

# Unmediated Land Rights: Well-being for Women

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*Besides the standing and dignity in the family that owning land in their own names gives them, women also acknowledge the voice it gives them in household and community decision-making, and the financial security it affords them against eviction from the marital home.*

## WOMEN'S VOICE

"When the land is in my husband's name, I am only a worker. When it is in my name, I have some position in society and my children and my husband respect me. So my responsibility is much greater to own my land and I take care of my fields like I would my children," said a woman farmer of Banskhera village, Solapur district, Maharashtra, in August 2010 in a collective meeting of 50 women and 20 men. A number of women nodded in agreement and the men did not protest or question her.

In the early 1970s, the Committee on the Status of Women in India received many representations from women of different states regarding the discriminatory features of the new land reform acts of the 1950s. In a meeting of women agricultural workers in May 1980 in Bankura, West Bengal, similar home truths were pointed out by a number of poor farming women. During my field work in 1984–85 in a village in Etawah district in Uttar Pradesh, Devi, a dalit woman, remarked sharply, "No, women never control any assets, not even the children they bear. Children are known as their father's children. This has been going on for generations." Raj Kumari, another dalit woman, added, "Land is passed on from father to son. Even the jewellery that is a gift to a woman on her marriage is not given to her but is kept by her parents-in-law. If a man dies or remarries, the woman is completely dependent on others for her survival. A man can gamble or drink away his land but a woman is always concerned about her children. She cannot see them starve. She will do everything in her power to raise them to the best of her ability. Land should, therefore, be owned jointly by husband and wife."

During a 1991 discussion on 'Women as autonomous citizens with independent, unmediated economic rights' in Basuhari village in Bihar, the local leaders of the Bihar Kisan Samiti stated, "If a household is entitled to two acres of land, one of the two acres should be marked in the independent name of the woman of the household. The joint *pattas* (titles), as provided in the Sixth Five Year Plan (1986), will be nullified and invalidated in effect because of the overall male dominance and the general support for patriarchal norms in our rural society. We should, therefore, strive for separate, independent *pattas* for women." These are not anecdotal statements. In a recent structural analysis of women's Self Help Groups in PRADAN areas in Odisha, a significant majority of women stated that land ownership would provide them recognition and dignity as individuals in the family, and financial security against eviction from the marital home and would empower them to have a voice in the household and community decision-making. Similar opinions were voiced in a three-state (Karnataka, Telangana, Meghalaya) study on Women's Asset Ownership and Reduction in Gender-based Violence.

Furthermore, in a series of assessments in 2013–14 on the impact of land distribution schemes on women's lives and recognition, it was noted that land transfers in unmediated names (not through the household or its head) of women resulted in: i) increased economic agency and decision-making by women in land and its produce; ii) increased respect of women within their family and community; iii) heightened awareness of women about land and related policies and legal rights; iv) increased mobility of women and access to markets (women were acknowledged as street smart with capabilities to carry out transactions in the local markets); and v) reduced violence substantially against women within the home and in public spaces (fields and streets) and,

thereby, introduced a gender transformative social change.

## **POLICIES IN RESPONSE TO WOMEN'S DEMAND FOR LAND RIGHTS**

Women's demand for equal rights to land and other productive assets dates back to 1938 when a sub-committee on 'Women's Role in Planned Economy' of the National Committee of India began working on the legal rights of women to hold property in their independent names. These demands, as well as the demands from women's movements worldwide found expression in CEDAW (Convention on Elimination of all forms of Discrimination against Women) 1979. The state parties of CEDAW saw land as key to a life with dignity and economic independence for women. In the following years in India, the Sixth Five Year Plan (1980–86) promised that the "Government would endeavour to give joint titles to husband and wife...in transfer of assets and within programmes such as the distribution of land and house sites." This was followed by an enactment for gender-equal basis of inheritance rights to land. Further, the 2005 Hindu Succession Amendment Act legalized the status of daughters as co-parceners; they have a right, at birth, to a share of agricultural land and property equal to that of sons.

In recent years, there have been serious questions on the effectiveness of women's joint titles to land. A series of consultations with civil society networks and women's organizations, including the Feminist Economist Group, in preparation for the 12th Five Year Plan, came up with a general conclusion that the policy for joint titles has remained inconsequential for any improvement in the socio-economic position of women. Significantly, as a result of these consultations, both the 12th Five Year Plan and the 2013 Draft National Land Reform

Policy explicitly mandated for regularization and distribution of land in the individual names of women. The 12<sup>th</sup> Five Year Plan (paras 23–25) further advised, “States may also want to consider group titles to women’s groups and recognize such groups as a valued category of land owners.” In case of joint titles issued in the past, these “would be made partition-able so that the wives, if they so desire, can have half the share of the land in their single names. (ibid)”

Importantly, such national efforts are further reflected in the proposal for poverty reduction as a priority concern in the Sustainable Development Goals. Target 1.4 of Goal 1—End poverty in all its forms everywhere—says that in the next 15 years, by 2030, all state parties as signatories of the Sustainable Development Goals would “ensure that all men and women, in particular the poor and the vulnerable, have equal right to economic resources, as well as access to basic services, ownership and control over land and other forms of property, inheritance, natural resources, appropriate new technology and financial services, including micro-finance.” (The Open Working Group for Sustainable Development Goals, July 9, 2014)

### **POLICY WITHOUT PRACTICE: AN ANALYSIS OF THE BARRIERS**

Despite the policies for women’s ownership of land and the research-based analysis of the beneficial effects of such unmediated ownership by women, some questions remain: Why do a significant majority of women (an estimated 90 per cent) not have effective rights to land? What are the institutional barriers to a woman’s rights to own and manage land?

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The last 10 years are marked by two contradictory trends: the enactment of a series of progressive laws according women joint or sole titles to land and inheritance rights, and the patriarchal resistance embedded in social, cultural norms and in policy implementation agencies.

The latter became the impeding factor in realizing measures for women’s rights to land and productive assets. A study by Landesa and the UN Women on ‘Challenges and Barriers to Women’s Entitlement to Land in India’ conducted in 2011 in the states of Andhra Pradesh and Bihar, noted the following constraints:

- ♦ **Lack of legal knowledge:** Rural women are unaware about their inheritance rights as provided in the Hindu Succession Amendment Act of 2005.
- ♦ **Social norms:** The ideological system of traditional Hindu and Muslim family maintains that women’s dependency on men is natural and is closely linked with sustaining the structural cohesion and harmony of the family.
- ♦ **Perceived lack of recognition of women’s right to land:** Based on what they see around them, women generally perceive that the state, religious leaders and community leaders do not recognize women’s right to own and manage agricultural land.
- ♦ **Inheritance practices disfavour women:** Despite the fact that 79 per cent of the rural women are engaged in agricultural production, they are not entitled to inheritance of land.
- ♦ **Lack of formal documentation:** The absence of title deeds adversely affects

the poor, in general, and women, in particular. The system of male dominance in the villages and revenue administration makes it nearly impossible for women to claim their right to land. Even when their households have secure tenure, women may end up losing access to their plots of land in the case of divorce, death of the husband or if they fall out with the in-laws.

- ♦ **Women's inadequate knowledge of land records and related paper work:** The continued practice of ownership in men's names has resulted in women's limited knowledge of land records and related paperwork.
- ♦ **Limited interaction with government:** Given the social norms and the predominance of men in land and revenue administration in the country, rural women generally lack the opportunity and as a result the confidence to discuss land management issues with government officials.

#### 4. PROBLEM ANALYSIS: WOMEN'S AGENCY WITH LAND RIGHTS

In recent years, a large number of studies noted that India has 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 that poverty in 2009–10 was 11.8 per cent for China, 18.1 per cent for Indonesia and 32.7 per cent for India, with \$1.25 per day per capita as the international poverty line. However, the overall gain in gender outcomes shows a different picture. Women's experience

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of economic growth and macro-economic reforms is mediated through their position within the household and outside; and more so with regard to the realization (or the lack of it) of their entitlement to land and property.

The country 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 the informal sector work, with close to 80 per cent in agricultural work (Ministry of Rural Development, 2011). This is often termed the 'feminization of agricultural work'. However, less than 10 per cent of these women in agricultural production have any kind of ownership and control rights to land and its produce in India. Women are largely asset-less, dependent and frequently subjected to violence within the home and outside.

How to account for this economic and extra-economic institutionalized coercion of women? Is there a clash between the pervasive, patriarchal forces and the women's claims-making processes, unfolded by a dramatic increase in rural women's agency through autonomous command over land, labour and struggle for freedom from violence? There are a number of feminist analysts, who have tried to prove that women's inequality is embedded in social and economic institutions and enmeshed in the political economy of culture and ideology (Sen, 1990; Agarwal, 2003; Rao, 2013; Kelkar, 2014).

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, business, 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. As rightly suggested in the FAO report of 2011, closing the gender gap in agriculture with women's access to control and ownership of land will increase yields in women-run farms by 20 to 30 per cent in the developing countries of Asia and Africa. This could raise agricultural output by 2.5 per cent to 4 per cent, "which could reduce the number of hungry people in the world by 12 to 17 per cent." Many feminist 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 land and productive assets also results in lower wages for women and cripples their economic agency and decision-making capabilities.

Women's effective entitlement to land and productive assets is one of the main forms of addressing gender inequality. Women in the rural areas of Andhra Pradesh, Haryana, Maharashtra and Uttar Pradesh reported the following benefits from plots titled solely in the women's names.

- ♦ She is recognized as a farmer and is more likely to access institutional credit for increasing production and productivity of

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the land thereby enhancing her self-esteem.

- ♦ She receives more respect from her husband, children and the community.
- ♦ She is in a position to escape violence and avoid marital conflict.
- ♦ Reduction in the risk of her eviction from the marital household.
- ♦ She is in a position to decide on land-use priorities and disallow any sale of land without her knowledge and approval.

Land distribution is superior to income distribution or cash transfers because there is an incentive effect in the former case. 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 socio-cultural 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 because it is not subject to fluctuations of the labour market. Whereas income only maintains consumption, land titles allow individuals to engage in long-term planning. Land distribution facilitates a restructuring of gender relations in the area of property rights, access to technology and health care and autonomy in the governance of resources, including women's own bodies and labour.

Why is attention given to single women or female-headed households? Are women in their own right, irrespective of the marital status, not entitled to land and property? Why should we continue to view women engulfed in patriarchal norms which define them 'happy dependents' within the household and on its head? It is a known fact that women's lack of command on land and house leads to their silence and muted voice in decision-making within the household and outside.

A better position in our development effort would be to work for women's entitlement to land and property with distinct control and ownership rights, which is likely to result in according them an economic power and a life with dignity. During a women farmers' conclave in January 2014, a former High Court Justice stated this problem in the following words: "Access to justice is incomplete when it is available only after the *pranpati* (the husband, the controller of wife's life) is no more. Justice is effective and complete when available in his presence and on equal terms."

There is an unquestioned situation of single women being more vulnerable and having limited access to productive assets such as land and house. However, an attempt here is to shift the development attention from the so-called female-headed households as the object of a charitable act to the distribution of land and property as a matter of the individual right

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of every woman. Research has shown that women's ownership of land has a powerful influence on their self-confidence, agency and capability to manage resources, and allows them a life free of violence and subjugation.

## **CONCLUSION: INCREASING EFFORTS AT GENDER TRANSFORMATIVE CHANGE**

I have argued elsewhere about a four-pillar strategy for gender transformative change in rural India (Kelkar and Jha, 2014). A change from women's inequality and gender discrimination to a justice-based egalitarian society requires our enhanced and concerted efforts at: 1) advocacy for gender-equal land distribution policies, laws and an effective monitoring of implementation; 2) setting up community-based land literacy centres with an implicit campaign for women's land rights; 3) research and analysis of digitized surveys on gender-specific land ownership patterns and women's claims-making to their unmediated (not through household and its head) right to land and productive assets; and 4) strengthening gender sensitivity in the informal (social norms) and formal (markets, credit, revenue administration) institutions with women's presence and examples of their articulation of rights, management and ownership of land. These measures are likely to pave the way for a just and inclusive society, including inclusive governance, markets and new technology.

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