

IDSJ Working Paper 175

Persisting Inequalities Gender and Land Rights in Rajasthan

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Institute of Development Studies, Jaipur (INDIA)

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Persisting Inequalities

Gender and Land Rights in Rajasthanⁱ

Kanchan Mathur

This paper critically analyses issues related to gender and land rights in the state of Rajasthan. It argues that serious gender gaps continue to exist in ownership and control over land; and land rights have remained elusive to women despite state policies and interventions to increase women's access to land. Socio-cultural factors persisting in the state prevent women from claiming their rights to land. The ideology and practice of stringent patriarchy through which women's subordination is perpetuated is reinforced through institutional structures. Even where women enjoy ownership rights, they do not exercise effective control over land and their expansion of spaces in agriculture as well in their participation in other domains at the household and community level is restricted. This is evident in their inability to lease, mortgage or dispose-off land and its products. Land rights in the state also continue to be embedded in a strong cultural bias against female inheritance in the implementation of laws. This has prevented women from having ownership of land rights. The paper underscores that women's empowerment through effective land rights in the state requires the creation of a socio-cultural environment which is supportive of the implementation of legal measures and Acts. Alongside, measures to remove persisting gender inequalities and barriers need to be put in place, the main challenges in this regard relates to social acceptance of women's right to land, cutting across the intersectionalities of caste, class and religious groups.

Keywords : Inequalities, gender, ownership, control, land, laws, patriarchy

Introduction

The fact that discrimination against women in their access and control over land and property are part of the larger system of discrimination and subjugation based on caste, gender and economic class needs no emphasis. Addressing the many aspects of this discrimination requires multi layered and diverse strategies. In most of South Asia including India, few women own cultivable land and an even smaller majority have effective control over it. According to Agarwal (1994) the contribution of women to agriculture production is well established. A disproportionate number of women are still dependent on land. Women constitute nearly 40 percent of the agricultural workforce in the country. 75 percent of all female workforce and 85 percent of all rural female workforce in the country is involved in agriculture at present (Gol 2013). Indeed the gender gap has been growing. It is increasingly becoming evident that women who make a significant contribution to and depend on agriculture do not have secure land rights. According to FAO in 2007, women constituted about 41 percent of total employment in agriculture globally. FAO's forecasts through 2010 indicate that of the total percentage of economically active women in least developed countries, more than 70 percent work in agriculture. In South and Southeast Asia more than 60 percent of the female labour force is

engaged in food production. However, in countries such as India, Nepal and Thailand, less than 10 percent women farmers own land (FAO website). Aside from hampering women's access to land, socio-cultural factors prevent them from claiming their rights to land. The ideology and practice of stringent patriarchy through which women's subordination is perpetuated is reinforced through institutional structures. Even where women do enjoy rights of ownership, they do not exercise effective control over it, being unable to lease, mortgage or dispose-off land and its products (Hindustan Times 2010).

The issue of land rights for women gained visibility in the development discourse with the 1980 UN Women's Conference in Copenhagen stating that even though women constitute fifty percent of the world's population, they owned only one percent of the world's resources. The exclusion of women from ownership of land has since remained on the global agenda. The United Nations CEDAW Convention included specific clauses on the equal treatment of women in agrarian reform and equal rights for both the husband and wife in the ownership, management and disposition of property. As a result of these international treaties and laws, several national legislations across countries have specifically been targeted at women's land and property rights.

In India, the realisation that agriculture land continues to be one of the most important forms of property and productive assets in rural areas and a critical contributor of economic well-being, social status and political power has led to several policy initiatives. In 1995, under the VIII Five Year Plan, the Ministry of Rural Development, Department of Land Resources, Government of India sent an order/ guidelines to the states to issue land pattas jointly in the name of both husband and wife and a certain percentage of land pattas to the single women including widows and unmarried women. Subsequently, the Principal Secretary, Revenue, of different States sent such directives to the District Magistrate for implementation of the same. As a consequence, for the first time, the IX Five Year Plan (1997-2002) document included a separate section on 'Gender and Land Rights' and stressed the need for land ownership by poor women. However, despite this, the effectiveness of policies and legislation has been limited in practice. The XI Five Year Plan (2007-2012) agenda for women in agriculture aimed at ensuring effective and autonomous land rights for women and building women's agricultural capacities. The Plan suggested direct transfer of land to women through land reforms, anti-poverty programmes, and resettlement schemes. It included land titles to individual or group of women in all land transfers made by government. Besides, provisions were made for credit support to vulnerable women to purchase or lease land, incentives and subsidies on women owned land and legal support for women's inheritance rights. The XII Five Year Plan (2012-17) emphasised enhancing women's land access from all three sources i.e. direct government transfers, inheritance and purchase or lease from the market.

This paper further critically analyses issues related to gender and land rights in the state of Rajasthan. It argues that serious gender gaps continue to exist in ownership and control over land; and land rights have remained elusive to women despite state policies and interventions to increase women's access to land. The paper is divided into three parts. Section I presents a review of existing studies on gender and land rights in Rajasthan. Section II provides the legal framework for gender and land rights in the state. Section III underscores the patterns of women's access to land and impact of inheritance rights. The Concluding section makes recommendations for policy change.

Section I

Women's Access to Land in Rajasthan: Literature Review

With a land area of 10.4 percent of India (342.24 thousand sq. km), Rajasthan, located in the North-West of the country, is India's largest state. Rajasthan has a total population of 68.6 million inhabitants. The state is divided into 33 districts, with 297 towns and more than 44 thousand villages. Rajasthan is primarily an agrarian economy and agriculture plays a crucial role in the economic development of the state. The total cultivated area covers about 20 million hectares, of this only 20% of the land is irrigated. Ground water level is available on an average only below 60 m. The Narmada River in the south, the Punjab Rivers in the north and the Agra Canals from Haryana and Uttar Pradesh provide water to the dry land of the state. The Indira Gandhi Canal irrigates North-Western Rajasthan. Nearly two third of the total area of the state is arid or semi-arid with low and irregular rainfall characterised by extremes of climate. In Rajasthan, the farming community is dependent on various sources of irrigation, including tube wells, canals, wells and tanks. Irregular rainfall and frequent drought exposes households with a fragile livelihood base to various risks, uncertainties and stress situations that directly impact people's access to resources.

Typically material power i.e. ownership of property and assets, are traditionally vested in men in the State. Women continue to lack ownership rights to land, despite the fact that majority of them work as agricultural wage labour or on farms owned by members of the family. Though the contribution of women in agricultural production is well recognised, a considerable gender disparity exists with most women having lower access and control over land, one of the most important economic resources. Lack of resource endowment coupled with low social and human capital among women leads to their further marginalisation (Mathur 2004).

Very few in-depth research studies, which systematically analyse issues related to women's access and control over land, exist in the state. Some of the earlier studies have primarily focused on more general issues relating to land reforms and economic development, implementation of tenancy, reforms in land ceiling, allotment of government and community lands, protection of forest rights (Sagar and Ahuja 1987, Gupta L. C. 1994, Yugandhar and Dutta 1995). However, these studies have failed to look at the issue of land rights from a gender perspective.

There are only four studies which have specifically focused on the issue of women's land rights in Rajasthan. These studies highlight the gender gaps in access to land in the state. They also indicate the plight of women, both who own land as well as those who do not own land, in particular the dilemma of widows belonging to both these categories. The studies underscore that gender inequalities in access to land cut across intersectionalities of caste, age, religion and ethnicity. Often women belonging to rural/urban, tribal/non-tribal, educated/uneducated divides face similar problems in terms of their rights to property. The apathy and indifference of land revenue officials towards women claiming their rights over land is also emphasised in the studies.

One of the earliest research studies focusing on understanding the situation of women in the Indira Gandhi Nahar Project area (IDSJ 1989) reveals that women sharecroppers in the canal area of Bikaner and Ganganagar viewed their role in agriculture as a peripheral input and identified the issues of land ownership not with themselves but as a right of men. Widows seldom exercised their ownership right over land. In most cases land is transferred in the name

of the son soon after the father's death. In the absence of the son it was given out for sharecropping. A woman's inability to take up agriculture without a male member who could control the land was due to the fact that she never had a chance to participate in the market, nor did she have any say in decision making related to agricultural produce.

The study on Status of Women Litigants (SPRI 2007) focused on assessing the situation of cases filed by women in the Revenue courts in Rajasthan. In examining women's access to justice from the lowest revenue court to the Board of Revenue, the study highlights the problems faced by women in dealing with revenue courts including attitudes of revenue officials towards women. The study was carried out in four districts of the state, namely Ajmer, Jaipur, Jodhpur and Udaipur and a total of 120 cases were selected in the four districts (30 in each district). It underpinned that many cases were pending for more than 20 years. 70 percent cases had been filed for small pieces of land (land ranging up to 5 to 50 bighas) and 60 percent litigants were from within the family. The main cause of filing the cases was denial of due share in landed property to women by family members as well as due to wrong mutation. Very few unmarried daughters were found to possess land and property. In case of married women of the 120 cases, only 2 women (in Girwa block, Udaipur) could specify under which Act and Section their cases have been filed. It revealed that the husband's brother or other family members often take control of the land even if it is in woman's name. The study further pointed out that government functionaries showed greater bias in distribution of land i.e. bribing the officials in Court or tampering with land records is common. 77 percent women felt that the government system was not gender sensitive. Revenue officials, Tehsildars and Sarpanchs are either not aware or are indifferent to joint titles and women are often left out of land entitlement schemes. By far the largest resistance comes from adverse social practices namely marriage rites, dowry, *Nata*ⁱⁱ death rites etc. in Rajasthan. The study concludes that women's land rights, control, ownership, possession and access still seem to be a far cry from reality.

In her study on Women's Right to Land in Rural Rajasthan conducted in three districts, Burns (2004) explores how the ownership of land mediates women's economic independence and social status. Data for the study was collected from 50 rural women residing in four blocks. The responses of landless women were contrasted with those of land-owning women to explore differences in economic independency and social status. The study points out that, only a small minority of women own land in their own names and this land is usually of a small size. 44 percent of landless women reported that they had no say at all in decisions made about selling or mortgaging household land. Several women reported problems posed by government procedures and attitude of functionaries as obstacles to their owning land. It also makes evident that access to land without wider social changes may not radically improve women's lives and that land rights are not the only key to unlocking women's subordination.

Nandwana and Nandwana (1998) in their study on Land Rights of Widows in Rajasthan point out the significance of land as a critical productive resource, essential for subsistence. They assert that land is also crucial as a means of security against poverty and destitution. However, due to lack of legal ownership, women are often far more vulnerable to these adverse circumstances, especially in situations of divorce and widowhood. Out of the 57 widows covered in their study of two villages of Udaipur district, 42 belonged to castes in which *nata* is permitted, while the remaining 15 belonged to castes which do not permit widow remarriage. The study

points out that even if they had land rights, widows could not play an active role in the management of their land because of restricted mobility and other social customs. Hence, land was often left to the care of grown up sons or other male relatives from the husband's family. Land records for one of the villages did not show any entries in the names of daughters. The few female tenants who featured in the land records were there as wives and not as daughters. These women had their names included in the records after their husbands had died. The widows here stated that they did not have any land in their names in their parental villages either.

The above review of literature underscores that even though the Hindu Succession Act of 2005 specifies a daughter's rights as a class 1 heir, this right is not being actualised in the state.

Section II

Gender and Land Rights: The Legal Framework

Historically, one of the fundamental aspects of land reforms in Rajasthan was the need to break the stranglehold of feudal landlords. Issues related to land reforms and enforcing of new land laws relating to land tenures, land revenue, land management and rights of tenants have undergone considerable changes since the reorganisation of princely states in Rajasthan. The most important enactments concerning the land tenures and land revenue administration however, are the Rajasthan Tenancy Act (RTA) 1955 and the Rajasthan Land Revenue Act (RLRA) 1956. These enactments elevated the status of the cultivating tenants and modernised land revenue administration in the state.

The RTA (1955) came into force on October 15, 1955. Apart from consolidating and amending the law relating to tenancies of agricultural lands, it also provided for certain measures of land reforms. According to the State Land Commission (1959), the Act can safely be claimed to be one of the most progressive Tenancy Acts in India. The RTA was enacted to protect the rights of tenants in Rajasthan. Under the Act, a Hindu woman has a right over the land of her deceased father, husband and son as the primary heir belonging to the Class 1 category as described in section 8 of the Hindu Succession Act of 1956. The Act had far reaching effects on the agrarian transition in the state. The RTA also provided for establishment of a hierarchy of courts to settle disputes and a procedure and jurisdiction for these courts. Despite the existing legal provisions of RTA 1955, the RLRA 1956 and the HSA 1956, effective rights in property and land are elusive for women as they face numerous legal, social, administrative and ideological problems.

The RLRA came into force on July 1, 1956. It consolidates and amends the laws relating to appointment, powers and duties of revenue courts and revenue officers, village functionaries, preparation and maintenance of land records, survey and settlement operations, partition of estates, collection of land revenue and other matters incidental thereto. The Land Revenue Act also contains provisions for allotment of government unoccupied land to landless persons, allotment of land for non-agricultural use, trespass over government land and procedure for ejection of trespassers. Over two dozen sets of rules have been framed under the Land Revenue Act laying down detailed procedure for the various matters provided for in the Act. All these enactments relating to land reforms, land tenures and land administration have gone a long way in ameliorating the conditions of tenants in the state.

There is no mention, however, either in the RTA or the RLRA, of rights of widows, divorcees or women belonging to other deprived groups. Due to tremendous pressure from women's groups in Rajasthan, the Rajasthan High Court suggested the following amendments in these Rules in the year 2000:

Rule 8 regarding regulating submission of application for allotment in these rules. One additional sub rule 1(a) was added, which says, 'where applicant is a married agriculturist, the application shall be submitted in the name of both husband and wife.'

Similarly rule 14 was also amended and a new sub rule 1(a) was added in this rule which says "in case where allotment of land is made to the married agriculturist, the allotment shall be made in the joint names of husband and wife and the allottees, in such case, shall be deemed to be Joint allottees."

It is important to highlight that these changes have been ineffective and remained only on paper as a huge gap exist between policy rhetoric and implementation with regards to land laws. Women have not benefited from these changes in real terms.

The Hindu Succession Act (HSA) 1956 abolished the Hindu woman's limited estate by removing any distinction between unmarried and married daughters. According to the Act, any property possessed by a Hindu female is to be held by her as absolute property and she is given full power to deal with it and dispose of it by will as she likes (Hindu Succession Act 1956). Prior to the coming of the Act, only widows could inherit. It was rare for daughters to inherit and if at all they did inherit land, it was in the absence of four generations of related males. However, this inheritance was limited and she could enjoy property only during her lifetime and after her death it was once again inherited by her husband's heirs. A daughter could not disaffect property except in restricted conditions i.e. legal necessity, for religious or charitable purposes, benefit of the estate, and finally with the consent of the reversionary.

It took five decades for gender inequalities in the 1956 HSA to be addressed. The Hindu Succession (Amendment) Act, 2005 (39 of 2005) came into force from 9th September, 2005 with the Government of India issuing a notification to this effect. The path breaking provisions in the Hindu Succession (Amendment) Act, 2005 cover inequalities pertaining to: agricultural land, Mitakshara joint family property, parental dwelling house and certain rights of widows.

The most noteworthy aspect of the amendment in the HSA 2005 (HSA Amendment 2005) however, relates to agricultural land. The HSA 2005 made fundamental amendments to section 4 (2) of the 1956 HSA which were biased in favour of menⁱⁱⁱ.

Customary land rights in Rajasthan

Section 42 of the Land Tenancy Act tried to protect the lands of tribals and dalits from falling into the hands of non-tribals and non-dalits (Swaminathan and Choudhary 1999) Ref. However, with the active connivance of revenue officials in Rajasthan, the Section has been infringed upon even after 1955 by (a) getting false registration done on stamp paper dating before 1955 (b) getting the land transferred into the name of another tribal who was either fictitious, dead or acting for a non-tribal. Much of the best and most fertile lands belonging to the tribals have been lost this way. For the ordinary tribal, the ritual of getting his land recorded and his tenancy recognised officially, is one of the most complicated and expensive procedures. Thousands of

tribals have been unable to get their land regularised because of corruption and constant bribery that is required and which they cannot afford. Those who can afford it have been able to take paper possession of lands though the land does not belong to them. The poor state of records and maps further increases their hardships.

Tribals in Rajasthan, like elsewhere in India, follow their customary laws. Tribal customary laws in the state are neither codified nor recognised in reference to the tenancy rights. Therefore, government functionaries apply provisions of Hindu Succession Act in certain places whereas in other places these provisions are not applied and 'Shashtriya' Hindu Law is applied instead of it, which gives inheritance rights only to the male members. This increases the vulnerability of tribal women. Labeling of tribal women as witches is also a common practice in the state especially in the tribal belt to disinherit women from their land, settle family and clan disputes, punish women for resisting sexual advances or even to discourage women from participating in local politics and elections. In the case of widows, very often the brothers-in-law try to manage her land, insist on share cropping her land, or simply attempt to deprive her of her rightful share of the land. In Udaipur district land/property disputes have emerged as a major cause of branding women as witches. In majority of cases accusations are leveled by close relatives. A case in point is cited below:

Kanka Bai Gameti of Dated village of Udaipur district is a widow and was declared a dayan by her own nephew Hagraa who wished to grab her property. Prior to being labeled a dayan Kanka Bai was economically well off. She had three bighas of land and also owned a house, a buffalo and 35 goats. Besides, she was availing her widow pension of Rs 200 per month. Kanka's nephew wanted to grab her property and hence declared her a dayan (witch) and assaulted her on several occasions. At first he robbed Kanka of a substantial amount of jewelry and stole 30 of Kanka's goats. When Hagraa saw that Kanka's land was yielding five sacks of corn he also decided to grab the land. In a ploy to cheat Kanka he went to her house and apologised for his past behavior and invited her to stay in his own house for a few days. Kanka agreed to his request and Hagraa took few sacks of corn, buffaloes and cash from her house. He kept Kanka in his house comfortably for 10-15 days but then again began alleging that she was a dayan, as she had caused his daughter's illness. Once he went to Kanka's house carrying an axe with the intention of killing her. Kanka got to know of his intentions and somehow managed to escape and save her life. Hagraa also bribed some of the caste panchayat members into transferring Kanka's land in his own name. As a result of the dreaded events she shifted in with her brother's grandson. She has lost her mental balance and lives in constant fear of Hagraa.

Government of Rajasthan's initiatives to promote equity in land rights

In the past two decades the Government of Rajasthan has taken some initiatives to ensure women's access to land (GoR 2005-06):

The Department of Registration and Stamps offers a 50 percent reduction (subsidy) in the stamp duty for agricultural land, in case land is registered in the name of a woman in order to encourage and promote ownership of agricultural land in the name of women. The stamp duty for land registered in a man's name is 8 percent (brought down from the previous value of 11 per cent in July 2004); for a woman, the duty is lower, at 5.5 per cent (50 percent of the previous value of stamp duty).

- The state government has reduced the stamp duty from 8 percent to 5 percent, in the case of a gift deed of immovable property executed in favour of sister/daughter/granddaughter/mother or wife.

- A mandatory provision of stamp duty of Rs.50 for a Divorce instrument has been made in the Rajasthan Stamp Act, 1998. The provision of stamp duty is primarily to ensure a legally acceptable document to safeguard the interest of the divorced woman, and not so much as a means of revenue.

Official records and reports show a sharp increase in the number of agricultural land deeds registered by women since the subsidy has been introduced. From January 2004 to December 2005, more than two lakh women have registered agricultural land in their names. The total benefit accrued to women under this rebate is Rs.13.99 lakhs, which amounts to an average of Rs.6621 per women (GoR, 2005-06).

As stated in the VIII five Year Plan (1992-97), the state government implements a policy allocating forty per cent of ceiling surplus land to women alone and the rest in joint titling. Government land allocation gives priority to landless individuals and widows, yet women whose husbands own land are not considered as landless individuals. No provisions have been made for divorced or separated women. Land acquisition requires payment of registration fee, filling of forms and gaining a certificate of land ownership from the local government body. Most often women, particularly in rural areas, are unable to fulfill these requirements due to low literacy rates and lack of awareness regarding obtaining ownership titles.

Despite amendments in the RTA and RLRA which came about due to the concerted campaigns by women's groups both within the state and nationally, and the new provisions in Hindu Succession (Amendment) Act, 2005, significant gender inequalities remain in women's access and control over land in the State.

For protection of women's tenancy rights in the RTA. Though most of the rural women are engaged in agriculture and put in more hours/arduous work in the field than their male counterparts, women are not considered worthy of land ownership.

- Under the Hindu Succession (Amendment) Act, 2005, in Rajasthan, the process whereby women (sisters and mothers) relinquish their share in the holding in the name of brothers and sons, is very simple. Signatures can be taken on a Rs.100 stamp paper to transfer the land. This lacuna needs to be addressed by having stricter laws relating to release and transfer of land.
- The act also leaves untouched provisions of state laws concerning the fixation of ceilings and fragmentation of agricultural holdings.
- An increase in the number of coparceners (as brought about by the amendment which includes the daughters) leads to a decline of a widow's share dependent upon that of her deceased husband. This could be rectified only if the Mitakshara coparcenary was abolished altogether. The latter was the demand of women's groups. In such a case all property would go equally to Class I heirs, of which the widow is one.
- The other area left untouched by the amended law is the right granted under the provision of the will to disinherit a woman from self-acquired property, as a person has unrestricted testamentary rights over his or her property. In practice the use of this right can and has been to disinherit women from their property.

Indira Awas Yojana

According to the information provided by the Department of Panchayati Raj and Rural Development, GoR, a large number of women have benefitted from the Indira Awas Yojana scheme. Information regarding the allottee type wise number of houses under various schemes of Indira Awas Yojana reveals that during the financial year 2011 – 2012, under Special Package scheme^{iv}, out of the total registered cases in MIS, the percentage of women applicants was 73.4 percent. In the year 2012-2013 under the IAY New Constructions Scheme, of the total registered applicants the number of women applicants was 67.8 percent and the percentage of total sanctioned houses was the same. This demonstrates that out of the total beneficiaries the ratio of women was two-thirds (See Appendix Table 2). The trend has been the same in the years 2013-2014 and 2014-15. Hence, according to government records a large percentage of women have benefitted from the IAY scheme and more women than men seem to have benefitted from the IAY.

Land pattas: progress and achievement against targets

Data provided by the Department of Panchayati Raj and Rural Development, GoR for the years 2007-2008 to 2014-2015 regarding progress and achievement against targets for allotment of free of cost and on concessional rates of residential land pattas under the Panchayati Raj Act Rule 157 and 158 of GoR reveals that:

- (i) Pattas issued under Rule 157: Data shows that from the year 2007 -2008 to 2014-2015, the achievement was 481704 (283.3 %) against a target of 170000. Out of the targets achieved, the percentage of women patta holders was only 10.4 percent.
- (ii) Regularisation under Rule 157 (2) : Data for the year 2007 -2008 to 2014-2015 related to persons who were eligible and have occupied land up to the year 2003 shows that the achievement was 127446 (127.4 %) against target of 1 lac. In the total period of 8 years, the percentage of women patta holders was only 17.3 percent.
- (iii) Allotment of plots under Rule 158 :
 - (a) Allotment of plots on nominal rates: Data for the target of allotted plots on nominal rates for the year 2007 -2008 to 2014-2015 shows that the achievement was 145667 (107. 1 %) against target of 136000. The percentage of women plot allottees was 10. 1 percent.
 - (b) Allotment of free of cost plots to BPL families: BPL families who have been allotted free of cost plots were 225153 (216.7 %) against target of 103900. Out of the total allottees, 23.6 percent allottees were women (See Appendix Table 1).

The above section underscores that, though the Constitution of India provides equal rights and opportunities to all its citizens irrespective of gender, however, there exists a wide gap between Constitutional guarantees and ground realities. Systematic gender inequalities within households in the allocation of basic necessities such as health care, education, even food, land solely in men's names. Women have been and continue to be excluded from becoming equal participants in the process of acquisition of property rights, land rights, rights to house plots/ pattas, homesteads and also from being actively involved in the development process. Despite the fact that a large majority of women participate in agricultural activities, women have failed to emerge as effective landowners because of the primacy of agnate descent in the male line.

Section III

Patterns of women's access to land and Impact of inheritance rights

This section highlights some interesting insights emerging from our study into women's access to land rights in two districts of the state viz. Udaipur and Sriganganagar. The two districts represent contrasting social, economic and cultural contexts. The poverty status in both the districts reveals that Sriganganagar - the more developed district, has a majority of households falling in the non-poor category. In comparison, in the less developed district of Udaipur, greater numbers of households fall in the poor category. Majority of the households in the sample villages belong to Hindus in both Udaipur and Sriganganagar districts followed by Sikhs (14.1 per cent). The percentage of Muslim minority is negligible. District wise data shows that in Udaipur the majority of the households belong to the Hindu community, while Ganganagar has a mixed population with the majority population being Hindus i.e. 59.6 per cent followed by 39.2 percent Sikhs and 1.2 per cent Muslims.

Agriculture is the main source of livelihood in both districts as in the entire state. Agarwal (1994) which one asserts that, agricultural land continues to be one of the most important forms of property and productive assets in rural India today. It is a critical contributor to economic well-being, social status and political power. Access to land can prove important for women, even if the plot size is not large enough to serve as the sole basis of livelihood. It can, for instance, be a critical element in a diversified livelihood system. A small plot that is insufficient for subsistence through crop cultivation can still add to other means of earnings (Agarwal 1994).

Our study demonstrates that a large majority of households with women having land in their name have agriculture as the main source of income in both districts. 93 percent HHs with women having land in Sriganganagar have agriculture as the major source of income while in Udaipur 86 percent HHs with women having land in their name have agriculture as the main source of income. 7 percent HHs with women having land in Sriganganagar draw income from allied agriculture, non-farm self employment and other sources. Some of the key industries in the area are mustard oil mills, cotton ginning and pressing factories, wheat flour mills and the famous Rajasthan State Ganganagar Sugar Mills Ltd., which is known for its Royal Heritage Liqueurs. It also has spinning and textile factories such as J C T Mills.

In Udaipur the significant contribution of non-farm sector is visible for augmenting household's income for all categories of farmers in general, and small and marginal farmers in particular, with 8 percent HHs with women having land in their name drawing income from non-farm activities and other sources. The area is known for honey bee farming, mining of zinc, copper and stone. Hence, having some land has considerably expanded the range of non-farm options for women and has proved necessary for viable rural non-farm activity.

However, it is also a fact that though a large majority of women make a considerable contribution to agricultural production, they do not have legal rights to ownership of land a vast gap is visible between law and practice. Hence, effective rights in property are denied to women as they confront numerous legal, social, cultural, administrative and ideological obstacles. While significant changes have taken place in the legal sphere to provide women rights over land, the social framework within which this legal system operates has changed very little.

A key reason why women continue to find it difficult to inherit land despite existing legal provisions is due to persisting patriarchal practices and gender inequalities. Several social customs and norms continue to prevent women from making claims over land. Gender inequalities in access to land cut across intersectionalities of caste, class, age, religion and ethnicity.

As mentioned earlier, tribals in Rajasthan, like elsewhere in India, follow their customary laws. Tribal customary laws in the state are neither codified nor recognized in reference to tenancy rights. Tribals, especially tribal women, get easily exploited by government functionaries who apply provisions of the Hindu Succession Act in certain cases but apply the 'Shashtriya' Hindu Law in others. Since the latter gives inheritance rights only to the male members, the vulnerability of tribal women increases, thereby weakening their condition further.

Several Civil Society Organisations (CSOs) and NGOs have taken up issues related to land rights of tribal/dalits and more marginalised women including widows and single women. While these movements have gained a presence, they have yet to gain a state wide momentum. On its part, the government has made only token changes in favour of women by reducing the stamp duty on registration of land in women's name.

The study underscores the linkages between women's access to land and development. In areas which are more developed, have predominantly upper caste populations with non-poor households and fall in the category of marginal farmers, women have greater access to land and house. However, besides development, other socio-cultural factors also influence women's access to land. In Sriganaganagar district, OBC is the dominant caste primarily constituted by Jat Sikhs, Jats, Khatis, Nai, Swami and Kumhar. However, intra-caste variations are distinct with Jat Sikhs being the predominant landed community. The district has a sizeable proportion of households who are Pong Dam oustees from Kangra (Himachal Pradesh). They have been allotted land by the government and identified as General castes in the district records. Many women belonging to these households have been allotted land in their name. However, some of the landed families do not reside in the area but in Himachal Pradesh. It is common for family members to give land in women's name among these communities.

In this village most of the households belong to Pong Dam oustees from Kangra. It is a common practice to register land in the name of women. Earlier title deeds were largely in the name of men. Change is discernable after 2005 and now title deeds are also registered in the name of the wife and daughters. In the case of homestead land when the head of the household dies, the land is mostly registered in the name of the male heir and the wife. Daughters often relinquish their claims in favour of brothers.

Village 19 GD, Gharsana. Source: IDSJ 2011

Where the Hindu Succession (Amendment) Act, 2005 is concerned, there are several loopholes by which women are deprived of their right to land. Provisions in the release deed where women (sisters and mother) release/relinquish (haqtyagna) their share in the holding in the name of brothers and sons are very simple. Relinquishing land is easy as it only requires signing on a Rs.100 stamp paper. Many women in Sriganaganagar reported that they had given their land to their brothers for two reasons. Firstly, because they feel that in case they refuse to do so they will face social stigma from the community for 'not loving' the brothers and second, the brothers provide social security.

In Udaipur the dominant castes among the ST category are Bhils, Meenas and Garasias. Men of the community are hesitant to give land to women as they do not trust them. The reason behind this is that *nata* is customarily practised among Bhils. This system of second marriage, which confers a lower position on women and weakens their position, thereby establishes that the men can enter into multiple marriages, but a woman can only go into *nata*. The tribal community believes that if men of the community give land in a woman's name and she enters into *Nata*, the children are deprived of their right in the father's land and property whereas the woman is entitled to get a share in the second husband's property. The police are reluctant to intervene in such matters under the garb of its policy of non interference in customary law. The rights of tribal women have also been taken up by women's/other collectives. One such collective is the Ekal Nari Shakti Sanghathan. Becoming part of this collective has led to greater confidence and articulation among tribal to voice their issues. Many women have been enabled to access their land rights because of the backing of this collective.

Where ownership of house is concerned, majority of the women owning a house are Hindus with the highest percentage belonging to STs^v (all STs in State are Hindus) followed by BC. The poverty status indicates that women owning house largely belong to the non-poor category. Households in the name of women fall in the category of marginal farmers. Majority are female headed. There seems to be a weak link between landholding of the households and women owning house. It is, therefore, not necessary that big farmers give the title deed of the house to women. In rural Rajasthan there is no practice of registering the house. Ownership of the house is determined by the name of the person, often the head of the household (usually male), whose name appears in the ration card or electricity bill/voting list.

The main source of obtaining house continues to be the marital family. Majority of women receiving house from marital family belong to ST households and are marginal farmers. The higher percentage of women receiving land from natal family in Sriganganagar is indicative of the fact that among the Sikh community in Sriganganagar, land is often given to daughters. But often daughters are given in marriage to NRIs settled in Canada and live abroad and very few, therefore, assert their rights over their land back home. In most cases the brothers manage the land and share the profits from agricultural produce when the sisters visit once every few years. None of the women in the sample households have received houses from a government source.

70 year old Joginder Kaur is a resident of village 37 BB in Padmpur block of Ganganagar district. She belongs to the Jat Sikh community and has no informal education. Her husband died 30 years ago. She has five daughters and two sons. All her daughters are married and three of them now live in Canada. Joginder Kaur lives with her sons. They own 46 bighas of land and it is looked after by the sons. The main source of income is agriculture. Joginder Kaur of her free will gave 4 bighas of land to each of her daughters. The daughters who live in India are given a share of agriculture produce. When the daughters who live in Canada visit India the family spends a considerable amount of money on buying them gifts including clothing and jewellery. The relationship between the brothers and sisters is cordial. Joginder Kaur asserts that she is proud of the fact that she has been fair to her daughters by giving them a share in the parental property.

Block Padmpur 37 BB

Our data also shows that maximum percentage of widows have received house from marital family i.e. 52 percent, but most of the houses are in joint ownership with other male members of the family i.e. son, nephew etc. 44 percent women receiving house from marital family are currently married, 3 percent fall in the category of unmarried women whereas a very small percentage i.e. 1 per cent fall in the category of divorced/separated and unmarried women, denoting that this category of women are the most marginalized groups within the patriarchal set up of the state.

It is assumed that women's access to land is closely related to awareness of inheritance laws. The HSA 1956 and the amendment Act 2005 are important as HSA 2005 also gives women rights to parental dwelling house. Our study reveals that cutting across religion, social category, poverty status and size of landholding, awareness levels regarding HSA 1956, 2005 or any other Acts is low. Of the two variants i.e. land and dwelling house, Hindu women in the study area are more aware of land rights followed by awareness regarding dwelling house. Among these, majority belong to OBC communities. They belong to non-poor households and fall in the category of marginal farmers.

In both, the developed and less developed districts, overall women who have control over land participate more in agricultural activities. However, there is a distinct difference between the two districts, Sriganaganagar and Udaipur in this regard. In the former, a direct correlation is found between control over land and participation in agriculture. Since there is greater dependence on canal irrigation, the percentage of women owning agricultural tools and participating in agriculture is again higher. Women having good and irrigated land also have greater participation in agriculture. In Udaipur, by contrast, women's participation in agriculture is low; nonetheless, women who own pump sets were more likely to participate in agriculture.

Women's participation in agriculture in both the developed and less developed districts has increased. Women belonging to marginal farmer households in the less developed district and women belonging to small and medium farmer HHs in the developed district had greater probability of participating in agriculture. However, it is evident that in both the developed and less developed district, the participation of women belonging to poorer households is greater where agricultural activities are concerned. The role of government programmes has not made a significant contribution in increasing women's participation in agriculture.

Data indicates that the women owning land and participating in agriculture activity had higher chances of participating in decision-making regarding land-use, agricultural inputs, agricultural credit, marketing agricultural produce and negotiating with the concerned public institutions. They also participate in procuring production inputs, gaining information on new technologies, obtaining agricultural credit and marketing agricultural produce and interacting with the public institutions concerned, in comparison to women who owned land and had not participated in agriculture. It is also interesting to note that women who did not have land but had participated in agriculture had no role in these two spheres of participation.

In attempting to analyze whether women approach various institutions at the local level for demanding their entitlement to land and resolution of disputes related to land rights, the study

highlights that caste organisations play an important role in the study area, especially in resolution of disputes related to land, followed by gram panchayat. Women are hesitant to approach the police for help. In Udaipur district, 40 percent women were found to be approaching caste organisations for resolution of land disputes and 33.3 percent had approached the gram panchayat. The percentage of women approaching the police or other organisations i.e. NGOs, was 13.3 percent. In contrast, in Sriganganagar district there was an absence of cases related to land taken up by individual women. Women who own land can be divided into two categories: (i) women who own land but are not residing in the village. They mostly live out of Rajasthan or abroad and (ii) women who belong to rehabilitated families and their cases are mostly taken up collectively by members of households who have been rehabilitated and hence chances of litigation are minimal.

In exploring the linkages between women's participation in agriculture and women's empowerment, the paper underscores that access to land is the initial step in ensuring control over land. Women's access to land may increase their participation in agriculture, which in turn may lead to decision making in utilisation of productive resources and ultimately to ownership of land. Ownership of land rights is seen as a definite step in women's empowerment as it enables them to expand their space at the household level, especially in organizing agriculture. However, it has not significantly impacted the expansion of spaces to other domains of participation at the household and community level as cutting across castes and class divides increased educational levels have not necessarily led to greater participation or voice in decision making.

Owning of land and participating in agriculture has had some positive though not significant impact on women's mobility and autonomy. Despite district wise variations, a large majority of women who owned land reported that their self esteem had gone up and they were more confident as a result of owning land. They also said that the respect they received in their families had gone up. District wise variations revealed that the tribal women in Udaipur reported lower self esteem and confidence as compared to women in Sriganganagar district. A small percentage of women reported that their husbands felt disempowered due to their (wives) owning land. Women who owned land also stated their standard of living had improved with increased access to land. Some also asserted that they were treating their daughters at par with their sons and their husbands were helping in household work. This percentage was lower in the less developed district.

Land rights can serve manifold functions in rural women's lives and empower them to challenge socio-economic and political inequalities prevalent in a patriarchal feudal state like Rajasthan. Women's access to land can lead to alleviating poverty, employment creation, improving agricultural productivity, and promoting gender equality. However, women's access to land has to necessarily be backed by effective control over productive resources in a state like Rajasthan ridden with discrimination based on class, caste and patriarchy. Alongside the value systems, culture and the nature of institutions, including the family, need to change. The existing social and political movements in the state need to expand and be intensified to include issues related to women and land rights.

Section IV

Recommendations and Conclusions

Some recommendations emerging from the paper emphasise that notwithstanding legal enactments put in place for enabling women to access their land rights, effective rights are contingent on two factors, both the existing socio-economic conditions and the role of implementing agencies. Policy implications regarding women's access to land essentially need to touch upon both these aspects. At a broader level, State policy needs to focus on more inclusive development strategies across geographical regions resulting in better indicators for gender and development.

Most women are not aware of the steps involved in obtaining operational rights to avail benefits of owning land from the government. State interventions also require a more focused attention to raise awareness among women regarding their rights to land. There is a need for legal awareness camps and providing legal aid to women cultivators and landowners to prevent them from situations that hinder them from gaining access and control over their land. At another level, the state has to take an initiative to raise the awareness levels of the implementing agencies regarding HSA 2005, by issuing relevant rules and directives.

In order to facilitate obtaining operational rights over land by women, a 'Single window approach' to land records with close coordination between Survey, Revenue and Registration departments has recently been introduced. However, it needs to be strengthened.

At present the HSA 2005 is not applicable to Bhil Meenas in the state. Hence daughters do not have right to ancestral property since customary laws are applicable. There is a need to amend the central legislation to include tribal groups under HSA 2005 in order to make it more inclusive.

The institutions of Panchayati Raj or/and the Revenue Department dealing with the implementation of issues related to women's access to land can be linked to the women's Self Help Groups (SHGs) at various levels (village, block and the district) for better implementation of both inheritance rights as well as government land distribution programmes. Linkages with Civil Society Organizations and NGOs can also be established for effective dissemination of knowledge on women's land rights and implementation strategies for better access to land by women.

It is evident that women's participation in agriculture has been high, especially in the case of marginalized sections like the SC, ST. But state interventions are not adequate to make their participation more productive and effective. Secure rights to land for women are one aspect for ensuring productive use of land. Another important realm is the government intervention in making appropriate programme design and implementation for their productive participation in agriculture. To make institutions sensitive to women's needs, women's 'voice' needs to be integrated into both the design and the implementation of different programmes. Women in tribal areas need to be prioritized and strategies developed that are suitable to their needs and conditions. It is also important to enhance the overall infrastructure in agriculture by enhancing financial allocations which facilitate supply induced conditions through which women also can effectively participate in agriculture.

One of the biggest challenges encountered in analyzing gender issues pertaining to land rights in the state has been the lack of sex disaggregated data. It is strongly recommended that sex disaggregated data be generated at the state level. The Board of Revenue, Government of Rajasthan in particular could evolve a system to generate sex disaggregated data on land records. This will enable better planning and policy analysis.

For any land transaction in the state, three documents are required i.e. the jamabandi (registry), khasra girdawari (record of land use) and the site map. Computerisation of land records in the state has so far been limited to only registered land. There is need to computerise the information of the other two related documents. This will facilitate the availability of all information related to any piece of land at one place. The computerisation of all three documents will have a positive impact on women's right to land as it will lead to direct transfer of the land to all legal heirs at the time of mutation. The role of revenue officials will be limited to the post land transfer phase. This step will ensure that the percentage of release deeds signed in favour of brothers will reduce because the land would already be in women's/girls' name. At present brothers get the release deed signed before the land is transferred in the name of the sister. Recently, the GoR has made an attempt to digitise land records and an investor can extract copy of land records along with details of mutation from Apnakhata^{vi}. Women, especially non-literate women, need to be made aware of these developments.

Relinquishing of land owned by women in favour of their brothers is a relatively simple procedure in Rajasthan. It requires merely her signature on a Rs. 100/- stamp paper in the presence of the tehsildar. It should be ensured that if women relinquish their claims, the relinquishment is done through a formal deed of law rather than informally. To deter this practice, the value of the formal deed should be increased to 1/3rd of women's share of land.

All landowners in rural areas are entitled to loans from cooperative banks. A policy decision should be taken to increase the number of women who can avail loans by increasing the loan amount and reducing the rate of interest. This will lead to greater number of land deeds being registered in women's name.

Inheritance laws in the state should be made more stringent and care should be taken while implementing laws to ensure that daughters are not deprived of their right to inheritance. Fathers should not be allowed to deprive their daughters of their share in inheritance and partition of property by resorting to the provision of making a will in favour of sons. The violation of the law of succession should be made a cognizable offence.

Revenue and other officials of the state also need to be sensitised to the needs of women cultivators. They should make sure that women's rights to land are not encroached upon by collaterals and others in mutations, jamabandis, and 'girdawari' records. Their approach to women landowners and cultivators needs to be more sensitive. Towards this end, special trainings need to be organised by the government. A women-friendly environment could be created by appointing a greater number of women revenue officials.

Village-based NGOs/CSOs, women's organisations and other groups should be encouraged to take up individual cases of discrimination in matters of inheritance and usurpation of women's rights to land and property and act as watchdogs for women's interests. NGOs can also help to create strong public opinion against infringement of laws in general and on the positive aspects of women inheriting and owning land.

The state officials need to generate awareness among women farmers on new agricultural technologies and practices through the provision of agricultural knowledge and experience. Special training should be provided to women farmers to raise their management and risk bearing capacity and to help them access easy capital, facilitate marketing and procuring remunerative prices for their produce. The training programmes should be designed keeping in mind the special characteristics and requirements of women cultivators who are in large majority in the state.

Conclusion

Land is the major means of productive activity in rural Rajasthan. Ownership and effective control of land is crucial for women's empowerment. This can be made possible through a socio-cultural environment which is supportive of the implementation of legal measures and Acts. However, land rights in the state are embedded in a strong cultural bias against female inheritance in the implementation of laws. This has prevented women from having effective ownership of land rights. Alongside, several socio-cultural practices continue to exist, which hinder women's access to land and restrict the expansion of spaces in agriculture as well in their participation in other domains at the household and community level. Women's empowerment through land rights requires removing the persisting gender inequalities and barriers at multiple levels. One of the main challenges in this regard relates to the social acceptance of women's right to land cutting across caste, class and religious groups.

Notes

- i. This paper has relied up on an earlier study conducted by the author and a team of researchers from IDSJ in the year 2011. Data was collected from 240 households in two districts, 12 villages of 4 blocks of Rajasthan. Jhadol and Salumbar block in Udaipur district and Gharsana and Padampur block in Sriganganagar district were surveyed.
- ii. The custom of *nata* initially took place when one of the partners in a marriage died or simply walked out on the other or when they separated due to disagreement. This system of second or subsequent marriage took place within the caste and predominantly with the desire and consent of the ex-husband and the girl's father and generally with the girl's approval. The man who accepted the woman in *nata* had to pay a mutually agreed upon sum of money (jhagra) usually to the former husband
- iii. HSA 2005 gives the following rights to daughters under Section 6:
The daughter of a coparcener shall by birth become a coparcener in her own right in the same manner as the son; She has the same rights in the coparcenary property as she would have had if she had been a son; She shall be subject to the same liability in the said

coparcenary property as that of a son; and any reference to a Hindu Mitakshara coparceners shall be deemed to include a reference to a daughter of a coparcener; She is allotted the same share as is allotted to a son; The share of the pre-deceased son or a pre-deceased daughter shall be allotted to the surviving child of such pre-deceased son or of such pre-deceased daughter; The share of the pre-deceased child of a pre-deceased son or of a pre-deceased daughter shall be allotted to the child of such pre-deceased

- iv. There is no provision for sanctioning special packages under IAY except for release of a small amount out of five percent IAY funds meant for natural calamity to meet the exigencies of certain natural calamities like heavy rains, floods, cyclones, earthquakes, fire, etc.
- v. Few families have converted to Christianity but none of them belonged to our sample.
- vi. Apnakhata is Rajasthan Government's project which works under the Revenue Department of Rajasthan Ajmer. This project was started to provide Online Records of Rights (NAKAL) of Land Records of Rajasthan State. Authorized copy of Records of Rights (NAKAL) can be obtained from selected kiosks. The land-holders' entire record can now be viewed by selecting tehsil, name, Khata (account) and Khasra (serial) numbers on apnakhata website apnakhata.raj.nic.in.

Appendix Table 1. Progress and achievement against Targets

| Year | Allotment of Land pattas Under Rule 157 | | Regularization of land to people up to 2003 Under Rule 157 (2) | | Allotment of plots Under Rule 158 | | Allotment of free of cost plots to BPL families | |
|--------------|---|---------------|--|---------------|-----------------------------------|--------------|---|---------------|
| | Target | Achievement | Target | Achievement | Target | Achievement | Target | Achievement |
| 2007-08 | 30000 | 48380 | 30000 | 22889 | 17000 | 23564 | 13000 | 15016 |
| 2008-09 | 20000 | 28538 | 10000 | 20245 | 17000 | 16815 | 13000 | 20017 |
| 2009-10 | 20000 | 24153 | 10000 | 14662 | 17000 | 13436 | 13000 | 14336 |
| 2010-11 | 20000 | 255801 | 10000 | 20632 | 17000 | 51892 | 13000 | 106697 |
| 2011-12 | 20000 | 27112 | 10000 | 13087 | 17000 | 10700 | 13000 | 24710 |
| 2012-13 | 20000 | 49170 | 10000 | 21856 | 17000 | 14846 | 12900 | 26839 |
| 2013-14 | 20000 | 33459 | 10000 | 8688 | 17000 | 9198 | 13000 | 11701 |
| 2014-15 | 20000 | 15096 | 10000 | 5387 | 17000 | 720 | 13000 | 5837 |
| Total | 170000 | 481704 | 100000 | 127146 | 136000 | 14778 | 103900 | 225163 |

Appendix Table 2. Allotee type wise Number of House Sanctioned under India Awas Yojana during Financial years 2011 to 2015

| Financial Year | Select Scheme | Registered in MIS | | | Scheme House Sanctioned | | | Total |
|----------------|---|-------------------|-----------------|-----------------|-------------------------|-----------------|-------------------|----------------|
| | | Male | Female | M+F | Male | Female | M+F | |
| 2011-12 | Special Package | 7608 (13.5) | 41117 (73.4) | 7323 (13.1) | 56048 (100) | 40443 (13.6) | 7295 (13.2) | 55255 (100) |
| 2012-13 | IAY New 14713 Construction (Target-68578) | 47592 (20.9) | 7931 (67.8) | 70236 (11.3) | 14599 (100) | 7834 (67.7) | 69546 (11.3) | (100) |
| 2013-14 | IAY New 26051 Construction (Target-85460) | 51410 (29.7) | 10361 (58.5) | 87822 (11.8) | 25757 (100) | 10236 (58.4) | (86390) (11.8) | (100) |
| 2013-14 | Special Package | 6 (6.7) | 84 (93.3) | | 90 (100) | 10 (100) | 0 | 10 (100) |
| 2014-15 | IAY New 22281 Construction (Target-76068) | 30900 (28.7) | 24519 (39.8) | 77700 (31.5) | 21959 (100) | 24201 (39.2) | 75948 (31.9) | (100) |

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