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BINA AGARWAL

Women's struggle for land in South Asia

Can legal reforms trump social norms?



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Foreword

Women represent over forty per cent of the agriculture labour force in the world. Yet they rarely own the land they are working on, have tenure securities, or control over the land. Women's right to land and property is central to women's economic empowerment, as land is a base for food production and income generation, as collateral for credit, and as a means of holding savings for the future. A century has passed since women in India began to demand equal property rights – especially for land, the most important means of production in developing economies. The pursuit continued, broadening and diversifying over time, and today the resultant legal reforms have given a vast majority of women legal equality with men in India.

In neighbouring Nepal, Pakistan, and Bangladesh, women's legal rights in family property have also improved significantly in recent decades. However, it would be remiss if we do not query whether or not these legal reforms have changed and improved women's situation in practice? Have the reforms closed the gender gap in actual land ownership and trumped restrictive, often disabling, social norms and customs? And if not, is there a way forward?

Bina Agarwal –who for decades has pioneered the pressing issue of gender inequality in property rights– in her WIDER Annual Lecture given in December 2021, looks into the long road to legal reform in South Asia, the nature of change in inheritance law, and the social norms which lie beneath the gender gap. She shows that, in spite of the major reforms in the Indian land inheritance laws which gave daughters and widows equal rights with sons in a man's property, there remains significant gender gaps in land ownership. She argues that legal changes, important as they are, are not enough to change behaviour, and social norms and the social legitimacy of claims also matter. The lecture discusses alternative sources of land and property outside the family, and a particularly promising is the group approach, where women acquire and cultivate land by group farming which increases their access to land and productivity, and in turn empowers them socially and politically.

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About the author

Bina Agarwal is a professor of development economics and environment at the Global Development Institute, University of Manchester, UK. She also continues to be affiliated with the Institute of Economic Growth, Delhi, where she was earlier Director and a professor of economics. She has been President of the International Society for Ecological Economics; President of the International Association for Feminist Economics; and Vice President of the International Economic Association, and has held distinguished positions at Harvard, Princeton, Minnesota, Michigan and Cambridge.

Agarwal's 86 academic papers and 13 books cover a range of subjects including land and property rights, technological change, environmental governance, and inequality and poverty, written especially from a gender and political economy perspective. Her prize-winning book, *A Field of One's Own* (Cambridge University Press 1994), placed the issue of women's land rights centrally on the global policy agenda. In 2005 she also led a successful civil society campaign for amending India's Hindu inheritance law to make it gender equal. Her recent books include *Gender and Green Governance* (Oxford University Press, 2010); *Gender Challenges* (Oxford University Press, 2016), a three-volume compendium of her selected papers; and *Gender Inequalities in Developing Economies* (Il Mulino 2021) in Italian translation.

She has received many awards including a Padma Shri from the President of India in 2008, the Leontief Prize 2010 'for advancing the frontiers of economic thought'; the Louis Malassis International Scientist Prize 2017; and the International Balzan Prize 2017, 'for challenging established premises in economics and the social sciences by using an innovative gender perspective'.

Almost a century has passed since women in South Asia first raised a demand for equal rights in property, especially land, the single most important productive resource in most developing economies. Over time, the struggle broadened and diversified. Despite resistance from conservative lawmakers, this led to notable legal reforms. As a result, the vast majority of Indian women today enjoy legal equality with men in inheritance rights. In neighbouring Nepal, Pakistan, and Bangladesh, women's legal rights in family property have increased greatly, albeit not yet equal to men's in the latter two countries. However, has this changed ground reality? Have legal reforms helped bridge the gender gap in land ownership? Have they trumped restrictive social norms? If not, are there other ways forward? This text will address these questions.

Sections 1 to 3 below, respectively describe the path to legal reform, the nature of change in inheritance laws, and the gender gap in actual land ownership. Section 4 focuses on the factors, especially social norms, which underlie the gender gap, while Section 5 discusses alternative sources of land for women, and especially the promise of a group approach. The last section offers concluding reflections.

1

Legal reforms

In the 1930s, newly formed national women's organizations in undivided India, which was then under British colonial rule, raised women's rights in property as a key demand, partly for their own sake and partly because the right to vote and to stand for elections was linked to owning property. As Forbes (1981) reported:

Throughout the 1930s, the women's organisations formed committees on [women's] legal status, studied the law, spoke to lawyers, published pamphlets on women's position, and encouraged various [pieces of] legislation to enhance women's status. (Forbes 1981: 71)

Supported by liberal male legislators, these efforts bore some fruit initially, for both Hindu and Muslim women, with an increase in the rights of Hindu widows under the Hindu Women's Right to Property Act of 1937 and an increase in the rights of all Muslim women with the passing of the Muslim Personal Law (Shariat) Application Act of 1937. Subsequent pre-Independence reforms covered only Hindu women, starting with the drafting of the Hindu Code Bill in 1942 which, among other things, sought to enhance the inheritance rights of daughters.

The Bill was, however, subject to heated debates when introduced in the Constituent Assembly of Independent India in 1948, and received mixed responses from male legislators. For example, during the Constituent Assembly and Parliamentary debates in the late 1940s and early 1950s, one Congress legislator asked: 'Are you going to enact a code which will facilitate the breaking up of our households?' (Gol 1949: 1011). Another argued that giving property shares to daughters would 'spell nothing but disaster'. Yet another legislator said that if daughters inherited property, they would choose not to marry at all, crying out: 'May God save us from ... having an army of unmarried women' (Gol 1951: 2530). Newspapers had a field day carrying cartoons playing this up.

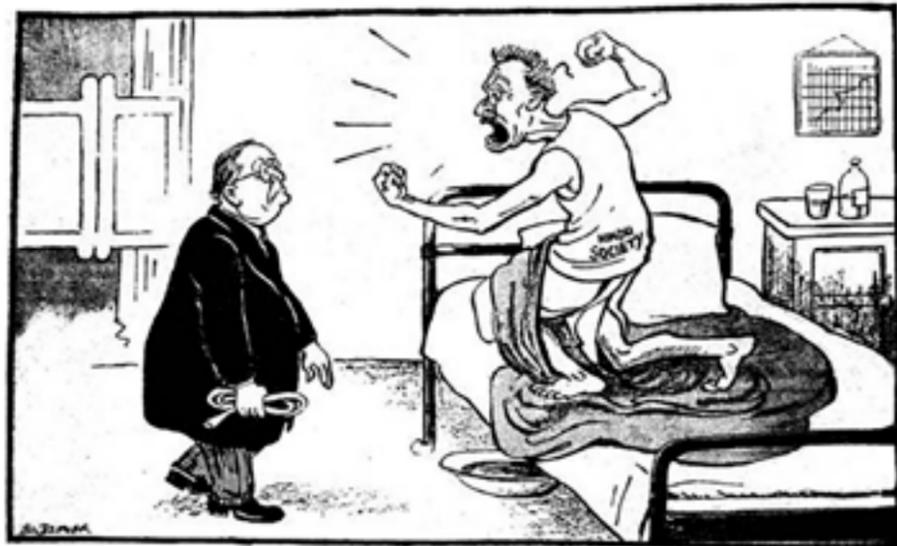
Cartoons:
Imagined impact of enacting the Hindu Code Bill

WITHOUT MALICE



Some Delhi girls have demonstrated in favour of the Hindu Code Bill.

'GET OUT!'



There is much opposition to Dr. Ambedkar's Hindu Code Bill.

Source: 'Without Malice' (1948) and 'Get Out!' (1949) by Bireswar, reproduced with permission from the *National Herald*

In the end, following delays and compromises (Agarwal 1994), the progressives prevailed, especially Dr B.R. Ambedkar, a major figure in the drafting of India's Constitution, and Pandit Jawaharlal Nehru, India's first Prime Minister. The Hindu Code Bill was split into four separate Acts.¹ The Act relating to inheritance was passed as the Hindu Succession Act (HSA) of 1956. Although still gender unequal, it shifted women's property rights from a position of gross inequality to a fair degree of equality for over 80 per cent of Indian women.

What was the shift? Overall we need to bear in mind that inheritance systems in South Asia are extremely complex: they vary by religion, region, and type of property, with agricultural land being treated differently from other types of property. The Hindu inheritance law had particular complexities: most Hindus fell under the purview of the twelfth century *Mitakshara* system, which distinguished between a man's separate property (self-acquired) and his joint family property (ancestral property held as coparcenary shares). Prior to the HSA 1956, the vast majority of Hindu women could only inherit their father's (or husband's) property in the absence of four generations of agnatic males. The 1956 Act gave widows and daughters equal shares with sons in a man's separate property intestate, but only sons had rights by birth in joint family property. And agricultural land was subject to state-level tenurial laws which specified the actual order of inheritance in in six states – Punjab, Haryana, Himachal Pradesh, Jammu, and Kashmir, Delhi, and Uttar Pradesh – all located in northwest India (Agarwal 1995). This specification was highly gender unequal and was applicable to all religious communities.

Village India received news of the 1956 law with alarm. As recorded by some anthropologists, many villagers thought it would lead to intra-family conflicts and divorce and saw it as an attempt to destroy the family (Ishwaran 1968; Mayer 1960; Minturn and Hitchcock 1966; Newell 1970). In one village, as observed by Ishwaran (1968), the villagers concluded that:

[T]his equality must have the inevitable consequence of increasing divorce, desertion, adultery, destroying the love between husband and wife, depriving children of the certainty of a normal home life, and setting brother against brother, son against father, and man against man, that it [would] in a word, atomise society by gnawing at the foundations of the social bonds. (Ishwaran 1968: 183)

Such views persisted into the late 1980s, not only in village India but more widely. In 1989, when I made an invited presentation to senior bureaucrats and two cabinet ministers at the Indian Planning Commission, the then Minister of Agriculture exclaimed: 'Are you suggesting that women should be given rights in land? What do women want? To break up the family?' Ironically, of course, what this implied was that Indian families are characterized by deep inequalities and would fall apart the moment women had independent rights in property.

Nevertheless, the trajectory of legal reform continued. Between 1976 and 1994, five states in south and west India amended the HSA 1956. Four of these states – Andhra Pradesh, Tamil Nadu, Karnataka, and Maharashtra – included unmarried daughters as coparceners in joint family property (JFP), but the discriminatory clause on agricultural land remained, while one state, Kerala, abolished JFP altogether. Finally, in 2005, following a civil society campaign that I led, the remaining main inequalities in Hindu inheritance relating to both JFP and farmland were removed. Since Hindu law also applies to Sikhs, Jains, and Buddhists, this reform legally benefitted some 83 per cent of Indian women and girls. Alongside, the inheritance laws of Christian and Parsis also moved towards gender equality (Agarwal 1995).



What this implied was that Indian families are characterized by deep inequalities and would fall apart the moment women had independent rights in property.

¹ These were The Hindu Marriage Act 1955, The Hindu Succession Act 1956, The Hindu Minority and Guardianship Act 1956, and The Hindu Adoptions and Maintenance Act 1956.

Hindu inheritance law: 1956 to 2005

What was the legal change in Hindu inheritance law between 1956 and 2005? The 1956 Act gave daughters and widows equal rights with sons in a man's separate property and in his share of JFP intestate (that is, if he left no will). But under the *Mitakshara* system, sons *additionally* had direct rights by birth in JFP. This share could not be willed away by anyone. The 2005 amendment was a major advance in that it gave daughters the same rights by birth as sons in JFP, including in agricultural land, with the deletion of the discriminatory clause relating to such land (Agarwal 2005). However, the amendment reduced the claims of widows. This is clarified in Figures 1 and 2. Since the main change in terms of shares between 1956 and 2005 was in relation to JFP, the figures only focus on JFP.

In Figure 1, we see the division of JFP under the HSA of 1956. It depicts a family with 90 acres of land held as JFP. The grandfather has two sons, S1 and S2. S1 has a family (wife, daughter, and son) while S2 has no children or spouse. The coparcenary shares would then be held as follows: grandfather and his two sons share 30 acres equally, but S1 shares his 30 acres *per stirpes* with his son SS1 = 15 acres each. Since daughters were not coparceners under the HSA 1956, DS1 does not hold a coparcenary share. However, in S1's 15 acres, his first-order heirs (wife, daughter, and son) have equal claims if he dies intestate (without leaving a will). So, on S1's death, the wife, daughter, and son each get 5 acres of S1's land. SS1 now has 20 acres (his direct coparcenary share of 15 acres and his share of his father's coparcenary = 5 acres), while the daughter only has the 5 acres.

Now consider Figure 2. This depicts the same family but after the Hindu Succession Amendment Act (HSAA) of 2005 was passed. Post-amendment, the daughter DS1 also becomes a coparcener in the JFP. Hence, *per stirpes*, the shares of S1, SS1, and DS1 are 10 acres each. When S1 dies, his 10 acres are divided three ways for his first-order heirs: SS1, DS1, and his widow = 3.33 acres each. We now note that both SS1 and DS1, the son and daughter, have equal amounts of land, namely 13.33 acres. However, the widow's share falls to 3.33 acres (reducing it from the 5 acres she received under the unamended Act). In other words, while the amendment brings daughters and sons on par, the widow loses out. This is important to note. The possibility of creating inequalities between women within the family, while advocating equality with men, is seldom factored in even by women's groups seeking legal change on women's behalf.

Since the 1950s, other countries in South Asia have also seen progressive legal reform. In Pakistan, for example, demands by women's groups led to



© Kudumbashree, Kerala

Figures 1 and 2: Joint family property (JFP) devolution under HSA 1956 and HSAA 2005.

Figure 1: Shares in JFP under unamended HSA 1956

(Only males are coparceners) JFP = 90 acres

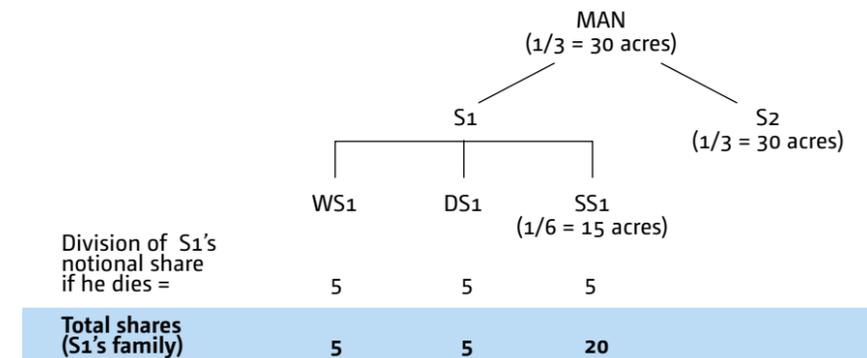
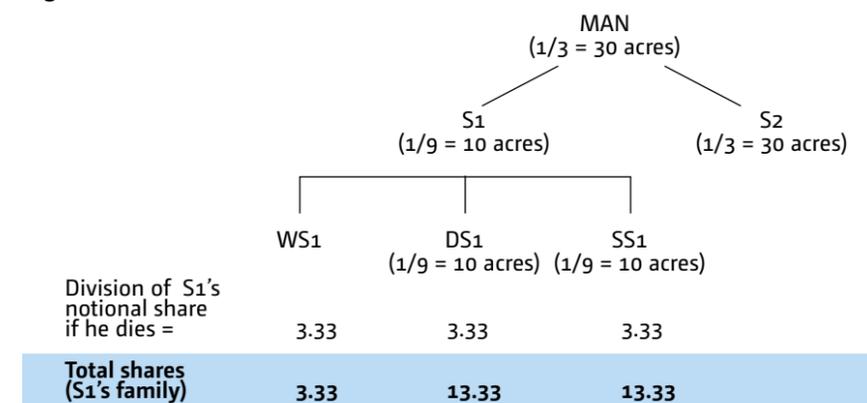


Figure 2: Shares in JFP with HSAA 2005



LEGEND for Figures 1 and 2: S1 & S2 = Sons of Man; WS1 = Widow of S1; DS1 = Daughter of S1; SS1 = Son of S1

Source: author's illustration.

the passing of the West Pakistan Muslim Personal Law (Shariat) Application Act in 1962 (Mumtaz and Shaheed 1987). This increased women's rights, including in land, although their prescribed shares were lower than men's, as per the Shariat. Again, in predominantly Hindu Nepal today, after several decades of struggle by women's groups, sons and daughters have equal shares in the father's property (IOM 2016), while Sri Lanka has always been an outlier. Here, even historically, women of all religions have had substantial legal rights in landed property under customary laws (Agarwal 1994). Today, there is a gender-neutral General Law applying to all Sri Lankans, other than those covered by a few specific customary laws (Gunasekara 2021).

Hence, over the years, across South Asia, women's legal rights have increased to a considerable extent. This is undoubtedly a major step forward. And many stop at legal change. For example, SDG 5 on gender equality focuses mainly on legal reform, as do many economists. Yet equality as an idea must be embodied not just in the laws but also in the institutions and practices of everyday life. Where are we in practice after a century of effort? Have we bridged the gap between *de jure* and *de facto* rights? Has actual practice kept pace with law reform? An answer to this is of critical importance since it is actual ownership which can bring women the expected welfare and efficiency benefits of owning land that a vast body of empirical work globally shows is possible.

3

Assessing the gender gap in land owned

Over the past two decades, since my 1994 book *A Field of One's Own* (Agarwal 1994) was published, numerous studies have documented further gains from women owning land in terms of welfare, efficiency, and empowerment. For example, child survival, health, and education are significantly greater if the mother owns assets than if only the father owns assets (Quisumbing and Maluccio 2003; Thomas 1994). Owning land is also found to greatly reduce women's risk of domestic violence (Agarwal and Panda 2007) as well as their risk of poverty (Meinzen-Dick et al. 2017). In addition, according to assessments by the Food and Agriculture Organization (FAO), if women farmers in developing countries had the same access as men to productive resources, including land, they could increase the yields on their farms by 20 to 30 per cent and raise total agriculture output by 2.5 to 4 per cent. Food security would also improve (FAO 2011).

These efficiency and welfare gains will matter increasingly, given the feminization of agriculture across the Global South. Also, women owning land would not only help in achieving the targets for SDG 5 on gender equality, but also our targets in SDG 1 and SDG 2 on poverty and hunger, respectively. Hence, measuring women's actual ownership of land is essential. But obtaining gender-disaggregated data for assessing the gender gap in ownership has been another uphill struggle.

Based on existing evidence, we find a large gender gap in land owned across South Asia, even Sri Lanka, using whatever indicator the data allow us to estimate. Indeed, as we note from Table 1, even in sub-Saharan Africa and Latin America, there is a substantial gender gap in landownership.



Ideally, however, given the complexity of legal rights, we need to cover both individually-owned and jointly-owned land, and use a range of indicators to assess varied dimensions of inequality as well as monitor changes over time. We also need to assess hitherto ignored intra-gender variations, since which women acquire land (widows or daughters) can affect potential benefits.

Consider India. None of India's major data sources on land –the Agricultural Census or the National Sample Surveys– disaggregate land owned by gender, nor do the digitized land records. After my advocating for such data for decades, I was alerted that the International Crops Research Institute for the Semi-Arid Tropics (ICRISAT) had disaggregated its data on land owned by gender between 2009/10 and 2014. These are panel data for a sample of households in 30 villages over this period, initially for eight states in 2010 and then for nine states in 2014 (with the bifurcation of Andhra Pradesh into Andhra Pradesh and Telangana). This enabled me, along with two young colleagues, to assess inter-gender gaps in farmland owned, using seven indicators. We also analysed differences between women, specifically widows versus daughters.

Figure 3 gives five of these indicators for male-female gaps for 2014. We note that the gaps are substantial on all counts. Barely 16 per cent of households have any female landowners, and just 8.4 per cent of all women aged 15 or more own any land. Overall, women constitute only 14 per cent of landowners, owning only 11 per cent of farmland. However, we found no gender differences in the average area per owner or in land quality.



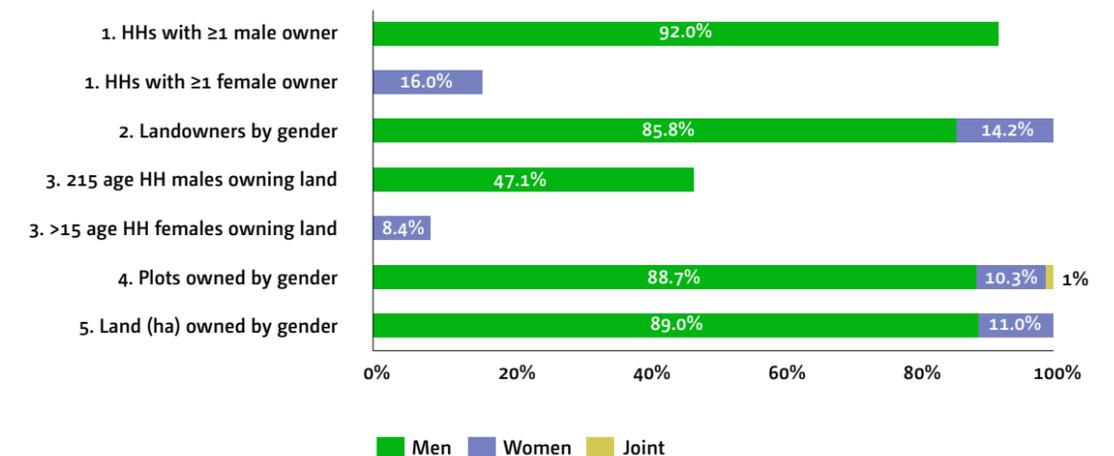
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Table 1: Gender gap in landownership: South Asia and globally

| Country/region | Indicators based on available data | Source |
|---|------------------------------------|------------------------------------|
| <i>South Asia</i> | | |
| <i>Percentage of women and men who are landowners</i> | | |
| Nepal | 10.4% (men: 27.2%) | Kieren et al. (2015: 127) |
| Pakistan | 4.0% (men: 30.8%) | Kieren et al. (2015: 127) |
| Bangladesh | 8.5% (men: 52.3%) | Kieren et al. (2015: 130) |
| India | 8.4% (men: 47.1%) | Agarwal, Anthwal and Mahesh (2021) |
| Sri Lanka | 30.4% (men: 73.2%) | Kieren et al. (2015: 124) |
| <i>% landowners who are women</i> | | |
| Bangladesh | 22.7% (own 10% of land) | Kieren et al. (2015: 130) |
| India | 14.2% (own 11% of land) | Agarwal, Anthwal and Mahesh (2021) |
| Sub-Saharan Africa: (Average for 9 countries) | 22.2% | Doss et al. (2015: 418) |
| Latin America: (Range for 5 countries) | 11–27% | Deere and Leon (2003) |

Source: author's compilation.

Figure 3: India – comparing measures of gender inequality in land ownership



Note: joint plots in this figure are those with both male and female co-owners. Source: Agarwal, Anthwal, and Mahesh (2021). Calculated by the authors from ICRISAT data.

Regionally, south India does better than other regions of India, but even in the best-performing southern state –Telangana– only 32 per cent of landowners were women, relative to 5.6 per cent in Odisha (in eastern India). Also, we found little change between 2010 and 2014. Telangana is an outlier even in south India. This appears to be attributable especially to the policies of the state's Chief Minister N.T. Rama Rao for empowering women (Menon 1984), and civil society's active implementation of those policies.

Given that inheritance law reform has increasingly given daughters rights in JFP, this low figure suggests two things. First, the 2005 amendment has had rather little impact in practice. If the law had been implemented effectively, an increasing percentage of women would have acquired land as daughters, especially as co-owners of JFP with other family members. Second, land is often not held as joint property, so the potential gain from this legal reform is limited. Only 2 per cent of the land holdings in our sample were co-owned and only in the southern and western states.

We then analysed gender inequalities using logistic regressions. We found that the probability of men owning land was 48 percentage points greater than the probability of women owning land. And the probability of widows owning land was 22 percentage points greater than of married or single women (for details, see Agarwal, Anthwal and Mahesh 2021). Widowhood is central to women becoming landowners despite legal changes favouring daughters.

In 2014, 46 per cent of female owners were widows, most being elderly. In fact, most female owners had acquired land through their marital families, sometimes via land purchase with husbands rather than from parents. A male owner's plots tend to pass to his widow and, often, so does household headship (41 per cent of female owners were also household heads) even when there are adult sons and daughters in the household.

Other studies support this finding. Lahoti et al. (2016), in their all-India assessment for 2010–11, found that 56 per cent of female owners were widows and most women received land from their marital families. State-level studies again found that very few women inherit land as daughters (Velayudhan 2009). Even in the twelfth-century *Mitaksara* and *Dayabhaga* legal treatises, the order of heirs was as follows. First came four generations of men in the male line of descent. Only in their absence came the widow, then the unmarried daughter, and finally the married daughter. So married daughters came far below widows, even historically.

Moreover, given that women either get no land at all, or receive land largely as ageing widows, this means that most Indian women lack landed assets at a time in their life cycle when ownership would benefit them and their families the most. For instance, the evidence linking women's assets with children's welfare relates especially to mothers of young children. Likewise, it is married women who would benefit from the link between owning land and a reduced risk of spousal violence.

Our results also point to the need to re-examine the central premise underlying recent studies by economists which assume that simply a legal change can change behaviour. These studies treat the pre-2005 reforms of the HSA 1956 in four states as quasi-natural experiments and use econometric tools to capture the effect of the legal change in daughters' rights on girls' education, female suicides, son preference, etc.² However, their results need closer scrutiny on at least two grounds. First, we do not know to what extent parents are aware of the exact legal change in the state-specific reforms. Given the limited nature of change in relation to the HSA 1956, the likelihood of widespread awareness appears small. Second, we find little evidence of daughters co-owning land, which is what the legal reforms effected. Parental resistance to bequeathing daughters also remains strong.

² See, e.g., Anderson and Genicot (2015), Bhalotra et al. (2018), and Bose and Das (2017).

4

Social norms and social legitimacy of claims

Among the notable factors that are likely to affect a woman's likelihood of inheriting land are social norms and the social legitimacy of those claims. The former varies considerably across regions in South Asia. In addition, today, the willingness of a family member to continue in farming can matter.

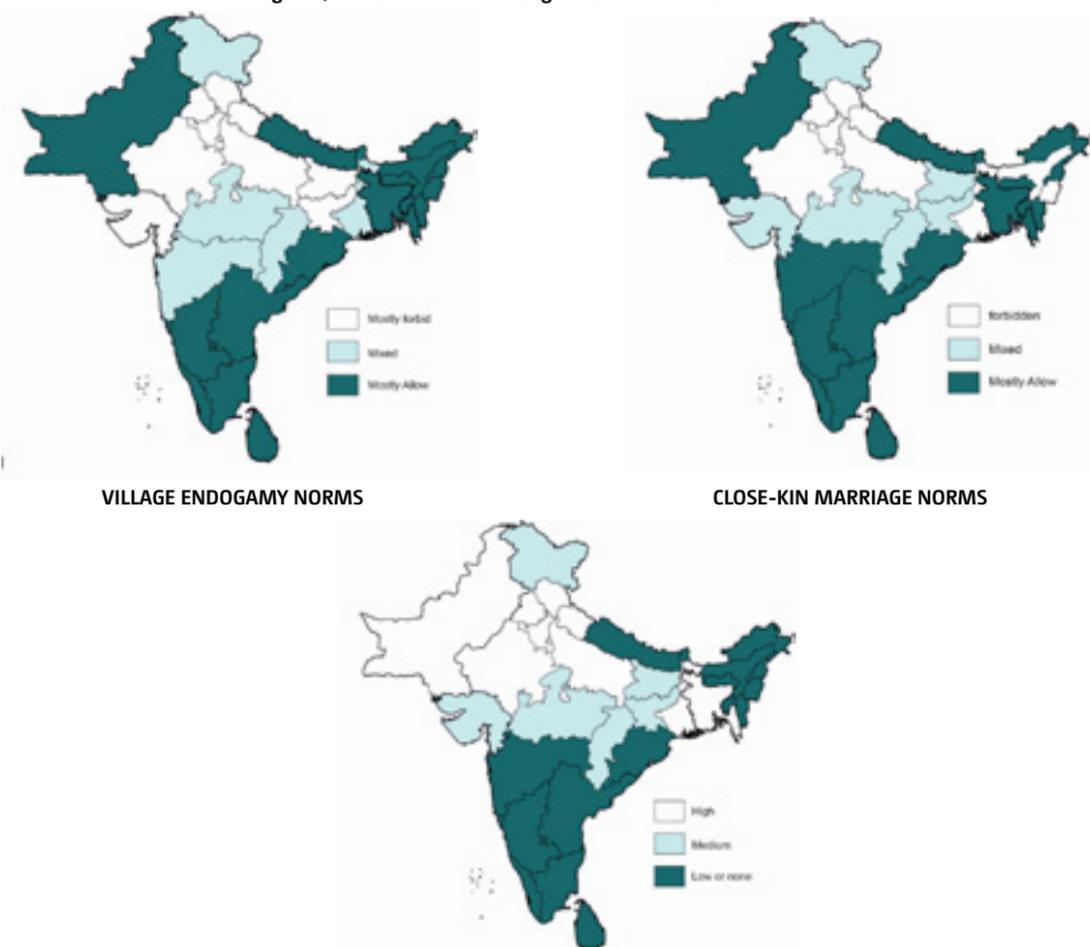
4.1 Social norms

A recognition of social norms has now become popular among economists, but we need to ask: which social norms? The norms that matter most in relation to property are marriage norms that define whom women can marry and their post-marital location.

Consider the two maps in Figure 4. Map 1 relates to village endogamy. In the regions coloured dark green, women can marry within the village, while, in regions that are white, within-village marriage is forbidden, and regions in light green are mixed. Map 2, similarly, relates to close-kin marriage. The states coloured dark green are those where close-kin marriage is allowed, those in white are those where it is forbidden, and the light green regions are mixed, with some communities allowing such marriages and others not.

Hindu families in north India forbid marriages both within the village and to close kin. Both aspects are linked to notions of incest. Hence, marriage is forbidden between those who are related within several generations through either parent. Daughters who are perforce married to strangers are thus seen as belonging to another family, and giving them land is perceived as losing it forever. Here, there is strong resistance to giving daughters land. In south India, by contrast, Hindu families allow in-village and close-kin marriages between cross-cousins and uncles-nieces. This keeps land and usually within the extended family and within the village. It is also easier for woman to manage the land. Here, there is less

Figure 4: Social norms of marriage and female seclusion



FEMALE SECLUSION NORMS: Veiling practices

Source: Agarwal (1994).

resistance to endowing daughters, although not many do in practice. Notably these are cultural not religious norms since both can be found among Hindus. In mainly Muslim countries such as Pakistan and Bangladesh, in-village and close-kin marriages are allowed but are increasingly less practised (Agarwal 1994: chapter 8).

Second, consider female seclusion norms. We can think of female seclusion in two ways: the practice of veiling and the gender segregation of public space. Both restrict women's mobility and ability to manage land. Among Hindus, veiling is practised in north India but not in south or northeast India. Even in north India, it is women married into the village (the daughters-in-law) who veil, while those born in the village (the daughters) do not. Among Muslims, as girls grow older, veiling or head covering is the norm in relation to all categories of men, be they located in their birth villages or marital villages. Actual adherence varies, however, both regionally and by class, among both communities, Hindu and Muslim.

Beyond veiling, there is also the gender segregation of public space. In many parts of South Asia, 'good women' are expected to avoid spaces dominated by men, especially village markets or tea shops where informal networking for farm transactions is often conducted. This can greatly restrict women farmers. However, the gender segregation of space is much more common across cultures. For example, it was the norm even in England in the late nineteenth century. Those who have read Thomas Hardy's (1874) novel *Far from the Madding Crowd* will recall the discomfort of the young woman farmer, Bathsheba Everdene, when she entered the male-dominated corn market. In other words, even when there is no norm of veiling, the norm of segregated spaces tends to restrict women's public interactions. This can be overcome to an extent if there is a critical mass of women who occupy a public space together (see, e.g.,

Agarwal 2010). Although seclusion norms are declining even in South Asia, as more women enter public life, it is difficult to change marriage norms which are linked to deeply embedded patterns of kinship and ideas of incest.

Given these regional variations in social norms, we would expect women to be more likely to inherit land in south India than in north India. We do find this to be the case in our assessments based on the ICRISAT data mentioned earlier. In the three southern states of Andhra Pradesh ('new'), Telangana, and Karnataka taken together, female landowners constituted 23.1 per cent of all landowners in rural landowning households in 2014, compared with 9.8 per cent in the western and central states and 11.3 per cent in the eastern states (Agarwal, Anthwal, and Mahesh 2021: 9). However, that there is a substantial gender gap even in the southern states indicates that other factors are also at play.

4.2 Social legitimacy of claims

Beyond social norms, but almost as important, is the social legitimacy of property claims, which may not always overlap with legal legitimacy. There are diverse notions across cultures and religions about who deserves to inherit a person's property. To begin with, all cultures emphasize blood ties, but not equally: some favour men over women. In some cultures/religions, such as among Hindus in India, the person considered most deserving is the one who performs a parent's last rites. Here, sons are strongly favoured. Many cultures favour marital ties. For example, widows are socially favoured over other heirs not only among Hindus in India but even in Europe among Christians, where widows are also favoured legally (Ruggeri et al. 2019). Proximity of residence (by implication, who looks after you in old age) is another factor which can define deservedness. In fact, in Sri Lanka, under the customary law applicable to the Kandyan Sinhalese, daughters who marry outside the village lose their rights to parental land, but if they marry within the village or return to their birth village on divorce, they re-establish their claim to the property. Here post-marital residence is the key factor that defines the social legitimacy of women's claims.

More generally, in the case of agricultural land it can also matter who is likely to farm it. The landowner may favour a wife over children, or one child over another if the others do not want to farm. The desire of educated children, especially sons, to move out of farming to other occupations, is common in India (Agarwal and Agrawal 2017), while daughters typically move out on marriage. Hence the willingness to farm the land tends to be one of the factors driving the passing of land to widows, even in families that have educated sons.³

4.3 Implementing the law

Given the social norms and ideas of social legitimacy, how can we better implement gender-progressive laws? For a start, we need awareness campaigns for women, their families, and especially the administrative officers who register land inheritance claims. The latter have been known to discourage daughters from claiming their shares (Agarwal 1994). Women also need support to resist social pressure to sign away their shares in favour of brothers. Many end up doing so, since they see their brothers as providing social security when parents pass away. Widows, however, do keep their land on behalf of themselves and their children, especially if they have young sons. Women who wish to legally contest a denial of their claims need legal aid and guidance. In practice, few tend to contest. In an ongoing project, my research team looked at online High Court cases between 2005 and 2020 and found only a few hundred cases across India of a woman coparcener having filed the case in the trial court, or directly in the High Court: most of these cases were in courts of south and west India, and in the majority of cases the opposing party was the brother.

Rural women's groups in India, such as MAKAAAM (an all-India women farmers' forum) and the Working Group for Women's Land Ownership (WGWLO), have been doing gender-sensitization training of village administrative officers and media awareness campaigns. They have also been subjecting cases where daughters sign away their rights to legal scrutiny. But, despite these efforts, family resistance to endowing daughters remains strong.

So, at least in the short term, we need to look for other ways of enhancing women's land rights. Also, we need to think of a group approach and not just individual access.



Even when there is no norm of veiling, the norm of segregated spaces tends to restrict women's public interactions.

³ The transfer of farms to the next generation is a challenge today in many countries, including those in Europe (see, e.g., Agarwal, Dobay, and Sabates-Wheeler 2021).

5

Alternative sources of land

Beyond the family, other sources of land for women can be the state and the market. Governments in many countries have given direct transfers of land to poor households as an anti-poverty measure. In recent years, in India, the land is often given to poor women solely or jointly with spouses. But the state has limited surplus land. Similarly, individual women lack enough financial resources for functioning in the land market, but the state can support women's access to land markets. For example, it can subsidize the purchase of land by disadvantaged women. This was done in the 1980s by the state government of undivided Andhra Pradesh which launched a loan-cum-grant scheme to help groups of Dalit women buy land. Land leasing is another option. In several states of India, all-women groups have been leasing in land to cultivate it jointly. This can be found on a particularly large scale in Kerala which today has 68,000 such groups. More generally, a group approach can help women farmers overcome production constraints.

Kerala provides an important illustration. In the 2000s, under its State Poverty Eradication Mission of Government, *Kudumbashree*, group farming was promoted (Agarwal 2018, 2020, 2021a). Women initially join neighbourhood groups for savings and credit. Then those who wish to can undertake group enterprises. Many do group farming by pooling their resources to lease in land

which they cultivate jointly, with an equitable sharing of labour and capital as well as costs and benefits. They receive a start-up grant and technical training through the government and can access subsidized credit from India's National Bank for Agricultural and Rural Development.

How productive are the group farms relative to individual family farms? To compare the relative performance of women's group farms and individual family farms, I conducted a survey of a sample of 250 farms, including all-women group farms and individual small family farms (95 per cent of which were male managed). Over 2012–13, weekly data were collected for all inputs and outputs for all crops and plots for an entire year, as well as qualitative data via focus group discussions on the history of group formation, how the group made decisions and resolved conflicts, and so on (Agarwal 2018, 2020, 2021a).

The average group size was six, almost all members were literate, and most had completed secondary school. The group members were relatively homogenous and disadvantaged economically, but were socially heterogeneous by caste and religion. This social heterogeneity goes against established collective action theory which suggests that homogeneity is more conducive to cooperation. However, I found that social heterogeneity expands a group's social capital and hence land access. Groups cultivate 1 ha on average, compared to the 0.35 ha on average cultivated by individual farms. Groups lease in land, while individual farms own all or most of the land they cultivate. Leasing in land takes time and has high transaction costs. Hence, while state support to the all-women groups in terms of the start-up grant and training somewhat levels the playing field for the women relative to the landowning male farmers, it does not do so fully.

Despite this, I found that the annual value of output per hectare of group farms was 1.8 times that of individual farms (see Table 2). Groups did especially well in banana cultivation, for which they entered into profitable contracts for niche varieties (for the regressions with control variables, see Agarwal 2018). I also calculated net returns by deducting all paid out costs from the annual value of output and found that all-women groups had five times the average net return per farm and 1.6 times the net return per hectare, relative to individual farms. Some groups (not in my sample) have even used their profits to buy land collectively. Farming in groups also enhanced the capabilities of women farmers. As managers, they learned new technical skills and the ability to negotiate in multiple markets.⁴ They also reported improved status and respect from family members and from their communities. Moreover, many have been standing for village council elections and winning (Agarwal 2020).

Group farms in Kerala also did much better than individual family farms under the national COVID-19 lockdown in 2020, in terms of economic survival and food security. Of the 30,000 group farms harvesting under national lockdown, 87 per cent survived economically (Kudumbashree 2020), while large numbers of individual farmers lost out due to the shortage of labour for harvesting their crops and the inability to sell their produce. In other regions of India –Gujarat, Bihar, North Bengal– new groups formed during 2015–18 also reported being more food secure than those doing individual family farming (Agarwal 2021b).

Table 2: Productivity and net returns of women's group farms and individual family farms in Kerala

| Indicators (mean values) | Group farms (N=69) | Individual farms (N=181) | t-values of difference in means |
|--------------------------------|--------------------|--------------------------|---------------------------------|
| Annual value of output (Rs/ha) | 179,183.7 | 101,156.2 | 3.19*** |
| Banana yields (Rs/ha) | 413,734.2 | 258,064.1 | 1.72* |
| Annual net returns (Rs/farm) | 1,21,048.5 | 23,578.3 | 4.20*** |

Source: Agarwal (2018).

⁴ A colleague and I also recently analysed the earlier-mentioned ICRIAT data for 2014 to compare the productivity of female and male landowner households, operating as individual family farms, but found no significant difference in their annual value of output per hectare. Women owners, however, were significantly more likely to lease out their land than male owners due to labour shortages and other production constraints (Agarwal and Mahesh 2021). Here, again, group farming could prove beneficial for overcoming these constraints.

4

Concluding reflections



Such market access will improve if women acquire and cultivate land in groups.

After a century of struggle, women in South Asia have gained significant legal rights in landed property. Amongst Hindus in India, daughters who had few rights in the 1930s now have equal rights with sons in a man's separate and joint property, as well as direct rights by birth in ancestral property. Hindu women in Nepal also now enjoy equal rights with brothers in the father's property. And Muslim women today have strong, even if unequal, rights across South Asia. In practice, however, gender inequality in landownership remains high across all countries, by multiple indicators. And, in India, the women most likely to own land are older widows whose claims continue to enjoy more social legitimacy than those of daughters. On this count, not much has changed over this last century, and possibly even since the twelfth century, when the *Mitakshara* legal treatise favoured widows over daughters.

For monitoring the impact of inheritance law reform, as emphasized in SDG 5, we need to collect data that capture the specifics of change due to legal reforms. Also, for enhancing women's access to land in practice, we need to go beyond inheritance and frame state policies which improve women's market access to land –through lease and purchase.

Such market access will improve if women acquire and cultivate land in groups. Existing examples of group farming by all-women groups in several regions of India demonstrate that this can increase women's land access and productivity, as well as empower them socially and politically. Of course, leasing in land cannot bridge gender gaps in ownership, but it is an interim way forward. And the example of Telangana shows that government policy can make a difference, especially if supported at the highest level, such as by the Chief Minister.

Yet the basic questions remain: When will there be gender equality in land ownership *in practice*? How can we help legal reforms trump disabling social norms?

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