

**SOCIOLOGICAL ANALYSIS OF LAND DISPUTES IN DISTRICT DIR LOWER**

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**ABSTRACT**

*Land disputes are indeed a key factor in the disintegration and destabilization of developing societies like Pakistan. The present study was undertaken to find out the major causes, as well as consequences, of land disputes in Lower Dir district. On the basis of land disputes cases from 2001-2010, 250 respondents were selected from the whole universe through stratified random sampling technique, including 50 respondents from land disputes related office bearers and lawyers. An interview schedule and a questionnaire were used for the collection of data from land-disputants and land related officers, lawyers respectively. Then the collected data was analyzed through SPSS. It was found that the major causes behind land disputes in the study area were mass illiteracy, non-existence of land registration system, increase in land value, greed and lust, defective land administration system and inefficiency of land disputes resolving institutions. Many socio-economic impacts of land disputes were detected through the present research study such as heavy expenditure on litigations that leads to poverty and indebtedness, wastage of time, source of enmity and psychological complexities. The role of formal and informal land disputes resolution agencies were also taken into consideration which was unsatisfactory. To overcome the problem of land disputes implementation of land registration system, awareness of illiterate masses, implementation of Islamic laws of inheritance in its letter and spirit, eradication of corruption from land administration department and efficient judicial system for the resolution of land disputes in Lower Dir are needed.*

**Keywords:** Land Disputes, Sociological Analysis, Disintegration, Dir Lower, Destruction

**INTRODUCTION**

A dispute is totally a destructive social process and it performs no positive function. But sociologically it is believed that social dispute is imperative for social change. Land disputes lead to change if they go ahead to enormous objection and consequently resulted change in the legal framework of the government. For example, the dispute among tenants and landlords has resulted in the promulgation of land reforms in Pakistan (Iqbal, 2002).

There are many different forms of land disputes. There may be dispute between single parties over the boundary demarcation of land, dispute of inheritance among siblings and dispute over the use of land. It includes some of the land disputes, which can easily be solved. The land disputes in which several parties are involved such as evictions or invasions of whole agreement are comparatively further hard to pact with. There are many countries where indigenous people have been deprived of the possession of land because of lack of recognition their rights to land or have been declared as invalid by the government or in the course of privatization of their land by the statesmen (UN – Habitat 2005).

Land dispute is a social fact and can occur anywhere and at any time. Need and greed both are equally responsible for the frequent occurrence of land disputes. Scarcity of land, increase in land value and rapid growth of population has further worsened the situation. There are different

sources of land acquisition including sale, purchase, inheritance, will, gifts, preemption, and evacuee rights etc. In this context, major types of land disputes include, ownership dispute related to inheritance, dispute on the demarcation of land, ownership dispute due to nonexistence of land registration system, ownership dispute between state and private owners, dispute due to multiple sale of land, restrictions on the purchase and sale of land due to discriminatory law or custom, land acquisition followed by violence, eviction by landowner or illegal evictions, dispute over the giving money for utilization or purchase land, dispute on the price of land, destruction of property through violence, expropriation by the state with force or without paying the cost of land, various types of intra family land dispute and dispute caused by land reforms.

## LITERATURE REVIEW

Land disputes related to inheritance are most common in Rawanda. Scarcity of land, over population, fragmentation of land, polygamy, poverty and discrimination against women are the major contributing factors to land disputes in Rawanda (Olga Segar, 2008).

Land disputes are universal phenomenon of human life. They increased with the development of private property. In Tigray, Land disputes occurs on demarcation of boundaries, claim of land ownership between state and private land holder, restrictions on the purchase of land due to discriminatory law, multiple sales of land, acquiring land without eviction, disputes arises over the value and buying/ selling of land (Tesfay, 2011).

Land disputes in Afghanistan are due to no rule of law, corruption, no peace and stability, no land reforms, no proper land registration system and weak institutions. Informal and customary land disputes resolution mechanisms such as Shura and Jirga may play an effective role in the resolution of land disputes (Zaman, 2003). The main contributing factors to the economic disparity and land disputes in Fiji are the dual land tenure system i.e. customary land tenure system and western colonial land tenure system, ineffective administration, disagreement involving customary ownership and the lack of well-defined boundaries for customary lands.

Land plays an important role in the socio economics and political life of Nepal. Major types of land disputes include boundaries disputes, ownership, encroachment and mohis (tenant) disputes. There are many causes of land disputes in Nepal but increase in population, rising of land prices, role of dalals (brokers) lack of education and awareness and absence of land registration system are the most important contributing factors of land disputes (Bersuykens, 2014).

The land and revenue policy before the emperor Sher Shah Suri was notorious. The system of assigning land to soldiers in lieu of pay was in most cases responsible for land disputes and deplorable condition of the cultivators who were mercilessly treated by the hungry officials (Billham, 2003). Land disputes are commonly found in urban as well as rural areas of Pakistan. All land related disputes such as land documents, land transactions, tenancy and land revenue lies in the jurisdiction of land revenue courts. Land records in land administration offices are often incomplete and land administration officials are not efficient to provide land records before the court in time. Therefore, cases of land disputes may take years to resolve (UK Border Agency, 2011)

Rewaj (Custom) of miras (inheritance) is specific to traditional Pakhtun society and murders over landed property are a most common practice in Pakhtun society. Wife is not entitled to Miras (inheritance) of her deceased husband. The eldest son is the first Miraskhor heir and then any younger son. If the elder and the younger sons dispute over inheritance, it can be a source of enmity,

continuing for a long time. Female heirs (daughters) have no right of share in the inherited property. In some parts of Pakhtun Belt, the eldest son is awarded with comparatively more share in the inherited property in comparison to other legal heirs which is known as Mashari. If a deceased have no male issue then the inheritance goes to his brothers or any other closest male collateral. The look after of widow and unmarried daughters if any, is the responsibility of a person or persons who inherit the deceased property. If the deceased leaves an immature son or sons, the care of widow becomes the responsibility of brothers in law and mostly one of her brother in law take her into marriage. In such case, the minor son on becoming adult is paid the marriage money.

In shariat, (Islamic Law) it is not fair for the mortgagee to get benefit out of the mortgaged land because this is a conditional purchase (Muhammad, 1980). Women are not encouraged to demand her share in property from her family members as inheritance but now women are encouraged by the law to demand their due rights without any hesitation (Akhtar et al., 2013).

In this regards, historical graveyards in Peshawar city have largely been encroached by local land mafia. If this trend of illegal occupation on graveyards remained continue in the city, no place for the burial of deceased does will be available in the near future.

The area of Rahman Baba graveyard in HazarKhwani is 770 Kanal and 18 Marlas in official land record but now its area is mitigated to 758 Kanal and 11 Marlas. Similarly, the covered area of Kakshal graveyard is 236 Kanal and 11 Marlas but presently it remained half of the total area. The area of another graveyard i.e. Takratheen of Peshawar has been minimized from 490 Kanals to 446 Kanals.

The population of Peshawar city is rapidly increasing due to the influx of immigrants from all parts of Khyber Pakhtunkhwa province. On the other hand, the value of land in the city and its surrounding is beyond the purchase power of common man. So, it is feared that, the residents of the city will face serious difficulties in finding burial place for their deceased's in the coming years (Khan, 2013).

According to Section 25 of Rules under practice of Ex-Dir State an immovable property such as land, residential houses, shops and trees etc; if remain in the possession of a person continuously for fifteen years, it will be considered the legal property of the possessor and no claim shall be entertained against such a person.

Section 26 of the same constitution says that if an immovable property remains in the possession of a person/party continuously for fifteen years and he possess no purchase documents or witness or purchase document of state government in support of his claim and on the other hand the second party or person claim the right of ownership of that disputed property with valid ownership documents, witness or decision of state government. The ownership of such a disputed property shall be decided according to the law of Sharia or local custom i.e. through local Jirga.

Section 27 of the constitution maintains that if an immovable property remains in possession of a person continuously for 25 years. He will be considered as legal owner of that property and twenty five years continuous possession shall be enough for his ownership claim.

Section 28 holds that section 27 of the constitution i.e. twenty five years possession shall not be applicable in case of mortgage (Rahman, 2003).

Due to the non-existence of proper land settlement and land registration system, land disputes are frequently occurs in Lower Dir (Dennys & Marjana, 2012).

Due to the increasing pressure of population, inflow of remittances from Middle East Countries and limited plain area, the cost of land in Lower Dir is very high in comparison to other parts of Khyber Pakhtunkhwa. The price of one marla land is ten to fifteen lac rupees in some commercial areas like Timargara, Chakdara, Samarbagh and Khall. The real estate business is therefore, has become the most profitable enterprise and property dealers have invested millions of rupees in land transaction.

Different land disputes also exist in the targeted area. In these some major disputes includes, dispute between Osakhel and Utmankhel tribes over cultivable and non-cultivable land in Balambat area, land dispute between two rival groups in Talash area over a forest covered hilly area called Kamrani, and a dispute between two villages namely Kowary and Banda in Malakand area of Lower Dir over a piece of forest covered land since very long. Further, there exists other disputes around the district and include a dispute on plain and partially fertile piece of land between the Khanan of Ouch village and peasants of Osaki village, a dispute on forest covered hills among the residents of villages Namazkot, Safaray, Dawlay and Gorjai in Maidan Area, while a dispute over the mountain of Sarlara in Maidan area is a constant source of rivalry between Taran tribe and the residents of Manyal village. Similarly, dispute over a mountainous land lies between Nagotal and Nanbatai villages, and another land litigation between the Maliks of village Khungi and Government of Khyber Pakhtunkhwa on state owned land. In addition, there is a dispute on a large piece of land between the miangan and wardak tribe of lajbok in tehsil balambat, and land dispute case between Akbar Shah Shehzada and peasants of Ex-Khan (ruler) of Jandool Valley (Lower Dir) is currently under trail in Supreme Court of Pakistan. This land dispute over 560 kanals cultivable land remains under trail in various courts and Land Commissions since 1917 and is still unresolved. The case indicates that the process of the resolution of land disputes cases through formal courts is very slow, time consuming and passed on through generations.(Source: official record of local courts: 2014). The above discussion indicate that land disputes has engulfed the socioeconomic fabric of Dir lower, and becoming a major sociological issues of investigation.

### **STATEMENT OF THE PROBLEM**

All land disputes, whether peaceful or violent, cause numerous negative impacts for an individual as well as for the whole society. It is an unavoidable fact that whenever there is a land dispute, the involved parties inflict social and economic sufferings on each other. They have to pay out a bunch of time and wealth on litigations in courts. Land disputes in the study area district Dir Lower usually cause violence, the losses of valuable lives, damage to property, personal injury, instability of social, political and economic institutions and sometimes one of the involved parties leave its place of residence and migrate to another place in order to avoid the expected loss of lives. The practice of numerous sales, land capturing, evictions etc. have created the state of mistrust on each other as well as on the government. Aslso, violent land disputes have led to social, economic and political instability.

All the above-mentioned aspects of land disputes are serious threats to the social, political and economic stability of the study area as well as sufferings to the involved parties in one way or the other. These land disputes need proper attention of social scientists and social reformers. The issue of land disputes is increasing day by day and penetrating the social fabric of Dir Lower. The issue calls the attention of sociologist to investigate the broader social, economic and cultural factors behind the issue. The present study was conducted in Distrit Dir Lower, with an attempt to uncover

the different faces of the issue (land conflicts), and investigate its consequences on the society, however; the study was focused on the following specific objectives.

### **OBJECTIVES OF THE STUDY**

- To know various types of land disputes in the study area
- To explore the contributing factors of land disputes
- To know about the existence and role of land registration system

### **THEORETICAL FRAMEWORK OF THE STUDY**

In this research social conflict theories have been utilized in order to highlight the different factors and forces of that produce conflicts and results in the instability, struggle and social disorganization of society. Infact, conflict is universal in nature, and in majority cases conflicts occurs when people strive for the acquisition of power, prestige, authority or most importantly property or wealth. Keeping in consideration the nature of the present study the philosophy or work of Ralf Dahrendorf (1929-2009), Karl Marx (1818–1883), C.Wright Mills (1956–1959) and Lewis Coser (1913-2003) has been used for framing the broader umbrella for the study (Hunt, 1984). Evolving from these studies, social conflict center around the accumulation of wealth or property. Conflict perspective has a large output on the titled issue and believes that the unequal distribution of resources (economic, social, cultural & political etc,) not only leads to confusion, but also create imbalance in social relations in society (George Ritzer, 2001).

In Pakhtun Society, the major causes of land disputes are rooted in social structures, while the main factor is the acquisition of or ownership of capital (social or economic), and this has been intensified in areas where capital are concentrated in few hands. In present context, the conflicts over land disputes are present in the broader society down to the family level. In this connection, the drastic socio-economic changes has intensified the issue as people have better access to the law, where they fight for their rights over land. Further, the drastic changes that has occurred in Pakhtun Society has made the social networking of lesser importance and the conflicts over land has been intensified. In this regard, those who were disempowered in Pakhtun social organization and were deprived of Land, militating against the owners in order to acquire share in the land. In this way, the acquisition of property is considered essential for promoting one's social, economic, political, and educational status, and the use of Marxist philosophy is thus justified and provide an evidence material for this study.

### **METHODS AND PROCEDURE**

The study was conducted under quantitative approach. The study was carried out in District Dir Lower, however; the study was limited to land related cases District Dir Lower. According to the District and Lower Courts of Dir Lower, there are 816 land dispute cases under trial. Therefore, the researcher selected 200 sample sizes through stratified random sampling technique. In this method the researcher decide about the share of the sample sizes to the strata before drawing a sample (Cooper, 2006; Paulo, 2008). That's why this research used A. L. Bowley's proportional allocation method to select sample size from each sub category on the basis of given formula i.e.  $n_i = N_i/N (n)$  (Bowley, 1920). In addition, data was collected from 50 office bearers from different offices related to land disputes cases.

Data was collected through questionnaire and interview schedule. Further, questionnaire was used for educated respondents, while interview schedule was utilized for the uneducated

respondents. The collected data was analysed quantitatively, using SPSS, in order to derive findings and conclusion of the study.

### DATA PRESENTATION AND ANALYSIS

The collected data was analyzed through SPSS and presented in the forms of tables in order to derive findings and conclusion.

**Table-1 Size of Disputed Land in Dir Lower**

Specification (In Kanals)	Frequency	Percent
0-05	46	23.0
05-10	54	27.0
10-15	26	13.0
15-20	40	20.0
Above 20	34	17.0
Total	200	100.0

Table-1 indicates the size of disputed land in the area. Out of 200 respondents, 46 being 23% were having 5 Kanals of disputed land, 54 being 27% were having 5-10 Kanal, 26 being 13% were having 10-15 Kanal, 40 being 20% were having 15-20 kanal, and 34 being 17% were having above 20 kanal of disputed land in the area. Thus majority i.e. 54 being 27% were having 5-10 kanal of disputed land. This portrays that majority of the respondents share the disputed land.

**Table-2 Market value of Disputed Land**

Specification(RS)	Frequency	Percent
50000-100000	8	4.0
100001-200000	38	19.0
200001-300000	26	13.0
300001-400000	60	30.0
Above 400000	68	34.0
Total	200	100.0

Table-2 highlights the market value of disputed land. Out of the total 200 respondents 8 (4%) specified that the disputed land would have market value of Rs. 50000-100000, 38 (19%) specified for Rs. 100001-200000, 26 (13%) specified for Rs. 200001-300000, 60 (30%) specified for Rs. 300001-400000, and 68 (34%) specified for above Rs. 400000 as the market value of disputed land per kanal. This shows that the disputed land has greater market value and it is important for the people from economic point of view.

**Table-3. Nature of Land Dispute**

Specification	Frequency	Percent
Encroachment	26	13.0
Demarcation	16	8.0
Inheritance/ No Registration	82	41.0
Ownership	76	38.0
Total	200	100.0

Table-3 shows the nature of land dispute in the area. Out of the total 200 respondents, 26 (13%) were of the view that encroachment was the common dispute nature in the area, 16 (8%) replied for demarcation, 82 (41%) mentioned for inheritance and No registration, 76 (38%) specified for Ownership as the nature of land dispute in the area.

**Table-4 Contributing Factors of Land Disputes**

Specification	Frequency	Percent
No registration	120	60.0
Unclear boundaries	14	7.0
Illiteracy /Ignorance	4	2.0
Greed and Lust	8	4.0
Might is Right	12	6.0
Maladministration	18	9.0
Increase in Land Value	24	12.0
Total	200	100.0

Table-4 depicts the contributory factors of land disputes in the target area. Out of the total 200 respondents, 120 (60%) replied that no land registration is the major factor responsible for land dispute in the area, 14 (7%) replied for unclear boundary, 4 (2) for illiteracy / Ignorance, 8 (6%) for greed and lust, 12 (6%) for might is right, 18 (9%) for maladministration and 24 (12%) specified for increase in the value of land as the factor of land dispute in the area.

**Table-5 Opinion of the Staff of Different Departments about Land Disputes**

Specification	Frequency	Percent
No Registration	41	82.0
Increase in Land Value	1	2.0
Might is Right	2	4.0
Land Mafia	2	4.0
Dishonesty	4	8.0
Total	50	100.0

The above table is about opinion of the staff of different departments about land disputes. In this context, majority of respondents i.e. 41(82%) said that non registration leads to land disputes. In addition, 1 (2%) were of the opinion that increase in land value cause land disputes, 2 (4%) each were of the opinion that the powerful file case against the weaker and land mafia cause land disputes. Similarly, 4(8%) were of the opinion that it is dishonesty that results in land disputes in the area.

**Table-06 Land Disputes affect Mutual Relationships**

Specification	Frequency	Percent	Valid Percent	Cumulative Percent
Mutual Relationship	Yes (144)	72.0	72.0	72.0
	No (56)	28.0	28.0	100
Total		100.0	100.0	

Table No. 06 shows that out of total 200 respondents, 144 were of the view that land disputes affect mutual relationship. As concluded by Mentrup, 2004 in Guatemala. It has been learnt through the current study that land disputes affect social relationship between the families of the disputant parties. Moreover, it mostly becomes a constant source of enmity for the coming members of disputant's families.

## CONCLUSION

The study concludes that the respondents had size of land holding above 40 Kanals and most of the land was used for crops production. The common source of receiving land was inheritance from forefathers. The common size of disputed land was 5-10 Kanals and it was mostly crop producing. It was founded that the common value of disputed land was above RS 400000/- and majority of the respondents had dispute over the inheritance of land. It was founded that the major causes behind land disputes in the study area were mass illiteracy, non-existence of land registration system, increase in land value, greed and lust, defective land administration system and inefficiency of land disputes resolving institutions. It was observed that the most significant contributing factor of land disputes was the absence of proper land registration system in the study area. Immediate implementation of land registration system in the study area is needed.

## RECOMMENDATIONS

On the basis of study finding it is suggested that the existing Patwar System is notorious for its corruption during land registration/ land settlement process, and therefore, the trend of corruption and dishonesty must be discouraged by taking serious steps against such corrupt employees of land management or registration. There are numerous Land Mafia groups patronize by important personalities. The government must take notice of these groups by establishing anti-encroachment cells throughout the country. Further, land registration is very important for dispute prevention. Therefore registration of the entire land i.e. Trust Land, private land and public land must be carried out to protect the ownership of land and minimize the increasing ratio of land disputes especially boundary disputes. In addition, deliberate efforts should be made to create and develop cooperative

attitude, mutual understanding, re-establishing respect and trust between the disputant parties. Moreover, the causes of many land disputes may be predicted before the occurrences. It is therefore crucial to be aware of such occurrences. Such possible land disputes may be immediately communicated to the responsible land management experts in order to avoid the occurrence of dispute in time. Also, good land governance may be promoted for the prevention of land disputes. It requires the honest and serious application of certain principles to land policy, land related legislation, state land management, land administration, land management, land reforms and land disputes resolution etc. These principles include equity, accountability, transparency, effectiveness, efficiency, rule of law and legal security etc.

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