Monitoring Women's Land Rights in India in the Context of the Sustainable Development Goals (SDGs)



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Summary

Women land rights (WLR) is important to address poverty, human development and peace. FAO's Voluntary Guidelines (VGGT) and UN's Sustainable Development Goals (SDG) acknowledge and set targets to ensure gender equity in land governance. India has endorsed both while its constitution provides equal rights irrespective of gender. Of late, many states, land being a state subject in India, have reformed their land laws and institutions to prohibit gender based discriminations in access, control and management of land. Some such enabling provisions include joint titling of land records in Odisha, West Bengal etc. and similar provisioning in IFR titles issues under FRA, 2006; levy of lesser stamp duty for women registered landed properties in Haryana, Punjab, Delhi, Uttar Pradesh etc., and amendment to Hindu Succession Act, 1956 in Kerala, Tamil Nadu, Andhra Pradesh and later by Government of India in 2005 to provide coparecenary rights to daughters.

Implementation of gender equitable land governance as well as meeting SDG commitments, necessitate a robust and participatory monitoring mechanism to monitor the status of WLR at States and different administrative levels periodically. Monitoring and reporting WLR status is expected to , induce comparative appreciation and hence implementation of positive changes by the states.

Under Target 5a of SDGs, WLR indicataors 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). 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).

UNSTAT prescribes the data sources as LSMS-ISA and DHS surveys and National household income and expenditure surveys. 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 intraholding/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, as LSMS was executed only once in 1997-98 and DHS done as NFHS doesn't report land data. 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 representaive sample, but covers about 60% of districts and not all states. Incomplete universalization of land records digitization, lack of existing provision for recording gender parameter and limitations in purposive data retrieval prevents, the computerized land records available through DILRMP, to be used for these indicators. The work begun to add gender in land records in 2015, expected to take considerable time.

Agricultural Census, reports gender-disaggregated information on operational holding across administrative layers, five yearly, across ethnicity (caste) and holding size. Being an administrative dataset, it can be a good proxy to report WLR indicators, till the time DILRMP or required National Household surveys are in place. WLR indicators developed out of this data almost align with those reported by micro-studies and IHDS at aggregate country level, with limited variations for some states. To address the limitations of Agriculture Census reporting 'holdings' and its consideration of 'gender' of head of the households, it can be complimented with data availble/collected through micro-studies, state level household surveys (viz. KHAS) and IHDS.



Importance of Women's land Rights

Secure land right of women is fundamental to sustainable development targets including poverty alleviation, gender equality, food security, human development and peace. Achieving gender equity in land governance is increasingly realized as a key strategy for social and economic empowerment.

Women's land right has been emphasized in international treaties such as International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Convention of Elimination of All Forms of Discrimination Against Women (CEDAW). The inclusion of gender equitable and secure land rights of vulnerable groups in the recently endorsed UN's Sustainable Development Goals (SDGs) is a reiteration of its increasing importance and urgency in the global context (Box-2).

Women constitute nearly 40 percent of the agricultural workforce in India. Three fourth of all female workforce and 85 percent of all rural female workforce is involved in agriculture (GoI, 2013). and this percentage is rising over the years due to increased male out migration. Against, one in two male workers engaged in agriculture (either as a cultivator or agriculture labourer), there are two of every three female workers. (Census, 2011) Share of women agriculture labourers (to total workers have increased by 43%, while there was a decline of 11 percent for male, and overall increase of 13% during 2001-11. (Census, 2011) However, they are constrained to own, access and take decision on land and the income produced from it (GOI 2000; Agarwal 2002; Hanstad *et al.* 2004; Hanstad *et al.* 2005; GOI 2009a).

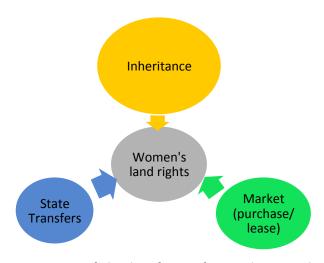
Secure land rights of women have demonstrated enhanced agricultural productivity and building resilience among the small and marginal farmers, who constitute 75 percent of the farming community. FAO has reported that closing the gender gap in agriculture with women's access and ownership of land and 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).



Legal Framework and Changes around Women land Rights

The Indian constitution provides equal rights to men and women. inheritance is the major route for WLR in India (owing to the fact that 86 percent of arable land is privately held) (Agarwal, 2002), though women own land through also state transfers (redistributive land reform) and the market (Haque, 2012).

Land tenure governance in India has undergone waves of reforms to address socio-economic equity and



empowerment. Post-independence, first generation of land reforms focussed primarily on redistributive justice with no attention to gender equity¹. However, with influence of international treaties, gender agenda in land reform started to be promoted through Five year plans in eighties through provisions of joint titling, which gradually got mainstreamed by states (Box 1).

	Reforms		Leading States	
State Transfers		Land is a state subject in India and many states, of late, have gone ahead to promote gender equity, through joint- titling in distribution of homestead plots and to a limited extent agricultural land.	Odisha is known for the joint titling in homestead and agriculture lands. With support from Landesa, it has also established women support centers to provide homstead lands to single women. West Bengal, Andhra Pradesh have also taken similar intiatives.	
Inheritance		Amendment of Hindu Succession Act, 1956 in 2005, to provide equal opportunities to both men and women in inheritance of landed properties including agricultural land, dwelling house and joint family property.	Andhra Pradesh in 1986, Tamil Nadu in 1989, Karnataka and Maharashtra 1994 had enacted laws and included daughters as coparceners of parental properties while extending its scope to agricultural lands which was subjected to the devolution rules specified in the state level tenurial laws (as per HSA, 1956). Besides, Kerala in 1975, has also abolished joint family property altogether.	
Market		Lowering of Stamp duties (a tax on the value of instrument used in property transactions) for properties getting registered in the name of women by amending Indian Stamp Act, 1899	Himachal Pradesh, Punjab, Uttar Pradesh, Madhya Pradesh, Haryana and Delhi have amended the Act. The levying of stamp duties varies across states, within regions (viz. rural and urban in Haryana ²)) in the state in which a sale is executed and nature of registration (viz. individual and jointly ³ in Delhi). It was found to encourage women's	

Table 1 Reforms around three mode of land acquistion by women

¹ Post-independence, India has undertaken several land reform measures like abolition of intermediaries, tenancy reforms, ceiling and consolidation of land holdings, to bridge all forms of inequalities in access, ownership and control over land resources, with an added focus on social and economic empowerment through secure land rights. However, these first generation land reform measures did not focus on woman as a beneficiary of land reform agenda.

² In Haryana, a man is required to pay 8% stamp duty in urban areas and 6% in rural areas, while a woman pays 6% in urban areas and 4% in rural areas.

³ For instance, in Delhi, a jointly registered property attracts 5% stamp duty instead of 4% when it is registered in the name of a female and 6% for in name of a male.



property ownership rights jointly or in the name of woman only (Department of Planning Government of Rajasthan, 2006, Landesa, 2013).

Box-1: Gender Sensitive Land Reforms in India

The various international treaties during 1970s and 1980s like ICESCR, CEDAW were instrumental in adding the gender dimension in the land reform approaches. The gender sensitive approach was thus first reflected in the 6th Five Year Plan (1980-1985) as it highlighted the need of providing joint titles to husband and wife, initially in cases of transfer of agricultural land and house sites. This was followed by the recognition to women's land rights in the Perspective Plan for Women (1988-2000). The 8th Five-year plan (1990-1995) underscored the need to increase women's control over economic resources for improving agricultural production. It recommended that for married women, joint titles would be desirable for productive assets, houses and housesits. The Chief Minister's Conference held in Delhi in 1992 had also agreed that 'Joint title' should be given to both husband and wife in all land distribution measures. This was accepted by West Bengal and Assam. The Revenue Secretaries' Conference held in New Delhi, October, 2000 also emphasized that states may identify the causes of the failure of the revenue machinery to allot ceiling surplus land, bhoodan land and government wasteland in the name of women beneficiaries and take corrective action in a time bound manner and at least 40 per cent land should be exclusively assigned to women and the in the rest of the cases, the allotment may be jointly in the name of husband and wife.

Institutional processes around Women's Land Rights: Civil Society and/Community Institutions

Civil Society Organisations (CSOs) and Community Based Organisations (CBOs) play key roles in promoting gender equitable land rights through social mobilization, advocacy and facilitation support. Ekta Parishad (NGO) in Madhya Prdesh, Ekal Nari Shakti Sangathan (women collective)⁴ in Rajasthan, Working Group on Women and Land Ownership (WGWLO)⁵ in Gujarat and Deccan Development Society (DDS)⁶ in Andhra Pradesh have been working for secure land rights of vulnerable women groups (widow, abandoned, never married etc.). Landesa has supported various state governments to implement land allocation and distribution programmes: Vasundhara in Odisha, *Cultivating and Dwelling Plot Allotment scheme –CDPA and 'Nijo Graha Nijo Bhumi'- NGNB* my home, my land Scheme in West Bengal and '*Namma Bhoomi, Namma Thota'* – my land, my garden land scheme in Karnataka. In all these cases, the ownership of land has been provided jointly to the husband and wife, and not separately to the women. (Draboo, 2015), except for cases in Odisha, where Landesa and Action Aid have supported the state in piloting Women Support Centers (WSCs) at the Tehsil level (sub-division) for identifying the single women (widow, deserted, never married etc.) and securing their land rights. Secondary evidences show the contribution of such organisations in enhancing WLR in these states. (Velayudhan 2009, UNDP, 2015).

⁴ An association of single women formed in 1999 and now extending over 27 of the 33 districts in Rajasthan.

⁵ a Gujarat-based network of 41 NGOs, CBOs and individuals aims to provide agricultural land ownership to women ⁶ An agri-based NGO



Measuring and Monitoring Changes in Women's land Rights

These legal and institutional transformations, were directed towards improving the status of WLR. Impacts of these interventions are required to be measured across political geographies in terms of changing gender gap around land, for providing a feedback loop to policy and institutions. This implicates the compelling need to have a monitoring system to track changes in WLR. Monitoring and reporting WLR status is expected to induce comparative appreciation and hence

Box 2: SDG & Women's Land Rights

Goal 1, target 1.4: "By 2030, ensure that all men and women, in particular the poor and the vulnerable, have equal rights to economic resources, as well as access to basic services, ownership and control over land and other forms of property, inheritance, natural resources, appropriate new technology and financial services, including microfinance."

Target 5.a Undertake reforms to give women equal rights to economic resources, as well as access to ownership and control over land and other forms of property, financial services, inheritance and natural resources, in accordance with national laws.

Indicator¹ 5.a.1: (a) Proportion of total *agricultural population* with ownership or secure rights over agricultural land, by sex; and

b) Share of women among owners or rights-bearers of *agricultural land*, type of tenure

'Agricultural land' is used to indicate land used for farming, livestock and forestry activities. This emphasizes the importance to monitor ownership/secure rights on land of farm-based livelihood people as well as people whose main source of livelihood is livestock and forestry.

'Agricultural population' has to be intended in a broad sense – i.e. including people living out of farming, livestock and forestry, with land rights or without (landless).

As per the latest metadata on this indicator(UNSTAT, 2016), it is expected to be developed by collecting information on ownership or secure rights over agricultural land at plot level, through nationally representative household surveys, periodically (about every 2-4 years).

UNSTAT identifies LSMS-ISA surveys and to a smaller extent DHS surveys (carried out in collaboration with National statitistcal agencies) and National household income and expenditure surveys as the potential data sources for this indicator. As on March 2016, indicator was availale for only 10 countries with unprocessed data sets, conservatively in additional 11 countries, from which indicator can be derived.

FAO, in cooperation with IFPRI-PIM, is already disseminating the available data for through the Gender and Land Rights Database (GRLD). The new World Programme for Agricultural Census (WCA 2020) has proposed the collection of land ownership data disaggregated by sex as a supplementary item.



implementation of positive changes by the states. Commitment to SDG, calls for establishing a monitoring system to track and report the movement towards the Indicator 5 under Goal 1.4 (Box 2). This can only happen when a legitimate and reliable gender-disaggregated database is available and easily accessible across administrative boundaries at regular intervals.

While this SDG indicator is considered superior 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 (UNSTAT, 2016), low current availability of such data is a challenge for this indicator. The World Bank executed LSMS⁷, which record gender-disaggregated land data for most of the African Countries, was conducted in India, only once during 1997-98 in two states (Uttar Pradesh and Bihar). Similarly, the DHS, reported in the form of National Family Health Survey (NFHS)⁸ in India has limited scope in the context of monitoring the status of women's land rights as it only provides data on percentage of women owing either house or land. GRLD, uses Agricultural Census information on land holdings for India.

The potential datasets in the Indian context are Agriculture Census Data, Digitized Land records maintained by states with support from DILRMP, India Human Development Survey (IHDS) and micro-studies.

India Human Development Survey⁹, 2005-06 and 2011-12 conducted with support from Interuniversity Consortium for Political and Social Research (Desai and Vanneman, 2012) reports genderdisaggregated agricultural land ownership, mode of acquisition including inheritance and renting/tenancy. This nationally representative, multi-topic panel survey covers 42,152 households in 384 districts, 1420 villages and 1042 urban neighborhoods across India

Digital India Land Record Modernization Program (DILRMP, earlier NLRMP), is a centrally-sponsored government scheme to promote digitization of land records. Incomplete universalization of land records digitization; lack of existing provision for recording gender parameter, even with intent¹⁰ and limitations in purposive data retrieval prevents, the computerized land records available through DILRMP, to be used for these indicators. In April, 2015, Department of Land Resources advised the states to introduce gender field for land owners in their property records. Considerable time and resources required to update and change the records and make them easily accessible for periodic monitoring.

Agricultural Census data is increasingly emphasized to measure women's overall responsibilities and management in agriculture and to facilitate inter-country comparison. FAO statistics division encourages countries to undertake this for reporting sex-disaggregated data on women's land rights (FAO, 2015). India is among the 135 countries to conduct agricultural census following the guidelines of FAO coordinated World Programme for the Census of Agriculture¹¹. Government of India carries

⁷ The Living Standards Measurement Study (LSMS) was initiated in 1980 as a response to a perceived need for policy relevant data that would allow policy makers to move beyond simply measuring rates of unemployment, poverty and health care, for example, to understanding the determinants of these observed social sector outcomes

⁸ It is a large-scale, multi-round survey conducted in a representative sample of households throughout India. The survey provides state and national information for India on fertility, infant and child mortality, the practice of family planning, maternal and child health, reproductive health, nutrition, anaemia, utilization and quality of health etc.

⁹ Most of these households had been interviewed for IHDS-I, during 2005-06. Both surveys cover all states and union territories of India with the exception of Andaman/Nicobar and Lakshadweep

¹⁰ The documents of NLRMP (2005 and 2008) have underlined the importance of recording gender, by recommending it under 'List of data and land attributes for standardization' and providing coding scheme for 'gender'.

¹¹ http://reliefweb.int/report/world/world-program-census-agriculture-2020-volume-i-programme-concepts-and-definitions



this operation every five years and reports gender-disaggregated data along state, district and subdistrict level with additional seggregation across ethnic, economic categories and tenancy of operational holder. This data set is used in FAO's Global Gender and Land Rights Database¹², identified as a potential source for this SDG indicator.

Table SWOT Analysis of Existing Data Sources in India to monitor SDG Indicator

	Strength	Weakness	Opportunity	Threat
DILRMP	Based on legal land records, reports plot level information on ownership; most of the states have digitized land records;	Data not available for most states; difficult to extract and report; May differ from actual situation as records are updateed	GoI has directed all states to add 'gender' parameter; resurvey ongoing to update records; universalization expected soon under DILRMP aiming Titling	Gender parameter required to be added to millions of old records (viz Odisha alone has about 14 million LR), which may take more time; LR updating will also be tedious
Agricultural Census	Legitimacy, granularity (upto tehsil level), periodicity (5 years) and disaggregation across ethnic and land size; all population coverage; based on verification of land records in 90% of states along with that of actual status	Reports 'Operational holding'; treat gender of head of household as gender of land holder	WCA ¹³ ,2020 proposed the collection of sex-disaggregated land ownership data; Existing procedure collects ownership data and retabulates, therefore, can be made available, if Gol agrees; scope of linking with other databases viz. Census, IHDS and micro-studies to make the indicator more robust	Conflict with Land departments, in case reports paint a poor indicators; dwindling budget provision for the division
IHDS	Nationally representative statistically sound HH survey; reports plot ownership data (upto 3 owners per HH)	Data not available for 40% of districts; based on interviews	Availability of inheritnace and tenancy data can be used to link WLR to other dimensions	Acceptance of State and district land administration, data being based on interviews only; continuation of survey
LSMS/ DHS (NFHS)	Identified by UNSTAT and FAO as source for SDG indicator	Done once in India (1997-98) only for UP and Bihar India	State level household surveys can be organized in this line viz. Karnataka Household Asset Survey; Integrating land rights questions in NFHS	Acceptance of State and district land administration
Micro- studies	Provide actual and specific information for a statistically representative small population	Coverage is sporadic geographically and uncertain temporally	Data useful to validate macro data viz. Agriculture Census	Availability and continuity uncertain

These datasets have their inherent strengths and weaknesses. However, from utility perspective, their implications on generation of research information, policy and practice may also be different. While robust household surveys suggested by SDG and are expected to influence policy and contribute to research, from practice perspective in India, such data can be contested by state and district land administrations, who may find DILRLP and Agricultural Censu data more acceptable to consider reforms.

¹² <u>http://www.fao.org/gender-landrights-database/en/</u>

¹³ World Programme for Agricultural Census of FAO, which guides agriculture census operations in 115 member states



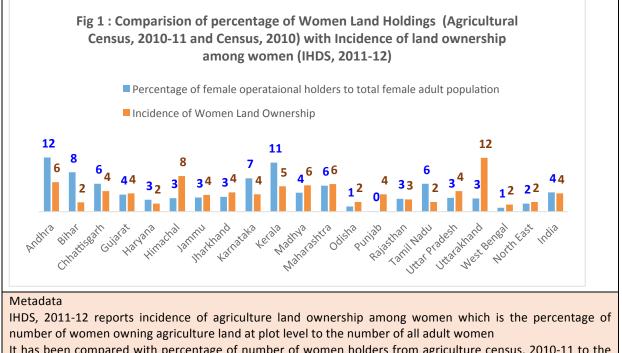
Comparing Operational Holding with Ownership and Plot level Data

Agricultue Census has the limitation of operational land holdings, which are essentially management units of agricultural lands, thus presenting a proxy of ownership data. It also considers the gender of the head of the household to record operational holdings.

However, agricultural holders¹⁴ and landowners¹⁵ are often used interchangeably in the context of measuring women's land rights (FAO, 2015). CGIAR research program on Policy, Information and Marketing (PIM)¹⁶, sees a great potential overlap between management/holding rights and ownership` where property rights are well defined.

Similar argument seems to hold ground in India, where comparative analysis of agricultural census

- with the corresponding figures reported by IHDS, 2011-12 indicate a difference of 5% in percentage terms (Figure 1)
- with micro studies (12 studies in 9 states), carried out at district and block levels by researchers, indicate a difference of 0.7% on an average (Figure 2)



It has been compared with percentage of number of women holders from agriculture census, 2010-11 to the total number of adult women from Census, 2011

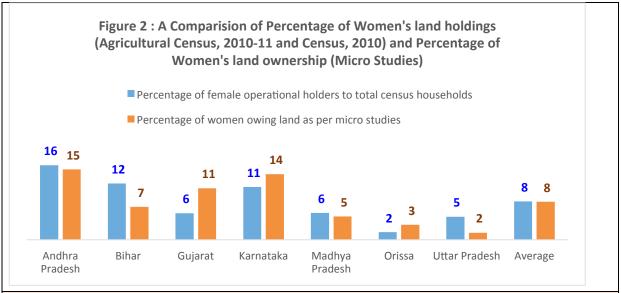
¹⁴ The manager of the land holding

¹⁵ The legal owner of the land

¹⁶ <u>http://pim.cgiar.org/2015/11/20/how-sex-disaggregated-land-statistics-can-help-monitor-progress-of-the-new-sustainable-development-goals/</u>

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Metadata

Micro studies reports incidence of agriculture land ownership among women which is the percentage of number of women owning land land to the number of all households

It has been compared with percentage of number of women holdings from agriculture census, 2010-11 to the total number of households from Census, 2011, for that particular district(s) of the states.

Box 2: Status of Women's Land Holdings in India as per Agricultural Census

Women possess less number of land holdings, own lesser area and smaller size of holdings in comparision to men. As per Agricultural Census, 2010-11, women hold 12.8 percent of total operational holdings that constitutes 10.34 percent of the total area of holdings. 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 number and area of land holdings operated by women in the southern region states are relatively more while the situation in Northern and Eastern region states are comparatively lesser. Dalit and tribal women operate more agricultural lands than other women groups and their size of holdings were found to be bigger than their men.

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. States like Sikkim, Rajasthan, Bihar, Madhya Pradesh and Daman & Diu have shown higher increased in women's land holdings, while states/UTs like Chandigarh, Delhi, Jammu & Kashmir, Puducherry and Kerala report a negative trend in the percentage change of women's land holdings.

Analysis of the spatial and temporal variations in the women holdings indicate, comparatively better situation in states (viz. Andhra, Karnataka, Tamil Nadu, Maharashtra) that have amended Hindu Succession Act, earlier to that by the Centre, have reduced stamp duty (Himachal Pradesh, Punjab, Uttar Pradesh, Madhya Pradesh, Haryana and Delhi)for registration of property in the name of women and where there has been more male out-migration.



Policy Recommendations

Measuring and Monitoring Women's Land Rights

Based upon the status of availability of country-wide data from legitmate sources, acceptability of key stakeholders in national workshop as well as comparative analysis in the context of SDG metadata (UNSTAT, 2016) and with data reported in IHDS and micro-studies based on primary data, following recommendations are made

- Use Agricultural Census, as a good proxy to report WLR indicators, till the time DILRMP or required National Household surveys are in place to provide plot level ownership information of agricultural land at a smaller periodicity (2-3 years), it being an administrative dataset with desired legitimacy, periodicity, coverage and disaggregation. (Action: Niti Ayog)
 - a. Compliment the limitations of Agriculture Census, in terms of its reporting 'holdings' and its consideration of 'gender' of head of the households, with data available/collected through micro-studies, state level household surveys (viz. KHAS) and IHDS. (Action: Niti Ayog)
 - b. Make Agricultural Census process, also reports gender-disaggregated data on land ownership, as this data is currently also being collected for re-tabulation, during Phase I of the Census from village land records, along with the data on operational land holdings. The new World Programme for Agricultural Census (WCA 2020) has proposed the collection of land ownership data disaggregated by sex as a supplementary item. FAO Statistics Division is starting a project called AGRIS (Agricultural Integrated Surveys), which would facilitate such data collection. (Action: Agriculture Census Division)
- 2. Expedite introduction of gender parameter in land records both in new and millions of old and existing land records, while continuing universalization of digitization and record updating through resurvey. (Action: DILRMP)
- 3. Establish a robust and participatory monitoring mechanism to monitor the status of and change in women's land rights at State, district and Tehsil levels, to achieve the target in time. Niti Ayog can be nodal agency for such monitoring to take up this activity in coordination with Department of Land Resources, Ministry of Rural Development, and Agriculture Census Division under Ministry of Agriculture. (Action: Niti Ayog)
- Upload and report gender disaggregated data on achievements under various land grant schemes or programs in the official websites of state revenue department for transparency, accountability and monitoring. (Action: Land Departments, State Governments and DILRMP)
- 5. Take up further research and analyze available data sets to create evidence on the impact of the implementation of gender-equitable land governance measures viz. amendment to inheritance acts, incentivizing market based measures and joint-titling on positive changes in women land rights to help other states to adopt such practices. (Action: Niti Ayog)



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