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## **Land Reform and Social Policy with a Focus on Women's Rights**

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## **Land Reform and Social Policy with a Focus on Women's Rights**

New Directions in Social Policy workshop

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### Draft Paper for Discussion

#### **Introduction**

Contemporary social policy seeks to ensure the rights of citizens to certain basic minimum entitlements. It goes beyond social protection of the 'most vulnerable' to seek transformation in social relations more broadly (Sabates Wheeler and Devereux, 2007). Land reform has historically had a similar objective – to address social inequality by making the agrarian structure more equitable through land redistribution and tenancy reforms. In both cases, attention has been largely on locational (rural-urban) and class inequalities; with at best a passing reference to gender or other demographic characteristics.

When it comes to women's rights, given the multi-faceted nature of their work and the intersecting disadvantages they face, a holistic, convergent, single-window approach to delivery has often been recommended both at the conceptual and operational levels. However, this remains a far cry in practice, with land reform focusing on rural households as represented by their male heads, as the units of analysis and delivery of services, with the exception of women-headed households. Recent land-related policies (e.g New Agricultural Policy, 2000), do recognize women as productive workers, especially in a context of large-scale male migration from the rural sector (Rao, 2006). While they recommend better access for women to inputs, credit, technologies and markets for agricultural produce, they do not recognize the need to support women's unpaid reproductive and care work. Social policy on the other hand largely targets women, seeing them as home-makers and household managers. Land reform and social policy are not often discussed or viewed together, due to the conceptual separation of production and reproduction within a patriarchal state. This is reinforced by the nature of bureaucratic organization, the multiplicity of specialized line departments which separate the economic and the social, with no clear mechanisms for dialogue or synergistic functioning.

With the move towards a globalized world over the last two decades, characterized by large-scale migrations of people, as well as movement of financial resources, information and technology (c.f Appadurai 1996), both within and across nation-states, the context for both social policy and land reform has changed. While states remain the main duty-bearers in both instances, issues of citizenship, of both rights and responsibilities, are being renegotiated. The state in many instances is ceding responsibility to the private sector, and this is particularly visible in the rural, agricultural sector.

In this paper, I use the case of India to illustrate some of the achievements, but also paradoxes and contradictions within both social and land reform policy in present times. I first examine the discussions around the Draft National Land Reform Policy in India over the past six months, locating it within the larger context of agrarian change and distress. I specifically explore the potential of this policy to recognize women's rights as equals rather than confining itself to an instrumental use of women's labour for enhancing production. I then briefly move on to the recent social policy legislation on the Right to Food and the debates around its operationalization. Interestingly, this Act recognizes adult women as the entitlement-holders in the household, and even though linked to their roles as household managers, does provide recognition to their contributions, strengthening in this process their claims to other household resources as well (c.f Sen, 1990).

### **Rights versus Responsibilities**

The last decade in India has seen the passage of landmark rights-based legislation, such as the Right to Information, the Right to Work, the Right to Education, the Right to Food, the Amendment to the Hindu Succession Act and so on. This move from welfare towards a rights-based approach in relation to basic needs has occurred due to a host of reasons, not least being pressures from both above and below. Most countries in the world, including India, have signed up to international declarations and conventions such as the CEDAW and Beijing Platform for Action, the Dakar Declaration on Education for All, and the Millennium Development Goals. Monitoring systems at the global level have created pressure to perform or at least demonstrate commitment towards progress in meeting basic human needs. At the same time, with rising prices for basic goods and services including food grains, and growing pressures for survival

confronting the poor, one finds large-scale mobilization on the ground. Driven to the wall, people have no option but to protest, if needed, engaging also in violent means. In democratic societies, dependent on elections and vote-banks, it is hard for states to ignore for long the voices from below.

While a rights-based approach is positive in giving both legitimacy and dignity to the claims of citizens, and making these rights legally enforceable, rather than seeing them as ‘deserving’ or ‘undeserving’ of state support (c.f Fraser, 1986), and hence ‘beneficiaries’ of state largesse, it nevertheless shifts the onus on the citizens to claim these rights. In making these claims, apart from issues of statutory or legal legitimacy, questions around social and moral legitimacy arise, particularly so in the case of land. Are her rights recognised by law, custom, her family and the community? Such recognition is essential for enabling her to confront a host of social, religious, political and economic resistances in order to actualize her claims, be it through state or community mechanisms, formal or informal in nature. But here it is important to point out that women themselves don’t constitute a homogenous category, hence the social and moral legitimacy of their claims is shaped by their specific location within a host of social relations, including those of caste, ethnicity, class, family structure as well as individual characteristics such as age, education, marital status and so on.

Secondly, a rights-based approach makes the state the duty-bearer in terms of provision of services. There are, however, few mechanisms for monitoring the quality of these services, and hence uptake. For instance, under the Right to Education, a school needs to be easily accessible for all children aged 6-14 years. However, the quality of teaching and learning is not taken into account, making even poor parents opt for private schooling, to improve the life-chances of their children, especially sons, even if this implies taking large debts at high rates of interest. Private schools are also marketed as ‘English-medium’ schools, and with the perception that the knowledge of English holds premium in the globalised job market, such schools are in high demand. It is no wonder then that state provision has been accompanied by the rapid growth of private, low-fee schooling, private tutoring and other services that make good quality education far from a right that can be taken for granted. In fact, state schooling becomes the last resort option for girls, Dalits and the poor, creating what Ramachandran (2004) calls further ‘hierarchies of access’.

Similarly in the case of the Right to Work, as implemented through the MGNREGA, while it has had a positive effect on stabilizing rural wages, it continues to focus on the provision of back-breaking, physical labour; not necessarily contributing to asset creation, or valuing the skills and knowledge of women and men. It also ignores the need to provide good quality child-care and other amenities, in particular to women workers. While clearly a tool for bargaining for better wages with employers, MGNREGA on its own is hardly sufficient for guaranteeing survival; 100 days of assured work are rarely received by most households. Also, with the privatization of most services, costs of living have increased even in rural areas, with the minimum wage insufficient for meeting people's needs and aspirations. While women have access to work and fair wages, there are other interesting gender implications not yet fully explored. Attempting to equalize male-female wages on MGNREGA worksites, the gender wage gaps in the labour market, however, remain – in fact, these sites are being increasingly 'devalued' as female work spaces. During recent research in Kerala, it became clear that men were unwilling to accept the same wages as women, hence preferred not to work on MGNREGA sites. But the knowledge and confidence that women in the household will have access to at least some work and cash, men have been able to migrate and take risks in seeking better work opportunities, even if this implies periods of unemployment (c.f Kapadia, 2000).

Two questions remain: of the quality of rights, and the mechanisms for their enforcement. First, embedded within a neoliberal state paradigm, how far do these rights help the poor and women to develop valued capabilities that can enable them to compete in global markets? Or are they just a more dignified way of speaking about social welfare and safety nets? Secondly, given that law and society are not mutually exclusive, rather they constitute each other, norms and practices that maintain elite power and patriarchal control persist (Rao, 2007, Moore, 1978). Overcoming the multiple, overlapping barriers women face, therefore requires, at the very minimum, mechanisms that can ensure transparency, accountability and most importantly give women voice within systems of governance. I next turn to examine these questions in the context of the new draft land reform policy, 2013.

## **Draft National Land Reform Policy, 2013**

The Preamble to the Draft National Land Reform Policy is heartening in its emphasis on land for securing the livelihood, dignity and food security of millions of Indians. India has the largest number of rural poor as well as landless households, making land perhaps the most valuable asset for the majority, not just in terms of economic independence, but equally for ensuring social status, dignity and identity. The draft policy lays emphasis on the just and equitable distribution of land, particularly to marginalized women.

While overall the draft policy is both pro-poor and pro-women, it doesn't locate this intent either in the context of mainstream economic policy, which is largely individualistic, neoliberal and pro-business, nor does it locate it in the context of the existing legal frameworks and the difficulties confronted in operationalizing them.

Economists such as Utsa Patnaik (2005, 2013) have written extensively about the agrarian crisis in India, the stagnation in public investment that has led to a huge fall in employment, growing landlessness and indebtedness, leading to painful effects for the poor, including women and tribal communities (the latter have in many parts of central India taken to ultra-left, violent politics as the only option open to them). Accompanied by shifts in the banking system, for instance, from activity in branches to private, banking correspondents, against whom there are no redressal mechanisms; extreme forms of distress are reflected in high numbers of farmer suicides (P Sainath pers comm.). At the same time, there is an effort to compensate for the lack of public investment in land and agriculture by a drive towards corporate investment. Farmers' rights to land are trampled over in this process.

The rights of women need to be located in this larger context of agrarian distress, where small and marginal farmers as a group are losing their entitlements to large farmers and the corporate sector. Women's rights cannot be standalone points, rather need to be seen as cross-cutting other differences of class, caste and ethnicity, and central to present-day politics and its implications for policy-making. This is made worse by the visible effects of climate change, contributing to growing male migrations across both occupations and geographic locations (Mitra, 2008). Clearly women's work and contributions need recognition, as while their responsibilities in agriculture have multiplied over the last

decade, their rights within farming have not. They remain disadvantaged in their access to all resources – land, water, technology, credit, insurance, extension etc; wage differentials persist in labour markets, and most importantly, patriarchal gender norms are hardly challenged or rights claimed, in the absence of both awareness and support to do so.

So while land reform to help the assetless, including women, is the starting point, this is not sufficient. It needs to be accompanied by more holistic access and control to related resources that can address broader labour and livelihood issues. The Women Farmer's Entitlement Bill, 2011, introduced in Parliament as a Private Member's Bill, sought to do so, addressing the gender specific needs of women farmers, and also protect their legitimate needs and entitlements. This Bill adopted a broad-based definition of women farmers, taken from the Report of the National Commission on Farmers, 2006, that includes any woman, irrespective of marital status or ownership of land, who lives in a rural area and is engaged in any agricultural activity, including cultivation of crops, animal husbandry, fishing, agro-forestry, use and sale of non timber forest produce and so on. As per the provisions of this bill, every woman shall have equal ownership and inheritance rights over agricultural land in her husband's family, along with rights to water, access to credit and insurance, technology and other essential agricultural inputs, recognition of their intellectual property, as well as access to a separate fund created to provide support services such as crèches and day care centres. While progressive in attempting to provide women recognition as farmers, and recognizing women's multiple roles in the rural sector, both productive and reproductive, this Bill unfortunately did not get picked for discussion in Parliament, and has now lapsed.

A key lesson that emerges, however, is that without creating an enabling environment for women farmers, not just in their productive roles, through trainings in new technologies, distribution of kisan credit cards (only 2-4% currently to women), and marketing support, but equally in their reproductive and care roles, through child care services, drudgery-reduction technologies, improved storage and sanitation facilities, it will be hard to both change social norms and practice. Women's work burdens, and responsibilities for provision, may, however, increase in the process.

A second important element is the need to rationalize the land reform policy internally and also align it to existing land inheritance laws. If land is to be distributed to the



landless and women, the question arises of where this land will come from, given the poor record of land reform over the past 60 years. Agarwal (1998) has noted that less than 3 per cent of the total land area in India is available with the state for redistribution. A related point is the quality of land to be distributed – if wasteland or poor quality land, will additional support be provided for making it productive? Will the woman be given secure, inalienable rights to this land? Will different types of land be made accessible such as homestead land, land for food crop cultivation, common lands and so on, as rural livelihoods often depend on the secure access to multiple types and qualities of resources including land (Rao, 2008). Without a mechanism for strengthening the implementation of land ceiling laws to ensure the availability of land for distribution, the policy may remain on paper, more symbolic than real.

An interesting point that emerged during the discussions is the separation of the draft Land Reform Policy from the National Land Utilisation Policy. There was a strong sense that these should be merged, rather than distinct, that land reform should shape land utilization planning and management in the country. This planning process should be further decentralized, and within it, women assured a decision-making role, rather than being treated once again as ‘beneficiaries’. If this is not done then it is easy for the two to be in conflict rather than alignment with each other, with land diverted to non-agricultural and commercial uses. In fact, there is growing evidence of land acquisition for developing special industrial and economic zones. Households are often lured with promises of hefty compensation to give up their land. Single women, in particular, don’t have proper access to information on land acquisition, the administrative procedures involved are not women-friendly, and hence often end up losing their resource (c.f. Feminist Economics Special issue on gender and land grabs, 2014, 20(1)). Again there is no mention of the policy on Displacement and Rehabilitation in the draft Land Reform Policy – they remain in silos, with the former hardly paying any attention to women.

In 2005, the Hindu Succession Act was amended to grant sons and daughters equal inheritance shares to agricultural land. Yet in the last decade little has been done to implement this law. Alongside land reform which is pro-women, there should also be attempts to incentivize the implementation of gender just inheritance laws. Changing patriarchal institutions is not easy, but this is key to securing legitimacy for women’s rights, and without this, laws and rights will remain on paper. This would require

concerted effort at multiple levels including legal awareness campaigns, simplification of legal procedures and the documentation required, training of government land functionaries to make them more gender sensitive, and most importantly, setting in place local level governance and accountability systems for ensuring effective implementation.

Several suggestions relating to this last point on governance and accountability were made: the need to recruit at least 33 per cent women to the cadre of revenue officers at the local level, update land records to control malpractice and corruption, collect gender-segregated data for tenure of all types of land, simplify administrative procedures, provide legal literacy and the awareness of entitlements etc. In fact there was a call to build in recognition for training and capacity-building at different levels that could be supported by state and non-state actors. Quite significantly, there was also a call for social audits or monitoring, to be carried out by women's groups, in collaboration with panchayats, gram sabhas and civil society organizations. Interestingly, social audits have emerged as a key tool in ensuring the effective implementation of rights-based entitlements mentioned earlier such as the Right to Work under the MGNREGA, or the mid-day meal scheme in schools.

While focusing on the land reform policy, when one examines it with a gender lens, it is hard to avoid larger issues of social policy – of work security and food security. Land is critical, but is not enough. To ensure women's rights in society it is important to enhance their economic agency to confront crisis alongside other members of the household, while also responding to their aspirations to gain equal entitlements.

### **National Food Security Act, 2013**

This takes me to an exploration of the National Food Security Act and the central role it gives adult women as household food managers. While a landmark legislation and social policy commitment to address the problems of hunger and malnutrition, the Act has been critiqued by many State Governments, such as Tamil Nadu, already claiming to do better than what the Act provides, and activists, who also see it as a mockery of the idea of food security. The main charges are that the Act reduces food security to a distribution of cereals and cooked meals, and this too inadequate in quantum, and is silent on millets, pulses and oil, key to address the problem of under-nutrition. Further,

there is no attempt to see production, procurement, storage and distribution as an integrated process (RTFC, 2011). In fact, the suggestion that the public distribution system could be dismantled and replaced by cash transfers evoked considerable critique, especially on grounds that it would particularly adversely affect small and marginal producers who are dependent on public procurement support for their survival, and in its absence will be unable to survive the agrarian crisis (Himanshu and Sen 2013). Interestingly enough, the Right to Food Campaign, mobilizing for strong social policy, simultaneously recognized and advocated for strengthening the farm sector. Alongside the universalisation of food entitlements, with special measures to address child malnutrition and other vulnerable groups, they have called for provisions to incentivize food production and for decentralized procurement and storage (Ibid).

From a gender perspective, one of the key criticisms of cash transfers is the potential increase in domestic violence and violence against women in general. As the woman is the entitlement-holder, were she to receive cash rather than food, there is a greater possibility of the use of force, even violence, to take the cash from her and use it for other purposes, including alcohol (Rao, 2013, Khera, 2012). This is because of the gendered associations of different assets – in India, while food is often seen to lie in women's domain, cash is seen as a male asset. It then becomes legitimate for men to have the final say on the use of cash resources, and women are left to find alternate ways, often deemed illegal, for ensuring household survival. Yet she is expected to provide for the household. In fact, violence emerges as a concern in relation to the land reform policy as well. Questions were asked about the safeguards in place to protect women from violence and abuse, ranging from social ostracism to witch-hunting, once they are recognized as landowners (Kelkar and Nathan, 1991, Rao, 2008).

## **Conclusions**

What emerges from the above discussion is the inseparability of land reform and social policy. Achieving improved consumption and welfare is closely tied to a strong production-procurement-storage nexus, while improving land productivity, but also fair and just distribution is interlinked to the provision of additional resources and services. What is implicit, but rarely articulated, in making these connections, is the recognition that the rural producer as well as consumer is a woman. In the context of the agrarian crisis, men have moved away from the land, often in the face of few other options.

Women then have become the mainstay of the rural economy – as cultivators, though not landowners, and household maintainers and managers. Unless they are supported in both their productive and reproductive roles, goals will remain unmet.

It is also worth highlighting the commonalities that emerge on both fronts in terms of risks and strategies to confront the new challenges. Two key risks are identified. The first relates to violence. If indeed women are perceived as successful and independent, they are likely to face a backlash, and there need to be some fallback mechanisms in place to support them in such circumstances. The second relates to the information, knowledge and resource gaps, with women in particular often at a disadvantage in terms of accessing information and resources from both private and public sources, making them vulnerable to cheating and other malpractices.

The strategies proposed are several as outlined in the earlier sections of this paper, but two are worth reiterating in conclusion. The first relates to an awareness of legal entitlements alongside simplified procedures and mechanisms for redressal, including, if required, legal aid. This is critical if social policies framed through a rights discourse are to be effective. The second relates to decentralized control and decision-making, with women having a legitimate space in this process. Whether it is land reform or social policy, it becomes easier to negotiate resource use and favourable outcomes vis-à-vis local men and women, rather than a distant state. A part of the community, there are limits to corruption and exploitation, and the appearance at least of ‘good’ leaders needs to be maintained (Scott, 1990), hence there is a call for greater powers and responsibilities to the local panchayats and gram sabhas. In the case of land in particular such locally negotiated settlements are now recommended even by the World Bank (Toulmin and Quan), though critics have argued that this is a way for the corporate sector to easily secure land through paying-off such community leaders.

Perhaps there is a paradox here in the call for localization in the face of globalization. The state seems distant and often difficult to separate from market forces, as, for instance, in the education sector. The only way to make social policy real then seems to be to draw it closer to the ground, to gain control not just over its conceptualization, but more importantly, implementation. The call for decentralized production, procurement, storage and distribution is a clear articulation of this need for local control in order to achieve improved welfare outcomes.

Equitable laws then are an essential starting point, providing a fair and just environment for women to claim their rights. Actualisation of these rights however needs more than gender-just laws. Implementation and monitoring mechanisms, which are resourced, but also creative and dynamic, need to be put in place (Goonasekere, 2011). Land constitutes an important element within the larger picture of economic transformation, but is not a substitute for social responsibility. Supportive social policies that address women's concerns as social beings (productive and reproductive) in a holistic manner are equally crucial in strengthening women's ability to make their claims.

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