

EDUCATIONAL & TRAINING CENTER  
FOR POOR WOMEN AND GIRLS OF  
AFGHANISTAN (ECW)

**DESK REVIEW  
OF WOMEN'S  
LAND  
OWNERSHIP IN  
AFGHANISTAN**

LAND REFORM IN AFGHANISTAN (LARA)

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## **PREFACE**

Educational & Training Center for Poor Women & Girls of Afghanistan (ECW) has developed this document pertinent to women's land inheritance rights which responds to the significant questions surrounding women's inheritance rights in the society. Inheritance right emanates from the Sacred Religion of Islam which has evolved by the passage of time which, in essence, reflects Divine revelations regarding the women and girls' inheritance rights alongside other offsprings and family members. In the meanwhile, one of the leading and most prominent resources one can refer to is the Civil Code of the country which addresses the inheritance rights in detail ranging from 1993<sup>rd</sup> to 2051<sup>st</sup> Articles.

Given the civil war, sustained unstable situation and male-dominated and patriarchal culture ruling the country, demanding one's inheritance rights is termed to be a shameful act which thereby is tantamount to denial of Islamic and legitimate rights. On the other hand, lack of awareness surrounding the Sacred Religion of Islam pertinent to inheritance and other rights among both men and women will help such a dire situation persist in the future as well. Denial of women's inheritance rights who are deprived of any economic self-reliance will contribute further to their poverty and destitution and will keep them aloof from the development track.

## **OBJECTIVE:**

This investigation being conducted by ECW is aimed at addressing the detailed women's inheritance rights, strengthening the bonds and cooperation among NGOs and legal reforms to ensure the realization of every citizens' ownership rights. As such, ameliorating the management and regularization of ownership rights defines one of the other objectives of this organization and its partner organizations. Thereby, all the Afghan citizens either males and females and other vulnerable sects would be able to obtain their rights by means of public awareness and knowledge and complying with them in letter and spirit. The other objectives set forth hereby is to reduce and resolve the disputes which, in turn, will also pave the way for a sustainable peace and stability in the country. Ultimately, the overall goals and objectives of this investigation is outlined as rallying support for gender related issues like raising public awareness and related progresses in this regard concerned particularly with women.

## **SUBJECT:**

Afghanistan's Civil Code (Volume IV) has addressed the inheritance rights in detail and comprehensive manner ranging from its 1993<sup>rd</sup> to 2051<sup>st</sup> articles. This law consisting of 58 articles has covered the women and girls' inheritance rights and other relatives of the deceased and calculation of the inheritance right with specific details. It merits mentioning that the roots of inheritance rights are traced to the Islamic Sharia. Land inheritance rights considered to be a complicated issue in Afghanistan, has also been outlined in Islamic Sharia. Thereby, the widow/widows, daughters and other family members avail of their inheritance rights as per the size outlined for them.

One of the other problems which still persists to exist is the lack of awareness among the widow and girls acting as inheritor and most of the men while on the other hand, cultural and social boundaries obstructs the widows and daughters of the deceased's hope to get access to their inheritance rights. If even daughters and widows of a deceased man or the divorcees can ever benefit from any inheritance rights, they will not be able to run or benefit from their own private lands and they

usually hand over their lands to their brothers or any other male relatives to handle their lands on their own behalves. This investigation in collaboration with the others, pursues legal reforms in light of the Islamic Sharia and inheritance act to defend the women's right of inheritance and to facilitate any such progresses in this regard.

In this section, 97 substantial questions pertinent to the land inheritance rights of women and girls are being answered as well as addressing the trajectory of women and girls' lives from their childhood to their marriage along with their respective rights. Thereby, the following resources have been availed of in this investigation:

1. Holy Quran – Verses related to inheritance
2. Civil Code – Volume IV, 1993<sup>rd</sup> to 2051<sup>st</sup> articles
3. Ownership Rights in Afghanistan Manual, published in 2005
4. Recommendations and guidance by the Shariat lecturers and experts in inheritance principles.

In the meanwhile, domestic cases probed about in the far-flung and remote village and in the urban areas have been availed of to substantiate the social and cultural hinderance impeding women's and girls access to their inheritance rights. It is hoped that this investigation can turn out to be a good guideline for those studying the Islamic land inheritance rights from both the legal and Islamic perspective.

## **FIRST SECTION – WOMEN'S LAND OWNERSHIP RIGHTS IN ISLAM:**

Holy Quran prescribes three sorts of ownership guaranteeing women's economic self-sufficiency as given below:

- First type of inheritance rights gained through labor and endeavor.
- Second type directing the people to comply with inheritance rights of their women.
- Third type, specifying particular matters related to the women's propriety.

### **1. FIRST TYPE – INHERITANCE:**

Both men and women enjoy equal rights alike in terms of inheritance from the Islamic perspective such that boys inherit twice greater than their sisters and if the number of girls exceed two individuals, they will inherit two thirds of the deceased's patrimony. If the girl is the sole child of the deceased, she will inherit half the property and the genuine family members like father, mother, son, daughter, wife and husband are prioritized over other family members like brothers, sisters, nephews, uncle, aunt (mother's side), aunt (father's side), cousins and other relatives of the deceased). Sons inherit half and daughters one fourth of the property. Husband lacking male child will inherit half and otherwise, one fourth of the property. If a woman lacking male child, will inherit one fourth and the parents one sixth and the rest of family members.

It is worth mentioning that the origins of inheritance distribution requires complicated explanation which are enlisted in the Islamic jurisprudence in cohort with verses from the Holy Quran.

### **2. SECOND TYPE – WAGE AND PROPERTY:**

Holy Quran dictates in 32<sup>nd</sup> verse of Sura-e-Nisa that: "Men shall have a share of what they obtain and women also shall have their own shares."

As per the Sharia principles, women will also be entitled to enjoy ownership and property through business and labor. Many instances do exist in the course of Islamic history to substantiate this claim.

### **THIRD TYPE – MEHR AND MILK-WAGE:**

Translation of the fourth verse of Sura-e-Nisa: “And give the women (on marriage) their dower as a free gift; but if they, of their own good pleasure, remit any part of it to you, Take it and enjoy it with right good cheer.” Translation of 6th verse from Sura-e-Talaq: “Let the women live (in 'iddat) in the same style as ye live, according to your means: Annoy them not, so as to restrict them. And if they carry (life in their wombs), then spend (your substance) on them until they deliver their burden: and if they suckle your (offspring), give them their recompense: and take mutual counsel together, according to what is just and reasonable. And if ye find yourselves in difficulties, let another woman suckle (the child) on the (father's) behalf.”

## **SECOND SECTION – INHERITANCE RIGHTS IN AFGHAN LAWS:**

- 22nd Article of Constitution: Citizens of Afghanistan – whether man or woman – have equal rights and duties before the law.
- 40th Article: Property is immune from invasion.
  - No person shall be forbidden from acquiring and making use of a property except within the limits of law.
  - No body’s property shall be confiscated without the provisions of law and the order of an authorized court.

Afghan Civil Law ranging from 1993rd to 2051st articles have all categorically defined the women and girls’ inheritance rights with respect to the Islamic Sharia which have been published in the fourth edition of Civil Laws in the official gazette #: 353 dated 1355 (Solar Year) coinciding with 1997. Some of these articles directly related and linked with the abovementioned matter are given as follows:

- **Article 2001:**

The following expenses shall be paid form the patrimony in the following way:

  - Funeral expenses of the deceased until the time of his burial.
  - The debts of the deceased.
  - Execution of the bequeathals of the deceased from the remaining third of the patrimony after the payment of the debts.
  - Distribution of the rest of the patrimony to the heirs in accordance with the provisions related to inheritance.
- **Article 2001:**
  - Causes of inheritance are marriage or blood relation.

## **PART 1—INHERITANCE BY VIRTUE OF FARZ (SPECIFIC SHARE OF HEIR IS DETERMINED BY SHARIAT)**

- **Article 2004:**

*Farz* is the specific share of the heir in the patrimony and in inheritance the share of those entitled to *Farz* shall be given prior to others. Those entitled to *Farz* are father, grand and great grandfather, half brother on the mother’s side, half sister on the mother’s side,

husband, wife, daughter or daughters of daughter, or daughters of son, or daughters thereof, sister, father, sister, mother of grandfather.

- **Article 2006:**

- Off spring, be it son or daughter, when one, shall one sixth of the patrimony, and when several, receive one third. Male and female off springs shall receive equal proportions.
- The second circumstance in case those entitled to *Farz* entail all of the patrimony or the maternal off springs share the patrimony with brother or brothers, sister and sisters, either separately or jointly. One third of the patrimony is then divided among them as described above.

- **Article 2007:**

- (1) The husband, when without children, or male offspring, even though it may be descendants further down, half the patrimony is given; and when children, or male children exist, even though of descending order, the husband shall receive one fourth of the patrimony.
- (2) Wife, even though conditionally divorced, when the husband dies prior to the expiration of the divorce period, or wives, when lacking children, or male offspring even though of descending order, shall receive one fourth of the patrimony, and in case children or male offspring, even though of descending order, exist shall be entitled to one eighth of the patrimony.
- (3) When a person divorces his wife while suffering from fatal disease, the divorcee is entitled to a wife provided she did not consent to the divorce, and the husband died before the expiration of the divorce period (three months).

- **Article 2008:**

Daughters in accordance with the provision of article 2009 of this law shall be entitled to inheritance as follows:

- 1 – One daughter shall be entitled to half of patrimony; two or more shall be entitled to two thirds
- 2 – Daughters of son, when there is no daughter no daughter of son of ascending order, shall be entitled to inheritance prescribed in above section. Of son, one or more, in case of existence of daughter of daughter or daughter of son of ascending order, are entitled to one sixth of the patrimony.

### **THIRD SECTION – WOMEN’S OWNERSHIP FROM TRADITIONAL PERSPECTIVE:**

Various customs and traditions ruling among different ethnic groups in the country seems to restrain the women’s access to their ownership rights and a male-dominated and patriarchal culture reigning the society, environment and communities only entitles the men to ownership rights and since this tradition has dominated the country, naturally, in some areas women have undergone marginalization from both the domestic, environmental and social spheres of life. Some Traditions and customs have always hindered the women’s access to educational rights which, in turn, has also obliged the women to depend financially on men as a result of which, women cannot demand their inheritance rights or to remit their inheritance rights to their husband’s family or to their brothers. Some of Women have always been miss-led that men are solely in charge of their maintenance. As such, some men have exploited this pretext for their own end to dominate the women. In some areas Incorrect and improper customs have made their ways into the tradition contrary to the Sacred Religion of Islam among which, one can point to marriage with a widow by the deceased’s brothers

by any means possible as a preemptive measure to prevent the strangers' access to the widow's inherited property.

It merits mentioning that in case widow or divorcee can ever approach the courts, they can obtain and gain access to their inheritance rights as per the Islamic and legal provisions and even the local religious leaders also resolve such disputes in light of the Islamic Sharia. However, in some cases if any interventions occur by the traditional leaders or any influential relatives of the deceased, undoubtedly, traditions and customs reign supreme.

Other than their inheritance, dowry and any other gifts by their relatives, women do not enjoy any other ownership rights that may have some sort of positive impacts on their livelihood whatsoever.

Most of the Afghan women lack any sort of knowledge or awareness regarding their rights prescribed in Islam and only a small number of women particularly those living in urban areas have a little bit knowledge in this regard to some proportion and the same is also the case with men whose roots of this ignorance can be traced to illiteracy, poverty, men's busy hours for family maintenance and patriarchal traditions.

#### **4<sup>TH</sup> SECTION – WOMEN'S OWNERSHIP RIGHTS FROM THEIR YOUTHS TO THEIR MARRIAGE AND THEREAFTER:**

Women's ownership rights in Afghanistan differ as per the social, cultural and economic status of the families and the roles of fathers and heads of the families. In general, women and girls' ownership rights fall into three categories in practice:

##### **FIRST TYPE – FAMILIES COMPLYING WITH MAHR AND INHERITANCE RIGHTS:**

Daughters benefit from their inheritance rights prescribed in the Islamic Sharia and their Mahr as it is recognized as the women's legitimate right to be paid to them. This category is quite limited and traditions play a significant role in that. Such improper traditions reign supreme among the families in the remote villages and districts who suffer from cultural poverty.

##### **Second Type – Families Who Entitle Women with Their Own Propriety Rights:**

There are some families in the urban and semi-urban areas in which, fathers entitle women to own their own property they may have acquired by means of labor. As such, in such families, their daughters can take their own property to their husband's home.

##### **Third Type – Girls And Widows Entitled To Own The Property Of The Head Of Family And Handling Their Property By Themselves:**

Such families, who live in integrated manner after the demise of the head of family and also availing of the land, property and the wealth jointly, can be traced dwelling in the urban areas.

A matrimonial life subsequent to the marriage is linked with economic, cultural and traditional status. Hence, men are obliged to take care of the family's maintenance and residence. Thereby, youths' lives will undergo three conditions as follows:

- Women will live jointly along with her in-laws like brother-in-law, sister-in-law, father and mother-in-laws due to both traditional and economic constraints which is a common factor in Afghanistan.
- In case of a satisfactory economic and cultural status, the young couple will embark on living separately from their families which will occur immediately after the marriage or a little bit later. This case ranks second.

In some very rare cases observed in Afghanistan, the man lives in his in-laws' home who are called as "home-groom" (when translated roughly). Such cases occur only if the woman has no brother of her own.

A bride's dowry is usually provided by her family but at the expense of groom's family which is not pre-determined and is not paid in cash. The dowry is of no substantial value to be termed as the woman's property.

Generally, a woman's second home is considered to be her husband or her in-laws' home wherein the women will be deprived of any independent economic status. In some cases, even the women's salary are also at the men's disposal. Since men are in charge of the family's maintenance, thereby, the men are entitled to have all the family's budget at their disposal.

## SUMMARY:

Women's ownership resources are as follows:

- Inheritance and Mahr: Some women avail of these rights as a result of customs and traditions dominating the society.
- Women's inheritance rights have been recognized in both the Islamic Sharia and Afghanistan's Civil Code.
- Women are entitled to own their salary and wages in a very limited number of families in the urban areas.
- Women are mostly deprived of any independent economic status in Afghanistan and rely heavily on their husband's family.  
Most of Women are even deprived of running their own and their inherited property independently.
- Most of the girls even entitled to inherit a portion of their family's property, remit such a privilege in favor of their brothers and refuse to receive inheritance.

Suggestions:

- Literacy is the only mean for access to information.
- Establishing broad and bright-minded women organizations with contribution from the local women.
- Repeated training for the local trainers
- Mobilization of local female members of the provincial councils for public awareness activities.
- Mobilization of female parliamentarians for public awareness activities.
- Establishing information-sharing networks for women in the local areas.
- Coherent information-sharing attached with other measures like encouraging girls to get access to education.

- Simultaneous enhancement of men's knowledge along with women to prevent any negative and impeding movements
- Recruiting Mullah Imams and Molvis and particularly women acquainted well with Islamic teachings will have a far broader positive impact.
- Launching regular propagating and educational programs for both men and women alike to get them acquainted with the women's inheritance rights and the men's religious and social obligations towards payment of the same.

## DESK REVIEW OF WOMEN'S OWNERSHIP IN AFGHANISTAN

**1. Do women know their rights to property under religious law? Under formal law? Under customary law? If so, what are they? Do you know your rights? Do men know their rights?**

### **A) Women's Ownership Rights from the Islamic Perspective:**

Holy Quran has recognized three kinds of property for women each of which guarantees women's independent economic status. The first type which is acquired through either inheritance or labor. The second type directing the people to comply with the women's rights and the third one which outlines the women's ownership of property.

#### **Inheritance:**

From the Holy Quran's perspective, both men and women enjoy inheritance rights alike according to which, a son inherit twice greater than his sisters and if the number of daughters exceed two individuals, they will inherit two thirds of the deceased's patrimony. If the girl is the sole child of the deceased, she will inherit half the property and the genuine family members like father, mother, son, daughter, wife and husband are prioritized over other family members like brothers, sisters, nephews, uncle, aunt (mother's side), aunt (father's side), cousins and other relatives of the deceased). Sons inherit half and daughters one fourth of the property. Husband lacking male child will inherit half and otherwise, one fourth of the property. If a woman lacking male child, will inherit one fourth and the parents one sixth and the rest of family members the remaining portion.

It is worth mentioning that the origins of inheritance distribution requires complicated explanation which are enlisted in the Islamic jurisprudence in cohort with verses from the Holy Quran.

### **2. Second Type – Wage and property:**

Holy Quran dictates in 32<sup>nd</sup> verse of Sura-e-Nisa that: "Men shall have a share of what they obtain and women also shall have their own shares."

As per the Sharia principles, women will also be entitled to enjoy ownership and property through business and labor. Many instances do exist in the course of Islamic history to substantiate this claim.

#### **Third Type – Mahr and Sulking-wage:**

Translation of the fourth verse of Sura-e-Nisa: "And give the women (on marriage) their dower as a free gift; but if they, of their own good pleasure, remit any part of it to you, Take it and enjoy it with right good cheer." Translation of 6th verse from Sura-e-Talaq: "Let the women live (in 'iddat) in the same style as ye live, according to your means: Annoy them not, so as to restrict them. And if they carry (life in their wombs), then spend (your substance) on them until they deliver their burden: and if they suckle your (offspring), give them their recompense: and take mutual counsel together, according to what is just and reasonable. And if ye find yourselves in difficulties, let another woman suckle (the child) on the (father's) behalf."

Second Section – Inheritance rights in Afghan Laws:

- 22nd Article of Constitution: Citizens of Afghanistan – whether man or woman – have equal rights and duties before the law.

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  - No person shall be forbidden from acquiring and making use of a property except within the limits of law.
  - No body's property shall be confiscated without the provisions of law and the order of an authorized court.

Afghan Civil Law ranging from 1993rd to 2051st articles have all categorically defined the women and girls' inheritance rights with respect to the Islamic Sharia which have been published in the fourth edition of Civil Laws in the official gazette #: 353 dated 1355 (Solar Year) coinciding with 1997.

### **Women's Traditional Rights:**

Other than their inheritance, dowry and any other gifts by their relatives, women do not enjoy any other ownership rights that may have some sort of positive impacts on their livelihood whatsoever.

Most of the Afghan women lack any sort of knowledge or awareness regarding their rights prescribed in Islam and only a small number of educated women particularly those living in urban areas have a little bit knowledge in this regard to some proportion and the same is also the case with men whose roots of this ignorance can be traced to illiteracy, poverty, men's busy hours for family maintenance and patriarchal traditions.

**2) How do women in the area (village, semi-urban or urban) receive information about land issues, new land programs (or information about other important changes or events)? Is the answer different for men and women? Do women and men receive information in different ways? What are they different ways?**

Some Villager and semi-urban women are not interested in general knowledge and information regarding the land given the fact that their lives have been direly restrained by the poverty and since the women rely heavily on men, they don't deem it necessary to get access to such kind of information. It is noteworthy that in some communities people are not even provided with systematic and basic information regarding the land and its related issues. On the other hand, they are not familiar with the language and terminology of any information if ever shared with them. Religious leaders share such information with the people in a very complicated and incomprehensible manner and if any disputes occur among the people, religious leaders and traditional leaders intervene to resolve the case. Can we expand this a bit more and explain it how? I think it would be very useful to support the idea by providing some examples if possible.

**3. (If answered that women do not receive much information): Would it be helpful to you to receive more information? Do you have any ideas for how this could be done?**

Generally, information sharing and information flow is quite useful and women can obtain sufficient knowledge regarding their legitimate rights. The events taken place during the past 10 years has contributed to the women's participation in the electoral and social spheres of life.

The common methodology for information flow in most of the areas is carried out through media and congregations which necessitates that such methodologies must not have pre-defined versions. The methods utilized in Kabul and other big cities of Afghanistan are not efficient in other provinces and districts of the country and will incite negative sentiments among the men and will hinder the women to participate in the aforementioned mechanisms. Some of the efficient methods are given as below:

- Literacy is the only mean for access to information.
- Establishing broad and bright-minded women organizations with contribution from the local women.
- Repeated training for the local trainers
- Mobilization of local female members of the provincial councils for public awareness activities.
- Mobilization of female parliamentarians for public awareness activities.
- Establishing information-sharing networks for women in the local areas.
- Coherent information-sharing attached with other measures like encouraging girls to get access to education.
- Simultaneous enhancement of men's knowledge along with women to prevent any negative and impeding movements
- Recruiting Mullah Imams and Molvis and particularly women acquainted well Islamic teachings will have a far broader positive impact. Launching regular propagating and educational programs for both men and women alike to get them acquainted with the women's inheritance rights and the men's religious and social obligations towards payment of the same.

#### **4. Do the responses vary by area (rural, semi-urban versus urban areas)?**

Responses among the urban people vary in contrast to the people in semi-urban and rural areas and these responses are bound to the level of respondents' level of knowledge and understanding. In some cases, the respondents refrain from answering the questions or cite words which are in opposition to their genuine mindset and do not unveil what is hidden beneath their skin.

#### **5. Do the responses vary for different religious, ethnic or tribal groups? Do the responses vary for other disadvantaged groups? Do the responses vary depending upon the wealth of the in-laws or birth family?**

Responses vary from the awareness on the topic which may result from the immunity and honor-saving causes in most of which, religious, ethnic and tribal matters are also taken into consideration while poverty and affluence have very little share in them. It merits mentioning that further awareness will define the level of responses.

#### **6. Do women usually marry men from their village or men from another village? Do they marry people from their extended family?**

In most of the cities and villages, most of the girls get married as per their male relatives' discretion who mostly marry their daughters with their relatives particularly the kith and kin of the girl's mother and in most of the villages, no girl is ever married to stranger men. Chances are that some sort of exceptions may be made, but however, relativeness, tribal, ethnic and linguistic matters are taken into account in such cases and mostly, the girls are married to their relatives. One of the factors in this regard is the fear that lest the stranger may inherit the patrimony. In the contrary, in big cities like Kabul and other cities, girls are married to the strangers having no family relationship with the girls' parents. This may be attributed either to cultural and awareness backgrounds and broad-based relations existing among the urban citizens.

#### **7. When a woman and a man get married, where do they live? (Does the woman traditionally move to her husband's household or vice-versa?)**

In most of the cases, women either live in their husbands' homes or jointly with their in-laws or may live separately whereby the legitimate maintenance and residential accountabilities lie with men. In some rare cases, boys have also been observed to live with his in-laws who are termed to be "home-grooms" (if roughly translated). Such cases occur some times when the bride lacks any brothers.

#### **8. Are marriages generally formalized? Why or why not? What constitutes a legal marriage?**

Most of the marriage ceremonies take place in Afghanistan in the presence of close relatives, clerics and eyewitnesses wherein Mahr is also determined. In some urban areas, Groom, attorney, eyewitnesses and the participants all sign the marriage contract and if also required, the marriage contract will be registered by the concerned authorities while most of the marriage contracts are off the record. Registering such cases in the concerned government authorities is not an easy task and on the other hand, since this culture is not required in the social spheres of life, it is usually neglected and taken for granted.

**9. Is dowry paid by the bride's family (to the groom's family)? If so, what are average dowry payments/items? Who controls the dowry once received (e.g., in-laws, husband, wife?). Why is dowry paid?**

In most of the cases, dowry is provided by the bride's family whose expenses are either directly or indirectly paid by the groom's family. The average dowry expenses may vary from one family to another family and from district to district which usually comprises of bed, essential equipment, kitchen utensils and other such essential materials. This dowry solely and exclusively belong to the bride and groom and if they agree and in case of joint residence with the groom's family, they may also utilize their personal effects as well.

**10. Is bride price paid by the groom's family to the bride's family? How much is paid?**

Preceding the marriage ceremony, both the bride and groom's families reach to a consensus in terms of Toyana payment (marriage expenses, Sheerbaha (Sulking Cost if roughly translated and is referred to the cost for the mother-in-law of the groom's milk cost) which will be paid by the family of groom. These expenses will vary from one province to another and in the southern provinces of the country; a large amount is received from the groom's family which even amounts to more than US\$ 20,000 while in other provinces this amount oscillates between US\$ 2,000 to US\$ 5,000. In some cases, there are also families who do not receive such an amount and term it as illegitimate which has also been prohibited by the Sacred Religion of Islam.

**11. Is bride exchange common?**

Bride exchange is a common case in some areas of Afghanistan which apparently occur during the girls' childhood and even since their birth which can be attributed to many factors including the issue of poverty and un affordability to pay the expenses. This tradition is being uprooted from the cities gradually and will also be eradicated from the provinces by the passage of time given the increasing awareness regarding its negative impacts.

**12. In addition to any dowry/bride price, does a woman typically bring anything with to her new household? Land, money, gold, etc?**

Basically, girls enjoy inheritance rights besides which gold and make-up equipment are also being purchased by the groom's family prior to marriage. Since land and money are rarely available, therefore, they term direct demand for her inheritance rights as a shameful act.

**13. If so, does what she bring belong to her throughout her marriage?**

Dowry is not of any substantial value which is essential equipment at the disposal of bride and groom which will be used, worn out and casted away.

**14. How do newly married couples receive land, house and property ? Is it at the time of marriage/before marriage/with the first born child?**

The newly married couple usually go to the groom's home and stay there for a while and acquire some wealth and property either through inheritance or as a result of labor, hard-working or joint strive. In case a groom is wealthy enough, either in the pre or post-marriage scenario will build his own separate house and they will act independently when it comes to inheritance and purchasing land and the birth of a child has no link with this matter whatsoever.

**15. Does women's access to or control of land vary depending upon the wealth of the in-laws and birth family? Or on their age ? Their marital status ? Their status within the household (e.g. first wife over second wife)**

Women's ownership of land in some cases is affiliated with her father's patrimony and if the distribution of father's patrimony does not occur in her father's lifetime, the other sons will approach religious clerics and courts for doing so. Otherwise, the husband if willing determines the woman's share in the land purchased by him through his own savings on his own discretion. Another type of land property inheritance from a woman's husband takes place in the light of Islamic Sharia in addition to the land purchased by the woman through her own savings.

**16. Can women purchase land in their own name if they are married? Do they require male consent to purchase land register land? Can women register land?**

Actually, no obstacles and hindrance do exist by the women to purchase any land in their own names. However, since apparently the women do not enjoy independent economic status and what they acquire is termed to be the couple's joint property, most of rural women never dare to act so other than some exceptional cases as a result of which, they can own their own lands and can either sell or purchase any land by their own volition.

**17. Do the responses vary by area (rural, pre-urban versus urban areas)?**

The response is the same for all the above-mentioned areas.

**18. Do the responses vary for different religious, ethnic or tribal groups? Do the responses vary for other disadvantaged groups? Do the responses vary depending upon the wealth of the in-laws or birth family?**

Naturally, in most of cases a daughter belonging to an affluent family owning substantial land and property, will inherit substantially from her parent. In the meantime, if she also enjoys a good source of income, she will definitely embark on purchasing and selling lands. Hence, the economic status of the family plays an effective role in responses to the aforementioned question. On the other hand, those fathers adhering to Sharia law and restore their daughters' rights, will have a role in their daughters' ownership rights. But in families suffering from dire poverty and those who have not inherited any property and the women are also rely on other family members, their ownership rights are out of the question.

**19. Does divorce ever happen in this village? If so, how many women in your village are divorced? What are common reasons for divorce? Are divorces formalized? If so, how so?**

In most parts of the country, Divorce rarely take place and in a traditional culture dominating the country, the man divorcing his wife is termed to have committed a very shameful act while the same is also the case with the divorcee as well. Thereby, in most parts of the country divorce take place in very rare cases and if any such cases exist, that will be carried out by the local religious leaders and elders while in the cities divorces take place in courts. In our residential area, no divorces have taken place as yet. Divorces occur mostly as a result of denial or negligence by the husband in terms of maintenance, addiction or any mental or physical abnormality in the courts. If divorce occurs as per the husband's willingness and discretion, he can register it officially in the court which takes place in very rare cases as it is considered to be a shameful act and they only suffice to customary divorce.

**20. Do separations ever happen in this village? If so, how many women in your village are separated?**

Separations mostly occur among the couples if they are willing to do so and in some other cases, it occurs due to the domestic violence resulting to divorce which usually take place in courts. It merits mentioning that women given their economic dependency refrain from separations.

**21. Are women sometimes abandoned by their husbands? If so, how many women in your village are abandoned? What are common reasons for abandonment?**

If abandonment is believed to be divorce by women, other than some exceptional cases like the provisions enlisted in the marriage contract or a provision termed as Khalla (abolishment), they are entitled the right and authority to divorce while men enjoy the full authority in this regard and can do so by their own discretion with or without any rational reasoning and by any means possible. In my own residential area, no such cases have ever occurred hitherto.

In the meanwhile, another type of abandonment also exist as a result of which, men go to the neighboring countries for labor due to poverty and earn money for their livelihood who also return back to their homes. Such abandonment will entail /ensure any sort of divorce or separation.

**22. If there is a divorce, does the wife receive any of the household property? Land, including purchased land? House? Livestock? Does she receive any right to the house itself or the household plot?**

In case of divorce, Mahr is usually paid to the women and if any such Mahr has not been paid, women can obtain their Mahr which is enlisted in their marriage contract while Mahr does not consist of land and any other property. However, given the Islamic Sharia, if a woman has a sucker kid, the father will be accountable for her maintenance as well as a period of four months termed to be as "Iddat".

**23. Is there a stigma to divorce? Are there acceptable reasons for divorce? Can divorced women re-marry? If so, are their rules on who they can marry? Who? Why?**

Most of the cases resulting from any immoral act, entails stigma while this is not the case with the divorces that take place as a result of mental and physical illness and the husband's failure of maintenance. Whatever the case, divorce is termed to be a shameful act in most areas of the country and the perpetrators of divorce (either be it man or woman) are viewed with disgust from the traditional point of view.

No rational reasons do exist to substantiate divorce. In some cases, divorce is attributed to the men's flavor and in some others, such divorces are said to have taken place on justifiable grounds.

Divorced women can get married of her own will, but after the lapse of four months to ensure that she is not pregnant and bears no child of her previous husband. But any subsequent re-marriage occur due to her economic reliance, but not of her own volition and willingness.

No particular laws do exist pertinent to women's re-marriage. Sharia law entitles women to get married with anybody she wants conditioned to the lapse of four months since her divorce to make sure that she bears no child of her previous husband.

**24. What happens when there is a divorce? What if she is not able to return to the birth family?**

The only save haven a woman seeks refuge subsequent to her divorce is a woman's family of birth which sometimes occur on her family's dismay and abhorrence. However, the inevitable situation due to her failure to live in solitude leaves the families with no choice other than to receive unwillingly their daughter when returning back. This can be attributed to many cases like economic reliance, fearing stigma in the society or fearing that her solitude may result in further and bigger disgrace.

In some cases, Chances are that she will not be able to return back to her family of birth for which, the only sought by these women are resorting to suicide, prostitution or fleeing to a place far from their place of residence and living in anonymity.

**25. If there is a divorce, does the woman usually return to her parents household? If the wife leaves her husband's household, does she take the children with her?**

The first of the questions is answered as above. Children usually remain in the custody of father and in case the child is still sucking and requires his / her mother's care, will be kept by the mother on provisional basis and when they grow up, will be handed over back to their fathers.

**26. upon divorce, who cares for the children? If the woman cares for the children, does the father typically provide financial support?**

In most such cases, Soon after divorce, the sucker child will be in the custody of her mother on provisional basis during which, their maintenance accountability will remain with the husband in addition to her four month "Iddat" period. If a woman is found to be pregnant of her previous husband, financial sponsorship of both the children will lie with the husband and the divorced woman will not be able to remarry until her delivery of the child.

## **27. How do the responses vary in cases of separation and abandonment?**

As per the Afghanistan's civil code, a marriage contract terminates either on divorce or on separation grounds according to which, men are entitled to divorce on any justifiable reasons while women can demand their separation as per the decree issued by the court on the woman's request which fall into the following categories:

- A) Separation on physical deformity
- B) Separation on incurable and chronic disease
- C) Separation on her husband's failure of her maintenance

## **28. If a woman is abandoned by her husband and she does not know whether he is alive or dead or where he is, does she have any right to make decisions about the land that her household has? Can she farm the land? Can she sell it? If so, does she do this herself or use a proxy?**

If a man abandons his home and no trace of him can be found, his close relatives will begin poking their nose into his affairs and will take over the sponsorship of the family while his wife will never be authorized to sell her husband's property. In case of non-interference by the relatives of the man or their absence, his wife can run her livelihood by leasing a portion of the land for agricultural and husbandry purposes to a farmer.

## **29. Do the responses vary by area (rural, peri-urban versus urban areas)?**

Both the responses and utilization of the land vary from one place to another. In rural areas, strict restrictions have been imposed on women by their husbands while lesser restrictions are imposed in the cities and men extend assistance with their wives to ease their burden.

## **30. Do the responses vary for different religious, ethnic or tribal groups? Do the responses vary for other disadvantaged groups? Do the responses vary depending upon the wealth of the in-laws or birth family?**

Exactly The responses differ from one religion, one ethnic or tribal group to another.

## **31. Is polygamy permitted in this community? Are there any polygamous families in the area (village, peri-urban, urban)? How many?**

Polygamy exists in the country and Islam has allowed the Muslims to have four wives simultaneously provided that they will treat all their wives equally from the maintenance, accommodation and congenial perspectives. However, there are also some other limitations and constraints set forth by the Sharia and Civil Code for men.

Polygamy is more common in the semi-urban and rural areas which rarely occur in the cities. In the rural areas, people usually get married twice, three times and four times which is considered to be a common practice in most rural areas of the country. Men usually prefer polygamy based on their own wills and desires and get married with girls smaller than their own ages due to the economic restraints.

## **32. Is polygamy permitted in this community? Are there any polygamous families in the area (village, pre-urban, urban)? How many?**

No constraints and limitations do exist from the Sharia, legal and traditional perspectives. In the contrary, polygamy is rather considered to be an honorable act to be proud of instead while Sharia law and Civil Laws have outlined certain provisions and as per the 86<sup>th</sup> Article of Afghan Civil Code, provisions surrounding the polygamy is as follows:

Polygamy can take place after the following conditions are fulfilled:

- When there is no fear of injustice between the wives
- When the person has financial sufficiency to sustain the wives. That is, when he can provide food, clothes, suitable house, and medical treatment.
- When there is legal expediency, that is when the first wife is childless or when she suffers from diseases which are hard to be treated.

The woman whose husband has married contrary to the provisions of Article 86 of this law can demand divorce from the court in accordance with the provisions of Article 183 of this law on the grounds of separation caused by damage or loss.

**33. If there is more than one wife living in the same household, are the wives generally treated equally in terms of their rights to property and household income?**

In polygamy, Islam and civil code as mentioned above, has recommended equal treatment of the wives of a man while the second wife is more preferred to the first wife (in case of having two wives) and the privileges and authorities of the second wife exceeds the first wife and when the number of increase to three and four wives, the first, second and third wives are taken for granted. In most cases, sons of the aforementioned wives are in charge of their mother's maintenance and they namely live under the umbrella of a father.

Whenever the first, second and third wives along with their children reside in a house other than her husband's home, they will be provided with limited property, cash and other equipment based on traditional customs. As such, in case of the father's demise, the children will be able to inherit their father's patrimony since when their father was alive, they have acquired their legitimate rights.

**34. If a man takes a second or third wife, what happens to the way that land is managed in the household when a new wife is added? (E.g. if the first wife was permitted to use some land, does she have give up some of that land for the new wife?)**

Whenever a man gets married twice and three times and in case the first wife is given a share in her husband's property prior to her husband's second and third marriages (this is a very rare case since no woman is ever entitled the ownership of a property), no changes will ever occur in his property in favor of the second and third wives and the first wife never remits her property at her disposal in favor of his husband's other wives.

**35. What are consequences for the first wife related to the land? Does she receive any land or other livelihood security? What are consequences for the other wives?**

Polygamy by a man will not have any consequences for his wife's land ownership rights and no guarantees do exist in this regard. Validity of inherited rights originate from the customary documents written by the local influential people and elders which does not entail any consequences for other wives as well. As mentioned repeatedly above, other wives can also inherit some of their husband's patrimony subsequent to their demise.

**36. What are the consequences for the children of the first or subsequent wife in terms of later inheritance of land?**

If inheritance is implemented in letter and spirit in light of the Islamic Sharia and Civil Code, the male and female children of the first and other wives of a man, will enjoy equal share in the land inherited from their father and none of the children of the deceased man will be discriminated against. Hence, the consequences will remain the same for all his children irrespective of the first, second, third and four wives and all of them will inherited their own share of inheritance which only occurs subsequent to their father's demise. It is worth mentioning that preceding a man's demise, the issue of inheritance remains out of the question since the owner of the property is still alive. However, a man's children will be provided their share of the patrimony as per their father and elders' discretion.

**37. What happens during land transfer? Are all wives involved in decision making? Is everyone's permission required? Is permission required of adult children? If so, which wife's children?**

As mentioned above, land is the common and joint property of all the family members and other than the head of the family (father) or any family elder, nobody is entitled to either purchase or sell any land directly and the head of the family usually father will make necessary decisions regarding the overall interest of the family members and he will enjoy the full authority in terms of selling, distribution or any other acts as per the customary laws wherein women enjoy no authority whatsoever. If in some exceptional cases they enjoy any authority, they will only permitted to join

the decision-making process. In such a case, the consent of other family members is not mandatory and required and all the family members deem the decision made by the head of the family fit for the family's overall interest and even they entitle the later to make some decisions alone by his own discretion. The head of the family sometimes consult his family members in terms of any such issues when required, but in some official cases, legal authority letter is sought of the man's family members. In such cases, the consent of the inheritors will be seriously taken into consideration.

**38. Do the responses vary by area (rural, semi-urban versus urban areas)?**

Yes. In urban areas and other areas where the relations are widespread and the people play an active role in cultural exchanges, consultation is conducted with the family members and other close relatives to a large extent while in the contrary, in the rural areas wherein the cultural ties and social relations occur in very rare cases, patriarchy and the men as the solo decision-makers reign supreme.

**39. Do the responses vary for different religious, ethnic or tribal groups? Do the responses vary for other disadvantaged groups? Do the responses vary depending upon the wealth of the in-laws or birth family?**

Yes. The answers by the respondents vary from one religious and ethnic group to another. All the respondents are of the view that women's rights in the southern provinces and Pashtun-dominated areas are taken into consideration to a lesser extent in contrast to the north while women enjoy a much better life and rights in the other parts in comparison.

**40. Do you know what the laws are in regards to inheritance? Do you know the law for inheritance of land and livestock? Do you the law for inheritance of wives? Daughters (Ask for formal law, religious law)? If so, what is it?**

The most important and significant law regarding the inheritance rights emanate from the Holy Quran's verses and Holy Nabawi Hadith whose interpretation has been enlisted in the articles from 1993<sup>rd</sup> to 2051<sup>st</sup> articles in the 353<sup>rd</sup> version of official gazette, 1997 of the Afghanistan's Civil Code. All the properties inherited subsequent to the demise and burial of the deceased (in case of man) who has failed to pay his wife's Mahr will be referred to as patrimony subsequent to the payment of Mahr which consists of property, livestock, land and etc. Information regarding the legal and Sharia codes has been enlisted in this section and in response to the first question.

**41. in every day village life, which of these laws followed?**

In some cases, the Sharia laws are implemented by the families through intervention by the Mullah Imams and religious leaders, traditional leaders and elders and in case, courts are functional in districts and corruption exists in a lesser extent, the people will approach the courts. However, in some of the parts of the country, decisions are made based on Sharia that if implemented in letter and spirit, will not vary from the civil code and decisions made by the legal courts. Can we expand it by saying in most areas of rural areas of the country CBDR is practiced for resolution of conflicts?

**42. Is there someone in the family who is customarily regarded as the heir to land? Is this practice generally followed in the village? Have these customs changed over time? If so how/why? Does it change with the type of land?**

Nobody exists in my family to have been recognized as the heir of land and in fact, our family does not possess any land whatsoever. However, there are a lot of villager and urban people who are recognized as the land owners on traditional basis. In case of the demise of the head or elder of a family, children of a family will approach religious leaders and distribute their father's patrimony and if any disputes erupt among them, religious leaders and elders will resolve such disputes in light of the Islamic Sharia. In case any of the disputed parties approach the courts, a notice will be issued by the court to other partners to report to the court for distribution of the patrimony.

Such legitimate laws do not change since the decrees issued by Almighty Allah will never undergo any changes in terms of the type of the land and passage of time.

**43. Do households discuss plans for inheritance? Is this a discussion that includes all people in the household, e.g. all adult men and women? If not, who? Is clan or other extended family involved? If so who/how does this answer differ for different types of land?**

Family members will discuss inheritance issues if required but they will not reach any consensus due to the complexity of the issue and their lack of authority which is usually resolved by the elders and particularly religious leaders whose decisions are sometimes of the imposition nature. Domestic discussion on the matter usually dooms to fail given the lack of awareness regarding the Islamic rationing law. Hence, the only resource availed of in this regard are the religious leaders otherwise, the court will make the final decision. It is noteworthy that the nature and type of land does not possess any role in the inheritance shares. Can we talk a bit about the areas like southern provinces where in most district courts don't exist?

**44. Are wishes of parents regarding inheritance witnessed by a traditional leader or otherwise memorialized?**

Usually, parents do not view decisions made by the elders and religious leaders with negative approach and accept their decisions. Religious leaders and elders usually listen to and remember the parent's views based on which, they will make their ultimate decisions by means of compliance with the Islamic Sharia. If such decisions face any challenges and disapproval, religious leaders usually refer the case to the religious leaders and knowledgeable individuals.

**45. How often do women inherit land? How many women in the village inherited land?**

Women inherit from their husbands only for once and in most of the cases, women inherit both from their husbands and from their fathers and in case their mothers inherit a patrimony, they will benefit from their mother's inheritance rights as well. Nevertheless, women inherit only once from a single patrimony. This I think contradicts what was said about inheritance of women. Can you please double check?

Basically, all the women can inherit the patrimony whenever the issue of inheritance is brought up which consists of all the inheritor women, i.e. wife, wives, daughters, nephews (from both brother and sister's sides), aunt (from father), aunt (from mother) along with their children and etc.

**46. Do women inherit non-land property?**

Subsequent to the demise and funeral ceremony of the deceased, payment of his debts and Mahr if not paid on their due timing and also accomplishment of the will if it is of financial nature; other proprieties including the remaining land, wealth, household equipment, garden, rag, gold and other transitional and non-transitional properties are considered to be the patrimony which will also include the divisible properties. As such, women will have a share in this property.

**47. Under what circumstance do women inherit land or non-land property (in relation to brother or male relatives)? Are the sizes and quality of plots inherited by women/girls different from plots received by brothers?**

Women cannot inherit any property of her husband's brother or relatives whatsoever as per the inheritance law. Sharia and Civil Code has mentioned the inheritance matters in detail and comprehensively. The size of a land that women and girls inherit varies from the share of their brothers in inheritance. Notwithstanding this, neither Sharia law nor Civil Code has any provisions outlined for the type and nature of lands to be inherited. It sounds as though that no differences do exist in terms of the distribution of land between brothers and sisters.

**48. Do married daughters have the same rights as unmarried daughters to inherit from their birth family? Do married sons?**

In Islamic Sharia and Civil Code's provisions, no such a case exists that married daughter of a family will have a different share in inheritance in contrast to her single sister or vice versa. Such a decree is also applicable to married and single brothers as well implying that marriage or bachelorhood will make no difference at all in this regard.

**49. If daughters had already inherited land from their birth families before they are married, what happens to her share of that land when she gets married? (Is this different if she leaves village or stays in it?)**

Lands received by daughters prior to marriage from their parents, are considered their sole property. Despite availing of the land jointly with her husband and family, the land will remain reserved solely in her name and the abandonment of the village or settling somewhere else will make no difference in this regard. In Afghanistan, other sorts of agreements / accords do also exist like leasing the land for farming purposes in a bid to both avail of his / her land's products and crops and also to protect their lands.

**50. If only one child receives the family land through inheritance, what do the other children customarily receive?**

, This matter has been addressed in the previous questions. No such a case do exist that only one child of a family will inherit everything and the others will receive nothing at all. The patrimony of the deceased will be distributed as per the shares outlined for them in the Islamic Sharia and Civil Code which may vary from son to daughter. The extent and size of these shares are linked with the total land or patrimony, but anyhow, the children of the family will receive their shares of the inheritance. If the deceased has stated his will to bestow a bigger share in inheritance for some of his children, the shares of the privileged children will be paid before the distribution of patrimony and patrimony will be distributed among all the stakeholders in inheritance.

**51. When the head of the household dies, who customarily becomes the next head of the household?**

In a male dominated society like Afghanistan, in most cases, the men of the family and particularly father if possessing substantial land and property are considered to be the head of family. In some cases, fathers are the so-called heads of the family while the authorities are enjoyed fully by their senior sons who have a good source of income and if the head of a family passes away, the most senior and elder son will succeed his father as the head of family. Whenever the elder son abandons the family preceding his father's demise and has separated from the family, the eldest son will lead and preside over the family. The sisters, be it even the eldest in the family can never lead the family from the traditional point of view.

**52. Is this transfer to a new head of household made formally/ registered anywhere?**

Presiding over and heading a family is of traditional value and is not officially registered. The validity of customary laws dates to centuries and is acceptable in both the villages and cities alike. The people easily accept these customary laws and norms and consult such matters with the head of the family. Sometimes, the leadership of a family is determined in a ceremony by the relatives subsequent to the demise of the deceased's relatives.

**53. What happens when a woman is widowed? Does she have access to land (house plot? Field plot?)? Is it typically of adequate size and quality? If not, how does she care for her family? Does this answer change on her age and status within the household?**

Whenever a woman is widowed as a result of his husband's demise and in case she has children, she will inherit one eighth part of the patrimony and if lacking children, she will inherit one fourth of the patrimony. Nevertheless, women will live with their children and are authorized to either remarry or stay bachelor. Can you please review this? It seems like it contradicts what was said above.

Everyone divorced deserves her legitimate Mahr and she will also possess other properties she already had. As per the Family Code's 101<sup>st</sup> Article, a woman is entitled to receive wages equaling three years of maintenance in four levels.

**54. What rights do widows have over this land? Are widows generally allowed to make independent decisions on the land or do they have to require their sons, brothers, etc. approval? Can they transfer or lease the land?**

Women are entitled to possess the land they have inherited and as per the Sharia laws and Civil Codes, none of the children are ever allowed of intervention and exploitation of the land while the woman along with her other family members will benefit from the land and run their livelihood. Women are authorized to transferring, leasing and registering the land while such cases rarely occur. Because, such cases are not common in social exchanges and women require their family members and their male relatives' support.

**55. Are different types of land treated differently? E.g. clan land? Purchased land? Leased rights? Pastoral land?**

In some cases the remaining patrimony of the deceased will be distributed among the family members subsequent to deduction of the deceased's funeral expenses, payment of debts and Mahr and financial wills. Sharing in benefits obtained through leasing land and pastoral land will not be directly linked to inheritance. However, women can avail of them as per the share set forth for the woman. Since the pastoral land belongs to all of the family members alike and a woman can also benefit as per the share outlined for all family members. This right does not relate at all to the inheritance and is availed of jointly.

**56. Are widow's rights the same whether she has children or not?**

This question has been answered repeatedly. However, having or lacking a child will make no difference in women's inheritance rights. As per the Sharia law and Civil Code, in case of lacking children, a woman will inherit one fourth and if she has children, she will inherit one eighth of the patrimony.

**57. How are elderly widow's rights different from those of a younger widow?**

From the Sharia and legal perspective, a woman's age will not have any impact in the inheritance rights and the women's inheritance rights for women has not been determined according to their age or the priority for first, second, third and fourth wives. Women inherit from their husband if they are the official and legal wives of the deceased.

**58. Are a widow's access to and control of resources different depending upon the wealth of the in-laws and birth family?**

Widows can get access to resources and the her in-laws' property either through inheritance, dowry, Mahr, gifts and will particularly, no differences do exist in the amount of patrimony directed by Sharia and Civil Code. However, the amount of the patrimony may vary from a poor to an affluent father or husband while her inheritance rights does not relate to the determined formula whatsoever and belongs to the overall remaining patrimony. Well, the inheritance obtained from her parents and the one she receives from his in-law's family may differ to some extent. For instance, the formula according to which, a woman will obtain a property and the one she receives from her in-law's family differs as per the Sharia law which may result in increase or reduction of inheritance patrimony.

**59. Are widows permitted to remarry? Are widows obligated to marry a brother or close relative if her husband dies?**

A widow is entitled from both the Sharia and legal perspective to remarry with any man she desires after the lapse of four months of "Iddat" and her forced marriage will termed to be an illegal act. However, in some cases they are not able to avail of their right in this regard due to the inappropriate customs ruling the country and lack of awareness among both men and women and in such a society, women themselves are regarded as the home assets. As such, the women are forced to marry with her deceased husband's brother as a result of which, her in-laws family occupy the inheritance once again.

**60. What happens if she refuses?**

In some cases If a widow is pressured to marry her husband's brother, she will pay a heavy price for that and if she can ever resist and can approach government authorities and the latter can make their judgments on legal terms, women can get rid of such pressures. In such a case, government authorities will be able to guarantee her liberty and freedom which rarely occurs in the country. A woman's reaction varies according to the nature of the case, their awareness and their access to

information and legal authorities which usually entails consequences for her like threats, intimidation and encouragement by her in-laws, fleeing home, suicide, giving in to such pressures or approaching legal authorities.

**61. Are widows allowed to remarry outside of the deceased husband's family?**

A widow can remarry after the lapse of four months ever since his husband's demise as per the Sharia and other laws prevalent in the country on her own will and discretion implying to have full authority to choose her husband. Constitution and Sharia support such a liberty for them. This answer in my opinion is from Sharia and Afghanistan prospective. Can we say something about daily life a woman in Afghanistan in this regard?

**62. Are there any widows in this village who remained unmarried?**

There are a lot of widows in the villages and cities of Afghanistan who have not remarried subsequent to their husbands' demise which have roots in fearing ensuing negligence from their children, traditional embarrassment, gossip, age, lack of new suitors and etc. This custom which results in women's great sacrifice is referred to as widowhood which according to the traditional customs prevalent in the country is considered to be a proud act.

This matter is linked to a widow's economic capability, having grown-up children, lack of suitor, age and her willingness to remarry. Whenever, a woman requires education and accommodation for her children or she is young enough and wants to start a new life or has suitors, can remarry. There are also some women who never give in to remarriage and remain widow during their entire lifetime as honor-saving act.

**63. Other than land, what options might a widow have to take care of her family?**

Some women run their livelihood through inheritance of land if it proves to be sufficient while only land will not suffice for a family to make both their ends meet. In such a case, a woman's source of income will emanate from inheritance, Mahr, remarriage, her parent's financial backing, her children's income and her own labor if she is able to do so.

**64. What if the husband has several wives? Who (which wife) gets access to land? Which wife's children inherit land?**

If a man has one or more than one wives, the man are entitled to possess the land and even a woman is equipped with a land, the man will benefit from it and the woman lacks any economic independence. As such, some men in a bid to usurp her property, gets married with a woman and the possession of the land will remain with the man irrespective of his monogamy or polygamy. Women can obtain their share of inheritance from their deceased husbands' patrimony as outlined in the Islamic Sharia and the prevalent laws in the country. No exceptions will be made in this regard among the women and their children.

**65. Who has responsibility to take care of the parents upon their death? Is this the responsibility of men or women?**

Islam teaches the children a tolerant and decent culture as well as taking care of their parents. In Afghanistan, no nurseries looking after the elder men / women do not exist whatsoever, therefore, the sponsorship of the parents either rich or poor will remain the sole responsibility of their children and particularly the elder ones. In most cases, the parents prefer to stay with their most junior child which mostly depends on their children's economic status and a sense of accountability among them towards their parents. Such guardianship of parents usually vary from one child to another in terms of their willingness and also their parents' prosperity / poverty.

**66. Do the responses vary for different religious, ethnic or tribal groups? Do the responses vary for other disadvantaged groups? Do the responses vary depending upon the wealth of the in-laws or birth family?**

The responses do not vary on religious grounds but rather on ethnic and tribal sectors whose sole reason can be rooted in the fact that ethnic groups in Afghanistan do not live in medley or in mixed manner. Every district is a specific ethnic-dominated area whose traditions and customs are dominated in that specific area. Therefore, the responses vary on the aforementioned grounds.

**67. Do the responses vary by area (rural, semi-urban versus urban areas)?**

The responses may vary from the rural to urban areas which mostly depend on the economic status of the parents and also the awareness and the sense of responsibility of the children, their willingness and also their financial strength.

**68. What role if any do the traditional leaders play in terms of distribution of land? Do they have the authority to distribute rights related to land and natural resource rights (use, transfer and to individuals or groups)? Are any women involved in distribution of rights? Are those rights formalized?**

Tribal leaders entitle themselves to take over as mediators for resolving any disputes among the local community people in case of the lack of rule of law and executive failure by government. They are also authorized by whom? To resolve land dispute albeit with precaution not to exceed the Sharia law and resolve such complicated issues through Mullah Imams except inheritance rights which is of Sharia nature. They are fully authorized by whom? to make interventions in disputes related to natural resources and utilization of pastoral lands and sometimes resolve such disputes in favor of their own relatives. Women are entitled to distribute the land among them which can be resolved through approaching official authorities.

**69. Are there any female traditional leaders? Are there any female judges?**

No traditional leaders do exist among women in Afghanistan given the misogynist culture dominating the country which does not provide the women a space to play an active role in the social and official spheres of life. Women are of less influence in the judicial system of the country while their presence can be felt in a much broader scale in the family courts while in other judicial spheres, they are discriminated against. As such, the numbers of female judges are less than their male counterparts.

**70. Are women in your village meaningfully involved in dispute resolution—either as mediators, as participants or witness of the case? Formally or informally?**

The women's role in mediation sector has always been overshadowed / overwhelmed by the patriarchy and male-dominated culture ruling the country and men make necessary and vital decisions in all the social and political matters even issues pertinent to the women's lives and destiny. Thereby, the women's presence and their endeavor for enhancing the capacity always faces some sort of obstacles. Apparently, two women equal one man to be presented as eyewitnesses, but rarely occurs that women be presented as eyewitnesses in the court. However, recently we have witnessed some women in very rare cases who have raised their voices through the Human Rights Commission, media and government authorities against gang-rape and sexual assault cases perpetrated against them as victims. The type of witnesses presented by women do exist only in nominal and exemplary manner rather than being in broad-based manner and fearing their destiny and honor result in women's marginalization.

**71. Do women have a voice in local governance/village council? Are they trained to serve on the village council? Are they connected to local leaders? If yes how by which means?**

Recently, women have found their way into the national mainstream as per the new constitution and electoral act particularly in the provincial councils' level among which one can point to appointment of a female governor in Bamyán Province and a female mayor in Daykundi while the same is also the case with the national assembly. Some sporadic training sessions are also being conducted the Civil Society Organizations and government in this regard which do not seem to suffice. They have some sort of links with the local leaders which can be regarded as a good start in this regard. On the other hand, women can also establish links with the local influential people through consultation and gathering mechanisms.

**72. Do women in your village vote? For local and national elections?**

Women fully contribute to the parliamentary and provincial councils' elections (Only parliamentary and provincial councils' elections have been conducted while election in the district and village councils' levels have not been conducted as yet). The failure to conduct elections in district and village level can be attributed to security and other cultural factors which may vary

from one place to another. Notwithstanding this, the women's presence in two presidential and parliamentary elections as well as provincial councils' elections has been unprecedented which is hoped to increase by the gradual improvement in security situation and awareness rate among the people from both the qualitative and quantitative points of view.

All the respondents share the view jointly that women have contributed to the electoral process in the country and will contribute so in the future as well. But, what matters the most is respondents' view that women's participation in the electoral process does not equal with their male voters given the fact that enjoy the full authority and can go to the polls and avail of their political and civil rights, while the women are discriminated against in this regard with respect to the improper customs and traditions dominating the country. One of the female respondents was quoted as saying regarding the women's participation in the electoral process in Bamyan Province that the presence of women in the electoral process has been felt in a massive scale and the official records in this regard suggest the presence of women outnumbering the male voters. The same respondent has also stated that in the second round of presidential election, people from other district had gone to polls that subsequent to casting their votes came to our house located in the vicinity of polling station. She added that her husband told her to stay at home to serve the guests coming to our house with tea since he was going to the poll. When she asked that how about her, her husband responded that she must act as she was directed by him. The guest coming to and fro in her home and as such, she was deprived of her political and civil rights.

**73. Are there general community meetings? Do women attend them? Does the answer depend on a woman's age or status within the household? Do you attend them?**

General community meetings are conducted on various issues of concern like gatherings for electoral campaigns, social and political issues, matters related to the human rights, seminars and training workshops and women participate in such gatherings on their own willingness, for security reasons or other cultural, customary and traditional reasons in such meetings and trainings. This may vary from one place, one district, one city and one province to another and the more the cities are taken into consideration, the more the presence of women are felt.

**74. Are there any "groups" in the village (e.g., seed-buying groups, livestock cooperative groups)? Do women participate in these groups?**

In Kabul and other provinces agricultural cooperatives do exist wherein women have very rare presence therein while purchasing and distribution of farming seeds are carried out by government.

**75. Do the responses vary by area (rural, semi-urban versus urban areas)?**

Yes. The responses do vary from the rural areas to semi-urban areas. It is a common practice in Afghanistan that women enjoy lesser rights in contrast to men in the cities.

**76. Do the responses vary for different religious, ethnic or tribal groups? Do the responses vary for other disadvantaged groups? Do the responses vary depending upon the wealth of the in-laws or birth family?**

The responses do not vary on the religious but rather on ethnic and tribal grounds since different ethnic groups and tribes have their own customs and traditions.

**77. What are you most concerned about in terms of dispute resolution? (e.g. literacy, access to legal aid?)**

I am more concerned about the increasing domestic violence, security situation and women's political and social victimization. Literacy courses and capacity-building workshops for elders and the women's access to education in the country will pave the way for the rule of law and implementation of justice in the country are considered to be the main challenges ahead of women. Legal awareness and training for both men and women alike is a long term requirement for all the people.

**78. What are women most concerned about in terms of enforcement of laws (customary or formal, fairness of traditional leaders' and court's decision)?**

The issues of utmost concern for women are the implementation of law, rule of law's promulgation, sustainable peace, eradication of domestic and traditional violence against women, men's failure to pay their Mahr, men's negligence of their wives, gender discrimination, Bad (Exchanging girls as a compensation to the other party of dispute as a peace-building and mediating measure), honor-killings, sexual assaults, second class citizenship status for women, preference of sons in contrast to daughters in the family and etc. On the other hand, finding job, education and poverty alleviation are also termed to be bad omen for women and they are in favor of positive traditional laws, official laws and codes including the Elimination of Violence Against women (EVAW) Law, family code and realization of justice by the tribal leaders and governmental courts.

**79. Do the responses vary by area (rural, per-urban versus urban areas)?**

Responses given by the respondents suggest their variance from rural areas to semi-urban and urban areas since the challenges / difficulties in urban areas exist in a lesser extent in contrast to rural areas. For instance, Bad culture does not exist in the cities, women are fully aware of their Mahr and other sort of awareness while such awareness rate does not exist in the rural areas.

**80. Do the responses vary for different religious, ethnic or tribal groups? Do the responses vary for other disadvantaged groups? Do the responses vary depending upon the wealth of the in-laws or birth family?**

All the respondents have their own points of views in this regard whose responses depend mainly on their information and knowledge level while the difference and variance in this regard is not of any substantial value. For instance, women share common concern when it comes to the implementation of customary and unofficial laws and resolution of disputes by the village elders and members of provincial councils.

**81. What is the average amount of time for the case from filing to judgment?**

The course of time set forth for the filing of cases and judgment varies from one place to another which does not take that much time. If women can get access to courts in the districts, provinces and cities, filing their cases are conducted in a very short period of time. However, judgment and issuance of decrees by the courts are time consuming to some extent which sometimes even last for months and years which usually depend on the accountability, prioritization of cases, recommendation, bureaucracy and appointment of judges in the districts.

**82. What are the average court fees for a civil case? Are fees higher or lower for cases involving land rights? Are these fees affordable for most people?**

Courts in Afghanistan do not charge the complainants or defendants for finalizing their cases while hiring an attorney, if required, is carried out by the parties of dispute which usually depends on the case. However, women and particularly women cannot afford to hire defense attorney which is rooted in the extreme poverty and dependency.

**83. Do litigants have to be represented by a lawyer? If so, what are average lawyers' fees?**

Hiring defense attorney is an optional matter and there is no prohibitions from the constitutional perspective and judicial procedures of the country and each one of the party of dispute enjoy the legitimate right to hire a defense attorney on their own expenses and if one of the parties of dispute is poor and cannot afford the expenses, Government will appoint a defense attorney for them. It is difficult to determine the average expenses of such an act and this varies from one place and case to another.

**84. Is legal aid available for disadvantaged litigants? If so, how does a party obtain legal aid services? Who is eligible? Are there costs to legal aid or are the services free? If free, who provide it?**

Government is accountable to hire defense attorney for those disadvantaged litigants who cannot afford the expenses for processing their cases in courts, on its own expense which consists of legal assistance provided by the Ministry of Justice or Advocates' Association and every side of the case can avail of these services when requiring legal assistance in terms of access to laws, translator and interpreter in their own local languages. Actually, all the people are eligible equally to avail of the

legal assistance since the expenses are of lower cost, but they can acquire such assistance in a very specific manner as well. The expenses for legal assistance as well as hiring a defense attorney by the litigants are paid by government.

**85. Are litigants required to be literate?**

No. litigants are not necessarily required to be literate given the low literacy rate in the country. The filing and interrogation process is carried out by the government.

**86. What language is used by the court? Are translators available?**

Pashtu and Dari languages are common in the courts while interpreters for other local languages are also provided by government. However, the lack of Pashtu-speakers is matter of concern in the judiciary and most of the people complain against such who have repeatedly complained against this inconvenience. Despite the fact that majority of the litigants are Pashtuns, most of the judicial employees are Dari speakers.

**87. Is there an automatic right of appeal? What percentage of land cases are appealed? How long does the appeals process last? What are the costs of an appeal?**

The right to appeal exists for various cases and actually, the judiciary system in Afghanistan is based on three levels. Hence, some of the decrees issues by the summary courts in some particular cases whose authorities have been defined in the constitution, can termed to be final. However, if the parties of the dispute disagree with the decision taken by the summary court, they can appeal for a period of 20 days and in a high-court for a period of one month ever since the issuance of decree for whose execution, no extra expenses will be required other than some exceptional cases of bribery.

**88. What percentage of litigants at the trial court level are female? What percentage of litigants are women from rural areas? What percentages at the appellate level?**

We have not succeeded as yet to gather an exact statistics in this regard while approaching the legal and judicial authorities, about 20 to 30 percent of the parties of disputes are women while no exact records do exist to probe the number of appealing women. There are no exact and substantial records in this regard since this matter requires visiting all the courts in the country.

**89. Does the court have alternative dispute resolution procedures (“ADR”) like mediation, arbitration, and negotiated settlement? Are those procedures mandatory in certain cases? If so, what cases?**

Courts and even investigation agencies recommend unofficial methodology like agreement through public meetings presided over by elders and tribal leaders. In courts, the issue of negotiation and mediation is not out of the question, but rarely take place whose execution may vary as per the courts’ procedures when related to domestic dispute between spouses, marriage contract without the parents’ approval, elopes, home-flee, land disputes, inheritance and commercial disputes by taking mediation into consideration. It is noteworthy that mediation can be either of official or unofficial nature.

**90. Can parties voluntarily agree to engage in ADR? How long do ADR procedures take? Are lawyers required? What are the costs in comparison to formal litigation?**

Parties of dispute sometimes accept alternative methodology and procedures for resolution of their disputes if both sides’ interests, expediency and facility are taken into consideration equally which usually occur prior to approaching court and this process is lesser time-consuming in contrast to judicial procedures. Therefore, in resolving such cases, the elders and religious leaders’ contribution outnumber those of the legal advisers and civil mediators which does not entail any particular expenses. However, participants, Mullah Imams and other decision-makers are provided with some sort of gifts.

**91. Are decisions made in court enforced? If so how?**

Decisions made by the courts are applicable subsequent to their finalization which are usually executed whose most of its execution is accomplished voluntarily by the parties of disputes while

the other responsibilities lie with the police, prosecutors and other law enforcement agencies. Hence, such responsibilities assigned for the courts and their officials are defined in the court's decree whose violation by one of the parties of dispute may ensue further penalties as well.

**92. What evidence is used in a case related to land? Is it written/verbal?**

In cases related to the land dispute, the following documents are required to be provided:

- Official documents like land ownership record attested by the court.
- Purchasing document attested and confirmed by the official authorities.
- Tax related documents attested by government.
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- Customary document dating back to 1354 Solar Year.
- Witnesses like elders, counselors or tribal leaders in villages, influential people and neighbors confirming the claimant's claims on land ownership.

It is worth mentioning that distribution of land in previous successive regimes, usurpation of government lands and also lands belonging to the people by the powerful individuals and illegal purchasing of lands by the people have created and caused a lot of problems whose resolution will take a longer time.

**93. Are people familiar with the formal law? Does this answer differ for men and women? Does it differ for women of different education? Background? Status in the household? Age?**

Generally, the people are not aware of laws prevalent in the country which also applies to those at the executive helm other than those referring to law in some exceptional cases implying that access to law is not a common practice. Undoubtedly, illiteracy and unwillingness, busy labor hours, economic and cultural poverty, complexity of the laws given their repeated revision, addition and alteration by the successive regimes has complicated access to laws and its comprehension by the common people. However, access to law also depends to the literacy level, social and family status, age and other issues, but negligence and unwillingness by the people in general cannot be ruled out as well in this case.

**94. Does the court apply formal law? Religious law? Customary law? How does it make that decision? Is it consistent by all judges? By all forums?**

Apparently, courts execute the laws outlined for the judiciary and it also merits mentioning that most of the laws emanate from Islamic Sharia. However, the case with the country's judiciary is the recruitment of Shariat, religious seminaries and those who have worked on experimental basis other than the law graduates. In most of the cases, judges make decisions based on their experiments and Sharia knowledge which may vary with the enforced laws in the country. If no obvious and clear provisions do exist in laws in some particular cases, Sharia, customs, traditions, doctrines and assumptions will be referred to as the final arbiter.

The laws are not executed in all the courts equally and the executors' awareness, intervention based favoritism, directions by the high-ranking officers, nepotism and advises also play active role in issuance of decrees to some extent. Hence, the country has a very journey ahead of it to witness similar execution of law and independent judiciary.

**95. Does the formal law have different rules for different categories of land, for example, ancestral versus purchased land; or state land versus private land?**

The laws prevalent in Afghanistan have their own provisions to different kind of lands and certain distinction lines do exist between the agricultural, residential, pastoral, public and private lands. However, no distinction is being made when it comes to the purchased land, inherited land and the government land distributed to the people in contrast to a private land before the law from the competitive point of view.

**96. What does the law say about inheritance by women as daughters/wives? What does it say about polygamy? What does it say about property as it relates to widowhood, divorce, separation, abandonment?**

Islamic Sharia has defined clearly the type, size and level of inheritors either male or female as well Afghanistan's Civil Codes from 1993<sup>rd</sup> to 2051<sup>st</sup> Articles in terms of women and girls' inheritance rights (this matter has been explained in detail in response to the first question).

Polygamy and the alteration in the marriage dates will not impact the inheritance rights whatsoever. Properties belonging to the widows are considered their legitimate rights and are advocated by the law. Other than some exceptional cases like separation and abandonment of women based on divorce, there is no other pre-determined provision in this regard.

**97. Note any rural/urban, religious, ethnic, or tribal differences, and variations in responses from other disadvantaged groups particularly in relation to access to courts, types of cases brought in, if seeking assistance in accessing formal courts, other mechanisms for resolving conflicts/disputes over land and property, and familiarity with the formal law.**

It is recommended that if interviews may be conducted with all the Afghan citizens from various ethnic groups. Most of the respondents with whom, interview was conducted in Kabul, did not have any sufficient knowledge and information regarding the resolution of disputes regarding the land and other properties.