

Indian Patriarchal Agrarian Structure and Women Landownership Rights in Jammu and Kashmir

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Abstract: *Women play an important role in agriculture and its other allied activities. According to the census of 2011, out of all female main workers, 55 percent were agricultural labourers and 24 percent were cultivators but only 12.8 percent of women were having the land ownership rights. This data depicts the gender disparity in owning land. The involvement of women in agriculture is not a new phenomenon but they are into this profession since a long back. Their role and contribution vary from region to region but their participation in this sector is very high. As the feminization of agriculture is taking place in an agrarian social structure, men are moving out from rural areas to find non-agricultural jobs. Thus, women are responsible for carrying out agricultural activities. They are involved in all kinds of activities from sowing to harvesting of crops. Their work even does not end there; they are also involved in post-harvesting agricultural activities. Along with these things, women perform several other allied activities in horticulture, animal husbandry, dairy farming, bringing fodder for animals, and various other domestic chores. Despite putting much effort into agriculture, women are not legally recognized as farmers, their work is simply seen as a help. The present paper attempts to understand the role and landownership status of women in the agriculture sector and is based on secondary sources. An effort has also been made to provide insight into the land ownership status of women in Jammu and Kashmir (UT). The secondary sources include different journals, books, websites, newspapers and other Governmental records. This study also shows that even after having legal rights, women are not demanding their land due to some social sanctions.*

Keywords: Women Farmers, Agriculture, Landownership, Allied activities, Patriarchy

Women farmers comprise more than a quarter of the world's population. Women comprise on average, 43 percent of the agricultural workforce in developing nations, ranging from 20 per cent in Latin America to 50 percent in Eastern Asia and Sub-Saharan Africa. Until now, women have less access than men to agriculture-related possessions, inputs and services but they are actively participating in agrarian activities (FAO, 2011). The active

involvement of women in the agrarian sector and allied activities has brought a significant shift in the primary sector of the economy. Since time immemorial, women have been involved in labour-intensive agricultural activities. They play a chief role in biodiversity management and sustainable farming through various ecological practices, including preserving traditional seeds, preparing organic fertilizers, and using varied natural resources to fulfil daily household requirements. In a patriarchal society, particularly in rural communities, work is divided on certain grounds, some works are considered men-specific and some are women-specific.¹

Due to such a division of labour, men tend to be involved in constructing houses and managing livestock and are more likely to be seen in marketing products where women's mobility is seen as restricted. But women have a strong influence over certain things, including the use of eggs, milk and poultry in the home and often control the marketing of such products and generate revenue from them. In recent years, a change has been seen in the agriculture sector, as per the 2011 census, nearly 33.7% of rural males move outside for non-agricultural activities and better economic opportunities. This increase in the migration of rural men has led to the feminization of the farming sector.² As the agriculture sector becomes feminized, an increasing number of women will be met with the responsibility for farming, but without owning the land which they cultivate.³

Though, women in rural areas are regarded as having noticeable potential in the community either in the household sector or agricultural sector. The active participation of women in agricultural and household activities is very high. They manage everything in the household in a very efficient manner. That is why, they are considered as the actual household managers but their work is not given much importance and recognition by society. Their work is considered non-productive, unorganized and undocumented across the world.⁴ Women farmers in rural areas are engaged at all stages of the agriculture value chain. They play their role actively in production, pre-harvest, post-harvest processing, packaging and marketing to increase agricultural productivity.⁵

Even after playing an active role by women along with men in agriculture, the agricultural economy is in flux and is low in various countries due to several reasons. Among these reasons, one is the fact that women lack the resources and opportunities they need to make the most productive use of their time. Women are not only labourers and entrepreneurs but also farmers everywhere they come across with more severe constraints than males in accessing productive resources, markets and services. This gender gap hampers their productivity and decreases their contributions to the agriculture sector. Closing the gender gap in the agriculture sector, a significant momentum and a drastic change can be seen in its produce, poverty and hunger which ultimately leads to economic growth and development.⁶

Women and men are equally productive resources but somewhere

women do not get opportunities as men get in every field to excel themselves. They are also citizens who have an equivalent claim with men on the opportunities, protections, and services provided by their governments and worldwide communities. The roles and status of women in agrarian social structure vary commonly by area, age, ethnicity and social class and these dimensions are experiencing changes rapidly in some parts of the world. The need of the hour is that policy-makers, development practitioners and donors need to have information and analysis that reflect the multiplicity of the contributions women make and the specific problems and challenges they are confronted with to make gender-just decisions about the sector.⁷

Apart from the fact that women manage work at both domestic and farm levels efficiently, including maintaining livestock, and selling milk and other agricultural produce in the market, still they continue to be marginalized and one of the excluded social groups in terms of land ownership. The Agricultural Census (2015-16) of India, reported that on average 73.2% of rural women are engaged extensively in agriculture but only 12.8% own land.

Research Objectives

The research objectives of the present paper are:

1. To explore the Role and Contribution of women in Agriculture.
2. To understand the Landownership Status of Women in Agriculture.

Methodology of the Paper

The data for the present paper has been collected from secondary sources. These secondary sources include research papers in journals, books, articles, newspapers, online websites Governmental records, the agricultural census 2015-2016, etc. Thus, the role, contribution and land ownership status of women have been understood by using already existing literature.

Women's Role and Contribution in Agriculture and other allied Activities

A Woman is the maker and builder of any nation's destiny. They play an important part in any economy. Therefore, they are regarded as the mainstay of the rural scene. Agriculture is considered the prime unorganized sector where a large number of women actively participate. They perform other allied works also including vegetable production, flower production, fruit production, fishing, plant protection and many other tasks.⁸

They make important contributions to agriculture and rural economies in all developing countries. Their roles vary widely between and within regions and are changing rapidly in many parts of the world where economic and social forces are transforming the agrarian sector. Women work in agriculture as self-employed farmers, unpaid workers on family farms, and paid or unpaid workers on other farms. They are involved in both crop and livestock farming at subsistence and commercial levels. They produce food and cash crops and manage mixed farming operations, including arable farming, livestock and aquaculture. Due to all these things, women are considered part of the agricultural workforce.⁹

In pastoral and mixed farming systems, animal husbandry is one of the important allied sectors of agriculture which supports women and improves their economic conditions and women are heavily involved in this field. It is estimated that two-thirds of the total farmers which constitute approximately 400 million are women.¹⁰ They are involved in rearing and caring for animals with men and children, and there are certain types of activities which are more associated with women than men. For example, women of rural areas are often involved in poultry and dairy activities¹¹ tasks such as milking cattle, collecting and bringing fodder from the farms, cutting fodder, cleaning cattle shed, bathing and cleaning cattle, collection of dung, preparing and storage of dung cakes, storage and marketing of dairying products.¹² In addition to these, they also perform various indefinite and miscellaneous tasks related to home management such as collecting and carrying fuel over long distances and fetching water for drinking and cooking while covering a long distance. Mostly, they are involved in cattle management activities.

Women also contribute to formal and informal forestry in several ways. They play an important role in agroforestry, tree strengthening, watershed management, and conservation of forests and their protection. Forests act as a chief source of women's employment specifically in rural areas. From nurseries to plantations, logging to timber processing, women act as a significant share of the workforce in the global forestry industry. After making a significant contribution to the forest sector, women's roles are poorly recognized and undocumented, there is a difference in the wages of women to those of men, and their working conditions are also very poor.¹³ (World Bank Report, 2009).

Female farmers perform hard physical tasks in the plantation of crops, care, management, harvesting, threshing/processing, marketing, bartering of produce, calving and rearing.¹⁴ They work tirelessly and are exposed to strenuous physical labour particularly in the transplantation of paddy in mud for long periods mostly under unfavourable conditions such as during rain and scorching sun. They harvest crops by crouching with a traditional sickle, and sunshine, and do long hours of manual weeding in rain and cold. Their role can be best understood by analyzing the different roles they perform while carrying out different activities in the agriculture sector such as drying the produce, standing in the scorching sun for longer periods, sifting out dust and long hours in the sun, parboiling rice by using old and tedious methods involving heavy labour, peeling, beating, cereals, legumes grinding, Chucky both by hand and manually.¹⁵

Women, their Land Ownership Status and Major Constraints they face in Owning Land

Despite women's important role and contribution to farming, rural development, and food security, women are discriminated against in terms of their access to, rights and control over land, and the income earned from it

(GOI, 2000). Women in half of the nations in the world are unable to claim equal land and property rights despite having legal laws. The land is something which is regarded as the basis for security for both men and women. It creates avenues for empowerment and provides economic opportunities to women and also supports their dignity. Secure land rights are important for women's economic empowerment and create inducements for investment, providing an asset that can be leveraged for farming or business development, and offering a solid basis for economic stability (World Bank, 2019).

Persistent prejudices, social norms and practices are among the major barriers standing between women and their land and property rights. Weak and improper enactment of policies, inadequate capacity to implement laws, and a lack of political will further multiply the problem. However, poor accessibility to legal aids, and improper understanding of legislation within the communities and households – and by women themselves – made an invisible but near impermeable wall to women understanding land and property rights in rural and urban areas alike.

Without land titles, women are unable to access markets, technologies, inputs and institutional credit, especially due to their continued classification by the state as unpaid family helpers rather than independent cultivators and decision-makers. Therefore, they keep themselves restricted to lower-paid casual and informal work.¹⁶ Non-availability of facilities like inputs, markets, and institutional credits is responsible for the low productivity in the agricultural economy.¹⁷

However, the Indian Government has enacted Hindu Succession Amendment Act (HSAA, 2005) which guarantees an equal share in inherited property for both men and women. This was a substantial move toward gender equality since earlier land tenure rights were heavily biased against women in India before 2005.¹⁸ Various studies found that the probability of inheriting land for women slightly increased.¹⁹ Despite HSAA, not many Indian women claim land ownership because they think if they claim land from their parents their relationship with their parents and brothers will be affected. There are some flaws in the legal system also as we have no proper legal laws which give land rights to women after divorce or separation.²⁰

Various studies show that there is a great pressure on women to forfeit their legal land rights in favour of their brothers, seclusion practices, reinforced by social stigma and other sanctions. Such obstructions are more prevalent in North India and weakest in South India.²¹ In the study of Bina Aggarwal (1998), it was also found that 18 percent of women own land in southern states against 9 percent in north India. Further, she stated that there are some situations like widowhood where a woman gets landownership rights. In India, land ownership rights for both widows and daughters are unwelcomed by society and strongly constrained by various social norms and prejudices. However, daughters' rights have always enjoyed less social legitimacy than widows' rights.

Patrilineal communities of northern states can be one of the reasons for this difference as in these communities, daughters get confrontation by the male heirs when they demand their share of land. This confrontation is less seen in the South and North East. Similar observations have been recorded by the Agriculture Census of India that women of Southern states are in a better position in terms of land ownership whereas Northern and Eastern states performed low in this context (Agriculture Census, 2015-16).

There are two major reasons found for the unequal distribution of land to women.²² First, personal religious laws which govern ownership of land, which is under state control, not regulated by the Indian constitution under a uniform law that ensures fundamental rights of equality to all citizens, and therefore rights related to inheritance tend to have discriminatory attitudes towards women. Second, India's patriarchal societal nature has always prevented women from various opportunities as they are considered inferior to men, thus their land ownership rights are also denied by the deep-rooted cultural ethos (Asian Development Bank, 2018).

This patriarchal society has created a gap between men and women where men occupy supremacy since traditional times which is continuing, with little change, today we find some improvement in the situation. It is a very common phenomenon that to make decisions and external dialogue women are the least preferred persons. In India, we have many evils including the evils of caste and class which further intensify the gender gap in terms of accessibility, control and ownership of resources across different subjectivities and territorial locations. It is evident from the historical records women being the submissive section in a patriarchal society have limited opportunities in terms of mobility, restricted interactions with external audiences and decision-making power. Patriarchal norms have left a great impact on the foundations of women's identity and made them less confident in engaging with male-dominated spheres. Ownership and control of land are essential conditions for women's social and economic status²³ and recognition of their identity which comes with social approval.²⁴

In India, the major concern is not only that women do not have land ownership rights but also it is a matter of their identity as women who are engaged in the agriculture economy are not considered farmers, and the agriculture sector remains fully male-dominated. Despite doing work in the fields from early morning to late evening, women are merely regarded as housewives rather than farmers. More than ten thousand female farmers are excluded every year from the official data of the farmers' suicides in India due to the reason that they are not considered farmers. Thus, they are also denied various benefits and Govt. schemes. The female farmers' identity and dignity are degraded by the idea of *unpaid labour*. Also, women's labour is not recognized as labour even if they work hard on the farms, their labour is simply considered as help (Sahoo, 2020).

The main cause of inequality and discrimination against women in getting land is exclusively pervasive patriarchy, articulated in stereotypes,

perceptions, attitudes and norms, which creates economic, legal and political limitations to the progress and empowerment of women. These gender stereotypes are prevalent and operate at all levels, from families to local communities, from administration to governance, from public organizations to civil society and rural institutions. In rural areas, women are supposed to perform traditional gender roles such as cooking food, washing utensils and clothes, mothering and caring for children, to accept traditional customs and norms without raising fingers against them. The unequal status of men and women can be easily noticed when land and land reform, allocation, and registration programmes frequently target the household or allocate ownership to the "head of household" normally defined as a man. Because women are typically not regarded as land-owners or farmers, they are usually omitted from extension and agrarian support programmes and financial credit and loans which are necessary for effective use of land.²⁵

The historical background behind the low percentage of women's land ownership status in society can be analyzed by understanding Engels's concept of Private Property. He looked for those historical factors which are responsible for male domination. The rise of private property, controlled by men, led women to subordination. With the increase in wealth, the status of a man in the family has taken more importance than a woman. Thus, men came to the forefront and they wanted to take all the privileges of power and property in their hands and to transfer the same to their children. To ensure this inheritance rule, the mother's rights were overthrown. This new phenomenon emerged where men established rights over various things, women had to be domesticated and confined themselves, and men started regulating and controlling women's sexuality (Pelz,1998). So, it is clear why are women without land ownership rights. The answer for this can be the reasons given by Engels which are historical women's subordination by men, their want to hold always power in their hands, and the world-historic defeat of the female sex where mother-right was overthrown. Women are therefore considered as the second gender and are deprived of their land rights also.

'Patriarchal Mode of Production' and its Theoretical Understanding

Women's submissive position in landownership can also be easily understood by the concept of 'Patriarchal Mode of Production' used by a famous feminist Sylvia Walby. In this mode of production, men are materially benefitted from patriarchy and receive economic gains from women's subordination, women's labour is being expropriated by their husbands and the others also. Most of the resources are controlled by men and they are passed on from one man to another, from father to son.

In addition to this, Walby reasoned why fewer women inherit assets where they have legal rights and she said there are several customary practices, social sanctions, emotional pressures, and sometimes, violence which stop them from acquitting actual control over them. In some other cases, private laws curtail their rights, rather than enhance them. In all cases,

they are underprivileged. Therefore, four important points come out from the theoretical understanding of the concept of 'Patriarchal Mode of Production' which will help us to understand why women do not own land legally in their names (Walby,1990). First, *material benefit*, indeed, men are materially benefitted as women do agricultural -work extensively but they do not hold land in their names, and they do not have exclusive rights over the produce. Due to this, whenever any government schemes for farmers came, the benefit is only given to legal proprietors, not to ones who are cultivators. For example, the PM KISAN Scheme only gives economic benefits to those who are actual landholders. Second, benefits are taken from the women's labour, they work hard in the fields and all the material benefits are further taken by the men. Third is control over resources, men in patriarchal societies control all the economic resources including land and then this land right is transferred from father to son, land ownership to a daughter is rarely seen even after having legal property. The fourth point describes the reasons for not inheriting assets, so this can be linked with women's low percentage of land ownership even after legal rights over land. There are various reasons why women do not demand their share of land because of prevailing social sanctions in society. Generally, people do not consider those women are good women who own land from their parents. Sometimes, violence is also seen when women demand their land rights, not only this emotional pressure is also made by the family members to stop women from asking for land rights.

Women and their Land Rights in Jammu and Kashmir Union Territory

Agriculture is the mainstay of the people of Jammu and Kashmir. More than 70% of the population of J&K depends primarily on agriculture and its other allied sectors (J&K Govt. Ninth Agriculture Census, 2011-12). In Jammu and Kashmir, women also play a crucial role in the agrarian sector. As per the 2001 Census, of the total operational landholders, the total share of women cultivators is 7.32% and men cultivators is 92.55%. However, if we compare the two Agriculture Censuses of 2005-06 and 2011-12, an increase and decrease in the shares of landholdings by women and men of 0.16% and 1.06% respectively can be observed which shows a huge gap between the land rights of male and female farmers.

If we look into the years back, we find that J&K has made an outstanding achievement in the area of land reforms. Soon after the Independence, a series of revolutionary land laws were introduced which helped in abolishing intermediaries and landlords and offered the land to the actual tillers. In the year 1931, a movement was launched by Sheikh Mohammed Abdullah against the Maharaja of Kashmir, Hari Singh for the transfer of land rights from the Maharaja to common masses (oppressed peasants) that constituted more than 80% population of the erstwhile state. Peasants of J&K united at the mass level and they all supported Sheikh Mohammed Abdullah for this cause. All their demand were formalized and documented in *Naya Kashmir* (1944). During that particular period, there were lakhs of peasants who did not possess land rights and a large percentage of land was under the control of the state or its

intermediaries.²⁶

Soon after India got Independence, in the year 1948, as J&K's accession to India took place, the then Prime Minister of Jammu and Kashmir (now known as CM) introduced land reforms by eliminating the privileges of *Jagirdars*, *Muafidars*, *Mukarraries-Khwars* (cash grant recipients). Near about 4000 acres of land were given to the actual tillers of land (Bhatt, 2000). Many other steps like Jammu and Kashmir Big Landed Estates Abolition Act (1950), Jammu and Kashmir Agrarian Reforms Act (1972), and Jammu and Kashmir Agrarian Reforms Act (1976) were also taken by the J&K Govt. With the help of the Jammu and Kashmir Big Landed Estates Abolition Act (1950), the fixation of the land ceiling was done, the actual cultivators were made landlords and the absentee landlords were abolished. To overcome certain irregularities, on the recommendations of the Land Commission (1963), the Jammu and Kashmir Agrarian Reforms Act of 1972 and 1976 were introduced which ended the land rights of the non-cultivators of land and also fixed a ceiling of 12-15 acres of land including orchards.²⁷

At a larger scale, land reforms in J&K state (now UT) were considered revolutionary as they provided land to landless and actual tillers, those who had less land primarily the underprivileged, backward, poor and marginalized groups of the society.²⁸ If we see the genesis of land reforms, we find that great attention was only given to landless and actual tillers where again women were left far behind men. Almost no attention was given to the allotment of land to women. This is how, land reforms in J&K, had also left some loopholes and a space for criticism.

According to Jammu and Kashmir Tenancy Act 1980, In Jammu and Kashmir, a widow inherits land only in the absence of an agnatic male. What is quite interesting and astonishing here is that after her death, land rights do not go to her heirs but to the heir of the last male landowner. Apart from this, she also loses land if she is remarriage or fails to cultivate the land for a specific period. The daughters and sisters were completely neglected as heirs. However, there were exemptions related to occupancy to some specific groups or tribes and to those who profess Buddhism wherein inheritance rights follow certain customary laws.²⁹

However, in May 1973, it was notified that in J&K, there will be no tenancy law and, in this sense, a move was taken to reduce the gender discrepancies found in the Act to a greater extent.³⁰ As we have witnessed remarkable land reforms in Jammu and Kashmir but land rights remained in the hands of males. Somewhere, we can say that the patriarchal social structure and outdated customs of Indian society impact every sphere of human life. In most of the J&K, right from the beginning, society is being governed by certain customs that largely deprived the rights of women to hold property in their names including agricultural land.

Under J&K, Hindu Succession Act 1956, a long-practised customary law was abrogated and made the position of Hindu females secure in matters related to succession and made equal with males (Govt. of J&K, 1956). However, after a long time, it was felt that there are some discrepancies in the

Hindu Succession Act 1956, therefore, Govt. of India enacted Hindu Succession (Amendment) Act, 2005 and through this amendment, daughters were given the status of coparceners along with many other rights in Hindu Joint families. Further, this HAS (Amendment), 2005 was not extended to the erstwhile state of J&K.³¹

Before the abrogation of Article 370 and 35A, Jammu and Kashmir had its constitution and various central laws were not directly implemented in J&K state which is made into a Union Territory. After the abrogation of article 370, revoking of 35A and the constitution of J&K, Women of J&K became legally eligible to inherit property as per Section 15 of the Hindu Succession Act (HSA) 1956. The Hindu Succession Act (Amendment) Act 2005 became applicable to Jammu & Kashmir now which grants Hindu women the coparcener right in their ancestral property.

Women are playing their role in agriculture and its other allied activities such as livestock management, dairying, poultry, making cow dung cakes, natural fertilizers, arranging fuel and fodder etc. Despite playing an active role they don't own land why? It is still a big question mark why are women not officially counted as farmers even after working tirelessly in the fields why they are either labelled "agricultural labourers" or "cultivators"? In India, women from ancient times have been engaged in the agriculture field but only a few women own land. Today, they are provided with legal rights to own land but they don't own it. Sometimes a woman wants to take her property but if she takes her share she is labelled as a bad woman as it is against the so-called patriarchal societal norms, there is a common notion in the patriarchal society that good women do not inherit land. Such social sanctions are also one of the reasons that women are only cultivators on their land and not landowners. There are various other reasons also for not owning land by women such as discriminatory customs and norms, and prioritizing personal religious laws over constitutional laws.

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