

Between Culture and Policy: Women Claim Their Right to Land in China and India

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Analysis of Women's Land Rights

- Diverse cultural and social contexts of India and China
- Unlike in China, Land distribution is a state subject in India
- How do women enable themselves and/or are enabled by the state to claim their rights to land?
- How do they themselves articulate their claims to land?
- What is the claims' making process vis-à-vis state, family and community?

Land Rights of Women in China

1950s: Agrarian Reform Law according women individual rights to land

- Manifestation of Women's freedom
- Increased violence against women in the family
- These rights got nullified in the Collectivization period
- 1979-1983: Household Responsibility System
 - Shift to more individualized rights, male control over women's labour from production team to the head of the household

Women's land Rights in China

- 1998 Land management law: extended the term to 30 years, in attempt to end the basis of land insecurity
- Reduced frequency & scope of land reallocation, result in to support newly married women without additional land
- 2013 Land Contracting Law: Article 30, the contract issuing party can not take away a woman's original contracted land unless she receives land in her marital village

Recent change in land laws

- CCP Central Committee decision on Deepening Reform: allowed individually contracted farm land to be transferred and even used collateral by farmers to get bank loans
- Its impact on rural women can be seen by advice of ACWF after a visit to Sichuan in 2014
- Three factors influenced land in favor of women:
 - Villages with relatively more land and under collective management;
 - Larger number of women in the village committees
 - More frequent land reallocations

Women's Land Rights in India

- Women's Demand for land since 1939 during the freedom struggle
- Women's Joint land titles introduced in 1986, in the 6th Five Year Plan;
- In 2005 The Hindu Succession Amendment Act, enacted daughter's inheritance right to land at par with the son;

Recent Changes in Policies in India

- The current 12th Five-Year Plan, acknowledged that joint titles to land for women have not worked, so provided for individual/unmediated land titles for women, irrespective of their civil status;
- Draft National Land Reform Policy (2013) further provided for women's individual right to land; where joint titles are these should be distinct in order to be claimed
- At the state level, the Government of Odisha has made a state policy for land right of women and girls in Sept. 2014

Global Recognition of Women's Land /Property Rights

- State commitments in
 - Universal Declaration of Human Rights, 1948
 - CEDAW, 1979
 - Convention on the Protection of Rights of All Migrant Workers
 - Committee on Economic, Social and Cultural Rights
 - Beijing Platform for Action, 1995
 - Voluntary Guidelines on Responsible Governance of Tenure of Land, Fisheries and Forest in the Context of National Food Security, 2012
 - Rio+20 Conference, 2013

Policy Changes and Resistance

- Two contradictory trends
- Last 10 years saw a series of progressive laws according women joint or sole titles to land

But

- Social cultural resistance led by patriarchal norms and institutions disallowing women rights to inheritance and land

Women's Constraints in Dealing with State, Society and Themselves

- Social norms
- Perceived lack of recognition of women's right to own land
- Inheritance practices disfavour women
- Lack of formal documentation of land
- Perceptions of vulnerability to land
- Limited interaction with government officials
- Absence of women in land and revenue administration
- Lack of legal knowledge

Women Claim Their Rights to Land

- Women, however, are not silent observers and have been claiming their rights to land from state and family
- More actively in recent times
 - Aaroh, Uttar Pradesh, India
 - WGWLO, Gujarat, India
 - Chinese Women's Watch and others
 - Numerous other organizations

Extent of Change

- Shifting land titles in women's names
 - Of 279 plots 171 are in the name of women
 - 114 Plots in the sole names of women; 30 in joint names; and 27 in the names of single women (Uttar Pradesh, India)
 - Tehsil records further confirm these trends
- Reasons given for change include
 - Migration of men and land management left with women
 - 2% reduction in registration fees when buyer is a woman

Appraisal of Change

- Emerging tide against patriarchal ideology
- However, women go around it and many do not directly confront it
- Social recognition of women's economic agency and management skills
- Women have acquired new role, e.g. labour contractor, bullock cart drivers, tractor operators and gender wage parity in agricultural work
- Increased capability of women (saksham) having mobility, access to market, reading land records, self-confidence and independent in managing their life and resources, more so in cases where men are away
- Married women's access to justice as against policy attention to female-headed households
- "Access to justice is incomplete when available only after the *pranpati* is no more. Justice is effective and complete when available in his presence and on equal terms," (retired High Court Judge, 2014)

The Way Forward

- Patriarchal norms are slow-moving institutions
- Laws and policies are relatively fast-moving institutions
- Further initiatives are needed:
 - Systematic gender sensitization of land and revenue officials
 - Increasing women's legal literacy of land
 - Accessible single window approach for women's land issues
 - Context-specific research on women's ownership rights to land and other property