

No Land Left for Women: Property Rights in Baltistan (Central Karakoram)

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Women weeding the fields in Shigar, Baltistan. Photo: Nadine Guenther.

Land ownership is an important protection against poverty in rural areas all over the world. It defines both social status and political power in a village and it structures relationships within and outside the household. Land ownership can thus be of crucial importance in promoting the empowerment of women. However, command over property in general and land in particular between men and women is extremely unequal in most parts of the world. The academic discourse concerning gender and land rights distinguishes four broad categories and interconnected arguments explaining why women need independent rights to arable land: welfare, efficiency, equality and empowerment (Agarwal, 1994; Mehdi, 2001; SDP, 2006; Mumtaz and Noshirwani, 2006).

This paper aims to examine property distribution, the formal concept of property rights and its customary practice within the context of gender-related differences in Baltistan, a region located in the high mountains of the Central Karakoram and politically part of the Northern Areas of Pakistan. Baltistan's population speaks an archaic Tibetan dialect and most people belong to the Twelver Shia sect. The question primarily addressed is to what degree property distribution and decision-making power are related to gender roles.

Results are based on research on property rights in the Shigar Valley of Baltistan with extensive fieldwork in 1998 (Schmidt, 2004 a and b) and a shorter visit in April 2008. Quantitative and qualitative research methods included semi-structured questionnaires and expert interviews with members of the governmental administration, village elders, religious leaders and others. A sample of several interviews with women and men from various households with different socio-economic backgrounds provided in-depth case study information on

property distribution, subjective perceptions concerning property rights and the conditions under which women are able to obtain their own property.

Ownership of property

Most households in Baltistan own land and sustain their livelihood basically through a form of combined mountain agriculture (Ehlers and Kreuzmann 2000), the combination of irrigated arable farming and animal husbandry. The mean amount of irrigated land per household (around 0.5 hectares) is nowadays too small to sustain the household's livelihood, so that additional off-farm incomes are generated through business activities, labour work, portering, teaching, army or police service, pensions or remittances from labour migrants abroad. However, land property is still fundamental. Officially, all land property is registered in the settlement records (jamabandi), according to which less than five percent is registered in the names of women, particularly widows. But even in such cases, the specific land is actually often held by their brothers or other male relatives. Hence, the women's property right is de facto exercised by their kinsman (Mehdi, 2001).

The survey also addresses inequalities with respect to economic status, age, level of education and marital status. The findings show that there is no correlation between women's property, their education status or the economic situation of the household. Only widows possess land or other property. In rare cases, men gift small parts of their property to women.

Legal situation and customary practices

In general, property changes hands mainly through inheritance, and only rarely through gift transfers or selling. According to all interviewees, the regulation of inheritance follows Islamic law (sharia). The sharia exactly defines all possible forms of family constellations and the specific shares that are entitled for each case. Under the sharia, both sons and daughters, as well as widows, have the right to a defined share; a son receives as much as two daughters.

Although all interviewees referred to the sharia, according to which daughters are authorised to inherit, in most cases the women "voluntarily" renounce their share and gift it to their

brothers. The females are under strong social pressure by their own family not to claim their inheritance. Due to their dependence on their male family members (father, brothers), particularly in times of need (divorce, illness), the women do not risk putting kinship relations at stake and "therefore forgo their share in property as insurance for the future" (Mumtaz and Noshirwani, 2006). The antagonism between Islamic law and the local custom that forces women to renounce their inheritance is obvious.

In the case of gifting property, mostly two cases apply in Baltistan: father gifts land (hiba) to one or more sons mostly to avoid land fragmentation or, as mentioned above, sisters abdicate their claim and gift their contingent to their brothers. Purchasing and selling land as another form of ownership change is mainly a man's business because of women's lack of income and their low amount of land property in general.

Conflicts and conflict solutions

Conflicts concerning the division of land property are not uncommon, in particular when land is gifted. This mostly occurs within the family, e.g. when a father gifts land to his son(s) and thus disadvantages the other children, mainly the daughters, to avoid fragmentation of his land. In this case the disadvantaged children cannot claim their share and may feel cheated, which can lead to long-lasting rivalries between relatives.

Several ways to solve property-related conflicts are prevalent: on the local level it is possible to consult a village elder (tsharma), who tries to mediate between the parties by referring to indigenous law (resm-e-revaj) - rules that had developed before colonial rule under the Dogras of the Princely State of Jammu and Kashmir that started in 1842. The next higher institutional level is reached by consulting the tehsildar (head of a rural district) or the patwari (land assessor) who can solve conflicts by verifying the mutation and actual status of the property in the settlement records. They refer to customary law, which means the indigenous law that was written down under Dogra rule (Lentz 2000).

If the results are not accepted or the conflict parties prefer a more institutional authority, there is also the chance to consult the Assistant Commissioner (AC) as a subdivisional magistrate. A judgment based on constitutional law (qanun) can be achieved if both parties appear in court and produce a witness to verify their claim. If one or both parties refuse to accept the final judgment, the case can be transferred to the district court.

Another way of solving the conflict is through a religious leader (alim), who decides according to Islamic law (sharia) and is said to be faster and cheaper than the court. The precondition is that both parties appear in front of the alim.

These legal categories compete and interact with each other as the individual uses them, a situation that Lentz (2000) terms "dynamic legal pluralism". However, women in Baltistan generally face more difficulties and obstacles in claiming their property than men. Due to the low literacy rate and limited education, most women are neither aware of their rights nor able to read the documents. They are more reluctant to go to a civil court than men because according to purdah and local customs, a woman should not go to public institutions at all, and if she does so, she needs a chaperon (mahram) to accompany her. If the mahram is the person she accuses or if he refuses to support her, it is nearly impossible for women to



Patwaris consulting settlement records in Shigar, Baltistan. Photo: Matthias Schmidt.



Irrigated farmland of village Tisar, Baltistan. Photo: Matthias Schmidt.

take legal action anyway. Since conflicts occur mostly on the inner-family level, women who claim their share risk losing not only the case but also the support of the family. Furthermore, women's access to courts is limited by their overall lack of financial resources to pay for a lawyer or even for transport.

Women's mobility

Mobility means not only spatial access to land not directly situated near the house, but also access to new property, e.g. buying land. And mobility influences the feasibility to generate income and thus to have the resources for accessing new property at all.

In Baltistan, women's mobility is limited and strictly defined. Generally, they are not hindered from accessing the fields alone. Even if fields are located further away, women are allowed to go there either alone or as part of a female group. The same applies to occupational situations, namely a job or school. However women are not allowed to take employment in the next town. To visit relatives or friends, women can go alone only within their own hamlet, while for visits in a neighbouring hamlet women need the company of other females or of a mahram. Bazaar areas where many men are usually present are generally taboo for women, even in their own hamlet.

The fact that women can access fields in nearby hamlets alone without any restrictions "highlights the contradiction in the rules governing women's movement in the family unit and underscores women's role as a service provider being perceived as acceptable while that with the potential of autonomy as not" (Mumtaz and Noshirwani 2006). Women are allowed to travel further and with less company if the reason to travel is clearly defined in the female gender role, such as field work or nowadays employment in the health or teaching sectors, generating income for the family.

These facts obviously indicate that women's and men's spatial radius of activity and their appropriation of space are highly unequal. Whereas women's mobility is restricted and dependent on the reason to travel, the distance and the company, there are no restrictions for men at all, neither in the manner of travelling, nor the reason, nor the distance.

Conclusion

The results presented indicate basic trends concerning gender-related inequalities in the distribution of property (rights), conflict situations and mobility. Generally, women and men have an unequal scale of possibilities in regard to property access. It is only partly the legal system but much more the socio-culturally defined role that privileges men to own, secure and decide over property. Women's access to property in particular is restricted by customs and taboos; it is almost impossible for them to realise their legal claims to landed property.

However, females in Baltistan do not necessarily understand the existing gender inequalities as discrimination or disadvantage. They see land as a joint family belonging and they feel secure in their father's or later their husband's house. Women are highly dependent on the goodwill and economic possibilities of male kinship, husband and in-laws. If a woman decides to realise her right to the defined contingent assured by the Islamic law or is involved in conflict based on property issues, as well as in times of need (e.g. poor in-law family, widowed and without brothers), the inequality becomes relevant. Women generally encounter more difficulties in claiming their share than men.

Command over property is one of the most severe forms of inequality between men and women today and it is relevant for defining social status and political power within society. The genders' different possibilities of getting access to property

need to be considered in future developing activities. It is desirable to promote a debate not only about women's rights but also about their de facto restrictions and chances, especially within a changing society where women will have to take over more responsibility and contribute to the family's livelihood.

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