Abstract
Secure rights to land are rights that are clearly defined, long-term enforceable, appropriately transferable, and legally and socially legitimate. Women’s exercise of these rights should not require consultation or approval beyond that required of men. In Kerala, 49 percent of women without property reported physical violence and 84 percent reported psychological violence. Gender is arguably the most fundamental feature that underpins the organisation of societies, and gender-based discrimination the most prevalent form of disadvantage. Although there is growing recognition that gender inequality blocks sustainable development, this has still not translated into meaningful improvements for women. Men and women’s, girls’ and boys’ experiences of poverty differ in important ways!– understanding this is important for tackling the greater levels of deprivation and vulnerability that girls and women routinely face, and for tackling poverty more broadly. Despite the overlapping barriers to women’s secure rights, there are ways to address the legal constraints to those rights – and importantly – ways to help overcome social and cultural constraints. Removing those barriers will allow women to be full participants in the economy. When women have secure rights to land, they help lay the foundation for enduring social and economic transformation that benefits not only women themselves, but also their families and their communities.

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1. Introduction

Land is typically the most important asset for people in the developing world, the majority of who depend on agriculture for their livelihoods. Secure rights to land can increase agricultural productivity and income, address food insecurity, and alleviate poverty. So it is little wonder that landlessness is often recognized as the best predictor of poverty and hunger in the world. With this understanding, major land reform efforts over the last 50 years have focused on ensuring that families gain secure rights to the land they occupy and farm. But what was little understood at the time is that it matters tremendously not only if the household has secure rights to land, but also who in the household has those rights. Over the last decade, it has become increasingly clear that the improvements in household welfare are typically more pronounced when women hold the rights.

1.1 Defining Land Rights
Rights (in any form of property) are defined here as claims that are legally and socially recognized and enforceable by an external legitimized authority, be it a village-level institution or some higher-level body of the State. Land rights can stem from ownership may be accompanied by restrictions on freedom to lease out, mortgage, bequeath, or sell.

1.2 Three additional distinctions are relevant here. First, there is a difference between the legal recognition of a claim and its social recognition, and between recognition and enforcement. A woman may have a legal right to inherit property, but this may remain merely on paper if the claim is not recognized as socially legitimate or if the law is not enforced.

Second, there is a distinction between ownership and effective control. It is sometimes assumed incorrectly that legal ownership carries with it the right of control in all its senses. In fact, legal ownership may be accompanied by restrictions on...
disposal, as among the Jaffna Tamils of Sri Lanka and several communities in Latin America, where a married woman needs her husband’s consent to alienate the land she legally owns.

Third, we need to distinguish between rights vested in individuals and those vested in groups. Our concern here is with women having effective and independent rights in land, effective rights being rights not just in law but also in practice; and independent rights being rights that women enjoy in their own capacity and independent of those enjoyed by men. Social bias considers first the gap between legal rights and actual ownership. In most communities that were traditionally patrilineal there is strong male resistance to endowing daughters with land. Apart from a reluctance to admit more claimants to the most valuable form of rural property, resistance also stems from social practices which determine marriage choices and post marital residence. Traditionally among matrilineal communities where daughters had strong claims in land (as in Kerala and Meghalaya), post marital residence was in or near the natal home. This kept the land under the overall purview of the natal family, as did close-kin marriage. In contrast, in traditionally matrilineal communities, post- Ashok Dilwali marital residence was patrilocal (the woman joined her husband in his natal home) and often in another village. In addition, in northern India close-kin marriage was forbidden among most communities, and there were social taboos against parents asking married daughters for help during economic crises. Many of these customs continue today, and obstruct women’s claims especially among upper-caste Hindus of the northwest who are the strictest in forbidding in-village and close-kin marriages, and in socially restricting parents from seeking help from married daughters. Here endowing a daughter with land is seen as bringing virtually no reciprocal benefit, and any land inherited by her is seen as lost to the family. Daughters face the greatest opposition to their inheritances among such communities. Opposition is less in south and northeast India where in-village and close-kin marriages are allowed, and parents can, if they need to, seek support from married daughters. Many women also forgo their shares in parental land in favor of brothers. In the absence of an effective state social security system, women see brothers as an important source of security, especially in case of marital breakup, even if in practice brothers are seldom willing to support sisters for extended periods (Agarwal, 1995; Agarwal, 2001). Cultural constructions of gender, such as how a “good sister” would behave, and practices such as female seclusion in some areas also discourage women from asserting their rights. Where women do not “voluntarily” forgo their inheritance claims, male relatives have been known to file court cases, forge wills, or resort to threats and even physical violence.

1.3. Why women’s land rights?
Gender is arguably the most fundamental feature that underpins the organization of societies, and gender-based discrimination the most prevalent form of disadvantage. Although there is growing recognition that gender inequality blocks sustainable development, this has still not translated into meaningful improvements for women. Men and women’s, girls’ and boys’ experiences of poverty differ in important ways!– understanding this is important for tackling the greater levels of deprivation and vulnerability that girls and women routinely face, and for tackling poverty more broadly (Benschop, 2004).

Women’s land rights are particularly crucial, as secure access to land and other natural resources is a basis for sustainable livelihoods and a key factor in assuring food security. It also contributes to the identity, dignity and social inclusion of the poorest and most vulnerable groups, whose property rights are very often informal and unprotected by the rule of law. Even where poor women and men enjoy formally recognized tenure rights, other factors may effectively exclude them from formal administrative and legal services by other factors.

1.4. Definitions of empowerment
Empowerment as a term has been commonly used from the 1980s onwards, often in reference to women and gender equality. Development assistance agencies (multilateral, bilateral and private), in their constant search for sexier catchphrases and magic bullets that could somehow fast track the process of social transformation, took hold of the term and began to use it to replace their earlier terminology of “people’s participation” and “women’s development”. The Fourth World conference on women in Beijing 1995 played a critical role in introducing empowerment to state actors, and governments wanting to show their progressiveness in terms of gender adopted the catch phrase of women’s empowerment. There are many criticisms that point to the fact that empowerment has been “mainstreamed” in a manner that has virtually robbed it of its original meaning and strategic value (Batiwala, 2007). Despite the popularity of the term, there seem to have been few changes in development practice, where “empowerment” is used as window dressing in the absence of any political or structural change, or any real redistribution of resources (Fiedrich et al., 2003). It seems ironic that “empowerment” as
an individual and collective struggle for rights!—particularly from a feminist point of view that the personal is the political! — has been embraced by those promoting the individualism of free markets. For instance, a recent Gender action plan of the (World Bank, 2007) stated that “the empowerment of women is smart economics”, i.e. women will benefit from their economic empowerment, and so will men, children and society as a whole. One might ask whether this instrumentalist vision of women’s empowerment is a return to the Women in Development (WID) approach of making development interventions more efficient by targeting women.

However, women in the developing world are constrained in their ability to own, control, and access land. As compared to men, women comprise on average between less than 5 percent to less than 20 percent of agricultural landholders in the main developing regions (Golub, 2010). This gender disparity leaves women and the households they manage economically and socially vulnerable. It not only undermines women’s ability to address their and their children’s food, health, and educational needs, it also undermines agricultural productivity. Thus, any effort seeking to reach the rural poor, improve food production, and reduce poverty must address the importance of women’s land rights (Berg et al., 2010).

2. Women’s Secure Land Rights Lay the Foundation

2.1. For Socioeconomic Advances

Secure land rights are a building block for agricultural productivity and the social and economic empowerment of rural households. Smallholder farmers with secure land rights have greater incentive to make productivity-enhancing investments because they can be more confident in recouping those investments over the medium and long term. Secure rights to land can thus confer economic benefits. Land serves as a source of income through agricultural production and sale, and can serve as collateral for credit. But land represents much more. The nature of a rural household’s rights to land also largely defines access to opportunity, housing, and food and nutrition security, as well as the ability to realize empowerment, social status within the community, and political power (Panda and Agarwal, 2005).

Who benefits, however, depends on who within the household holds those rights. When men alone enjoy those rights, women and their children may not be able to reap the benefits fully. Research has shown that women tend to spend the income they control on household needs, whereas men spend a significant portion on personal goods. And according to a World Bank report, “only independent or joint ownership can ensure that women have access to control over land-based earnings.”

When women have secure rights, they enjoy enhanced intra-household bargaining and decision-making power. This allows them to exert greater influence over household income and expenditures, in a manner that typically reduces household poverty and benefits their children. Studies have shown a compelling link between secure land rights for women and household welfare:

- Women with land rights contribute a greater proportion of income to the household, exercise greater control over agricultural income, and are more likely to receive credit.
- Women who own land are more likely to have the final say in household decisions.
- The odds that a child is severely underweight are reduced by half if the mother owns land.
- When women own a larger share of the household’s farmland, families allocate a larger proportion of their household budget to food.
- When women in the household have land rights, children have higher levels of educational attainment.

Enhanced status derived from land rights can also empower women to participate more effectively in community-level organizations, making those institutions more likely to respond to women’s needs. Improved status can also render women less vulnerable to domestic violence. A study from India indicated that women who own land or a house face a significantly lower risk of marital violence. Property and land rights can strengthen a woman’s fallback position and her bargaining power within marriage, which likely serves to deter violence. And because these rights can enhance a woman’s self-worth, they can thereby reduce her tolerance to violence.

Land rights can also help women address another area of risk and vulnerability: HIV/AIDS. Women’s increased economic empowerment through secure land rights can enhance their ability to negotiate safe sex. Furthermore, because secure land rights can lead to increased household food production and food security, women are less vulnerable to engaging in transactional sex as a means of survival. Land and other property can also serve as an income source to cover costs associated with HIV/AIDS, improving women’s ability to cope with the economic and social impact of the disease. Finally, secure rights to land can be
particularly critical for women who become heads of households due to male migration, divorce, or death. Land rights can mean the difference between a woman’s dependence on her family or her husband’s family and the ability “to form a viable, self-reliant female-headed household.”

**Conclusion**

Despite the overlapping barriers to women’s secure rights, there are ways to address the legal constraints to those rights – and importantly – ways to help overcome social and cultural constraints. Removing those barriers will allow women to be full participants in the economy. When women have secure rights to land, they help lay the foundation for enduring social and economic transformation that benefits not only women themselves, but also their families and their communities.

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