

Securing Land Rights for Women Farmers in India: A Road Map for Action

"Why are women's rights over land and resources, often, mediated by her relationships with male members of the family? A married woman gets the ownership over the marital land only after the demise of her husband that is also if her in-laws family give their accord. We are women farmers who work on the marital land and need clear land rights to our marital land..

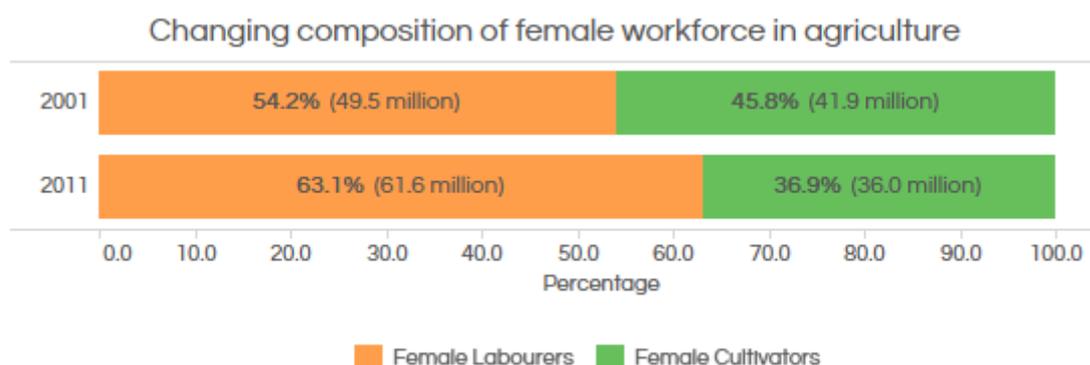
Indrani Devi, Madhya Pradesh

Women contribute significantly to the food production in India, playing a crucial role from the land preparation to the post-harvest operations and adding value to the agriculture produce. Their role in the agriculture sector is increasingly growing with the feminisation of agriculture and increased out-migration of the male members from the rural to urban areas. However, in the social and policy perception, women are rarely acknowledged as farmers. Lack of land ownership limits women farmers' access to agriculture inputs, services, technology, and limit their representation in the agriculture policy and programme planning, government bodies and farmer committees. This Roadmap for Action contours some policy and programme suggestions to ensure secure land ownership for women farmers in India.

The Context

In rural India, the most significant form of property is arable land, and this is a critical determinant of economic well-being, social status, and political power. Access to and control over land has critical implications for welfare, efficiency, equality, and empowerment¹.

The Census data 2011 also clearly reflects the growing distress in Indian agriculture with men moving out of agriculture and the growing feminisation of the workforce in the sector with millions of women joining the category of agricultural labourers, but with very little access to land, as compared to the previous Census data in 2001.



Source: Census of India, 2011

There has been a 24% increase in the number of female agricultural labourers, from 49.5 million in 2001 to 61.6 million in 2011. The decadal comparison of the Census data also shows a fall in the category of women as cultivators again indicating women's increasing loss of access to cultivable agricultural lands. The total number of woman cultivators has come down from 41.9 million in 2001 to 36 million in 2011.

While 75% rural women workers are engaged in agriculture, according to the agricultural census of India 2010-11, women's operational land holding is only a meagre **12.79%, comprising about 10.36 % of the operated areawith average land holding size being 1.16 ha only.**

Across the five regional consultations demand for land & secure land rights has been one of the most critical demands for women farmers and agricultural labourers. Women have demanded implementation of succession laws to enable access to private property and also distribution of public lands and safeguarding of their rights over these lands in an increasingly volatile situation of land alienation.

We discuss below some of the key issues that have emerged from the five regional consultations and some of the **key recommendations** thereof.

- **Identification and Distribution of Cultivable Government Lands to Landless Women:** Governments should create a publicly accessible database of the available public land for the distribution, set an annual target and create an accountable system to provide land to the landless families in the name of the woman farmer.
- **Public Land Assignment with Secure, Inalienable Rights for Women:** All land assignments policies to landless women/groups must be completed by giving physical possession of the land and come with the spirit that assignment of land to the landless women is also a public purpose which cannot be alienated.
- **Land & water bodies lease prioritisation for women's collectives:** Review the tenancy laws whereby rights of the tenants are protected, women's collectives are able to lease in land formally & avail of agricultural schemes and Institutional credit. Groups of women farmers seeking to lease in land, water bodies must be prioritized in all lease of land and water bodies such as tanks, ponds at the village panchayat level
- **Identification and enumeration of women farmers and pastoralists who are dependent on government lands** (commons for grazing, cultivation of fallows, tank bed areas, fishing etc) in a time bound manner by the revenue department from the village upwards
- **WCD & DOLR should monitor the progress of implementation of succession laws** and put out the data on public domain down to the panchayat and ward level.
- The State Governments should support women from diverse socio-religious groups, especially the most vulnerable among them to benefit from the inheritance laws applicable to them by **promoting gender support centres at the panchayat and tehsil levels** in the land application process, and to allocate budgets for gender sensitisation and capacity building of government officials at various levels.
- Amendments in both the Special Marriage Act and the personal laws pertaining to marriage are needed in order **to recognise the right of the wife in all property** from the day of the marriage. Such amendments would also call for a review of the existing succession laws.

Women's Access to State lands

Distribution of public lands and safeguarding of rights of women

Non-availability of the information regarding the surplus land creates hurdles for many marginalised communities to claim the land.

The key issues that have emerged from our consultations are with reference to **settling of claims of Forests, regularisation of gairan lands, distribution of public lands acquired through ceiling surpluses, safeguarding and protecting of lands distributed to the poor, SC, ST women which are being acquired for "development projects" to name a few.**

All the states, by 1961-62, passed the State Land Ceiling Acts with the land ceiling limits varying from state to state. In the year 1971, a national level Land ceiling policy was evolved to standardise the land ceiling limits across the states, and fixed the land ceiling limits per family according to the quality of the land and availability of the irrigation infrastructure on and around the land. Significant amount of public investments, since the second five-year plan, have been invested for improving the irrigation infrastructure that has improved the quality of the land in many parts of India, however the ceiling limit decided five decades back still remains unchanged.

Although several state governments such as Tamil Nadu, Maharashtra Rajasthan, Andhra Pradesh, Telagana have taken some initiative to distribute public land to the landless communities prioritising Scheduled Caste and Scheduled Tribes, huge discrepancies in the land distribution have been found across the states.

Further, over the period, the trend of government possession and distribution of surplus land has steadily slowed down and in fact the amount of land declared surplus every year has reduced. Between 1973 and 2002, on an average 150,000 acres' land was declared as surplus and 140,000 acres land was distributed which reduced on an average by 4000 acres between 2002-2015ⁱⁱ.

In Tamil Nadu, landless Scheduled Caste women farmers' collectives experienced delay and faced operational hurdles to lease *Panchami Land* in the absence of the proper information about the surplus land availability in that area.

In fact, several instances were found in Bihar that reported all such lands being either redistributed or encroached by powerful people for different commercial purposes. It thus became impossible for the marginalised community to claim their right over land.

The consolidated land has been used by the state governments for the public causes like the construction of the roads, hospitals, schools, and for allocating land to the landless families for construction of houses and livelihood purpose. The state government of Odisha initiated the scheme, "*Vasundhara*", to provide 10 decimal land to the landless families in the joint name of the husband and wife. The revenue department of the state of Odisha also promoted gender support centres, with civil society organisations, for supporting single women in the land application process. Considering the high number of such cases reported under "*Vasundhara*" programme, the Odisha government had to introduce another scheme called "*Mo Jami, Mo Dhia*" (My Agriculture Land, My



"Women farmers collectives had to struggle for more than a year to claim 18 acres of land. But after receiving the land, the group realised that out of 18 acres, 8 acres' land is in the backwater, severely impacted by the soil salinity."

Ms, Vimla, a member of women

Homestead Land) to demarcate the land distributed under the Vasundhara scheme and giving ownership to the rightful owners.

While distribution of surplus lands is an issue, safeguarding and saving the distributed lands has also been a major challenge for women, especially from the most vulnerable sections. Land alienation has been compounded by changes in land use policy, poor governance and access to legal aid, poor economic conditions to challenge forcible land acquisition or eviction from land for the most marginalised such as tribals, dalits and landless.

Recommendations

Identification & Distribution of Cultivable Government Lands to Landless Women

The land survey/resurvey initiatives being supported by DoLR in various States must be oriented towards generating a publicly accessible and accountable database or inventory of the extent of government lands from the village level upwards in all the States, which can be used for assignment or distribution to the landless women cultivators and agricultural labourers.

Inventory of Commons and their Protection

Similarly, the inventory must be able to generate the extent of common lands, so that these can be earmarked and protected for purposes of grazing, watering of livestock, collection of fuel wood or other such livelihood and survival needs of women farmers and pastoralists. Women livelihoods dependent on commons and forests should have equally representation in management of commons and Forests Rights Committee.

Distribution of Cultivable Government Lands to Landless Women

Again, the DoLR supported digitisation and computerisation of land records must also generate gender disaggregated data on the extent of landholdings as well as extent of landlessness amongst various categories of women across different castes and classes. This data must be then used to match with the government land inventory to target landless women from the SC, ST and BC sections for assignment, since they form the majority of the landless cultivating sections and agricultural labourers across the country today. Amongst these women again, single women and women farmers from households affected by farm suicides etc must be prioritised for land assignment and distribution of government lands for cultivation. Both identification and distribution of government lands to landless women must happen as a complementary exercise and in a time bound manner and must be backed with necessary directives both from DoLR and appropriate GO/GRs at the State level.

Public Land Assignment with Secure, Inalienable Rights for Women

All land assignments policies to landless women/groups must come with the spirit that **assignment of land to the landless women is also a public purpose.** The spirit of this public purpose will therefore not be violated through land acquisition or resumption for another competing public purpose such as industries or infrastructure etc. Therefore, there must be a clear condition in the assignment patta's/titles that lands once assigned to the landless, including women, will not be resumed for any public purpose, unless as a last demonstrable resort.

The Section 41 (1-4) of the latest Land Acquisition Act 2013 must be invoked/implemented in this spirit. -The Land Allotment policy formulated in hitherto undivided Andhra Pradesh State in 2012 but subsequently adopted by the State Government of Telangana (now known as GO.No 571) has specific clauses in relation to non-alienation of assigned lands, which reads as follows, *"The lands assigned to poor people for agriculture purpose should not be resumed and in case of inevitable resumption, alternate land should be given to the said assignees apart from rehabilitation"*(under Section vi, of Scientific and Judicious Allotment of land, "Government Land Allotment Policy", 2012, GoAP.)

Assignment of Public lands in the names of women only

In most states, there have been orders issued after the recommendation of giving all public properties in joint name, but these have never been monitored. There have been relatively fewer initiatives to distribute land in women's names only, but these have few and far between. Land issued in the joint name failed to create women's empowerment as men still control power over the joint land title. The Government of India is already allocating public housing under the Indira Awas Yojana in Women's names only. The same policy should also be extended with directives for all public land distribution and regularisation to be done in the names of woman only instead of joint ownership.

Development of Public Lands

Assignment of public lands to landless women must also include a condition/clause that mandates State Governments to make significant public investments to develop such lands through provision of irrigation, soil fertility enhancement etc towards improving viability, livelihood sustainability of such lands through formulation of innovative schemes or meaningful convergence/dove tailing of ongoing Central/State schemes such as MGMNREGS etc with land development. Special Officers (at block/cluster level) must be appointed along with a team of dedicated extension workers (including women) for overseeing initiatives related to land development and agricultural schemes meant for beneficiaries of assigned lands.

Safeguarding Women's Land and Livelihood Rights in the Context of Land Acquisition and Alienation

Women's rights to commons, lands assigned in their names as well as their share in family land and house sites must be clearly recognized and respected in the Context of increasing acquisition of land by the State Government and its various agencies (such as TSIC, irrigation department etc) for various public purposes. The differential impact of land acquisition and alienation of commons in various contexts over the livelihoods of different categories of women must be clearly documented and accounted for as part of the Social Impact Assessment and Gram Sabha and Public Hearing processes provided for in the 2013 Act passed in the parliament. Further, the differential entitlements provided in the Act for different categories of women affected by land acquisition, including recognition of women who are single, widowed, unmarried, destitute etc as valid categories must be recognized separately for compensation and other R&R benefits laid out in the Act.

Women dependent on Unassigned government lands for farming, livestock rearing etc.

- Identification and enumeration of women farmers and pastoralists who are dependent on government lands (commons for grazing, cultivation of fallows, tank bed areas, fishing etc.) in a time bound manner by the revenue department from the village upwards.
- Entry of such cultivation, grazing, fishing etc. into cultivation records and updation of the same by the revenue department.
- Issuing temporary titles for at least 3 years to individual women or groups of women dependent on such commons as a valid category of land owners and dovetailing existing schemes related to land development, agriculture, horticulture, livestock etc. on these lands to benefit them.
- Regularization of temporary patta's of individual or groups of women into proper titling and occupancy rights in the long run. A special committee to look into these issues and resolve the issue of titles in a time bound manner

Land Leasing and Women's Collectives

"Single landless women are the worst affected by the land acquisitions. Those who own land are being given a compensation of INR 6 lakhs/ acre for the land but the agricultural labourers who are dependent on those lands are not getting any compensation or rehabilitation though they lose their livelihood avenue too" Ms Sujatha, Telangana

Several agricultural tenancy laws were passed just after independence mainly to end the feudal systems and provide land to the tiller. While the intention was good, the implementation could not keep pace and several states have still not been able to settle the claims of the tenants on these lands. So while tenancy laws did bring in protection to the tenants it also led several states into either prohibiting or curtailing land tenancy. In the years that followed a lot of informal land tenancy agreements came up across several states, thereby protecting the rights of the owners. Informal tenants could no longer claim their right over the land since they were not registered as tenants and worse still they could not avail of any benefits or institutional credit since there was no formal recognition of them as tenants. In the event of crop failure or any other disaster the land lessee or the tenant was thus the loser. Such unrecorded tenancies are high in number and amongst them are also several women's collectives especially so in the states of Bihar, Tamil Nadu, Kerala and AP and Telangana to name a few. Though sex-disaggregated data is not available for the land leasing, but the agriculture census 2011 statistics of 13 percent of the operational land holding of women farmers include a significant amount of the land lease dataⁱⁱⁱ.

Certain policy and programmatic level initiatives have been taken by the central and the state governments, over the periods, to amend the restricted tenancy act. The Kerala Government allowed land leasing, despite tenancy being legally banned in the state, to women collectives under Kudumbashree programme. Women's policy of Maharashtra (2015) provisioned to lease out fallow lands to women's groups for cultivation but due to lack of funding, the policy has not been implemented yet. Recently Niti Aayog- a planning and policy making body comprised of central and state level government leaders- proposed a Model Land Act to increase transparency in the land tenancy system and protecting the rights of the tenants and land owners^{iv}. However, the Model Land Act aimed to be used as a guiding document for state tenancy law amendments for protect tenant rights, still has several loose ends in regards to legally recognising and providing security to the tenant farmers and share croppers.

Recommendation

Review the tenancy laws whereby rights of the tenants are protected, women's collectives are able to lease in land formally & avail of agricultural schemes and Institutional credit.

A comprehensive Land census should be carried out by the revenue and agriculture departments (along the lines of 1953 land census carried out in erstwhile Hyderabad State with clear rules and guidelines issued thereof). Accordingly, the actual number of tenant cultivators and extent of tenancy should be recorded along variables of gender and caste; all white paper transactions or oral leases by the poor and eligible women should be registered without any fee, within a specified time frame.

Groups of landless women seeking to lease in land, water bodies must be prioritized in all lease of land and water bodies such as tanks, ponds at the village panchayat level as well as surplus lands with government bodies such as railways. Appropriate changes to be brought in the State Tenancy laws in this regard, including regulation of rent/lease fee, duration of lease, adequate safeguards against eviction of tenant as well as sub-leasing of land by individuals or groups, once land is leased in for farming purposes. Incentivize group leasing through appropriate irrigation, agriculture schemes (the AP SHG Women's Land Leasing Bill, pending presidential approval, offers a useful starting point on some of these aspects).

Correcting gender anomalies in all State Tenancy act to enable women to lease in land and to be considered as valid category of land owners, eligible for all schemes.

Regulation of Rent/Lease Fee. State governments must play a pro-active role in setting up appropriate mechanisms (involving the revenue and agriculture departments) for regulating lease/rent, given the prevalence of different systems of tenancy in different parts/regions within each States (share cropping, fixed rent etc).

Women's Inheritance Rights & Access to Private Property

86 percent of the arable land in India is private land and ownership of the private land comes through inheritance^v. Access to land inheritance in India is mediated by the personal laws and customary practices that often discriminate women in providing secure resource rights. But, most of the marginalised community of India, majority who belong to Scheduled Caste and Scheduled Tribe, are landless and are out of the purview of the land inheritance.

A study done in Madhya Pradesh in 2014 found that most women prefer to claim their rights over the marital property than the natal property as the major proportion of their labour investment is in the marital property than natal property^{vi}. The social -cultural norms in most part of the Indian society recognises marital home as the real home of the women, fall in sync with the demand of the Indian women's right over the marital land. However, it is prudent to emphasise over here that Hindu Succession Amendment Act is quite important as it secures right of single, unmarried women over land.

Inheritance and Succession Rights

Women's right to private property is determined by both succession laws and by the procedural laws. While the succession laws create an entitlement for the woman, it is the procedural laws such as the Transfer of property act or the stamp registration act for example that procedurally make it possible to realize the entitlements for women.

In the Hindu succession law while the entitlement for daughters and sons is equal, realizing it is often not easy as there are very few disincentives in order to prevent women, whether daughters or widows from relinquishing their rights over the entitlements. In Muslim succession law, in most states entitlement is not extended to agricultural lands thereby making it difficult for women to claim their share in land. Customary laws have their own region specificity but across regions the experience of customary laws amongst different adivasi groups has not been in the interest of women.

"Though religious leaders say that women can claim 25 percent in their natal property under inheritance, but she said, it is very rare that society allowed any women to claim her property rights. She argued that the marriage contract between husband and wife is silent about women's right to land and property and consequently, women face a lot of challenges to get their share of the property after husband's demise"- Ms. Shaina Parveen, Bihar^{vii}

In all succession laws implementation has been a major problem and this has been stated time and again in every consultation done by MAKAM and its constituent members.

In HSAA while daughters simply find it difficult to claim their natal land due to social and emotional pressure, widows often are unable to claim land rights because they are not considered part of the family once the son is no more. This is especially so when the widows are either childless or have only daughters.

The question of succession laws is a vexed one and thus arriving at a consensus on a secular gender just law is difficult, yet every woman from across diverse communities, religion was reporting the non- implementation of current inheritance and succession rights.

Recommendations:

While the broader demand for a gender just and secular law in matters of succession stands, the most urgent demand of women farmers is for an overarching matrimonial property law which ensures that women have a right to marital property 'on marriage'.

We recommend that within the current framework

- a) WCD and DOLR should monitor the progress of implementation of succession laws and put out the data on public domain down to the panchayat and ward level.
- b) Providing incentives within the procedural acts such as the Stamp Registration Act to provide for minimal registration costs in cases where husbands are either gifting a part of their share to their wives or asking for land partitions in their wives' names. There have been some small steps in this regard in some states like Maharashtra, Gujarat, UP to name a few. For example Maharashtra has a nominal stamp duty of INR 200/-for both gift deeds as well as land partition within family members. However it presently includes transactions between husband and wife, brother and sister so it could be used both by brothers and husbands to force their sisters and wives to gift or partition their lands at nominal stamp duty.
- c) Providing disincentives for registering release deeds made by women in favour of men. These will have to be strictly monitored and all such release deeds will have to have a punitive measure attached. It should also be explored if such a specific clause can be added to the succession law itself in order to protect the entitlement of the woman.
- d) Fast track courts to settle claims on private property by widows, especially so in farm suicide affected states in the country
- e) A budgetary allocation is made to set up Women's resource centres (GRC) at the block level to provide support to ensure implementation of the succession laws. This includes legal literacy and awareness and support to claim rights on private property. These WRCs would maintain a data base of all the property related cases that are received by them to be able to monitor the progress with regards to claims settled.

ⁱ Are not we peasants too? Land Rights and Women's Claims in India. Bina Agarwal, 2002

ⁱⁱ <https://thewire.in/33523/land-reforms-fail-5-of-indias-farmers-control-32-land/>

ⁱⁱⁱ ldbi.

^{iv} <http://pib.nic.in/newsite/PrintRelease.aspx?relid=123199>

^v <http://www.fao.org/docrep/007/j2602e/j2602e04.htm>

^{vi} ldbi.