

# The Fog of Entitlement

## Women's Inheritance and Land Rights

GOVIND KELKAR

The study examines the experience of women farmers who lack rights to land and related factors of production, and provides insights into a number of conditions that hamper rural women's right to agricultural land. Further, it explores how inheritance practices disfavour women, and those women who claim land encounter many institutional and non-institutional constraints. In conclusion, the paper suggests policy and practice measures for women's economic empowerment that may facilitate the process of closing gender gaps.

In recent years, a large number of studies noted that China, India and Indonesia have experienced rapid economic growth since the 1990s, and that this is reflected in poverty reduction trends. The 2013 World Development Indicators (pp 28-29) noted poverty in 2009-10 as 11.8% for China, 18.1% for Indonesia, and 32.7% for India, with \$1.25/day per capita as the international poverty line. However, the overall gain in gender outcomes shows a different picture. Women's experience of economic growth and macroeconomic reforms is mediated through their position within the household and outside; and more so with regard to the realisation of their entitlement to land and property.

Discussing the impediments to women's inheritance and asset ownership in Pakistan, a recent study noted the lack of ownership of land as the key factor of poverty. Women have little control over land and productive resources, even in situations where they may have the legal right to own land and inherit property (Mumtaz and Noshirwani 2013).

Asia and the Pacific regions often rank low on gender gap indicators. South Asia emerges close to, or lower than, Sub-Saharan Africa in gender gap indicators of health, adult literacy and economic participation. China and India account for over 90 million "missing women", largely a result of son preference or sex-selective abortion and infanticide.

The region shows some progress in the schooling of girls and a higher percentage of women are going to work outside the home; surprisingly, an overwhelming number of women are engaged in informal-sector work, with 70%-80% in agricultural work (Ministry of Rural Development 2011). This is often termed the "feminisation of agricultural work". However, less than 10% of these women in agricultural production have any kind of ownership and control rights to land in India. China and Indonesia are somewhat better in women's landownership numbers, but only marginally (no precise figures on women's landownership are available). Women's participation in economic and political governance shows the largest gaps.

This study examines the experience of women farmers who lack rights to land and related factors of production, and provides insights into a number of conditions that hamper rural women's right to agricultural land. In an effort to build an understanding of development policy for women's right to land, this study further explores how women acquire land, their aspirations for economic security and enhanced terms of social recognition with land tenure, their knowledge of legal and customary practices, and the extent to which they would

A version of this paper was presented at the World Bank Conference on Land and Poverty, Washington DC, 8-11 April 2013. The paper benefited from critical reviews and advice from Diana Flutschner, Robert Mitchell, Gregory Rake, Anirudh Brahmachari, Santosh Kumar Jha, and Ujithra Ponniah.

Govind Kelkar ([govindk@landesa.org](mailto:govindk@landesa.org)) is Senior Advisor, Landesa India, New Delhi.

like and expect to gain family land through inheritance and transactions over convergence deeds in the market.

### Women and the Land Question

Recent policy discussions on building the economic power of rural communities have drawn attention to two facts. First, access, control and ownership of certain assets, such as land, housing, livestock, common property resources, businesses, health and finances, are leveraging factors in pursuing women's empowerment and gender equality, and for bringing a more equitable change to institutions and society at large. Second, women constitute a significant majority of small-scale farmers and food producers. Hence, strengthening women's rights to land and related productive assets and developing their capacity are central to overcoming poverty and inequality.

The struggle for women's property rights and their ownership of land has been a subject of policy debate over the course of the 20th century; and these rights have still not been achieved in India and in most Asian countries. Some recent stories point out that traditional customs and practices concerning male preference in inheritance and male bias in state programmes on land distribution and land markets have increased women's vulnerability to experiencing access to productivity-increasing technologies (Bhatla et al 2006; Kelkar 2007; Kelkar and Krishnaraj 2013; Shapiro and Wolff 2001; World Bank 2008). Many of these analyses have further demonstrated that household and individual well-being are not necessarily the same, that women and girls may have lower levels of access to education and medical services, and that these differences may be related to the differential control of household assets. Lack of control over assets also results in women's lower wages, and cripples their economic agency and decision-making power over assets.

Development reports have increasingly acknowledged that there is a need for women to own and participate in proportionate numbers in the management of land and trading opportunities in the local markets. In the context of the growing feminisation of agricultural work and the informal sector, women need appropriate skills and unmediated control of land and related production inputs in order to successfully manage their lives and increase agricultural productivity. As rightly suggested in the recent Food and Agriculture Organisation (FAO) report, closing the gender gap in agriculture with women's access and ownership of land and productive assets could increase yields in the women-run farms by 20%-30%. This "could raise total agricultural output in developing countries by 2.5%-4%, which could in turn reduce the number of hungry people in the world by 12%-17%" (FAO 2011: 5).

Women's effective entitlement to land and productive assets is one of the main forms of addressing gender inequality. Women in rural areas of Andhra Pradesh, Haryana, Maharashtra, and Uttar Pradesh reported the following benefits from plots titled solely in the women's names (Women Farmers' Conclave 2013; Kelkar, field notes 2012):

- Land titled in the woman's name enhances her self-esteem; she is recognised as a farmer and is more likely to access

institutional credit for increasing production and productivity from land.

- With land in her independent name, a woman receives more respect from her husband, her children and the community.

- With land titled in her name, a woman is in a position to escape violence and avoid marital conflict.

- Land titled in the woman's name reduces the risk of her eviction from the marital household.

- With land titled in her name, a woman is in a position to decide on land-use priorities and disallow any sale of land without her knowledge and approval.

I have argued elsewhere that land distribution is superior to income transfers because there is an incentive effect in the former case (Kelkar 2011). Land distribution provides a basis for overcoming distortions in the functioning of markets and for restructuring gender relations in the fields of property rights, access to technology, healthcare, and governance. Women's ownership and control rights to land are likely to bring in changes in public opinion about gender roles and in the sociocultural norms that perpetuate deep-seated social inequalities of women, such as the household division of labour, restraints on women speaking in public, constraints on women's mobility, and pervasive gender-based violence within and outside the home.

At a fundamental level, the security provided by land is more certain, as it is not subject to the fluctuations of the labour market. While income only maintains consumption, land titles allow individuals to engage in long-term planning. Land distribution facilitates a restructuring of gender relations in the areas of property rights, access to technology and healthcare, and autonomy in the governance of resources, including women's own bodies and labour. Landownership enhances women's bargaining strength and decision-making power, and allows them to challenge the social norms and rules that discriminate against them in the use and transformation of land and productive assets.

### Global Recognition of Women's Land and Property Rights

Globally, gender inequality in the ownership and control of land and other productive assets is closely related to women's poverty, inequality and exclusion from economic and political governance. Women's ownership of land is found to be extremely unequal, in the range of 1%-9%.

In recent years, there has been an increased recognition of the importance of women's use, control and ownership of land and other productive assets. Land is seen as a key to a life with dignity and economic independence, thus enabling individual women or men the right to equality, food, health, housing, water, energy, and education.

Within this context, an attempt is made to recall state parties' commitments to guarantee women equal rights to access, use and control over land and other productive resources in various international human rights and policy instruments. Some of these include: the Universal Declaration of Human Rights; the Convention on the Elimination of All Forms of

Discrimination Against Women (CEDAW); Convention on the Rights of the Child; International Convention on the Rights of Persons with Disabilities; the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families; the Committee on Economic, Social and Cultural Rights; the Beijing Platform for Action; the International Conference on Population and Development. (For a detailed analysis, see United Nations Human Rights Office of the High Commissioners and UN Women 2013.)

More recently, in May 2012, the Committee on World Food Security officially endorsed the Voluntary Guidelines on Responsible Governance of Tenure of Land, Fisheries and Forests in the context of National Food Security. The UN Conference on Sustainable Development (Rio+20) in June 2013 further raised the importance of women's rights to land and property.

Based on the principle of a human rights-based approach to women's rights, state parties in their international conventions and policy instruments guarantee legislation and policy measures that would ensure women's full and equal access to productive assets, including the right to inheritance of land and other forms of property.

The post-2015 process is being seen as a critical juncture to ensure that women's rights to land and property receive due attention as an integral part of poverty reduction measures in the international and national development agenda. In this regard, some known efforts are being made by international, regional and national networks of women and non-governmental organisations (NGOs), such as the Huairou Commission, International Land Coalition, Landesa, Global Centre for Women's Land Rights in China and India, M S Swaminathan Research Foundation, Asia-Pacific Forum on Women Law and Development (APWLD), Working Group of Women on Land Organisations (WGWLO), CEDAW in 1993. CEDAW (1980) requires all state parties to modify or abolish all existing laws, customs, practices, and regulations that discriminate against women. All state parties to CEDAW must also recognise equal rights between women and men to conclude contracts and administer property, and provide equal rights for both spouses for owning, acquiring, managing, administering and disposing of property (Arts 15(2), 16(1)(h)).

In the case of Latin America, signing CEDAW has had a significant effect on women's rights to household assets and community property. Most Latin American countries recognise the dual-headed household system. However, these countries did experience a disjuncture between women's formal equality before the law and real equality in the accumulation and management of assets (Deere and Doss 2006: 20-21). India, too, has passed a legislation protecting women's property rights, including rights to agricultural land. However, social practices based on traditions and customs work to women's disadvantage, and further act to influence the social ideology of women's economic dependence on men and a general reluctance to implement legal measures or use the courts to enforce women's rights to land. Social norms define and constrain women from exercising their agency, and further penalise

both those who deviate from the norms and those who do not enforce them (World Bank 2012: 169).

### Gender Disparities and Land Inheritance

In China, a higher share of agricultural resources with women, following agricultural reforms, resulted in increasing the survival rates for girls (Qian 2008). In India, women's plot ownership in rural West Bengal significantly increased investment in girls' schooling, and their husbands felt that the standard of living of their households had improved due to the ownership of land by women (Galab and Revathi 2013). Importantly, there is evidence that women are more likely than men to transfer their property rights to daughters, or to include both sons and daughters as heirs (Deere and Leon 2009; Galab and Revathi 2013; Kelkar and Nathan 2003; Kelkar field notes 2013). Thus, strengthening women's position as landowners supports a gender-responsive inclusive growth and creates a culture of equality. Further analysis shows that if the household allocation of assets is not gender balanced, it may result in limiting women's bargaining power, inter-spousal decisions about control over production, consumption entitlements, and the formation of human capabilities (Agarwal 2002; Kabeer 1999; Kelkar 1993; Kelkar and Nathan 2003; Sen 1990).

Social and cultural norms tend to diminish their power or stated as the influencing factor when women own and manage land. Our fieldwork findings in rural Bangladesh, India and Nepal suggest that women's control of land and assets results in effectively breaking the vicious circle of poverty-patriarchy-ill health, including HIV infection (Kelkar 2008). With exclusive titles to land in their names, women acquire the capability to address male dominance and the hold of cultural norms, in case of any transgression of gender boundaries.

Historically, women's demand for equality within the family and for equal rights to land date back to 1938, when a Sub-Committee on Women's Role in Planned Economy of the National Committees of India began working on the legal rights of women to hold property in their independent names (Sub-Committee on Women's Role in Planned Economy 1938). These demands and other voices from the women's movement in the 1970s found expression in India's Sixth Five-Year Plan (1990-95):

Economic independence of women would accelerate the improvement of the status of women. Government would endeavor to give joint title to husband and wife in the development activities involving transfer of assets. This would be taken up for implementation to start within programmes like distribution of land and house sites and beneficiary oriented economic units (para 27.19).

In 2005, the Government of India amended the Hindu Succession Act of 1956. The Hindu Succession (Amendment) Act (HSA) (2005), a revolutionary legal reform promoting gender equality, retained the concept of the joint family and introduced daughters as coparceners, who have a right at birth to a share of agricultural land and property equal to that of sons. The 2005 law thereby established a gender-equal basis of land and agricultural property inheritance.

In recent years, there have been serious questions on women's joint titles to land. A series of policy consultation meetings

with civil society groups, including the Feminist Economist Group organised by the Planning Commission in preparation for the Twelfth Five-Year Plan, came up with a general conclusion that the measures for joint titles have not worked, and have remained inconsequential for the social and economic empowerment of women. Importantly, as a consequence of the policy consultation meetings, the current Twelfth Five-Year Plan says:

Where new land is being distributed or regularized, individual titles in women's name only, rather than joint titles with husbands could be considered. States may also want to consider group titles to women's groups...and recognize such groups as a valid category of land owners (para 23.25).

In cases where joint pattas were issued in the past to occupants of government land, "such pattas would be made partition-able so that wives if they so desire, can have half the share of land in their single names" (ibid).

In India, land is governed by state law, rather than national law. Several states in the country have implemented programmes that suggest that secure land rights of women, with full control and ownership, can improve women's economic empowerment and increase productivity or investment in agriculture. Using the National Family Health Survey, Sanchari Roy (2008) shows that endowing women with equal inheritance rights enhances their autonomy within their marital homes. In all the villages the author visited in 2004-05 in connection with the review of a UNIFEM project, both women and men said that it was a good thing that land was registered in women's names, that it would guard against men's tendency to over-consume alcohol and then dispose of their land for a small amount of money (Nathan and Kelkar 2005).

For instance, from 1997 to 2010, the state government partnered with the World Bank to implement a poverty reduction programme in the Indian state of Andhra Pradesh. The government purchased land from owners willing to sell and transferred it in the names of women from landless households (Mitchell and Espinosa 2009). Over 5,000 women got land in their independent names. The states of Gujarat, Karnataka, Kerala, Bihar, Tamil Nadu, and Odisha offer similar examples of land transfers in women's names, although on a smaller scale. Such ad hoc policy measures are reflected in research related to women and agriculture (Agarwal 2002; Kelkar 2007; Kelkar and Krishnaraj 2013; Rao 2008).

Likewise, there are examples of the destruction of state-owned land in China and Pakistan. Chinese law stipulates that after a woman marries out into another village, she should give up her share of land in the parental village, and in return would receive a share in the village or household she marries into. However, traditional gender practices and social norms of patrilocal residence and patrilineal inheritance have influenced the limited implementation of these laws.

The village committee is the sole authority in the distribution of such land and is mandated to follow the 2003 land contracting law in China, which stipulates that women and men have equal rights in contracting land. The contract issuing party cannot take away her original contractual land unless she

receives land in her marital village. Following the 2003 land law, the Nanhai district government of Foshan in Guangdong Province set up a working group of local government officials for implementing women's equal rights to land. The combination of administrative and judicial intervention resulted in granting equal land rights to 95% of married women, a total of 18,000 "married out" women (Wang 2012). Subsequent to this success, some women's groups working with the villagers held intensive discussions and workshops in order to combat traditional practices, which turned out to be effective and resulted in more "married out" women being given rights to land.

Importantly, departing from the traditional practice of the exclusion of women from landownership, the Sindh government of Pakistan in 2008 declared a land distribution scheme allotting cultivable state-owned land to landless people, with special attention to women. Within a short span of time, the scheme covered 17 districts in Sindh and allotted land to 6,000 people (Khan 2013: 31). Following this, in the second phase of the land distribution scheme, the President made a special reservation of land for women and announced that "no land would be distributed in areas where there are no women applicants" (ibid: 30).

In a 2013 assessment of the impact of these schemes on women's lives and recognition, it was noted that land transfers in women's names resulted in: (i) increased respect for women within the family and community; (ii) women becoming aware of their legal ownership and using it as an instrument to negotiate greater leverage within the family, with the husbands categorically stating that now she is a landowner and that if she leaves, the land would go with her; (iii) a definite increase in women's participation in household decision-making on major matters; and (iv) women's increased mobility – they were acknowledged as street smart and could visit local markets and doctors unaccompanied.

Despite these beneficial effects of women's landownership, questions remain: Why do a significant majority of women not have effective rights to land? What are the constraints on women's inheritance and land rights?

### Constraints on Women's Inheritance and Land Rights

The results discussed in this section are based on a Landesa and UN Women study, *Challenges and Barriers to Women's Entitlement to Land in India*, conducted in September and October 2011 with women in Andhra Pradesh and Bihar (Landesa and UN Women 2012). The research team covered two districts in each state. In each district, the research team selected two blocks, and in each block we chose two gram panchayats (a cluster of villages administered by an elected system of local government, the panchayat). The researchers interviewed a total of 504 women in 19 villages. In each village, a stratified sample of landowning households was selected to represent various caste and ethnic groups, and women-headed households. In each family, the researchers interviewed the woman and three other family members: her husband, her eldest son and her eldest daughter. The study showed:

- Women-owned plots came from inheritance (40%), the market (34%), or government allocation (26%).

- Only 12% of women respondents reported to have inherited – or believe they will inherit – land from their parents.
- Only 4% of formally titled plots in Muslim families and none of the formally titled plots in Bihar named the woman.
- Joint-titling is virtually non-existent in the two states of Andhra Pradesh and Bihar.
- Women felt that their plot access was more vulnerable if they were to divorce their husbands, had a falling out with their family, or if their family incurred debts.
- Women who had land in their names were more likely to participate in decisions regarding major plot transactions, such as plot sale, plot rental and mortgage, and bequest.

### Low Awareness of Women's Inheritance Rights

The Hindu Succession Act (HSA) of 1956 established a comprehensive system of inheritance for Hindus. However, the HSA does not grant inheritance rights to joint family property to women, as it does in the case of sons or male heirs. Joint family property was passed on to a group known as the coparcenary, which was limited in membership to male heirs, thereby excluding daughters from a share of this inheritance. The HSA of 2005 corrected this neglect of the daughter's right and recognised daughters as coparceners, thereby according daughters inheritance rights equal to those of the sons. Andhra Pradesh adopted a state-level version of the HSA in 1986, while Bihar did not adopt the HSA until its national-level implementation in 2005.

The overall awareness of the HSA was low among the Hindu families we surveyed. Only 22% of the families reported an awareness of this law. Fifty-nine per cent of the Hindu respondents who had heard of the HSA correctly answered that it provides girls and boys an equal right to inherit land. There was a noticeable difference between the two states, with men and women in Bihar much more likely to know this than those in Andhra Pradesh (82% of men and 69% of women in Bihar, compared to 36% of men and 39% of women in Andhra Pradesh).

The difference was less pronounced when they were asked about wives' rights to inherit from their husbands if their husbands die intestate: 62% of all respondents indicated that in such a situation, widows and children have the right to inherit equally. Importantly, a large number of interviewees did not give the right answer, and indicated that the law entitles the widowed woman to half of her husband's land – an answer while legally incorrect, still recognises a single woman's right to inherit land after her husband's death. In case of divorce, 34% of respondents correctly answered that the woman would be entitled to half of the husband's property; 58% said that the divorced woman has no right to the ex-husband's land or property.

The Muslim Personal Law Application Act of 1937 is the codified Sharia in India and governs Muslim communities in the country. Interestingly, close to 50% of Muslim men indicated that they had heard of the Muslim Personal Law (MPL), as against the only 25% of Hindu men who reported hearing about the HSA. About 70% of Muslim respondents understood

that women have some right to inherit property under the MPL, but they were often mistaken about the share to which wives and daughters are entitled (18% of Muslim men maintained that wives and daughters have inheritance rights). In cases of divorce, the MPL provides for the woman's personal property, both from before and during the marriage, but she does not have a right to her husband's property. Less than 10% of Muslim men mistakenly reported that on divorce, the ex-wife would have a right to her ex-husband's property; a majority maintained that the divorced woman would have no rights to her ex-husband's land or house.

Within the rural areas of Pakistan, women's access to and management of land is limited to the extent of usufructuary rights; women are not considered legally qualified for ownership rights to land (Mumtaz and Noshirwani 2013).

### Social Norms

One of the major contributions of feminist analysis in recent decades has been to challenge the ideology of familism, with a male household head whose decisions are seen to be based on altruism, rather than self-interest. The households in the feminist analysis are correctly characterised by hierarchy and inequality. A demand for women's rights to land is likely to question patriarchal social norms on two levels: (i) property ownership by women; and (ii) the ideological system of the traditional Hindu family, which maintains that women's dependence on men is natural and closely linked with sustaining the structural cohesion of the family.

Of the total number of 504 individuals, only 8% of the women in the sample indicated that they currently own land. It was therefore important to probe into the preferences of the remaining 92%: Did they want to own land? What did their husbands say? Not surprisingly, more than one-third of the husbands said they did not want their wives to own land. Close to half of the husbands who did not want their wives to own land said it was because they did not want their wives to be on "bad terms" with the community.

As against the male responses, close to half of the women said they wanted to own land. Forty-six per cent of the women said that any claim for land from their parents or brothers would result in bad terms with their communities, and 7% of the women clearly stated that landownership would result in their losing family support. When asked whether women wanted to inherit land from their parents, only 19% of women gave an affirmative response. Women who did not want their parents to will lands in the daughters' favour said it was because it would make them look bad in the community (39%), and that it would cause tension with their brothers (19%). Surprisingly, 16% of women responded by saying that landownership would deprive their brothers of their means to care for their families, and 26% preferred not to discuss the subject.

When the men were asked about their sisters' interest and ability to inherit land from their parents, 42% said their sisters would want to inherit parental land; however, 29% maintained that such actions would cause problems for women with their brothers.

Worryingly, 74% of both sons and daughters said they had no desire to see women owning land. Like the parents, they often reported that husbands take care of their wives, and therefore there was no need for women to own land. While the girls seemed more concerned about community pressure, with 15% citing the fear of losing face as a barrier to owning land, boys were more concerned with traditional norms that deny women land in their own names, citing as a reason the tensions this would cause in the family.

Importantly, despite the gender and caste hierarchies in south Asian countries, women's movements have developed the capacity to maintain a sustained challenge against patriarchal forces. Women's organisations were almost always involved in conflict with the authorities, because these authorities, ranging from the home to the state, set the social norms and maintained them through customary practices and the legal systems.

### **Lack of Recognition of Women's Right to Own Land**

Based on what they see around them, women generally perceive that the state, religious leaders and village leaders do not recognise women's right to own land and manage agricultural land. Not surprisingly, close to 40% of the women interviewed said that the law did not recognise their right to own land. This percentage is even higher among women heads of households. Husbands had more knowledge of the legal measures, with 85% indicating that women had the legal right to own land.

About half of the women, both Hindu and Muslim, said that their religious leaders did not recognise women's right to inherit land from their parents, and slightly over 20% of the Hindu women said the religious leaders did not recognise their right to inherit land from their husbands, compared to 5% of Muslim women. Both the Hindu and Muslim women interviewed stated that the local leaders did not recognise women's rights to inherit land from their parents. Such resistance within the home and in the community is likely to influence women's efforts to claim their land/property rights.

### **Inheritance Practices Disfavour Women**

Since the mid-1990s, a number of state governments have allocated tiny plots of land in the women's names (Mitchell and Espinosa 2009), mostly in the case of backward castes, tribal peoples and women-headed households. The Landesa-UN Women Study shows that 20% of the households interviewed had received government land. Of these, 63% of the households belonged to "the backward caste category", and 14% were women-headed households. It was not clear, however, how the other households received plots. Most of these plots were typically homestead plots (78%) and had an average size of 31.6 decimals of an acre.

Based on social norms concerning the sons' right to inherit land, and more so after the HSAA in 2005, inheritance is seen as the most frequent mode through which families acquire their homestead plots. Slightly over 10% of them have received their homestead plot through a government programme, and only 16% of the couples have purchased their homestead.

Interestingly, this figure is larger for women-headed households, 29% of whom reported buying their homestead plot. The same pattern holds for all the other non-homestead plots, with inheritance playing a slightly larger role: inheritance accounts for the acquisition of nearly three-quarters of non-homestead plots, even in female-headed households.

Seven per cent of the plots in the study sample were owned by women, compared to 93% owned by their husbands. Women's plots were acquired through inheritance, market purchases and government allocation. Women-headed households were over twice as likely to rely on the market to access land (36%), compared to 17% of plots in dual-headed households (where both women and men made the decisions). The land women bought was often used for market agriculture (39%) or as a residence (37%).

### **Lack of Formal Documentation**

In fact, only 60% of the plots reported in the study are formally documented with a title deed or a patta. One-quarter of the plots lack any type of document, and the remaining plots are divided among households that have various informal documents such as a "white paper" (a document without a revenue authority seal).

Surprisingly, women's names are included in less than 10% of the documents, while their husbands' names appear in over 90% of them. While the pattern holds, the size of the gender gap varies by state and religion, and is considerably wider among families who are Muslim and those who live in Bihar than those who are Hindu or live in Andhra Pradesh. In fact, none of the formal land documents in Bihar named the women.

While the rates were very low for all cases, wives' names were even less likely to be included when the plot was inherited (6%), versus when the plot was acquired through a market purchase (17%) or government allocation (77%). Inclusion of the wife's name was even less likely when we looked at informal documents such as wills or white papers, in which women were named in less than 1% of the cases, compared to 99% for their husbands.

Another point of note is that joint-titling was virtually non-existent. Formal documents listed either the woman's name or her husband's, but not both. There were only six confirmed instances in Andhra Pradesh, in which husbands and wives agreed that the plot was titled jointly.

### **Interactions with Government Officials**

Given the social norms and the predominance of men in land and revenue administration in India, rural women generally lack the confidence to discuss land management issues with government officials. Landownership often entails interacting with government officials to ensure that the paperwork is in order or to record land transfers. Rural women lack confidence and are not in the habit of interacting with revenue officials, and this may affect their ability to gain access to and/or maintain control over land. A high percentage of women (61%) do not interact with revenue office officials. Women's engagement with government officials is also important for

larger governance issues, and can open doors to other kinds of entitlements and information sharing that only interacting with government officials can provide.

### Perceptions of Vulnerability to Losing Land

Respondents from Andhra Pradesh appear to be under tenuous tenure arrangements, with only 31% saying that five years from now, their households will have the same or greater access to and control over the plots they currently have. When asked what might cause their household to lose access to this plot of land, the most common answers were economic hardship (70%), eviction by the extended family or clan (20%), and government eviction (10%).

Even when their households have secure tenure, women may end up losing access to a plot. Our respondents indicated that women are particularly vulnerable to changes in their family structure. Close to three-quarters of women respondents said they would be likely to lose access to the land if they got divorced or had a falling out with their family. More than 50% said they would lose access if their husbands took another wife, and 30% said they would lose access if their husbands died. Debt and illness in the family were also considerable sources of risk.

### Decisions on Land Use

It is often argued that women who have land documents in their names are likely to be in a stronger bargaining position vis-à-vis their husbands than women who do not formally own land. Women face many disadvantages, even if they belong to a household that has land documents; in 78% of cases, the women in our sample had no land document in their names. This gender gap in ownership is not due to women's disinterest, as we have encouraging results showing that women want to own land.

In general, the seasonal migrant household, with men's presence for several months in a year, did not allow women to make decisions regarding the use of agricultural land. Women were noticeably more likely to have a say if they were de facto heads of households. In all cases, however, women who had their names on the documents were more likely to take part in decisions about land use.

Every woman who had a title under her name said she was the sole decision-maker about which products should be sold. Those without land in their name, however, were much less likely to be involved in the decision-making process (12%). If they were de facto heads of households – such as in a household where the husband was away as a migrant worker or seriously ill for a long period – most women made decisions on land use (88%). Not surprisingly, women's participation in decisions regarding who would inherit land is very low. Only 8% of the women viewed themselves as decision-makers about land inheritance.

### Closing the Gender Gap in Land Rights

In conclusion, we would like to suggest some measures that may facilitate the process of closing the gender gap:

**Increasing Community Awareness Regarding Women's Rights to Land:** This can be accomplished by setting up legal

education centres and awareness-raising campaigns, such as legal aid centres, community-based paralegals and behavioural-change tools. The community-based paralegal model, implemented by the Andhra Pradesh Mahila Samatha Society (APMSS), is an example where rural women were asked to select themselves or other members for training as paralegals, and offer their assistance in resolving disputes or claiming women's rights in their communities.

**Gender Sensitivity and Gender Balance in Revenue and Land Administration:** This entails building the capacity of the revenue and land administration, at all levels in the hierarchy. Officers need to understand why it is important to protect and increase women's ownership and management of land.

Capacity-building exercises that link equality-based distribution of land with women's empowerment should enhance officers' ability to interact with women in a gender-responsive fashion, and should help them make sure that processes are described in clear and simple language, posted in public spaces and advertised through the media.

A gender-balanced representation of women is needed at various levels of the land and revenue administration. It is needed even more at the local level of village *patwaris* and *patels*, because these are the officers with whom rural women will need to have face-to-face interactions. Furthermore, the most effective way to reach out to rural women might be to have women-managed support offices at the tehsil or block level, with mandated responsibility to address specific disputes brought by women.

**Policy Practice for Economic Empowerment of Women:** A review of Indian Plan documents shows that the challenge is not to reinstitute policy for women's economic security, but to redeploy the machinery already in place, to be used in a more effective and gender-responsive manner. The overarching vision that informs the design of policy for women's economic empowerment has hardly ever articulated the need for implementation targets. These errors or omissions and systematic de-emphasising of women's equality in development policies need to be made visible through social audits of gender equality measures, and workshops aimed at context-specific gender sensitisation.

The patta (land title) distribution in West Bengal, Maharashtra and Andhra Pradesh provides an example of innovative government efforts to improve women's effective access to land, whereby women and men sign their title papers and receive the document at a well-attended public meeting. These events ensure not only that women's rights are captured in writing, but also that women, and their families and their communities, know that the women have become landowners and can have land/property rights within the household.

**Addressing and Understanding Cultural Norms:** Culture is not a historical necessity, nor is it static. Culture is part of the ongoing process of social, economic and political change. Women's movements, like any other social movement, creates

its own culture and new social and gender norms. Such new norms or cultural configurations also create social conflicts or contradictions, which arise between the existing and newly created norms. Thus, new social relations and traditional, cultural norms operate in a dialectical way, introducing the seeds of institutional change that the new movements may carry. Roland (2004) views social change as an interaction between slow-moving institutions (cultural norms) and fast-moving institutions (political and legal systems). Patriarchal cultural norms are clearly one of the slow-moving institutions, while policies and laws for women's legal rights to land inheritances are relatively fast-moving ones. Concerted efforts to implement these policies can influence change for egalitarian gender and social relations.

**Gender Transformative Research, Surveys and Documentation:** There is, in general, insufficient data on women's ownership of agricultural land. This needs to be addressed by research. Such research should also pay attention to the changing gender relations and social norms through land and asset

distribution policies, laws and implementation measures, and also see their linkages with other domains of power and hierarchies between women and men in economy, polity and civil society. A change in women's favour in the economic domain is likely to result in strengthening their position in non-economic domains of the household and the labour markets, through an increase in their bargaining power and a reduction in violence against women. Given the dearth of data on women and land, it will be important to have quantitative and qualitative research both at the state and the regional levels, which can bring forth women's status and voices for the right to have land in their own names. How and under what circumstances are women better able to advocate the inheritance rights to land and property for themselves and their daughters? What can be done to plug the loopholes and disallow any deviation from the legal processes designed for women's land rights? A broad conclusion is that without land and asset-based economic security, women, like men, lack real freedom to overcome their vulnerability and move out of inequality and poverty in rural Asia.

## REFERENCES

- Agarwal, B (2002): "Are We Not Peasants Too? Land Rights and Women's Claims in India", *SEEDS Pamphlet Series 21* (New York, NY: Population Council), available at <http://ccc.uchicago.edu/docs/AreWeNotPeasantsToo.pdf>
- Bhatla, N, S Chakraborty and N Duvvury (2006): "Property Ownership and Inheritance Right of Women as Protection for Domestic Violence; Cross Site Analysis" in Pradeep Panda, Jayoti Gupta, Indika Bulankulame, Nandita Bhatla, Swati Chakraborty, Nata Duvvury (ed.), *Property Ownership and Inheritance Rights of Women for Social Protection: The South Asia Experience* (Washington DC: International Center for Research on Women), 71-101.
- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (1980): 1 March, 1249 U.N.T.S. 13.
- Deere, C D and C R Doss (2006): "The Gender Asset Gap: What Do We Know and Why Does It Matter?", *Feminist Economics*, 12(1-2): 1-50.
- Deere, Carmen and Diana Leon (2009): *Empowering Women: Land and Property Rights in Latin America* (Pittsburg: University of Pittsburgh Press).
- Food and Agricultural Organisation of United Nations (2011): *The State of Food and Agriculture 2010-2011: Women in Agriculture, Closing the Gender Gap for Development* (Rome: FAO).
- Galab, S and E Revathi (2013): "Women and Land: Agriculture and Opportunity", unpublished manuscript.
- Government of India (2005): *The Hindu Succession Amendment Act* (New Delhi: Government of India).
- Kabeer, Naila (1999): "Resources, Agency, Achievement: Reflections on the Measurement of Women's Empowerment", *Development and Change*, 30(3): 435-64.
- Kelkar, G (1993): "Women, Land and Agrarian Reforms: Issues of Gender and Class in Improving Women's Effective Access to Land", *National Law School Journal, Bangalore*, Special Issue: *Feminism and Law*: 117-41.
- (2007): *The Feminization of Agriculture in Asia: Implications for Women's Agency and Productivity* (Taipei, Taiwan: Food and Fertilizer Technology Center).
- (2008): "HIV, Gender and Dispossession: Towards an Asian Response", paper presented at Eight International Congress on AIDS in Asia and the Pacific (ICCAP), Colombo, Sri Lanka.
- (2011): "Gender and Productive Assets: Implications for Women's Economic Security and Productivity", *Economic & Political Weekly*, 46(23): 59-68.
- Kelkar, G and D Nathan (2003): "Forest Societies in Asia: Gender Relations and Change" in G Kelkar, D Nathan and P Walter (ed.), *Gender Relations in Forest Societies: Patriarchy at Odds* (New Delhi: Sage Publications), 13-45.
- Kelkar, G and M Krishnaraj, ed. (2013): *Women, Land and Power in Asia* (New Delhi: Routledge India Publishers).
- Khan, Hooria Hayat (2013): "Where There Is Land, There Is Hope", Shirkat Gah-Women's Resource Centre, Lahore, Pakistan.
- Landesa and UN Women (2012): *Challenges and Barriers to Women's Entitlements to Land in India* (New Delhi: Authors).
- Ministry of Rural Development, Government of India (2011): *Mahila Kisan Sashaktikaran Programme*, Mimeo.
- Mitchell, Robert and Deborah Espinosa (2009): "Assessment of Impacts of the IKP Land Purchase Scheme in Andhra Pradesh", Study for RDI, July.
- Mumtaz Khawar and Meher M Noshirwani (2013): "Where There Is Land, There Is Hope: Women's Inheritance and Land Rights in Pakistan", Shirkat Gah-Women's Resource Centre, Lahore, Pakistan.
- Nathan, D and G Kelkar (2005): *Chenchu Women of Andhra Pradesh, India: Empowerment in the Market and Household* (New Delhi: UNIFEM, South Asia Office).
- Planning Commission of India (1980): *Sixth Five Year Plan (1980-1985)* (New Delhi: Government of India).
- (2012): *Twelfth Five Year Plan (2012-2017)* (New Delhi: Government of India).
- Qian, N (2008): "Missing Women and the Price of Tea in China: The Effect of Sex-Specific Earnings on Sex Imbalance", *Quarterly Journal of Economics*, 123(3): 1251-85.
- Rao, N (2008): *Good Women Do Not Inherit Land: Politics of Land and Gender in India* (New Delhi: Social Science Press and Orient Blackswan).
- Roland, Gerard (2004): "Understanding Institutional Change: Fast Moving and Slow Moving Institutions", *Studies in Comparative International Development*, 38(4).
- Roy, Sanchari (2008): "Female Empowerment through Inheritance Rights: Evidence from India", available at [http://www.dagliano.unimi.it/media/Faini\\_Conf2008\\_final\\_programme\\_1.pdf](http://www.dagliano.unimi.it/media/Faini_Conf2008_final_programme_1.pdf), accessed on 30 June 2013.
- Sen, A (1990): "Gender and Cooperative Conflict" in I Tinker (ed.), *Persistent Inequalities: Women and World Development* (New York: Oxford University Press).
- Shapiro, T M and E N Wolff (2001): *Assets for the Poor: The Benefits of Spreading Asset Ownership* (New York, NY: Russell Sage Foundation).
- Sub-Committees on Women's Role in Planned Economy, appointed in 1938. Mimeo, pp 102-20.
- United Nations Human Rights Office of the High Commissioner & UN Women (2013): *Realizing Women's Right to Land and Other Productive Resources* (New York and Geneva: United Nations).
- Women Farmers' Conclave (2013): Organised by Oxfam and Gorakhpur Environmental Action Network, Lucknow, Uttar Pradesh, January.
- World Bank (2008): *World Development Report 2008: Agriculture for Development in a Changing World* (Washington DC: World Bank).
- (2012): *World Development Report 2012: Gender Equality and Development* (Washington DC: World Bank).
- (2013): *World Development Indicators* (Washington DC: World Bank).
- Wang, Xiaobei (2012): *Addressing Women's Land Rights in China* (Beijing: Landesa Centre for Women's Land Rights).