

# Women's Rights to Land: A Distant Dream

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*Attempting to understand the ground situation of women's rights to access, own and control land, this narrative explores the discriminatory laws, policies, patriarchal customs, traditions and attitudes that have for generations remained obstacles that deprived women of their basic rights*

Globally and historically, land is known to be a source of food, employment and income. It is the key to a life of dignity, a basis for entitlements that can ensure economic independence, an adequate standard of living and, therefore, personal empowerment. Land also confers social prestige and offers an access to political power. It has long been recognized as a possible tool to advancing the socio-economic rights and well-being of women and their position in society. Yet, the access to and the control and ownership of land largely remains a male privilege, thereby reinforcing patriarchal structures of power and control over community resources, history, culture and tradition.

Granting women their right to land, therefore, is becoming a matter of increasing urgency. In most societies, women have fulfilled the responsibilities of domestic labour, family care and nutritional security. As the definitions of these gender roles, and the contexts surrounding them, become more tenuous (generating both a positive and negative impact on women), the need for women to be able to secure land and property has become even more critical.

The International Centre for Research on Women (ICRW) in an article, 'The issue: Women's assets and property', reported that just one per cent of the world's women actually own land. This documents and demonstrates the stark reality of the legal ownership of land by women.

A woman's right to access, own and control land, as well as have adequate housing and property are firmly recognized under international law. However, at the country level, the existence of discriminatory laws, policies, patriarchal customs, traditions and attitudes are depriving women of their basic rights.

In India, women's land rights remain one of the most important areas of social, political and economic contestation. The discourse on women's land rights is relatively new in India. In the mid-1980s there was some policy and grass-roots focus on the subject and a few academic works were carried out and the question was focussed upon in a minor way.

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However, all these actions did not amount to a sustained or widespread focus on the question of women and land. Whereas housing and property rights are guaranteed to women through international documents, the Constitution and the laws in many states, often the implementation of these rights is overshadowed by existing local practices and discriminatory societal patterns.

Among the best known grass-roots' interventions were two peasant movements: the Bodhgaya Movement in Bihar which was catalyzed by the Chhatra Yuva Sangharsh Vahini in 1978, and the Shetkari Sangathana's movement for farmer's rights in 1980. In both the instances, women's claims to land were raised with some success, resulting in the transfer of land to women. Similarly, occasional grass-roots demands by women include the 1979 demand by a group of poor peasant women in West Bengal to their women *panchayat* representatives: "Please go and ask the government about why we don't get a title when it distributes land? Are we not peasants? If my husband throws me out, what is my security?". This demand influenced a rethink and a bigger policy level change. The result was a list of recommendations that were placed before the Planning Commission in a pre-plan symposium organized by eight women's groups in Delhi in 1980.

More recently, a few of India's Five Year Plans have given some recognition to the women's land claims. For instance, the Eighth Five Year Plan (1992-97) directed state governments to allot 40 per cent of ceiling surplus land to women alone and the rest, jointly, to both spouses.

When activists and development practitioners call for women's land rights, however, they are referring to effective land rights, which Bina Agarwal in her research paper, 'Are we not peasants too?' defines as, "Claims that are legally and socially recognized and enforceable by an external legitimized authority, be it a village-level institution or some higher-level judicial or executive body of the State."

Women's economic empowerment is one of the essential elements to look at when promoting equality between women and men, and is a pre-condition for sustainable development and pro-poor growth. Equal access to, and control over, economic resources and opportunities are the key means to establish women as important economic actors in the realm of local area economy.

Significantly, the elimination of structural gender inequalities, arising out of patriarchal norms, is vital to the removal of all forms of discrimination. At the same time, that the usage, access and the control and ownership over resources are perpetuating discrimination is evident. Women's unequal access to land and property is one of the key obstacles to women's equal rights because the lack of resources makes them more vulnerable and susceptible to exploitation and oppression.

Whenever we talk about land or resources, the first thing that comes to mind is men and their property such as houses, agriculture fields, etc. Women, by and large, are perceived to have none or limited association with land. At the most, women seem to play the role of helping hands. Usually, we associate women with daily household chores—cleaning, cooking, nursing and taking care of the children and the elderly. Strikingly, the work which women do in the fields—the transplanting, the harvesting and the processing of the produce—by and large, goes unnoticed.

This becomes clear in the Government of India (GOI) Census data. As per the Census of 2011, in Kishanganj district of Bihar only 17 per cent of the women are shown to be participating in the work force. Moreover, only 17–20 per cent of the population are considered as cultivators engaged in agriculture activities for more than six months. In reality, the majority of the working population, almost 60 per cent, are engaged as agriculture labour. One of the factors that decides the access to land is ownership and 20 per cent of the households hold as much as 80 per cent of the land. In a majority of the cases, land is given on lease on traditional shared-cropping systems to enterprising marginal farmers.

In Kishanganj, almost 60–70 per cent of the people are either landless or have meagre land-holding. Pre-dominantly, women from Scheduled Castes (SC) and the Scheduled Tribes (ST) are seen working in paddy fields as wage labour. In Muslim families, women cannot go to the paddy fields because it is against their societal norms, but there are contrary examples as well.

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Recently, in a discussion in Muskan Mahila Mandal, an SHG from the Devnagar hamlet, Boaldah village, Dighalbank block, Kishanganj district, we heard Lukhi Murmu tell her tale. She is a single woman who had left her husband’s house. He had migrated to Mumbai six years ago and since then no one knows of his whereabouts.

She told us, “I can go anywhere, whenever I wish. I don’t have to take permission from anyone to go out.” She and her 14-year-old daughter live with her mother and her three younger brothers. “I have no land of my own; therefore, I have to go out to work on other people’s field for daily wages to make both ends meet.”

The newly wed Chameli Murmu lives with her husband and father-in-law. During the conversation she said, “I can work on my own field and for that I don’t have to ask anybody. If it comes to working in others’ field as wage labour, however, I need to take my husband’s permission. Also, if I have to go out of the village I ask him, otherwise he gets angry. There are some places such as the graveyard that women cannot visit during rituals; however, on other days, we are free to go to such places. This has been happening for generations and I am following the same customs.”

In January 2015, a new SHG named the Swachh Mahila Mandal was formed in the Muslim hamlet of Gargaon village, Bahadurganj block in Kishanganj district. One of the members, Jumatun Nisha, said during a discussion, “We never allow our daughters to carry food for her father in the fields because this is against our norms. Our daughters are the honour of our house (*Beti ghar ki izzat hoti hai*). So I go to

the paddy field just to give food to my husband who works in the field. I never work in the paddy fields because it is my husband's duty to work and earn money. My job is to prepare food, give birth to children, take care of them and do any other work inside the house."

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Interestingly, a Muslim man in the same village said, "There are two places, according to the Muslim religion, where women are not allowed to visit—the mosque and the burial ground. He said that according to the Hafiz (a Muslim who knows the Quran by heart), women can offer *salat/namaz* (Muslim prayer) either alone or in the company of other women, and the men go to the mosque with other men. *Namaz* is such a sacred act that it requires concentration. If both men and women are allowed to read the *namaz* together, some mistakes may occur because the men may be distracted by the presence of women.

There are many other such perceptions and beliefs among the different communities and religions; remarkably, in most of the cases, only women are subjected to restrictive societal norms. Even if she owns land in her name, a woman cannot escape these societal norms and rituals.

Of course, women rarely own the land they are working on or have tenure securities or control over the land. They often have very limited decision-making power about how to use the land or its output. It is, however, noteworthy that there is a difference observed in the accessibility and mobility between women under 'guardianship' (mostly of a man in the family or other elderly women) and a single woman.

A single woman seems to have a greater say in land matters than other women who have partial or conditional access over land. Why is this so? Is it because a single woman has no option and has to move out to sustain herself and her children? Is it because she does not have a guardian to restrict or control her?

Anyway, the freedom that a single woman seems to enjoy has other implications. She becomes more vulnerable in society in the absence of a male counterpart. Laws alone are not sufficient to secure a woman's access to land. The effectiveness of laws depends on the awareness about them, the ability to invoke them and the extent to which cultural norms and traditions are practised and followed.

In any cultural locale, the resources or, more importantly, the control over resources empowers a person. So, if one has control over land, a man or a woman may take part in discussions and the decision-making process courageously and confidently. Land is a very powerful resource in any setting, urban or rural. Control over land can also be defined as the ability to take decisions with regard to the land: to determine the size of the land used for farming activities and whether the land should be used for food or cash-crop production, and the ability to transfer land titles, whether by sale or by inheritance.

Narrating her story, Lukhi Murmu said, "Although I left my husband's house and am independently working as a single mother, I have no control over any of my parental properties. I have three younger brothers; in *adivasi* families, daughters do not have any inheritance rights." She said that she is allowed to stay with her mother and brothers

but has no control over any of the resources in the family and cannot decide or give views on any aspect related to property. Her brothers decide which crop to cultivate on the land and she usually just helps them in the cultivation.

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Discussions with women and men made one thing clear—men are, and should be, the prime decision-makers in all affairs of the home and of the society. Men are accepted as the head of the family and as such can decide whether to sell or purchase land.

Chameli Murmu also said that because she did not have any property in her name and because she is newly married, she cannot offer any opinions on any issues related to the property. If she were to speak up, the others in the family might take offence. She feared that if she were to offer any opinion, she would be called over-smart or, even worse, she may be branded as characterless.

Juhi Naz is a young Muslim woman of Mridhandangi hamlet, Samesar village. Recently, an SHG named Khuda Hasi Mahila Mandal was formed in her hamlet and she has become an active member. In one of the meetings she shared, "In our custom, brides are supposed to be given property by the in-laws. This is supposed to be documented on a bond paper prepared by the Maulvi Sahab (Muslim clergy man) during the marriage ceremony. This is known as the Den Meher. The Den Meher is a ritual in the Muslim community that is meant to ensure the right of a woman over some property in the event of a husband leaving the wife. It is an allocation of some property in the name of the bride as maintenance cost, in case of a divorce." However, Sikandar, a man from the same village said that, in practice, only cash and jewellery are mentioned and the people refrain from mentioning any property. He added that it is rare for a bride to claim her rights after divorce; even if she wanted to, the people would dissuade her.

And, it is also obvious, that the next head will be another man in the lineage by the virtue of inheritance. On the whole, there are more opportunities for men to have access to land, to get titles over land, to exercise control over land and to decide its utilization.

Md. Naseem, head-master of Harwadanga Middle School in Dighalbank block, lives in the Rasuldangi hamlet of Maltoli village. In mid-September 2014, he invited the PRADAN team over and said that there are many farmers in his hamlet, who are keenly interested in using new technology for cultivation in their fields. At that time, the team was promoting vegetable cultivation in the area.

On our earlier visits to the village, we had seen him having his breakfast or lunch in his neighbour's house. We were curious to know about him. We thought that he was an unmarried man and so he ate with the neighbours. And we also wondered why he couldn't cook for himself.

One day we got a chance to meet him one-on-one and we began discussing his life. His face was pale as he explained in a sad voice, "I am going to be separated from my wife." He went on to say that her father had been misleading her to get separated from him. He was exasperated and puzzled because his wife was demanding that a piece of land be registered solely in her name.

He said, "I told her that we could have joint titles over the land but she refused and insisted on transferring the title to her name." Continuing his story, Naseem expressed his fear, "There is no issue in transferring the land solely in her name, but what if she leaves me and elopes with another man; I will be in double loss; I will lose both, my wife and the land, and I would have no rights on them."

This instance made us think. Were women any different from a commodity? Not only do the countless social norms and pressures underpin the women's lack of access to, and control over, land but the various perceptions about her also reinforce the same.

How do people in society perceive women and land? This is the area that people need to focus on and think about. Needless to say, it is very challenging to understand the issue of women and land ownership conceptually. How does it differ from access to land? Does ownership only mean the formalization and documentation of land? This throws another task before us of looking deeply into the concept of women's land ownership.

It is clear that having land in the name of a woman identifies her as the owner. We also need to see whether she is using her ownership rights fully or partially or, at best, does she just have the right to put her signature on the deed. We came across many instances in which the woman, whether or not she is the owner of the property, could not utilize the land as per her choice. That brings up the question of whether she can sell it or not.

On a similar yet different level, Puja, who had just appeared for her 12th class examination, from Dubri village of Dighalbank block said,

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"I am the owner of a bicycle but I cannot sell it without the permission of my family. My guardian will decide that." Can it be called pseudo-ownership or ineffective ownership? An owner is ideally a person, who makes decisions regarding the use and potential sale of the

property.

There is very little awareness and information about land and land rights. When it comes to secure land rights, we become more apprehensive because many legal procedures get added to the complexities of access, control and ownership. There are laws such as the Hindu Succession Amendment Act 2005, which call for equal rights of women over land by virtue of inheritance. Even in the Sharia laws of Islam, there is a provision of daughters inheriting their parental property. These laws seldom get enforced when it comes to securing and upholding the rights of women.

Neither the Constitutional law nor the religious law are followed when it comes to women. Many women are unaware of their land rights; increasing awareness can be a focus area of our engagement as workers at the grass roots. Awareness, however, cannot be the only response to the overarching systemic mind-set we are in. Some key issues of discrimination faced by women may be taken up, and women's responses noted; long-term, strategic interventions need to be chalked out to bring about change.

Although the Bahadurganj team has, through its interactive sessions at various points with members of SHGs, drawn inferences and analysis, it is not going to provide solutions. Nevertheless, the team members are concerned not only because women don't have a share in the land or property but also

because they see systemic attempts to curb the rights of women at every step. This needs to be addressed; however, there is apathy in the families as well as in society, who want to avoid any discussion on the issue of women having secure rights over land. There is need for dialogue at all levels—legislators, judiciary, administration, civil society, religious

bodies, local governance bodies and citizens. Interactions and the dialogue process needs to start to break this status quo, which everyone is happy to maintain at present. Enhancing women's collective strength by which they can advocate for gender-just laws and practices can go a long way in addressing the imbalance that exists.