

Background Note

Women's Land Rights in India and the Sustainable Development Goals

1. Online Discussion on WLR in India and SDGs

This online discussion aims to facilitate inclusive exchange of opinion and information on the state of land rights of women in India, the legal, institutional framework and socio-cultural factors affecting women's equitable land tenure rights, good practices/innovations around women's land tenure rights by Government/NGO and challenges and opportunities towards realization of gender equitable land tenure by 2030 etc. It will analyze the status of data availability and accessibility around women land rights in India with available information from different sources along with an assessment of such sources by the participants with an aim to see if a suggestive framework for open data can be developed and made accessible to help SDG monitoring?

2. WLR and SDG

Secure and equitable land rights of women form one of the key indicators (Indicator 5 under Goal 1) of the post-2015 Sustainable Development Goals (SDGs). This indicator is considered to have a potentially transformational role in the achievement of four of the 17 SDGs, including ending poverty (Goal 1), ensuring food security (Goal 2), achieving gender equality and empowering women (Goal 5), and making cities and human settlements inclusive (Goal 11). Gender equality is one of the ten core principles for implementation listed in FAO's Voluntary Guidelines on the Responsible Governance of Tenure (VGGT) of Land, Fisheries and Forests in the Context of National Food Security (the "Guidelines"; FAO, 2012).

The percentage of women, men, indigenous peoples, and local communities with secure rights to land, property, and natural resources is measured by: (i) percentage of people in the agricultural population with ownership or secure rights over agricultural land, by sex and type of tenure; and (ii) share of women among owners or rights-bearers of agricultural land, by type of tenure (UNSTAT, 2016). As implementation of the SDGs has begun, the focus shifts towards measuring progress in equitable land rights through effective monitoring mechanisms. Monitoring them, require availability of periodic and reliable gender disaggregated data across administrative layers on 'agricultural land' (includes land used for farming, livestock and forestry activities) and 'agricultural population' (people living out of farming, livestock and forestry, with land rights or without).

3. WLR as a Pathway to Development

Secure land rights of women have demonstrated enhanced agricultural productivity and building resilience among the small and marginal farmers, who constitute 75 percent of the farming community. FAO has reported that closing the gender gap in agriculture with women's access and ownership of land and productive assets, could raise total agricultural output in developing countries by 2.5 – 4 percent, thereby reducing the number of hungry people in the world by 12 – 17 % (FAO, 2011). In the absence of secure land titles, women are also unable to access markets, technologies, inputs, insurance and institutional credit (Rao, 2011 and Neetha, 2010). However, a recent IFPRI

publication¹, based mostly on observational studies, sees strong evidence on relationships between WLR and bargaining power and decision making on consumption, human capital investment, and intergenerational transfers. It highlights high level of agreement, but weaker evidence on the relationship between WLR and natural resource management, government services and institutions, empowerment and domestic violence, resilience and HIV risk, and consumption and food security. There is less agreement and insufficient evidence on the associations between WLR and other livelihoods, and a higher level of agreement, but still limited evidence on associations between WLR and credit, technology adoption, and agricultural productivity.

In this context, the online discussion will be launched with the following set of questions to engage the discussants around importance of WLR in the larger development context, in an attempt to collate related evidences and opinions from India in particular and from around the globe in general

1. How important is women land rights and equitable land tenure for combating hunger, nutrition and alleviating poverty and for furthering sustainable development in India?

- a. **What are the evidences in India around contributions of gender-equitable land tenure to development indicators around food security, income, education etc.?**
- b. **Is there any evidence of negative impact of gender-inequitable land tenure on agricultural production and food security?**
- c. **Does gender-equitable tenure matter to Indian women in rural and urban India? What have been their perceptions of tenure security?**

4. Policy and Practice around WLR in India

The Constitution of India provides equal rights to both men and women. Women's access to land is largely through inheritance and inheritance is governed by customs, which varies across regions and States. There are various property rights regimes prevailing and the succession Acts of various religious laws, which determines women right to property and inheritance. Hindu Succession Act (Amendment), 2005, which applies to a majority of the country's area and population, has expanded the space for enhanced women's land rights. The fifth and sixth Scheduled areas have different customary tribal laws on women property rights and inheritance, which also varies, with specific indigenous community laws.

Over the last few years, both central and state governments have made many progressive reforms to realize the goal of secure and equitable land tenure for all. Among them, the 2005 amendment to Hindu Succession Act, 1956 (making daughters as coparceners) and implementation of Forest Rights Act (FRA), 2006 (provisions of mandatory joint titling) are making significant contribution². A 1985 policy directed states to give joint titles to husband and wife in transfer of assets like land and house sites through Government programmes. Of late, prioritized allocation of rights to land distributed under the land grant programs, whether jointly or in the name of women, has begun to reflect an

¹ Ruth Meinzen-Dick, Agnes Quisumbing, Cheryl Doss, Sophie Theis (2017) Women's Land Rights as a Pathway to Poverty Reduction: A Framework and Review of Available Evidence IFPRI Discussion Paper 01663, July 2017

² In southern states like Andhra Pradesh, Karnataka, Tamil Nadu, Maharashtra have comparatively better situation of women land rights, which may be due to their earlier amending of Hindu Succession Act 1956, which made daughters as coparceners. In these States women are allowed to inherit agricultural land, whether owned or under tenancy.

increasing share of land for women, at least in the form of joint ownership of homestead lands³. Reduction of stamp duty, for the lands registered in the name of women, has encouraged women's property ownership rights in some states like Himachal Pradesh, Uttar Pradesh, Madhya Pradesh, Haryana and Delhi⁴.

In consideration of these and other such legal and institutional reforms and innovations, the online discussion would delve into a deliberation around policies and practices in different states in India and their implications on WLR.

- 2. What kind of legal and institutional reforms or challenges are expediting or hindering equitable land tenure in India and in its states?**
 - a. Are there examples of good practices or innovations around women's equitable land tenure rights, which can be replicated across the country?**
 - b. What are the specific challenges and bottlenecks for the realization of gender equitable land tenure? What policy and institutional reforms would be required to create an enabling environment? Whether policy level incentives (viz. lesser stamp duty for women) help enhancing women's land rights?**

5. Status of WLR in India

In India, almost a third of cultivator is a woman, but own (manages) less than 10.34 percent of land (area of holdings) operating 12.8 percent of holdings, as per Agriculture Census, 2010-11, while 75 percent of female workforce, largely marginal or landless, depends on agriculture for survival. The average size of women's land holding is 0.93 ha, in comparison to 1.18 ha for male and 1.15 ha for all. The regional disparity with regards to women's land rights was evident with the states in the southern region showing comparatively more number and area of land holdings operated by women while the situation in Northern and Eastern region states are demonstrating a poorer picture. In the last decade (2001-11), number (36.12 percentage) and area (23.45 percentage) of women's holdings have increased, at a pace, higher than their population growth. (Choudhury and Behera, 2017)

A comparison of agriculture census data on women's operational holdings with 12 published research taken up at different geographical scale in 9 states) on women land ownership, returns an absolute difference of 1 percent. (Choudhury and Behera, 2017)⁵ However, in Odisha, an analysis of digitized land records of four districts maintained by the state, indicate a much higher WLR than the

³ An analysis of the beneficiaries of the homestead land grant schemes in Odisha by Center for land Governance, NRMCI in a study in 2015, indicates a higher percentage (86 percent) of titles issued in the name of women (women only 12 percent and jointly 74 percent). Similarly, 93 percent of homestead and farmland titles distributed through the CRP program were jointly titled, and 2.5 percent were women-headed households (Choudhury et al, 2016)

⁴ A study by Landesa (2013)⁴ in three states reported that women have benefited significantly (one out of four women interviewed had benefited) from this incentive in Madhya Pradesh, where the state provides a 2 percent incentive for properties registered in the name of women.

⁵ Choudhury PR, Behera M K, (2017) Using Administrative Data for Monitoring and Improving Land Policy and Governance in India, Proceedings of the 10th International Conference on Theory and Practice of Electronic Governance, 7-9 March 2017, in New Delhi, India. Pages: 127-135 doi>10.1145/3047273.3047296

http://dl.acm.org/ft_gateway.cfm?id=3047296&ftid=1876545&dwn=1&CFID=790544910&CFTOKEN=51933448

Agriculture census data. Women hold more than one fourth of the titles (26.5 per cent; women-only 9.3 per cent and jointly, in both the spouses names, 16.2 per cent), whereas reported figure is 3.3% quoted from Agriculture Census data. (Choudhury et al, 2016)⁶

Absence of robust and reliable women land ownership data with adequate granularity and segregation, can lead to such conflicting situation creating confusion among stakeholders. The impacts of legal and institutional transformations, directed towards improving the status of WLR and Forest rights in India, are required to be measured across political geographies for providing a feedback loop to policy and institutions. Periodic monitoring and reporting of status of women land rights is expected to induce comparative appreciation and hence implementation of positive changes by the states. Regular measuring through use of administrative and survey data about their progress will also inform governments and non-state actors about the impacts of such legislations on societal progress. However, in the absence of any monitoring mechanism, the changes are largely underreported or unreported.

6. Data sources to measure WLR in India

In the context of gender-disaggregated land data, information in India are available through different databases, collected by different agencies with varied granularity, sampling intensity and periodicity, as survey, census, administrative data and digital online database.

Nation-wide surveys like National Family Health Survey (NFHS) reports gender disaggregated data on property rights including ownership of houses and even non-agricultural land. In India DHS used as NFHS. India Human Development Survey (IHDS) executed in 2005-06 and 2011-12 by a Consortium of American Universities, reports gender-disaggregated intra-holding agricultural land ownership, based on interviews with a nationally representative sample. LSMS was executed only once in 1997-98.

Census data like Population Census, Agriculture Census and Socio-Economic Caste Census (SECC) also indirectly reports information on agriculture land ownership and management, which can be used. Population Census carried out every 10 years, provide information on agriculture population. Agricultural Census records operational holdings data every fifth year, following the FAO Guidelines, reports land information in disaggregated form across gender, ethnicity (caste) and other socio-economic parameters for different administrative layers. For India, FAO's GRLD, uses Agricultural Census information on land holdings. SECC, done in 2011 provides land ownership data.

Administrative data include Annual Reports of State Land Departments and Judicial reports/databases (viz. High Court database on land acquisition related cases). Online databases maintained by states under flagship program Digital India Land Record Modernization Program (DILRMP), which has been digitizing all spatial and textual land records. Availability of gender-disaggregated

⁶ Choudhury PR , Behera M K, Haque T, Talwar S (2016) Gender Equitable Land Governance in Odisha, India: An analysis through VGGT-Gender Lens, Paper presented in Land and Poverty Conference, Organized by the World Bank in Washington during March 14-18, 2016.
https://www.researchgate.net/publication/298786180_Gender_Equitable_Land_Governance_in_Odisha_India_An_analysis_through_VGGT-Gender_Lens

information has not yet universalized in India's Digitized Land Record programs implemented by states, though it has been encouraging the states to include gender.

Besides Agricultural Census, India Human Development Survey (IHDS) and National Family Health Survey (NFHS) were found to have desired potential to augment periodic and effective monitoring of land rights indicators. Other data sources like Population Census, Socio-Economic Caste Census and micro-studies can also complement in monitoring of land rights indicator, till DILRMP reports gender disaggregated land ownership data.

With this context, we propose to engage with discussants on their experiences, opinions and suggestions on the following questions

3. What is the present status of women's land rights in India? How is it reported? What are the available potential administrative and open datasets that is or can be used to monitor women's land rights in India and in its states?

7. Monitoring and Reporting SDG Indicators Women Land Rights

Under Target 5a of SDGs, which addresses the rights of women to economic resources and access to ownership of land, indicators are 1(a) Proportion of total agricultural population with ownership or secure rights over agricultural land, by sex; and 1 (b) share of women among owners or rights-bearers of agricultural land, type of tenure (UNSTAT, 2016) . This monitoring require availability of periodic and reliable gender disaggregated data across administrative layers on 'agricultural land' (includes land used for farming, livestock and forestry activities) and 'agricultural population' (people living out of farming, livestock and forestry, with land rights or without).

UNSTAT prescribes the data sources as LSMS-ISA and DHS surveys and National Household Income and Expenditure surveys. With regards to women's land rights indicator (Indicator 5.a.1 a & b), FAO's Gender and Land Rights Database (GRLD) is already disseminating some of these available data. While this SDG indicator is considered superior (UNSTAT, 2016) to the "share of female agricultural holders" available through agricultural census data as it provides intra-holding/household information and can be made available in a shorter time span, this indicator exists or can be derived only for 21 countries. For India, GRLD uses Agricultural Census information on land holdings. LSMS was executed only once in 1997-98. Agricultural holders and landowners are often used interchangeably in the context of measuring women's land rights (FAO, 2015a). CGIAR research program on Policy, Information and Marketing (PIM), sees a great potential overlap between management/holding rights and ownership` where property rights are well defined. WCA-2020 has advised countries to record information on ownership rights along with management rights through the use of modern technologies.

SDG indicator development and tracking has so far been limited to international agencies and country level practical actions are yet to begin. The availability of such potential data sources, provides India, a strategic advantage to advance the monitoring around the SDG indicator on women's land rights. The situation can also be leveraged to monitor and report women land rights indicators at state and sub-state level, providing opportunities for comparative appreciation and competition among land-administration units and departments, leading to better governance.

However, there has been very limited initiative in this regard. Consideration of 'land' as a state subject and associated complexity and bureaucratic inertia can be attributed as the *raison d'être* for lack of such efforts. The absence of a formal mechanism in India to monitor progress in land reforms in general, and gender equity in particular, may be one of the causes behind the entrenched inequity in land tenure governance.

Finally we will engage with discussants on way forward in terms of potential data, institutional and good practices options around reporting and monitoring WLR in India in the context of SDG

- 4. How can India address its commitment towards reporting of the SDG related women land rights indicators? How can the country and states progress in reporting and monitoring gender equitable land tenure governance in the context of SDG?**
 - c. **Are the existing datasets adequate? What kind of data is more appropriate and how it can be collected?**
 - d. **What shall be the institutional mechanism for such monitoring? Who all should be involved? What will be the levels and frequencies of such monitoring? Will it be adequate to just report as per SDG or link the information to decision making? What could be the mechanism?**
 - e. **What are the good practices? What kind of policy learning do they provide?**

8. Joining the dialogue

The dialogue would be open to participants on invitation by the organizers or by the recommendation/peer reference by existing participants . One can make multiple contribution to each question and also respond to multiple questions. Brief and pointed contributions– each not more than 300 words, will be appreciated and encouraged.

Facilitators



Affiliation: Co-Director, ANANDI

Areas of Expertise:

Women's access and rights to land

Human Rights

Participatory processes

Training and capacity building support

Policy advocacy and communication

Rural development

Project management

Policy research

Ms. Sejal Dave is a Co-Director at ANANDI-Area Networking and Development Initiatives and also a secretary in the board of ANANDI. She is done masters in Extension & Communication – Home Science from MS University- Vadodara. She has earlier worked with a state level network, Working Group for Women and Land Ownership - WGWLO that promotes women’s land rights in the state of Gujarat and has undergone grass-root based learning to advocate for the relevant resource rights based recommendations to the state. She has also worked with Unnati on the issues of social inclusion and social accountability, worked on conducting social audits for the MGNREGS in Gujarat and has worked with the migrant labours at destination and source by associating with Rajasthan based NGO - Aajeevika Bureau.

Sejal has been working with ANANDI since April 2014 as a program manager – livelihoods and education and now leads the organization.

Pranab R Choudhury



Affiliation: Vice President, Centre for Land Governance
NRMC, India

Areas of Expertise:

Land Governance, Women Land Rights, Mapping

Natural Resources Management and Governance

Sustainable Agriculture

Rural and Tribal Livelihoods

Pranab is a practicing researcher and consultant in the areas of natural resources management and governance with about two decades of experience. He has worked on inter-disciplinary issues around forest, land, water and livelihoods in most states of India and also in Nepal, Bangladesh and Thailand. A post-graduate in Forestry, Pranab has earlier worked as a Scientist with Indian Council of Agriculture Research (ICAR) for about 8 years. Since last decade, he has been working with communities, NGOs, Donors, Research Institutions, Government and International Organizations in South Asia, in planning, implementing, monitoring and evaluating Rural and Tribal Development interventions and programs.

He has coordinated implementation of LGAF for World Bank in India and has carried out studies on women land rights, forest rights and land governance with international agencies. His present works and interests include community-based/ participatory GIS mapping, customary tenures, community rights, women land rights and responsible investments. He has founded and coordinates NRMC Center for land Governance (<http://nrmc.co/index.php/what-we-do/centerforlandgovernance>) a think tank attempting inclusive and informed dialogue around land governance in India for shared prosperity. Apart from conducting research and piloting innovative actions, CLG also organizes Annual India Land and development Conference (<http://nrmc.co/index.php/events/ildc2018>), a first of kind initiative to bring together land actors across states and sectors to have inclusive conversation. CLG as a partner of Land Portal Foundation in India, promote open access to land information.

Pranab is actively associated with many professional and civil society networks, and Universities and has widely travelled. He has published /presented more than 60 papers/ abstracts in peer reviewed Journals and International & National Conferences and authored 3 books (htt

https://www.researchgate.net/profile/Pranab_Choudhury2). He is a recipient of Vasant Rao Naik Award for Research Application in Agriculture in 2002 hosted by ICAR. He is also a Non-Government Expert (Forestry) in the National Executive Council of Green India Mission, Ministry of Environment, Forest and Climate Change, Government of India.
