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GENDER ASSET GAPS AND LAND RIGHTS IN THE CONTEXT OF THE ASIA-PACIFIC REGION

Preet Rustagi and Rajini Menon¹

INTRODUCTION AND CONTEXT

Despite major efforts in advancing gender equality and equity over the last decades, women continue to be underrepresented in various aspects of life all around the world. There is hardly any country of the world where women have the same or better opportunities, overall, as men. Gender Equality is a global challenge flagged by the Beijing Declaration and Platform for Action 1995 and embedded in the Millennium Development Goals (MDG). Gender equality refers to the goal of enabling women and men to have an equal level of visibility in social, economic and political life. Societies cannot successfully pursue human development in the absence of gender equality; such an approach is not sustainable. With the world only five years away from the 2015 deadline for reaching the MDG goals, and a 15-year review of the Beijing initiatives in progress, the Asia Pacific Regional Human Development Report (2010) makes clear that gender inequality limits choices for women and men, and puts a brake on human development. The Regional Report details that there are persistent gender deficits in both capabilities and opportunities. Women acquire fewer capabilities than men across much of the region. But even when they have capabilities, they face shortfalls in opportunities.

Viewing gender equality through the lens of human development, we find that many countries in the Asia and Pacific have made formal commitments to the key development goal of gender equality. Despite these achievements, a growing body of evidence shows that in the less developed countries of the Asia-Pacific region, wide gender gap exists in human development indicators (HDIs), be it in the sphere of literacy, health and nutritional status, wages and earnings, or political participation and representation (UNDP, 2010). Recent addition to the quantification on gender gaps is available in terms of the Gender Gap Report of the World Economic Forum (Hausmann et al., 2008). As per the Gender Gap Index (GGI) calculated by the World Economic Forum (2008), among the Asia-Pacific countries, the best scores and ranks for GGI are for New Zealand, the Philippines, Sri Lanka and Australia. Some of the other countries in the region, which had a higher GGI rank in 2008 as compared to 2007, are Viet Nam, Singapore, Indonesia, Japan, the Republic of Korea and Malaysia. The countries of the Asia-Pacific region, which have reported improvements over time in the GGI-based ranks, are Mongolia, Bangladesh, China, Sri Lanka, Nepal and the Maldives. A look at the sub-indices, especially in terms of the economic participation and opportunity (EPO) ranks, is relevant for reflecting the economic equity dimensions. The countries reporting better scores and, thereby, lower ranks are New Zealand, the Philippines, Mongolia, Australia, Viet Nam and Thailand. They are followed by China, Cambodia and

Singapore. Countries with insignificant gaps in educational attainments are New Zealand, the Philippines, Australia, the Maldives and Mongolia, while the countries displaying significant gender gaps are Nepal, Pakistan, India, Cambodia, Viet Nam and Bangladesh.

While adequate information and research are available on these dimensions, relatively little is known about gender gaps in wealth or assets. Doss et al. (2008) have emphasised in their work the need to examine and gather more information on gender asset gaps, given the realisation that household and individual welfare are not necessarily the same. Since the gender distribution of assets is likely to be different in myriad ways—forms of assets, significance assigned to these and the uses that they are put to—the implications of women's command over assets for equity, efficiency, productivity and empowerment also accordingly differ (Deere and Doss, 2006). Although little evidence is available on whether the decisions of men and women differ in the event of a trauma or crisis, given their asset or wealth position, some aspects on women's well-being have been widely recognised. Women's ownership of assets is likely to prevent them from falling into poverty and destitution, lead to better outcomes for their children, or result in better outcomes in case of widowhood, divorce, separation or in violent situations (Deere and Doss, 2006).

This is predominantly due to utter lack of empirical information and statistical data on individual ownership of assets.² However, there is an urgent need for this, as existing limited information reveals that women in many countries are far less likely to have ownership or control over productive assets, as compared to men. Further, they may not receive the benefits of the assets held by men, even when they live in the same household (Deere and Doss, 2006). The use of gender asset gap as a measure to track progress towards MDGs of gender equality and empowerment is proposed as a powerful indicator by Doss et al. (2008). 'Besides being a measure of opportunities (i.e., through the ability to generate income or additional wealth) or outcomes (net wealth), ownership of assets is critically important to women's bargaining power and hence their economic empowerment.' (Doss et al., 2008 pp. 3) It may be emphasised here that women's entitlement to productive assets is not just a legal or policy matter, but essentially a question of social transformation of gender relations and social institutions.

Though land ownership data is not available by gender regionally, surveys in individual countries exhibit imbalances. A 2001 household survey in Pakistan found that women owned less than three per cent of plots. According to the 2001 Population Census in Nepal, only 11 per cent of households reported some land under female legal ownership, and of these around 90 per cent owned less than one acre. The agricultural Census of the Food and Agriculture Organization from 1989 to 1999 indicate that in most regions, women headed around 20 per cent of farms: in Asia-Pacific, the figure was a mere 7 per cent. Interestingly, in contrast, for as recently as 2007, more than 65 per cent of female employment was in agriculture in South Asia, with more than 40 per cent in East Asia United Nations Development Programme (2010). This is a reflection of the masses of women involved in agricultural activities without any rights on the lands they work on.

Among the different regions of the world, the Asia-Pacific region displays the lowest percentage of agricultural holdings headed by women. Latin America and Africa are

relatively better placed in this regard due to some reforms and mobilisations that have taken place around the issue of land ownership by women in the countries in these regions (FAO, 2002). Women as a collective group/segment are not homogeneous and rights to men and women vary in the Asia-Pacific region. Many of the Pacific Island countries are inhabited by indigenous people who follow their own customary laws, especially with regard to land ownership and inheritance practices. While some of the Asia-Pacific countries follow matrilineal inheritance practices with many cultural variations, others follow the mainstream gender-biased, patrilineal system, wherein women are often deprived of equitable rights to land and property. It may, however, be highlighted that even under matrilineal systems, though women seem to be relatively better off, they are not always recipients of equitable access to the land they own. Even if women have access to use of land and other productive resources/assets, they often have limited control over these assets in terms of major decisions with regard to their purchase, sale, mortgaging, pawning or gifting. It is this lack of control together with poor knowledge/information regarding their rights and ownership of resources, which works against them.

To facilitate gender equality and women's empowerment through improved command over assets, various processes of formalisation, land titling, state-supported enterprise development, community participation, formation of Self-Help Groups (SHGs) and provision of micro-credit need to be strategically planned and promoted.

1.1 Structure of Paper

The rest of the paper is divided into three sections. Section 2 provides the context and objective of the paper; the arguments for women's independent rights to assets and rationale for closing the gender gaps in the ownership of assets. Section 3 presents an exclusive region wise discussion on the evidence of gender gaps in asset ownership. Section 4 discusses the major findings and suggestions for moving towards a situation of reducing gender asset gaps and, thereby, ensuring gender equality.

2. ARGUMENTS FOR WOMEN'S INDEPENDENT RIGHTS TO ASSETS

This section provides a brief discussion on the definition of assets, and those assets considered in this paper to eventually illustrate the routes through which gender biases creep in and disparities are generated, especially in the context of Asia-Pacific countries. The second and third sub-sections deal with arguments for women's independent rights to assets, vis-à-vis, welfare, efficiency, productivity, poverty alleviation, equality and empowerment as well as a mechanism for closing gender asset gaps, respectively.

2.1 Defining Assets

Assets here refer to an entire range of tangible and intangible, movable and immovable, direct and derived forms of assets. One definition of 'assets', adopted by Doss et al. (2008), is as follows: Assets are stocks of financial, human, natural or social resources that can be acquired, developed, improved and transferred across generations. They generate flows,

as well as additional stocks (The Ford Foundation 2002:4 cited in Doss et al. 2008). In the context of women's command over assets being a key element for their empowerment, an alternative categorisation of assets include human capital (education, information, health and nutritional status), natural capital (property rights to land, water, and other natural resources, including forests and common property resources), financial capital (savings, credit and insurance), physical capital (buildings, tools, equipment), social capital (group memberships and social networks), and political capital (influence in governance processes) [adopted from Quisumbing and Meinzen-Dick 2009³ and Rao 2006].

Different forms of assets reveal the nature of gender gaps when women's command over these resources is examined. Women's ownership of land is quite low, even in countries where legal provisions assign equal rights to women and men. Land ownership distribution across women and men shows substantial gaps even in the countries of Latin America and Africa, as examined by Deere and Doss (2006). Among natural capital, women also resort to the use of common property resources, forests and water bodies for their sustenance and livelihood, often more than men within the same communities. This excludes indigenous people, wherein both men and women depend on natural resources tremendously. Often, women tend to depend on resources owned by the state or by men, which may result in sub-optimal production or output scenarios.

Women depend to a great extent on animal husbandry, but their ownership is typically restricted to small ruminants and relatively low value assets as compared to men. For example, in rural areas, while men own drought and milch animals, women own small cattle, pigs, poultry, and so on. Even if women own milch cattle, these are generally in smaller numbers as compared to men. In some cases, women receive these animals as gifts in marriage.

In India, for instance, the practice of dowry involves giving gifts to women in marriage, which may include assets like land, livestock, jewellery, sewing machine, vehicle, refrigerator, television, furniture, utensils, and many consumer durables apart from cash. Although it is meant to be the property of the bride, this is often left ambiguous and not clarified through formal documentation. While it may still serve as security for some women in the matrimonial household, there are instances of women having no control over such assets. In any case, ownership of the gifts received as dowry is not a right of the women, but is subject to inter-personal relations and family considerations, even resulting in dowry-related violence and deaths. Hence gifts received in the form of dowry constitute a different set of assets.

Ownership and control over assets provide direct and indirect benefits to individuals and households. For instance, under land and housing, the benefits may accrue through generation of rent, provision of a source of financial income, increase in value, and the use of these assets as collateral to secure credit. They serve as a buffer during emergencies and may be used as collateral, pawned or sold. They can also be passed on to future generations (Doss et al. 2008:1-2). In economies that are urbanising or rapidly changing towards non-farm employment opportunities, assets in the form of human capital may be more valuable forms

of investments than agricultural land. Command over resources, physical and financial, enhances women's capabilities as well as her potential to participate in various income-earning ventures and businesses, thereby narrowing the gender asset gaps.

While every form of capital is critical in defining women's command over assets, only some assets are considered in this paper. Land and housing under natural and physical capital are central to the property and inheritance rights as major assets.⁴ The various arguments proffered in the literature for ensuring women's command over resources and for narrowing the gender asset gaps are discussed in the next section.

2.2 Arguments for Women's Command over Assets

Women's independent command over assets has been based on the three major arguments of welfare, efficiency and equality, and empowerment (see Agarwal, 1996; Deere and Doss, 2006; Alsop et al., 2006). The linkages of rights over assets for enhancing capability and overall gender development as well as the use of ownership and control as an instrument of poverty alleviation are alternative ways of emphasising the necessity for women's independent command over assets (World Bank, 2001b; Moser, 1998).

The lower status of women in many of the countries in the region is linked to women's inadequate command over assets. Ownership and access to resources are equally effective for reducing the vulnerability and dependence levels of women. The social policies of many countries have shifted emphasis from income and consumption to directly addressing the critical role played by assets and capabilities in improving both individual and household socioeconomic well-being and associated poverty reduction.

The asset-based welfare policy developed by Sherraden (1991) is based on two premises. First, the poor can save and accumulate assets and, second, assets have positive social, psychological and civic effects independent of the effects on income. Arguing for a policy shift from income to assets, Sherraden (1991) highlighted that income only maintains consumption, but assets change the way people think and interact with the world. With assets, people begin to think for the long-term and to pursue long-term goals. A World Bank report on poverty (World Bank, 2001a) noted that empowerment was directly linked to the expansion of assets. Empowerment is, thus, the outcome rather than the means of poverty reduction (Alsop et al., 2006). The new poverty debate indicates that the vulnerability of people is closely associated with asset ownership. The more assets people have, the less vulnerable they are, and the greater the erosion of people's assets, the greater is their vulnerability and associated insecurity (Moser, 1998). While this is applicable for all persons, women's command over assets is critical for gender equity and empowerment.

Another dimension that assumes importance for women's command over assets pertains to intra-household relationships and bargaining power. The decision-making power of women is linked to their bargaining strength, which is backed by the command they have over assets (Agarwal, 1996). The uniqueness of the bargaining model lies in its gender-differentiated approach in dealing with intra-household interactions. The model emphasises the welfare, efficiency and equity implications that tend to differ by gender in the household allocation

of resources. These have been extended here to indicate how market, community and state interactions can also benefit from the asset position of women.

2.3 Rationale for Closing Gender Asset Gaps

The need to ascertain the presence and extent of gender asset gaps, in the absence of statistical information for systematically studying its impact in order to aid policy formulation and programme implementation, has been gaining currency in recent times (Doss et al., 2008).

A burgeoning literature shows that household welfare is not equivalent to the welfare of the individuals within it (Haddad and Kanbur, 1991; Haddad et al., 1997; Sen, 1990). The rejection of the unitary model of household behaviour, which considers households as groups of individuals that have the same preferences and pool in all their resources to attain common goals, re-emphasises the need for women's individual command over resources on many counts associated with the collective model. Quisumbing and Maluccio (2003) find the collective model as an alternative that allows for differences of opinion regarding economic decisions among household members.

Asset ownership influences the 'fallback' position of each spouse in negotiations over key household and family decisions and, hence, the exit options available to each (Quisumbing and Hallman, 2006; Doss, 1996). Surveys from South Asia have noted that women who owned land had greater say in household decision-making than women without land (Mason, 1998; Allendorf, 2007; Agarwal, 1998; 2002). In Colombia, Friedemann-Sanchez (2006) found that women use property and social assets to negotiate for the right to work, control their own income, move freely, and live without spousal violence. In-depth research conducted in Bangladesh, Ethiopia, Indonesia, and South Africa shows that, though women bring far fewer assets to marriage, these assets play a significant role in household decision-making, particularly regarding the allocation of household expenditures to food, education, health, and children's clothing. In all these countries, assets in the hands of women increased the share that the household spent on education. Women's asset ownership may increase the anthropometric status of children (Duflo, 2000) and the incidence of prenatal care (Beegle et al., 2001) and reduce domestic violence (Panda and Agarwal, 2005; Friedemann-Sánchez, 2006).

Asset ownership is thus related not only to well-being but also to women's empowerment. A International Food Policy Research Institute (IFPRI) study indicates that women who have greater bargaining power within the household—owing to more assets brought in marriage—are better able to invest in social capital and to join groups and networks, which allows them to learn about new agricultural techniques, obtain credit, and develop social support systems (Quisumbing and Dick, 2009). Studies from Bangladesh, for example, find that their participation in credit programmes lead to women assuming a greater role in household decision-making and having greater access to financial and economic resources, greater social networks, greater bargaining power vis-à-vis their husbands, and greater freedom of mobility. Female credit also tended to generally increase spousal communication about family planning and parenting concerns. Extensive evidence also proves that closing the

gap in productive resources like land held by men and women has the potential to increase agricultural productivity by 10 to 20 per cent (Quisumbing and Dick, 2009).

A growing rationale for expanding women's access to assets comes from the threat of climate change. Women with less control over assets and fewer coping mechanisms will be among those most affected by natural disasters and declines in energy, water and food resources. When property rights are weaker for women, they may have less capacity and fewer incentives to practice conservation and protection—particularly if they are struggling to make a living. In a number of Asia-Pacific societies, women have knowledge about natural forestry and other environmental resources that may be valued locally, but otherwise goes unrecognised in broader strategies to respond to climate change (UNDP, 2010).

Therefore, studies that highlight the presence of gender asset gaps also identify sources from which these arise as the starting points for bridging the gaps through appropriate policy planning and interventions. This is undertaken in later sections of this paper, after providing a socioeconomic profile of women in the Asia-Pacific region.

3. EVIDENCE ON GENDER ASSET GAPS

Most countries of the world are aiming to move towards the constitutional provisions guaranteeing gender-egalitarian land and property rights. While there have been some progressive reforms and changes, there is still a substantial and pervasive presence of gender asset gaps in most countries across the world, including the Asia-Pacific region. However, given the pervasive presence of gender biases and discrimination against women, even legally egalitarian provisions are transformed into wide gender asset gaps as a consequence of the existing patriarchal and institutional structures.

By highlighting the prevalent inheritance rights, customary and family laws, formalisation processes and land titling procedures in different countries of the region, this section illustrates how women fare in terms of the command over major assets such as land, property and housing.

The countries of the Asia-Pacific region display tremendous variations in the legal inheritance regimes that influence the command that women have over land and property. The universal legal systems too are affected by the complexities introduced due to community, religion-based and personal laws that are followed for marriage, divorce, guardianship, inheritance, and so on. In spite of the constitutional provisions this introduces conflicting situations which contest gender equalities. Some of these are illustrated in the following sub-sections. Unless these are tackled and addressed upfront, economic equity will continue to remain a distant dream.

3.1 South and West Asia

Cultural pluralism in South and West Asia, a region which is home to several major religious groups, including Hindus, Muslims, Sikhs, Buddhists, Jains, Parsis and Christians as well as many smaller, more localised traditions followed among the multi-ethnic populations of the region, define the customary values and very often form the basis for the legal systems followed in most countries of the region. For instance, Bhutan grants equal rights to all children

by law, though matriliney exists in most parts of northern and eastern Bhutan. The manner in which universal legal systems function and the simultaneous operation of community, religion-based and personal laws that are followed for marriage, divorce, guardianship, inheritance, and so on, lead to conflicting situations that contest gender equalities despite the constitutional provisions for it (Deere and Doss 2006; UNIFEM 2003; Mahbub-ul Haq Human Development Centre (MHHDC) 2000).

In the Hindu tradition, as practised by a majority of the population in South Asia, especially India, inheritance practices are detailed in the legal doctrines of *Mitakshara* (Agarwal, 1996). These ancient doctrines continue to influence law and custom, especially with regard to land rights. According to the *Mitakshara* system, there are two types of property: ancestral property, which is jointly held by the family, and independent property, such as land that is self-acquired. However, until the enactment of Hindu Succession Act of 2004, Hindu women enjoyed only limited rights on the family property.

Some Muslim countries continue to follow Islamic principles of inheritance. The Koran accords significant inheritance rights to women, though they are unequal to the rights of men. Daughters and widows can inherit in the presence of sons and are entitled to an absolute estate, though daughters inherit a one-third share while sons inherit two-thirds of the property, and a widow can receive one-fourth of her husband's estate if she is childless and one-eighth if there is a son.

In parts of South West India and Sri Lanka, a few Muslim communities practised matrilineal inheritance under which women inherited landed property to which the men had user rights. In the rest of South Asia, Muslims followed customary inheritance practices similar to those of the Hindu patrilineal communities, wherein women's rights were limited as in Punjab, where Muslim widows could inherit the husband's ancestral land only in the absence of a son and only as a life interest (Agarwal, 1996).

In addition to inheritance practices, marriage is also an influencing factor (that facilitates or impedes) women's command over land. Through various customs in both West and South Asia, land ownership was limited or denied to married women. In South Asia, the practice of dowry and post-marital residence requirements are customary ways of controlling women and their land (McLeod-Simmons, 2002). Linkage between land and marriage varies, depending on whether the tradition is patriarchal, or matrilineal, or bilateral. In patriarchal societies, male domination of land is manifested in the practice of dowry. Although dowry lands may be protected, the husband has the liberty to sell, mortgage or give away his own land or joint land without his wife's approval. In matrilineal or bilateral cultures, wherein women were permitted greater access to inherited lands, a woman was encouraged to marry someone from within her kinship group (as seen among the Nayars of central and north Kerala in India, and also in Afghanistan) and live in her ancestral village in order for the family to retain control of her land. Among the Hindu Tamils of Jaffna in Sri Lanka (who follow the practice of strong inheritance rights for women), though the daughters receive dowries from their mother's property and it is established in the wife's name in the dowry deed, its disposition still requires the husband's

consent as long as she is in marital union (Agarwal, 1996). Such practices have clearly subordinated women and made them economically disadvantaged.

Wherever women have customary ownership on land, it is also associated with their place of residence. In regions which follow matrilineal or bilateral systems of inheritance, women continue to reside in their matrilineal joint family estate throughout their lives, even after marriage (as in the case of the Nayars of central Kerala and the Mappilas of Lakshadweep Islands, who practise duo-local residence; and also seen among the Nangudi Vellalars of Tamil Nadu and among certain tribal communities of Meghalaya in North East India, who practise matrilocality).

Across the region, women have limited ownership of land due to marriage-related practices. Post-marital residence resulting in village exogamy⁵ and patrilocality⁶ serves as a barrier for women in managing their lands, often even leading to what is claimed as the 'voluntary' giving up of claims to their lands (Agarwal, 1996). In the case of the Sri Lankan Sinhalese, there is a strikingly close association between female inheritance and post-marital residence. Among the Kandyan Sinhalese, a *binna* married daughter (continuing to reside in her natal home even after marriage) has an equal right to her father's estate as that of her brothers, than a daughter who has to forfeit her inheritance and stay virilocal⁷ if she is married to a *diga*. However, the non-Kandyan Sinhalese are governed by a general law under which women, irrespective of the form of their marriage, have equal inheritance rights as men (Agarwal, 1996).

There are also illustrations wherein women do not lose their rights over the matrilineal estate even if they have moved elsewhere after marriage. Women of certain communities of Kerala in India (such as the Tiyars, Phadiyas and Chettis), move to their husbands' matrilineal estates after marriage, yet their property rights continue to be linked to their own matrilineal estates, which are managed and controlled by the eldest male members of the respective households.

Gifts in the form of assets are very often given to daughters as part of marriage alliances, as for instance, seen in the practice of dowry that is common in South Asia. However, land or property thus gifted, remains subject to the benevolence of the families or social compulsions under which it is mandatory to do so. This does not take the form of women's rights and, therefore, remains a very distinct practice. It is only the purchase of direct assignment in the name of women with formal titles to that effect that serves as an entitlement beyond doubt. In some cases (as in Bangladesh), female-headed households often lease out their lands on share cropping arrangements to their male kin, who then ultimately hope to acquire control over it (White, 1992).

Evidence from India shows that joint titling of land has hindered women's control of the produce of land and prevented them from exercising their priorities in land use if they differed from those of their husbands, in bequeathing a portion of land as they want to, or in claiming their shares in the case of marital conflict (Agarwal, 2002). Hence, the assumption that joint titling of land would translate into access and control for the women still remains a controversial issue (Lockley, 2006).

Kelkar and Dev (1991) also point towards a situation in which the introduction of individualised landholdings resulted in the deprivation of indigenous women as is the case with the *adivasis* (tribals) of Jharkhand state in India. With the alienation of indigenous land and the individualisation of property, patriarchy has got reinforced in the familial relations and women have started losing their land rights and clan support, which they formerly enjoyed. This study also exposes the extreme brutalities being practised against childless widowed women, who make claims to the properties of their late husbands.

The absence of asset ownership has implications for violence faced by women. There is considerable evidence to show that women without assets are subject to threats of violence in many parts of the globe (Rao, 2005). The study by the International Centre for Research on Women (2006) reveals that women's access to and control of economic resources, especially immovable assets like land and house, play a critical role in protecting them from marital violence (Panda, 2002; Panda and Agarwal, 2005). Citing the case of Kerala, the study highlights that despite the fact that Kerala has generally an enabling environment for women, the situation of the women who do not own land or a house are at a significant disadvantage socially, and face a higher risk of both physical and psychological violence from their husbands over both the long- and short-term. A similar correlation is assumed in the context of HIV-infected women. If the woman has a secure home, a site for economic activity and collateral for credit, she can reduce the risk factors of violence (Strickland, 2004).

Amidst the diversities and complications that characterise the issue of women's equal property rights in the region, there have been some noteworthy positive and welcome strides recently.

The amendment to the Hindu Succession Act in 2004, which grants rights to women that are equal to those of men, is laudable. Prior to the 2004 amendment to the Hindu Succession Act, the rights of male heirs differed between the two types of land, and women were prohibited from fully inheriting either type; widows and unmarried daughters were entitled to inherit a limited income from a joint estate, whereas from an independent property, a widow could inherit if there was no son or grandson, but only for her lifetime (Agarwal, 1996). These concepts were codified in the 1956 Hindu Succession Act until a landmark amendment in 2005 finally defined a Hindu woman's right to inherit land as equal to that of a Hindu man. All daughters have the same rights as sons in the joint property of the family, whether they are married or not, to reside in or seek partition of the family dwelling house (UNDP, 2010).

Another similar instance is that of Nepal, wherein after a long struggle by women's activists, a progressive legislation safeguarding the rights of women has been introduced. Women's activists in Nepal conducted a long advocacy campaign to secure legal recognition of women's property rights, finally achieving this aim in 2002 through the passage into law of the Eleventh Amendment of the Country Code Bill. Among its provisions is the equal right to ancestral property for daughters and sons by birth. Previously, only unmarried daughters who had reached the age of 35 were entitled to this right. An earlier requirement that a widow could claim her share of property only after attaining the age of 30 and living

separately was replaced with the right for a widow to claim her share when she requires, even if she gets remarried.

Wives now have immediate rights to a share of the husband's property after marriage, without the previous waiting period. Property must be partitioned between husband and wife at the time of divorce, with alimony set on the basis of the husband's property and earnings. New maintenance rights for daughters cover food and appropriate education and health. More recently, the Supreme Court of Nepal issued a directive to ensure gender equality against the legal requirement that daughters must return property upon marriage. The Act to Amend Some Nepal Acts for Maintaining Gender Equality, 2063 (2006) states that, 'the unmarried girl, married women or a widow living separately may enjoy the movable and immovable property on her own.' Married women don't have rights to ancestral property, however. So, unless they have acquired it before marriage, discrimination prevails (UNDP, 2010).

3.2 North East Asia

Most countries of North East Asia are, by and large, legally egalitarian, or are making significant efforts to move in that direction. In Cambodia, traditionally, women had equal access to land through inheritance. But when land distribution took place in the 1980s, communal ownership was replaced by private land. This had a negative impact on women, since land was usually registered only in the name of the husband. The land law passed in 2001 aims to strengthen land tenure security, promote land distribution with equity, and protect women's rights. The new law has brought changes in land titling. According to a 2007 survey, 20 per cent of titling is now in the wife's name, 5 per cent in the husband's name and 70 per cent under both names. But challenges continue to exist. Educational backwardness and lack of information constrains women from benefiting in many cases (World Bank, 2004). The gender gap in the educational attainment index (see Hausmann et al., 2008) for Cambodia is quite high and similar to that seen in parts of South Asia, and is, in fact, worse than that prevalent in West Asian countries.

Of the Asia-Pacific countries, Viet Nam had a heated debate on Land Use Rights prior to the land legislation approved by their National Assembly in November 2003, which requires that the Land Use Right Certificate in the country must bear the names of both husband and wife, if the land belongs to both of them. Although hurdles arose during the local level implementation of this legislation, it can still be considered as a step forward in realising gender equality in the country.

In many developing countries, the security of tenure is guaranteed by the utilisation of land. As long as a farmer cultivates the land, he/she enjoys security of tenure. However, under external pressures (population growth, competition for resources), user rights can be eroded. Women tend to be among the first to lose user rights. The Chinese law (2003) on rural land contracts, guarantees long-term rights to farmers to use their contracted land for thirty years and also stipulates that women, whether they be married or unmarried, enjoy equal rights with respect to land distribution. Field evidence from the three agricultural communities of China indicates that though the married daughter holds a complete set of

documents related to the household land allocation naming her as the holder of land, she has never had a voice in the management or disposition of the land (Judd, 2007).

Other efforts at the formalisation of property and progress towards achieving the pledge of the MDGs highlight the role of gender-progressive groups and other agencies. Lao People's Democratic Republic, with an agricultural labour force that is 53 per cent female, also has a national law stating that men and women are equally entitled to hold property; any property purchased during marriage is regarded as jointly owned. Land owned by a woman prior to her marriage remains hers, as does any land she inherits from her parents. To help the law take hold, the Department of Lands has collaborated with the Lao Women's Union, which has worked at the grass-roots level on mass campaigns to teach people about women's land rights, helping to bring about a sharp increase in the number of land titles registered in women's names or jointly with their husbands (UNDP, 2010).

Also, there is a need to formulate policies for overcoming the human capital shortfalls, as reflected in the poor educational attainments of women, for the egalitarian legal provisions to bear fruit. One concrete illustration of how this can work is by providing access to earning and wealth through employment, as seen in the case of Japan, where single, educated working women are gaining access to housing assets.

3.3 Women and Housing Assets in Japan

The asset status of Japanese women is characterised by the ideological ownership of housing without actual legal substance. Despite the New Civil Code defining children's equal rights to inheritance, regardless of their gender and birth order, the practice of house ownership is still highly gendered in Japan (Izuhara, 2004; 2005). Is the economic power of women, which is a pre-requisite for purchasing a home, improving? Over the last ten years, there has been an upward trend in the levels of women's income in Japan. In terms of the employment situation, women in their thirties appear to have fared better than women in other age groups or men in general. Among married women, the higher the annual income and educational levels, the higher has been the ratio of those who have houses in their own names. In terms of employment status, the ratio was higher for regular employees (Hirayama and Izuhara, 2007). This might suggest that if women's incomes continue to rise, so also will their home ownership ratio.

3.4 South East Asia

The South East Asian countries are relatively more favourable to women as compared to other parts of Asia Pacific. Legal provisions in the context of land and property are fairly egalitarian, with some parts of the region following matriliney. Customary laws, as noted in South East Asia, appear to be generally unfavourable to women. Yet, not all customary laws discriminate against women. For example, in many parts of South East Asia (like the Philippines and Thailand), women have been traditionally and legally allowed to inherit property. The Minangkabau women of Sumatra in Indonesia have also been the beneficiaries of the matrilineal inheritance system. However, the gradual shift towards bilateral inheritance

systems now ensures equal rights to both women and men. In Indonesia, where many families follow the Javanese inheritance customs, all children are granted equal rights to property, which is beneficial for daughters as compared to the Islamic law, which gives a larger share to sons (Brown and Purwanti, 2002).

Evidences from many countries of the South East Asian region like Sumatra in Indonesia, the Philippines and Thailand prove that the newly emerging inheritance laws are becoming egalitarian for both men and women. In recent years, these countries have witnessed a shift from the matrilineal system of inheritance to a bilateral, individualised system or rather to a more egalitarian system, under which sons and daughters can inherit the type of land on which in their own work effort is more intensive (Quisumbing et al., 2001).

However, experience of rights versus practice and perception in the case of Phillipino women expose that there are no longer any legal variations in the access to land and property for men and women in the Philippines but, in practice, men are still perceived as the primary property owners (ADB, 2004).

An interesting set of studies undertaken in the region, especially for the Philippines and Sumatra in Indonesia, illustrate the gains for women in the inter-generational sense (Quisumbing et al., 2001; 2004). The closing of the gender gap in schooling in the children's generation as opposed to that of the respondent's generation highlights the potential gains that daughters derive from non-farm employment in the context of lower agricultural incomes. Inasmuch as the persistent gender gap in schooling contributes to the inequality in the income earning capacities of men and women, educational gains help in narrowing these inequalities. Thus, Quisumbing (2003) points out that while sons inherit land, girls benefit from the investment in their schooling, which has the potential to narrow the gender asset gaps in the long run.

Various aspects of the issue of control over assets also raise many other issues relating to the management and operation of these assets. Both the region, in general, and the different countries within it, in particular, presents a diverse picture with regard to the female ownership of land. In South and South East Asia, though land may be registered in the name of the head of the household (usually the eldest male), women may have control over certain lands like homestead plots (Rao, 2006).

3.5 The Pacific Region

The Pacific region consists of the two developed countries of Australia and New Zealand, as also a host of islands, many of which are influenced by patriarchal structures. Only 10 per cent of the population of the Pacific region traditionally follows the matrilineal transmission of land rights (Smiley, 2006). In some communities, like Gaua in Vanuatu, the land inheritance practices have swung back and forth between customary matrilineal and patrilineal systems. When colonial laws were introduced in Fiji, Tokelau, Solomon Islands and Vanuatu, they contradicted communal approaches by enforcing private, often male, ownership.

Formerly, in certain parts of Vanuatu, if the daughter inherits the land rights, she confers the land rights on her eldest son, who is sent away to live with his mother's parents and, thereby, the mother excludes herself from the land (Singh, 2001). In Vanuatu, on the

death of the husband, the widow who has no male children does not inherit the land rights from the husband, but the land rights are instead reverted to the husband's nearest male kin and the widow is forced to return to her natal village. Although official land policies accord preference to equal rights for women on land, they may overlook female limitations of limited access to money, wherein administrative payments are needed, and there is lack of knowledge and information due to illiteracy, among other things.

In the Pacific countries with mostly patriarchal societies, daughters, after getting married to men in another village, can utilise the produce from their parents' lands, depending on the relationship between the two villages and also the relationship between the daughter's husband and the dominant male member of her patrilineage (Kenneth and Silas, 1986).

In some of the island countries in the Pacific region, land is owned by the State (or Crown, as in Tonga). Individuals have leasing rights, with stipulated restrictions on the bequeathing and gifting of land. Countries such as Samoa and Tonga have completely restricted the sale of their lands through the introduction of constitutional provisions, reflecting the role of the state in the alienation of land ownership among the indigenous peoples. Lease rights are also executed through the State machinery. Under the patriarchal structures of households, wherein men wield the power and have control over assets and resources, women have limited access and user rights.

When the countries of the region were under the colonial administration, restrictions were imposed on the alienation of customary land, mainly, for economic reasons. Yet after the countries in the Pacific region (including Tonga, Samoa, the Cook Islands, Fiji, Tokelau, Solomon Islands, Kiribati and Vanuatu), gained independence from the colonial regime, restrictions were imposed on the alienation of land to non-indigenous peoples. Later, many countries of the Pacific region (including the Cook Islands, Kiribati, Tuvalu, Fiji, Niue, Nauru and Tokelau) restricted the alienation of land to indigenous peoples as well.

Tonga and Samoa completely restricted the sale of their lands through constitutional provisions. The approval of the State was necessary for the sale of land in the Cook Islands, Kiribati and Tuvalu. Fiji, Niue and Tokelau also restricted the alienation of customary land to the Crown (Singh, 2001). Although Vanuatu and Solomon Islands made customary land freely alienable to the indigenous peoples, the long-term leases of land to foreign developers and a few influential indigenous peoples snowballed into more worrisome concerns, as a result of which the demand for Land Policy Reform rapidly gathered momentum in the region.

In the Pacific region, since 2005, Papua New Guinea and Vanuatu (where access to land was restricted by custom and the State mechanism) have been on the road to evolving success. Formerly, access to land and natural resources in Papua New Guinea was restricted to custom and State mechanism. There was a wide range of customary practices in the country of which patrilineality was the most common. The customary practices were recognised and enshrined in the constitution and, thereby, 97 per cent of country's land area remained under customary laws. As regards the State, it managed less than 3 per cent of the land purchased by the colonial administration and from customary resource owners. The State

leased out areas of alienated land to individuals and companies, and they were subject to provisions of agriculture and urban land for housing, etc. The State and the citizens later recognised the need to maintain customary land management systems for cultural reasons. Although in 1986, the World Bank mission proposed for customary land registration and also for lease back systems, politicians claimed that customary landowners would lose their lands if the government defaulted on its loans to the World Bank. Consequently, a National Land Summit was held in the country involving persons from various grounds to discuss the issues in detail. The Summit recommended the alienation of land and customary land administration, which included the development of a National Land Development Task Force. The government and citizens of Papua New Guinea, who had been wrestling with the issue of land policy reform before independence, gained immensely through the National Summit, and these developments are expected to pave the way for the access, ownership and control of land by women (Holzknecht, 2002).

The impetus for Vanuatu's independence in 1980 lay in the increasing frustration about the alienation of customary land. At independence, all the alienated land reverted to customary ownership; customary land can no longer be alienated except to the State. By the 1990s, the same concerns centred in the country along with the alienation of land on long-term leases to foreign developers and a few influential in Vanuatu. All these gathered momentum for a Land Policy Reform to wind up the rapid rate of land alienation. A National Summit for self-reliance and sustainability convened in 2005 laid the foundation for tapping the local residents' sentiment of disenchantment over land. A key outcome of the Summit was the passage of a resolution calling for the National Land Summit to involve people from all related spheres and also women's groups which would hopefully lead to the introduction of a Land Act (Holzknecht 2002).

4. MAJOR FINDINGS AND LESSONS LEARNT

A detailed analysis of women's command over assets in the Asia-Pacific region illustrates the extent and nature of gender asset gaps that are prevalent in the region. The relative fluidity in the legal provisions across the countries, as reforms are instituted or underway in response to the concerted efforts of various groups (including legal and women's organisations; the media; national and international agencies), add to the complexities of gender asset gaps. Although women's equal rights to access, ownership, and control of land and housing are firmly recognised under international law, at the country level, the persistence of discriminatory laws, policies, patriarchal customs, traditions and attitudes is still preventing women from enjoying their rights. Although legal reforms have changed women's legal rights in certain countries of the region, the co-existence of a divergent set of laws—formal, statutory and informal, customary or family law—results in discrimination against women, as no single law exists for dealing with the situation. Due to the individualisation of land tenure, many customary laws and practices have eroded over time; the forms of solidarity that used to exist and that protected women from exclusion, has now disappeared in many areas of the region, especially among the indigenous communities. 'Traditional' values prevail amongst the

implementing authorities, who often interpret statutory laws in what are currently understood to be ‘customary ways’, as a result of which women are deprived of the rights that they should enjoy under statutory law. Efforts to improve property and inheritance rights are also hindered by a general lack of political will and the slow pace of legal change. Low literacy levels also limit women from exercising their rights on land (as in Cambodia). Improper awareness of ownership and user rights on assets (especially in Lao PDR), and the lack of confidence to claim their rights (as seen among the Filipino women) have prevented women in accessing credit from formal institutions.

In the midst of these persistent obstacles, a few countries of the region have attempted to address many of the burning issues concerning women’s unequal command over assets by way of legal reforms, government interventions, and the implementation of some innovative and creative practices. With regard to progressive laws and policies, though the need for women’s equal property rights is recognised, they are very difficult to implement because of the weak enforcement mechanism. However, constructive approaches at the policy level help in ensuring that women enjoy an equal right to claim their assets.

4.1 Policy Implications and Way Forward

Legal reforms in inheritance and marital regimes have a critical role to play in the shift towards relatively egalitarian regimes. In spite of international commitment to gender equity and the introduction of constitutional provisions to that effect, there are countries wherein discrimination in customary and personal laws related to inheritance is applicable in actual practice. In order to address these practices and ensure equal access and control over assets by women as by men, a host of efforts are required.

Several measures are required to address gender inequalities and change the existing social and cultural norms, such as universalisation of education, generation of awareness regarding individual rights and legal provisions through the promotion of legal literacy, advocacy for equal property rights for women, and the development of women’s organisations that can help in making and pursuing land claims as well as in developing mechanisms to record women’s share of land, assets or property.

There is a need to not only address the gender disparities and discrimination against women in the legal and cultural spheres, but also to introduce reforms to make the provisions more gender-egalitarian and to focus on improving human capabilities, especially in the sphere of education and formal schooling, in order to narrow the gender gaps in educational outcomes. This is because legal reforms cannot be beneficial to women without the additional support of improving their education levels, as seen in the case of Cambodia, Viet Nam or even Bhutan, wherein women’s organisations have been advocating the need for education among women instead of the pursuit of matrilineal land rights, which exert pressure on girls to drop out of school and take care of their lands. The enhancement of human capital can aid women in terms of improving their access to credit, technical expertise and training, as well as networking and organisation, all of which can eventually help improve their chances for accumulation of wealth and assets.

The routes adopted for achieving the appropriate reforms may differ from place to place depending on the number of organisations, media agencies, women's groups, and collectives that are active in the particular region, in addition to the extent of international pressure being exerted in the region.

One essential requirement is the need for generating gender disaggregated data on individual asset ownership; on landholdings, operational land and property; and on financial, economic and physical resources, among other things. Efforts to elicit information on the assets brought by men and women into marriage can also help generate useful data to enhance intra-familial and inter-personal bargaining and relationships. Availability of gender disaggregated information on a host of issues that have remained invisible provides scope for rich insights into gender relations and assessment of gender gaps, which can in turn serve as a crucial basis for informing policy formulation such that it enables a move towards greater gender equality.

Notes

1. This paper is a revised and abridged version of Rustagi and Menon (2009). 'Women's Command over Assets: Addressing Gender Inequalities', Technical Background Paper prepared for the Asia-Pacific Human Development Report *Power, Voice and Rights: A Turning Point for Gender Equality in Asia and the Pacific*.
2. For an excellent guide to collecting such data, see Doss et al. 2008.
3. Commentary on strengthening women's assets, www.ifpri.org, 2009.
4. Although human capital is an integral dimension and forms the basis for women's command over other forms of capital/assets, it is not being separately examined in depth here. Similarly, women's labour as an input, which helps improve their command over assets of various forms, is another dimension that is not directly dealt with in this paper. Even ownership of livestock and women's involvement in animal husbandry is not discussed here. Education and employment form the focus of two different technical background papers.
5. Exogamy = marriage has to be with a spouse outside one's own village.
6. Patrilocal = after marriage, wife moves to husband's house.
7. Virilocal = patrilocal residence.

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Institute for Human Development
NIDM Building, IIPA Campus, IP Estate, New Delhi-110 002
Phones: +91-11-2335 8166/ 2332 1610
Fax: +91-11-2376 5410
Email: ihd@ihdindia.org
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