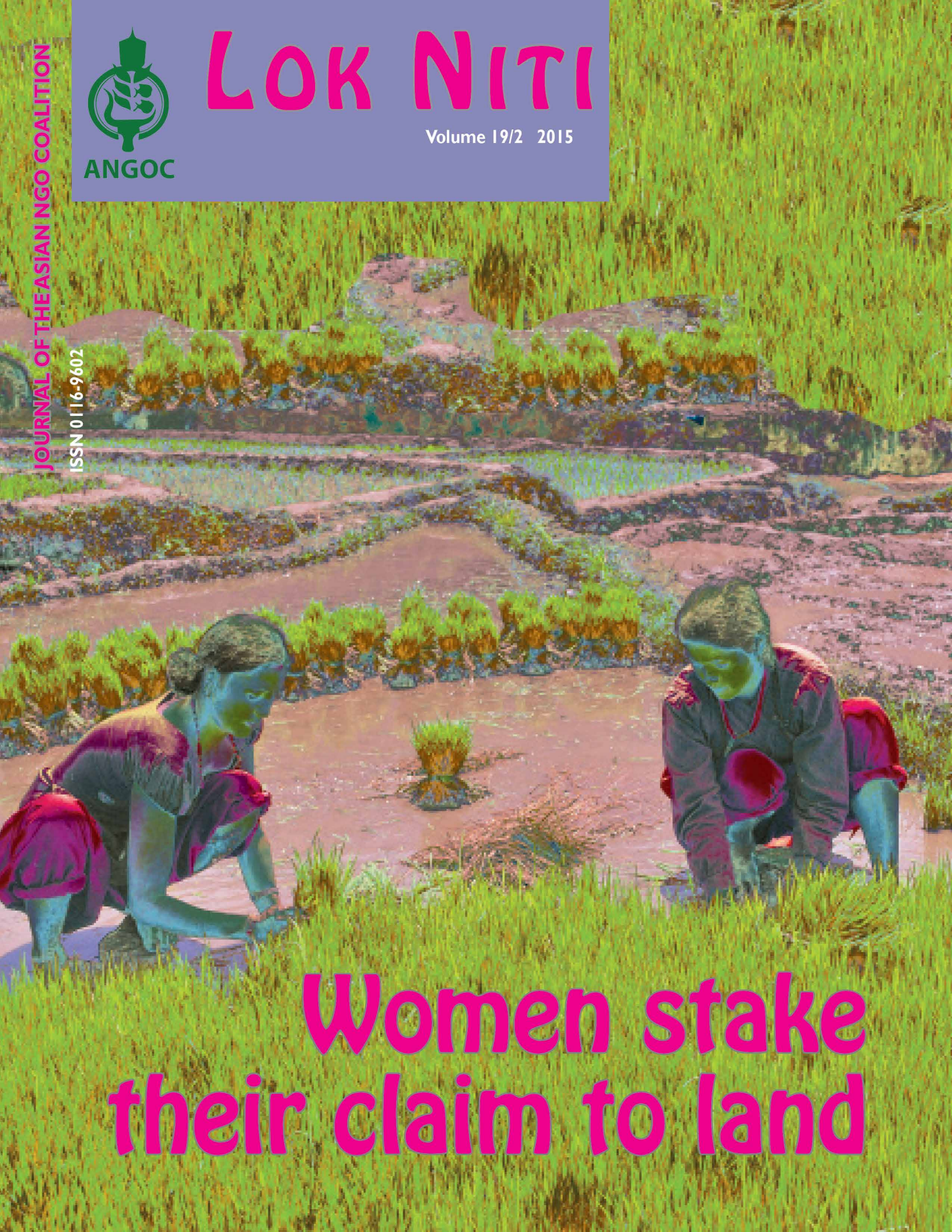


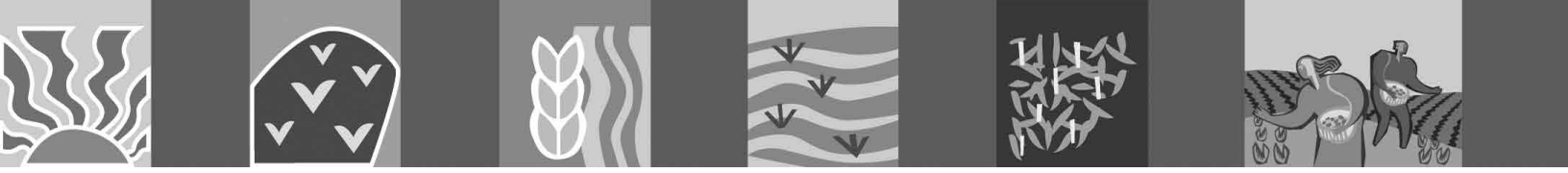


# LOK NITI

Volume 19/2 2015



## Women stake their claim to land



## What is Lok Niti?

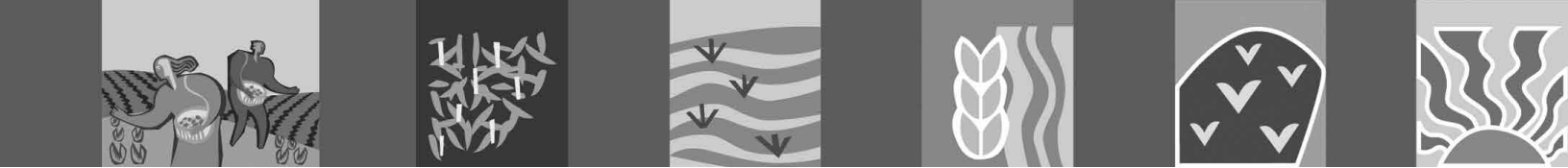
Lok Niti and Raj Niti are terms coined from the Sanskrit by Mahatma Gandhi. Lok Niti signifies people's politics—the people in command and direct governance by the sovereign people, as opposed to Raj Niti—the politics of the nation state or indirect rule by a centralized government leadership based on current “democratic” forms of party and representative political institutions.

This concept of Lok Niti was the political basis of Gandhi's socio-economic “Construction Programme”, which is now known in India as Sarvodaya.

An increasing number of us who are associated with the Asian NGO Coalition (ANGOC) feel that we have begun to find our bearings in the tangled terrain of “development” through commitment to the “gentle anarchism” of Mahatma Gandhi—a body of principles for both personal and social transformation through work in support of decentralized, village community oriented, rural development, guided by the ideals of satyagraha and non-violence and harmonization with both nature and tradition.

Lok Niti is the journal of the Asian NGO Coalition.

— Chandra de Fonseka  
former Lok Niti editor-in-chief



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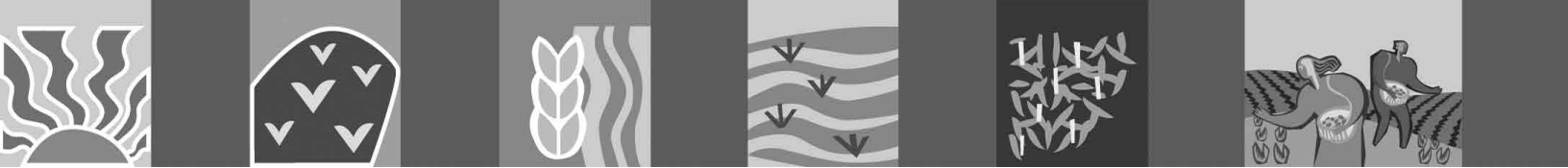
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**Cover Photo:**

This photo, courtesy of Community Self-Reliance Centre (CSRC), shows Nepali women from Sindhuplachowk district preparing seeds for planting in their field.



## EDITORIAL

“The hand that rocks the cradle,” in the case of rural women in Asia, does not rule the world. Far from it. In reality, that same hand also cooks the meals, cleans and repairs the home, draws water, tends to livestock and the backyard garden, mends the fishing nets, and tills the land—generally uncompensated, unrecognized, and with nearly no hope of owning that land or any other.

This lack of rights to ownership of and access to land is the critical issue addressed by ANGOC in its scoping studies on rural women in seven Asian countries, as part of the Land Watch Asia campaign. The resulting country cases presenting the status of women and their land rights in Bangladesh, Cambodia, India, Indonesia, Nepal, Pakistan, and the Philippines are shared in this issue of Lok Niti.

Each of the country cases outlines the current status of women’s land rights as well as the legal framework that covers such rights. Each paper also assesses the key factors promoting or impeding women’s land rights, and concludes with strategies to permanently address gender inequality and advance women’s rights to own and benefit from the land.

While historical, cultural, and religious distinctions across the seven countries have resulted in differences in the ‘land experience’ of their women, there are common factors. Key among these is a classic patriarchal social structure that maintains land ownership and inheritance in the

hands of male family members. This, despite the increasing feminization of agriculture as the men leave the tilling of the land to the women, while they seek employment opportunities elsewhere; and also in spite of laws on joint property ownership by spouses and on land inheritance by widows, daughters, and abandoned/separated wives.

Another common factor is the ironic existence of both national and international laws upholding women’s land rights which remain largely unimplemented—or else circumvented by using women’s names as a front to maintain or expand male land ownership. While all the countries have ratified international laws meant to counter women’s disadvantages, such as the UN Convention to Eliminate All Forms of Discrimination Against Women (CEDAW), local customary laws, traditional practices, and religious precepts still hold sway.

A third critical factor is the non-availability of disaggregated data on land holdings, to provide a true picture of women’s plight with regard to land. This limits the effectiveness of CSO efforts to raise awareness in government, in Asian society, and in the eyes of the world and to champion the cause of land rights for the sector that is least able to fight for these themselves.

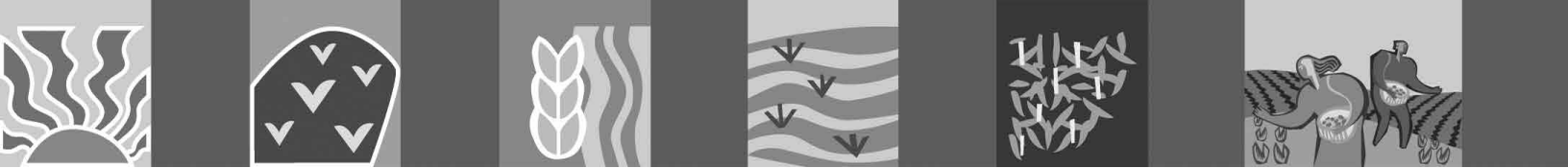
The sad truth is that Asia’s rural women themselves are largely unaware that things could and should be different. Already bearing the multiple burdens of caring for and providing



for the family, they continue to be bound by custom, belief, and a male-dominated system to accept the status quo. Thus, the ultimate goal of programs such as Land Watch Asia goes beyond women’s land rights alone. It envisages a scenario of gender mainstreaming— where “women step out of their confined spaces, whether physical, economic, cultural, or social, and into broader spaces which they can genuinely and fully participate in, as well as influence. ..[For] As reports upon reports suggest, a world with empowered women, especially in agriculture, is one that is food secure, healthier, and happier” (Liamzon, et. al., 2015). ■

**Literature Cited:**

Liamzon, C., Arevalo, A., and Naungayan, M. (2015). *Women’s land rights in Asia: [issue brief]*. Quezon City: ANGOC



# Women's Land Rights in Asia: A summary of country studies

In many countries in Asia, which hosts more than half of the global population and most of the world's poor, agriculture remains the main engine that drives economic growth. Thus in this vast continent, more than in any other, scarce land resources command a significant value, not just in monetary terms but in social terms as well. Here, land ownership translates to a stable livelihood, security, and human dignity.

Unfortunately, women in Asia generally do not benefit as they should from the land that they till just as much as – perhaps even more than – the men.

This is due mainly to a pervasive patriarchal culture that considers men naturally superior to women, who are therefore treated as second-class citizens. This view prevails not just in social norms but also in the legal framework that governs rights to land.

In this scoping study on women's access to land, the Asian NGO Coalition (ANGOC) sought to provide a comprehensive view of the status of women's land rights in the region. Land rights here refer to the inalienable ability of individuals to freely obtain, use, and possess land as long as this does not impede on the rights of others.

In each of the seven countries covered, ANGOC delved into the current status of women's land rights as well as the legal framework that covers such rights. It also assessed the key factors

promoting or impeding women's land rights and concluded with opportunities and strategies to permanently change the landscape, address gender inequality, and advance women's rights to land.

## Status of Women's Land Rights

The level of discrimination against women varies across the seven countries covered by this report. But it is clear that the classic patriarchal social structure has severely undermined the rights of women to land in most of these countries.

While all the countries have ratified international laws that fight against discrimination, such as the UN Convention to Eliminate All Forms of Discrimination Against Women (CEDAW), these are not enforced in their entirety locally. Traditional rules still hold sway.

In Bangladesh, legal, religious, and social values hinder women's ownership of land. Despite the fact that a high 88% of women are involved in agriculture, they actually own only 4% of the country's total land. This is due to various factors such as the lack of resources to purchase land in their own name and the fact that Bangladesh does not have the legal concept of co-ownership of marital property.

The constitution of Bangladesh actually recognizes the equal rights of men and women. However, property rights are still largely influenced by



religious inheritance laws, both Muslim and Hindu, that discriminate against women.

While many customary laws of indigenous communities are likewise discriminatory against women, e.g., only sons inherit land or, if women do inherit property, control of the land is left in the hands of the male members of the family.

As globalization drives more male members of rural families to migrate to urban areas in search of better income sources, women are expected to pick up the slack. Thus feminization of agriculture, in this case, does not necessarily result in greater empowerment of women.

Studies show that, although Bangladeshi women are engaged in agricultural activities, 48% are deprived access to land. Since they are not recognized as farmers, their access to government-provided agricultural assistance, such as seeds, fertilizer, and small credit is severely limited. Women in India face even more grave circumstances.

In India, the country has some of the worst indicators of gender inequality in the world, including a very low female-male ratio, a major gender bias in literacy rates, and a low share of women in the labor force. Gender-related development indicators, such as maternal mortality rates and sex-selective abortion, have likewise thrown a harsh light on the predicament of Indian women.

The situation is even worse in the context of land rights of women. Hardly any attention has been paid to legal and institutional impediments to their acquisition of land. This despite the fact that a very large proportion of rural female workers are cultivators and that farming households are

***“The constitution recognizes equal rights for men and women, including the legal right of women to own land. However, very few actually do as a result of the patriarchal practices that dominated the nation until recently.”***

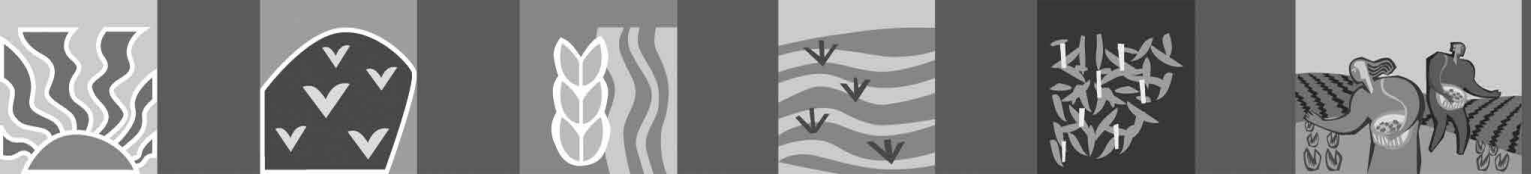
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headed by women due to male migration, death, or desertion among other reasons.

The constitution recognizes equal rights for men and women, including the legal right of women to own land. However, very few actually do as a result of the patriarchal practices that dominated the nation until recently. Examples of these are patriarchal inheritance, patrilocal residence, gender division of labor, gender segregation of public spaces, and discouragement of widow remarriage.

One of the most critical problems in relation to women’s land rights is non-availability of segregated data about the operational land holding owned specifically by women. This shows the general apathy of the government as well as society towards the land rights of women in India – particularly the widows, deserted, and unmarried women who are rendered statistically invisible.

In Nepal, women are not much better off. They too face severe discrimination. Land is left mainly in the hands of the head of the household, such as the father, father-in-law, or husband. Thus,



women only manage to gain hold of land through these male relatives.

But while land ownership by women is dismal – government data show that, as of 2001, women owned only about 8% of total landholdings – they play a big role in agriculture. In 2010, according to the Ministry of Agriculture and Cooperatives, 72.8% of women are in agriculture versus just 60.2% for men, partly because of the migration of males from the farmland to other countries or to the cities in search of work. This puts a double burden on the women, who not only have to handle all household chores but tend to the farm as well.

The extent of women’s access to land varies greatly across different ethnic classes, castes, and locations. What may work with one ethnic group may not be suitable for another, making it difficult to formulate appropriate policies and programs to address the lack of adequate access of women to land.

Fortunately, the National Code of Nepal was revised in 2002 due to pressure from activists. This resulted in some favorable provisions for daughters and widows. However, other discriminatory provisions remained.

Women have a more serious fight on their hands when it comes to customary laws, which determine access to land according to caste, class, ethnic background, and geographical region. One example is the Muluki Ain, which is derived from Hindu law and customary law. When new provisions under the Eleventh Amendment Muluki Ain, granted daughters and sons equal rights to inherit land, this challenged the cultural practices and social norms. However, these provisions remain largely ignored. It is still the men who get favored status.

The truth is the majority of women in Nepal are not even aware of their rights as enshrined in national laws. The culprits are the low level of literacy among women and the lack of awareness regarding women’s issues. Hence, the vital role that advocacy campaigns play to increase the level of information available to people.

After restoration of democracy in 1990, the government did give priority to gender issues in every national plan, but very few programs were launched specifically to improve women’s access to and control over land. In the Three Year Interim Plan, for example, government’s programs to empower women and promote gender equality focused on public awareness programs against domestic violence and human trafficking as well as skills development and income generation, without any significant mention of promoting women’s rights to land.

Some progress, however, can be found – such as in the issuance of joint ownership certificates for wives and husbands. The government claims that such land titles provide security to women, protect them from marital violence, and enhance their role in decision-making.

As for major issues that affect women’s access to land, often cited is commercial pressure on land, which is also felt in the rest of Asia. Land is being grabbed for industrial agriculture, mining, infrastructure projects, dams, tourism, conservation parks, industry, urban expansion, and military purposes.<sup>1</sup> The victims are usually the indigenous people, ethnic minorities, and women who are expelled from their territories to make way for such developments.

<sup>1</sup> DENUNCIACION. 2011, November 22. Stop land-grabbing now! [Blog Post]. Retrieved from <http://ewwaunel.wordpress.com/tag/nepal/>.





In Indonesia, land grabbing poses an especially serious threat to resource-rich country. The country has seen a decline in the number of farmer-households, not just because of the increase in population but also due to massive conversion of land to give way to, among others, plantations and industrial estates.

The rate of farmlands and forest conversion for infrastructure and plantations reached 100,000 hectares per year, according to Galamedia.com, and the land ended up in the hands of mining and plantation corporations, based on data from the National Commission for Women.

The marginalization of farmers from their land hits women especially hard as they are regarded as “invisible farmers”. For centuries now, farmer women in Indonesia only have access rights to land and other resources in Indonesia. These refer to the right to enter the territory of the resources that have clear boundaries and receive the non-extractive benefits; withdrawal rights or the right to utilize the resources; and the right to produce.

Meanwhile, control over land in the form of management rights, right to determine the rules of resource utilization, exclusion rights, and alienation rights remain in the hands of the men. Indonesia has a national agrarian policy or the Basic Agrarian Law (BAL) that replaced the colonial agrarian law (Agrarische Wet) and also accommodated customary rights. The spirit of BAL was evident in some of the legal principles developed, including gender equality in Agrarian Law. However, the definition of national and state interests in BAL was used as a means for the government to encourage the liberalization of various sectors, especially agriculture.

Claims of development for the people’s benefit served as a means for capitalists from developed

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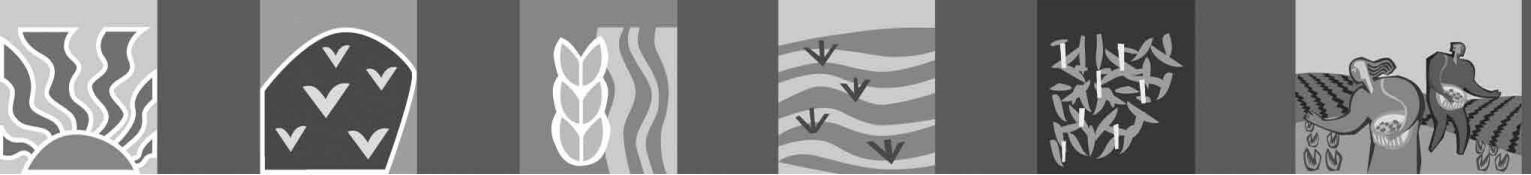
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countries to take advantage of the abundance of Indonesia’s natural resources and policies that do not consider small farmers in rural areas. Rural women consequently became the most marginalized group in Indonesia, given legislation that promotes agricultural liberalization.

In terms of access to and control over agrarian resources, it can be said that BAL is gender neutral; or it has not addressed gender inequality. Women’s ownership/ control of land remains very limited.

Experts have said that, in Indonesia, the root of the farmers’ difficulties was the legacy of the colonial agrarian law, which favored the interests of big private capital over those of the people, by giving special privileges to foreigners. In this context, women, especially rural women in the lowest social classes (peasants, traditional fishers), are the most threatened group.

In Pakistan, it is difficult to determine the extent of women’s access to and control over land as data are nonexistent. Official documents including census, household panel surveys, and other official surveys do not include gender-disaggregated data pertaining to these issues. However, anecdotal evidence suggests that



very few women own land and even fewer control it. They are forbidden to hold land titles, manipulated over land inheritance, and expected (sometimes pressured) to surrender their land inheritance rights in favor of the male members of their families.

Land rights in Pakistan are regulated by an intricate combination of civil, Islamic, and customary laws.

Thus, the system of inheritance for women is a complex and multi-faceted issue impacting lives of countless women. A recent report from the National Commission on the Status of Women (NCSW) noted: "Inheritance right is one of the most ignored gender issues owing to biased interpretations of religious directives and deep-rooted patriarchal customary practices denying women their due right. If they are at all given a share in inheritance, often possession and authority over it is denied. This problem is aggravated owing to inadequate policies/laws, inefficient implementation, enforcement system and absence of monitoring mechanism. Lack of political will is also a contributing factor to this situation."

In 2002 the National Policy on Development and Empowerment of Women (NPDEW) was formulated. The policy envisions gender equity in Pakistan, and defines women empowerment as social, legal, and economic, as well as inclusion of women in decision-making processes in the country. NPDEW specifically seeks to provide rural women access to land, agricultural and livestock extension services, support mechanisms and facilities, as well as micro-credit programs.

Awareness of such important laws, however, is severely lacking. A number of research studies confirm that lack of knowledge and access to information about laws, policies, and court

procedures are major hindrances to women getting their land rights, particularly in the rural areas of Pakistan.

Since the creation of Pakistan in 1947, there have been several attempts to redistribute land through legislative reforms. Most of these laws, however, failed to deliver on the promises. Despite their permitting women to inherit land, the ownership and transfer of agricultural land remained "governed by customary laws that excluded women."

There were also attempts to redistribute state land in favor of landless farmers, largely women. However, these were criticized because no gender assessment tool was used to make sure that women would truly benefit from the programs.

In Cambodia, the government is still developing its agrarian reform laws following the reign of the Khmer Rouge and women here likewise face debilitating discrimination.

The first real change happened in 1992 when a Land Law was passed, allowing Cambodian nationals to own and transfer land. Changes continued throughout the 1990s, with private land ownership increasing in the larger towns, especially in the capital of Phnom Penh.

Then in 2001, the Royal Government of Cambodia (RGC) improved the Land Law and affirmed private ownership of land. The new 2001 Land Law set in place a framework allowing individuals to register their land and have their ownership recognized.

Land ownership, however, remained concentrated in the hands of a very small elite, which emerged as the new ruling class after years of civil war, causing deep social rifts in the population of Cambodia. A mere 1% of the population owns



between 20% and 30% of the arable land of the entire country, whereas the number of landless households who own no farm land has increased from 13% in 1997 to 30% in 2012.

The RGC claims to recognize the important role of women in the unpaid sector of the economy. Such recognition means little, however, since economic and social benefits are not afforded to these workers. Women in the unpaid sector do not have access to medical care, maternity leave, and basic rights under the labor law.

One surprising statistic which needs closer study indicates that, in conservative Cambodia, about 20% of all land titles are registered by single women in contrast to only 5% by single men. The majority is registered with couples (70%). There are no research results available which verify this, thus leaving room for speculations. One possible explanation could be the high number of widows after decades of civil unrest during and after the Khmer Rouge regime. Another possibility, though not widely discussed in literature, is that wealthy and influential men, like government officials, hide their wealth under the names of their wives, sisters, etc.

In general, there is only very limited information, mainly published by NGOs and foundations, about the land-rights situation of women in Cambodia. Though a wealth of literature on development in Cambodia in general is available, these papers usually provide only very scarce information on the gender specific aspects of land rights.

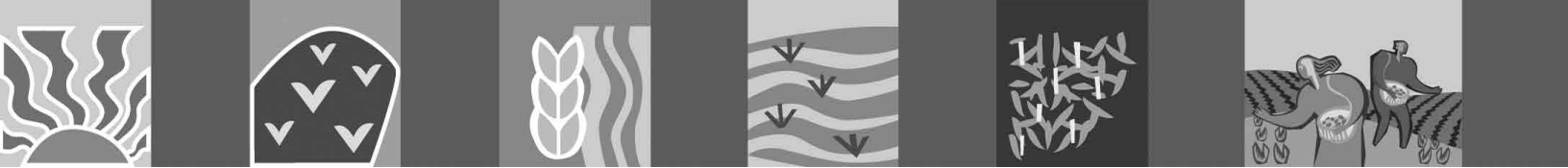
It is striking that NGO documents as recently as 2011 do not even mention the word “women” or, at best, refer to the vulnerable sectors of women, children, and indigenous people that together constitute more than half of the population of Cambodia.

***“In Cambodia, the government is still developing its agrarian reform laws following the reign of the Khmer Rouge and women here likewise face debilitating discrimination.”***

Although the government has increased its program of individual land titling substantially, communal land titles continue to be granted extremely slowly and many indigenous communities who have requested them have faced extreme pressure and conflict with local authorities. This has a disproportionate effect on women in a number of ways. Local communities report increased gender-based violence against women from private company workers, which restricts women’s freedom of movement. While land disputes increased sharply in 2012, with women often in the forefront of protests and suffering abuse and imprisonment alongside loss of land and livelihoods.

The Constitution, as adopted in 1993, provides that all forms of discrimination shall be abolished and that all persons, individually or collectively, are entitled to the right to ownership, including right to own land. The 2001 Land Law, in fact, provides for joint land titles for husbands and wives. Unfortunately, , the Chbab Srey, a customary law which is the traditional code of conduct for women reinforces the belief in their inferior status and promotes inequality in all aspects of women’s family and social life.

The Chbab Srey explicitly prohibits them from voicing opinions, and advises them at all times



***“In the Philippines, women are in a better situation compared to those in the six other countries. But it is still far from ideal. Based on data on tenurial instruments, men are the main holders of land, accounting for more than half of property covered by different tenurial arrangements.”***

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to respect and obey their husbands and avoid embarrassing their families.

Given this context, the challenges to achieving gender equality in Cambodia remain. Traditional discriminatory attitudes and norms are obstacles in achieving gender equality, including in the area of land rights.

In the Philippines, women are in a better situation compared to those in the six other countries. But it is still far from ideal. Based on data on tenurial instruments, men are the main holders of land, accounting for more than half of property covered by different tenurial arrangements. While it is provided in the national laws that gender equality in terms of land rights is imperative, these data alone show that the provisions have not been translated into action. This can be partly blamed on persisting customary laws.

For example, in the indigenous communities, men are usually the head of the tribes and therefore hold the upper hand in decision-making processes, particularly in the use of the land.

Then among fisher communities, women are considered “unlucky” when it comes to fishing and are relegated to other activities such as mending the fishing nets and marketing. Indeed, in practice, men still have the advantage in terms of ownership and land rights.

The Philippines also does not lack for national laws that seek to promote gender equality. National laws that specifically mention women’s land rights are the Indigenous Peoples Rights Act of 1997 (IPRA) for indigenous women, the Comprehensive Agrarian Reform Program Extension with Reforms (CARPER) for women farmers, and the Fisheries Code for fisher women.

However, provisions for women’s land rights are only subsumed in certain sections and are not fully elaborated, especially in the IPRA and the Fisheries Code. Due to its amendments, CARPER, on the other hand, is more gender-responsive when it comes to acknowledging women’s right and access to land.

Themes present in the legal frameworks include titling, access to information, statement of rights and entitlements, share in the produce/recognition of the value of work, right to representation and participation, and budget provisions. While not all these provisions necessarily translate into actual implementation, great strides have been taken on titling. Policies on land titles and stewardship contracts and patents now include the names of women, unlike in the past when only the men’s names appeared in such documents.

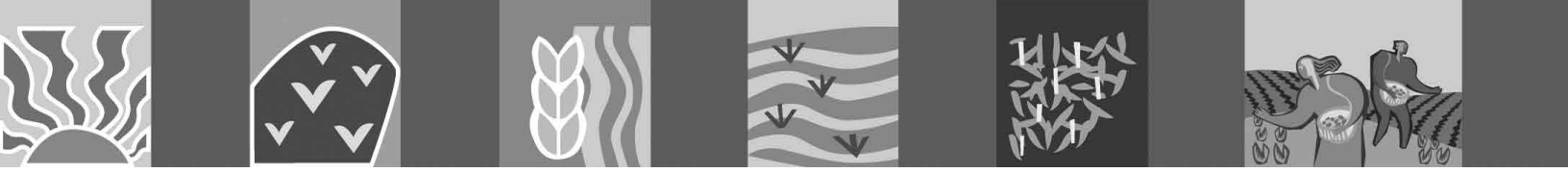
The Magna Carta of Women and several administrative orders from the Department of Agrarian Reform (DAR) and the Department of Environment and Natural Resources (DENR) mandate that titles be issued in the name of both



spouses, or joint titling. DAR's Administrative Order 1-11 is exemplary in terms of elaborating on the extent of titling, decision-making, and even land transactions between spouses. There are, however, no specific provisions on titling for fisher women and indigenous women.

While there are no comprehensive studies on the extent of women's awareness on the land laws and policies governing them, several data point to the efforts conducted by both national government agencies and CSOs in providing information to women beneficiaries (Department of Budget and Management, 2012).

However, while the major laws and programs on women's land rights are strong in terms of specific provisions for titling and access to support services, they are weak in terms of implementation and monitoring. Certain laws may be overlapping and in conflict with customary rights. ■



# Bangladesh



**Bangladeshi woman farmer and her sunflower field**

photo by ALRD

*Condensed from Scoping Study on Women and Land Rights in Bangladesh by R. J. Moni and T. Sumaiya of Association for Land Reform and Development (ALRD). For more details of the study, contact: rowshanmoni@alrd.org or alrd@agni.com.*

**L**and is the source of livelihood and economic development of Bangladesh, whose economy and subsistence is largely dependent on agriculture.

Traditionally, women share a significant amount of work involved in cultivation. Side by side with men, women work in the field, from planting to harvest to marketing. But despite their effective and valuable role in agriculture and land use, women have been barred from owning and controlling lands.

In a patriarchal society such as that of Bangladesh, social customs, values, and traditions combine to ignore women's rights to land. Indeed, as men control the country's productive resources, women's rights to land depend largely on their relationship with the male members of the family. Those rights are lost if women get divorced or are widowed. This insecurity has caused many women to silently tolerate domestic violence and all other injustices against them.

Given the discriminatory attitudes toward women, this study attempted to look into some key factors behind the subordination of women and its effects on their rights to land. It concludes with recommendations on how to address inequality and push for justice for women and their land rights.



## Status of women's land rights

In Bangladesh, women are at a disadvantage because of the classic patriarchal social structure. Both religious and social values hinder women's ownership of land.

Various types of social and religious limitations are imposed on them from the time they are born. In many cases, a female child does not get the same access to food, health care, and education as a male child. As such, women lag behind men and their rights – including their rights to land – are largely denied.

A study shows that Bangladeshi women's involvement in agriculture is at nearly 88% (HDRC, 2002); however, they own only 4% (Sarwar, 2007) of the total land. Another set of statistics shows that women's contribution to food production is 80%, yet they are not recognized as farmers, reinforcing their disadvantaged position.

Their involvement in productive activities related to agriculture is undervalued and regarded as free housework. And if they do participate in other lands as wage laborers, they do not get equal wages as men.

Different national and international initiatives have already been taken to ensure equal rights for women in Bangladesh. Unfortunately, these initiatives have had little impact on women's land rights as well as on their livelihoods.

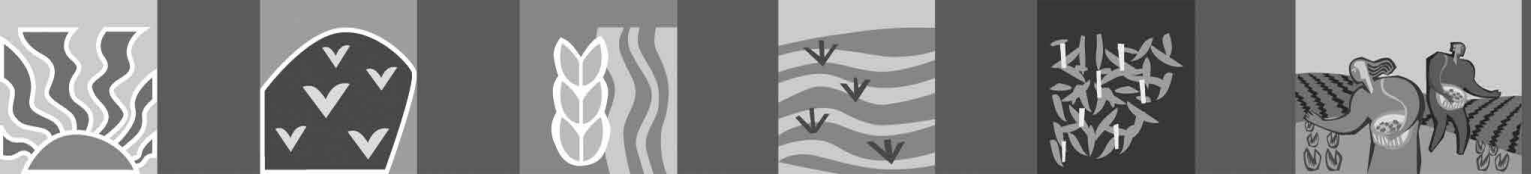
They continue to face enormous challenges. First, men own approximately 96% of privately owned land in Bangladesh. Second, women do not generally have the resources or access to credit necessary to purchase land in their own name. Third, the government has not historically titled government allocated land in the names of

women. Fourth, daughters and widows often do not inherit land despite legal provisions granting them some inheritance rights to land. Fifth, separated and divorced women have no right to claim any portion of their husband's land. Sixth, women's right to land and their traditional role in agriculture has been continually undermined against the backdrop of globalization and commercialization of farming. Finally, because Bangladesh does not have the legal concept of co-ownership of marital property, unless a woman's name is actually on the land document, she has no ownership interest in that family land, even if she contributes by working on it or processing the crops from it (Halim, 2006).

### Challenges faced by women

1. Men own approximately 96% of private lands in Bangladesh.
2. Women generally do not have the resources or credit access to purchase land using their own name.
3. The government has not historically titled government allocated lands in the names of women.
4. Daughters and widows often do not inherit land despite the legal provisions granting them some inheritance rights to land.
5. Separated and divorced women have no right to claim any portion of their husband's land.
6. Women's rights to land and their traditional role in agriculture have been undermined due to globalization and commercialization of farming.
7. With no legal concept of co-ownership of marital property in Bangladesh, women have no ownership interest in their family land even they are tilling on it; unless a woman's name is actually on the land document.

*Adapted from "Access to justice: situation of rural women and urban-rural migrant workers in Bangladesh" by Sadeka Halim (2006) in M. E. Brother and J. S. (Eds). Legal empowerment – a way out of poverty. December 2006, Issue 2. (pp. 117-141). Norway: Norwegian Ministry of Affairs.*



This is the reality that women in Bangladesh face. However, it is difficult to paint an accurate picture of the extent of the discrimination against women because of the lack of reliable data and studies on the issue of women's rights to land.

Such lack of accurate data indicates the lack of government focus on the plight of Bangladeshi women. If this situation continues, it is likely that the country will eventually face a crisis in food security given the important role of women in agriculture.

### **Legal background**

There are a number of laws, treaties, conventions, and policies at both the national and international levels that seek to ensure equal rights and opportunities for men and women.

Bangladesh, for example, has ratified the United Nations charter of 1945 that enshrines equal rights for all human beings regardless of sex, race, language or religion; the Universal Declaration of Human Rights of 1948; and the International Covenant on Economic, Social and Cultural Rights. Bangladesh also ratified the UN Convention to Eliminate All Forms of Discrimination Against Women (CEDAW), albeit with reservations on the provisions on marriage, divorce, and inheritance rights of women, citing religious grounds. Interestingly, the government ratified Article 14, which called for equal rights of women regarding access to land and other property. Bangladesh also committed to the Beijing Platform for Action (PFA), leading to the approval in 1998 of the National Action Plan that calls for the appointment of gender focal points in all central government ministries and committees.

Unfortunately, these laws have not been implemented as envisioned due to patriarchal

values and social customs that prevent women from taking their rightful place in society.

### **National framework: Laws and policies**

Local laws allow private ownership of land with individuals allowed to own 33.33 acres (13.39 hectares) of land. There is no discrimination in terms of purchase, but the discrimination prevails in inheritance laws. Thus, although the Constitution of Bangladesh recognizes equal rights for both women and men in every aspect of life, property rights are still subject to religious inheritance laws that are discriminatory toward women.

As a general rule, females get one half of the inheritance share of the males under Muslim Law. However, under Hindu laws, women are not accorded equal rights with men. Many customary laws of indigenous communities are likewise discriminatory against women. In many communities, only sons inherit land. There are some communities that do allow women to inherit property, but control of the land is left in the hands of the male members of the family.

These inheritance laws help explain why, in Bangladesh, women own so little land. It is also worth noting that nearly half of the total population of Bangladesh is considered landless, and women constitute the majority of this landless population.

Public or khas land was supposed to be the only way for the landless to get access to land. Here, again, discrimination against women is apparent. Although the Khas Land Management and Distribution Policy recognizes joint ownership of husband and wife, some provisions, rules, and procedures ignore women's rights. For instance, a woman cannot acquire land as an individual.





She can only apply jointly with her husband. In the absence of her husband, she can apply with her son.

Overall, Bangladeshi women are unlikely to claim their share of family property unless it is offered to them. Women lack resources and knowledge of the law. The general lack of education makes them unaware of their legal rights. Moreover, legal processes are complicated, rife with corruption, and hampered by cultural norms that prevent women from effectively using international and local laws to protect their land rights (LANDac, 2012).

### **Hurdles to women's access to and control over land: Trends and issues**

Women's subordinate socio-cultural and political status, increased commercialization of land, climate change, and the passage of gender-blind development policies have constrained women's access to land. This has resulted in a threat to food security and to socio-political and economic development in Bangladesh.

Women's involvement in the cultivation of family land and their entry into the agricultural labor market vary according to religion, land ownership type, and social class. This distinction holds true for women's household tasks as well.

Social customs dictate that Muslim (landholding class) and upper caste Hindu women almost never work in the fields, even though their households typically have land. It might even be impossible for such women to recognize their household's land. Even if women in these households have land titled in their own names, they usually do not visit their land nor do they supervise cultivation. These women greatly depend on the

***“Globalization, as well as technological and development interventions have added to the burden of women in agriculture.”***

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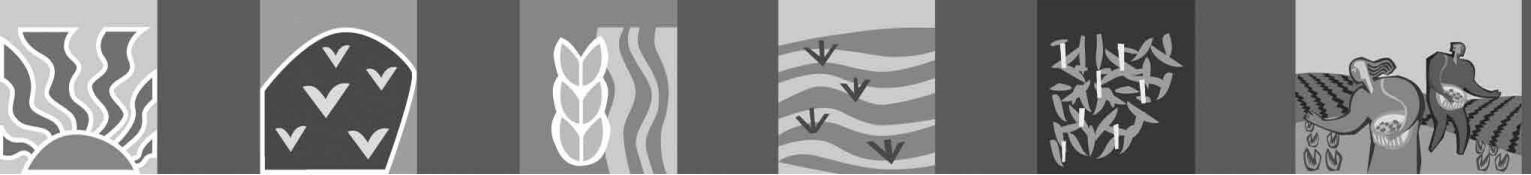
male members of their family for cultivation of their land.

In contrast, poor women do not own land, but they have a direct link with agriculture and they usually cultivate land without the support of hired labor.

Globalization, as well as technological and development interventions have added to the burden of women in agriculture. The aggressive acquisition of land for commercial plantations of cash crops such as rubber and tobacco, the development of economic zones and tourism estates, as well as infrastructure projects have given rise to a phenomenon termed as 'land grabbing.' This has displaced rural families from their land with little or no compensation.

The dispossession of small landholders due to massive development projects has made agriculture in Bangladesh more vulnerable. Increasing pressure to commercialize agricultural land has forced people to shift from their occupation to non-agricultural forms of livelihood and move to the urban areas in search of work and in the hope of better sources of income.

Women are, again, adversely affected by these dire circumstances. When male members of the family migrate to the urban areas, the women are left to manage the land and to put food on the table for the family. But in most cases, they are



***“Women, who represent the majority of Bangladesh’s poor, rely on natural resources for their livelihoods and are therefore more vulnerable to climate change.”***

not in a position to invest money in improving the land. They also have limited access to technologies that they can use to improve their output. Thus, many of Bangladesh’s women are forced to give up their land to powerful land grabbers.

Globalization, paradoxically, also offers some hope for women as this force is transforming the traditional gender division of labor and increasing women’s mobility. There are now opportunities in the economic sphere that allow them some decision-making in their home as they contribute to family earnings.

#### ***Climate change and vulnerability of women***

Like globalization, climate change is not gender-neutral in that it affects women more than the men.

Women, who represent the majority of Bangladesh’s poor, rely on natural resources for their livelihoods and are therefore more vulnerable to climate change.

Erosion, floods, cyclones, sea level rise all have a direct impact on natural resources including land. Increased salinity after a cyclone and the difficulty of plowing wet soil after flooding

decreases soil productivity and, in such cases, women face acute crisis to manage and cultivate those lands. They do not receive any agricultural assistance provided by the government because they are not recognized as farmers. With changes in climate, traditional food sources become more unpredictable and scarce. This exposes women to loss of harvests, often their sole source of food and income.

#### ***Violence against women affects access to land***

Women and girls in Bangladesh have long been vulnerable to violence. The exact extent to which they have fallen victim to it is difficult to determine, however, due to lack of accurate and reliable data.

Data measuring violence against women (VAW) are not enough to provide an accurate picture of the full extent of this problem. Bangladesh Mahila Parishad in its 2011 report noted that 1,450 women died in 2011 as against 1,377 in 2010 and 1,373 in 2009, due to various forms of violence, including dowry related violence, rape, and assault (D’Costa, 2014).

This is the general picture of VAW in Bangladesh. As a result, women often do not claim their legal rights to land due to the fear of physical assault, thus limiting their access to land and endangering the country’s food security.

#### ***Gender biased socio-political context***

As more male members of rural families migrate to urban areas to pursue better income sources as an effect of globalization, women are expected to take up the slack. The resulting feminization of agriculture, however, does not necessarily translate to greater empowerment of women.



Studies show that, although women are engaged in agricultural activities, 48% are deprived of access to land. This has constrained their receiving credit and negatively affected their productive capacity.

The lack of education and training as well as the non-cooperation of agricultural extension workers have also hindered the development of women's productivity. Moreover, women are not equipped to deal with tenants, handle the sale of produce, or reach lands located in distant places (Parveen, 2008). Even more basic to their plight is the fact that women are not recognized as farmers, thus further limiting their access to government-provided agricultural assistance, as well as seeds, fertilizer, and small credit.

### **Assessment of key actors promoting or impeding women's land rights**

Global food security has never been more threatened than it is now, due to factors like climate change, population growth, and rapid urbanization. Ensuring equal gender rights, however, can be a weapon to battle against hunger and malnutrition. As women become more involved in food production, enjoying the same support and privileges as men, they can play a greater role in ensuring food security.

The Food and Agriculture Organization claimed in its 2010-2011 State of Food and Agriculture report that equal access to agricultural resources could reduce world hunger by 12% to 17%.

#### ***Role of government***

The Constitution of Bangladesh recognizes equal rights for all citizens irrespective of sex, caste, race, and religion. Different agencies of the government, such as the Ministry of Land and

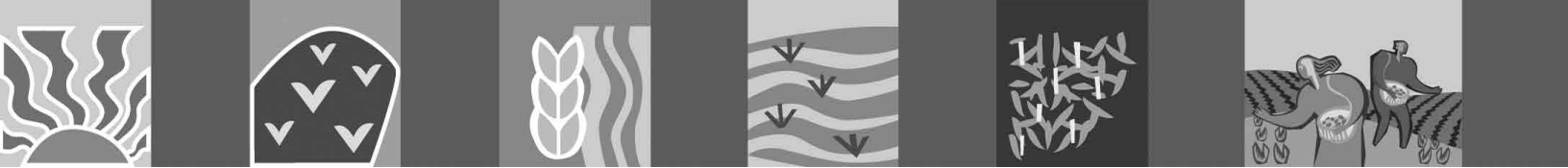
***“Women and girls in Bangladesh have long been vulnerable to violence. The exact extent to which they have fallen victim to it is difficult to determine, however, due to lack of accurate and reliable data.”***

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the Ministry of Women and Children Affairs, are also working on this issue. The Khas Land Management and Distribution Policy of the land ministry recognizes joint ownership of husband and wife.

Further, Bangladesh is a signatory country to the UN Charter, CEDAW, and the Beijing Platform for Action (BPFA) to promote gender equity. The Government of Bangladesh formulated the National Policy for Advancement of Women in 1997 in light of the Constitution of Bangladesh, the CEDAW Convention, the BPFA, as well as broad-based consultation with stakeholders including human rights organizations, women's rights activists, non-government organizations (NGOs), and civil society. The National Action Plan for Women's Advancement was adopted in 1998 with the aim of mainstreaming gender in all governmental policies by the ministries.

Law enforcement agencies, however, seem to be biased against women. These agencies are riddled with corruption and tied down by political pressures, apparently unable or unwilling to pursue justice on behalf of women, especially poor women. Thus, corruption, gender-blind policies, the lack of a proper monitoring system,



lack of awareness, and inefficient personnel are hindrances to upholding women's rights to land.

### ***Role of political parties***

The two main political parties in Bangladesh have always mentioned women empowerment in their election manifestos, but they have been largely silent on women's rights to land, even when discussing agriculture and rural development. Women's empowerment has largely been limited to greater representation in political bodies.

### ***Role of local government: Formal and traditional features***

Women hardly participate in decision-making in Bangladesh. The Local Government (Union

Parishad) Ordinance of 1983 provided the legal basis for the formation of Union Parishad. But it did not contain any clause for the role, power, and responsibility of the women members.

After a new law was enacted in 1997, the government increased the number of standing committees set up by the Union Parishad from seven to 12. At the same time, the government instructed that women members should hold the position of president in at least 25% of these standing committees. However, the terms of reference of these committees and their mandates are not clearly specified. Therefore, women's participation in these bodies is not clear.

The government did direct each Union Parishad to form Social Development Committees to be



**Women farmers' working on their field without getting any incentives**

photo by ALRD



***“Land rights, land and agrarian reform, and related issues are not priorities in the strategies and programs of the multilateral or bilateral development partners in the country. Women’s land rights, in particular, have not received much attention despite the issue being raised by many NGOs and civil society members.”***

headed by women. However, the number of elected women is not taken into consideration. In truth, the ratio of male-female members virtually remains at 3:1, thus the men’s decision still holds sway. This scenario is even worse in the rural local arbitration system (e.g., Salish), where women’s participation in decision-making is routinely ignored and their arguments are never considered.

In rural societies, patriarchal beliefs, attitudes, and values are more entrenched, thus justice in favor of women is rare. Due to corruption, women hardly ever get a fair deal in disputes involving land and property rights, while incidents of violence – rape, killing, acid throwing – continue.

#### ***Role of donor agencies and international institutions***

Various donor agencies and international institutions play a very important role in the development sectors in Bangladesh. Unfortunately, the land management and governance sector has received minimal attention – in fact, less than 1% of the overall Overseas Development Assistance (ODA) in Bangladesh.

Land rights, land and agrarian reform, and related issues are not priorities in the strategies and programs of the multilateral or bilateral development partners in the country. Women’s

land rights, in particular, have not received much attention despite the issue being raised by many NGOs and civil society members. Increasing interest in the sector is being shown, however, in the light of the need to secure food, ensure land property rights, and uphold human justice.

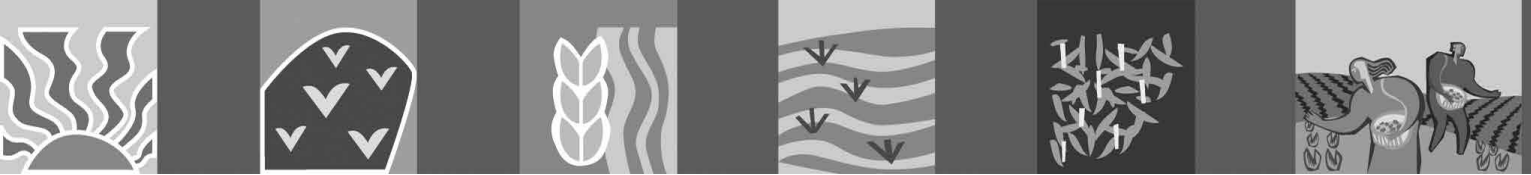
#### ***Private sector***

The private sector has been providing job opportunities in Bangladesh since independence was declared in 1971. Women have benefited from the private sector’s efforts by getting wage work and attaining some degree of economic independence. However, private firms that pursue profit at the expense of land have further marginalized women in agriculture.

#### ***Civil society and the social movement***

Civil society groups are involved in promoting women’s rights to land, by advocating issues and upholding women’s demands in the policy making process. As of 2009, there were 200 non-government organizations (NGOs) working to promote the land rights of the landless in Bangladesh (ANGOC, 2009).

The Association for Land Reform and Development (ALRD), for example, succeeded the NGO Coordination Council for Land Reform Program (NCCLRP), which was mainly established to



***“Gender perspectives need to be integrated in all land rights programs, campaigns, and movements; while land reform programs should clearly address women’s concerns.”***

support the government’s khas land distribution program by raising people’s awareness of government regulations, policies, and guidelines and by ensuring NGO participation in the khas land distribution program.

The ALRD is credited with the formulation of the Khas Land Management and Distribution Policy, the enactment of the Vested Property Restoration Act, and the development of the citizen Charter for the directorate of Land Records and Surveys (ANGOC, 2009). In all its activities, ALRD incorporates a gender dimension, including women’s land rights.

### ***Role of media***

Media plays a key role in shaping a society’s values. Media campaigns on women’s land rights, however, are neither specific nor extensive. Instead, land-rights actions and programs are simply linked with awareness-building campaigns related to gender equity in general.

### **Key opportunities and strategies to advance women’s land rights**

Women’s rights to land are not regarded as part of the major political agenda in Bangladesh. The lack of political will and commitment,

lack of sensitivity among government officials, corruption at different levels, discriminatory laws and policies, and the prevailing socio-political status of women make it difficult to implement gender-responsive policies in terms of women’s land rights.

Despite these grim facts, however, there are opportunities to increase awareness of the need to secure women’s rights to land given the role of women in ensuring food security in the country. NGOs, international NGOs, intergovernmental organizations, UN agencies, as well as different international institutions, global initiatives, and platforms are contributing to the fight against discriminatory attitudes, laws, and policies that unduly burden the women of Bangladesh. Some momentum is building and this can be accelerated through the following proposed actions and strategies.

### ***Mainstream gender***

Gender perspectives need to be integrated in all land rights programs, campaigns, and movements; while land reform programs should clearly address women’s concerns. Towards this end, policy advocacy in the area of women’s inclusion in the policy making process, revision of existing land laws and policies, improved governance of land tenure, recognition of women as farmers, and equal access to education should be given the highest consideration. Agrarian reform advocates should link up with women’s rights groups, and vice versa, in order to mutually strengthen their perspectives and advocacies on the issue of women’s access to land.

### ***Inclusion of women in the policy making process***

Women’s participation in the policy making process is largely ignored and all decisions



regarding women's rights to and control over land are made by the state's highest officials who are mostly male. In fact, women's active participation in both policy making and implementation can play a crucial role in establishing women's rights to and control over land. To attain this, however, women should have equal opportunities to education, information, and technology. Women should be encouraged to take on positions of leadership in the bureaucracy, including the land bureaucracy.

### ***Review of existing laws and policies***

Existing laws and policies are often gender-biased. Inheritance laws of both the Muslim and Hindu communities disqualify women from equal ownership. All such discriminatory laws and policies need revision, along with a political and social commitment to make these more gender-sensitive in establishing and safeguarding women's land rights. At the same time, these laws should be enforced. International commitments should be used as an opportunity to further women's land rights.

### ***Improve governance of tenure***

As per the Transparency International Bangladesh (TIB) report, land is the third most corrupt sector in Bangladesh. From legal institutions to the land office, women face extreme difficulties when it comes to obtaining justice in their favor due to corruption. Majority of the women are disadvantaged and therefore not capable of offering 'grease money' (a bribe) to corrupt officials to carry out their tasks. Local institutions like the Shalish (local arbitration) are also anti-women, thus further denying women land justice. As a result, women often do not claim their rights, intimidated by the complexity, harassment, and unjust costs they are likely to face. Therefore,

***“Existing laws and policies are often gender-biased. Inheritance laws of both the Muslim and Hindu communities disqualify women from equal ownership.”***

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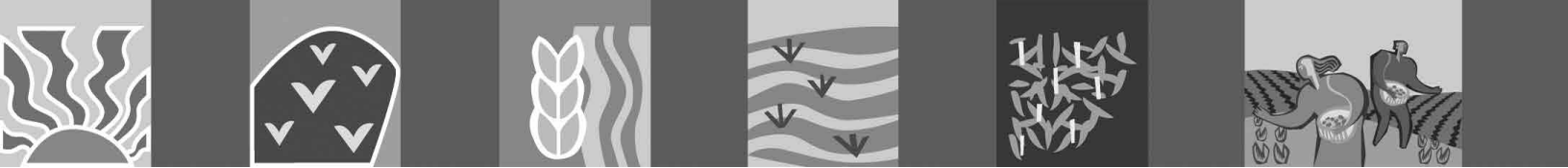
transparent land governance is crucial for state agencies responsible for ensuring women's empowerment and right to land.

### ***Recognition of women as farmers***

Traditionally, women are involved in agriculture through food production and management, seed preservation, caring for domestic animals, family gardening, and so on. However in Bangladesh, women are not recognized as farmers. Therefore, women are deprived of access to small credit, seeds, fertilizers, and other benefits provided by the government. This makes it difficult for them, using their traditional methods of cultivation, to compete with the hybrid seeds and advanced technology made available to those recognized as farmers. Since women are in fact significantly involved in and dependent on agriculture, immediate action should be taken to recognize them as farmers.

### ***Equal access to education***

Education is the primary tool to counteract all forms of discrimination, and the Bangladesh government provides free education for girls from the primary to higher secondary level. Despite this fact, the literacy rate among women remains low and most are not aware of nor concerned about their rights. As they are not self-reliant, women are taken into their brother's home upon



**Women farmers' group discussion on the need for women cooperative.**

photo by ALRD

the death of their husband or parents. Hence, they do not claim their inherited property for fear of losing this assured shelter. Education can therefore play a vital role in improving the condition and social position of women, making them self-sufficient and aware of their rights and privileges.

### ***Capacity Building***

Women – including women farmers, need to enhance their capacities, particularly in terms of legal literacy, policy advocacy, and leadership. Civil society organizations are working to advance farmers' rights in a gender-sensitive manner. But they need to develop the leadership capacity of women, by having them occupy leadership and decision-making positions within their own

organizations and in the bureaucracy (Chitrakar, 2011). Equally important is the initiation of training or other awareness-building mechanisms to sensitize government officials, the various ministries, and political parties, as well as making this issue a major agenda item or key area of intervention, so that these officials take on the role of effective land policy makers who represent the issues of men and women equally.

### ***Effective role of civil society and other stakeholders***

Besides government, civil society and other stakeholders such as international institutions, the private sector, and donor agencies can play effective key role in establishing Bangladeshi women's right to land and other natural resources.





Civil society can elevate the issue of women's right to land to the national level by advocating and supporting women's participation in policy debates.

### ***Increasing role of media/ media mobilization***

Raising awareness is fundamental to changing existing values and negative attitudes, and to challenging the stereotypes of women. Increased positive activities of media can change the social outlook and counteract any activities of government or other powerful players that are unjust to women. At the same time, efforts need to be undertaken to educate and sensitize media as well. So NGOs/CSOs can conduct orientations and knowledge sharing with media practitioners on emerging land issues and global trends to enable them to promote the issue more effectively.

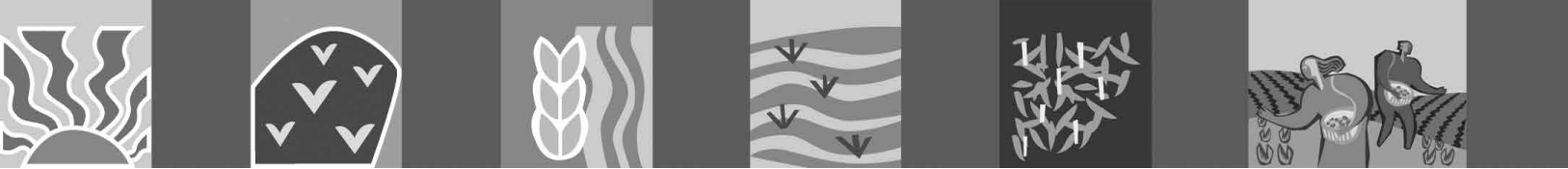
### ***International networking***

The issue of women's land rights is not only to be dealt at the national level, but must be linked up with regional and global institutions/actors to address the emerging challenges of commercialization, land grabbing, climate change, and the potential threat of all these on food security. Networking and alliance building with organizations such as the International Land Coalition (ILC), the Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC), concerned UN organizations, as well as platforms/processes/initiatives like the Alliance Against Hunger and Malnutrition (AAHM), the Civil Society Mechanism (CSM), the Committee on World Food Security (CFS), Land Watch Asia (LWA), and the National Engagement Strategy (NES) are crucial to promoting women's land rights as a key component of human justice and peace.

### ***Extensive research on the status of women's land rights***

In Bangladesh, no definitive study or statistics exist at the national level about the actual scenario of women's role in food production and agriculture, their status in land ownership and control over land, and the problems they face in different aspects of life relating to land ownership and their access to land. Up to the present, Bangladeshi women have still not been accorded recognition as farmers. It is presumed that they constitute a significant number but unfortunately no actual figures regarding deprived women farmers are available due to the lack of source data. As a result, the contribution of women to the Bangladesh economy in terms of their agricultural activities is not factored into the country's Gross Domestic Product (GDP).

Simultaneously, violence against women (VAW) is a most common crime in Bangladesh, with land-related violence believed to constitute a major portion of VAW incidents. Unfortunately, no sufficient data is available to provide an accurate picture of the full extent of the VAW problem; and specific data or studies on land-related violence in particular are totally missing in whatever VAW statistics there are. Therefore, an extensive research study on the women's land rights issue is vitally needed to generate data to be used as advocacy tools by different rights groups at the national and international level. Such a study should target the protection of women's right to land and identify the policy areas where state parties', as well as other international actors', long- and short-term interventions are required to improve the present status of women in Bangladesh.



Finally, even more important than the research and documentation, “the lessons should be shared among countries, highlighting the positive stories” (Chitrakar, 2010). ■

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***For the complete list of references, please contact the authors of this study as indicated at the beginning of this article.***



# Cambodia



**Meeting on women's land rights in Anglong Thnout Commune, Krokor District, Pursat Province.**  
Photo by STAR Kampuchea

*Condensed from Scoping Study on Women's Land Rights in Cambodia 2013 by STAR Kampuchea. For more details of the study, contact: [star-director@starkampuchea.org.kh](mailto:star-director@starkampuchea.org.kh).*

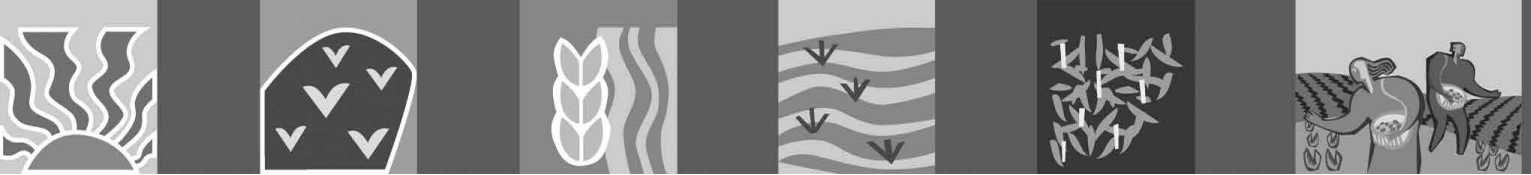
**K**nowing exactly the position that women in Cambodia occupy in terms of women's access to land and natural resources is a daunting challenge. This is primarily because of the lack of reliable and accurate information.

There are precious few studies or statistics that focus on gender realities in terms of land ownership, thus severely limiting informed discourse on women's land rights, their participation in communal life, their representation, the challenges they face, and factors hampering their access to and use of land.

Despite these constraints, this paper still seeks to present available information on these issues in an attempt to assess the extent to which women in Cambodia exercise their rights over land.

## Status of women's land rights

It was not until a decade after the Khmer Rouge was ousted that private ownership of land was recognized. The first real change took place in 1992 when a Land Law was passed, allowing Cambodian nationals to own and transfer land. Changes continued throughout the 1990s, thereby increasing private land ownership in the larger towns, especially in the capital of Phnom Penh.



Then in 2001, the Royal Government of Cambodia (RGC) improved the Land Law and affirmed private ownership of land. The new 2001 Land Law set in place a framework allowing individuals to register their land and have their ownership recognized.

The situation continues to improve, but the task of registering land in Cambodia is a complex and challenging undertaking, especially as the majority of land ownership documentation has been destroyed or is insufficient.

The establishment of the Land Law in 2001 led to the passage of a number of regulations that provided the legal framework for land registration and set out the roles and responsibilities of Cambodia's cadastral authorities.

For more than a decade, the Cambodian government, with support from its development partners, has been working to develop the country's land administration capacities, with the aim of eventually registering all of Cambodia's land parcels.

The rationale behind this is that, by formalizing and documenting ownership, land tenure security will increase, which will in turn reduce poverty by improving access to credit, developing a functioning land market, and increasing investment.

Systematic land registration (SLR) was initially conducted under the donor-funded Land Management and Administration Project (LMAP), which originally focused on 10 provinces and the capital, Phnom Penh. This project has since ended but SLR continues and is now active in 15 of Cambodia's 24 provinces, plus Phnom Penh.

SLR involves identifying a specific area for land registration, after which land registration

teams (LRTs) conduct a coordinated survey and demarcation, land claims are adjudicated, and land title certificates are finally issued.

Cambodia's land registration program has had considerable success. Some 108,000 systematic land titles were distributed in 2011 alone. By 2012, Canada helped the Royal Government of Cambodia issue nearly two million land titles.

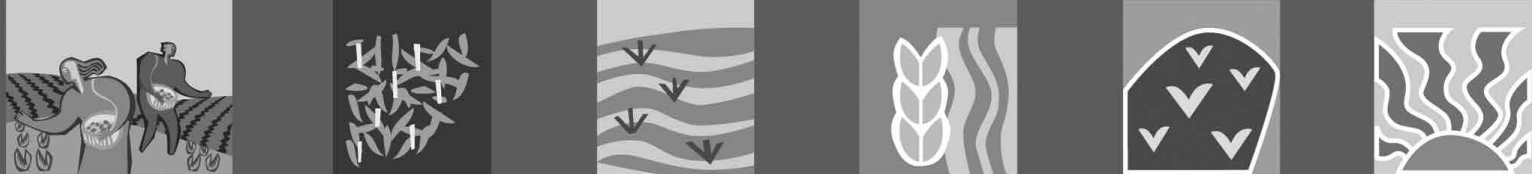
Land ownership, however, is concentrated in the hands of a very small elite, which emerged as the new ruling class after years of civil war, causing deep social rifts in the population of Cambodia.

A mere 1% of the population owns between 20% and 30% of the arable land of the entire country, whereas the percentage of landless households who own no farm land has increased from 13% in 1997 to 30% in 2012.

The RGC claims to recognize the important role of women in the unpaid sector of the economy. Such recognition means little, however, since economic and social benefits are not afforded to these workers. Women in the unpaid sector do not have access to medical care, maternity leave, and other basic rights under the labor law.

The state has promised to "promote economic development in all sectors and remote areas," and yet there are many women living in rural areas who have had little to no opportunity to improve their economic wellbeing due to constraints from home and lack of training, education, and skills" (NGO-CEDAW, 2013).

One fact which needs particular attention is that, in conservative Cambodia, about 20% of all land titles are registered by single women in contrast to only 5% by single men. The majority is registered with couples (70%). There are no research results



available which verify this rather surprising fact, thus leaving room for speculation.

One possible explanation could be the high number of widows after decades of civil unrest during and after the years of the Khmer Rouge regime. Another could be that women find it much harder than men to remarry after they are widowed or separated, due to entrenched beliefs which tend to blame women for a failed relationship or even the death of a husband.

Another fact, though not widely discussed in literature, is that wealthy and influential men in public positions (e.g., government officials) hide their accumulated wealth under the names of their wives, sisters, etc.

A Land Monitoring Report (STAR Kampuchea and Sothnath, 2011) states that the “majority of the land certificates were issued for land in the rural areas. Disaggregated figures available from RGC (2010) data indicates that approximately 75% of the titles were issued for rural land parcels. The rest (25%) were issued for land in urban area.”

“With regard to types of ownership over the land, the lands that were registered as shared properties of couples occupied 70% of the issued titles, followed by 20% registered as properties owned by women. Other (5%) owned by men and the rest (5%) owned by monasteries” (STAR Kampuchea and Sothath, 2011).

Only about 20% of the land in Cambodia is owned by private persons, while the majority (80%) or about 14.5 million hectares (ha) is owned by the state. The latter have mostly been turned into long-term Economic Land Concessions (ELCs), which are usually owned by conglomerates of Cambodian and foreign investors.

***“In general, there is limited information, mainly published by NGOs and foundations, about the land-rights situation for women in the country.”***

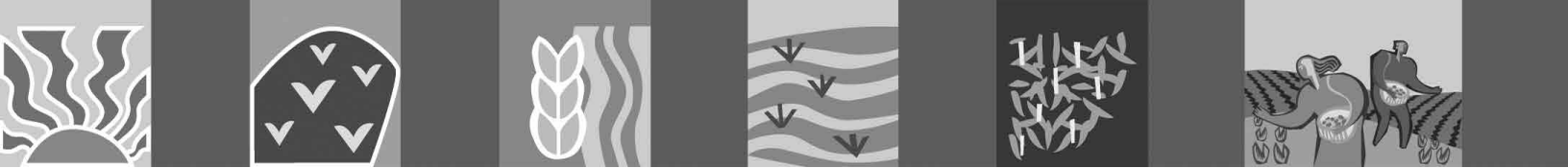
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In terms of land access, the latest data show that the proportion of Cambodians who own or operate agricultural lands remained unchanged at 74% between 2004 and 2007. Also, the poorest quintile of the population in Cambodia had better access to agricultural lands over 2004-2007. In 2007, 89% of the poorest quintile owned or operated agricultural lands, representing a 6-percentage point increase from that in 2004.

In contrast, the data show that the proportion of the richest quintile having access to agricultural lands fell by 9 percentage points from 48% in 2004 to 39% in 2007 (STAR Kampuchea and Sothath, 2011).

In general, there is limited information, mainly published by NGOs and foundations, about the land-rights situation for women in the country. Though a wealth of literature on development in Cambodia in general is available, these papers usually provide only scarce information on the gender-specific aspects of this burning issue of land rights.

It is striking that NGO documents as recently as 2011 do not make even a single mention of the word “women”, or at best contain a typically short paragraph referring to the vulnerable groups: women, children, and indigenous peoples, who together constitute more than half of Cambodia’s population.



## Legal framework

International agreements have repeatedly reiterated the importance of women's land and property rights, and one of the most important is the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which underscores rural women's rights to equal treatment in land and agrarian reform processes. Cambodia ratified CEDAW in 1992 and the Optional Protocol in 2010. But while Cambodia ratified the treaty formally, implementation has remained slow until very recently.

In February 2013, the Cambodian NGO-CEDAW Committee, which monitors the government's implementation of CEDAW, reported at a UN CEDAW meeting on the situation of women, especially those from indigenous communities. The report said that, as of December 2012, about 2.66 million ha of land had been granted to or reserved for private companies, representing a 16.7% increase from 2011, despite a moratorium on further concessions declared in May 2012.

Although the government has ramped up its program of individually-owned land, it has proceeded very slowly and many indigenous communities who have requested titles face extreme pressure and conflict with local authorities. This has a disproportionate effect on women in a number of ways.

Local communities report increased gender-based violence against women from private company workers. In addition, individual land titling increases pressure to move away from traditional sustainable methods of agriculture. It also reduces cooperation and solidarity in indigenous communities. Land disputes increased sharply in 2012, with women often at the forefront of

protests and suffering abuse and imprisonment alongside loss of land and livelihoods.<sup>1</sup>

### ***Rights entrenched in the Cambodian Constitution***

The Constitution, as adopted in 1993, provides, among others, that men and women are equally entitled to own property.

Unfortunately, while the Constitution states that men and women are equal in all fields, the *Chbab Srey*, the traditional code of conduct for women, reinforces the belief in women's inferior status within the family, thus promoting inequality.

The *Chbab Srey* is a written, customary law dating back centuries. Although it has never been turned into official law, its influence on Cambodian society remains deeply rooted.

The women's code *Chbab Srey* explicitly assigns a lower status to women, prohibits them from voicing opinions, and advises them at all times to respect and obey their husbands and avoid embarrassing their families.

*Chbab Srey* used to be taught in schools, but in 2007, it was pulled from the schools' curriculum due to efforts by the Ministry of Women's Affairs. Yet, for many women, its admonitions still run deep in Cambodian culture, thus affecting their fight for their rights.

Reports state, for example, that 45% of women are illiterate (70% are functionally illiterate); only 16% of girls are enrolled in lower secondary school (grades 7-9); only 5% of girls are enrolled in upper secondary school; only 30% of upper secondary school students are female; only 20%

<sup>1</sup> Cambodian NGO-CEDAW Committee Submission to pre-session working group on CEDAW, Feb 2013



### Women’s participation in Cambodia: quick facts and figures

	%
Females who are illiterate	45%; (functional illiteracy is at 70%) <sup>a</sup>
Females who are enrolled in lower secondary school (grades 7-9)	16% <sup>b</sup>
Females enrolled in upper secondary school	5% <sup>c</sup>
National Assembly members who are female	10% <sup>d</sup>
Percentage of the female workforce that is paid	6% <sup>e</sup>
Judges who are female	7% <sup>f</sup>
Females who have suffered physical domestic violence	23% <sup>g</sup>

**Sources:** as cited from UNIFEM, WB, ADB, UNDP and DFID/UK. 2004. *A Fair Share for Women: Cambodia Gender Assessment*. Author. Phnom Penh, ISBN:1-932827-00-5

<sup>a</sup> UNDP/UNESCO, 2000

<sup>b</sup> EMIS, 2001/2002 and Department of Higher Education, MoEYS

<sup>c</sup> Ibid

<sup>d</sup> Media Business Network, 2003

<sup>e</sup> CSES, 1999

<sup>f</sup> Data from Ministry of Interior and FUNCICEP’s websites

<sup>g</sup> CDHS, 2000

of university graduates are women; only 10% of National Assembly members are women; only 6% of the female workforce is paid; only 8% of Commune Council members are women; only 7% of judges are women; and 23% of women have suffered physical domestic abuse.

A 2004 USAID study reports that limited awareness of their rights – coupled with poor access to legal aid and advice – makes women more vulnerable in contractual affairs, including when others make claims on their land (SIGI, nd). No valid data exists on Cambodian women’s awareness of their land rights.

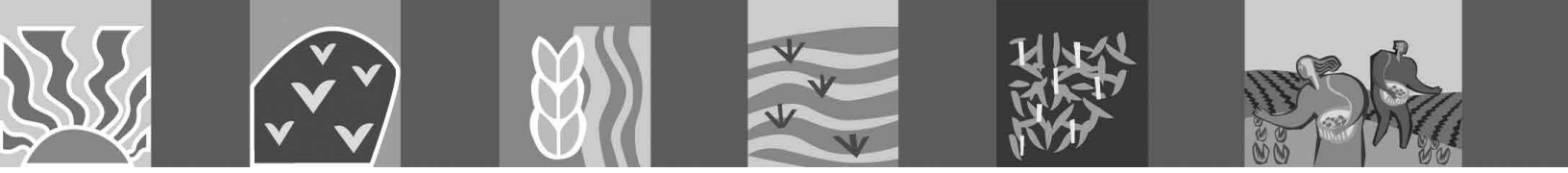
As for the 2001 Land Law, it provides for joint land titles for husbands and wives. In practice, however, such rights are not recognized due to traditional rules that consider women as subordinates in the family. As a matter of fact, women often need their husbands’ permission to include their names on land titles. And while the law says that property cannot be sold without

the consent of a co-owner, men have proceeded to sell land without their wives’ consent. Married women also usually leave all decisions related to property to their husbands and do not claim their right to be a shareholder of joint property. As a result, when a divorce occurs, women lose their rights to joint property (FAO, 2009).

#### ***New Land Law, 2001***

This law aims to overhaul the distribution and management of land as well as to protect property rights. It seeks to determine the regime of ownership for immovable properties “for the purpose of guaranteeing the rights of ownership and other rights related to immovable property, according to the provisions of the 1993 Constitution.”

Women’s property and use rights in personal laws The Marriage and Family Law, 1989, provides, among others, that men and women are equal in all aspects of the family and have equal rights



Protesters appealed for Prime Minister Hun Sen to take action in the illegal resettlement  
Photo by the NGO Forum

to use, obtain benefits from, and manage joint property.

But according to the Cambodian NGO Committee on CEDAW (NGO-CEDAW) Shadow Report, from 6 September 2013, “The Cambodian law on Marriage and Family has many discriminatory clauses deeming women unequal to men. Women have unequal property rights in Cambodia.

Although Article 70 of the Marriage and Family law permits women to inherit property after divorce, it is common, however, for there to be joint ownership of land, and sometimes without the woman’s knowledge, her husband’s name will be added to the land title, claiming primary ownership to the property after the marriage has been dissolved” (NGO-CEDAW, 2013).

**Indigenous land rights**

There are approximately 24 groups of indigenous peoples in Cambodia and their formal recognition is found in the Land Law of 2001. However, there are no available studies on women’s land rights in Cambodia that delve into common ownership of land, forests, and water bodies in IP communities.

**Best practices**

There is insufficient credible information available to determine “best practices” in Cambodia for an extensive topic like women’s land rights, especially indigenous women’s rights.

A few groundbreaking studies (e.g., by the German Development Agency or GIZ or by the Böll Foundation) have been conducted. However, since these are mainly case studies, it is not





advisable to generalize their findings for the entire country.

## Trends

One major contributing factor to the recent increase in land conflicts is the growing issuance of ELCs, which are long-term leases, usually for 99 years, over state property. ELCs are purportedly intended to promote industrial agriculture development.

Information about lease terms and negotiations, however, as well as information about estimated returns to the public or expected job growth as a result of the concessions, is rarely if ever disclosed or discussed. There is a comprehensive lack of transparency surrounding these potentially highly lucrative leases for private enterprise.

“As of February 2012, the government has leased at least 2 million ha of land to private companies under its current concession schemes. Approximately 800,000 ha were awarded in just 2011. This stunning increase in ELCs has left relatively little arable land in Cambodia unfettered by long-term leases to private companies” (LICADHO, 2012).

In its presentation, the Cambodian NGO Committee on CEDAW stated that “Current land-grabbing trends have a disproportionately negative effect on women. Often times, when a family loses their land, the husband will stay in the city in order to find work while his family is sent to a relocation site. Women are then victimized twice, losing first their home and land, and second their husband and provider. Women are left vulnerable to sexual violence and increased rates of alcoholism. The RGC concludes that, based on its programs, the situation for rural women will be improved gradually, but includes no goals as

far as dates to complete this improvement, and no process for evaluation or monitoring” (NGO-CEDAW, 2013).

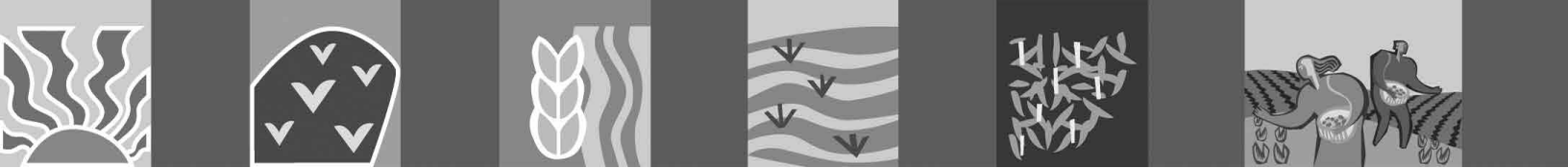
### *Indigenous women’s land rights*

For indigenous women, the biggest challenge confronting them stems from forced displacement of communities from their lands because of environmental degradation, and natural resource depletion due to widespread land grabbing. Cambodia has seen an epidemic of large-scale land allocation deals to private interests, in the form of economic land concessions for agri-industrial, mining, and hydro-electric production purposes. These projects have led to systematic violations against the individual and collective rights of the affected communities such as forced relocation, threats and harassments against protesting indigenous peoples, and loss of livelihood among others (NGO-CEDAW, 2013).

Indigenous minorities are rapidly being displaced from their ancestral lands in Cambodia’s uplands as a result of government-supported lucrative activities, like the granting of ELCs, mining concessions, etc. with hardly any regulation.

### *Insufficient implementation of the Land Law*

“The past couple of years have seen a marked deterioration of the human rights landscape in Cambodia. The issuance of long-term, large-scale land leases has accelerated significantly, while the safeguards expressly provided for in Cambodian land laws have continued to be almost entirely ignored. Human rights defenders have been targeted for harassment, threats, unjustified criminal charges and violence, particularly when their activism has been related to land rights” (Schueller, 2013).



***“For indigenous women, the biggest challenge confronting them stems from forced displacement of communities from their lands because of environmental degradation, and natural resource depletion due to widespread land grabbing.”***

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### **Assessment of the key actors promoting or impeding women’s land rights**

The Cambodian Minister of Women’s Affairs, Ms. Ing Kantha Phavi, has established her ministry as a champion of advancement and progress for women. However, given the cultural and political environment in Cambodian society, where the ruling party has been dominated by men for more than three decades, progress is slow in the field of politics.

But the same is true for other Cambodian political parties, meaning that women are by far under-represented in the political landscape.

Ministries and agencies responsible for the implementation of land-related laws and regulations, like the Cadastral Commission, which was set up in 2002 as a dispute resolution mechanism, are often inefficient because of bureaucracy and corruption or are hampered by conflicts of interest.

NGOs have widely taken on the responsibility, partly in response to donor requirements, to promote equality of women in many sectors. But

even in this sector inequalities remain and need to be addressed.

The special focus on women’s land rights is still in its infancy and the demand for it needs to be addressed more adequately, promoting equally the personal or common land-rights of both Khmer women and indigenous women.

In Cambodia today land issues, especially land grabbing, are red-hot topics/major concerns which cannot be tackled by only one player – not by civil society organizations, by the donor community, by a single ministry, nor by the opposition party alone.

### **Government agencies**

The Cadastral Commission for the Resolution of Land Disputes was established in 2002 under the Ministry of Land. One of its main duties is to investigate and resolve land disputes over unregistered land. Disputes may be transferred to the courts if the disputing parties are not satisfied with the ruling of the Cadastral Commission. However, due to the massive increase in land disputes in recent years and the inability of the Cadastral Commission and the courts to resolve them, the government established the National Authority for the Resolution of Land Disputes (NARLD) in 2006. The NARLD is mandated to take up cases or complaints that are beyond the jurisdiction of the National Cadastral Commission.

The Ministry of Land Management, Urban Planning and Construction is responsible for land management and cadastral affairs. The Ministry’s responsibilities include: the development of land policy, land registration, distribution and administration of land titling, including oversight of the granting of social concessions.



The provincial and municipal departments of land management are responsible for carrying out at the local level the duties of registration, distribution, and administration of titles.

The provincial and municipal cadastral offices are responsible for conducting surveys in coordination with other local authorities, maintaining the Land Register, updating the Register on a regular basis under the supervision of the Central Cadastral Administration, and maintaining documents and providing information to any person who requests information.

### ***Political parties***

Effectively Cambodia has been governed for more than three decades by one ruling party, the Cambodian People's Party (CPP). In the parliament elections in July 2013, the Cambodian National Rescue Party (CNRP) emerged as a strengthened opposition, taking on the role as the people's advocate and remaining in boycott of the parliament for allegedly flawed elections.

### ***Local government***

The provincial and municipal departments play a key role in the implementation of the SLR process. At the outset they conduct preliminary assessments on areas yet to be adjudicated and advise the Governor on selecting adjudication areas. LRTs report to their respective departments of land management.

The SLR process is heavily dependent on the support and cooperation of the local authorities. Local officials will indicate village and commune boundaries to LRTs and provide demographic data. They also provide support to the LRTs during the adjudication process and assist households in preparing their documentation. Local officials

***“The available literature on women’s land rights in particular is insufficient to make an informed statement on the influence of donors and international agencies on this specific right of women in Cambodia.”***

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help resolve disputes that emerge, and are also represented on the Administrative Committees.

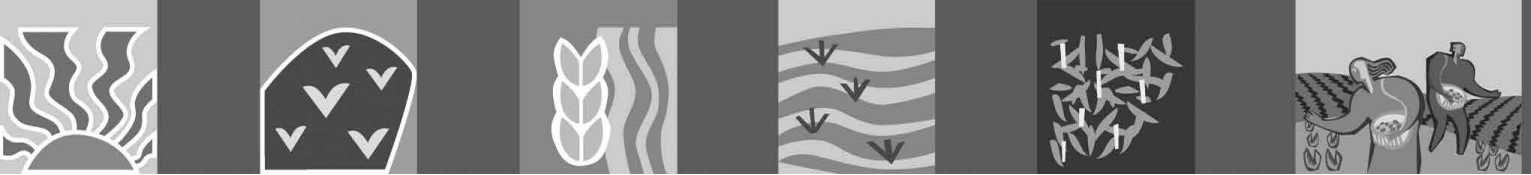
The RGC states that each commune (*sangkat*) should have at least one woman in charge of women's and children's affairs through the Committee for Women and Children. But there is no information to show if this is being implemented.

### ***Donor agencies and international institutions***

The available literature on women's land rights in particular is insufficient to make an informed statement on the influence of donors and international agencies on this specific right of women in Cambodia. The World Bank, Asian Development Bank, European Commission, and development agencies, especially GIZ, support the Cambodian government and its agencies in more general areas, such as reducing poverty and landlessness in Cambodia.

### ***Private sector***

As members of their communities, women are affected by issues such as land-grabbing which



contribute to significant shifts in the Cambodian economy. Within the framework of this study, however, only general statements can be made on the situation of men and women since there is no available evidence exclusively on the topic of women's land rights.

### ***Civil society and social movements***

In Cambodia a movement specifically for women's land rights is still in its infancy. NGOs who work on land rights and natural-resource issues usually do not specifically target the concerns of women. On the other hand, NGOs that focus specifically on women's issues are, in most cases, not involved explicitly in land-rights issues.

## **Opportunities**

### ***Partnerships***

There is a general interest among NGOs in establishing partnerships to improve people's access to land. There are initial calls for the formation of regional or local partnerships that prioritize project implementation and specific cases. These would benefit from the effectiveness of lower levels of administration in resolving land disputes.

### **Risks and challenges**

- ***Lack of equitable and effective land partnerships at the national level.*** This has a strong bearing on local level decision-making and should be addressed as a priority concern.
- ***Limits and constraints to progress of land partnerships in Cambodia.*** To promote land partnerships in the country, strong networks and linkages among NGOs need to be established. Dwindling sources of funding are forcing NGOs

to compete rather than cooperate. NGOs need to understand the benefits of networking and partnerships, find ways to support each other, and even to recognize which among them is best able to represent their sector in dealing with the government.

Important information from the government continues to be inaccessible, and the government often ignores recommendations put forward by NGOs. Partnerships with the government have not been effective because the political environment precludes transparency on the part of the state, resulting in a lack of trust between the two groups. The government has little regard for NGOs and often tries to intimidate them and restrict their rights.

A clear example of the government's unwillingness to work with NGOs is its lack of interest in joining the Land Partnership Study that was conducted by STAR Kampuchea and the NGO Forum on Cambodia. These two networks believe that the government's reluctance to participate in the study epitomizes the current problems of lack of communication and trust, which hinder opportunities for partnership on land issues (STAR Kampuchea and Sothath, 2011).

- ***Disharmony between donor and government programs.*** While international donor organizations declare their intent to work in harmony with the government, the uncoordinated donor support for different methods of land use mapping in Cambodia is proof to the contrary.
- ***Political apathy of donors.*** International donor and development organizations are primarily oriented toward providing technical support. The majority of them avoid getting enmeshed in controversial or political issues. They have never used their political clout to pressure the



***“Sensitive land issues, cases of land grabbing, and violent evictions are covered by the English language newspapers but this medium is restricted to educated people, major cities, and citizens who can afford to purchase daily newspapers.”***

government to improve its human rights record, and observers believe they will not begin any time soon, i.e., become advocates against landlessness and root causes of land disputes.

- ***Constraints to strengthening NGO–donor–government relationships.*** Firstly, there is a power imbalance between national NGOs and international development and donor organizations, and this is tilted against the former. Secondly, donors feel that the inherent mistrust between the government and NGOs restricts progress for tripartite cooperation with regard to land and natural resources management, and believe that land distribution would be more effective if the government and the private sector were to team up instead.

Thirdly, donors and development organizations question the legitimacy of NGOs to represent affected communities and vulnerable groups, since the latter do not normally elect which NGOs would speak on their behalf. Donors prefer increased direct representation and organization by affected peoples. Donors are also concerned that a number of NGOs are not genuinely interested in empowering people, but operate more as private enterprises concerned with turning a profit (FAO, 2009).

## **Media**

The Cambodian media remains one of Southeast Asia’s liveliest, although a lack of professional

journalism training and ethics, and intimidation by both government and private interests, limit the Cambodian media’s influence.

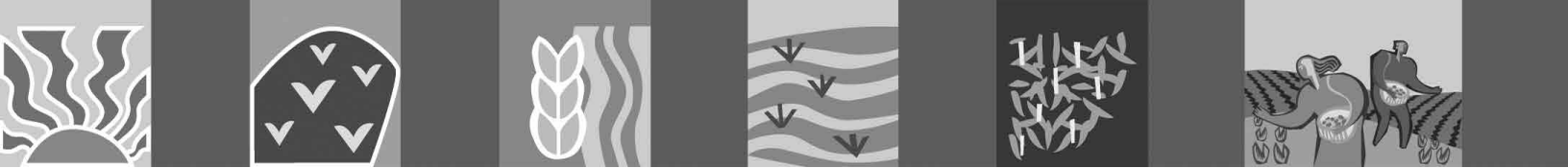
There are more than 100 newspapers in Cambodia. However few maintain regular publication schedules or have paid staff. Many newspapers are run by political parties or individual politicians, so news coverage is often slanted.

Sensitive land issues, cases of land grabbing, and violent evictions are covered by the English language newspapers Cambodia Daily and Phnom Penh Post but this medium is restricted to educated people, major cities, and citizens who can afford to purchase daily newspapers. Even less pricey newspapers have often proven to be too expensive and usually not available in rural areas.

Thus, radio broadcasts are the medium of choice for most Cambodians and are, wherever possible, used by NGOs and other civil society organizations to disseminate information on many topics, land rights and advocacy for natural resource management being among them.

## **Key opportunities, strategies to advance women’s land rights**

In the context of implementing the land law, special efforts must be directed at strengthening women’s access to land ownership and dispute resolution. Legal codes are urgently required that



ensure women's rights to a fair and equitable division of land in the event of divorce and inheritance. Women must also have some legal guarantees that ensure their access to fair and impartial dispute resolution.

One important step in this regard concerns the need for active collaboration between the government and civil society organizations to provide women with information about their rights in the context of the new land law, as well as provide support to enable women to advocate for their rights.

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***“There needs to be much more awareness raising by donors and civil society organizations to change entrenched cultural norms and to design policies, programs, and projects that benefit especially rural women and ensure women’s participation in land registration processes.”***

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In terms of promoting women's access to land titling, consideration should be given to implementing preferential rates for land titling fees. This may be especially relevant in cases involving female heads of households. Authorities at all levels of the land-management and dispute-resolution administration should also receive training and instruction about the rights of women with respect to land titling laws.

## **Strategic linkages civil society can pursue**

According to the official count in the 2013 election, the CPP won 68 of the 123 seats in the National Assembly while the CNRP won 55. The CPP maintains that the vote was free and fair and has refused opposition demands for an independent investigation (*Sokheng, 2013*).

The stalemate in the political situation is not likely to be resolved soon and it remains to be seen how the government and the opposition party will be able to shape the development of the country in the next five years.

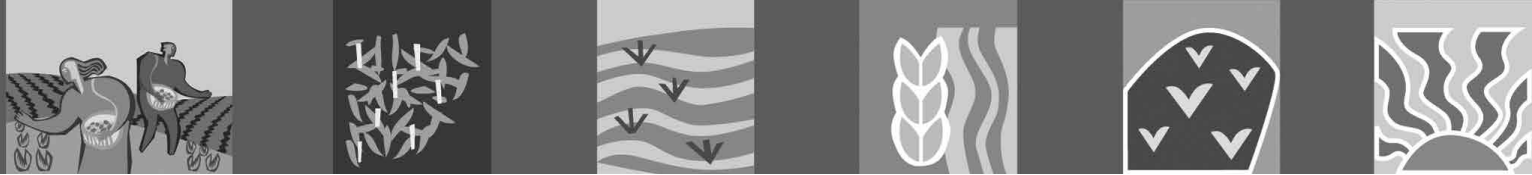
There needs to be much more awareness raising by donors and civil society organizations to change entrenched cultural norms and to design policies, programs, and projects that benefit especially rural women and ensure women's participation in land registration processes.

## **Opportunities for civil society to pursue land issues**

### ***Women in politics after elections in Cambodia in July 2013***

The newly elected Cambodian Government has filled only two minister positions with women, one being the Minister of Women's Affairs and the other the Minister of Culture and Fine Arts. This limits women in government positions from having any strong political influence on politically sensitive land issues.

Without a strong group of female lawmakers in the National Assembly: “Decisions are going to be from a male perspective,” said Ms. Khus, chair of the steering committee of the Committee to Promote Women in Politics, adding that such a



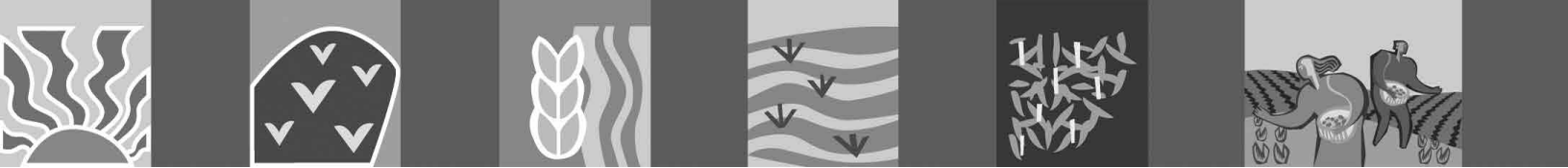
situation would negatively impact areas such as social and community development.

## **Recommendations to promote secure and equitable access to land for women**

Cambodia has the potential to develop its land sector, agriculture, and forests to alleviate poverty. Countless recommendations have been made by national and international NGOs as well as development partners to institute proper land regulations, natural resource laws, an Environmental and Social Impact Assessment law, an Access to Information Law, and last but not least an Extractive Industry Transparency Initiative (EITI).

To place women on an equal footing with men in this process requires major cultural changes and a different self-perception of mostly rural women, as well as a change in the attitudes of responsible authorities, NGOs, donors, and the private sector regarding the following:

- Active involvement of community women in social, development, and political programs
- Design of programs and projects in the land sector that are inclusive of women's most pressing issues and cognizant of their perceptions
- Agricultural programs that specifically target women
- Integrity of cadastral titles for women, including land inheritance and succession without unreasonable financial and bureaucratic obstacles
- Cadastral services organized as a One-Stop-Shop (e.g., GIZ pilot-project in Battambang, routine practice in Vietnam)
- Legal aid for vulnerable women, especially women heads of households
- Greater public confidence in the system of land registration and the functions of the cadastral department with regard to women's land rights in particular
- Active government support for small-holders, especially targeting women
- Awareness campaigns about gender justice, and on women's empowerment and inclusion in decision-making processes in terms of land rights on all levels, from communities to the National Assembly
- Access to information especially by rural women, relevant to their specific living conditions and needs
- Standards set by the non-governmental sector to include and empower women in:
  - Land rights campaigns
  - Formal registration of forestry and fishery communities, with women in committees
  - Formal consultation processes on ELCs and Social Land Concessions (SLCs)
  - Negotiations with local and national authorities
  - Legal actions
  - Access to information to encourage greater women's participation
  - Local and national networks of women's groups in the land sector
  - Capacity building, preferably from women for women
  - Collaboration with regional and international partners to address land issues
- Improvement of judicial training for women and recruitment of more women into the judiciary
- Public debate (media and social media) on the portrayal of women and how best to adapt this to the needs of a changing society
- Proper monitoring of progress by national and international agencies (e.g., the UN's CEDAW)
- Effective monitoring of results of gender mainstreaming in Cambodia's National Poverty Reduction Strategy



- Decentralization or deconcentration of government's efforts to be in tune with women's needs, and ensure that they are heard equally in decision-making processes
- Promotion of women-leaders as positive role models to make female leadership an integral part of Cambodian mainstream culture
- Further in-depth research to fully understand the specific land-related problems of Cambodian women and their particular perspectives; with a special focus on indigenous women and their communities and on changing gender perspectives, behaviors, and roles amongst younger Cambodians, both female and male
- Support from ANGOC and the Land Watch Asia Campaign for Cambodian stakeholders in the land sector to help identify and close information gaps in relation to women's land rights, with a specific focus on indigenous women and their roles and rights but also focusing on women from the Cham minority. ■

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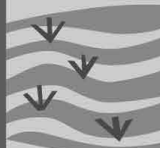
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***For the complete list of references, please contact the author of this study as indicated at the beginning of the article.***





# India

*Condensed from Scoping Study on Women's Land Rights (India) by Association of Voluntary Agencies for Rural Development (AVARD). For more details of the study, contact: [avard@bol.net.in](mailto:avard@bol.net.in).*

**W**omen in India have a multitude of rights to fight for, not least of which are their rights to the land on which they depend for their livelihood.

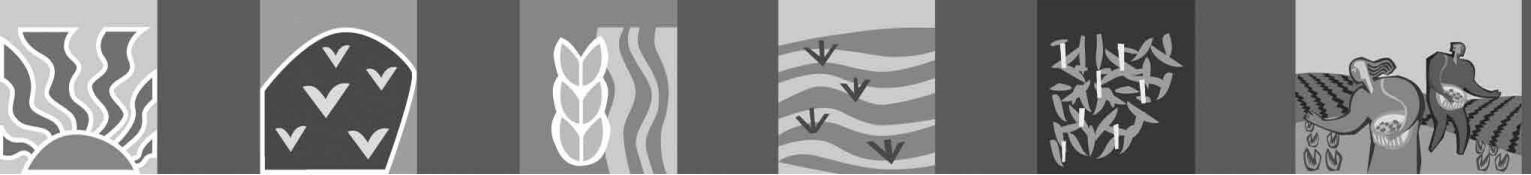
Land rights refer to the inalienable ability of individuals to freely obtain, utilize, and possess land, as long as activities on the land do not impede on other individuals' rights. Land rights equate to security and enhance human capabilities – and in the case of women, these are vital to their empowerment.

But because of the prevailing patriarchal culture in India that favors men, women have been largely denied vital access, ownership, and control over land. There are forced evictions and exclusion in cases such as husbands marrying another wife, domestic violence, and destruction of homes due to armed conflict.

Discriminatory laws, non-representation of women in decision-making bodies related to land,

**Women in India**  
Photo by Ekta Parishad





and the low level of awareness about land laws and rights create more complexities for women.

According to Wickeri and Kalhan (2009), land ownership can be a critical source of capital, financial security, food, water, shelter, and resources. With land ownership, women can earn income and allocate resources more fairly within the household.

Land rights are an integral part of Land laws. “Land law” refers to the legal mandate set forth by a country with regard to land ownership, while “land rights” refer to the social acceptance of land ownership. Laws are important but they must be backed up by cultural traditions and social acceptance. Therefore, a country’s laws concerning land ownership and land rights must be in agreement.

### **Status of women’s land rights**

The common perception that the status of women in India has improved significantly is not true. The United Nations Development Programme (UNDP) Human Development Report (2013) places India at 135<sup>th</sup> place on the Gender Development Index out of the total 187 countries listed.

The report also shows that women workers in India, on an average, get only 31% of the wages of their male counterparts. The sex-ratio (2011) at 940 females per 1,000 males is extremely low and reflects persistent discrimination against girls starting from early childhood, even in such basic matters as nutrition and health care.

For instance, they have lower rates of economic participation (e.g., in the labor force), literacy, and share in earned income and an abysmally low share in positions of power and influence in public life. Gender-related development indicators such

as maternal mortality rates and sex-selective abortion have likewise thrown a harsh light on the predicament of Indian women.

The situation is even worse in the context of land rights. Despite equality with men being declared under the law, Indian women continue to face wide-ranging disadvantages with regard to property rights. Hardly any attention has been paid to legal and institutional impediments in the acquisition of land through inheritance allotment, tenancy, or the situation of women who continue to have no assets. This despite the fact that a very large proportion of rural female workers are cultivators and that many farming households are headed by women, due to male migration, death, or desertion among other reasons.

The Constitution recognizes equal rights for men and women but Kanakalatha Mukund (1999) points out that, although women in India have the legal right to own land, very few actually do so as a result of the patriarchal practices that prevail to this day.

Indian women have been left out of laws regarding the distribution of public land and are forced to rely on the small possibility of obtaining private land from their families. Small indeed, as inheritance laws that favor men are among the key issues behind inequality in land rights.

Women comprise nearly half of the population, yet they own only 7% of the land. About 84% of rural women in India depend on agriculture for their livelihoods.

A ray of hope is the distribution of *Bhoodan* (“land gift”) land to women. According to an information leaflet on the Bihar Bhoodan Committee, as many as 50,000 women have been allotted land titles in their name in the state by this Committee.



Acts like the Rights to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 raise hope. Overall, the trend is positive but the pace is very slow.

The most recent advance towards equality in land rights, including rights to land ownership, in the country was the Hindu Succession (Amendment) Act 2005. This Act aimed at removing the gender discrimination in the Hindu Succession Act 1956. In the amendment, daughters and sons now have equal rights to obtain land from their parents.

Legally and socially, the Act not only legally mandated equality in land succession, it also validated women's roles as equals in society.

Religion likewise plays a role in women's status in India and, consequently, their rights to land. Hindus constitute 80.5% of the total population, while Muslims account for 13.4%. The latter are governed by personal law that is unfair to women. Other smaller religious groups are also governed by traditional laws and practices.

There are some communities in India (in Kerala and Meghalaya) that are matriarchal, but the rest of Indian society is patriarchal. Thus, disparity and inequity in land rights between men and women prevails.

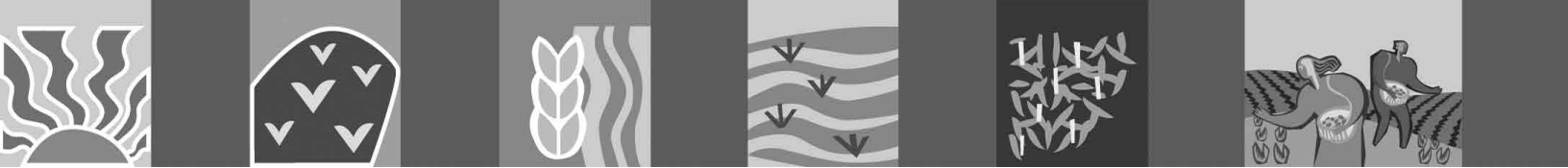
At the same time, India is a union of 28 States and Union Territories (UTs) and, with land being a state subject, any act passed by Parliament has to be endorsed by the states prior to implementation. Many states have not endorsed acts such as the Hindu Succession (Amendment) Act 2005, hence have not implemented them. The issuance of joint land/house site titles in the names of both husband and wife is being implemented in some states but not in all.

***“...India is a union of 28 States and Union Territories (UTs) and, with land being a state subject, any act passed by Parliament has to be endorsed by the states prior to implementation. Many states have not endorsed acts such as the Hindu Succession (Amendment) Act 2005, hence have not implemented them.”***

In the matter of giving women a permanent stake in land distributed through government programs, the Sixth Plan (1980-85) recommended that states give joint titles to husband and wife in the transfer of assets like land and house sites under such programs. This was formalized as a policy directive in the 1985 Conference of Revenue Ministers.

The National Perspective Plan for Women (1998-2000) further recommended that the allotment of government wastelands, government land, ceiling surplus lands, village common land, developed house sites, and tenements should invariably be done in the name of women or jointly in the names of the husband and wife. It also stipulated that the rights of women, as co-owners of property, should not merely be confined to land but also to others associated with any group set up to advise the implementation of this plan.

Recommendations for the issue of joint *pattas* (titles) are being implemented by several states including Andhra Pradesh, Assam, Bihar, Gujarat,



Maharashtra, Goa, Daman and Diu, Tripura, Tamil Nadu, and Madhya Pradesh.

As Agarwal (2003) has pointed out, the impact of single titles being granted to women is likely to be greater but pragmatic considerations have prevented this from happening. The effectiveness and impact of the existing transfers (joint or single) are still to be analyzed (Srivastava, 2008). Most of the states, however, have not implemented the recommendation of issuing joint *pattas*. These are generally still issued in the name of adult males. Even in states like West Bengal, where considerable land reforms have taken place, this issue has yet to be addressed.

In most cases, the male head of the household is considered to be the *bargadar*<sup>1</sup> and only his name is entered into the records of rights, despite women undertaking more agricultural activities than the male head.

Also, awareness of existing provisions on women's land rights is seriously lacking and rarely does it translate into implementation. Government initiatives to address these wide-ranging disadvantages women face have been given only meager attention.

Even the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA), which is a potential source of empowerment for women, has yet to overcome traditional patterns of gender inequality and female subordination.

In Indian society, a whole gamut of patriarchal norms and practices such as patriarchal inheritance, patrilocal residence, gender division of labor, gender segregation of public spaces, and

<sup>1</sup> A person who cultivates the land of another person on condition of receiving a share of the produce of such land from that person (West Bengal Act X of 1956).

discouragement of widow remarriage continue to prevail.

One of the most critical problems in relation to women's land rights is non-availability of segregated data about the operational landholdings owned specifically by women. This shows the general apathy and attitude of the government, as well as Indian society in general, towards the land rights of women.

The definition of women's land rights does not recognize every unmarried adult daughter as an independent unit deserving separate rehabilitation. In an undivided family, only the head of the household is treated as beneficiary and adult (female) members are left out. This creates problems for tribal communities where land is generally in the name of the father only. Households headed by women do not figure in the consideration of policy makers. This is particularly harsh towards widows, deserted women, and unmarried women – rendering them, in effect, invisible.

As already mentioned, the overall trend is positive but it is not taking off at the desired speed. However, with growing public awareness as well as a powerful and independent media, things are changing for the better and are expected to gain momentum in due course. On the whole, the outlook is positive and the balance is slowly but surely tilting towards more equitable land rights for women.

### **Assessment of key factors promoting or impeding women's land rights**

In a vast land like India, which is struggling with many concerns, the issue of women's land rights has not emerged prominently in the public sphere. More attention is being devoted to food



security, health, education, and participation in governance. Thus this critical issue relating to the empowerment of women remains below the radar. The government has fulfilled its promise of legislation but is weak at implementation.

As mentioned, the government passed the Hindu Succession (Amendment) Act, 2005 which provides equal rights to men and women. Many state governments have also started issuing *pattas* in the joint names of husband and wife.

However, the real problem lies in the fact that any act passed by the Parliament has to be endorsed by at least half of India's 28 states to enable implementation at the national level. Besides, land in India is a state subject so the legislation process is a longer one. Any delay in approval on the part of the states delays the whole process. This can be overcome only by strong advocacy and engagement with the states.

Political parties look at larger issues, but because they have a constant eye on votes in a highly stratified and diversified society like India's, they are more interested in populist measures. When it comes to women, these parties are more oriented towards welfare and security measures rather than their land rights.

Local governments have taken steps to fight for women by issuing house site titles in the name of both husband and wife, but this is just a small step. Securing true land rights for women is still a distant dream.

In terms of representation in national as well as local governance and decision-making bodies related with land rights, it is expected that the increasing presence of women in such positions will make a difference.

Meanwhile, donor agencies and international institutions have so far played a limited role as far as women's land rights are concerned. They can only fund some of the relevant activities of civil society organizations/activists engaged in awareness generation and organizing people. Thus, there is not much room for them to make a difference in the fight for women's rights.

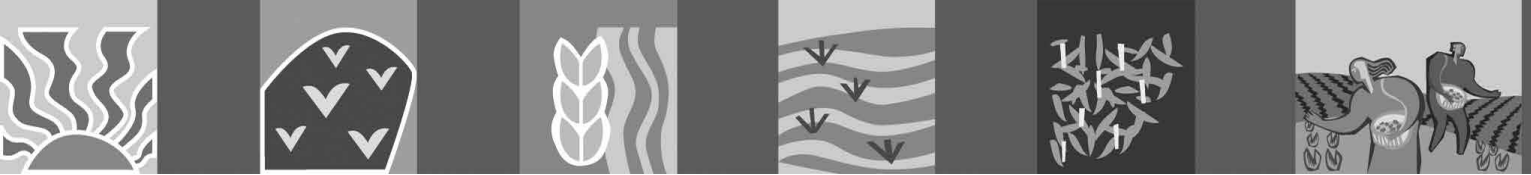
Civil society and social movements also tend to be more oriented towards the land rights of the landless, particularly of tribes and castes, irrespective of gender. Land rights for women are an extremely exclusive subject that has yet to emerge in the public consciousness. Other issues related to women, like participation in local self-governance, protection from domestic violence, safety and security, are gaining more attention.

The private sector, with its profit motive, is an even greater hindrance. Private firms are more interested in grabbing land and thus have the least interest in women's land rights. Media is also not very much interested in what, to them, is a non-priority issue.

Given this scenario, the growing trend of women's empowerment in the country and the recently concluded parliamentary elections provide good opportunities to raise the land rights issue. Now is the time for greater awareness generation and advocacy in a democratic manner, through means such as peaceful marches by women's groups.

### **Key opportunities and strategies to advance women's land rights**

With the rise in literacy and level of awareness among women, as well as constitutional provisions providing more space for women for participation in decision-making processes, the issue of land rights for women is finally gaining attention.



The age-old patriarchal society and traditional values are diminishing slowly but surely. Thus, the time is now ripe to raise the issue. Besides, events like the awarding of land titles to women by the Bihar Bhoodan Committee, have prepared a concrete and solid ground to be followed by Bhoodan committees of other states.

The provision of issuing joint titles in the name of husband and wife likewise opens the opportunity to step up demand for its strict implementation in all the states of the country.

The election of a new government also provides an opportunity to CSOs and activists to get the issue of land rights for women included in their manifestos.

One of the key strategies needed is to increase awareness among women, particularly in rural areas, of their rights and the role of land in their empowerment.

Keeping in mind the vast expanse and huge population of the country, there is a need to organize women at different levels – local, state, regional and national – to get the message of women’s land rights across.

This task can be accomplished by CSOs and social activists in association with like-minded organizations/institutions working for the development and empowerment of the women sector.

## Recommendations

Based on the situation of women’s land rights in India, the following recommendations were put forward in the draft national land reforms policy:

- In all government land transfers, women’s claims should be directly recognized.

***“One of the key strategies needed is to increase awareness among women, particularly in rural areas, of their rights and the role of land in their empowerment.”***

- All new homestead land distribution/regularization to landless families should be only in the name of women rather than as joint titles with the husband.
- Uncultivated arable lands under government control should be given to women’s groups for cultivation under group titles.
- A loan-cum-grant scheme should be provided, with 50% as a low-interest loan and the other 50% as a grant.
- Surplus land should be distributed among landless women.
- The Hindu Succession (Amendment) Act, 2005 should be more speedily implemented.
- Compensatory land in case of displacement should be in the joint names of man and woman or exclusively in the name of the woman.
- At least 50% of land titles given to forest communities in compliance with the Forest Rights Act should be in the name of women.
- States should promulgate laws to protect women’s rights to adequate housing and land.
- Management of common property resources at the village *panchayat* (local institution of self-government) level should be entrusted to women’s groups.
- Adequate representation of women in bodies responsible for decision-making on land



disputes and matters related to tenure and security of lease should be standard practice.

- Awareness programs to educate women about land laws and land rights should be conducted.
- A special help line should be set up at appropriate levels as a support mechanism which women can approach to resolve any issue related to their land rights.
- The government should undertake the task of providing at least homestead land of at least 10 cents (0.04 ha) to nearly 8 million households that do not have a house of their own.
- Common property resources should be entrusted to landless women groups for utilization and management.
- A Women's Land Rights Commission should be established at the state level. ■

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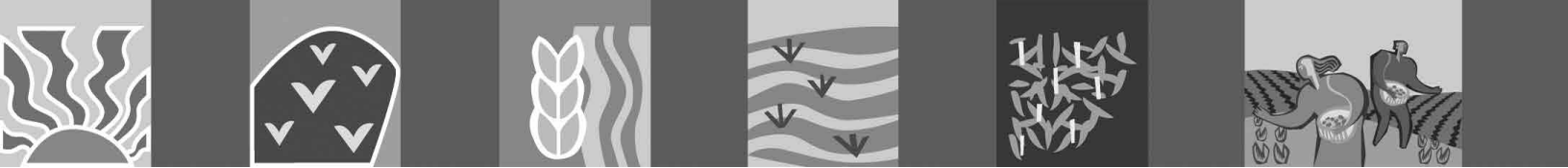
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# Indonesia

*Condensed from Scoping Study on Women and Land Rights by Yayasan Bina Desa. For more details of the study, contact: [bindesa@indo.net.id](mailto:bindesa@indo.net.id)*

**A**re you suggesting that women should be given rights to land? What do women want? Break up the family?

No less than the Minister of Agriculture asked this during an Indian Planning Commission seminar on Land Reform in June 1989, a clear reflection



**Women of Kendeng Pati, Central Java defend their lands against PT INDOCEMENT cement plant**

Photo by A . Prianggoro

Photo source: [http://data.tribunnews.com/foto/images/preview/20140909\\_133641\\_demo-tolak-pembangunan-pabrik-semen-semarang.jpg](http://data.tribunnews.com/foto/images/preview/20140909_133641_demo-tolak-pembangunan-pabrik-semen-semarang.jpg)





of the inequality of land ownership in many households in Indonesia at that time.

Until today, men have control over valuable resources such as land and women have access to land only through their husbands. This can be attributed to the prevailing patriarchal culture where power relations favor the men. As a result, men exercise control over the land even though it is mainly the women who cultivate it.

Data from FAO Rural Income Generating Activities (RIGA) Team reveals that participation rate of men in rural wage labor market was 18.1%, and 8.6% from women in 2000 (FAO SOFA Team & Doss, 2011). Though the data suggest that men’s agricultural participation is higher than that of women’s, Table 1 shows how women are skewed to low-paying jobs than men. This implies that women tend to cluster in low-paying jobs.

Consequently, women suffer from a rural wage gap (43%) where 40% of this is explained by discrimination (see Table 2).

Facets of such a patriarchal culture are reinforced by various national and regional policies that recognize the head of the family – the man – as landowner, in effect trampling on women’s inherent rights to land. And the cycle continues as land ownership is passed down from fathers to their sons, not to their wives or their daughters. Men are not expected to give up ownership easily considering that land is becoming an even more prized commodity.

According to the 2013 agricultural census, there has been a decrease in ownership and control of land by farmers in Indonesia with the decline in the number of farmer households from 31.17 million households in 2013 to just 26.13 million households in 2013. With a population of 240

**Table 1. Participation in rural agricultural wage employment by wage levels and gender in Indonesia, 2000.**

Participants in rural agricultural wage employment (%)					
Low		Medium		High	
M	F	M	F	M	F
43.1	64.1	21.1	16.8	35.8	19.1

**Source:** FAO RIGA Team as cited in FAO SOFA Team and Doss, 2011  
 Note: Table adapted from FAO SOFA Team and Doss, C. 2011. The role of women in agriculture. Retrieved from <http://www.fao.org/docrep/013/am307e/am307e00.pdf>.

“Low wage jobs = below median agricultural wage; medium wage jobs = between the medians of agricultural wage and non-agricultural wage; high wage jobs = above median non-agricultural wage” (FAO SOFA Team & Doss, 2011).

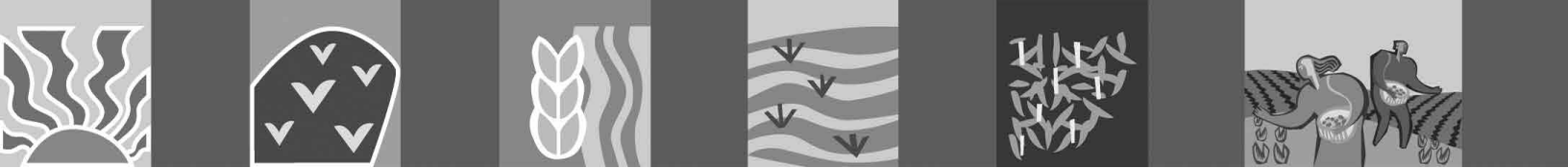
million people, the average land area per person comes out to only 0.03 hectare (ha).

This decline in farmer households is partly due to the annual growth in population. However, it is increasingly also caused by the systematic marginalization of farmers through the massive conversion of their land to, among others, plantations and industrial estates.

The rate of farmlands and forest conversion for infrastructure and plantations reached 100,000 ha per year, according to Merdika (2013), and the land ended up in the hands of mining and plantation corporations, based on data from the National Commission for Women.

The marginalization of farmers from their land affects hits women especially hard as they are regarded as ‘invisible farmers.’

For centuries now, women farmers in Indonesia only have what is known as ‘access rights’ to land and other resources. Referring to property rights, they have access rights (the right to enter the territory of the resources that have



**Table 2. Wage gap in rural labor market in Indonesia.**

Wage gap between men and women (%)	Part of the rural wage gap is explained by (%):	
	Assets and attributes	Discrimination
43	2	40

**Source:** Hertz et. al. (2009) FAO SOFA Team and Doss, 2011

Note: Table adapted from FAO SOFA Team and Doss, C. 2011. The role of women in agriculture. Retrieved from <http://www.fao.org/docrep/013/am307e/am307e00.pdf>.

“The wage gap is calculated as the difference between average male and female wages as a percentage of the average male wage. A positive wage gap means men are paid more than women. “Discrimination” is calculated as the difference in the returns to the assets and attributes of male and female workers. A positive “discrimination” value means that women are paid less than men for the same level of education, work experience and other attributes” (FAO SOFA Team & Doss, 2011).

clear boundaries and receive the non-extractive benefits), withdrawal rights (the right to utilize the resources), and the right to produce (Ostrom & Schlager, 1992).

Meanwhile, control over land in the form of management rights, the right to determine the rules of resource utilization, exclusion rights, and alienation rights remain in the hands of the men.

The green revolution that ushered in agricultural intensification (improved seeds, chemical pesticides, balanced fertilizer, irrigation, and farm mechanization) led to stratification and social institutional decay in the village (Hayami et. al., 1976), putting more women in subordinate positions, reinforcing discrimination against women, and depriving them of their economic, social, and cultural rights (Astuti, 2010).

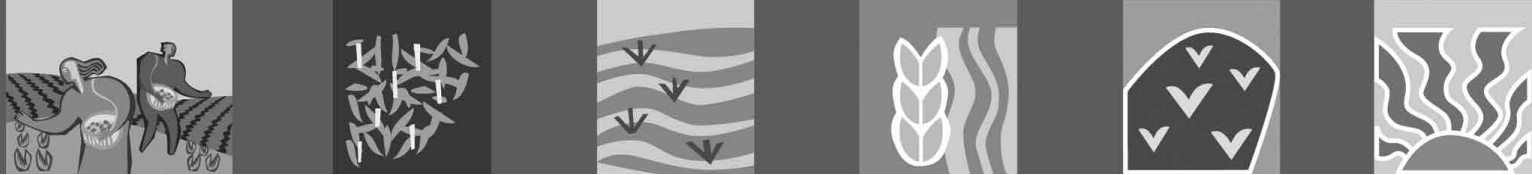
Tasks such as seed breeding, sowing, planting and harvesting rice and other crops that are part of life for farmer women have been taken over by machines. And with land increasingly owned by corporations, women have been losing their access to land, forcing many of them to look for other forms of livelihood, such as working in factories.

## Legal framework related to women’s land rights

Indonesia is one of 182 countries that ratified the Convention on Elimination of All Forms of Discrimination Against Women (CEDAW) in the form of Law No. 7 of 1984 signed on 24 July 1984. CEDAW seeks to help countries address the issues of underdevelopment and inequality between men and women, even in the area of agrarian policy. By ratifying the convention, Indonesia committed to protect women’s rights.

Under Law No. 7 of the Act, the Indonesian government is obliged to make every effort to provide protection, assurance, and fulfillment of the right to live safely, and an equitable and fair life to its citizens, especially the women who still suffer injustice and gender inequality in many areas of life, especially in rural areas (Fanani, 2011).

Efforts to achieve equal rights between women and men in rural areas became the core focus in Article 14. The state recognized the position of women in the family, including their roles in fulfilling the family’s food needs and in subsistence farming. It also recognized the position of women in rural social life and their equal rights as citizens



as alongside the men. Paragraph 2 of the Article asserts that the state should ensure that the roles given to and benefits received by men and women in rural development should be equal.

In terms of agrarian reform, section (g) of paragraph 2 clearly states that rural women are entitled “to have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes.”

Prerequisites to developing rural areas are based on asset reform, which begins with equal treatment of men and women in land reform and continues with a program of access reform, through assuring the sustainability of farming practices, establishing a fair marketing value chain, and introducing appropriate technology.

Indonesia’s national agrarian policy was based on Act No. 5 of 1960 or the Basic Agrarian Law (BAL) that replaced the colonial agrarian law (*Agrarische Wet*) and also accommodated customary rights. BAL was a fundamental overhaul of the entire system of land law that applied in Indonesia at the time. The spirit of BAL was evident in some of the legal principles developed (Wahono, 2013), including gender equality in Agrarian Law.

However, the definition of national and state interests in BAL was used as a means for the government to encourage the liberalization of various sectors, especially agriculture.

Claims of development for the welfare of people served as a means for capitalists from developed countries to take advantage of the abundance of Indonesia’s natural resources and policies that do not consider small farmers in rural areas. Rural women consequently became the

most marginalized group in Indonesia, despite legislation that ostensibly promotes agricultural liberalization.

In terms of access and control over agrarian resources, it can be said that BAL is gender-neutral; or it has not addressed gender inequality. Women’s ownership/control of land is very limited, indicating that the position of women in the control of agrarian resources is still very weak.

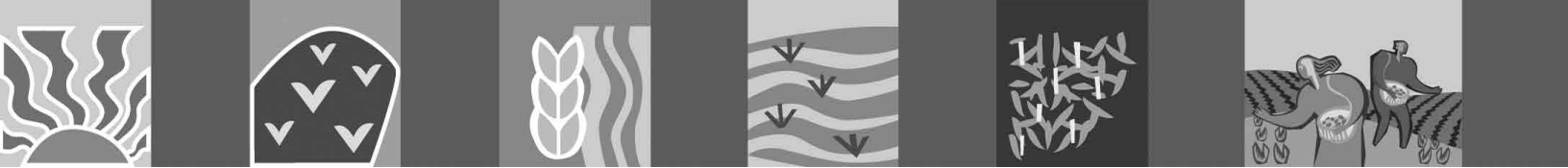
Laws on marriage and inheritance are strongly rooted in the Islamic tradition, which is highly patriarchal. Moreover, the country’s laws on land draws from Islamic law when addressing Muslim citizens (comprising 87% of the population), and from civil law for the others. This means that for the majority, men benefit over women (Robinson & Bessel, 2003 as cited in Benbih & Katz, 2014).

However, Benbih and Katz (2014) point out that “although the Constitution can allow an individual to opt out of the *Chariaa* law and adopt the civil law, the enforcement is social. The implementation of the *Chariaa* law is secured by family ties and community practices.”

In regions where customary laws are still strong like West Sumatra, women have greater rights to access land than men. In some villages, women play an important role in decision-making regarding land owned by the people, as such land is actually inherited by succeeding generations through the women. The matrilineal Minangkabau customary system, for example, allows this to happen.

## Trends

Tauchid (1952) had written that, since independence was declared, the root of the difficulties of farmers in Indonesia was the legacy



***“To make matters worse, the burden of women, who are entrusted with the tasks of providing food and maintaining the health of the family, became heavier under market- and export-oriented agricultural policies.”***

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of the colonial agrarian law: “Agrarian law that we have now, [is] aimed at securing the interests of big private capital over the interests of the Indonesian people themselves, by giving special privileges to foreigners to the land, ignoring the rights of the people behind it.” Tauchid’s words still ring true nearly 70 years since Indonesian independence.

In the New Order era, national economic development was pursued by providing incentives to local and foreign investors through the Foreign Investment Law (FIL No.1/1967). In the post-New Order government, the policy is still in force with the birth of the Investment Law (IL No. 25/2007) which replaced FIL No.1/1967, the Plantation Law, and the Natural Resources Law.

During its two terms, the government of then President Susilo Bambang Yudhuyono (SBY) had repeatedly issued policies that paved the way for land grabbing. In the second year of the first term of SBY’s administration, the government issued Presidential Regulation Number 36 of 2005 on Land Procurement for Development Activities in the Public Interest, which was then revised, after

a legal action resulting from a judicial review by the Supreme Court, into Presidential Regulation No. 65 of 2006.

Despite its revision, this policy (Presidential Regulation No. 36 of 2005) continued to provide the legal legitimacy for investors to seize land owned by the people. At the end of his term, President SBY launched the Master Plan for the Acceleration of Indonesian Economic Development, with infrastructure as the mainstay in order to facilitate the needs of investors.

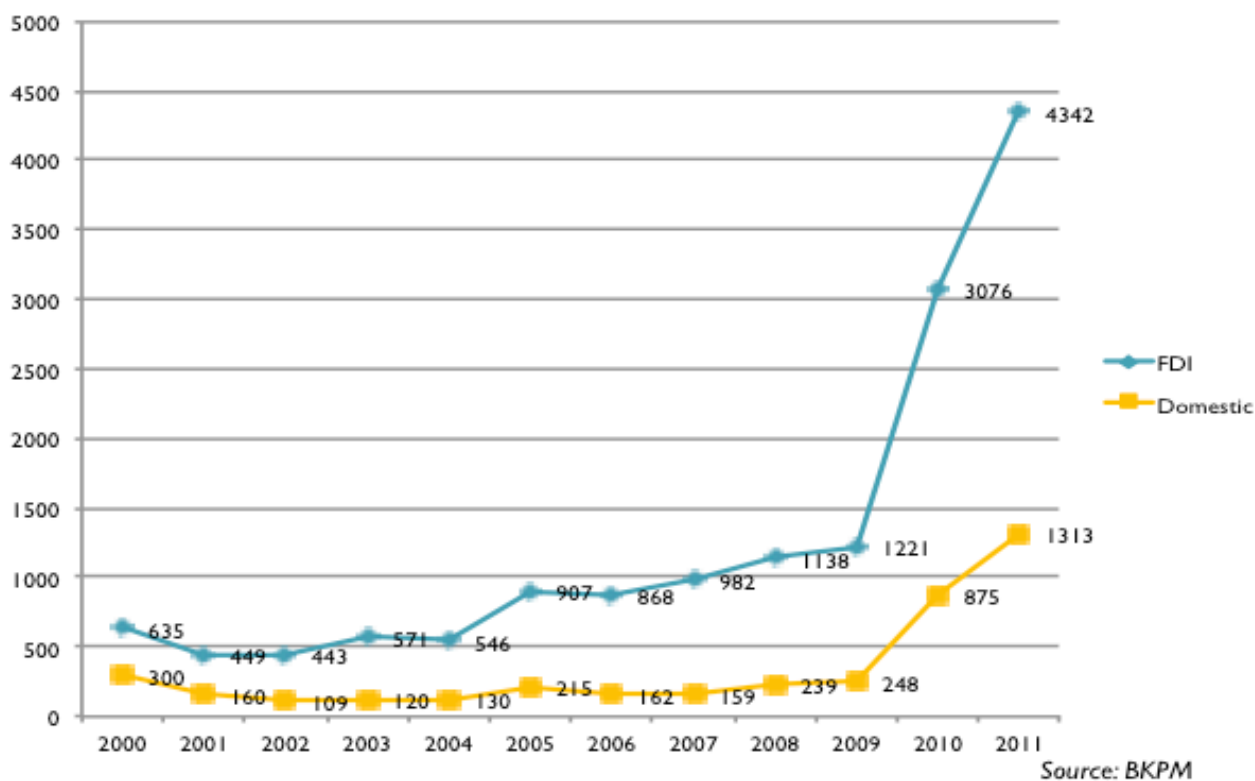
These policies have several important implications.

Farmers are being evicted from their lands. Moreover, food lands (paddy fields and moors) are being converted on a large scale into plantations (for palm oil, rice, and other food crops), highways, etc. In this context, women, especially rural women in the lowest social classes (peasants, traditional fishers), are the most threatened group.

To make matters worse, the burden of women, who are entrusted with the tasks of providing food and maintaining the health of the family, became heavier under market- and export-oriented agricultural policies.

At present, control of agrarian resources is gravely imbalanced. It is concentrated in the hands of a few people, while the majority has to make do with what is left. This situation is worsened by various policies aggravating agrarian inequality.

To illustrate, the stipulation of Act No.2/2012 on the provision of land for development and public interest has proven to be a tool for the eviction of farmer families and peasants from their lands in



**Figure 1. Investment in the Indonesian Agricultural Sector (number of licenses issued), 2000-2011.**  
 Source: BKPM (Indonesia Investment Coordinating Board), 2013

the name of public interest (see Figure 1). This law is intended to assure investors who experience many difficulties because of lawsuits and claims on the land.

### Assessment of key actors promoting or impeding women’s land rights

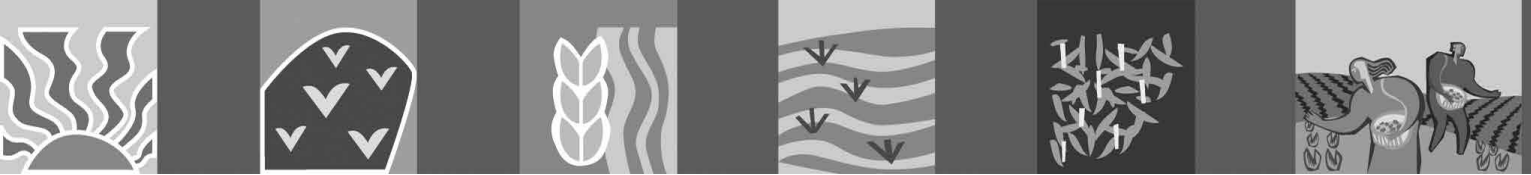
Land policies in Indonesia have fundamentally changed, with land now being considered a commodity to be traded (land liberalization).

BAL, whose spirit resists land-based colonization, has not been fully implemented. Instead, the government has issued new laws such as the Mining Law, Forestry Law, and Plantation Law that facilitate foreign investments in Indonesia.

### International financial institutions

The role of international financial institutions (IFIs) such as the International Monetary Fund (IMF), World Bank, and Asian Development Bank (ADB) cannot be ignored in encouraging such land liberalization policies.

The government, through the National Land Agency (BPN) with World Bank support, developed the land registration system, among others, with Larasita (People’s Service for Land Certification), as well as the land distribution program, known as the National Agrarian Reform Program (NARP). Both programs target clear and clean soil – not disputed land. This means that the program only provides formal administrative status for lands



that have largely been dominated by farmer families. However, these programs do not look into giving women equal access to or control over land.

### ***Civil society and social movements***

Civil society groups have changed their approach to fighting for empowerment in Indonesia over the years. The fight for civil rights through the work of grassroots organizations has been largely limited to functional management work such as improving political capabilities, increasing involvement in infrastructure development, and institutional monitoring through good governance or anti-corruption programs.

Resolving structural issues such as agrarian inequality, which is seen by Bina Desa as the root of Indonesian national problems including the food crisis, is unfortunately not a priority.

Agrarian reform is positioned as a concern to be resolved by social movements, funding agencies, and government. But in fact, most programs do not touch this basic problem. This can be seen in the direction of funding policies as well as budget allocations.

Instead of addressing the burning issue of inequality of land ownership and control, programs have instead touched on negotiations with communities and compensation. In some places, local non-government organizations even act as mediators in negotiation and compensation processes.

Similarly, social movements concerning women focus primarily on encouraging opportunities for women in politics, building women's capacity in the field of micro-economic enterprises, or preventing domestic violence. These, however,

***“Agrarian reform is positioned as a concern to be resolved by social movements, funding agencies, and government. But in fact, most programs do not touch this basic problem. This can be seen in the direction of funding policies as well as budget allocations.”***

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focus only on women's empowerment in terms of their roles in the household and the community, not specifically supporting women's access to and control over their sources of livelihoods, i.e., land.

### ***Mass media***

Media coverage of agrarian inequality leaves much to be desired. For example, news on the Mesuji case, South Sumatra, and other agrarian conflicts in Indonesia only talked about violence, conflicts between residents, and the number of victims. There was hardly any mention of the men involved.

Women who suffered from these conflicts were practically non-existent in the documentation of NGOs, because the news only talked about the people who actually died or shed blood.

The media almost never do in-depth investigation and analysis showing the real problem and the source of conflict, even though these could be powerful advocacy tools in moving the masses



to talk about agrarian inequality and how corporations work together with the government to rob the people of Indonesia of their livelihoods. Throughout the history of mainstream media in Indonesia, scant attention has been paid to championing women's access to and control over land due to the prevailing belief that only men should own the land.

### **Key opportunities and strategies to advance women's land rights**

The conditions experienced by farmer women in Indonesia cannot be separated from the layered structure of poverty and injustice referred to as "structural layering." Farmer women who live and work in rural areas are found at the bottom of the poverty pyramid.

That their condition has not been addressed in government policy can be attributed to the strong patriarchal culture in Indonesia that has created and perpetuated false concepts, such as: (1) poverty cannot be eliminated entirely, it can only be reduced; and (2) women are useful only as reproductive labor and therefore do not need to have rights over land.

Because of such perspectives, women's struggles have been left out of most policy discussions. Government has decided that economic growth guided by a neoliberal economic framework will be the solution to poverty – even if it actually serves to widen the gap between the rich and the poor. Thus, this has relegated to women the status of cheap or even unpaid laborers.

This policy has likewise led to a structural imbalance between the smallholder agricultural sector and the industrial and services sectors that have become the engines of so-called national development. With decreasing employment in

the smallholder agricultural sector as more land is taken up by large corporations, farmer women are steadily losing their access to land.

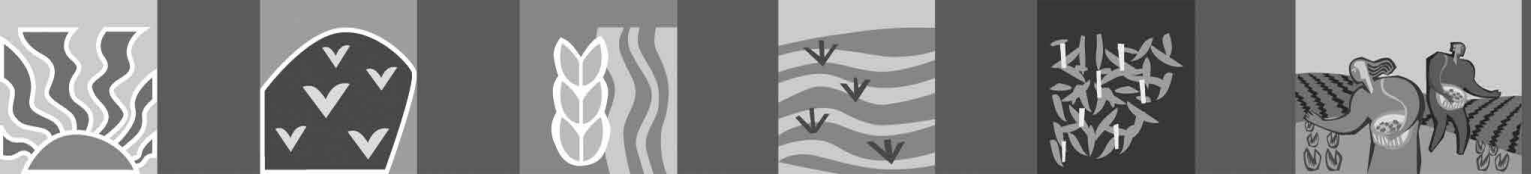
Even before the shrinking of the number of people employed in the smallholder agricultural sector, the structure of labor between men and women in rural areas was already imbalanced in favor of the men. With the shrinking of employment opportunities in the smallholder agricultural sector, farmer women will be even more eased out and marginalized.

Looking at the mechanisms underlying the system and the structure of society, economy, politics, and culture that have led to rural poverty and marginalization of farmer women over the centuries, it can be concluded that the solution is not as simple as has been thought.

For one thing, policy makers have yet to truly admit the existence of the government structures and cultural systems that threaten women farmers because these are considered the natural state of affairs. Since the problem of inequality faced by women-farmers has not even been identified, not in government or in the academe, solutions have not been formulated.

The discussion on the empowerment of rural women, particularly farmer women, also cannot be separated from the issue of budget politics, or the process by which the government budget is formulated and used.

At first glance, budget politics in Indonesia appear to have improved, especially when looking at the National Medium Term Development Plan (NMTDP) 2010-2014. The NMTDP has set three national mainstreaming development strategies: good governance, sustainable development, and gender mainstreaming. These three pillars



are the foundation of the implementation of all policies, programs, and activities at the national, provincial, and district/city levels.

Specifically, Presidential Instruction No. 9 of 2000 on Gender Mainstreaming in National Development mandates every ministry/agency to integrate gender at each stage of the development process (planning, drafting, implementation, monitoring, and evaluation).

Even so, one of the most frequently encountered problems related to the implementation of gender mainstreaming is that decision-makers do not realize that decisions/measures and the processes of making them are often gender-neutral. This means that they only pay attention to the duties and functions of the agency or national priorities, without looking at the different groups involved and the target beneficiaries.

Therefore, efforts are needed to minimize the gap between the participation and development utilization by men and women in government programs by implementing Gender Responsive Planning and Budgeting (GRP). A Gender Responsive Budget (GRB) is one that accommodates mainly two things: equal access of men and women to control over various resources, as well as equal access of men and women to the benefits of development.

The GRB model approach to rural development emphasizes gender analysis by mapping the roles, conditions, needs, and problems of both men and women. Thus gender analysis includes diagnosing and providing a more precise answer to address the needs of women and men in the determination of programs/activities and the corresponding budget, who the target groups of a program/activity should be, and when and how the program/activity will be carried out.

As a concept of budget politics, GRB has advanced considerably over the last 30 years. However, GRB is still a concept and instrument that needs to be tested in actual communities. The success of GRB is highly dependent on the political will of the government and the legislature.

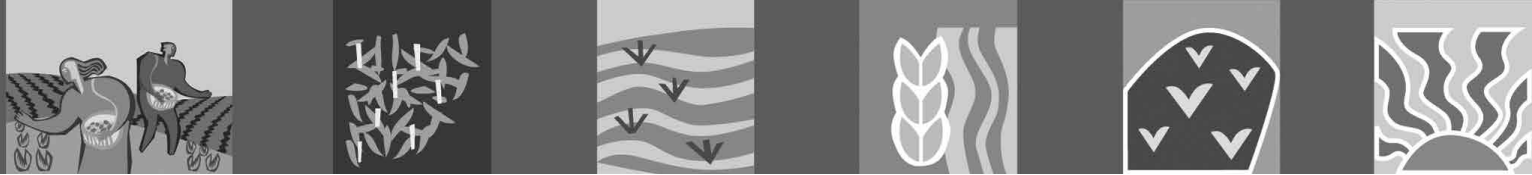
In society, especially for CSOs including farmer women's movements, GRB provides a good chance to fight for the rights of farmer women who have never received legal protection and social protection from the state. It is acknowledged that GRB has not yet been fully implemented; but as a policy, it does present opportunities to improve the lives of farmer women.

## Recommendations

Based on the issues discussed, the following are recommended to strengthen the bargaining position of farmer women in rural areas.

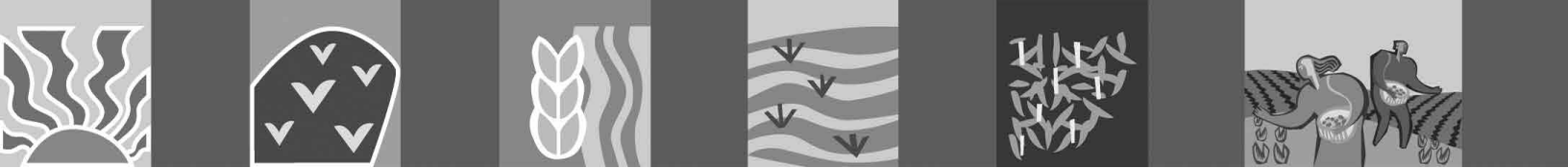
- Document local knowledge on control and management of resources that is based on the values of social culture and women's political economy.
- The government should issue a policy providing poor women with access to and control over land considering the different impacts of poverty on women and men.
- Donors should encourage and support initiatives on land control and management by women. They should also help CSOs conduct policy advocacy on land rights concerning gender equality.
- All parties should empower farmer women in the implementation of agrarian reform.
- GRB and GRPB issues should be included in every meeting of farmer women's groups, in training programs, and in the preparation of action agenda, especially those that deal with agrarian reform and food sovereignty. ■





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# Nepal



**National movement on women's land rights held in Kathmandu, 2010.**  
Photo by CSRC

**W**omen in Nepal face all kinds of debilitating discrimination from birth until death. Indeed, the mainly patriarchal society treats its women as second-class citizens. This is why women, who comprise a little more than half of the total population, are routinely deprived of basic services such as education, health, and social welfare.

The level of discrimination varies across classes, castes, ethnicity, customs, as well as regions. But on the whole, women occupy a lower position than men.

According to the Nepal Living Standards Survey 2010-2011, 71.6% of men are literate versus just 44.5% for women. That less than half of women in Nepal have some form of education is attributed to the fact that sons are considered the future caretakers of their parents, and thus have to be equipped with adequate knowledge.

## Status of women's land rights

This discrimination extends to the issue of land rights. This vital asset is left mainly in the hands of the head of the household, such as the father, father-in-law, or husband. Thus, women only manage to gain hold of land either through their husband or father. According to Muluki Ain Eleventh Amendment Act, 2058, the daughter can inherit parental property when she reaches

*Condensed from Scoping Study on Women and Land Rights in Nepal by Community Self Reliance Centre (CSRC). For more details of the study, contact: jagatb@csrcnepal.org.*



### **The Muluki Ain Eleventh Amendment Act, 2002**

The Muluki Ain Eleventh Amendment Act mainstreaming Gender Equality to some Nepal Acts, aims to ensure the rights of women in the country. Some of its provisions are:

- recognizing daughters as heirs of parental property
- recognizing a widow's rights to claim her share of property from the joint family estate after the death of her husband, and to use this property even if she gets re-married
- repealing sections 16 and 19A of the Chapter on Partition of the National Code and establishing exclusive property rights for daughters and married women to use and transfer property obtained through inheritance
- recognizing women's rights to share in their husband's property even before a divorce
- recognizing women's rights to register birth, death, and other personal events
- legalizing abortion with conditions
- recognizing equal terms of inheritance of unmarried daughters and sons

Source: Equal Rights Trust. 2010. National Code (Muluki Ain) 2020 (1963). Retrieved from <http://www.equalrightstrust.org/view-subdocument/index.htm?id=786>.

the age of 35. A wife can also get a share of her husband's property.

But while land ownership by women is dismal – government data shows that as of 2001, women only owned 8.07% of total landholdings (Central Bureau of Statistics, 2011) – they play a big role in Nepal's agriculture.

According to the Ministry of Agriculture and Cooperatives (2009), 72.8% of women are in agriculture versus just 60.2% of men, partly because of the migration of males from the farmland to other countries or to the cities in search of work. This puts a double burden on women, who not only have to handle all household chores but tend to the farm as well.

Land ownership is therefore important for women, argues Ghale (2009). Ownership will not only help improve women's social status and self-esteem, but will also help increase their chances of accessing other means of production and expanding their livelihood options. For one thing, land ownership will allow women to secure credit from financial institutions.

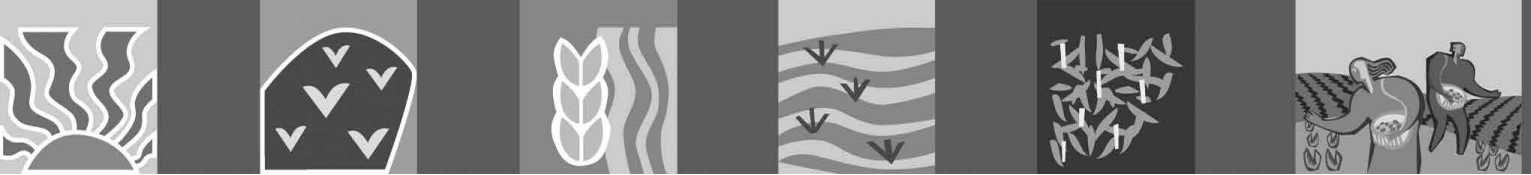
To summarize, the extent of women's access to land varies greatly across different ethnic classes, castes, and locations. What may work with one ethnic group may not be suitable to another, making it difficult to formulate appropriate policies and programs to address the lack of adequate access of women to land.

### **Nepal as signatory to international agreements**

Nepal, however, quickly responded to calls to sign landmark international agreements that seek to uphold human rights, including women's rights.

It has ratified the Universal Declaration on Human Rights (UDHR), the International Convention on Economic, Social and Cultural Rights (ICESCR), the Convention on Elimination of All Forms of Discrimination Against Women (CEDAW), and the International Labour Organization (ILO) Convention No. 169. The problem, however, lies in the implementation and in putting avowed commitments to women's rights into appropriate action.

For example, while the government has revised many land laws policies like the Birta Abolition Act 1959, Land Survey and Measurement Act 1963, Land Act 1964, Range Land Nationalization Act 1974, Guthi Sansthan Act 1976, Land Acquisition



Act 1977, and Land Revenue Act 1977, no act has been passed addressing the issues of women, the landless, and the poor.

Nepal also committed to the Beijing Declaration 1995, which ensures under Article 35 women's equal access to economic resources, including land, credit, science and technology, vocational training, information, communication, and markets, as a means to further the advancement and empowerment of women and girls.

Feminization of poverty is a significant problem in developing countries like Nepal. Women have limited access to use productive resources and inequitable decision-making power in the household and public sphere.

### **A landmark law for gender equality**

Even the Muluki Ain, or the National Code 1963 which governs inheritance laws as derived from Hindu Law, was revised. Originally discriminatory against women's rights to property, its provisions were changed after women's activists pressured the government into doing so. The resulting Eleventh Amendment Muluki Ain 2002 is considered a landmark legislation for gender equity. Some of the major changes brought about by the revisions are that daughters can now claim the same parental properties as sons; and a widow is fully entitled to inheritance and can keep the property even if she remarries, a change from the previous provision where the rights over property received from the deceased husband are forfeited if the widow is found to be "sexually disloyal" or decides to remarry.

However, some discriminatory provisions remain. For example, a daughter does get a share in the ancestral property, but after marriage, she

is obliged to return this to her father's family. Further, a married daughter is the last in the hierarchy for succession and a woman does not have the right to dispose of her property as she wishes, instead she must get the consent of family members, even if she is already living separately from the family. The law also does not recognize a transaction carried out by a woman concerning her husband's property without his consent.

Also, in the Ninth Plan (1998-2002), the Nepalese government incorporated the policy regarding women empowerment and gender equality. The long-term concept of women's development is the "creation of a developed society on the basis of women's empowerment and gender equality through mainstreaming women's participation in each and every aspect of national development." The objective of the plan is to achieve equality through empowerment of women in the social, economic, political, and legal fields and mainstreaming them into national development. A women farmer development program was also launched to create an environment for equal participation of men and women in family decision-making regarding agricultural development and to provide women with equal rights with regard to land ownership and utilization. It was also during the Ninth Plan that the Muluki Ain was amended.

### **Customary laws still in force**

While there have been these improvements in the legal framework, women have a more serious fight on their hands when it comes to customary laws, which emerge from unwritten social rules derived from shared community values and traditions. These laws in Nepal limit women's rights to land, mainly due to the patriarchal nature of society.



Indeed, in Nepal, women's rights to inherit ancestral land are governed by customary practices or the Muluki Ain, which is derived from Hindu law and customary law. Under the Eleventh Amendment Muluki Ain, daughters and sons have equal rights to inherit land, which challenges the established cultural practices and social norms. However, these provisions are largely not followed. It is still the men who enjoy a favored status.

Sadly, the majority of women in Nepal are not even aware of their rights as enshrined in national laws. The low level of literacy is one culprit and another is the lack of knowledge regarding women's issues. Thus advocacy campaigns have a vital role to play in increasing the level of information available to people.

When it comes to land redistribution, there is still no law or provision allowing this. After the restoration of democracy in 1990, the government gave a higher priority to gender issues in every plan but very few programs were launched to specifically improve women's access to and control over land.

In the Three-Year Interim Plan, for example, government's programs to empower women and promote gender equality focused on public awareness programs against domestic violence and human trafficking as well as skills development and income generation. No significant mention was made of promoting women's rights to land.

Also, while the Government of Nepal ratified several international instruments, the policy frameworks do not conform to these laws. For instance, Article 14 of CEDAW states women's rights over land resources. However, despite Nepal being a signatory to CEDAW, it has not established any concrete policy or program

to fulfill the obligations of such international agreements.

Among the provisions that have been introduced by government is a fee waiver when registering land in the name of women and for joint ownership, but only certain groups of women are actually benefitting from this provision. Rural women, for instance, are not enjoying this benefit due to lack of information.

Similarly, the Land Rights Reform Act 1964 includes provisions for tenant rights, but women tenants hardly qualify to be entitled to land. They only receive access to other programs like education, cooperatives, and health services.

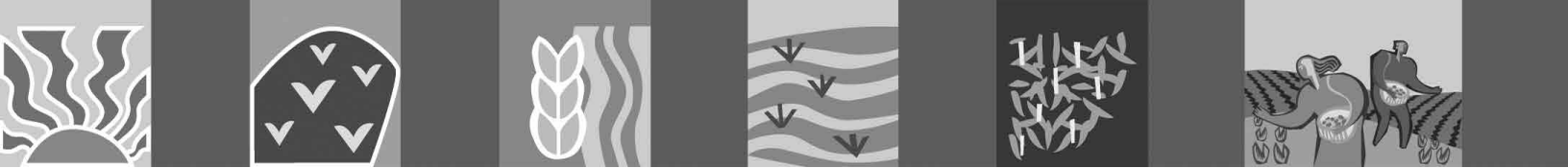
### **A measure of progress on women's land rights**

Some progress, however, has been made.

For example, to increase women's land ownership, the government announced the provision of joint ownership certificates. For the wife, the cost of



**Distribution of land certificate in Rasuwa District**  
Photo by CSRC



***“In Nepal, most of the land is registered in the name of the men and rarely do they transfer ownership to the women while they are away. Without ownership, the women cannot access any credit and agriculture facilities.”***

this transfer of ownership is 100 Nepali rupees (about \$1). Thus, in 2011-2012, 484 families acquired Joint Land Ownership Certificates covering an area of 118.80 hectares (ha) of land. The government also declared that land titles provide stability and security to women, protect them from marital violence, and enhance their decision-making power.

In its Budget Speech 2011-2012, the Nepalese government also announced that it would grant a discount on land registration if the land is to be registered under the name of a woman. The discounts would range from: urban areas 25%, hill regions 30%, and mountain areas 40%). This has yet to be fully taken advantage of, however.

### **Pressures now faced by the land sector**

As for major developments, issues, and trends that affect women’s access to land, often cited is commercial pressure on land.

Land grabbing is a global phenomenon led by local, national, and transnational elites and investors, as well as governments with the aim of controlling the world’s most precious resources. In Asia

and Africa most especially land is being grabbed for industrial agriculture, mining, infrastructure projects, dams, tourism, conservation parks, industry, urban expansion, and military purposes (DENUNCIA, 2011). In most cases, indigenous peoples, ethnic minorities, and women are expelled from their territories to make way for the needs of corporations and governments.

In Nepal, land grabbing practices adversely affect women’s lives. Rural and indigenous women find themselves struggling to find solutions to cope with the loss of food security and the basic necessities (firewood, water) for their households.

For example, “indigenous women in Nepal continue to face the appropriation of their customary and traditional lands, resulting in loss of customary occupations, livelihood and roles in their societies. Mega-projects such as the Arun III Hydro-power dam are imposed on the lands of indigenous peoples and women face threats from in-migration and loss of control over their lives and their resources” (CSW, 2012).

There is also the unique pressure caused by male migration, which has led to the feminization of agriculture. Men are now leaving the farms in search of livelihoods in the cities or overseas.

Female-headed households were at 14% of the total number of households in 2009, and increased to 25% in 2012 (Sujata, nd), resulting in reduced agricultural production and increased workload for the women. Plus there is the fact that women are constrained by law and by custom from maximizing the use of the land.

In Nepal, most of the land is registered in the name of the men and rarely do they transfer ownership to the women while they are away. Without ownership, the women cannot access



any credit and agriculture facilities. And while they worry about the land, they also have to manage their households. Women also have to cope with the loss of household assets and dealing with resource crises like deforestation and the lack of water.

Improved access to land, technology, and financial resources would contribute a great deal to easing these burdens that the women have to bear.

## **Assessment of key factors promoting or impeding women's rights**

### ***Government***

The main government agencies involved in land policy are the National Planning Commission (NPC) and the Ministry of Land Reform and Management (MoLRM). The MoLRM is responsible for ensuring efficient and effective administration and sustainable management of available land resources. The NPC, on the other hand, sets development policies and strategies. It is the central agency assigned to evaluate, facilitate, and monitor development plans, policies, and programs; and to provide a platform for discussion and consultation on economic development.

While there are cultural barriers preventing women from having adequate access to land, the government is doing its part to issue laws and policies to rectify the situation, such as joint ownership and the granting of discounts on the registration of land under the name of women.

### **Political parties and their impact**

Most women's organizations in Nepal are affiliated with political parties. Because of this,

women's issues (or more specifically, welfare-oriented issues) have been generally used to attract votes rather than championed out of any genuine concern for women's issues, least of all their land rights.

In Nepal, there are eight major political parties, which have all declared the improvement of agriculture as their priority.

In the first parliamentary election of 1991, all the major parties focused on ending the existing dual ownership<sup>1</sup>, abolishing feudalistic land reforms, ensuring the rights of the tenants over the land, abolishing the bonded labor<sup>2</sup> tradition, and providing agricultural facilities like irrigation, seeds, fertilizer, credit services, and scientific land reform.

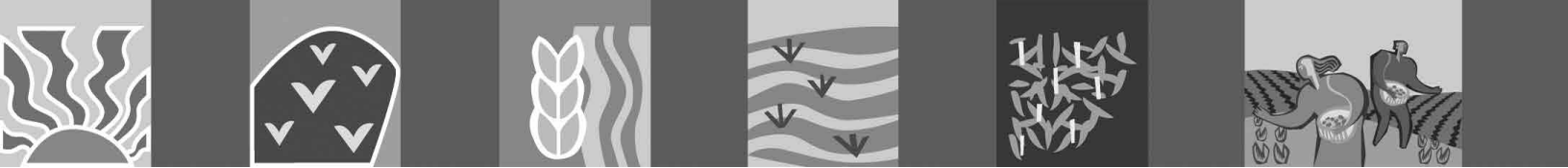
Although women played a vital role in every movement, not one party said a single word on the issue of women's land rights in their manifesto. They only addressed issues such as bonded labor and unmanaged dwellers.

### ***Local authorities***

In Nepal, the main actors at the local level are the District Development Committee (DDC) and the Village Development Committee (VDC). VDCs and their staff have supported the campaign for joint land ownership. They have provided recommendation letters on joint land ownership and disseminated information regarding women's right to land and other land rights issues through the notice board, and participated in consultation programs with political parties.

<sup>1</sup> A tenure system where both landowner and holder (tenant) exercise control over land (CSRC, 2012).

<sup>2</sup> A form of labor where the labor of the person is demanded as a means of repayment for a loan (Anti-slavery International, nd).



### **Civil society and social movements**

That women in Nepal today have an increased awareness of their rights to land can be attributed to the groundwork being done by civil society and NGOs. They are tirelessly working to help women find their voice within the household and to clamor for access and control over vital resources such as land.

At the local level, for example, the Community Self Reliance Centre (CSRC) and its collaborating partners Abhiyan Nepal, Janachetana Dalit Sangam (JDS), Society Welfare Action Nepal

(SWAN), the Rural Development Society (RDS), the Community Development and Environment Conservation Forum (CDECF), and the Centre for Social Development and Research (CSDR) and along with the National Land Rights Forum (NLRF), the District Land Rights Forum (DLRF), and the Village Land Rights Forum (VLRN), are providing training and orientation on land rights.

They have also conducted land encampments at the local and district levels. For example, a total of 91 land encampments have been held in 53 districts, leading to the education and empowerment of 6,832 landless and tenant



National Conference on Women Farmers in Chitwan District, 2013.  
Photo by CSRC





farmers including 3,581 females, 3,530 Dalits, and 2,529 *janajatis* (indigenous peoples). Through land encampment, the landless and women have been able to raise their voices on land rights issues.

CSRC and its collaborating partners NLRF, DLRF and VLRF are also raising awareness on joint land ownership at the local level. Through this campaign, a total of 484 families have acquired joint land ownership covering an area of 118.80 ha of land (CSRC, 2013). Apart from these, Rastriya Mahila Adhikar Manch (MAM) also supports each campaign regarding women's rights to land.

At the national level, CSOs (CSRC, Abhiyan Nepal, JDS, SWAN, RDS, CDECF, CSDR) and people's organizations (NLRF, DLRF, and VLRF) have conducted different campaigns, training, and interaction programs. CSRC also organized a series of policy discussions with intellectuals, parliamentarians, political leaders, and civil society actors regarding the provision in the new Constitution that would protect the equal land rights of women.

Likewise, at the international level, concerned CSOs and people's organizations have participated in consultation workshops, exposure visits, and training. Besides that, the Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC) and Land Watch Asia are doing policy advocacy, capacity building, networking, and information sharing to help improve the poor's access to land.

### **Media**

The media, meanwhile, play a vital role in increasing awareness of land rights issues through various platforms such as radio, television, and

print or electronic media. For example, Nepal FM 91.8 (Kathmandu), Sungava FM 107 (Mahottari), Shuklaphata FM 99.4, and Krishnasar FM 94 (Kanchanpur) have been broadcasting land rights programs which have helped raise land issues and linked policy discussions at the VDC and DDC level.

Apart from these land rights programs, Public Sanitizations Advertisement (PSA) has also been broadcasting on joint land ownership through FM radio. National newspapers like *Kantipur*, *Nagarik*, and *Annapurna Post* are likewise doing their part to raise awareness of joint land ownership.

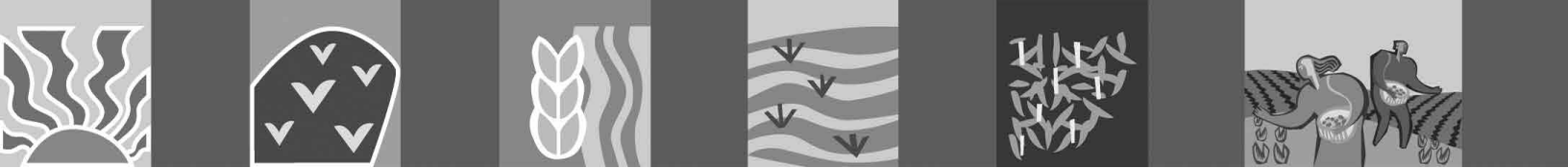
## **Key opportunities and strategies to advance women's land rights**

### **Strategic interventions**

The government allocates a budget to implement major programs like women's development, gender mainstreaming, and empowerment in every periodic plan. However, it has not allocated a specific budget concerning women's land rights. This can be brought to the government's attention.

The Nepalese government launched policies in favor of women's access to land, like joint land ownership, but the implementing guidelines are insufficient to implement the policy on a wide scale. Thus, campaigns can focus on this aspect.

In a patriarchal society, it is inevitable that most of the government officers are male. Their patriarchal mindset still needs to change. Thus it is essential to give gender-sensitivity training to government officials. Without their support, the movement championing women's land rights will not come to fruition.



CSOs are doing media advocacy through different channels like newspapers, radio, and electronic media. However, programs on women's land rights and ownership are limited to only certain stations. This exposure should be widened to cover all 75 districts to create awareness about joint land ownership and women's access to land.

There is also very little research on women's land rights issues. Studies should therefore be done to determine the real situation of women's land right issues. For example, government reforms such as joint land ownership have helped increase the number of women owning land. However, studies need to be conducted to assess if the program is truly benefiting women or has just led to an increase in families' landholdings by using women as a means to circumvent land ownership ceilings.

CSOs and government should work together to campaign for women's rights. It is important to collect gender-disaggregated information on land ownership and use, as well as promote community-based activities on legal empowerment like legal awareness and literacy.

### **Best practices**

After the announcement of joint land ownership certificates in the government's Budget Speech of 2011-2012, CSOs and people's organizations embarked on a massive campaign to build awareness on this program. Through their efforts, the number of women landowners has increased in 53 districts of the country. By mobilizing more frontline leaders and people's organizations, the campaign can be spread throughout the 75 districts.

The government should also be commended for offering a discount on land ownership to benefit

***“The Nepalese government launched policies in favor of women's access to land, like joint land ownership, but the implementing guidelines are insufficient to implement the policy on a wide scale.”***

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the women, but awareness of this should be scaled up to benefit more women.

Community-led land reform is one of the best practices for promoting women's land rights, and should be supported as it is a means for women to discuss matters such as land rights issues, and how to acquire land certificates and do context mapping.

### **Strategic linkages with institutions or people**

Land policy continues to be reformulated and enhanced, presenting an opportunity for CSOs to participate and have their issues reflected in the land policy. People's organizations like NLRP play a vital role in the land rights movement, so it is essential that these groups increase their participation.

### **Opportunities for civil society**

Land rights for women are an emerging issue in Nepal. Donors work in different development sectors but they are gradually realizing that land rights, poverty, and the right to food are all linked to human rights. Therefore, they are becoming more interested in financially supporting



campaigns around the issue of women's land rights.

The advocacy network also has to be strengthened to mobilize frontline leaders and people's organizations and to step up the land rights movement throughout Nepal.

## Recommendations

### Government

The government should allocate a specific budget to advance women's rights over land. Without such funding support, it is difficult to implement any program for women's land rights movements. The government should also improve the monitoring of the status of women's land ownership through an update of its data. It is also vital that gender-sensitivity training be given to government officers for them to be more receptive to the specific needs of women.

### Civil society

When it comes to women's land rights, there is very little existing research and the little that is available tends to be superficial. CSOs should thus invest in in-depth research efforts.

Awareness campaigns must also be targeted not just to the grassroots but to political parties and local government officials as well, since they are in a position to make a difference in the lives of women.

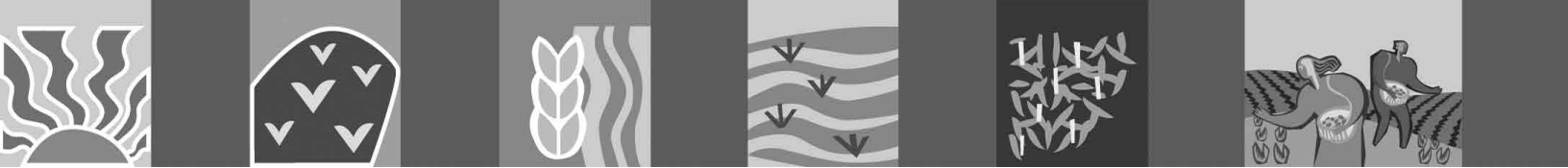
It is also recommended that civil society develop learning centers where women can discuss their land-related issues, do context mapping, and have access to legal education.

### Donors

To help broaden the campaign for women's land rights, international donors should work more closely with CSOs that are advancing the fight on the ground. And given their considerable influence, they can also lobby with government regarding improving policy and implementation of existing reforms that can benefit women. They are also urged to consider increasing their investment in land rights issues. ■

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***For the complete list of references, please contact the author of this study as indicated at the beginning of the article.***



# Pakistan



**Pakistani women participating in The World Environment Day.**

Photo by Society for Conservation & Protection of Environment  
Retrieved from <http://picasaweb.google.com/107200557704825304801/SCOPEPicture#5467376102649163058>

*Condensed from Scoping Study on Women and Land Rights in Pakistan by the Society for Conservation and Protection of Environment (SCOPE). For more details of the study, contact: [scope@scope.org.pk](mailto:scope@scope.org.pk)*

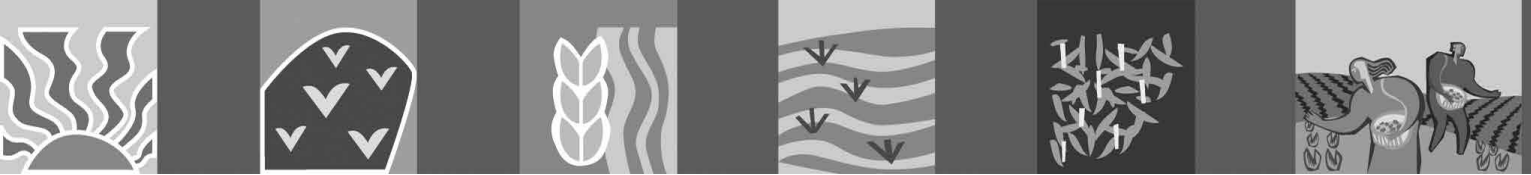
**D**espite economic and political progress over the decades, Pakistan remains challenged by severe gender inequalities and poverty.

Women's participation in agriculture, livestock, dairy, and poultry in the rural areas is high. Overall, women devote more time than men in the agriculture sector that accounts for 21% of Pakistan's Gross Domestic Product and provides employment to 45% of the labor force, close to 74% of which are women.

However, women's participation in decision-making in farm activities is very low.

The constitution clearly pledges equal rights to women. However, social, cultural, and religious structures put women at a severe disadvantage as these promote gender inequality. This despite the fact that Pakistan has ratified several international conventions promoting gender equality such as the Convention on the Elimination of Discrimination Against Women (CEDAW) and the International Labour Organization (ILO) Core Convention No. 100 on equal remuneration for women.

“Societal perceptions of women as lower status dependents – which are reinforced by customary practices and existing laws – constitute the primary barrier to gender equality. The social exclusion of women is thus enforced by the (informal)



***“It is generally observed and widely accepted that women are denied the right to hold land titles (IFAD, 2001), and maneuvered out of their land inheritance, as they are expected to and sometimes pressured into surrendering their land inheritance rights in favor of the male members of their families.”***

institution of patriarchal power structures, which are entrenched in social, cultural and religious systems across Pakistan” (DFID & AUSAID, 2012).

In this context, women commonly face inequalities and discriminatory practices, including being denied the right to own and control land. Despite equality enshrined in the constitutions of many countries including Pakistan and laws guaranteeing equal land rights for women, in practice the implementation of these laws remains one of the many challenges (Pallas, 2011).

For the disadvantaged women in Pakistan, land ownership is seen as the way to rescue them from poverty (SDPI, 2008). “Land as an asset is one of the basic physical resources which provide food, space for livestock and home. It is also a source of security and power” (Mumtaz & Noshirwani, 2007).

### **Status of women’s land rights**

It is difficult to determine the extent of women’s access to and control over land as data are nonexistent (SDPI, 2008). Official documents including census, household panel surveys, and other official surveys do not include gender disaggregated data specifically pertaining to these issues. However, anecdotal evidence suggests that very few women own land and even

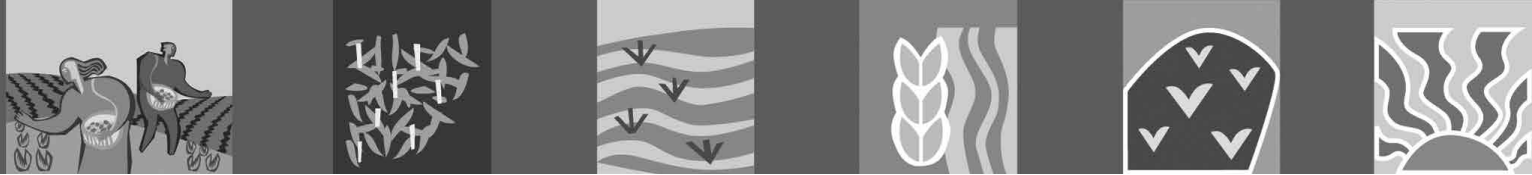
fewer have control over it (SDPI, 2008; GEP, 2011; Morrison et. al., 2007).

It is generally observed and widely accepted that women are denied the right to hold land titles (IFAD, 2001), and maneuvered out of their land inheritance, as they are expected to and sometimes pressured into surrendering their land inheritance rights in favor of the male members of their families (Mumtaz & Noshirwani, 2007).

This stark reality has not escaped global attention with Pakistan ranked near the bottom of 83 countries because of a low Gender Equality (GE) score that takes into account women’s access to land, credit, property other than land, inheritance practices, and women’s social rights (IPRI, 2012).

Land rights in Pakistan are regulated by an intricate combination of civil, Islamic, and customary laws. Civil laws such as the Contract Act 1872, the Transfer of Property Act 1882, and the Registration Act 1908 indicate that “ownership and transfer of property are gender neutral. However, inheritance rights are subject to Muslim Personal Laws” enforced under sharia law (SDPI, 2008a).

“There is no direct provision in the Constitution on women’s right to inheritance but it does provide guarantees and principles of policy to ensure justice without discrimination. While the



***“The system of inheritance for women is a complex and multi-faceted issue impacting lives of countless women in Pakistan.”***

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right to acquire land is that of every man and woman under the Constitution, the capacity to do so is limited to those with monetary resources” (Mumtaz & Noshirwani, 2007).

The system of inheritance for women is a complex and multi-faceted issue impacting lives of countless women in Pakistan. A recent report from the National Commission on the Status of Women (NCSW) notes: “Inheritance right is one of the most ignored gender issues owing to biased interpretations of religious directives and deep-rooted patriarchal customary practices denying women their due right. If they are at all given a share in inheritance, often possession and authority over it is denied. This problem is aggravated owing to inadequate policies/laws, inefficient implementation, enforcement system and absence of monitoring mechanism. Lack of political will is also a contributing factor to this situation” (NCSW, 2005).

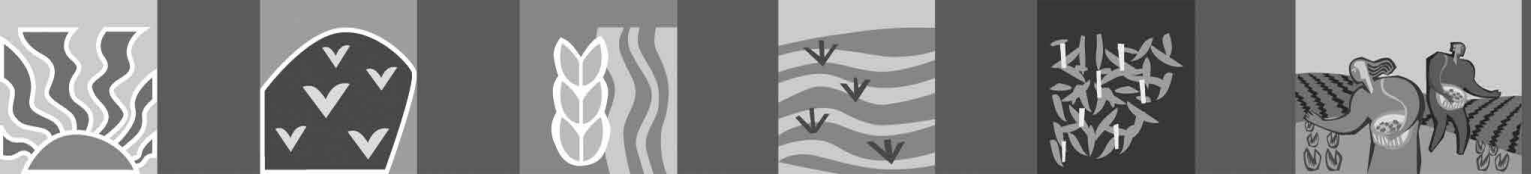
In 2002, the National Policy on Development and Empowerment of Women (NPDEW) was formulated. This policy envisions gender equity in Pakistan, and defines women empowerment as social (education, health, violence against women), legal (access to justice), economic (poverty, access to credit, remunerated work, role of women in rural economy and informal sector), and mandates the inclusion of women in decision-making processes in the country.

Significantly, the NPDEW specifically seeks to provide rural women access to land, agricultural and livestock extension services, support mechanisms, and facilities as well as micro-credit programs. Awareness of such important laws, however, is severely lacking.

A number of research studies confirm that lack of knowledge and access to information about laws, policies, and court procedures are major issues hindering women claiming their land rights, particularly in the rural areas of Pakistan (Mumtaz & Noshirwani, 2007; Pallas, 2011; GEP, 2011).

Since the creation of Pakistan in 1947, there have been several attempts to redistribute land through land reforms. Some of these measures are the Government Hari (Farmer) Enquiry Committee (1947-48) as well as the Agrarian Reforms Committee (1949) which resulted in The Provincial Tenancy Acts (1950). Full-scale land reforms were introduced in 1959, 1972, and 1977. Most of these laws, however, have failed to deliver on their promises. Women continue to be left at a disadvantage because, despite civil laws permitting women to inherit land, the ownership and transfer of agricultural land remains “governed by customary laws that excluded women” (SDPI, 2008a).

In 1988, there was a policy shift towards redistributing state land among landless farmers. It was initiated by the Pakistan People’s Party (PPP)-led government (1988-90) which redistributed 35,000 acres (14,164 ha) of state land among peasants (12.5 acres or 5.06 ha each). The policy was continued by the Muslim League-led government but could not be maintained due to political instability and successive dismissals of political governments.



In 2008, the PPP-led government envisioned redistributing state land to landless farmers, largely women. Approximately 41,000 acres (16,592.11 ha) of land were distributed among 2845 women and 1184 men recipients (Saigol, 2011).

However, the policy of redistributing state land itself came under criticism. The land distribution of 2008 had issues involving land identification, land distribution, and well as post-distribution. The initiative was intended to favor landless women but no gender assessment tool was used.

Indeed, disappointingly, failure in the implementation of most of the laws protecting women's land rights remains the major obstacle.

### **Assessment of the key actors promoting or impeding women's land rights**

Government agencies at the national and provincial levels are responsible for issues pertaining to women's land rights, such as land registration, acquisition, administration, revenue collection, and implementing policies (i.e., land reforms).

At the federal level, the Planning Commission and Finance Division plays a vital role, in preparing policy documents and providing policy guidance such as national Annual Plans, the Medium Term Development Framework (MTDF), and Poverty Reduction Strategy Paper (PRSP). These policy and planning documents highlight and address broader gender issues including women's land rights.

The MTDF from the Planning Commission recognizes that women need to have a voice and be included in the decision-making process at the household and community levels to effectively

access and control their land. The document also recognizes that government machinery will have to be more sensitive to women's needs in terms of providing requisite knowledge, expertise, and skills/training to be able to manage and cultivate land (MTDF, 2005). It further reiterates the need to address challenges related to systematic lack of women's access to and control over resources, assets such as land and credit in rural Pakistan.

The Federal Land Commission (FLC) at the federal level is a statutory body responsible for introducing and implementing land reforms in the country. The FLC is responsible for the coordination and smooth functioning of the Provincial Land Commissions. It assists the federal government by arbitrating disputes between Provincial Land Commissions and distribution of state.

In Pakistan, general elections took place in May 2013 and the election manifestos from four major political parties showed that all parties promised to fight for women's rights. They vowed to reclaim additional land and allocate land to the landless, women *haris*, and tenants. The parties also promised to ease the transfer of land to women claiming ancestral property and to pass laws to secure women's rights to life, dignity, access to resources, employment, inheritance, and justice.

As for local governments, since the creation of Pakistan in 1947, land administration and affiliated functions were within the ambit of the Deputy Commissioner. The situation has remained unchanged to this day. Local governments were never part of the land administration.

In addition, the local government system itself has undergone continuous experimentation and has yet to come up as a reliable, stable, and efficient system (UNESCAP, 2013). As mentioned earlier, land administration, registration, and





management had always been carried out by provincial governments with policy guidance from the federal governments.

Donor agencies and international institutions, for their part, have contributed greatly to advancing the cause of women's rights to land in Pakistan. Some of the early research on women's land rights carried out by Sustainable Development Policy Institute (SDPI) and Shirkat Gah were funded by the International Development Research Centre (IDRC) as well as the International Fund for Agricultural Development (IFAD) under their global Women's Land Rights Project. The IDRC is a Canadian Crown corporation established in 1970, while IFAD is a specialized agency of the United Nations.

The UN-Habitat in Pakistan supported the digitalization of land administration in the areas affected by flooding in 2010. The organization also conducted training sessions for women lawyers on housing, land, and property rights with reference to women in Pakistan. It is further planning to train around 400 women lawyers in this area to facilitate organizations working for women's land rights.

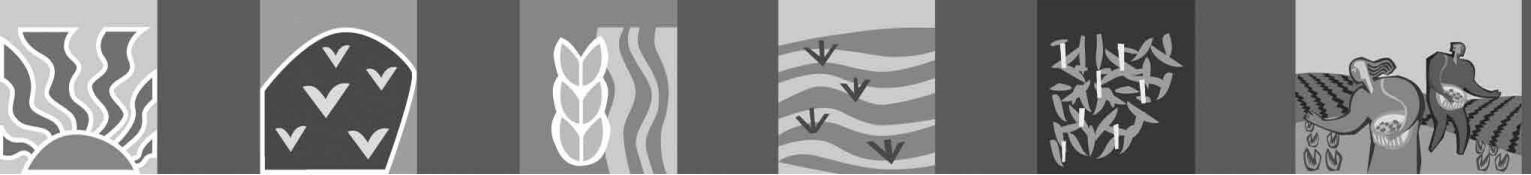
Other donor agencies that are supporting research and advocacy projects in this area are United States Agency for International Development (USAID), especially through the Aurat Foundation's Gender Equity Programme (GEP); the Canadian International Development Agency (CIDA); the Swiss Agency for Development and Cooperation (SDC), and The UK Department for International Development (DFID) actively supporting legislation protecting women with regard to land rights, marriage rights, and domestic violence (DFID, 2011).

More recently, international networks have been encouraging CSOs in Pakistan to establish their national chapters and organize other networks to have a common voice on women's land rights. The Society for Conservation and Protection of Environment (SCOPE) has launched such networks with assistance from the International Land Coalition (ILC), the Alliance Against Hunger and Malnutrition (AAHM), and the Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC).

Several international NGOs and INGOs also provide financial assistance to research and advocacy projects on various issues surrounding women's land rights. These INGOs either implement their own campaigns in Pakistan or support their partners, other CSOs, CBOs, and local groups in the country.

The private sector, meanwhile, does not directly involve itself with women's land rights in Pakistan. But there is another form of involvement that has recently gained much attention: corporate agriculture farming. The underlying policy includes leasing or selling land to foreign investors and attracting investment in areas like land development and reclamation of land, cultivation and processing of crops, fruits, vegetables, flowers, etc. (BOI, 2007). In return, foreign investors are allowed to hold 100% equity under the corporate agriculture farming program (BOI, 2013).

CSOs in Pakistan, however, largely oppose any policy shift towards promoting corporate agriculture farming. As one of the speakers at a regional conference organized by SCOPE said, "Land rights are being snatched through corporate farming policy in the country" (One Pakistan News, 2013). Again, women are left in a more vulnerable position.



In recent years, Pakistan has seen the evolution of a vibrant and progressive media highlighting gender issues including gender-based violence and equal rights for women. Several gender-related cases received greater attention as a result of media reports on national 24-hour channels. Both print and electronic media alike are taking interest in addressing these issues as most of the television channels are owned by major newspaper groups.

Another new phenomenon taking place in Pakistan is the use of social media and blogs. Many activists as well as CSOs are using social media to add force to their campaigns, i.e., women's land rights, food security, gender-based violence, and agricultural reforms.

### **Key opportunities and strategies to advance women's land rights**

It can be concluded that the current political, social, cultural, legal, religious, and economic situation is not conducive to the cause of women's land rights. To create a supportive environment, it is absolutely essential to understand the legal issues that could support women's land rights, as well as the social and cultural issues concerning land rights.

There is a need to contextualize any proposed interventions and strategies on women's land rights according to the situation on the ground. 'One size fits all' will not work, as issues surrounding women's land rights vary according to geographical location, socio-economic status, ethnic identity, sect/religion, and even land productivity.

Hence, there is no easy solution to ensure that women get their land rights. There is, however, a mix of effective measures that could help advance

***“In recent years, Pakistan has seen the evolution of a vibrant and progressive media highlighting gender issues including gender-based violence and equal rights for women.”***

women's land rights and food security. These are outlined below:

#### ***Establishing a research base***

There is an immediate need to establish a robust and holistic research base focusing on women's land rights. A broad research base will provide valid, reliable, and generalizable data that will determine suitable and effective interventions.

#### ***Knowledge/Information dissemination***

Increasing knowledge and information about legal and religious perspectives pertaining to women's land rights is absolutely important. Dissemination of such knowledge and information should not only target women to raise their awareness about their land rights but also inform men at the grass-roots level about the existing laws and religious obligations.

#### ***Lobbying and advocacy***

Output-oriented, concerted, and effective advocacy campaigns to lobby the case for women's land right are needed. Among these should be campaigns that will push for strict implementation of existing laws that will help women exercise their right over land. There



should also be efforts to establish and strengthen support mechanisms on the ground that will be there to help women gain and protect their land rights. Women parliamentarians, for example, should champion the passing of effective legislation on women's land rights.

### ***Government land distribution programs***

Government land distribution projects and programs should prioritize women, and must take their needs and requirements into account from the very inception and design of these programs.

### ***Land reform***

Land reform is an effective instrument of land redistribution. Government should devise gender-sensitive land reform policies and distribute land among society's poor.

### ***Women's access to land***

Women's access and control over land is only possible when the capacity of women at the grass-roots level is established. Women are considered inferior to men in terms of skills, competencies, and knowledge about agriculture practices. In addition, women are considered less credit worthy by conventional agriculture lending institutions, government extension workers, and agriculture research institutions.

Designing targeted, specialized training for women with land will provide them an opportunity to take real control of their land.

### ***Simplification of laws, regulations, procedures, and processes***

The land administration system in Pakistan is very complex and needs to be simplified. A number of

CSOs providing legal aid to women have found it very difficult to navigate through the country's sometimes conflicting rules and regulations.

### **Best practices**

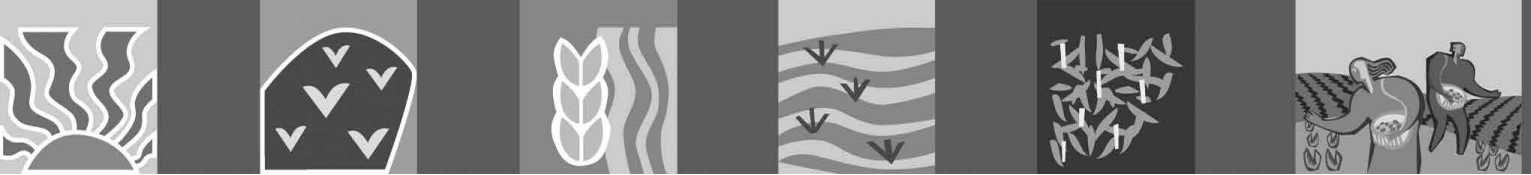
There are two exceptional initiatives that could be considered as replicable best practices in the Pakistani context.

The first best practice is the state land distribution by the PPP-led Sindh provincial government in 2009 where approximately 70% of the beneficiaries were women. A total of 41,517 acres (16,801.33 ha) of land was distributed among 1,184 men and 2,845 women landless farmers (PDI, 2009). Although only half of the land originally planned for distribution was actually awarded, it was the first step in the right direction.

Previous land reform efforts in the country failed to yield desirable results in relation to redistribution of land, particularly among women. However, the 2008 land distribution program provided not only land to women but an economic support package as well to help them develop their land.

The second best practice worth noting is the introduction of the Khyber Pakhtunkhwa (KPK) Enforcement of Women Ownership Rights Bill, 2012. This bill was adopted by the KPK provincial assembly on 5th June 2012. Under this bill, violation of women's land ownership is a punishable offence of up to five years imprisonment and a fine of up to Rs.50,000. An instrument like this could provide CSOs the tool to exert pressure on the political government as well as the judiciary to take up cases and implement the decisions.

Perhaps the most effective single point in the women's land rights debate in Pakistan



is influencing effective policy making and implementation. Most of the CSOs working on issues around this debate share concerns over the lack of implementation of existing policies and laws. Therefore, it is important that strategic linkages are built that could help CSOs focus time and resources on undertakings in this regard.

## Recommendations

The following are some of the major recommendations on how to promote secure and equitable access to land for women and strengthening women's land rights at the national and regional/international levels.

### **Government should:**

- Introduce and implement progressive land reforms focusing on the poor in general and women in particular (SDPI, 2008a) with civil society participation (PDI, 2009) and the provision of a support package including access to loans, microcredit, and agricultural inputs to enable women to make productive use of their land (PDI, 2009; IDRC, 2013; SDPI, 2008 and 2008b; Mumtaz and Noshirwani, 2007).
- Ensure that existing laws are implemented in practice (Weiss, 2012; NCSW, 2005) and laws and policies are reformed (AWAZ-CDS, 2010).
- Extend legal services to women and encourage them to make land claims (IDRC, 2013).
- Introduce gender-balanced laws to promote women's land rights through inheritance, land distribution schemes (NCSW, 2005; SDPI, 2008; SDPI, 2008b), and reforms in the legal framework including the judiciary and the courts (PDI, 2009; NCSW, 2005).
- Urge courts to not only come up with fair judgments but also pass implementation orders in cases where women are unable to gain access and control over land (NCSW, 2005;

IDRC, 2013; SDPI, 2008a; Weiss, 2012). Courts should also question the cases where women are to forgo the right to inheritance in favor of male members of their families (SDPI, 2008b).

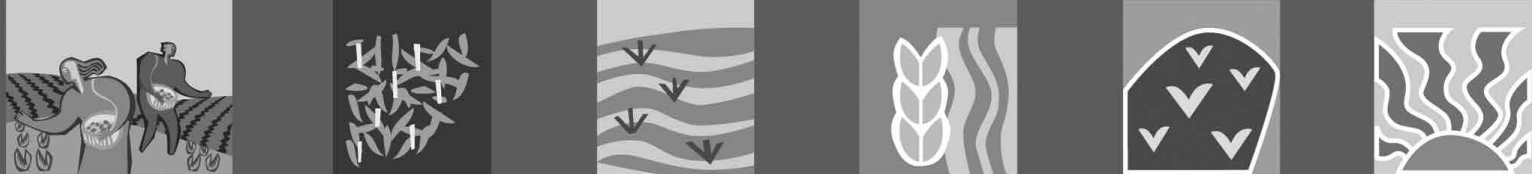
- Introduce a joint titling system guaranteeing equal land ownership of wives with their husbands (IDRC, 2013).

### **Civil Society Organization (CSOs) should:**

- Engage with policy makers, media, CSO networks, parliamentarians particularly women parliamentarians, government officials, and police officials by designing awareness-raising campaigns for these groups (Awaz-CDS, 2010; Mumtaz & Noshirwani, 2007; PDI, 2009).
- Develop networks of CSOs on women's land rights (Mumtaz & Noshirwani, 2007) following the example set by SCOPE.
- Build the capacity of community-based local groups and grassroots organizations on women's land rights (PDI 2009; Mumtaz & Noshirwani 2007).
- Advocate a gender-sensitive legal framework consisting of laws and polices targeting women's land rights (PDI 2009; Awaz-CDS, 2010).

### **Donor agencies should:**

- Support knowledge generation as well as research, baseline data, and evidence collection for effective advocacy (Mumtaz & Noshirwani, 2007).
- Provide assistance to CSOs to establish legal aid networks and other legal aid projects for women (NCSW, 2005). ■



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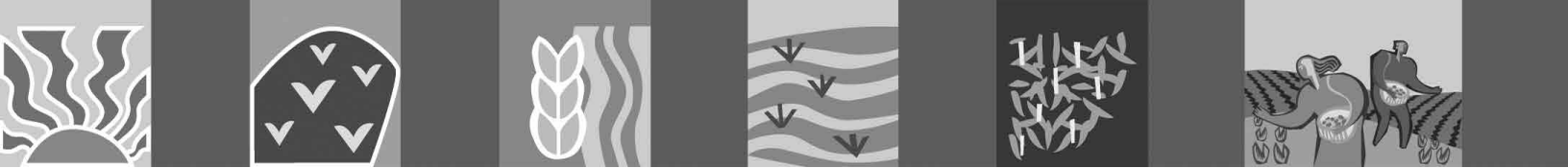
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***For the complete list of references, please contact the author of this study as indicated at the beginning of the article.***



# Philippines



Women farmers leading the march for the passage of land acquisition and distribution completion of the Comprehensive Agrarian Reform Program (CARP).

Photo by CARRD

*Condensed from "Women's Land Rights in the Philippines: A Scoping Study" by Ivy Marian Panganiban and Emily Roque of Philippine Partnership for the Development of Human Resources in Rural Areas (PhilDHRRA). For more details of the study, contact: [national@phildhrra.net](mailto:national@phildhrra.net)*

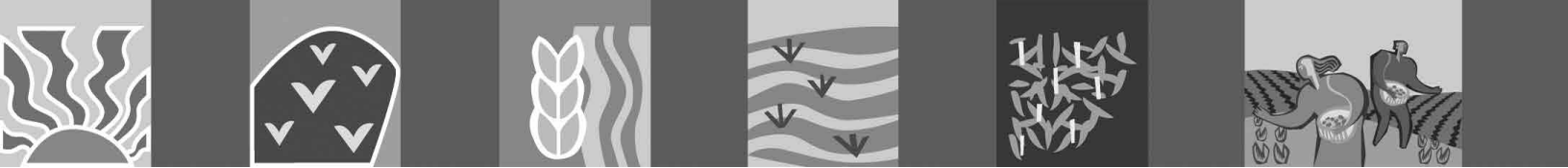
Compared to the rest of Southeast Asia, women in the Philippines are in a better position in terms of their level of education and status in the family and in the workplace, as seen in the compliance with the Millennium Development Goals and various global indices on the status of women. And yet when it comes to rights to land, women in the Philippines still have a lot to fight for.

Indeed, women in the farming, fisheries, and indigenous sectors as well as their rights and access to land are often invisible in legal frameworks and government programs. Their involvement on the ground is substantive and yet usually unaccounted for and undocumented.

This dire situation will have to change as, according to Daley, et. al. (2013), women's land rights are "a key determinant of women's empowerment in rural areas and have profound implications on women's ability to enjoy in practice civil and political rights, social and economic rights, as well as to escape poverty and social exclusion."

## Status of women's land rights

Based on data from the National Statistics Office (NSO), outlined in Table 1, there were 23,885 women workers in the agriculture, hunting, and forestry sector in 2006, 22,706 in 2008, and 23,854 in 2009. These numbers correspond to



**Table 1. Total population and percentage of women employment per sector.**

Sectors	Year					
	2006		2008		2009	
	Total	%	Total	%	Total	%
Agriculture, hunting, and forestry	23,885	20.5	22,706	19.1	23,854	20.1
Fishing	1,101	5.8	1,256	7.2	1,647	7.9

Source: National Statistics Office (NSO) Labor Force Survey, 2003-2010

20.5%, 19.1%, and 20.1% of the total employment in agriculture in the years mentioned, but do not fully account for the unpaid work that the women do.

In the fishing industry, women accounted for 5.8% (2006), 7.2% (2008), and 7.9% (2009) of total employment. There was a slight increase in the number of women workers from 1,101 in 2006 to 1,256 in 2008 and 1,647 in 2009. Table 1 shows the total population and percentage of women employment in these two sectors.

But despite this increase in the number of women employed in fishing, the data still failed to capture the significant contribution and role of women in the fishing industry, and in agriculture as well.

To measure land rights, it is important to look at tenure instruments as these identify women’s ownership and access to land through titling or leaseholding. Farmer beneficiaries are given emancipation patents (EP) and certificates of land ownership (CLOA) by the Department of Agrarian Reform (DAR), as well as homestead patents by the Department of Environment and Natural Resources (DENR). Fisherfolk beneficiaries, on the other hand, are provided with fishpond lease agreements (FLA) by the Department of Agriculture-Bureau of Fisheries and Aquatic Resources (DA-BFAR), while indigenous peoples (IPs) are given certificates of ancestral domain

title (CADT) by the National Commission on Indigenous Peoples (NCIP). Lastly, community-based forest management agreements (CBFMA) managed by the DENR cover both farmers and IPs.

Table 2 presents the comparative numbers of women and men holders of such patents, certificates, and titles.

Based on these data on tenurial instruments, men are the main holders of land, accounting for more than half of the land covered by different tenurial arrangements. Note that in 2011, the data on the number of EP and CLOA holders was disaggregated, but that in 2012, the number of holders was combined. Meanwhile, data on CADT are not disaggregated by sex.

While it is provided in the national laws that gender equality in terms of land rights is imperative, these data alone show that the provisions have not been translated into action. This can be partly blamed on persisting customary laws.

For example, in the IP communities, the heads of the tribe are usually male and therefore men hold the upper hand in decision-making processes, particularly in the use of the land. Then among fishing communities, women are considered “unlucky” when it comes to fishing and are therefore relegated to other activities such as





**Table 2. Number of Holders of Tenurial Instruments, by Women and Men, and Reference Documents**

Indicator	Women	Men	Reference Document
No. of holders of EP	56,723	348,505	2011/DAR
No. of holders of CLOA	574,449	1,186,772	2011/DAR
No. of holders of EP and CLOA	643,695	1,550,660	2012/DAR
No. of PO members issued with CBFMA	67,520	124,570	2012/DENR
No. of right holders of CADT	725,818 (men and women)		2010/NCIP

**Note:**

- CADT certificate of ancestral domain title
- CLOA certificate of land ownership award
- CBFMA community-based forest management agreement
- DAR Department of Agrarian Reform
- DENR Department of Environment and Natural Resources
- EP emancipation patent
- NCIP National Commission on Indigenous Peoples
- PO people's organization

mending the fishing nets and marketing. Indeed, in practice, men maintain control in terms of ownership and land rights.

To study how land rights are ensured, it is critical to disaggregate the data according to sex to determine if women's rights to land are in fact recognized. Data reflecting the roles, contributions, and realities experienced by women in terms of land rights should also be captured.

**Legal framework related to women's land rights**

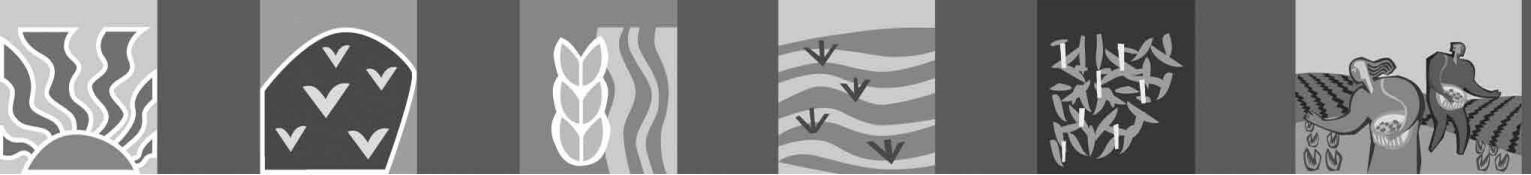
According to a Food and Agriculture Organization (FAO) report in 2002, the laws relating to women and land rights in the Philippines are gender neutral. International instruments, such as the United Nations' Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Beijing Platform for Action 1995, serve as overarching frameworks for the

development of the Magna Carta of Women (MCW) and the Women in Development and Nation Building Act.

National laws that specifically mention women's land rights are the Indigenous Peoples Rights Act of 1997 (IPRA) for indigenous women, the Comprehensive Agrarian Reform Program Extension with Reforms (CARPER) for women farmers, and the Fisheries Code for fisher women.

However, provisions for women's land rights are only subsumed in certain sections and are not fully elaborated, especially in the IPRA and the Fisheries Code. Owing to its amendments, CARPER, on the other hand, is more gender-responsive when it comes to acknowledging women's right and access to land.

Themes present in the legal frameworks include titling, access to information, statement of rights and entitlements, share in the produce/recognition for the value of work, right to



representation and participation, and budget provisions. However, these provisions often do not necessarily translate into actual implementation.

On the issue of land titling, great strides have been made. Policies on land titles and stewardship contracts and patents now provide for the inclusion of the names of women, unlike in the past when only the men's names appeared in such documents.

The Magna Carta of Women and several administrative orders from the DAR (AO 1-11) and the DENR (AO91-04, AO96-24, AO96-29) mandate that titles be issued in the name of both spouses, under a provision known as joint titling. The DAR's AO 1-11 is exemplary in terms of elaborating on the extent of titling, decision-making, and even land transactions between spouses. There are, however, no specific provisions on titling for fisher women and indigenous women.

While there are no comprehensive studies on the extent of awareness of women on the land laws and policies governing them, several data point to the efforts by both national government agencies and civil society organizations (CSOs) in providing information to women beneficiaries (DBM, 2012).

In government agencies such as the DAR, data on their annual accomplishment report show the trainings conducted on Gender and Development (GAD). As mandated by Joint Circular 2012-01, entitled "Guidelines for the Preparation of Annual Gender and Development Plans and Budgets and Accomplishment Reports to Implement the Magna Carta of Women," published by the Philippine Commission on Women (PCW), the National Economic and Development Authority

(NEDA) and the Department of Budget and Management (DBM), government agencies are required to include capacity building such as training on gender mainstreaming in their GAD planning and budgeting.

Similarly, as part of their advocacy, CSOs have done their part in informing women about their land rights. CSOs have provided orientations on GAD, the Magna Carta of Women, and land-related laws to women farmers, fisher women, and indigenous women. Beneficiaries are also oriented on GAD budgeting to enable them to participate in formulating gender-responsive programs.

However, while the major laws and programs on women's land rights are strong in terms of mandating specific provisions for titling and access to support services, they are weak in terms of implementation and monitoring. Certain laws are also seen as overlapping or in conflict with customary rights.

## **Assessment of key actors on women's land rights**

### ***Interagency Committee on Rural Women (IACRW)***

The Interagency Committee on Rural Women is composed of the PCW, DAR, DENR, DA-BFAR, NCIP, and the Pambansang Koalisyon ng Kababaihan sa Kanayunan (PKKK). The IACRW convenes to celebrate Rural Women's Day every October 15.

While the committee has implemented a number of programs that are important for advocating rural women's interests, the Committee does not have a program expected to have a long-term impact on the rights of rural women.



A Policy Dialogue on Women's Access to Land was organized in October 2013 with members of the Inter-Agency Committee on Rural Women (IACRW), PhilDHRRA, and ANGOC. PhilDHRRA presented the initial results of the scoping study on women's access to land. The findings and recommendations were discussed at the dialogue.

Photo by PhilDHRRA

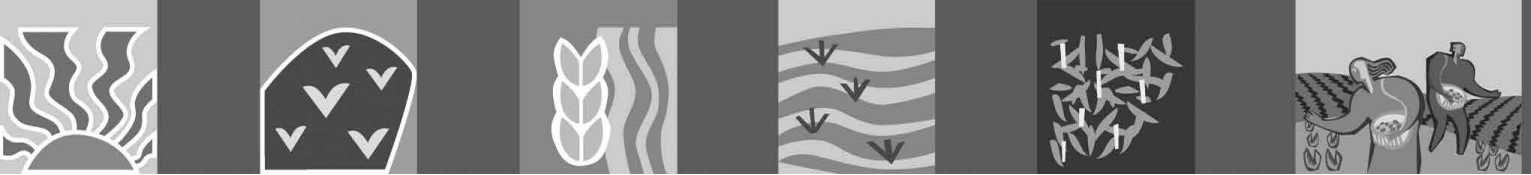
### ***Philippine Commission on Women (PCW)***

In 1975, the National Commission on the Role of Filipino Women (NCRFW) was established through Presidential Decree No. 633 to promote the rights of women in the country. In 2009, the passage of the Magna Carta of Women renamed the agency as the Philippine Commission on Women.

Since its creation, it has advocated gender equality in government through the following policies: the Philippine Development for Women for 1989 to 1992, Women in Nation-Building Act, and the Philippine Plan for Gender Responsive Development for 1995-2025 (PCW, 2013). PCW also ensures that the CEDAW is being implemented.

The PCW is the oversight committee for the GAD initiative of mainstreaming the gender component into the government's main policies and programs. To promote gender sensitivity in governance, an institutional mechanism known as the GAD budget and planning ensures that gender mainstreaming happens within the policies and programs by allocating 5% of the total budget of government agencies as well as local government units.

The PCW also serves as oversight to the implementation of the Magna Carta of Women. The organization has also come up with Gender Mainstreaming (GM) indicators which serve as the basis of the baseline survey tools to measure the gender-responsiveness of the programs and activities of different national government agencies and local government units.



Indicators related to women's land rights can be seen under Section 23 on "Food Security and Productive Resources" with an outcome statement of "improved participation of women in food security and access to productive resources" (PCW, 2013).

### ***Department of Agrarian Reform (DAR)***

In terms of policies on women and their land rights, the DAR is the primary agency that needs to integrate gender into its policies and programs. The AO 1-11 alone highlights how gender should be mainstreamed into women farmers' concerns such as titling, support services, representation, and participation, among others. The accountability of the GAD Focal Points has been clearly established, as opposed to the situation in other agencies.

### ***Department of Agriculture (DA)***

The Department of Agriculture is responsible for the agricultural development of farmers, fishers, and other rural workers. DA is the current chair of the IARCW and supervises the activities for the celebration of the Rural Women's Week. However, these activities held in recognition of women's land rights have been criticized for being more output – rather than outcome – oriented.

### ***National Commission on Indigenous Peoples (NCIP)***

The National Commission on Indigenous Peoples is responsible for ensuring that the rights of indigenous women are protected. However, during the meetings of IACRW, the NCIP representative is usually unavailable. This despite the fact that the commission's participation is crucial to represent the sector of indigenous

women and to make sure that their voices are heard.

### ***Department of Environment and Natural Resources (DENR)***

The Department of Environment and Natural Resources is responsible for the rights of fisher women as well as indigenous women.

### ***Civil Society Organizations (CSOs)***

Major civil society organizations working on women include the Women's Action Network for Development, CEDAW Watch, PKKK, Welga ng Kababaihan, the National Council of Women of the Philippines, Advocacy Network, Women's Action Network for Development, Katipunan ng Bagong Pilipina, General Assembly Binding Women for Reform (GABRIELA), Pambansang Kalipunan ng mga Manggagawang Impormal sa Pilipinas (PATAMABA), PILIPINA, and Sentro ng Alternatibong Lingap Panligal (SALIGAN) (CSRI, 2011).

One major output of these CSOs working on women's issues (particularly PILIPINA, PKKK, CEDAW Watch, and SALIGAN) was the Magna Carta of Women. It was through their intensive lobbying that the law was passed in 2009.

## **Recommendations**

### ***Government agencies***

While there are few government agencies working on women's land rights, on the policy level, they have so far enacted several laws and policies to recognize the equal status of men and women when it comes to land rights. The problem now lies on the implementation of these policies alongside the Magna Carta of Women (MCW).



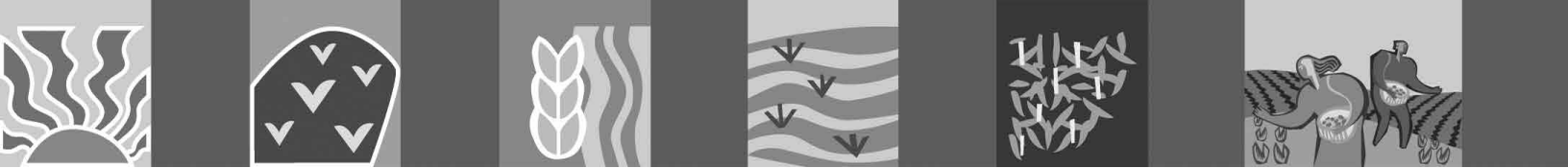
More specifically, recommendations to the respective agencies are the following:

- The PCW should have a monitoring mechanism for the GAD and should conduct the MCW baseline survey to measure the impacts of laws on women and identify further areas of development.
- The PCW should also ensure that the GAD activities are outcome-based and not merely output-based. For example, most government agencies conduct trainings on laws and programs, but there is no measurement as to whether the women sectors actually benefitted from these programs.
- Government agencies, particularly the DAR, DA, NCIP, and DENR should update their information and the data should be sex-disaggregated. It should also be easily accessible to all concerned parties. The PCW could then consolidate these data to arrive at and present a comprehensive view of the status of women and land rights.
- Government agencies should document the experiences of women farmers, fisher women, and indigenous women. Popularizing these experiences will enable stakeholders to become aware of the issues faced by these women sectors.
- The IACRW is a good entry point for discussing the issues faced by rural women. Aside from annual Rural Women's Day celebrations, they should also regularly convene to talk about policy issues, such as those concerning women and land rights. The PCW can spearhead these discussions since they are the oversight committee on women's rights and have been effective in pushing women's agenda in general.
- The IACRW (as a committee) and the specific government agencies (as agencies catering to their own sectors) should have more partnerships with CSOs and other stakeholders.

The IACRW is open to more CSOs partnering with them to help steer the focus on women's issues most needed to be addressed. It would be beneficial if the government agencies would take advantage of such platforms to develop a coordinated plan of action for the implementation and monitoring of the indicators discussed in this paper and those enshrined in the Magna Carta of Women. The IACRW could include in their activities a reporting on the status of women's land rights in the Philippines, specifically capturing the experiences of women farmers, fisher women, and indigenous women.

In terms of policy, several recommendations have been identified:

- More inclusivity is called for in terms of defining the agricultural labor of women. Monitoring systems should also be set up to identify whether there are overlaps between statutory and customary rights.
- More provisions for fisher women should be established, like those in the CARPER which elaborately highlighted the role of women farmers in terms of their land rights (titling, access and control, support services).
- More provisions for indigenous women should also be formulated, including protection from discrimination and violence against indigenous women leaders. Laws and policies should include provisions on ancestral domain and penalties for violations of laws and regulations on mining and land grabbing of ancestral lands. The NCIP should have more institutional legitimacy and authority in order to defend the IPs' rights. A sufficient budget should be allocated to the NCIP to improve their capacity to enforce the IPRA, as well as fast track the approval of CADTs. The PCW should also develop more indicators for IPs as well



as programs and recognition to include this marginalized group.

- The GAD Budget should be properly used to ensure the fulfillment of the indicators discussed above. The budget should focus on more outcome-based results rather than on outputs/activities alone.

### **Civil Society Organizations**

- CSOs who are working in the agriculture, fisheries, and IP sectors should also have more awareness and sensitivity on women's land rights and be able to advocate these as well. Currently, only women-based groups advocate women's land rights.
- More partnerships and engagements with government agencies such as the PCW, DA, DAR, NCIP, and DENR should be established for all stakeholders to have a common understanding of the status of land rights in the country, both in the legal environment and on the ground.
- Intensive lobbying on the advancement of women's land rights should be conducted by CSOs, especially concerning issues such as fast tracking of asset reform implementation, land grabbing, and human rights abuses such as harassment and killing of members of people's organizations (POs).
- Advocacy on the amendment of policies should be strengthened, especially in cases of conflicting ones (i.e., the IPRA versus the Mining Act, among others).
- More research and documentation must be carried out on the following: women's experiences on land rights such as land titling, customary laws prohibiting women from inheriting land, level of awareness of women sectors on land laws and programs, mapping

of CSOs' initiatives on advocating women's land rights, monitoring of the GAD budget of agencies, among others. ■

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***For the complete list of references, please contact  
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Founded in 1979, ANGOC is a regional association of 15 national and regional networks of non-government organizations (NGOs) in Asia actively engaged in food security, agrarian reform, sustainable agriculture, participatory governance

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ANGOC is a founding member of the International Land Coalition (ILC). ANGOC is the regional convener of the Land Watch Asia (LWA) campaign and the Asian Alliance Against Hunger and Malnutrition (AAHM-Asia). ANGOC is also a member of the Global Land Tool Network (GLTN), and the Indigenous Peoples' and Community Conserved Areas and Territories (ICCA) Consortium.

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