LAND & PROPERTY MATTERS FOR SUSTAINABLE FUTURE:

*Some Insights to Gender based Concerns*

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Gender is the product of productive relation that involves different sexuality. Gender is not to be confused with the biologically determinative sex.

So, said Simone de Beauvoir in her book The Second Sex, “not every female human being is necessarily a woman, she must take part in this mysterious and endangered reality known as femininity” (Beauvoir, 2011).
SDG Land Tenure Indicators

1.4.2 Proportion of total adult population with secure tenure rights to land, with legally recognized documentation and who perceive their rights to land as secure, by sex and by type of tenure

5.a.1 Indicator title:
- (a) Proportion of total agricultural population with ownership or secure rights over agricultural land, by sex; and
- (b) Share of women among owners or rights-bearers of agricultural land, by type of tenure

5.a.2 Proportion of countries where the legal framework (including customary law) guarantees "women's equal rights to land ownership and/or control"

Diagram:
- Women Favouring Property Laws
- Land Ownership
- Missing Women >90%
- Secure Tenure Rights
- Legal Framework & Legally Recognised Documentation
DISTRIBUTION OF AGRICULTURAL HOLDERS: INDIA

• This Indicator measures the percentage of female agricultural holders out of total agricultural holders and the percentage of male agricultural holders out of total agricultural holders. It is an indicator of management of agricultural holdings. The indicator is created as follows: Source Agricultural statistics 2010-2011

Percentage Holding with Women (1) Vs Percentage Holding Operated by Women (2)

• Total: 137,516,000
  • Male: 119,898,000 (87.2%)
  • Female: 17,618,000 (12.8%)
INSIGHTS TO CONSEQUENCES OF REFORMING INHERITENCE & PROPERTY LAWS IN INDIA

• **HINDU SUCCESSION ACT (HSA) 1956 (Buddhists/Jains/Sikhs):**
  - ANCESTRAL PROPERTY vs ACQUIRED PROPERTY
  - HSA required that **Acquired Property** be allocated to sons and daughter in an egalitarian manner.
  - Whereas, **Ancestral Property**, acquired by a father – sons had a right to a share of it but not daughters.

• **Between 1976-1994**, several Indian states amended the HSA (Kerala, Andhra Pradesh, Tamil Nadu, Karnataka and Maharashtra)

• **In 2005**, the entire country amended the law in similar fashion.

• **The key question is whether and how the change in the inheritance law has improved the well being of Indian women??**
Positive/EXPECTED Fall-outs of having HSA-land Ownership by women

5.6a Ensure women’s access and control over land and other property

- Social empowerment
- Economic Empowerment
- Political Empowerment

Example: Women’s property status and spousal violence, Kerala, Punjab, J&K

<table>
<thead>
<tr>
<th></th>
<th>Property less women</th>
<th>Land owners only</th>
<th>House owners only</th>
<th>House &amp; Land owners</th>
</tr>
</thead>
<tbody>
<tr>
<td>Property less women</td>
<td>49%</td>
<td>58%</td>
<td>20%</td>
<td></td>
</tr>
<tr>
<td>Land owners only</td>
<td>18%</td>
<td>25%</td>
<td>10%</td>
<td></td>
</tr>
<tr>
<td>House owners only</td>
<td>10%</td>
<td>15%</td>
<td>07%</td>
<td></td>
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<tr>
<td>House &amp; Land owners</td>
<td>7%</td>
<td>12%</td>
<td>03%</td>
<td></td>
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</tbody>
</table>

This target also has synergy with many other goals

1. Poverty
2. Hunger
3. Health
4. Education

.....

violence against women
The key question is whether and how the change in the inheritance law has improved the well being of Indian women???

• The amendment to inheritance law had improved the well being of women but not the manner one would have expected.

  - Genicot found that HSA had adversely impacted the suicide rate

☐ Daniel Roosenblum (2013) : IMPACT of HSA on female child mortality Rate.
  - Having data from 4 states Roosenblum found that HSA did indeed increase female mortality rate.

• LEARNING FOR SDG MONITORING AGENCIES
LEARNING FOR SDG MONITORING AGENCIES
2015 → 2030

• IMPLICATION is not that equalizing rights to ancestral land by gender is a bad thing.

• RATHER, the point is that when laws that tilt against ingrained social norms are implemented THERE MAY BE AN UNEXPECTED BACKLASH.

• SDG Spereheaders & Policy Makers - Need to Anticipate Such Adverse Effects & have in Place Additional Policies that will Prevent or Reduce these Effects.
Kashmir forms an important and interesting site of research because of its diversity in terrain, population and needs of women as a community.

SOME INSIGHTS TO AN ONGOING PROJECT as a Principal Investigator (S.M.Parihar)

Case of South Kashmir_30 small and big villages with a population of nearly 50 thousand < 5% of non-movable property is on the name of a women & that too largely reflected following facts:

- She is either a Single women/daughter/No Sons family, or
- She is a Widow

EXAMPLE 2: FROM J&K STATE : SDGS HAVE TO BE LOCATION SENSITIVE WHEN COLLECTING / MEASURING DATA FROM DIFFERENT REGIONS
Permanent Resident Law of J&K:2002

- The constitutional and other legal provision with respect to the Permanent Resident Law of J&K applicable to women, as enshrined in the J&K Constitution, adopted on November 17, 1956, defined a Permanent Resident (PR) of the state as a person who was a state subject on May 14, 1954, or who has been a resident of the state for 10 years, and has “lawfully acquired immovable property in the state”.

- **Prior to 2002**, the Revenue Department issued Permanent Resident Certificates (PRCs) to the female residents of Jammu and Kashmir with the endorsement “Valid Till Marriage”.

- After much deliberations, challenging in the division bench of high court and keeping in view the intricacy of the matter, the reference arrived at, was: “Whether the daughter of a permanent resident of the State of Jammu and Kashmir marrying a non-permanent resident loses her status as a permanent resident of State, to hold, inherit and acquire immovable property in the State?”

- In view of the majority opinion, the Full Bench in a case titled Jammu and Kashmir v/s Dr Sushila Sawnhey and others held that a daughter of a permanent resident marrying a non-permanent resident will not lose the status of permanent resident of State of Jammu and Kashmir.
LEARNING: TENURE SECURITY HAS TO BE PROBED DEEPER IN DIFFERENT
COMMUNITIES FOR INFORMED POLICY MAKING

UN-Habitat notes that an estimated two billion people worldwide may be tenure insecure, and for some regions such as Africa, 90% of the continent’s land is unregistered.

SCENARIO 1: Use of land for a particular time without eviction can be regarded as Secure.

VS

SCENARIO 2: For a Poor possibility of a Make shift facility when desired may be regarded as Secure

Vs

SCENARIO 3: Bakarwals & similar nomadic communities see no reason to settle in a fixed location and therefore perceive tenure security differently?

1. BAKARWALA COMMUNITY OF J&K (NOMADIC PASTORILISTS TAKE LONG JOURNEY WITH THEIR LIVESTOCKS TO HIGHER MEADOWS FOR GRAZING

2. Grazing rights is a major concern!

EXAMPLE 3 FROM Nomadic Community
Policies & Data

• Gendered???

✓ We need Policies to reduce gender Inequalities in land and house ownership

✓ We need gendered data to monitor changes

FAMILY

▪ LAWS: Mostly are gender equal, including laws for Hindu Women after HSSA 2005. But Reforms are needed for Muslims & Tribal

▪ Implement Laws: Awareness, Legal Aid and Social Monitoring

STATE

▪ Identify all surplus land & provide access to women farmers

MARKET

▪ Facilitate Land Purchases, Land Leasing
CHALLENGES: Redfine overlapping vocabulary

• Missing gender disaggregated data on ownership of assets – agricultural land “& homesteads in all national survey

• Agricultural Census: gender disaggregates both ownership & operational holdings (unit should be individual not hh) guidelines

• Digitized Land Records: identify gender of owner. Also researchers need access to this data....GEOSPATIAL DATA...

• Large Surveys funded by government (may involve academia,&/Pvt Sector) need new guidelines-

  § RATHER, the point is that when laws that tilt against ingrained social norms are implemented THERE MAY BE AN UNEXPECTED BACKLASH...POLICY FRAMEWORKS SHOULD MAKE A NOTE OF IT...INVOLVE & locate LOCAL GOVERNMENTS/Communities as equal partners...for positive implementation & have in Place Additional Policies that will Prevent or Reduce these Effects

  § BE INCLUSIVE & MAKE A DIFFERENCE

GEOSPATIAL COMMUNITY: Map the measurements/units in each region.

✓ MAP THE MISSING WOMEN?
✓ MAP THE PROPERTIES AT INDIVIDUAL LEVEL
✓ MAP THE RIGHTS THAT WOMEN HAVE?
✓ MAP THE ACQUIRED & ANCESTRAL PROPERTY
✓ Map the use of the property.
✓ Map the surplus.
✓ MAP ‘WHERE’?

THANKS
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