴.

In this set of land reforms, eligibility for redistributed land was premised on registration of the tenant in revenue records and on having cultivating possession of it during specified periods. For instance cultivating possession would be required during *kharif* 1976 and *rabi* 1975 – 76. The criteria³⁵ and priority to be followed in redistribution for all three reforms were:

- 1 Tenants and other persons of the estate where the land proposed to be granted is situated, who own less than five acres
- 2 The same category as above who own less than twelve acres
- 3 If there is land left after satisfying the above two, for those who own less than 12 acres but are not self-cultivators in the estate
- 4 Tenants of adjoining estates who own less than five acres
- 5 Tenants of adjoining estates who own less than twelve acres
- 6 And that at each point, one who owns lesser area or no land to be given preference.

That the laws were gender blind is not an adequately reflective statement because they were not neutral in that sense but had a built in gender bias. Though the word ‘tenant’ itself is gender neutral and could mean either sex, it categorically refers to the tenant as ‘him’. While this is a given constant in all of Pakistan’s laws, with the implicit assumption that ‘he’ can include ‘she’, the phrasing of land related legislation is specifically gender biased - given that all laws are subject to Islam, and Islamic inheritance laws are categorically different for men and women, as is the weight given to testimonies of men and women, specifically with regard to financial matters, under which land, being wealth, qualifies³⁶.

The 1959 Act defines a ‘self-cultivator’ as “A person who cultivates land *himself* or through *his son* or *grandson* or *son-in-law* or *nephew*” which is accepted by all other land reform acts. The exclusion of women is vehemently stated. Yet this law allowed for a special provision for female dependents of landlords, while resuming land. The Act of 1972, referring to a paragraph that addresses landowners, explains the ‘heirs’ as ‘owner’s wife or wives, sons, daughters, father, mother and sons and daughters of deceased son or daughter’³⁷. So it is the self-cultivator or tenant - the landless women – that this gender-blindness is reserved for.

The fact that eligibility required registration on revenue records on part of the tenants precludes the possibility of women receiving land. Law acknowledges the *de jure* tenants whereas

34 Land Reforms in Pakistan, Shaikh Muhammad Rashid , Social Scientist, Vol. 13, No. 9, 1985

35 Punjab Land Reforms (Procedure for Grant of Land) Rules 1978 (Gazette of Punjab, Extraordinary, Part1, 6th December 1978)

36 See Qanun-e-Shahadat (Law of Evidence)

37 Land Reforms Regulation 1972, Cause 7 (b) Explanation 1.

women's work makes them de facto tenants. There is a plethora of literature on the nature and extent of women's agricultural labor, yet payment, registration and negotiation are mostly mediated by men. This invisibility of women's work is not confined only to work on land but is a spillover of the general obscurity of women's economic contribution whether inside the home or outside. Feminist writers have contested that not only is economic contribution unseen but women are invisible as citizens.

Even the process of requesting land was arduous and lopsided against women's interest. Tenants interested in availing land grant had to fill out a form and include on it all details of the land being cultivated by the tenant; the land owned, if any; details of land, which is desired for a grant (including its indexed productivity); and send the form through registered post or personally deliver it to the Deputy Land Commissioner. This process assumes a level of literacy and familiarity with bureaucratic processes, presupposes mobility and access to information – all of which weighs heavily against economically disadvantaged peasant women.

Despite the accusations of the 'old left' that Z.A Bhutto programmed a diluted, arbitrary form of socialism, this selective populist approach was also met with extreme hostility, and not just by the 'feudals', as they were known. The '77 reforms rescinded land-holding exemptions allowed to religious institutions, and were met with a storm of allegations for being against Islam. In 1981, the Federal Shariat Court held that Islam disallowed the forcible acquisition of any property, including through land reform, for the purpose of redistribution³⁸. As a result the provisions empowering the state to acquire land were held to be repugnant to the injunctions of Islam. In appeal the decision was upheld by the Shariat Appellate Bench of the Supreme Court of Pakistan³⁹. In 1986 the Shariat Appellate bench of the Supreme Court held granting tenants of agricultural land the first right of refusal in the event of sale by the landlord were also repugnant to the injunctions of Islam. Salman Raja surmises, "With the declaration that land reforms were prohibited by Islam the Shariat Court had, in effect, declared the heart of the political agenda of the left in Pakistan to be un-Islamic."⁴⁰

Five clauses of the Land Reforms Act of 1977 and the MLR (Martial Law Regulation)-115 were declared un-Islamic by a Supreme Court decision on August 10, 1989, which were affirmed by the court in its review judgment, on December 14, 1991. While declaring that placing land ceilings by itself was not un-Islamic, limitations were placed such that 'Waqf' (trust) and inherited land were not to be taken into account while calculating the land ceiling of any individual. The other two clauses are for future legislation i.e, no law shall be made with retrospective effect and that compensation for land acquired will be on market rates, thus prohibiting any confiscation of private property⁴¹.

President General Zia-ul-Haq had inducted judges into and revived and strengthened the Federal Shariat Court before his wave of 'Islamizing' laws. That the laws and institutions were created to

38 Salman Akram Raja, Religious Revivalism in South Asian, South Asian Journal, # 2, Oct-Dec 2003, SAFMA 2003, citing PLD 1981 FSC 23

39 Salman Akram Raja, Religious Revivalism in South Asian, South Asian Journal, # 2, Oct-Dec 2003, SAFMA 2003, citing Qazalbash Waqf vs. Chief Land Commissioner, PLD 1990 SC 99

40 *Ibid*

41 May be verified by file letter of Federal Land Commission file Number F.1/PS/FLC/2006 dated October 18, 2006

endorse a particular ‘brand’ of Islam can be illustrated through many examples – the Federal Shariat Court, for instance, in 1980 was placed under a jurisdictional restriction through which it was not allowed to intervene in fiscal and financial laws for a ten year period. In the wider national context, the Hudood Ordinances had been promulgated that made adultery a crime against the State, allowed for it to be punished by stoning to death and blurred the lines between adultery and rape. The law of evidence was also in effect, that reduced the credence given to women’s testimony, equating it to half of that of a man. Till the rollback on land reforms, Zia’s Islamization had found only very marginal pockets of support. Despite the moratorium on religious financial governing, the ‘un-Islamization’ of land reforms helped in relatively shoring up a base for the President General by projecting his regime as a champion of religion, and changed the political economy of his support. In a widely referred to statement, General Zia said that it was not for the employers to provide ‘roti, kapra, makaan’ (This was Z.A. Bhutto’s political slogan: food, clothes and home), that it was God who was the ultimate Provider and people should place faith in Him. Industrialists were assured that strikes, protests and trade unions would be suppressed, and were⁴². So where capitalist enterprise was largely given free reign, the land reforms rhetoric allowed the illusion of Islamizing the economy, providing some cover to the misogynistic laws by making his approach appear more even-handed about applying religion⁴³. I .A Rehman, a prominent social analyst pointed out in a personal conversation that after the verdict, in many places, peasants were forced to give up lands acquired under land reforms, “by force in Pakhtunkhwa and by legal chicanery in Punjab and Sindh.”

The one provincial law that categorically includes certain women as tenant is the Land Reforms (Balochistan Pat Feeder Canal) Regulation 1972⁴⁴, which defines tenant so as to include “a joint tenant and the widow of such a person or of a joint tenant.” This particular law is an interesting anomaly for more than one reason. It lays out a different priority for distribution of land grant in paragraph six of the law, directly quoted below:

1. First to family members of the Defence Services of Pakistan who laid down their lives in any military operation or as a result of enemy action during the year 1971,
2. Secondly to families of members of the Police Force who laid down their lives as aforesaid; and
3. Thirdly to members of the Defence Services of Pakistan recommended by the General Headquarters for the grant of such land;
4. To tenants who had cultivating rights immediately before commencement of this regulation.
5. The remaining land shall be granted in the following order of preference, namely:
 - a. Grant of land to bonafide sanad-holders.
 - b. Secondly to those tenants who did not have formal cultivating rights.
 - c. Thirdly to joint tenants who did not have formal cultivating rights.

42 Maximum punishment was introduced for any industrial unrest and the offenders was three years rigorous imprisonment and/or whipping. The first incident was as early as January 2, 1978 when the police opened fire, killing nineteen workers as the management of the Colony Textile Mill in Multan sought assistance from the police in its dispute with the striking workers. There were many other instances following this.

43 This was followed by a state-wide effort of Islamizing the curriculum and education system. For details, see *Subtle Subversion*, A.H Nayyar and Ahmed Saleem, SDPI, 2002

44 Martial Law Regulation 117 of 1972

- d. Fourthly to groups of tenants in joint possession of blocks of land; and
- e. Fifthly to landless peasants.

So landless peasants, the main reason or main slogan of the land reforms are the last in order, if there is any land left over. The main federal reform acts have been scrutinized as have the provincial laws for Punjab and Sindh but this provides an insight to the mindset behind these overtures, and also provides context to the current hostilities between the State and nationalist groups in Balochistan.

Resumption and Redistribution of Land under the Land Reforms Regulation of 1972

Holding of 150 Acres & Number of Above Declarants

Province/Division	No. of owners	Area owned (acres)	All	Affected	Affected area (acres)	Area retained (acres)	Area resumed (acres)	Area allotted (acres)	No. of people benefited	Balance areas (acres)
Punjab	10,920	2,221,695	6,148	1,064	653,849	380,740	273,109	183,365	34,673	89,744
Multan	2,337	785,198	-	310	-	-	145,911	90,057	13,910	55,854
Sargodha	2,085	727,002	-	357	-	-	56,175	39,716	9,105	16,459
Rawalpindi	5,524	466,108	-	100	-	-	34,567	20,749	4,695	13,818
Lahore	404	81,556	-	122	-	-	7,676	7,112	1,536	564
Bhwalpur	570	161,231	-	166	-	-	28,780	25,731	5,427	3,049
Sindh	6,799	1,665,373	6,777	690	536,844	220,454	316,390	125,025	15,875	169,050
Khairpur	2,360	570,117	3,150	255	261,568	79,863	181,705	68,258	7,820	112,168
Hydrabad	4,373	1,079,317	3,476	431	273,548	140,514	133,034	56,560	8,047	56,288
Karachi	66	15,939	151	2	1,728	77	1,651	117	8	502
Punjab & Sindh	17,719	3,887,068	12,925	1,754	1,190,693	601,194	589,499	308,390	50,548	258,794

Source: [as identified by Mahmood Hassan Khan]⁴⁵

(1) Government of Punjab, Punjab Land Commission, November 1978,

(2) Government of Sindh, Sindh Land Commission, September 1978 (personal communication)

4. Conclusion

Tracing the land redistribution patterns, Naqvi, Chaudhry and Hassan [1987] find that the total area resumed under the various reforms in aggregate does not exceed 4.5 million acres out of the total farm area of 50 million acres, and till 1985, resumed lands have been 9% of the total and redistribution just 7%. There is no published evidence that any land was redistributed to women. There seems to be consensus at many levels that land ownership is critical to alleviating rural poverty. Left-leaning groups, peasant movements and socialist economists have repeatedly pointed this out. Even those lobbying for free market models accept it. The World Bank notes "The deepest and most pervasive poverty in the country is rural, and it is worst in areas that have been traditionally considered as 'feudal', such as rural Sindh. A strong association between landlessness and poverty supports this link. Naqvi *et. al* found that among the 70% of the

45 Mahmood Hasan Khan, Underdevelopment and Agrarian Structure in Pakistan, Vanguard, 1994

population that do not own any land, poverty rate is 35%, while it is only 13% among the 6% who owned at least 4 hectares of land. Conversely, 75% of the poor owned no land and among those characterized as poor, only 2% owned more than 4 hectares of land. Land is the paramount asset in rural economy, however, according to Pakistan Rural Household Survey, almost one half of rural households own no land. Asset ownership, or lack thereof, is both a cause of poverty – because assets generate income – as well as a consequence of it – because ownership is the result of past investment.”⁴⁶

Further, it separately acknowledges, “Small peasants and the landless require the means to move up the economic ladder, and land is essential to this mobility. In the Pakistan Integrated Household Survey of 1991, 56 percent of agricultural laborers were classified as poor, while 44 percent of tenants were thus classified. These groups combined accounted for 29 percent of all rural poor in Pakistan.”⁴⁷

In an Asian Development Bank publication, Quibria and Srinivasan conclude that “It would appear that among those who cultivate land, poverty arises more from an unequal distribution of operational holdings rather than from lack of access to new technology, irrigation, fertilizers, etc. on the part of small farmers and tenants.”⁴⁸

Land reforms in Pakistan were meant to address these inequalities of access and assets as well as systemic inefficiencies. Repeated attempts at land reform in Pakistan have created a vicious circle: every failed attempt to rectify the unproductive and unjust system of land-tenure has at best marginally affected land concentration. This has been cited as historical ‘evidence’ against effective land reform in the future⁴⁹.

The failure to redress inequalities through land reform can be traced to multiple issues. There were practical problems in operationalizing reforms: there were no specific administrative employees and the reforms drew on existing staff of revenue departments; that the ceilings were too high and too many loopholes in the laws which were utilized in favor of land owners; tenant sales were cancelled by corrupt officials and titles granted to fictitious tenants; that there were no alternate funding sources so tenants had to turn to former owners for patronage, often continuing to pay *batai*; the land records were incomplete or misleading; that inconvenient location of revenue courts and prohibitive litigation expenses worked as deterrence for peasants; that the land surrendered by owners was mostly unusable or would require heavy investment.

There were also severe structural problems. The major flaw in all land reform attempts was the same: the ruling class that was supposed to implement land reforms was also the class that was going to be adversely impacted by them. As Mahboob-ul-Haq commented on land reforms, “It was triumph of optimism over experience to think that the ruling landlord class will commit a

46 Pakistan Poverty Assessment, Poverty in Pakistan: Vulnerabilities, Social Gaps and Rural Dynamics, World Bank Report No. 24296-PAK, October 2002.

47 Land Markets in South Asia: What have we learnt? Rahid Faruquee and Kevin Carey, World Bank, 1997.

48 Quibria, M.G. (ed.), Rural Poverty in Asia: Priority Issues and Policy Options, Asian Development Bank, 1993.

49 Naqvi, Chaudhry & Khan, 1989

collective suicide.”⁵⁰ A significant impediment to implementation was that the prospective beneficiaries, the agricultural workers were not part of the process. Further, there are questions about the motivation and political commitment to reforms of the very people who spearheaded them.

Among their major achievements of land reforms in addition to the assets distribution to a small minority of landless, was breaking the myth that the situation of land concentration was natural and immutable, and equally significant is the diminished tolerance of feudal practices in the collective discourse, even though status quo has not been significantly challenged.

Comment [WA7]: Please rephrase.

Major negative impacts were the casualization of farm labor as many tenants were evicted; and the current increase in wage and seasonal workers, done to ensure that workers do not stay long enough to be able to make a valid claim so no probability of land claims by tenants arises. This added to poor peasants’ livelihood security, and specifically depleted women’s sense of security. Saba Khattak in her study of Afghan refugee women illustrates the importance of a home for women, connecting it with not just her sense of physical security, but also with identity. The land reforms also reinforced existing gender relations and legitimized the marginalization of women from land power equations, even though they are extremely significant interest holders.

The issue of land concentration itself needs examination. Is it large land holdings that are problematic per se, or the asymmetric relationship of owners with tillers? Is it the undue privileges landlords enjoy – in which case is the case for land reforms a proxy for democratization? A careful reading of previous literature shows that so many ancillary requirements are imposed upon successful land reforms that they amount to being a program of economic development. Is it a viable prescription?

The biases faced by peasants, such as lack of educational services, credit from banks, title deeds, access to law and law enforcement protection and extension services are government obligations. Can land, an economic asset be held responsible for the inability of the state to fulfill its obligations? And if a government cannot fulfill its basic responsibilities, can it find the competence to undertake land reforms? Unless the nature of the state changes, can such changes be anything other than cosmetic?

In the title of a paper, Salim Rashid questions: Is land reform viable under democratic capitalism? In its text, he answers: probably not. He says even if there is an economic argument to be made, it is not worth following up because the law will be diluted before passage and sabotaged in execution.”⁵¹ This is a summary reflection on what has happened in the past.

Then there are sets of conceptual issues to sort out. If there is a case to be made for tillers appropriating land, can this be extrapolated to workers working in factories? Feudal landlords were the single largest power and resource bloc at the time the reforms were launched. In the age

50 Human Development Center, speech of Mahboob ul Haq, ‘Inevitable Land Reforms’.

51 <http://www.business.uiuct.edu/rch/010951paper.pdf>.

of rapid globalization and international fluidity of capital and corporate agriculture, is singling out feudalism still relevant? Is it enough to dispossess traditional wealth?

All the questions are valid. That the importance and political clout the landlords still wield in rural Pakistan is evident. A report of Pattan on agrarian reforms and devolution⁵² relays recommendations of rural men and women from Multan, Muzaffargarh and Sargodha to make devolution effective. In order for it to work as envisioned, rural peasants recommended that big landlords and their women should not be allowed to contest elections. Women in focus group discussions expressed reservations on elections of councilors, that “A poor woman will not be able to seek assistance from a rich elected woman and election of women of zamindar families will lead to a host of problems for poor women - such elected women will never approach any institution to solve the problem of poor women.” They also say that women’s problems differ from those of men and only women can propose better solutions. So, here there is feminist consciousness but mediated, contested and eclipsed by a class-consciousness, and not without reason. If the point of devolution was to diffuse power, which was partly the logic of the land reforms, then their reservations and recommendations were extremely relevant.

UN-Habitat recommends ‘women’ as a primary indicator for the success of its interventions within the Global Campaign for secure tenure, considering the gender factor as one of the best monitors of changing socio-economic relations⁵³. Yet challenging the view that poverty reduction would lead to gender equality, research on sex ratios in India, however, point to the opposite, namely, that increasing prosperity can have perverse gender effects⁵⁴.

Introducing a gender lens often challenges conventional frameworks, underlining the point that conventions are often developed and maintained at the cost of women. Feudal structures are widely understood to be discriminatory against women. While the *zamindari nizam* was institutionalized as a private interest enterprise by the British and continues to find manifestations today; a cursory look at the acclaimed solution – peasant-proprietorship – shows that this has not worked to the benefit of women either. Historically, in areas where there were fewer large estates, such as in East Punjab and canal colonies, *zamindari* was replaced with *biraderi* and leaders of kinship groups dominated political and social orders. “The strongest *biraderis* within the Punjab always existed among the peasant-proprietors. In the constant struggle to maintain their economic independence they needed the strength which kinship solidarity brought ... the kinship group played a vital role in mobilizing political support,” notes Ian Talbot⁵⁵.

The *biraderi* kinship system is a bonding on patrilineal lines, inherently patriarchal, which had given rise to social practices such as using marriage to serve political functions such as securing political support, land, concretizing ties and exchanging women (in marriage) for concessions; *watta satta* (exchange marriages) and for dispute resolution. The heads of kinship groups, their

52 Agrarian Reforms and Relevance to Devolution of Power, Pattan

53 <http://www.unchs.org/tenure/vision.htm>.

54 Agnihotri, S B, Sex Ratio Patterns in the Indian Population: A Fresh Exploration, 2000, New Delhi, Sage

55 Ian A. Talbot, The Growth of the Muslim League in the Punjab, in (ed.) Mushirul Hasan, India’s Partition: Process, Strategy and Mobilization, OUP, Bombay, 1993.

political formulations and decision-making processes are exclusively male, and the value system upheld, masculinist. Extreme acts of violence against women in contemporary times is often premised on kinship solidarity, such as honor killings and gang rapes, in which a collective honor has to be upheld at the cost of women's lives or a perceived slight on honor avenged through targeting the 'honor' vis-à-vis women of the oppositional kin group. This is not to deny women agency or posit them as hapless victims – the wider SDPI study examines in detail how women challenge, circumvent and bargain with the system. The point here is to underline the power asymmetry.

Talbot upholds the biraderi system and writes, "The existence of a strong village community could still have diffused their [*zamindar's*] power. In such areas of South East Asia as Java where cohesive village structures have existed, the vertical ties of dependence between a landlord and his clients have significantly been weakened." Many others have upheld this position, but examined from a gender perspective, the variation is between who controls the exploitation, not whether it exists in one system and not in the other. For women, both alternatives are in effect, non-options.

The third option – of women's independent ownership of land – has generally not been a cause adopted by rural peasant women themselves⁵⁶. Within the country, no such pressure group had coalesced around land for women as an important, even if not central demand. Women have not made these demands on the State, and infrequently on other routes of access, such as inheritance. Asif and Sardar Ali's research shows that "From 1947 to date, we find that where a woman has approached the courts for the protection of her right to inherit, she has met with a very positive response. But in comparison to other areas of family law, the quantum of cases raising issues of inheritance and succession rights for women are extremely low. For instance, in superior courts, we found over 800 cases for guardianship and custody issues, over a 1000 cases concerning dissolution of marriage, dower etc. On the other hand, one does not see more than 100 reported cases covering succession and inheritance rights."⁵⁷

It is important to reflect on the reasons for this. Women's relationship with land is mediated by a host of forces – women's access to land is contingent, for example, on their relationships to men; most women forego their right to inheritance of property in favor of their brothers; unless relationship with spouse breaks down, they often do not find a need to claim independent rights; and living with the father's approval is a necessity to even build a case for property rights. These varied relationships with men, on which women's access to property hinges, are also social safety nets for them. With rapid state withdrawal supplanted with money and markets as themes of development, within a context in which the State was already unaccountable to and not responsive to women's needs and entitlements, in fact, discriminatory against their rights, these social safety nets assume critical importance on which women's very survival could hinge.

56 There are exceptions to this to be found elsewhere in South Asia.

57 Kamran Asif and Shaheen Sardar Ali, *The Law of Inheritance and Reported Case Law Relating to Women*, in *Shaping Women's Lives: Laws, practices and strategies in Pakistan*, (eds) Shaheed, Warraich, Balchin and Gazdar, ShirkatGah 1998.

Women remain economically, socially, politically and logistically dependent on these relationships, and as there are no routes through which to claim and actualize rights, their attempts to entitlements such as land remain derivative. The State further reinforces this dependency by acknowledging and giving legitimacy through various laws to men being ‘protectors’ and ‘guardians’ as the *wali* for women, who can make best decisions for women in their stead. There are legal debates for example, whether women can marry without the consent of *walis* and under the *Qisas* and *Diyat* laws, can decide upon a woman’s murder whether it is best to forgive the murder, demand compensation or prosecute murderers through court. Even in cases where women’s rights to land are dealt with ‘sympathetically’, Ali and Asif note “Despite the relief given [by courts], the tone of most judgments is one of condescension. Women are generally favored because they are perceived to be a ‘weaker section’ of society needing protection and not because it is their right as equal citizens..... in the process, strengthening patriarchy itself.”⁵⁸ Many women who do manage to inherit land or are used as ‘dummy’ owners for evading land redistribution, tax exemption or for accountability purposes, often choose to bequeath ownership to male heirs.

The systemic and institutional biases against women’s property rights weigh heavily against poor women. Women are cognizant that in order to own land effectively, they will need a range of ancillary support, such as credit through banks, extension services etc. the administration systems of which are firstly biased against women and secondly lop-sided against the interest of the poor. The *batai* may be in the name of the male head of household but women work equally on land, despite which their work remains unrecognized. The payment, registration and negotiation are mostly mediated by men. Even the process of requesting land is lopsided against women’s interest. This process assumes a level of literacy and familiarity with bureaucratic processes, presupposes mobility and access to information – all of which weighs heavily against economically disadvantaged peasant women. The fact that eligibility for redistributed land required registration on revenue records, which invariably registered *de jure* tenants, precludes the possibility of women receiving land. Additionally, personal relations have consistently been the most important currency of political competition, yet another arena where women and working class laborers fall short.

An intersectional analysis of land ownership and access that examines both gender and class shows attempts at procuring land is a very high risk venture for poor women, with dubitable outcomes, whereas the process of attempting to claim land would itself alienate and rupture the only support system they could otherwise count on – the male relations. So they choose a more reliable safety network and suffer its subjugation instead of taking a chance on autonomy through battling a severely biased system with uncertain outcomes at the end. In this regard, for poor, rural women, not claiming land, whether from the State, the family or staking space within land rights movements is itself an act of agency. Yet there are many case studies of women claiming land, fighting against all odds, and who display remarkable entrepreneurial skills in managing it.

58 Kamran Asif and Shaheen Sardar Ali, *The Law of Inheritance and Reported Case Law Relating to Women, in Shaping Women’s Lives: Laws, Practices and Strategies in Pakistan*, (eds) Shaheed, Warraich, Balchin and Gazdar, ShirkatGah 1998.

The strategies may differ for women with some degree of class protection. Class privilege may provide a buffer against administrative and institutional apathy, so the outcome of a process for entitlement to land may appear relatively favorable. The first protest of women as a group in post-Independence Pakistan was for Sharia to be made the supreme law of the land. While this demand is problematic coming from women as a group, it was premised on the Islamic inheritance law that entitled women to land whereas customary and previous formal law exempted agricultural land from purview of Shariat Law. Similarly, a cursory preview of women going to higher courts on land disputes shows that wherever women have fought for land, it is their families they have contested for inheritance or husband's land, but have not placed demands on the State for land possession.

This is not to say that the institutional arrangements are conducive to women belonging to the upper economic strata but combinations of different locations and identities produces substantially different experiences. Women can and do simultaneously experience oppression and privilege. A peasant woman may, for instance, be acknowledged as an ambassador of the landless people's movement (while not articulating a desire for land for women per se) and also be subjected to class-based discrimination. Another may experience the advantages of being a part of a feudal landowning family yet not be involved in any strategic decision-making or may face violence within the home. Law reforms generate both positive and negative effects that are in turn mediated by gender and class, and to understand this, it is critical to examine structural changes, class formations and political consciousness. These factors produce and maintain hierarchical relations of inequality.

While this may be a rudimentary attempt at understanding why poor women have not been at the forefront of demanding land rights from the state whereas women with more affluence have found an alternate means of engagement, it must also be noted that there were no acknowledgement in mainstream discourse and action that women were stakeholders in the process. Even within progressive currents, such as the Muslim League Agrarian Committee and various Land Reform Acts, the recognition of poor women was missing, even though there were (weak) references to women belonging to landlord families, in terms of how much land could be given to female dependents, inheritable rights and such. But there were no references to women deserving land in their own right to be bequeathed by the state. So it is probable that it was not women per se that were unrecognized but a lack of recognition that issues of tenancy, share-cropping, farm labor, debt bondage and landlessness directly concerned and impacted women.

This bird's eye view of looking at the poor as an undifferentiated mass obscures the power relations and hierarchies within the poor and that within this group there are configurations that place women below men, single women below married women, low caste Hindus below Muslims and so on. Women in more privileged positions were acknowledged because they were visible, whether as comrades in the national liberation movement, as wives/ sisters/ daughters, as writers, teachers or societal acquaintances. The marginalized, poorest women were invisible, subsumed within the larger category of 'the poor'. This invisibility links not just with the fact that poor women struggled harder to claim spaces that warranted recognition, but also with unfamiliarity of the lived reality of the landless peasants.

Not recognizing women's work, down playing their economic contribution and equating non-paid work with non-productive work are among the hallmarks of women's exploitation. Feminist writers have contested that not only is economic contribution unseen but women are invisible as citizens.

Comment [WA8]: Reminder

Much development and women's study literature has illustrated the feminization of poverty, referring to the increasing ratio of women among the world's poor people. I observe that the experience of poverty is often perceived as a feminizing process itself, where the poor are vested with feminine traits such as being irrational and fickle, weak and submissive, in need of guidance, malleable and lacking in pride and esteem. It is this feminization of poverty that is problematized and addressed through initiatives that seek to restore the 'manhood' of the poor through 'masculinizing' characteristics of self-reliance, pride, control, rationality, assertiveness and strength. This masculinist lens may also partly explain the persistent lack of recognition of poor women, and the need for them to be accorded with what are otherwise male traits.

There have been three major historic propellants for structural political changes in women's lives in the region that the concerned women mobilize people and rally around an issue; that those in the upper echelons of society consistently pursue the issue using their social and class capital; and that there emerges a strong leader that champions the cause in populist rhetoric. The project of land rights and entitlements for peasant women failed to draw support on all these three counts.

A study of the dialectics of land politics would show all change has not necessarily been progressive, or more accurately, would show that what constitutes progress is contested. Regulation of tenurial relations has led to tenant evictions and reliance on (therefore increase of) wage labor and seasonal labor that has no tenure and no security and no legal or social protection. Even technological advances have not enhanced working conditions, often making low skilled workers redundant, without any supplementation of skills. Nor are feudal landlords any longer the only locus of power in rural Pakistan, with the increasing advent of commercial and corporate farming.

Any change in landholding patterns, whether adjustments or overhauls, are symbolic of structuring social relations. Hafiz Pasha has pointed out that land reform has usually come in the aftermath of a cataclysmic event (like war as in Japan or following the partition of India) or when the problem of poverty and the resulting social breakdown have become so serious that radical governments have emerged with an agenda involving major structural change⁵⁹. Yet land reforms maintain their radical promise. They have an important psychological and political effect in the short term, and its dynamics can create an escape valve for class tensions. In the long term however, land reforms must be accompanied by deeper structural change to achieve any significant change.

59 Hafiz A.Pasha, Pro-poor Policies: Charting New Territories, from http://www.asiapropoor.net/Pro-poor_Policies.doc.