

WOMEN'S LAND AND PROPERTY RIGHTS IN SITUATION OF CONFLICT AND RECONSTRUCTION

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INTRODUCTION

“Women in India have a background of history and tradition behind them which is inspiring. It is true however, that they have suffered much from various kinds of suppression all these have to go so that they can play their full part in the life of the Nation”

- **Jawaharlal Nehru**

Land is one of the important productive assets in India and those who have access to social, economic and political power in rural areas. Fair and just distribution of land works against poverty and inequality. Generating access to land by landless through land reform legislation is considered an important component of the poverty alleviation programme in India.

Land is at the centre of rural lives in India. Land has inherent value, and it creates value. A plot of land can provide a household with physical, financial, and nutritional security, and provide a labourer with a source of wages. Land is a basis for identity and status within a family and community. Land can also be the foundation for political power

This paper raises some of the key problems which women face in relation to land and other property rights under situations of conflict and reconstruction. The paper was based on secondary data. The system of land holding and the conditions on which land is held are a key factor in understanding and exploring the problem of women's access to land and property in situations of conflict and reconstruction.

GENDER – THE CONCEPT

The word Gender was used by Ann Oakley in 1970s to describe those characteristics of men and women which are socially determined. Gender reveals the roles and relationships of women and men in society and the inequalities in those relationships. The much quoted UN statistics remain as true today as they were when they were formulated over a decade ago:

- Women perform two-thirds of the world's work.
- Women earn-tenth of the world's income.
- Women are two-thirds of the world's illiterates.
- Women own less than one-hundredth of the world's property.

GENDER EQUITY OF WOMAN EMPOWERMENT

Empowerment is a multi-faceted, multi-dimensional and multi-layered concept. Women's empowerment is a process in which women gain greater share of control over resources - material, human and intellectual like knowledge, information, ideas and financial resources like money - and access to money and control over decision-making in the home, community, society and nation, and to gain 'power'. According to the Country Report of Government of India, "Empowerment means moving from a position of enforced powerlessness to one of power".

Dr. AMBEDKARS VIEWS ON UPLIFTMENT OF WOMEN

According to Dr. Ambedkar, "the Constitution quickened by social conscience has added invincible legal missiles for women's liberation".. Our Constitution forbids sexual discrimination and guarantees social and economic justice to women. A few articles in the Constitution help the women to improve their status and to compete with their male counter parts. Dr. Ambedkar lifted the status of women through legal measures like the Hindu Code Bill.

WOMEN AND LAND

In order to understand the criticality of the link between property and women, one may well begin with the question as to why do women need independent rights to land? Perhaps, the answer to this can be little different from why do men need independent rights to land? The answers in both cases remain the same: for their welfare, for equality and for empowerment. Just as ownership of land imbues the man with a certain confidence and sense of self worth, so does this apply to the woman? In fact, having been subjugated as the weaker sex for generations, right to property not only enhances her social status but also has an impact on the relations of power between women and men who are revealed in a range of practices, ideas, and representations, including the division of labor, roles, and other resources between

men and women. Her relations within the household and family, outside the household and family as in the market, community or the state are all affected.

Certain communities in India (especially in the Northeast and the South) have practiced the tradition of customarily recognizing women's property rights. Their inheritance laws and marriage practices were so tailored to provide and protect these rights and enough studies have been devoted to studying these practices. Several matrilineal and bilateral systems of land inheritance also advantaged women in many respects, especially in granting them economic and social security, and considerable autonomy and equality in marital relations. These systems, however, have eroded over time. Interventions by the colonial and post-colonial government policies, particularly in the legal and economic spheres, and the complex processes of social and cultural change which these set in motion, have degraded customary practices.

However, despite the noble intentions, the truth is that the process of understanding the relationship between land and woman and its incorporation into public policy in India has been extremely slow. In fact, today it remains an issue of marginal concern. There has been a neglect of women's land-related concerns by both governmental and non-governmental institutions and this also mirrors a gap within academic scholarship, where the relationship between women and property has remained virtually unattended.

The status of women in all societies is directly linked to their right to access, ownership and control of land. The Eighth Five Year Plan (1992 - 997) lays down that one of the basic requirements for improving the status of women as follows:

- a) Change inheritance laws so that women get an equal share in parental property, inherited or self acquired. (Unfortunately, there are no government directives to ensure that this is followed through.)
- b) State governments are asked to allot 40% of surplus land (i.e. land acquired by the government from households owning land more than the specified ceiling) to women alone, and to allot the rest jointly in the names of the husband and wife. (Unfortunately, the land available for this purpose is a meager 1.04 million hectares.)

DIRECT TRANSFERS OF PUBLIC LAND AND ASSETS TO WOMEN

The Sixth Five Year Plan introduced policy changes to improve women's entitlements to public assets, including land. The policy directives include allotment of revenue land, wasteland and ceiling surplus land on the basis of joint pattas in the names of husband and wife and /or exclusive titles to women. 40 percent of land pattas are to be given to women and the remaining pattas in the names of husband and wife. The Seventh Plan and the National Perspective Plan for Women (1988 to 2000) also took up and reinforced these ideas.

The Ministry of Rural Development (MRD) Government of India Annual Report for 2000-01 shows that by 2000, States had distributed more than 5 million acres of ceiling surplus land and over 14 million acres of wasteland to selected beneficiaries. Men received title to the vastly greater part of this land because they were deemed to be the heads of households or the cultivators of the land. The Ministry reported having approximately 1.2 million acres of ceiling surplus land left for distribution (MRD, 2001). Even when women were in fact, heads of households, title was often given to a male family member.

WOMEN'S LAND AND PROPERTY RIGHTS

“Land rights increase women’s power in social, economic, and political relationships. Rural women claim that secure land rights increase their social and political status, and improve their sense of self-esteem, confidence, security, and dignity. By diminishing the threat of eviction or economic destitution, direct and secure rights to land can increase women’s bargaining power in their families and participation in public dialogue and local political institutions”.

INTERNATIONAL HUMAN RIGHTS LAWS

While there is a need to strengthen the recognition of women’s right to land and housing, this human right is related to the right to an adequate standard of living and freedom from forced eviction. These rights are recognized by several international documents such as:

The Universal Declaration of Human Rights, 1948 (Articles 17 and 25); International Covenant on Civil and Political Rights, 1966 (Article 17); International Covenant on Economic, Social and Cultural Rights, 1966 (Article 11); UN Convention on the Elimination of All Forms of Discrimination against Women, 1979 (Articles 13-16).

While housing and property rights are guaranteed to women through international documents as well as through constitutions and laws in many states, often the implementation of these rights is overshadowed by existing patriarchal practices and discriminatory patterns. Religion based family laws and customary laws play important roles in determining women’s rights to land and housing are different for different communities and religious groups.

CONSTITUTIONAL PROVISION IN INDIA

Constitution of India has guaranteed “equality before the law” and “equal protection of laws within the territory of India” to citizens irrespective of class, caste, race, religion and sex as per Article 14. Article 15 (1), 15(2) and 15 (3) not only prohibit discrimination on the basis of sex, but also provide possibility to apply affirmative action policies for women. Women’s Policy adopted by Maharashtra, 2001 support land rights for women and in 2003 the state government issued a Government Resolution (GR) to that effect. A.P. state government was the first among all states

of India, to declare land and property rights for women during mid-nineties. It was followed by amendments in the Hindu Code Bill after the public interest litigation was filed demanding coparsonary rights for Hindu daughters in the ancestral property.

ELEVENTH FIVE YEAR PLAN: Towards the womens Rights

Its duration was from 2007 to 2012. It was prepared by the C. Rangarajan. Its main theme was “**faster and more inclusive growth**”. Its growth rate target was 8.1% but it achieved only 7.9%

Land rights not only empower women economically but strengthen their ability to challenge social and political inequities. The Eleventh Plan will carry out a range of initiatives to enhance women’s land access. It will ensure direct transfers to them through land reforms, anti-poverty programmes and resettlement schemes. It will include individual or group titles to women to purchase or lease land, records and legal support for women’s inheritance rights, incentives and subsidies on women owned land. The group approach to women’s ownership of land and productive assets will be explored and appropriate linkages will be made with the SHG movement. In case of displacement, a gender allocation of land to women will be devised. The Eleventh landless, and tribal women over forest land, commons and other resources.

TWELFTH FIVE YEAR PLAN

Its duration is from 2012 to 2017. Its main theme is “**Faster, More Inclusive and Sustainable Growth**”. Its growth rate target is 8%. It is the current five year plan of India. Broad Objectives are 1. To reduce poverty 2. To improve regional equality across states and within states 3. To improve SCs, STs, OBCs minorities 4. To generate attractive employment opportunities for Indian youth 5. To eliminate gender gaps.

TABLE 1:DISTRIBUTION OF LANDHOLDINGS: ALL SOCIAL GROUPS – 2010-11 AND 2005-06

Category	2010-11		2005-06	
	Number	Area (Ha)	Number	Area (Ha)
Individual and Joint	8098747 (99.76)	6355623 (97.95)	8173904 (99.77)	6687815 (98.01)
Institutional	19477 (0.24)	132747 (2.05)	19069 (0.23)	136132 (1.99)
Total	8118224 (100)	6488370 (100)	8192973 (100)	6823948 (100)

TABLE 2: DISTRIBUTION OF LANDHOLDINGS BY SOCIAL GROUPS – 2010-11 AND 2005-06

Category	Population 2011	2010-11		2005-06	
		Number	Area (Ha)	Number	Area (Ha)
Scheduled Castes	20.01 %	873499 (10.76)	492306 (7.59)	884241 (10.79)	503341 (7.38)
Scheduled Tribes	1.10 %	74414 (0.92)	74684 (1.12)	68632 (0.84)	75210 (1.10)
Others	78.89 %	7150834 (88.08)	5788634 (89.22)	7221031 (88.14)	6109265 (89.53)
Institutional	-	19477 (0.24)	132747 (2.05)	19069 (0.23)	136132 (1.99)
Total	100 %	8118224 (100)	6488370 (100)	8192973 (100)	6823948 (100)

CONFLICTS AND RECONSTRUCTIONS

The major conflict -caused obstacles and threats to women's land and

Property rights can be summarized as follows:

- When conflicts occur; many women who own land jointly with their husbands lose any proof of joint ownership. So, in the post-conflict period, they will have lost the land access and user rights they previously had.
- Much of the land that was held by women before conflicts gets 'annexed' by other owners, thus dispossessing women who have lost the evidence of title to their land. And, unfortunately, the law seems unable to correct such a situation, either the realistic management mechanisms are not applied by the authorities and the people concerned.
- For many women, previous access to land was through marriage. So, in cases where their husbands themselves had inherited this land as ancestral land, their widows are left in a precarious position when the husbands die. In

many instances the husbands' relatives lay claim to the land, thus exposing the women to the likelihood of losing land access and user rights

- Lack of awareness among women about their rights.
- Customary law and traditions.
- Lack of participation in decision making process.
- Gap between provision in customary laws and citizens right and its implementation.
- Land alienation due to capitalization, industrialization.
- Lack of sensitization about women's rights among male members of the community as well as government representatives at local level.
- Absence of joint pattas with women's name include in the title deeds.

The position of women with regard to land and property ownership is further weakened by both conflicts and the ensuing throughout reconstruction process in societies where their access to land and property is already precarious. The usual imbalance in power relations between women and men is sustained and even deepened the conflict and continues up to the stage of reconstruction. Breakdown in social stability and in law and order leaves a socio-economic vacuum in which the subordinate position of women, their social support systems and their access to land and property are compromised by traditional and customary laws.

CONCLUSION

“There is no greater sorrow on earth than the loss of one's native land”

- Euripides, 431 BC

Women's land and housing needs must be understood from the point of view of women's rights to dignified life. They should not face any discrimination in exercising their right to land and housing due to their caste, race, age, religion and ethnicity.

The division of labour in our patriarchal structure operates in such a way that a women's contribution is not visible. Even the state does not acknowledge the significance of work they do in everyday life. Only work performed outside the household is considered 'productive' work. This reduces domestic work to non – productive work. Women, therefore, have not been recognised as earning hands in any Census survey. There is urgent need to recognise women as productive units of society. Perhaps, the way to curb displacement and human trafficking will emerge from such an understanding.

The right of women to land is a fundamental right without which they cannot aspire to a decent life, in as much as land constitutes almost the only means of production for the rural population. The situation of women with regard to the right to property has evolved slowly as a result of an inadequate protective legal framework. This is the ultimate requirement needed to empower women economically and socially.

Women have only secondary land rights under a resurgent customary law; but the rules may be changing. Women have only secondary land rights under a resurgent customary law; but the rules may be changing.

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