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Women's Access to Land: An Asian Perspective

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Introduction

Women's access to and control over land can potentially lead to gender equality alongside addressing material deprivation.¹ Land is not just a productive asset and a source of material wealth, but equally a source of security, status and recognition. Substantive gender equality is both relational and multi-dimensional, cutting across race, class, caste, age, educational and locational hierarchies and can only be achieved if rights are seen as socially legitimate.

Sixty percent of the world's population and 57 percent of the poor live in Asia's 48 countries, though having only 30 per cent of the world's arable land.² Asia's agriculture is dominated by highly productive smallholder cultivators, the average size of household land-holdings being between 1-2 acres.³ Land ownership and distribution patterns vary greatly in Asia. There are four major types of inheritance and land management systems relevant to women's rights to land. These include: the largely patrilineal South Asia, with land a private asset owned and acquired mainly through inheritance down the male line; bilateral and matrilineal South East Asia, where land is a private asset acquired through customary inheritance systems; the communist/socialist states like China and Vietnam, where land is vested in the State but households granted use rights by the local village committees, and the Central Asian states marked by conflicts between centralised state institutions and private, clan-based, land management systems.

* The views expressed in this paper are those of the author and do not necessarily represent those of the United Nations.

After briefly mapping Asia's diversity, the paper delineates the drivers of change, focusing on historical shifts in the legal and policy framework underlying land management systems and gender rights; male migration and the feminisation of rural areas, and the push for growth, which has highlighted the gender asset gap as a constraint to productivity. The major institutional barriers to the recognition of women's rights are discussed next. These include the strongly entrenched notion of the male head of household across Asia, community and kinship norms that resist women's inheritance of natal property, especially in South Asia, commercialisation and globalisation processes that seek to commoditise all land, or shifts in state priorities and policies in favour of private capital. Imbibing these institutions are the so-called 'Asian values', whether driven by Confucian, Hindu, Islamic or Buddhist religious practices, all strongly patriarchal in nature. The main differences and similarities in Asia are analysed by focusing particularly on one country in each of the first three groups, namely, India, Indonesia and China, drawing on other examples to illustrate particular points.⁴

The Asian Scenario

Table 1 presents some indicators of the diversity and inequality in Asia. Despite almost equal ownership rights in China, Vietnam and South-east Asia, women don't own much agricultural land in practice. Son preference remains strong in India, Pakistan and China, where a majority of economically active women are engaged in agriculture. There is no linear relationship between women's asset ownership or work participation and gender equality. Neither is there any linear relationship between recognition of risks and progress. Land rights have been secured and negotiated at different institutional levels through struggles rather than technical fixes, given that they refigure meanings of power and authority in society, instead of reflecting merely the transfer of a physical asset. The state however does have a crucial role to play in enabling a fair and just environment for women to claim their rights.

Land rights have not remained static over time. There have been historical events and changes, at times, exogenous changes in technology (Quisumbing et al, 2004), law or state priorities (Stivens et al, 1994)⁵, that have pushed for equality. At the same time these have been confronted by social, religious, political and economic resistances. Land titling can provide women rights, but existing practices can subvert them. Titling can also formalise inequality, by fixing land distributions where they were earlier negotiable (e.g access to common property resources) (Borras, 2010). Pressures on land add to the complexities mediating women's access such as its location (natal/marital), mode of acquisition (inheritance, markets, state), the type and extent of rights (legal, use), and the larger religious and political economy context that shapes state policies and priorities within which claims are negotiated.

Drivers of change

Historically, three major drivers of change in women's access to land can be identified in Asia.

1. Legal reform and policy change

By adopting democratic Constitutions based on the principles of equality and justice in the post-colonial period, Asian nations have engaged with legal and policy reform in response both to global and national pressures.

Globally, most Asian countries have ratified international commitments including the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979, articles 14, 15 and 16, which call for ensuring equal access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform and land resettlement schemes, and the Beijing Declaration and Platform for Action, 1995. National laws are mostly in conformity with CEDAW, but the enforcement is weak.

Thus, in India, despite the Constitutional Fundamental Rights, adopted in 1950, which guarantees equality of opportunity and rights to all citizens, and the persistence of the Married Women's Property Act, 1874, which recognises the property acquired by any married woman in any employment, occupation or trade carried on by her in her individual capacity as her separate property; landed property is governed by inheritance laws shaped by different religions. The Hindu Succession Act, 1956, covering almost 80 per cent of the population, was amended in 2005 to remove gender discriminatory provisions, entitling a daughter to inherit family property including agricultural land on par with the son. Anomalies exist in the lack of recognition of wives, mothers and widows as coparceners of the joint property. There is ambiguity about self-acquired and ancestral property and the use of wills to transfer property to particular heirs (Lawyer's Collective, 2010). In Karnataka and Maharashtra, states that amended the Hindu Succession Act in 1994, the amendment did not compensate for underlying gender inequality but significantly improved women's likelihood of inheriting land, positively impacting their age at marriage and educational attainment (Deininger et al, 2010).⁶ Amongst Muslims the shariat grants inheritance rights, albeit half the share of the brother, but it is rarely claimed.⁷

Indian policies express greater commitment towards gender equality from the 6th Plan (1980-85), with a focus on joint titles to spouses in the distribution of land and home sites.⁸ The New Agricultural Policy, 2000, the National Policy for the Empowerment of Women 2001, and the National Farmers Commission 2006, have all stressed the need to strengthen the entitlements and support women farmers, for the sake of food security, and material wellbeing, if not explicitly pointing to emotional security and social recognition. Implementation here too has been near absent.

China and Vietnam saw radical land reforms and the abolition of private property, shortly after the formation of communist states in 1949 and 1954 respectively. This was one way of improving women's status. In pre-revolutionary China women had no property rights; their fertility, labour and person constituted a form of property to be exchanged at marriage. The Marriage Law of 1950 in China abolished arranged marriage to further equalise women's status (Croll, 1984). Yet a semi-arranged system of marriage persisted in rural areas, due to notions of filial piety, and to meet the labour needs of the peasant household, which remained the basic unit of production and consumption. With the move to the Household Responsibility System (HRS) in 1978, to address problems of low productivity and persistent poverty, marriage became an even more important and perhaps only way to both recruit and reproduce labour (hiring wage labour was not easy), the major source of wealth and social differentiation (ibid: 1984).

To avoid disruption to production due to household division and movement (mainly due to marriage, births and deaths), and further encourage land improvements, by the mid-1980s, the land leased to households was secured for a period of 15 years. This had two implications. While all adults were entitled to a full share of land (about 2-2.5 mu), a different rule was used for unmarried children. As sons were expected to marry and have a child, they were allocated

more land than a daughter, who would eventually marry and leave the natal village, given the persistence of exogamous and virilocal residence patterns post-marriage. Thus families with sons got more land, hence ending up reinforcing villagers' traditional preference for sons.⁹ In 1998, the contracts were extended to 30 years, and 'redistributions could only be made when two-thirds of the villagers voted in their favor' (Chen and Summerfield, 2007). In 2003, the Rural Land Contracting Law reinforced the 30 year leases and prohibited readjustments. Though the shares of daughters and sons were equalised, it became difficult for women to retain their natal shares after marriage, and they got no land shares in their marital home. Women's rights became nominal and insecure in a patrilocal context, with a near-total loss of rights in the event of a marital breakdown (Belanger and Li, 2009).

In Indonesia, the Basic Agrarian Law of 1960 (BAL) states that land has a social function controlled by the State; hence the range of land holdings was fixed at between 2 and 20 hectares per household. There was no specific reference to women. All allocation under Suharto's New Order government from 1965-1998, was based on the 'family principle' which placed the family as the fundamental unit of the nation (Elmhirst, 2011). Different types of rights including ownership, use, collection of forest products, were recognised. Consequently, resettlement programmes,¹⁰ rested on the concept of 'the household' comprising a male breadwinner and female dependent (ibid: 179). The male household head was given the certificate of ownership, though this depended on his being married and preferably with children. With the onslaught of the private sector, there is an attempt to dilute the BAL, with a new bill on Land Acquisition, currently in the Legislative Assembly. Inheritance continues to follow customary norms and practices, largely matrilineal or bilateral.

Thus across Asia, despite legislation and a policy framework ensuring equal rights to men and women, access to landed property is shaped by the persistence of social norms and values, marital and inheritance patterns (virilocal residence post-marriage alongside the identity of the woman as a permanent member of her marital rather than natal home) and religious practices mostly favouring men and discriminating against women (Chen and Summerfield, 2007, Belanger and Li, 2009, Agarwal, 1994, Rao, 2010). Yet, similar policies can have different outcomes, largely due to the mediating effects of local contexts, opportunities and norms.

2. The gender asset gap as a key constraint to enhanced productivity and growth

The exclusion of women from access to and control over assets, whether land, technology or credit potentially lowers growth (Evers and Walters 2000, Agarwal 1994, Deere and Doss, 2006, Rao et al. 2008, Kelkar, 2011).

Despite inadequate and faulty data, available evidence suggests that women are less likely to own and operate land in South Asia (roughly 10-15 per cent of total land) (FAO, 2011, Rao, 2006), and when they do, the size and value of holdings are lower than those of men. This is confirmed by micro-level studies (Mitra, 2008, Rao, 2008, Vasavada, 2004)¹¹ that point to caste and class disparities in asset ownership,¹² though with contradictory gender effects. In Karnataka, women from the poorest 20 per cent of all rural households owned 51 per cent of household wealth against 16 per cent amongst women in the richest 20 per cent (Swaminathan et al, 2011).

In South East Asia the gap in landownership is not as stark as South Asia (FAO, 2011). There is a greater equalisation of rights, shaped here by the gender division of labour and work opportunities, in order to provide proper incentives to both men and women (Quisumbing et al

2004, Li, 1998). Chinese women who worked on farms had almost equal access to land and credit as men, due to the provision of pre- and post-production services by the village government (Croll, 1987), though Vietnam's women headed households had much lower access to assets (Belanger and Li, 2009).

Comparative labour productivity studies in Asian agriculture show that yield differences are caused by differences in input use rather than gender (Doss and Morris, 2001). Labour productivity studies of female farm workers in Bangladesh, oil palm in Indonesia, and rice in Nepal (Rahman, 2010, Hasnah, Fleming and Coelli, 2004, Aly and Shields, 2010 respectively, cited in FAO, 2011) reveal that female labour is as productive as male labour when differences in irrigation and seed type, that is, input use, are standardised. If yield gaps of 20–30 percent were closed, domestic production is expected to increase by 2.5–4 percent, contributing substantially to food and nutrition security (FAO, 2011).¹³

3. Agricultural stagnation, feminisation and male migration

Migration from one part of the country to another for clearing and cultivating land, especially large plantations, has a long history in colonial Asia. The agrarian crisis in the last two decades,¹⁴ has however, both intensified and changed this process, quantitatively and qualitatively. Those dependent on rural areas and the agricultural sector are overrepresented amongst the poor (WDR, 2008).

The pressure for diversification has enhanced male migration and the feminisation of the agricultural sector across South Asia and China, with women constituting over 60 percent of the agricultural work force (FAO, 2011). The implications of male migration vary across the region. In India, without land titles and with restrictions on public engagement, women are unable to access markets, technologies, inputs and institutional credit, especially due to their continued classification by the state as unpaid family helpers rather than independent cultivators and decision-makers (Rao, 2011a, Neetha, 2010), and get restricted to lower paid casual and informal work (Kapadia, 2000). Most Chinese women do not face production-related difficulties, with the exception of widowed or divorced women, whose shares and interests are often not recognised by the village regulations and councils (Davin, 1999, Yunxian, 2010).

South East Asia is more diverse, with men often migrating internally for industrial and service sector jobs and women transnationally in the growing domestic service sector. Roughly 45 per cent of economically active women are engaged in agriculture. Though not title-holders, they maintain control through their farm work, and also provide a safety net for men's more risky ventures, in keeping with the national discourse of the family and their customary practices of inheritance.

Processes of male migration and the feminisation of agriculture pose many contradictions and trade-offs for gender equality: between higher incomes earned from non-farm versus farm work (Walker and Ryan, 1990, Quisumbing et al, 2004, Hare, 1999), autonomy versus hard work to fulfil household responsibilities (Karlekar, 1995), or effectiveness in negotiating the conjugal partnership and seeking personal security (Elmhirst 2011, Sargeson, 2008, Rao 2011b). It has nonetheless led to policy recognition of women's central role in food production and ensuring food security, and consequently a realisation that they need to be supported in this role through strengthening their rights and entitlements. Apart from China, State institutions, especially credit and service providers, have yet to adjust their policies.¹⁵

Main Challenges

The main obstacles to rural women's access to land and their ability to enhance productivity are institutional barriers to their social recognition. I briefly discuss the realms of the household, kinship systems and markets, which provide opportunities for negotiation, yet in the recent growth period, have been rigidified by the state and its patriarchal interpretations of laws and policies.

1. The family and household headship

Asian families remain strongly patriarchal, with the man recognised as the 'head of household' by both state and market institutions across these very diverse contexts.¹⁶ Land and other asset entitlements are generally issued to the head of the household. Women, constructed socially as dependent wives and mothers, are expected to obey and service men and the family through their life cycle, and as long as they perform this role, their rights are protected. Divorced and separated women are most vulnerable, as lacking in male protection and supervision, they are seen as deviants, and denied their rights. Chinese families are disinclined to give daughters their share following marriage. Women find it difficult to legally prove and claim their marital share in the courts, especially in the event of marital breakdown, given the perception that agricultural land 'belongs' to the male's side of the family (Yunxian, 2010). Widows in India are an exception, as this is perhaps the only stage in the life cycle when women's rights do get acknowledged and recognised, albeit subject to conditions (Agarwal, 1998, Rao, 2008).

In India, while asset control can lead to some improvement in working conditions and participation in household decision-making processes, it does not necessarily contribute to better personal wellbeing (Garikipati, 2009). Compared to South Asia, where despite some variation, male authority is firmly established, in South East Asia, recognised as central to both the peasant economy and trade, women have considerable voice in decision-making in the household (Stoler, 1977). In Indonesia, in 70 per cent of the households interviewed, the woman was the main financial manager and decision-maker (Papanek and Schwede, 1988). Li (1998) emphasises here the idea of economic partnership in conjugal relations, based on notions of distinct but complementary interests. In Zhejiang (China), only 10 per cent of women had their name on the land contract, but 68 per cent controlled the daily expenditure and budgeting of the household, gaining control over at least a part of their husband's incomes (Sargeson 2008). Younger women in China, post-2003, have sought to redress the imbalance in access to land through seeking other employment, especially in the industrial sector.

Women within marriages are however also insecure, and in the absence of access to independent resources, especially to house-plots, experience much higher levels of violence within marriage (Panda and Agarwal, 2005, ICRW, 2006, Bhattacharya et al, 2011, Sargeson, 2008, Belanger and Li, 2009). Marriage and belonging to a family is important in the lives of both men and women and should be recognised as an equal partnership, both legally and socially, rather than a relationship based on male authority and female subordination.

2. Diversity in kinship and inheritance patterns

While differences in governance systems are important, gender, property and production relations are shaped primarily by kinship rules and prescriptions with respect to marriage, divorce, inheritance, ancestor worship rituals and children, across south and south-east Asia,

legitimising both entitlements and responsibilities (Dube, 1997). At times these complement state laws, at others they are contradictory. The pluralism of legitimisation systems can be a resource in land struggles, but the final outcomes depend on the specificities of location, ethnicity and wider context (Benda-Beckmann, 2001).

Most Hindus in India and Nepal and Muslims in India, Pakistan and Bangladesh are governed by patrilineal kinship systems. As social identity is secured from the father, a son is a permanent member of the natal household and a daughter is considered transient. She has moral rights to periodic gifts but largely denied inheritance, seen as a dependent of her husband (Dube, 1997, Jackson, 2003). Despite the amendment to the HSA, not many women have claimed land, pointing to the flawed assumptions in law of independent personhood of the woman, continued identity as member of her parents' family even after marriage and willingness to jeopardise the relationship with her brother and potential future security (Patel, 2006). With marriage seen as essential, sacrosanct and indissoluble, and patrilocal residence the ideal, there is a strong and socially legitimate case for women having a share in their marital rather than natal property (Rao, 2008, Vasavada, 2004). In China too, marriage is seen as inevitable and following a patrilocal residence pattern. As already mentioned, restrictions on redistribution post-2003, have however restricted women's rights in practice.

Southeast Asia presents a different picture as Javanese, Malay Muslims, Catholic Filipinos and Buddhist Thai are all governed by bilateral kinship systems, wherein both parents provide identity to the child. Property is divided equally between sons and daughters, with no discrimination in the allocation of resources, residence patterns are flexible and there are no severe restrictions of women's movement and sexuality, even amongst the Muslims (Dube, 1997). Things are however changing in response to state policies and market opportunities. In the Philippines, Quisumbing et al found 'a persistent preference in land bequests in favour of male heirs across generations' (2004: 17). This is a result of rice farming engaging and providing higher returns to male rather than female labour, with women having an advantage in non-farm jobs. They found a gender gap in schooling in favour of girls, leading them to postulate that land and schooling are substitutable means of transferring parental wealth to children (see Table 1). In Indonesia women's inherited holdings of paddy land were greater than that of their husbands, reflecting the tradition of matrilineal descent, but equally women's primary role in paddy cultivation (ibid).

3. Commercialisation and land grabs through market processes

The global food crisis of 2007-8 has raised the urgency of enhancing food production. This has led to a rush to acquire land, by domestic and foreign capitalist investors, a phenomena now termed as 'land grab'. Two-thirds of the land acquired has been in Africa, followed by South East Asia, especially Indonesia and Malaysia, the investment here mainly being in oil palm. Given the context of small holder production and low yield gaps, Deininger (2011) strongly recommends contract farming as a strategy for combining investors' assets with those of local people to raise production and reduce poverty.¹⁷ Li (2011) points to the inequitable power relations embedded in the relationship between investors and smallholders.¹⁸ Rather than contract farming, the need is to support smallholders in their enterprise, as in China.

White and White (2011), through the study of a community in West Kalimantan, highlight the gendered politics of dispossession due to oil palm expansion. Granting of concessions/land use rights to large companies through leases permanently abolishes customary rights (including use rights) on that land, which would eventually revert to the State rather than the community.

Women did not have access to communal formal politics, but they did have customary rights to both private and forest land. Under the oil palm plantation administration, this land, divided amongst smallholders, was registered in the names of 'male family heads', or the plantation owner, leading to the dispossession of a majority of women. With the loss of forests, women lost key resources that brought them additional incomes, such as rattan used for the production of baskets and handicrafts. To ensure survival, they illegally collected and sold oil palm fruit risking being caught and branded as thieves by the plantation authorities.¹⁹

Secondly, the plantations employed men as drivers, security, foremen and checkers. Women were employed as casual wage labourers, often in hazardous roles like spraying pesticides and applying fertilisers, with no protective gear, making their work insecure and secondary. Where some land was retained, women continued rice cultivation, earlier a joint activity. Under Dayak custom, it is taboo to sell rice, it is mainly for consumption, hence gradually all work that didn't bring cash, whether rice cultivation or voluntary mutual contributions of labour in the community came to be seen as women's work and their wage labour as supplementary earnings. The change, however, is not unidirectional – women do view the household cash incomes positively, as helping meet food, education and health expenses, yet they also recognise the malpractices and insecurity therein, the problems of pollution and clean water, the growth of 'cafes' and prostitution, where men spend their earnings. The need for land as a form of security therefore remains (White and White, 2011).

Similar stories are playing out in India and China over the last decade, with rural agricultural and common lands being acquired by the state for development by private capital of liberalised economic enclaves – enjoying minimal tariffs, taxes and regulations.²⁰ In India, fodder and fuel are often no longer available, household water has to be purchased from tankers, women have lost all means of production, and their labour has been marginalised (Levien, 2011).²¹ Expenditures are made on consumer goods that reflect male status, rather than easing women's work burdens (Chowdhry, 1999). In China too, a third of women received no personal compensation, as eligibility criteria included residential registration and women's marital movement.²² Women repeatedly petitioned the state to get a roll out of social insurance provision for all expropriated villagers, a measure which has reduced gender disparities in compensation distribution (Sargeson, 2008).

4. State land reform and the masculinisation of land

Despite commitments to redistribute land and resettle the marginalised to attain equality, recent trends of Asian states' acquiring land on behalf of private capital, dispossess the poor and women. All reform policies have a male bias, registering land in male names, ignoring multiple interests and uses of different qualities of land, and making compensation payments too in the name of men. Even where joint titling has been intended, as in India since the 1990s or Vietnam, this has not happened. Despite a framework of equality achieved over the last decade, actualisation of these commitments has been tardy – land records have not been updated to include women's names and small-holders and small plots, especially those belonging to women, continue to be excluded from state support and services.

5. Exclusion from leadership in dispute resolution systems

Land being a social resource is simultaneously managed by multiple rules, norms and regulations – those imposed by the state, but equally by communities and families. One common element across these levels and across countries in the region is the exclusion of

women from decision-making and leadership positions, sometimes even participation. Women are inadequately represented in village committees, customary councils and indeed state institutions, in particular legal bodies (Rao, 2007, Sargeson, 2008, ANGOC and ALRD, 2011).

Good practices and innovations

Legal equality is insufficient to ensure women's access to and control over productive assets, in particular, land. How can women gain or retain control over this land? Successes have emerged from struggles, ranging from individual ones to claim land rights,²³ to more collective strategies, both to overcome constraints to resource access and production and to provide back-up social support and legitimacy to individual claimants, enhancing both their self-confidence and leadership capacities in this process (Agarwal, 2010, Rao, 2010).

Collective action is of various types and can function at different levels: to demand the implementation of existing legislation and policies; to advocate for policy change including seeking representation for women in key decision-making bodies; to address constraints of resource access as well as scale in production and marketing; or to gain social recognition and visibility for women as farmers, but also equal citizens.²⁴ Apart from issues of rights and recognition, the issue of representation becomes crucial (Fraser, 2009) – who sets the agenda, who participates in negotiations, and mechanisms for hearing different voices. A key criterion for identifying good practices then is how far they contribute to the larger goal of gender equality and improving women's voice, through both equalising rights and recognising them in practice? Processes become as important as outcomes for results to be sustainable.

Despite a lack of documentation, a few examples from South Asia are provided to illustrate good/innovative practices, from the perspective of both goals and processes.

1) Implementation of existing policies

The Deccan Development Society in Andhra Pradesh has since the mid-1980s organised over 3000 low caste (dalit) women in 32 villages to develop, take decisions and establish de facto control over low quality fallow lands with financial support from the State Government and organisational support from NGOs. Apart from instituting their own public distribution system for food and nutritional security, and meeting needs of fuel and fodder, women have leased and bought land (Rao, R, 2010, Agarwal, 2003). Organisations like the M.V Foundation in Andhra Pradesh seek to facilitate the convergent implementation of a range of schemes, policies and entitlements (Swaminathan and Jeyaranjan, 2008). In Kerala, State power exercised through the Kudumbashree programme has put pressure on the local governments to promote collective farming by women on land leased from the state.

2) Social recognition and visibility

Social mobilisation is crucial for visibility and recognition of women's agricultural contributions in public fora. Nepalese women organised a massive land march in early 2011 for a supportive legislation and its implementation on the ground. A major objective of such social mobilisation is to enhance awareness of existing laws²⁵ and entitlements, identify mechanisms for operationalising them through sensitising men, village leaders and state functionaries, and shift attitudes and values across different patriarchal institutional domains (J Basnet, pers. comm., 8/7/11).

3) Policy advocacy and change

- a) ***Claiming legitimate decision-making spaces:*** Ekta Parishad in India secured the formation of a Land Reform Committee under the Minister for Rural Development after a strong land march by 25,000-people (40 percent women). This recommended the setting up of multi-stakeholder Land Reforms Councils to oversee the process of land distribution. The Councils would provide a legitimate space at the local level to poor men and women to participate in decisions regarding land distribution. Unfortunately, the recommendation of the Committee is yet to be implemented.
- b) ***Changing attitudes of the bureaucracy:*** The Working Group for Women and Land Ownership (WGWLO) in Gujarat has adopted a dual approach of simultaneously mobilising and enhancing the capabilities of women and sensitising the local male bureaucracy. Alongside building women's sub-committees and federations on land, they have been invited to conduct training programmes for the local revenue functionaries (WGWLO, 2004).
- c) ***Institutionalising the State-society interface to make programme implementation gender-sensitive:*** ANANDI, a WGWLO member, has set up gender justice centres at the block level run by local *sangathan* (collective) leaders, women elected to *panchayats* (local government bodies) and NGO representatives to facilitate the interface with government implementation bodies. As a result, women have been able to secure kisan (farmer) credit cards, widow benefits, ration cards, bank accounts and inclusion of local grains within the PDS.
- d) ***Highlighting the rights of single women as subjects not deviants:*** The Ekal Nari Shakti Sangathan, a network of single women (never married, abandoned, divorced, separated, widowed) in India, is demanding from the state separate official registration, separate ration cards and two acres of surplus government land on a 30 year lease. In Himachal Pradesh, the first two demands were accepted in 2009, important as markers of identity and enabling access to pensions and jobs. The demand for land has not yet been acceded.²⁶

4) Control over the production process

Cooperatives have been an attractive institutional form, demonstrating alternate pathways for production and marketing. While the nature of private, household-based land-holding has made cooperative agriculture largely unsuccessful, the Chinese example demonstrates the benefits of providing pre-and post-production services through village cooperatives. In India, this has been successful in the dairy sector, exemplified by the Amul brand, led by the Kheda Milk Producers' Union in Gujarat. While women constitute a majority of livestock managers, nevertheless, they still comprise a minority 18 per cent of registered membership.²⁷

5) Political leadership

The 73rd and 74th Constitutional Amendments in India, which provided for one-third reservation of seats for women at all levels of local government, has contributed to a process of positive change. Despite critiques, women now do influence agendas and decisions locally, including on resource distribution, and not just serve as 'proxies' for their husbands.

Recommendations

The functional aspects of these innovations are not easily transferable across contexts. This is because of the ambivalence surrounding institutions and livelihood opportunities, which carry within them potential for equality along with grounds for subordination, especially as gender

constitutes one of multiple marginalities. Context specific analysis offers the possibility of informed interventions and positive change.

a) Governments:

- a. Remove discriminatory provisions in law, making women equal partners in land inheritance and ownership (with attention to marital property), and ensure effective monitoring and implementation through sensitisation of land officials and adjustment of forms and procedures etc;
- b. Ensure convergence in accessing entitlements to other related resources such as credit, inputs, tools, membership of service and marketing agencies, irrespective of land title;
- c. Give women legitimate spaces for engagement, awareness and back-up support to deal with the bureaucracy.

b) UN:

- a. Strengthen the mechanism for monitoring legal commitments and their implementation, similar to CEDAW reporting mechanisms;
- b. Support context-specific research to deepen understanding of institutional constraints to secure rights, recognition and representation;
- c. Support the implementation of a sex disaggregated database on land holdings.

c) Other Actors:

- a. Conduct high quality research to sharpen understanding of contextual realities, including the gendered implications of global macro-economic changes, on land ownership rights.
- b. Identify and document positive elements of customary laws and rights, which constitute the framework of informal institutions influencing social recognition;
- c. Information-sharing and capacity-building of a range of stakeholders – women, men, village and community leaders, local bureaucracy and policy makers.

Table 1: Diversity and Inequality in Selected Asian Countries

Governance System/Zone	Examples of countries	Per cent of land owned by women	Percent of female participation in economic activity and agricultural work		Agriculture as per cent of GDP	Sex Ratio (M/F)	Ownership rights (value)	SIGI Index Rank
Communist/socialist (state control of land allocation)	China	-	45.6	64	12.7	1.06	0 (1)	83
	Vietnam	8.8	48.5	64	21.7	0.98	0 (1)	31
Constitutional Democracies (South Asia) (patrilineal inheritance systems)	India	10.9	28.6	61.8	19.3	1.08	.52 (79)	96
	Pakistan	-	20.3	56.9	22.7	1.09	.52 (79)	94
	Nepal	8.1	45.7	97.8	38.6	0.96	.52 (79)	65
	Bangladesh	-	40.3	57.4	21	0.93	.52 (79)	90
Neo-patrimonial (South east Asia) (Bilateral/matrilineal inheritance system)	Indonesia	8.8	36.9	44.2	14.9	1	0 (1)	55
	Philippines	10.8	38.8	20.9	14.7	1	0.17 (53)	7
Presidential authoritarian (Central Asia) (state control of land allocation)	Uzbekistan	-	46.2	20.2	30.7	0.99	0 (1)	-
	Tajikistan	-	46.8	31.1	24.2	0.99	0.17 (43)	35

Source: SIGI Index (includes family code, civil liberties, physical integrity, son preference and ownership) and ownership values (land, bank loans and other property) across 122 countries accessed at <http://stats.oecd.org/Index.aspx?DatasetCode=GID2>; Sex ratio data accessed at <https://www.cia.gov/library/publications/the-world-factbook/fields/2018.html>; female share of agricultural holders and land ownership (FAO, 2011); Agriculture share in GDP (WDR, 2008).

Note: Several interesting points emerge from the table:

1. Across Asia the land owned by women on average is about 10 per cent, despite ownership rights being on par with men in China, Vietnam, Indonesia and Uzbekistan;
2. The ownership rights (land, credit and other property), or land ownership specifically is not directly linked to women's status as seen through sex ratios or the SIGI index. This is particularly significant in China which has gender parity in ownership, yet adverse to female sex ratios and a low SIGI value (closer to South Asia than to South east Asia).
3. There is also no clear pattern in relation to women's involvement in the agricultural sector and its growth rates. In Nepal, while agriculture remains an important sector, in the rest of South Asia it has stagnated in terms of growth and policy attention; as also in China and Vietnam. Women then are concentrated in a 'backward' sector. In south east Asia, women are opting out of agriculture in search of more lucrative opportunities.

Table 2: Drivers, Challenges and Context-Specific Possibilities

Governance System/Zone	Drivers of Change	Challenges	Recommendations:	
			UN	Govt
Communist/ Socialist (China, Vietnam)	Legal equality; State control over land and production-related services; Need to enhance food production;	Restrictions on redistribution leading to exclusion of single women; Conflict between village rules and national law; Exclusion of women from decision- making bodies.	Systematic documentation of discrepancies and overlaps between village rules and national law; Researching the relationship between marital violence, divorce and land titles.	Attention to rights of single women; Quotas for women in decision-making bodies; Equal compensation following land acquisition.
Constitutional Democracies (South Asia)	Legal equality; Feminisation of the rural and need to support women to enhance food production; Social legitimacy of marriage and claims to marital property	Patrilineal inheritance and patrilocal residence post- marriage; Growth imperative bypassing the rights of all rural people; Gender- insensitive bureaucracy within a patriarchal State.	Monitoring the implementation of laws; Research into factors enabling or constraining innovative practice to strengthen women's entitlements; support gender- sensitive legal training for implementing bureaucracy.	Explore rights in marital property; Just processes for land acquisition, compensation and creation of alternate livelihoods for dispossessed; Convergence in pre- and post- production services and basic needs provision
Neo- patrimonial (South east Asia)	Legal equality; bilateral and matrilineal inheritance systems; centrality to labour contributions in securing entitlements.	Patriarchal state gives precedence to the male head of household and 'family values'; Commercial land grabs and the inequality in labour regimes.	Document positive elements of customary law and institutions that influence social recognition; Research into process of conjugal negotiations that lead to effective and equal partnership	Provide women quotas for participation in decision-making bodies; Legal reform that supports just compensation and recognition of equal rights.

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¹ There could be other pathways for gender equality and strengthening women's position within the household and the inter-generational transfer of wealth, a key one being human capital/educational investments in children (Quisumbing et al 2004)

² India, China and Indonesia are all part of the E9 or most populous countries in the world, accounting for 40 per cent of the world's population <http://www.internetworldstats.com/stats8.htm> accessed on 26/8/11. South Asia accounts for 43.5 per cent of people living below the poverty line, and with China and rest of Asia accounts for 57 per cent of the world's poor. http://siteresources.worldbank.org/INTPOVERTY/Images/PovTrends_large4.gif accessed on 26/6/11

³ China has an individual land allocation of 2-2.5 mu (one-third acre), 70 per cent of rural households in India are small or marginal farmers (1-2 hectares), with an average area operated per holding in 2002-03 as 1.06 hectares compared to 1.34 hectares during 1991-92 and 1.67 hectares in 1981-82 (NSSO, 2006, Some aspects of operational landholdings in India, 2002-3 http://www.mospi.gov.in/nss_press_note_492.htm. In Indonesia, the average size of landholding is 1.05 ha, with 50 per cent of farm households operating less than half a hectare. <http://www.agnet.org/library/eb/344c/>

⁴ Land policies in Central Asia continue to be contradictory, with an apparent devaluation of land alongside a process of reagrarianisation. In Uzbekistan, decollectivisation has meant leasing land under binding contractual obligations that impose unacceptable liabilities on the new farmers, mostly men. With a decline in employment opportunities for women in the technical services, the marriage contract too has got informalised, given the high costs of registration. This has led to an intensification of women's allocation of labour time to different plots of land as well as engagement in casual wage work (Kandiyoti, 2003).

⁵ Stivens et al (1994) note in Malaysia the process of feminisation of land due to the ideological construction of women as 'conservers of nature'. Yet it was seen as a backward sector, there was little state investment in agriculture, and growth was seen to lie in the urban, industrial areas.

⁶ While females were 71 per cent less likely to inherit land than males, those whose fathers died after 1994, when the amendments were legislated, were 22 per cent more likely to inherit than if the death had occurred prior to 1994.

⁷ Other recent legislation such as the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 recognises the rights of forest-dwelling communities, both men and women, to the forest land and other forest resources, but this too has hardly been enforced.

⁸ While the 7th Plan did not reiterate this directive, it was picked up by the 8th Plan (1992-7), which directed state governments to give 40% of ceiling surplus land to women alone and the rest as joint titles (Agarwal, 2003).

⁹ This was also reinforced by the population policy which allowed a couple with only a daughter to have a second child.

¹⁰ Related to agro-industrial plantation development (oil palm, rubber), transmigration and others.

¹¹ A recent household asset survey in Karnataka state, India, covering 4110 households, found that in rural areas, while 71 per cent of all plots were owned individually by men, this was only 14 per cent for women. While 20 per cent of women were agricultural land owners (both individual and joint), only 12 per cent of the value of total agricultural land accrued to them, pointing to smaller holdings (Swaminathan et al, 2011). Rao (2008) too found in her Santal village studies that while women owned 11-13 per cent of the total village land, they constituted about 30 per cent of the landowners (both individual and joint).

¹² The National Sample Survey's Indebtedness Report that calculates the value of total assets per social group (land, livestock, buildings, equipment, household durables and financial assets) confirms this in revealing that the SCs and STs own about half the value of assets of the OBCs and about a third that of Others (Rao et al 2008:91, Heyer, 2010, Harriss-White, 2003, Deininger et al 2010).

¹³ As per global estimates, the number of undernourished people in the countries for which data are available could decline by 12-17 percent (FAO, 2011).

¹⁴ Over the last decade, agricultural growth rate in India has been 2.3%, China 3.7% and Indonesia 2.5%, though close to half the population of these countries are dependent on agriculture for their livelihood (WDR, 2008).

¹⁵ India, through its 2010 budget, has launched a 'Women Farmer's Empowerment Programme' (Mahila Kisan Sashaktikaran Pariyojana) precisely for this purpose.

¹⁶ The 1990 national Census in Indonesia classified women as housewives and registered land in the names of the husband as 'head of household' (Li, 1998, Elmhirst 2011). Agarwal (1994) and Sargeson (2008) report similar findings in South Asia and China respectively.

¹⁷ With little surplus land available for expansion of cultivation, yields can only be further improved through innovations in the use of capital, technology and information, and organisational forms for processing and market access.

¹⁸ Data on large-scale land acquisitions from the colonial period point to the import of labour based on cash advances and the creation of the narrative of the 'lazy native' because they did not provide labour cheaply or consistently. Independent Indonesia continued an incentive package for investors by maintaining an impoverished labour reserve through its transmigration program (Li, 2011).

¹⁹ Sarin (1997) too documents the branding of rural women in India as thieves when they entered protected forests to collect fuel wood for cooking.

²⁰ In India, profits have been made through rent-seeking activities such as money lending, further land speculation and petty mercantile activities, with disastrous effects on the poor, in particular women (Levien, 2011). In China, over 4 million ha of farmland has been acquired and more than 50 million rural people displaced. Land has been undervalued and poorly compensated with the rural dispossessed receiving less than 10 per cent of the government's profit (Li Xiubin, 2011).

²¹ This is reflected in the decline in female work participation rates for the first time in 2007-8 (Rao, 2011a).

²² Daughters' registration got erased when they 'married out', and while in-marrying brides were supposed to be registered and compensated, those married to urban migrants lost out as they couldn't transfer their rural residential registration to their husband's location. Following the passage of the Rural Land Contracting Law in 2003, women effectively lost their entitlement to land after marriage even in rural locations, and this de facto landlessness has been used to justify their exclusion from compensation distribution.

²³ While one finds numerous instances of legal cases and petitions filed by women especially in South Asia, South-east Asia presents a picture of everyday resistance and negotiation over land within households and kin-groups, rather than necessarily more large-scale, collective mobilisation. Women here negotiate property rights, reshaping and refiguring the meanings of labour contributions – the basis for entitlement – through everyday strategies that involve both labouring in men's fields as well as separate production. (Li, 1998, Hart, 1991).

²⁴ Collectivities can take different forms – from self help groups to women's federations, cooperatives, grassroots movements and political organisations (e.g. elected local governments). These are bounded entities, circumscribed by specific agendas and ideologies, which tend to both include and exclude (Rao, 2010).

²⁵ In the absence of information and mobilisation, the HSA Amendment in Andhra Pradesh in 1986 has had little impact on women's land claims, irrespective of educational levels (Rachel Brule, personal communication, 8/7/10).

²⁶ Rather than seeking land from the natal family, which would imply a reconstitution of gendered kin positions of sisters and brothers and a loss of security and support in the short-run, the transformations sought to relate to the recognition of the validity of different subject positions and subjectivities, alongside shifting ideologies and consciousness (Berry, 2011).

²⁷ ANANDI, a member of the WGWLO in Gujarat, has organised rural women's cooperatives for livelihood improvement, facilitating leasing of both wastelands and private lands.