



Land Rights of Women: the Contrast Between Written and Customary Law in the State of Karnataka

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ABSTRACT

Land in the form of agricultural land plays an important role in providing and securing livelihoods to the large section of population through out the world. However the ownership of land is largely in the hands of men for customary and statutory reasons. In the recent part the United Nations has stressed the importance of bring gender equality in all the spheres of life. Here comes the issue of land rights of women who work along with men in agricultural fields. In most of the cases women does work along with men some times as cultivator's (by virtue of being the wife of the owner) or as laborers. The data from global level to local level is showing that women are not enjoying equal rights on property on par with their male counterparts. The study focuses on the existing conditions in the state of Karnataka taking the 2011 census data as the base. The results are not encouraging as only 14% of the women are able to enjoy property rights. Here also they are provided with lesser quality of assets and in many cases in the absence of male member. For development to be sustainable and inclusive it is imperative that the state must make efforts to bring changes in the existing structure of the ownership of property. The paper suggests the strategies to be adopted to make the land rights of women a reality.

KEYWORDS : Land Rights of Women, cultural Barriers, and Self Help Groups

Land in the form of agricultural land plays an important role in providing and securing livelihoods to the large section of population through out the world. However the ownership of land is largely in the hands of men for customary and in some cases statutory reasons. But inclusive growth requires equal access to opportunities and resources for all segments of society both for men and women. Women's access to, use of and control over land and other productive resources are essential to ensuring the right to equality and to an adequate standard of living. The United Nations (2015) introductory report on sustainable development goals observes that "Agriculture is the single largest employer in the world, providing livelihoods for 40 percent of today's global population. It is the largest source of income and jobs for poor rural households. Women comprise on average 43 percent of agricultural labour force in developing countries and over 50 percent in parts of Asia and Africa, yet they only own 20% of land. Further the report recognizes the need for integrating women into each and every goal for the achievements to be sustainable.

Women and Agriculture: The nature and extent of women's involvement in agriculture, no doubt, varies greatly from region to region. Even within a region, their involvement varies widely among different ecological sub-zones, farming systems, castes, classes and stages in the family cycle. Rural women performs numerous labor intensive jobs such as weeding, hoeing, grass cutting, picking, cotton stick collections, separation of seeds from fiber. Women also bear responsibility for cattle management, fodder collection and milking.

Mainly rural women are engaged in agricultural activities in three different ways depending on the socio-economic status of their family and regional factors. They work as: Paid Laborers, Cultivator doing labour on their own land and in some cases as managers of certain aspects of agricultural production by way of labour supervision and the participation in post harvest operations. Consequently their contribution to agricultural output is undoubtedly extremely significant, although difficult to quantify with any accuracy. Women are clearly an important part of the agricultural labour force. Apart from the above said categories women also has to bear the domestic responsibilities which men rarely do.

Gender inequality and agriculture:

A gender issue is an issue or concern determined by gender based and/or sex based differences between women and men. Gender issues are all aspects and concerns with how women and men inter-relate, their differences in access to and use of resources, their activities and how they react to changes, interventions and policies.

,but invariably women are over represented in unpaid, seasonal and part-time work, and the available evidence suggests that women are often paid less than men, for the same work(cheryll doss 2011),Intra-household inequality can also weaken a woman's position also outside of the home(kapadia 1993,1995). Women generally earn lower wage than men doing the same work. It has been estimated that women's wage rate are, on the average only 75% of men's wage rates and constitute only one fourth of the family income. In no State do women and men earn equal wages in agriculture. Also, women generally work in the informal sector where wages are lower and they are not covered by labour laws. Within organizations, women workers are also engaged in piecework and Subcontracting at exploitative rates Women also suffer from wage gaps, although data documenting this in rural settings is limited (Tzannatos, 1999; Fontana 2009). Wage inequalities are typically due to: i) contractual arrangements that differ for men and women, with women usually having worse conditions of employment, and; ii) typically women receive lower wages for the same work. ((Hertz et al., 2009).)Lack of ownership of land is also another area of concerns as lack of ownership has a negative impact on the various human rights of women.

Land Rights for women: Rationale

Land rights are also the human rights issue women by virtue of being born as a human being must have the land rights. Along for the development to be sustainable a gender inclusive approach is desirable. Further we may hope that having power over an important source of production may increase the confidence level and thus may help the women to be assertive in their lives.

Further giving land ownership to women may have the positive impact on the nutritional intake, education and development of the family. Several researches substantiate this view. The cost of excluding women from control of land and its resources is significant: where women direct the use of income from productive land, they tend to spend the money to meet the basic nutritional, welfare, and educational needs of their children and family. Conversely, where men control the use of household assets, they tend to spend money on personal goods and to fulfill individual desires. Gender equality in land rights is thus both a livelihood objective in itself and a powerful means of eradicating poverty. Increasing women's control over land can positively and significantly influence the welfare of the country's next generation. (Agarwal 1998, World Bank, UNDP 1998)

Making land Rights a Reality: Efforts at Global, National and Regional Levels:

Several efforts are made at the international level to secure the rights of women where in they also mentioned about the land rights. The universal Declaration of Human Rights in its article 2 sets the principle of non – discrimination, including based on sex, in the enjoyment of rights guaranteed in the Declaration. That includes the right to hold property. The historical CEDAW (Convention on the elimination of all forms of Discrimination against women) calls on states parties to end discrimination against women.

When it comes to the land rights of women there are two aspects that needs to be considered one is the right of women in ancestral property and Property acquired during Marriage – Joint ownership of marital Property.

With regards to the land rights the Hindu succession act of 1956 denied women's claims over agricultural land through succession. However women's right received a shot in the arm with the Hindu Succession (Amendments) bill, 2004, passed in the lokasabha on August 29, 2005 which guaranteed women in India equal rights over agricultural land and joint property in the Hindu undivided family. With regard to the joint registration of Property the government has made provision for the same. It is clear from the above evidences that the government of India and Karnataka respectively are abide by the international standards established through various conventions by the united nations and made legislative changes to bring gender equality in land ownership.

Apart from bringing changes in the legislation and registration procedures the government also made several other efforts to empower women. one such effort is the establishment of National Commission for Women: In January 1992, the Government set -up this statutory body with a specific mandate to study and monitor all matters relating to the constitutional and legal safeguards provided for women and review the existing legislation to suggest amendments wherever necessary. Mainstreaming gender is an important component of the Policy Framework for Agricultural extension (PFAE) developed by the Ministry of Agriculture Government of India). During the period from First to Fifth Five Year Plan, development of women has been treated as a subject of welfare. From the Sixth Plan onward there has been shift in approach from 'welfare' to 'Development'. Under the new approach several efforts were initiated for reducing gender disparities and for improving socio-economic status of rural women.

Social bindings and fractured attitudes of the men were by and largely coming in the way of women empowerment. To date, the patriarchal currents running through rural lives and institutions of local governance have proved far more influential and persistent than any law or policy. Interventions hoping for genuine change in the extent to which women control land must be directed at the multiple, interrelated institutions (political, legal, religious, and social) that have established - and continue to reflect and reaffirm - the patriarchal ideology that dominates India's rural society. It is also among the most challenging. While women in India have the legal right to own land, very few do. For those women who do own land, ownership rarely translates into control of the land or of the assets flowing from the land.(mukund 1999,Beena Agarwal 1994, Diana Deere and Magdalena Leon, 2001) Fieldwork conducted in Karnataka by Jennifer (2002) suggests that the amendment to include Hindu daughters as co-partners has had little practical effect on female inheritance patterns. Most women interviewed stated that daughters considered their dowry and wedding costs as their fair share of family resources, and they rarely claimed their legal right to a share of the family property

It is in this back ground the study has been conducted using the secondary source of data to understand and discuss on the below given issues

1. The Gender Ratio In Karnataka
2. Total workforce of women in Agricultural Activities
3. The women's access and ownership of agricultural lands
4. Understanding the contrasts between written and customary law and the influence of customary law for women's access and rights to land
5. Suggestions for improving land ownership among women.

Gender Ratio in Karnataka

Population of Karnataka Of the 6,10,95,297 persons enumerated in the State, 3,09,66,657 are Males and 3,01,28,640 are Females. The Sex Ratio in Karnataka has increased from 965 in 2001 to 973 in 2011. The Sex Ratio for Rural population has increased from 977 in 2001 to 979 in 2011. For the Urban population, the Sex Ratio has registered a spectacular increase of 21 points, from 942 to 963 in the last decade. The present census reveals that though there is improvement in gender ratio it has not achieved equality.

Total Workforce of Women in Agriculture:

In Karnataka we can see women engaged in agricultural activities in two ways. One is in the form of cultivators and another one is in the form of agricultural labourers.

Table 1. Number of cultivators on the basis of Gender

Number of Cultivators			Percentage	
Total	Male	Female	Male	Female
65,80,649	47,53,708	18,26,941	72.23	27.76

Source: census of India 2011

Table: 2 Agricultural laborers

Number of laborers			Percentage	
Total	Male	Female	Male	Female
71,55,963	32,83,279	38,72,684	45.8	54.1

Source: census of India: 2011

The data shows that 5,699,625 numbers of women are engaged in agriculture either as cultivators or as the laborers. The issue of concern here is women are involved in cultivation, but how far these women are able to exercise their rights over land and in decision making.

Women's Access and Ownership of Agricultural lands:

Several studies are conducted in this direction by individual researchers as well the research institutions.

The Karnataka study found, for example, that ownership of land was primarily reported among single women (widowed/divorced) and rarely among Married women. In total about 14 percent of women owned agricultural land. (Swaminathan et.all 2011)

The Karnataka Household asset survey 2010-11 (KHAS) conducted by IIM revealed stark disparities in asset ownership by men and women. Not only did women own fewer assets but also those assets that they owned were of lesser value and of poorer quality. In rural areas 71% of all plots were owned individually by men, while only 14% by women.

The experiments of different nations are stressing upon the importance of land ownership of women from family welfare perspective apart from the human Rights perspective of Women. Keera Alendorf (2007) identifies that Women who own land are significantly more likely to have the final say in household decisions, a measure of empowerment. Similarly, children of mothers who own land are significantly less likely to be severely underweight.

The summary of the findings of KHAS shows that only 14% of the women are having property ownership. Further the KHAS reveals that within that the value of the property women owns is comparatively of lesser value. It is clear from the above factors that the women in Karnataka are not enjoying the property rights on par with their male counterparts.

Table: 3 Table showing the no. of people owning land

Sl No.	Hec-tares	Total Number of land holders	Number of Men	Number of Women	% of men land owners	% of women land owners
1	Less than 1	3842938	2,988092	854846	77.75	22.24

2	1-2 hectares	2136034	1771155	364879	82.91	17.08
3	2-4 hectares	1265062	1074631	190431	84.94	15.05
4	4-10 hectares	509231	441414	67817	86.68	13.31
5	10 hectares and above	66298	57792	8506	87.17	12.82
6	Total	7819563	6333084	1486479	81	19

Source: Directorate of Economics & Statistics, Bangalore, men and women in Karnataka 2013-14, September 2014

The above table shows the number women who own agricultural land. The table shows the hectare wise details of ownership of land. Less than one hectare is owned by 22.24% of women and 77.75% of men. It goes down further when the land holders between 1 to 2 hectares are studied. Here the number of women owning land is 17.08% where as the number of men are 82.91. It declines further when we study the land holdings of 2-4 hectares 15.05% is owned by women where as 84.94% is owned by men. It goes down further when we make an effort understand the landholding of 4-10 hectares 13.31% is owned by women and 86.68% by men. 10 hectares and above land is owned by 12.82% of women and 87.17 by men. The average land holdings of women are 19%. Most important thing to be understood here is the land holdings of women is decreasing as the area of land increases.

Table: 4. Table showing the total area of land in Hectares

Sl No.	Hectares	Total land area owned by Men	Total land owned by women	Total area of land	% of land owned by men	% of land owned by women
1	Less than 1	1477746	370839	1848585	79.93	20.06
2	1-2 hectares	2503223	513757	3016980	82.97	17.02
3	2-4 hectares	2882121	506210	3388331	85.06	14.93
4	4-10 hectares	2511105	383394	2894499	86.75	13.24
5	10 hectares and above	816035	124103	940138	86.79	13.20
6	Total	10190230	1898303	12,088,533	84.29	15.70

Source: Directorate of Economics & Statistics, Bangalore, men and women in Karnataka 2013-14, September 2014

The above table reveals the total area of land owned by women. Similar to the earlier table this also shows a decline as the area of land increase percentage of ownership of women decreases. Only 13.20% of land holdings of 10 hectares and above are owned by women where as 86.79% is owned by men. Between 4 to 10 hectares of land holdings also 13.24% is the share of women where as the 86.75% is the share of men. The percentage slightly increases when the area of land holdings goes down between 2 to 4 hectares of land holdings 14.93% is the share of women where as 85.06% is the share of men. Between 1 to 2 hectares also the percentage of women is 17.02% where as 82.97 is that of men. Under less than 1 hectare the share of women is 20.06% where as the share of men is 79.93%. The total percentage of women's land holdings is 15.70 where as that of men is 84.29.

Both the data's are clearly expressing the existing gender disparity in land ownership.

The contrast between written and customary law in inheriting the property:

The Indian constitution confers equal rights to men and women. Right to equality between male and females has been a long accepted policy. The Hindu Succession Act 1956 specifies the property rights of women. The act gives unfettered rights to women, including the

right to dispose the property off. Apart from amending the legislation several institutions were set up to empower the women. National commission on women and Department of Women and Child welfare are working for the empowerment of women.

Socio cultural Difficulties for women to Exercise control over land

The RDI report (2002) comes out with the results that, Women's secondary status, lower socialization, undervalued productive work, and illiteracy in many communities often make them reluctant to claim legal rights and participate in those institutions and activities seen as men's domains. In addition, women incur significant social costs for going against cultural norms; these costs include social ridicule and the possible loss of social benefits. In some cases a backlash of domestic violence occurs against women who claim their land rights. Moreover, even when women have rights under the law, such as inheritance rights, women may not claim the rights because of their preferences to have long-term social support from brothers and other family members rather than secure an asset that may not provide long-term economic security. Customary norms frequently do not give equal ownership of land and other assets to women and are typically resistant to change these power equations.

Measures to improve the ownership of land Among Women:

Through out the world it has been realized that women must also be considered as equal partners in all the walks of life. The field of Agriculture is also not an exception to it. It has been evident through various studies that bringing changes in land ownership structure would have long term benefits for women, family and the society at large.

Consideration of methods for addressing the disenfranchisement of women requires a review of the avenues by which women are most likely become landowners and attain control of the assets that flow from land, the limitations of those means, and possible alternative approaches to achieving gender equity in land rights. Without intervention, it is unlikely that women will gain significantly in land ownership simply through legislative reforms.

Some important areas where women and men needs to be sensitized and trained are

Ability to own and Transact Money: it's been evident in recent years that the poor women are able to do lot of monetary transactions after becoming the members of Self Help Groups. Keeping this as a base the financial transaction capacity of the women may be increased. So that the women can also play an important role in purchase and sale of land on par with their male partners. It is proposed that the male members of the family must be involved which would facilitate the acceptance of change in a proactive manner.

Advantages of Joint Registration: in case of the couples it is always advisable to have joint registration of the land. This would always project the objective of creating an egalitarian society. This act would express the fact that the process doesn't snatch away the rights of the male counterparts; rather both husband and wife will have equal ownership on property. Both women and men must be sensitized on the advantages of joint registration for the family as a whole.

Bargaining Power: this is another important area where a women needs to develop skills. The women must be able to bargain for land ownership. This skill would develop once they are exposed to such transactions. Trainings may be organized for women to develop such skills. Men must also be sensitized to involve the womenfolk of their respective families during all the important transactions relating to land. This would enhance the bargaining skills of women.

Confidence and skill: Both for ownership of land and management of it confidence and skill are the prerequisites. Measures must be taken to incorporate among women the skills required to own and manage land. Having the necessary skills would in the long run boost the confidence level of women.

It is very important that men are also actively involved in the process, so that they will also realize the importance of having equal rights for having a healthy family and society. The contents, training process

and usage of words must have to be chosen consciously. Such a deliberate process would help in bringing the necessary changes in the attitude of men towards women's ownership on land. All said and done the objective is not to disempower the male members rather to make women to walk confidently along with their men folk. For this to be achieved wherever possible it is always good to have joint ownership of property.

Conclusion:

In many societies, discrimination against women and gender inequality is the result of structural impediments and problems built into the social order, often reinforced by culture and tradition. Society is dynamic, hence social structure and culture also. It is time to bring changes in such social and cultural structure which would come in the way of women's access and right over land in a systematic and sensitive way, so that the family tie which forms the basis of any society would not get affected.

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