

**Land Ownership Right and  
Women's Empowerment in Gujarat:  
A Critical Assessment**

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## **Abstract**

Given the inherent structural limitations of land reforms it is not surprising that women's land right has not been a rigorous policy concern until recently in India. Limited measures have been taken by the government to address gender inequality and a wide gap exists between the legal framework that enables women to claim their right to land title and the actual extent to which such rights are exercised. Further, few research studies have analysed women's land rights and the associated challenges in Gujarat. In this context this paper considers the issues associated with women's land rights in the changing context of Gujarat's socio-economic and legal landscape. It analyses the Hindu Succession Act (HSA) and its interpretations in terms of state customary laws and the implications of these for gender equality. The paper draws on a series of interviews with state government officials and village level focus group discussions (FGD). Land ownership is limiting when it not translated into control of the land. The issue of land ownership is not just a legal issue, but a complex social and cultural problem. Limited control over land further narrows the authority over loans, income and assets, which impacts their access to social resources such as knowledge, power, and prestige. Therefore, it is essential to challenge orthodox norms so that society can accept the idea of both daughter and son owning land equally.

*Keywords* : Women land ownership, codified law, customary practices, and women empowerment

*JEL Classification* : K38, Q15, R52.

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# Land Ownership Right and Women's Empowerment in Gujarat: A Critical Assessment

Itishree Pattnaik

## 1. Introduction

Empowerment refers to women's role or perceived ability to control or change different aspects of their personal, social, political and economic development. Empowerment is a relative measure, not an absolute one. It is a non-linear process of change rather than a targeted or defined outcome. Its interpretation is subject to complex contexts of culture, values, knowledge, relationships and behaviours; it is constantly negotiated and contested on an individual basis and at household and community levels. In sum, it is a measure of relative social status that is difficult to catalogue and compare" (Action Aid 2013: 9). However, studies have established a close correspondence between women land ownership and indicators of economic and social development (Cross and Hornby 1999; Datt et al. 1999). Women's ownership of farm land is seen as a critical step not only for increasing their empowerment but also for improving farm productivity (Rao 2007). Women land ownership is linked with the improvement in both individual and family nutrition (Allendorf 2007; Jose and Navaneetham 2008; Katz and Chamorro 2002), children's education achievement (Katz and Chamorro 2002), ability to participate in decision making (Datt et al., 1999; Allendorf 2007), increased representation at community group meetings (Datt et al. 1999; UN Women 2013) and reduction in physical and psychological domestic violence (Panda 2006; Gupta 2006). It is nothing short of an irony that though women have the same legal rights to own land like men, in reality they hold less than 10% of privately held land (RDI 2009).

According to Census 2011, as many as 65% of the total women work-force is engaged in agriculture-related activity either as cultivators or agricultural labour compared to just 49% of men. Yet, only 14% of land holdings are in the names of women. In the absence of the land holding title, woman are deprived from accessing a number of benefits such as institutional credit, bank loans and barred from government schemes for agricultural benefits, which can help in alleviating poverty (Saxena 2012). Lack of property rights leads to sub-optimal decisions and missed opportunities to increase productivity (RDI 2009). Thus, land ownership is a step towards enhancing women's economic and social empowerment and reducing multi-layered discrimination. In other words, women's empowerment can be understood as an important factor for reducing gender

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discrimination and improving nutritional outcomes for women (Jose and Navaneetham 2008; Sethuraman and Nata 2007).

In this background, the paper attempts to critically assess the status of women land rights in the state of Gujarat in a changing legal and socio-economic scenario. The major part of analysis is drawn from the secondary sources *viz.*, articles published in journals and books, government reports, private reports (published by Working Group for Women and Land Ownership [WGWLO] that addresses women's land rights in Gujarat) and acts like Hindu Succession Act and Muslim Personal Law. This data is complimented by primary information collected through a series of interview sessions with lawyers practicing in Gujarat courts, government officials representing the departments of revenue, women and child development, rural development and tribal development. Interviews were held with resource persons from the Gender Resource Centre and representatives of non-government organisations (NGO) working on women related issues. Focus group discussions (FGD) targeting women were also moderated in two villages, Balda and Ankhholm, in the districts of Ahmedabad and Meshana respectively.

## **2. Analysing women land ownership status**

On 1st May 1960, Bombay state bifurcated into Gujarat and Maharashtra. The new state formed the Land Ceiling Act, 1960 that provisioned a fixed ceiling on future acquisitions as well as for existing holders. The main aim of the reform policies was to provide land to the tillers. But there has been hardly any focus on distributing land to single women in Gujarat because the aim of these land reform policies was to transfer the land to the tillers, mainly men, who were recognized as the sole cultivators, and women were least recognized as farmers/cultivators. The issue of women's land ownership could come to light only after land reform and re-distribution policy was long over. It was only after the eighth five-year-plan that the government raised concern about the joint *patta* of land between spouses. The central government directed the states to register government allotted wasteland and ceiling surpluses in joint names. However, they remained indifferent on the inequalities in devolution laws regarding women. Thus, gender equality in regard to the land title has been limited only to the land redistributed by the government. The tenth five-year-plan raised concern about increasing women's access to land after the NSSO data highlighted the increasing participation of women in agriculture. The eleventh five-year-plan gave importance to women group farming; especially single women through joint ownership or leasing of land. However, none of these government plans and policies raised the issue of discriminatory inheritance laws against women.

Even when women participated in peasant movements like Pardi Satyagraha in 1953–1965 (Desai 2002) and tribal led movement in the eastern belt of Gujarat in 1980s and 1990s (Jani 2002), focus on gender issue was completely lacking. Similar was the story of the Mahuva *Andolan* to protect the ecologically sensitive wastelands against the construction of a cement plant by Nirma in which involvement of women was very prominent. The aim of the protest was to provide land to the landless people so that it could be retained with the community. When the plant construction was stopped after Supreme Court’s intervention, no effort was seen have been made to consider women for their ownership over the wasteland (Ganguly 2014).

The above discussion on land reform movements for land rights only reiterates that the land is always seen as family asset and only men are perceived to be the head of the household. Hence, even if the allocation of land titles takes place, it is always in the name of men. There are not many evidences of allocation of land to women. Even the women receiving land in rare circumstances have to put up with harsh opposition from male-dominated society. As a result even women holding any amount of land could not assert themselves either in economic terms or enhancing their social status. This was mainly because of lack of institutional support system. Sadly, neither the land reform acts nor do the civil society movements seem to have taken women’s land rights issue seriously to make any positive difference.

As per Census 2011, around 65% of women work in agriculture (as cultivators and agricultural labourers) compared to 44% of males. The share of women in agriculture in Gujarat is almost similar to the national figure, whereas the share of male workers is less than the all India share (49%). Female representation further increases when we consider the rural population alone (80% of workers in agriculture) and the share has almost remained stagnant over the period 1991–2011. The share of women workers in agriculture is higher than that of males, which shows the important role of women in agriculture in rural Gujarat. The share of women as agricultural labour is 57% which is significantly higher than cultivators which represent only 22% (Table 1).

**Table 1: Gender wise Participation in Agriculture in Gujarat**

| Total        | Cultivators |        | Agricultural Labours |        | Females in agriculture | Males in agriculture |
|--------------|-------------|--------|----------------------|--------|------------------------|----------------------|
|              | Male        | Female | Male                 | Female |                        |                      |
| <b>Total</b> |             |        |                      |        |                        |                      |
| 1991         | 26.3        | 30.5   | 14.2                 | 44.7   | 75.2                   | 40.6                 |
| 2001         | 27.0        | 28.0   | 17.3                 | 39.1   | 67.1                   | 44.3                 |
| 2011         | 23.6        | 17.8   | 20.3                 | 47.1   | 64.9                   | 43.9                 |
| <b>Rural</b> |             |        |                      |        |                        |                      |
| 1991         | 34.0        | 32.8   | 17.7                 | 47.3   | 80.0                   | 51.7                 |
| 2001         | 42.3        | 31.5   | 26.5                 | 43.4   | 74.9                   | 68.8                 |
| 2011         | 40.1        | 21.7   | 33.5                 | 56.9   | 78.6                   | 73.6                 |

Source: *Census of India* (2011).



Despite high participation of women in agriculture, there is no gender-disaggregated land ownership data available in the state or at national level. However, the closest information of land ownership could be gathered through operational holdings.<sup>1</sup>As noted by Rao (2011), the information on operational holding reflects the extent to which women have authority or autonomy to make agricultural decisions. When the officials of Revenue Department were inquired about the absence of gender-wise record maintenance and its usefulness in formulating policy specific to women, they could only respond that collecting gender-wise data was never practiced.

**Table 2: Share of women land holding in Gujarat**

|                       | Individual holding |      | Joint Holding |      | Total Holding |      |
|-----------------------|--------------------|------|---------------|------|---------------|------|
|                       | Female             | Male | Female        | Male | Female        | Male |
| <b>India</b>          |                    |      |               |      |               |      |
| Number (share)        | 13.5               | 86.5 | 8.7           | 91.3 | 12.8          | 87.1 |
| Area (share)          | 10.9               | 89.1 | 8.1           | 91.9 | 10.3          | 88.7 |
| <b>Gujarat</b>        |                    |      |               |      |               |      |
| <b>Number (share)</b> | 10.3               | 89.7 | 20.1          | 79.9 | 14.1          | 85.9 |
| <b>Area (share)</b>   | 9.1                | 90.9 | 20.2          | 79.8 | 13.2          | 86.8 |

Source: *Agricultural Census, 2010-11*.

Note: Share of women land holding to the total land holding in number and area (in ha).

Based on the operational land holding information, women in Gujarat appear to own only 10.3% of land holdings (9% share in area) while men are the owners over 89.7% (91% area) (Table 2). This unequal land holding between men and women is marginally more in Gujarat as compared to the national average of 13.5% among women operating 11% of land. However, women's share in total land holding (both individual and joint) in Gujarat is higher than all India (12.8%). When it comes to average land holding in

<sup>1</sup> Operational holding in the Agricultural Census (<http://agcensus.nic.in>) is defined as all land, which is used for agricultural production and is operated as one unit by a person alone or with others without regard to the title, legal form, size or location. An operational holding comprises: i) land owned and self-operated; ii) land leased in; and iii) land otherwise operated. An operational holder is the person who has the responsibility for the operation of the agricultural holding and who exercises the technical initiative and is responsible for its operation. The person may have full economic responsibility or may share it with others. The operational holder may be individual, joint or institutional. An individual holding is defined as one that is operated by one person either alone or by a group of persons, who are the members of the same household. By far, the largest proportion of agricultural holdings in the country is individual holdings.

hectares, land operated by women in individual ownership in Gujarat is less than 2 hectare as compared to 1 hectare at all India level.

Although there are not many studies specific to this issue, a couple of them endorse the skewed ownership of land between men and women. The study by WGWLO (2004) covered 23 villages across 15 talukas and 10 districts in Gujarat. The result shows that in a sample of 4749, as high as 88% of land was owned by men and only 561 (11.7%) by women, highlighting the continued gender inequality in land ownership in Gujarat. An ongoing study by this author<sup>2</sup> exploring the question 'do women own land' (covering four districts and eight villages in Gujarat) has found only 3% of women to own land. This was highest in Rajkot (North Saurashtra) followed by Patan (North Gujarat) and Valsad (South Gujarat), respectively. Women land ownership was the lowest in tribal areas of Panchmahals. Most of the women owning land title in their name in Rajkot and Valsad were either due to widowhood or their husbands transferred land in their name in order to get concession from stamp duty.

Scheduled tribes (STs) constitute around 15% of Gujarat's total population. The gender ratio of STs is 981 which is higher than the state average of 919 (Census of India, 2011). In terms of work participation among the *dalits* (Scheduled Caste) and *adivasis* (STs), around 46% and 81%, respectively, are engaged in agriculture (ibid.). The share increases to 60% and 86%, respectively, when we consider total women workers engaged in agriculture among these sections. The incidence of poverty is dominant among both adivasis and dalits, which is linked to their low productive asset status and low education<sup>3</sup> (Desai and Kulkarni 2008; Velayudhan 2012). In Gujarat, poverty reduction remains lowest among adivasis (Shah 2014; Mehta 2006). If the position of women operating land holdings is considered, it could be observed that, 85% of land is in the control of women belonging to general caste, whereas adivasis and dalits possess only 15% (Table 3). Between them, operational holdings are lowest among the dalits, implying further deprivation of the SC women compared to general and tribal categories. Nevertheless, the incidence of disparity in land holdings was higher among the dalits and the adivasis, mainly because of the low level of education, lack of awareness and access to other productive assets (Kulkarni et.al. 2008; RDI 2009).

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<sup>2</sup> The on-going project titled 'Challenges of Feminized Agriculture in India', (supported by the Australian Research Council and Indian Council of Social Science Research, New Delhi), aims at examining the role of women in agriculture in two states i.e. Gujarat and West Bengal. The study was conducted in eight villages of Gujarat covering four districts. House listing of 3235 households was conducted across eight villages. We have asked a question during the survey 'do women of the family own land in their own name'?

<sup>3</sup> As per the 2011 census, the effective literacy rate is 62.5% in ST population compared to 78% of Gujarat. Female literacy rate is 53% for the STs compared to 70% of the state.

**Table 3: Share of operational holding by women by caste in Gujarat (2010-11)**

| Caste groups | Individual Holdings |      | Joint Holdings |      | Total holdings |      |
|--------------|---------------------|------|----------------|------|----------------|------|
|              | Number              | Area | No.            | Area | No.            | Area |
| <b>SC</b>    | 3.1                 | 3.0  | 4.1            | 3.5  | 3.7            | 3.3  |
| <b>ST</b>    | 7.2                 | 5.6  | 14.3           | 15.5 | 11.2           | 11.3 |
| <b>Gen</b>   | 89.7                | 91.4 | 81.6           | 81.0 | 85.2           | 85.4 |

Source: Calculated from Agricultural Census database.

If average land holding size is worked out for the different caste groups in Gujarat during 2010–11, adivasis find themselves lowly placed (1.50 ha) compared to others (dalits and general caste– 1.91 ha and 2.05 ha, respectively) (Agricultural Census 2011). Here it is important to note that most of their lands are not in the records of Revenue Department as yet despite implementation of Forest Rights Act (FRA) started in 2008 (Bandi 2014). Though gender disparities are less pronounced in tribal areas having the highest sex ratio in Gujarat, tribal woman face certain discrimination in areas of wages and access and control over land, credit, income, technology, education, health and skilled work. The property rights of the tribal women are poor as they continue to be ruled by an obsolete system of customary law under which they lack rights of succession or partition of ancestral property. In the tribal areas, the *varsai* (inheritance) has not been conducted for last two to three generations. There are many cases of widows and other single women who are deprived of their rightful share of land (Chauhan 2007). In the tribal region, women’s entitlement to own land or other assets is decided by the community *panch* (traditional decision-making bodies). In the absence of property right, most of the decisions favour men since the composition of panch members is invariably constituted of men.

### Box 1

#### *Tribal Women and Land Inheritance Customs*

There are around 20 major ST groups in Gujarat and among them *Bhil, Dubla, Dhodiya and Gamit* are prominent groups. Among the Gamit tribe, unlike other tribal communities, the system of joint family still exists. As per rule followed among Gamit, the land is not divided until father or head of the family is deceased. The property is inherited equally by the male children, and it is the eldest son who becomes *equigeniture* head of the household on the death of father. There also prevails the system of *gharjamai* among the Gamits and the land is distributed among the daughters of the family (Vaghela 2011). Another prominent ST of Gujarat is *Kotwadias*, who are concentrated in the districts of Surat, Valsad, Bharuch and the Dangs. Nuclear family is more common among them. Sons inherit the property equally while the eldest son succeeds the authority and women land inheritance is not allowed.

Source: Interviews with the officials of Tribal Development Department, Government of Gujarat.

### 3. Understanding Land Acts enshrined in the Constitution

**Hindu Succession Act (HSA), 1956/2005:** Inheritance rights to land, particularly agricultural land, have been most difficult to enact in India (Agarwal 1994). After almost 50 years, the HSA, 1956 was amended in 2005 to recognize the inheritance right of daughters and married women. The law recognized daughters and married women as coparceners of joint family property (174<sup>th</sup> Report of the Law Commission of India on "Property Rights of Women: Proposed Reform under the Hindu Law"). First, the 2005 Act by deleting a major gender discriminatory clause—Section 4 (2) of the 1956 HSA—has made women's inheritance rights in agricultural land equal to men. Section 4(2) excluded from the purview of the HSA significant interests in agricultural land, the inheritance of which was subject to the succession rules specified in state-level tenurial laws. Particularly in the north–western states, these laws were highly gender biased and gave primacy to male lineal descendants. Women came very low in the succession order and got only limited estate. The new legislation brings male and female rights in agricultural land at par for all states including Gujarat, overriding any inconsistent state laws. However, the Supreme Court set 9th September 2005 as a cut-off date for women's right to ancestral property.

**Customary laws and inheritance rights:** The moot question remains whether the incidences of women claiming their rights in a joint family property after the enforcement of HSA, 2005 is on the increase or has made no impact at all? Answer to this important query was discouraging if the accounts of Gujarat High Court advocates are to be believed. According to them, there are hardly any cases registered as an after effect of the HSA amendment. The registered cases for land ownership in Gujarat are less than 2%. Even the advocates proclaimed that most of the times the family and the society discourage women from claiming their rightful inheritance of land rights. To illustrate this, one of the advocates narrated a case of a woman. This woman despite being well educated (in profession of medicine) and settled abroad could not pursue her case against her brother to inherit her share of property from her parents. She could sustain for about only two years after which she has to yield to the pressure and harassment from her relatives who have ostracized her out before finally withdrawing the case against her brother. Through intervention from her maternal uncle she could get a paltry sum as share in lieu of a larger share of the land.

The practical status of HSA 2005 is revealed further from the FGD moderated in Ahmedabad, where total nine women (three belonging to Patel, two from *Thakur* and four from dalit communities) shared their experiences. The group as a whole was not aware about land ownership laws in regard to women's entitlements such as in the HSA. The Patel women were not bothered about land inheritance and whether it is in

their favour or not. They were strongly confident that their community would definitely take care of their needs. They asked questions such as, 'why we need land in our name? why it is required?' Most of the women from the *Patel* community are from higher economic class and better educated as compared to the others. The Thakur community was mainly conservative in nature and women were not allowed to take part in any kind of family discussions. Hence, when they were asked about land ownership for women, they expressed their unawareness saying neither they knew the laws nor they were interested to know, as their community would not allow them to be involved in decision making. The thought process of land owning in women's name might not have ever struck them as it is difficult for them to think above the caste and community. One woman of the Thakur caste was found owning land in her name, but she informed that her husband bought the land in her name in order to get concession in stamp duty. She did not know how much land was in her name or when the land was bought. The four dalit women who participated in the FGD belonged to the lower economic strata. These women hardly knew about the land laws but they sincerely expressed their interest in understanding the issue. Some of them reported problems of domestic violence and felt that if they had land in their names they would not have faced such kind of violence. A divorced dalit woman said: "*Had the land been in my name I would have at least something to fall back on, rather than working as a daily wage labour*". This hints towards the link between the domestic violence and ownership over land assets.

In another study, FGD involving seven women belonging to *koli patel* (OBC) (2), *ahir* (2), *brahmin* (2) and dalit (1) communities shed some more light on the reality on ground with regard to HSA. The group consisted of two widows who owned land in their name. One dalit woman was found as owning land as her husband applied for joint ownership. She is very active in the agricultural field and when her husband migrated seasonally, she took care of all the land-related decisions. She was an active worker in the local NGO and with the help of the NGO, she tried to spread awareness among dalit women regarding their rights. She reported that the consumption of alcohol was quite high among men in their community. She observed that there were many incidents of men selling land for alcohol consumption. Thus, had the land been in women's name, the husband would have sought the permission before selling or the woman has the right to intervene. Another widow from Brahmin community had inherited land after her husband's death had to face severe criticism from her relatives. She expressed that she was often called a 'family breaker', '*dayan*' and 'a selfish and characterless women' as she demanded land in her own name. Among the Brahmins in the village, it was a big issue when she demanded her right over land. However, she expressed that for inheritance purposes, she had to transfer the land in her son's name even though she wanted to transfer the same land to her daughter. This woman was quite independent in all household- and farm-related activities, yet she has to depend on her in-laws for selling the farm produce. She has to share the small income with her in-laws as they

helped her to sell the farm produce. Feebleness to deal with the market and lesser bargaining power excludes women from the process of value chain.

In the FGDs conducted by Goutami and Rajgor in 2008 in Kutch, most of the women participating in discussions were found to have taken part in the '*Kutch Zamin-bachao-Andolan*'. Some of them also had land in their names. These women were positive about the women's land ownership. Most of them were of the view that land title in their names gives security, respect and independence. Women with land holding in their names among this group were also active in the public life by associating themselves in various NGOs. However, for land transfer, they preferred daughter-in-law rather than daughter. According to them, as daughters marry outside of the village they will not directly work on the land. Besides, land transfer to daughters was not a socially accepted norm either. Such views of women were strongly influenced by the patriarchal relations. Most of the women from the Ahir caste (OBC) in Rapar taluka of Kutch had joint ownership of land. According to practices in their communities, when a husband opts for the second marriage, the first wife gets a share in his property. However, the woman is not allowed to choose her daughter as the inheritor. Sharing the land with the daughter is not possible, as the community may not allow the son-in-law to till land in the in-law's village. In their community, when women agree to marry a disabled she gets some portion of land or property in her name, showing only when women does some sort of sacrifice, she will receive land title.

**Muslim personal law:** There are very few studies available on Muslim women's land inheritance system in Gujarat. This section is mainly drawn from the discussion with the advocates regarding Muslim laws. It is well known that the Muslim women are governed by the Muslim Personal Law (*Shariat*) Application Act, 1937. In 1986, the Muslim Protection of Rights on Divorce Act was enacted with the aim that Muslim women could avail under Section 125 of the Code of Criminal Procedure (CrPC) for maintenance. This law initiated debate on personal law, gender and identity and the interaction between personal law and the civil law. Unlike in Hindu religion, in Islam, the principles of inheritance are narrated in detail. The heirs include mother, father, husband, widow, daughter, uterine brother and sister, consanguine sister. Females inherit half of the portion of males. Thus, the share of daughter depends on what share the son receives. The wife's share is one-quarter in the absence of child and one-eighth in case of existence of a child. All wives receive an equal share. Muslim population in Gujarat comprised of about 9% in 2001 and this has increased to 11.5% in 2011 (Census 2011). The 2011 Census shows that Muslims in Gujarat have the highest child sex ratio of 927 girl child per 1,000 boys as compared to 917 in Christians and 885 in Hindus.

Land inheritance for women has never been a practice among the Muslims in Gujarat. Cash, jewellery and sometimes cattle are promised as Mehr (an amount promised

during marriage that a husband gives to wife) but not share of land. There are evidences that women may receive a share of the farm produce but not a portion of land. According to the law, women cannot own land when the husband is alive. The practice of oral divorce (*talaq*) and polygamy further complicates the property distribution, as the second wife receives priority while the first wife's right is neglected. According to a Gujarat High Court lawyer, there are almost no cases of Muslim women fighting for property. The lawyers and judges hardly know the integrity of the Muslim Personal Laws. The revenue officers at the block and district level dominantly being Hindu have only a limited understanding of Muslim Personal Law. Concerning inheritance, there are few evidences where the judge has accepted the deceased's multiple marriages and ordered for the equal division of property among wives and children (Velayudhan 2006).

#### **4. Land inheritance and societal impediments for women**

The study conducted by WGWO in 2004 states that around 50% of the total land holding women members had the land transferred in their names due to widowhood, implying the major cause of land transfer as an effect of the husband's decease. Situation in India becomes difficult to draw genuine reason since about 41% of women own land due to voluntary land transfer by husband, providing a positive signal and suggesting changing social dynamics. But in reality, most of the transfers take place to reap the advantage of government policies like receiving tax benefits, saving expenses on entry through the *talatis* or village level officers<sup>4</sup> (registration fee exemption) and escaping the Land Ceiling Act, 1960. Further, most of such women who own land are not actually aware about their ownership status. This raises a serious question about the nature of the 'ownership'. It is doubtful whether the ownership has translated into authority/control, including decision making about the use of land. Thus, the ownership and control are two different things and should not be used interchangeably. The study also found that around 4.5% of women owned land because their husband did not have the farmer status so they could not buy land in their names hence wives name. Same percentage of women inherited land from their maternal side because their parents had no male inheritors. No evidences of daughters owning share of land along with the sons was found.

It is important to mention that there are two types of land ownership – one is 'recorded ownership', which is a formal transfer and the other, 'informal ownership', which is verbal in nature. According to the study by Velayudhan (2008), ownership was mainly

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<sup>4</sup> The 'Nari Gaurav Niti' - the Policy for Gender Equity - of the Government of Gujarat promotes registration of land and property both in sole name of woman as well as under joint ownership of wife and husband" and totally exempts women "from transfer fees and stamp duty if land or property is in the name of women singly."

informal irrespective of regions and caste. The study made a comparison of tribal and non-tribal regions on women land ownership. In the tribal region, social customs allow daughters to inherit the land in case of 'gharjamai'. In the non-tribal region, in the absence of male inheritor, the land goes to the nephew. There were few cases of gharjamai getting the share in the non-tribal villages where the land got transferred in the name of *jamai*, but never in the name of a daughter. Basically, land can only be owned by men in this area. In case of tribal villages, remarriage of widows are considered an alternative option for livelihood support contrary to land ownership. However, in the non-tribal villages, remarriage is not a socially accepted norm. There were rare evidences of small piece of land being transferred to the daughter on her return to parents' home after broken marriage in the tribal village. Whereas in the similar situation in the non-tribal villages, the girl might be given livelihood support, but not land.

The WGWLO (2004) study found that around 20% of women claimed to own land without pattas in their name and these cases were mainly prevalent among widowed women. This type of informal land transfer raises a serious concern as women do not have legal rights over this land and it could be transferred to anyone over a period of time. As the claim can be withdrawn at any time and is not legally binding, this kind of arrangement does not help woman either economically or socially. Bigamy is another social custom, which is prevalent amongst tribal and Muslim communities in Gujarat. This arrangement allows small pieces of land transfer in the name of women in case of her husband marrying second time. This decision about first wife receiving a portion of land is most often decided by the village panchayat. It is doubtful how far women are aware of their land entitlement after the husband's remarriage. Women's awareness of this entitlement within bigamy is essential since its practice is a socially accepted norm. However, not many studies have reported cases of bigamy.

Another important aspect is that of 'ownership vs. authority'. Land ownership through either inheritance laws or government policies would solve only a part of the larger issue as ownership also needs to translate into control over decision making of the land. Land ownership and control on decision making could be measured by indicators like decision on cropping pattern, input use, health, education of children, etc. A later study by WGWLO (2006) revealed that around 40% of the women reported changing the cropping pattern. Changed cropping patterns could be linked with control over the land or authority of the women on her own land. Nevertheless, the major reason was most women were unable to take care of the land and maintain self-cultivation. As a result, most of them preferred to cultivate either one crop per year or shifted to food-grain cultivation, clearly exposing the weak position such women are into. Lack of awareness amongst women regarding effective practices of farming in the absence of support either from relatives and society at large following their ownership of land only adds



woes. During the recent survey by the author,<sup>5</sup> it emerged that 65% of the women in the sample reported that they preferred to work on their farm as labourers while major decisions regarding farming are taken by in-laws or elder male members in the house since they do not want to face criticism from relatives if anything goes wrong. The lack of exposure to the market is another major reason that restricts women from taking control over land and limits their farming. These women found self-cultivation risky as the age-old beliefs and patriarchal society do not allow them to make decisions independently.

## **5. Initiatives by the state for gender equity in land ownership**

‘Nari Gaurav Niti-2006’ is one of the important policies initiated by the Government of Gujarat to promote gender equity. The policy aims at providing human rights and fundamental freedom to women on equal terms with men in all spheres, such as personal, political, economic, social, cultural and civil<sup>6</sup>. Moreover, the policy also suggests the formulation of the Women's Right to Matrimonial Home and Property Act and a special provision in the existing laws to ensure that any property bought after marriage must be bought jointly in both spouses names. The action plan also suggests an amendment to Sections 145 and 146 of CrPC to promote buying of property in the joint names of both husband and wife. The state government has exempted women from registration fees by 1.5% and around 1.76 lakh women benefitted from just this provision in 2008. According to official records, 30% of the total documentation of land and property was done solely in women's names.<sup>7</sup>

To promote land registration in the name of women in either single or joint ownership, the Department of Rural Development (DoRD) exempted women from registration fee, transfer fee and stamp duty. On March 2008, the DoRD had sent notice to all the district collectors to provide data on land allotments. By 2008, 5.05 lakh documents were registered in the name of 4.17 lakh women and around Rs. 129.6 crore was remitted in

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<sup>5</sup> The author is working on research project (on-going) titled ‘Challenges of Feminized Agriculture in India’, supported by the Australian Research Council and Indian Council of Social Science Research, New Delhi. The field work is in progress.

See, <http://grcgujarat.org/pdf/Nari-Gauravniti-news-artical.pdf>, Gender Resource Centre, Gujarat.

<sup>7</sup> The author had consulted the Gender Resource Centre of Gujarat Government in order to get updated data on land transfer from the ‘Nari Gaurav Niti’. The data published with respect to land transfer under the programme is eight years old. The staff of the centre reported that even after constant efforts to collect the data on land transfer they lacked the information. They could be due to the fact that ‘the ‘Mamlatdar’ and the government officials are male members and thus do not take the matter seriously.

terms of registration fees by the government under this programme. However, the record shows that in the three districts of Amreli, Junagadh and Banaskantha, only 55 women were allotted land in their individual capacities, whereas 60 had joint ownership. It shows that during two years, only a handful of women have benefited from the program in these three districts. There has also been an attempt to include women as occupants through the settlement survey<sup>8</sup> in all the lands where women are also cultivating under this programme. The progress of the program is yet to be known. Though the program is a positive step, it needs to be lunched on a larger scale and more rigorous action needs to be taken by the department.

In order to further illustrate the discrimination of ownership rights towards women, an example of claims of FRA in Gujarat and the issues of forest dwelling communities is presented. Under the Act, it was claimed<sup>9</sup> that the distribution of '*jamin pattas*' will help the holders to have all rights and benefits from the government similar to that of farmers residing in mainstream revenue villages. Further, the conservative practice of maintaining a land holding entitlement in the revenue record in the name of the head of a family is now extended to the spouse of the family head too. This positive legislation places the woman member on an equal footing alongside their male counterparts, essentially recognizing her as the owner of the land if the husband is deceased. Earlier, forest dwellers could not inherit land but this path-breaking initiative will make inheritance possible. However, the impact of the FRA does not appear to be materializing as initially envisaged. Recent studies by Bandi (2013; 2014) on the implementation of FRA in Gujarat do not present an encouraging picture. In these studies, it is observed that overall poverty followed by poor awareness among tribal communities is contributing to their poor situation. In such a scenario, discussing separately about women entitlement in land is rendered less significant. However, the study mentions the measures being taken by the authorities to correct the implementation of FRA in Gujarat.

Taking note of the working of government measures, what comes out glaringly is that various government departments are making constructive efforts towards the issue but the department and centres, which are working in these issues, operate in isolation with limited inter-department interaction. There is absence of coordination between the departments like Women and Child Development, DoRD and Department of Revenue.

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<sup>8</sup> The Department of Revenue, Government of Gujarat has started a re-survey after 25 years with the aim of integrating survey records.

<sup>9</sup> The chief minister of Gujarat in her announcement made in August 2015, claimed that the state would be the first to register the names of forest-dwellers who have been given land rights under FRA in 7/12 (Land Record of Rights) (NITI 2015).

In order to achieve common goals, the integration of the departments is essential as they can plan comprehensive efforts in these issues.

## 6. Way forward

The above analysis has emphasized the persisting gender inequality in both land inheritance and land reform policy by the Gujarat government. The participation of women in agriculture is around 65% but the land holding is only 14%. One need not talk about land ownership, which is negligible. Without titles to lands women are not recognized as farmers, even by the state, by the extension service providers<sup>10</sup> or as candidates for membership in institutions such as co-operative societies. But by providing land title to women and extending them with infrastructural support could increase output by increasing their access to credit and agricultural extension information services of which both are hindered by class, caste and gender bias. However, there are evidences of women attaining land ownership through government policy, though, such incidences are quite marginal. In most cases, women are not aware about their rights. The lack of legal knowledge regarding various laws and changes in laws is minimal amongst rural women (RDI 2009). Many of the women are not aware about their rights and even if some of them are aware, influence of patriarchal culture appears to shape women's social position and decisions resulting in rights remaining unclaimed. Hence, women's land rights could be protected through steps like creating awareness among women about their legal rights; formalizing land related documents; changing the mindset of the society; and empowering women through the provision of land rights. Efforts could be channelized and executed as in the following in pursuit of achieving these objectives:

- Creating awareness among male members, relatives and the village heads is equally essential. These could be done through the means of audio-visuals, comic strips, posters and skits for information dissemination and increased awareness amongst the women. Skits and role plays were used extensively since these tools are a very accessible.
- Training the talatis regarding their role in maintaining land title records, measures to be taken when the 'varsai' takes place.
- The language of law is difficult to understand for ordinary people, thus for the translation of the law into common language, the role of para-legal workers (PLW) is important. In Gujarat, the Centre for Social Justice, a legal support

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<sup>10</sup> Knowledge transfer among the women farmers was minimal despite the innovative 'door-to-door extension service - Krishi Mahotsav' by the Gujarat government (Pattnaik et.al. 2012).

organization has started building a cadre of PLWs. Quarterly training programs were designed for the PLWs and this training enabled them to take up cases for women regarding land title. Though the initiative by the group has positively impacted women's land ownership in rural areas where they work, their project is limited to certain areas. The government departments need to work with them for a more fruitful result.

- The 7/12 form (land record form) which records the land detail should essentially record such inputs gender wise.
- Including the picture of the plot in the land record is also essential. Most of the times women are not aware about the specific plot allotted to them. It is, hence, important to include images of plots along with other details in government documents.
- Simply changing the laws might not be the solution; rather it is essential to change the societal mind set. Women's control over land depends upon many actors in political, legal, religious and social domains.

## References

Action Aid (February 2013) 'From Marginalization to Empowerment: The Potential of Land Rights to Contribute to Gender Equality - Observations from Guatemala, India and Sierra Leone', Johannesburg, South Africa.

Agarwal, Bina (1994) *A Field of One's Own: Gender and Land Rights in South Asia*, Cambridge: Cambridge University Press.

----- (1995) 'Women's Legal Rights in Agricultural Lands in India', *Economic and Political Weekly*, 30 (12), pp- A39 to A56.

----- (2002) 'Are We Not Peasants Too? Land Rights and Women's Claims in India', SEEDS, The Population Council, available at <http://ccc.uchicago.edu>.

Allendorf, Keera (2007) 'Do Women's Land Rights Promote Empowerment and Child Health in Nepal?', *World Development*, 35 (11), pp-1975-88.

Bandi, Madhusudan (2014) 'Forest Rights Act: Towards the End of Struggle for Tribals?', *Social Scientist*, 42 (1-2), pp- 63-81.

----- (October 2013) 'Implementation and Outcomes of Forest Rights Act: A Critical Assessment of Two States in India', *Monograph No. 31 (RULNR Monograph No. 17)*, Research Unit for Livelihoods and Natural Resources - Centre for Economic and Social Studies, Hyderabad.

Office of the Registrar General & Census Commissioner, India, 'Primary Census Abstract', Ministry of Home Affairs, Government of India, [www.censusindia.gov.in/DigitalLibrary](http://www.censusindia.gov.in/DigitalLibrary).

Chauhan, Dharmishta (2007), 'Working With Widows, Experience from AKRSP (I)', Ahmedabad.

Cross, C. and D. Hornby (2002) 'Opportunities and Obstacles to Women's Land Access in South Africa', *Research Report for the National Land Committee of South Africa and South Africa's Department of Land Affairs*, available at [http://www.gov.za/sites/www.gov.za/files/landgender\\_0.pdf](http://www.gov.za/sites/www.gov.za/files/landgender_0.pdf).

Datt, G, K. Simler and S. Mukherjee (1999) 'The Determinates of Poverty in Mozambique', International Food Policy Research Institute (IFPRI), Washington DC.

Desai, Kiran (2002) 'Land Reforms through People's Movements, Land Reforms in India', in Ghanashyam Shah and D.C. Sah (Eds.), *Land Reforms in India, Performances and Challenges in Gujarat and Maharashtra*, Volume 8. New Delhi: Sage.

Desai, Sonalde and Veena Kulkarni (2008) 'Changing Educational Inequalities in India in the Context of Affirmative Action', *Demography*, 45 (2), pp: 245-70.

Ganguly, Varsha Bhagat (2014) 'Mahuva Andolan of Gujarat', *Economic and Political Weekly*, 49 (40), pp.104-110.

Gouthami and Meena Rajgor (2008) 'Women's Perceptions of Land Ownership: A Case Study from Kutch District, Gujarat, India', *Gender & Development*, 16 (1), pp. 41-54, available at <http://dx.doi.org/10.1080/13552070701876144>.

Gupta, J. (2006) 'Property Ownership of Women as Protection for Domestic Violence: The West Bengal Experience', in ICRW (Ed.), *Property Ownership and Inheritance Rights of Women for Social Protection - The South Asia Experience: Synthesis Report of Three Studies*, International Centre for Research in Women, New Delhi.

Jani, Indukumar (2002) 'Land Struggle in the Eastern Belt of Gujarat', in Ghanashyam Shah and D.C. Sah (Eds.), *Land Reforms in India, Performances and Challenges in Gujarat and Maharashtra*, Volume 8. New Delhi: Sage.

Jose, S. and Navaneetham, K. (2008) 'A Factsheet on Women's Malnutrition in India', *Economic and Political Weekly*, 43 (33), pp- 61-67.

Katz, E., and J.S. Chamorro (2002) 'Gender, Land Rights and the Household Economy in Rural Nicaragua and Honduras', Paper prepared for USAID *Broadening Access and Strengthening Input Market Systems (BASIS) Collaborative Research Support Program (CRSP)*.

Kulkarni, Seema, Sara Ahmed, Chayya Datar, Sneha Bhat, Yuthika Mathur and Dinesh Makhwana (2008), 'Water Rights as Women's Rights: Assessing the Scope for Women's Empowerment through Decentralized Water Governance in Maharashtra and Gujarat', Final Report submitted to the International Development Research Centre, Canada (IDRC).

Krishnaraj, M. and A. Shah (2004) *Women in Agriculture*, Academic Foundation: New Delhi.

Mehta, Niti (2006) 'Imbalances in Development between Regions and Social Groups: Evidences from Gujarat', *Anvesak*, 36 (1), pp-1-25.

NITI Central (2015) 'Anandiben takes the lead on Right to Property for Tribals', available at <http://www.niticentral.com/2015/08/19/gujarat-becomes-the-first-state-to-give-land-under-fra-329772.html> (accessed November 19, 2015).

Panda, P. (2006) 'Domestic Violence and Women's Property Ownership: Delving Deeper into the Linkages in Kerala', in ICRW (Ed.), *Property Ownership and Inheritance Rights of Women for Social Protection – The South Asia Experience: Synthesis Report of Three Studies*, International Centre for Research in Women, New Delhi.

Pattnaik, Itishree, Tushaar Shah, G. G. Koppa, Amita Shah (November 2012) 'Agricultural Extension Service through Krishi Mahotsav in Gujarat: A Preliminary Assessment', *Occasional Paper Series, No. 2*, Gujarat Institute of Development Research (GIDR), Ahmedabad.

Rao, Nitya (2007) 'Custom and the Courts: Ensuring Women's Rights to Land, Jharkhand, India', *Development and Change*, 38 (2), pp-299-319.

Rao, Nitya (2011), 'Women's Access to Land: An Asian Perspective', paper presented in the *Expert Group Meeting on Enabling Rural Women's Economic Empowerment: Institutions, Opportunities and Participation*, Accra, Ghana 20-23 September, available at <http://www.un.org/womenwatch/daw/csw/csw56/egm/Rao-EP-3-EGM-RW-30Sep-2011.pdf>.

Rural Development Institute (2009) 'Women's Inheritance Rights to Land and Property in South Asia: A Study of Afghanistan, Bangladesh, India, Nepal, Pakistan, and Sri Lanka', Seattle, WA: RDI, available at [http://www.landesia.org/wpcontent/uploads/2011/01/RDI\\_Report\\_WJF\\_Womens\\_Inheritance\\_Six\\_South\\_Asian\\_Countries\\_December\\_2009.pdf](http://www.landesia.org/wpcontent/uploads/2011/01/RDI_Report_WJF_Womens_Inheritance_Six_South_Asian_Countries_December_2009.pdf)

Saxena, N.C. (2012) 'Women Land and Agriculture in Rural India', Delhi: UN Women, available at [www.unwomensouthasia.org/assets/UN\\_Women\\_Land\\_Agriculture\\_in\\_Rural\\_India.pdf](http://www.unwomensouthasia.org/assets/UN_Women_Land_Agriculture_in_Rural_India.pdf).

Sethuraman, K. and Nata, D. (2007) 'The Nexus of Gender Discrimination with Malnutrition: An Introduction', *Economic and Political Weekly*, 42 (44) November, pp-49-53.

Shah, A. (2014) 'Poverty and Livelihood among Tribals ', in Amita Shah and Jharna Pathak (eds.), *Tribal Development in Western India*, New Delhi: Routledge.

UN Women (2013) 'Challenges and Barriers to Women's Entitlement to Land in India', <http://www.landesa.org/wp-content/uploads/UN-Women-Barriers-to-and-Impact-of-Womens-Entitlement-to-Land.pdf>.

Vaghela, P.D. (2011) 'Impact of Tribal Sub Plan Schemes on the Tribal Communities of the Dangs', Ph.D. thesis submitted to Sardar Patel University, available at <http://hdl.handle.net>.

Velayudhan, Meera (2012) 'Contextualizing Women's Rights and Entitlements to Land: Insights from Gujarat', *Social Change*, 42 (4), pp-505-526.

----- (2008) 'Women's Right to Land: Voices from Grassroots Movement and Working Women's Alliance in Gujarat', Aga Khan Rural Support Program (India), Ahmedabad.

----- (2006) 'Muslim Women and Land Rights in Gujarat: WGWLO Experience' *WGWLO Paper Series - 1*, Ahmedabad.

WGWLO (2004) 'Study on Status of Women and Agriculture Land Ownership in Gujarat and Strategies Derived by NGOs to Enable Women Own Land Based on Study Findings', *Working Paper Series -2*, Ahmedabad.

----- (2006) 'Reports of Para-Legal Action Research', Ahmedabad.