

IMPACT OF JOINT LAND OWNERSHIP
AND LAND ENTITLEMENT TO WOMEN IN NEPAL



(Progress Report of the Preliminary Findings)



College of Development Studies

P O Box 2708, Old Baneshwor, House - 1568/29, Baburamacharya Marg, Kathmandu, Nepal
Tel: 977 1 4471130 Fax: 977 1 4478945 Email: info@cds.edu.np Web: www.cds.edu.np

2013

TABLE OF CONTENTS

	Page(s)
Chapter I: INTRODUCTION	
1.1 Background	2
1.2 Objectives of the Study	4
1.3 Concept of the Study	4
1.4 Research Questions	5
1.5 Methodology	6
1.5.1 Sampling of Districts and Respondents	7
1.5.2 Sampling Process	7
1.5.3 Surveys from PRA	7
Chapter II: LEGAL AND POLICY FRAMEWORK	
2.1 International Policy Framework	8
2.2 Regional Policy Framework	9
2.3 National Policy Framework	9
Chapter III: IMPACT OF JOINT LAND OWNERSHIP AND WOMEN'S LAND ENTITLEMENT	
3.1 General Information	11
3.2 Status of Joint Ownership and Land Entitlement	12
3.3 Duration and Process of Land Entitlement	12
3.4 Government Support Services in Transferring Land Ownership	14
3.5 Perception of Society on Joint Land Ownership (JLO) Policy of the Government	15
3.6 Legal System: Helped Women to Pursue Land Rights	15
3.7 Social Factors Endured the Most as a Problem to Claim for Land Rights	16
3.8 Land as Critical Resource for a Woman	17
3.9 Customary Institution in the Community that Advocates and Supports for Ensuring Land Rights	19
3.10 Benefits Associated with Agriculture through JLO and Land Entitlement	20
3.11 Four Outcomes of Women Land Rights	20

REFERENCES

CHAPTER I INTRODUCTION

1.0 Background

Land has been and continues to be the most significant form of property in rural South Asia. It is a critical determinant of economic well-being, social status, and political power. However, there is substantial evidence that economic resources in the hands of male household members often do not benefit female members in equal degree. Independent ownership of such resources, especially land, can thus be of crucial importance in promoting the well-being and empowerment of women. Indeed, the issue is not just one of property ownership; it is also that of property control. Despite the gradual gender-progressive legislation, in practice few South Asian women inherit landed property, and even fewer control it. Research shows that there is a vast gap between law and its implementation and has demonstrated a number of factors constraining women in exercising their legal claims subsuming patrilocal post-marital residence and village exogamy, strong opposition from male kin (due to the prevalence of patriarchal ideology), the social construction of gender needs and roles, low levels of female education, and male bias and domination in administrative, judicial and other public decision-making bodies at all levels (Agrawal, 1998:xv-xvi).

The World Bank (WB), International Fund for Agricultural Development (IFAD) and Food and Agricultural Organization (FAO) have increasingly recognized women's land rights and the failure of land administration programs to protect them. WB Policy Research Report (2003) argues that strengthening women's land rights is important for potential and gains agricultural productivity and for household level human capital investments such as nutrition and child schooling. It advocates legal measures, education and capacity building, as well as preferential treatment of women in public programs such as those dedicated to land titling and land reform. There is indeed importance of gender in land policy. Gender is the basic determinant of social relations and rights in households and communities. Gender determines to a great extent a person's opportunities, aspirations, and standard of living, access to resources, status in the community, and self-perception. In addition, women rights to resources influence their ability to produce and their behavior as producers. In developing countries, land is a critical asset and land rights whether customary or formal act as a form of economic access to key markets as well as a form of social access to non-market institutions such as the household relations and community-level governance structures (Castarria-Cornhiel, n.d.125).

There is evidence that improvement in women's independent property rights have positive economic benefits. Comparative analysis of data from Honduras and Nicaragua, for example, suggests a positive correlation between women's land rights and their overall role in household economy: women gain control over agricultural income, gain higher shares of business and labor market earning, and more frequently receive credit (Katz and Chamorro, 2003 cited by Castarria-Cornhiel, n.d.126),

Studies have shown that land is a particularly critical resource for a woman in the event that she becomes a *de facto* household head as a result of migration by men, abandonment, divorce or death. Independent real property rights can mean the difference between having to depend on the natal or family for support and forming a viable, self-reliant woman-headed household. Gender equity issues are to be promoted under the government land policies. The basic gender policy within the context of land administration

should promote secure access to land and other natural resources for women, independent of men relatives and independent of their civil status. The formal institutions that establish and maintain land tenure systems include land registry, cadastral survey, titling agency and land use agency. These institutions provide information on legal norms and regulations regarding land rights and land use, as well as specific information on the holders of land rights. Institutions that issue titles and record transfers can play a particularly important role in securing women's rights to land. Merely passing formal legislation is not sufficient and indeed, there is the need of effective implementation. Often implementations have been ineffective due to conflictive legislations, institutional weakness and pervasive influence of gender bias (ibid, 126).

The custom of titling only household heads effectively discriminates against women and actually deprives them of customary access and other rights. Customary institutions have important implications for women's rights to land. Cultural or local prohibitions against women's ownership of land are often more powerful than written laws that allow women to own land (ibid).

Discussing legal reforms and women's property rights, Renee Giovarelli (n.d) has argued that joint titling and inheritance are most often cited as the main issues when considering women's legal rights to land. Discussing the issue of land dispute resolution, Castarria-Cornhiel (n.d.) shares the key gender issues. She argues that women as a stakeholder group have a great difficulty in gaining recognition around land rights for two reasons: status and identity. Under the patriarchal system, women are accorded low status and gender is not easily perceived as a collective identity, particularly for women in rural areas, because they have minimal power, authority, and public action.

Of late, there has been the emphasis on gender-responsive titling. Castarria-Cornhiel (n.d. 153) shares that the formalization of property rights through land titling and registration guarantees state support for the land holder in his/her claims. Other positive results may be expected from titling including increased investment and agricultural production arising from improved access to markets such as credit. Not only should the formalization of land rights for women protect women's access to and control of land and facilitate access to production factor markets, but it may benefit them in other ways as well. Property ownership increases a women's bargaining power within the household and her status as a citizen in the community. A number of benefits from gender-responsive titling have been identified by the studies. These include: (i) land as collateral for accessing credit; (ii) secure rights to land may affect their ability to produce; (iii) granting women legal rights to land will give wives greater power to prevent the alienation of family land needed to support the family; (iv) titling makes it easy to alienate land, and (v) protection against dispossessing vulnerable families of their real assets (formal recognition of women's rights may make it more difficult to sell or mortgage land without their wives' permission).

When the importance of wives' rights to household land is recognized, one mechanism used is titling land to issue joint titles to both spouses and not only to the household head. Joint title is an important document for women in vulnerable situations as indicated above such as separation, divorce, abandonment, and widowhood because they do not need to follow an administrative or judicial process to prove that the property they had with the husband or companion does not belong to them (ibid).

If Nepal's case on land ownership is analyzed using gender perspective, the picture is bleak. Of the total holdings in Nepal, about 10 percent belongs to women and they occupy about 5.8 percent of the total

area under the land holdings. The rest of the land is owned by the males. This is the perspective from legal ownership title only but in practice, women cannot control the land in reality registered in their names. Feminization of agriculture due to male out-migration, non-involvement of males in non-farm activities, and decade-long conflict (1996-2006) leading to the displacement of mainly the males have created the situation for women to manage the land as the *de facto* heads of the households. But it is not clear how women are exercising such control over the land. Again, there is also the variation of the women's land ownership across caste/ethnic groups in Hills and Tarai (Shrestha,2010).

There have been studies with gender perspective on recent policies/legal provisions. Until the promulgation of Interim Constitution (2007), there were gender discriminations in the ownership and access to resources, including land. The Hindu patriarchy was the overriding social code in prescribing the ownership of land to males through inheritance. But the existing Constitution has clearly written, "There will be equal rights to parental (ancestral) property for men and women". Other recent land policies also have the provision for 50 percent reduction in land tax for registration of land if the titleholder is woman and during land distribution, both spouses' names are to be written in land certificate as titleholders. Limited studies have shown that the land tax rebate measures have had the positive effect on the increase of land registration in the names of the women (Adhakari and Shrestha, 2010). Given the paucity of research on the issues associated with joint land ownership and land entitlement to women in Nepal, an empirical research is of paramount importance.

This study of sociological nature will have direct policy implications on gender equity issues pertaining to land policy and administration on the one hand, and formulation of gender-sensitive training and monitoring and evaluation modules (through the development of indicators) for the land administrators and civil society activists working for women's empowerment through the promotion of their access to and control over land resource, on the other hand.

2.0 Objectives of the Study

The general objective of the study is to determine and explicate the contemporary condition of joint land ownership and land entitlement to women in Nepal. However, the specific objectives are to:

- (i) ascertain the status of joint ownership and land entitlement to women including the factors facilitating or hindering these processes, and the gap between legal system and policy pronouncement giving women the right to inherit the ancestral property and joint titling and their implementations at the grassroots level;
- (ii) ascertain the sociological factors constraining women in exercising their legal claims over the land;
- (iii) ascertain how land is a critical resource for a woman in the event that she becomes a *de facto* household head as a result of migration by men, abandonment, divorce, and widowhood;
- (iv) ascertain how customary institutions have important implications for women's rights to land among caste/ethnic groups;
- (v) ascertain and analyze the benefits from the gender-responsive titling (such as joint land ownership and land entitlement to women) through the empowerment process, and provide the

policy prescriptions to the government for the acceleration of the processes of joint land ownership and land entitlement.

3.0 Concept of the Study

This study borrows the interconnected arguments from Bina Agrawal (1998) for analyzing women's need of independent rights in land. These subsume four categories, namely, welfare, efficiency, equality, and empowerment. The welfare argument underscores that among poor households; rights in land can reduce women's own, and more generally, the household's risk of poverty and destitution (through the reduction of intra-household gender inequalities in sharing of benefits from the household resources). According to the efficiency argument, titling women and providing them infrastructural support could help increase output by increasing their access to credit, and to technology and information on productivity-increasing agricultural practices and inputs. The equality and empowerment arguments are concerned with women's position relative to men, and particularly with women's ability to challenge male oppression within the home and in the wider society.

Two aspects are important in the equality argument as follows: (i) The larger issue of gender equality is a measure of just society, in which equality of rights over productive resources would be an important, and (ii) there is the specific aspect of equality in land rights both as an indicator of women's economic empowerment and as a facilitator in challenging gender inequalities in other (e.g. social and political) areas. The link between gender equality and women's empowerment are of special interest and importance. Empowerment is a process that enhances the ability of disadvantaged (powerless) individuals and groups to challenge and change (in their favor) existing power relationships that place them in subordinate economic, social, and political positions. Entitling women with land would, on the other hand, empower them economically, and on the other hand, strengthen their ability to challenge social and political gender inequalities (Agrawal, 1998:27-39).

4.0 The Research Questions

Against this backdrop, the proposed study aims at answering the following research questions:

1. What is the status of joint land ownership under gender-responsiveness of government land policies?
2. What are the facilitating or constraining factors for accelerating the joint land ownership process?
3. How is the land entitlement to women going through the empowerment process?
4. What is the gap between legal system and policy pronouncement giving women the right to inherit the ancestral property and joint titling and their implementations at the grassroots level?
5. What are the sociological factors constraining women in exercising their legal claims over the land?
6. How is land a critical resource for a woman in the event that she becomes a *de facto* household head as a result of migration by men, abandonment, divorce and widowhood?
7. How customary institutions have important implications for women's rights to land among caste/ethnic groups?

8. What are the difficulties in gaining recognition around land rights?
9. What are the benefits from the gender-responsive titling (such as joint land ownership and land entitlement to women)?

6.0 Methodology

6.1 Approach of the Study

The study was initiated with developing the information matrix and collection of the relevant policy and academic documents that support to the conceptualization for the study. By nature of the study both primary and secondary sources of information were equally important. However, the sources of primary information were easy to trace out and collect which was also to have highly scattered. In such situation, the secondary sources were important to identify the location for the primary information.

Following the desk review, the conceptualization was made for the study and objectives were set. Based on the objectives set out, the research questions were posed to seek the answer to the questions from different sources. Series of brain storming discussions were held between and among the team and NES members and the other stakeholders to finalize the location for the primary data collection by visiting the direct women respondents and the community.

6.2 Sampling of Districts and Respondents

The study was envisaged during NES plan that the effect of the women land entitlement and joint land ownership as the government had adopted such policy to promote women land right with a focused program. From the time onwards (3-4 years ago), CSRC, NLRP and Abhiyan had have been working on community mobilization and campaigning for the access to land to the women, their rights and joint ownership of land in the name of husband and wife. This was a radical reform envisaged in the process of land reform.

The series of planning meeting between CSRC, Abhiyan, NLRP and CDS was held to determine the possible methodology especially the selecting the respondents. Basis of sampling the districts, the village development committees and the respondents both women and men was quite difficult task in the sense that the respondents were scattered both in terms of district and the community. A short reconnaissance visits were also made to find out and ascertain the districts but yet, become difficult to locate the area in efficient cost and time. A common consensus therefore, was ultimately brought to finalize the districts and village development committees on the basis of:

- (i) the area where community being organized
- (ii) the area where campaign for JLO/WLE initiated
- (iii) the people's land right movement and had access to land
- (iv) the villages where the both women and men actively involved in JLO
- (v) the location having the community of dalit
- (vi) the places in which the community solely belong the IPs
- (vii) the community where there has been gradual transformation to entrepreneurship development
- (viii) the location where high intensity of women having access to land
- (ix) the location also having the settlements of the land owners
- (x) the community having land houses

The following districts and the village committees were finally selected for the study. However, tracing out the respondents yet became difficult in one hand and on the other, the anticipated number could not be adequate during the time of survey. In such situation, the respondent households were identified from adjacent villages wherever, was found possible.

Development Regions	Hill Districts	Village Committees	Tarai Districts	Village Committees
Eastern	Dhankuta	Leguwa	Sunsari	Hansposa
Central	Sindhupalchok	Ramche	Mohottari	Khairmara
Western	Parbat	Pipaltari	Nawalparasi	Makar
Mid-Western	Surkhet	Uttarganga	Dang	Sisahaniya
Far-Western	Jajarkot	Jogbuda	Kailali	Dhangadi

6.3 Sampling Process

Processes followed in sampling for the study were as:

- (i) Two districts each from hills and tarai were selected from each of the 5 development regions
- (ii) Fifteen households were determined from each of 10 districts
- (iii) One or more village development committees depending upon the available respondents were chosen
- (iv) A total of 300 direct respondents were determined as the sample size.
- (v) Snow ball sample methods was applied to identify the respondent household

Besides, pre survey visits to the regional centres and districts based land revenue offices to understand the influence on JLO/WLE. Questionnaires for HH surveys; checklists for focused groups discussions and guidelines for case studies were prepared, translated into Nepali and pretested. Research associate were trained/oriented to conduct household surveys.

6.4 Surveys from PRA

Focused group discussions (FGD) and key informants surveys were other methods followed. Those surveys were taken from the same locality and the regional centres and the district head quarters to validate and verify the information particularly from the women, men, IPs, dalit and mixed groups, local leaders, CSOs, development partners etc. Lessons from case studies were also drawn and incorporated in the preliminary report particularly in area of women land entitlement and household decision making, women land entitlement and empowerment, sociological factors hindering single women on land entitlement, male migration and women land entitlement etc.

Till date, data collection work has been completed of 5 districts and two are ongoing despite of road blockade, disasters and other calamities especially during monsoon and bandhas (blockade).

6.4 Data Analysis

Quantitative data are analyzed by using SPSS and data are presented in frequency distributions, means and percentages. As per the need, a limited co-relational analysis has also been done.

CHAPTER II LEGAL AND POLICY FRAMEWORK

2.1 International Policy Framework

Human rights are vital in order to recognize the value and dignity of all people. Women are bound to be at disadvantage position, when equitable access on land and other productive resources became unattainable; the result is the breach of certain human rights. To focus on ensuring human rights to women various international legal and policy frameworks are set up. It doesn't only state the rights but it acts as an effective mechanism for states to execute, respect and protect the rights of their countrymen. International legal and policy frameworks help to ensure better rights for women in terms of access to various productive resources including the land and property.

For ensuring better rights on property, The Universal Declaration of Human Rights (UDHR, 1948) article 17, (1) stood as a milestone which states clearly that everyone has the right to own property and no one shall be arbitrarily deprived. More significant declaration for better women land and property rights was made in The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW, 1979) which is a landmark international agreement that affirms principles of fundamental human rights and equality for women around the world as Article 14 states the right of a woman to adequate living conditions subsequently article 15 states that woman have the legal right to enter contracts, own property, and choose their place of residence focuses on women property and land rights. Beijing Platform for Action (1995) ensures to obtain affordable housing and access to land, formulate and implement policies and programmes that enhance the access of women agricultural and fisheries producers, financial, technical, extension and marketing services; provide access to and control of land and as well as to mobilize to protect women's rights.

International Covenant on Civil and Political Rights (ICCPR) adopted in 1966 (Article 26) confirms that everyone is entitled to the equal protection of the law, without discrimination on any ground, including sex and 23(4) states that states Parties to take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution Article 23(4)¹. The International Covenant on Economic, Social and Cultural Rights (ICESCR) where in its Article 3, it vividly states that the States Parties to "undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant"²

Similarly, Istanbul Declaration on Human Settlement and Habitat Agenda (1996) which include obligations related to women's housing and inheritance rights. Legal security of tenure and equal access to land to all people, and undertake legislative and administrative reforms to give women full and equal access to economic resources, including the right to inheritance and the ownership of land and other property, credit, natural resources and appropriate technologies.

United Nations Commission on human rights resolutions 2005/25 on "Women's Equal Ownership of, Access to And Control Over Land and the Equal Rights to Own Property and to Adequate

¹UN-HABITAT, 2006. Women's Equal Rights to Housing, Land and Property in International Law. www.unhabitat.org

² ibid

Housing “affirms that discrimination in law against women with respect to acquiring and securing land, property and housing, as well as financing for land, property and housing, constitutes a violation of women’s human rights

2.2 Regional Policy Framework

The African Charter on Human & People's Rights (ACHPR) (1981) requires that States Parties to ensure that "every" discrimination against women is eliminated and that the rights of women and children are protected (Article 18 (2) and (3));³ African Union Protocol on the Rights of Women in Africa was adopted on 11 July 2003 in Maputo, Mozambique. Recognizes women’s equal right to an equitable sharing of the joint property deriving from the property of separation, divorce or annulment of marriage (Article 7(d));

The European Convention on Human Rights and Fundamental Freedoms (ECHR) adopted in 1950 , lays down the right to non-discrimination in Article 14, while Article 8(1) recognizes the right to a home. Article 1 of the first Protocol to this Convention refers to the right to peaceful enjoyment of property. Rights to land, adequate housing and to property are not explicitly laid down in this Convention.⁴ The article 17 of European Union Charter of Fundamental Rights recognizes the right to property. The American Convention on Human Right (adopted in 1969, entry into force 1978) recognizes equal rights as to, during and upon dissolution of marriage (Article 17) and The Additional Protocol on Economic, Social and Cultural Rights to the American Convention on Human Rights (adopted in 1988) prohibits any kind of discrimination.⁵ Social and Cultural Rights to the American Convention on Human Rights (adopted in 1988) prohibits any kind of discrimination ensuring equal rights to all.⁶

2.3 National Policy Framework

Nepal has come up with various legal and policy framework for protecting, executing and ensuring secure rights to women on property and land. For providing equal rights to women on various spheres, Interim Constitution of Nepal (2007) has played a vital role by bringing provisions that support women rights Nepal ratified in CEDAW in 1991 and it’s Optional Protocol in 2007 which worked as an effective support and mechanism to promote gender equalities to prohibit any types of discrimination and violence against women. Interim Constitution, 2063 (2007).In part 3 of the constitution which is on ‘fundamental rights’, it has been clearly stated that woman have equal rights. In article 20, it has stated that “There shall be no discrimination on account of being women, no physical, mental and other violence shall be committed to any woman and those committing such violence shall be punished by law and there will be equal right to parental (ancestral) property for men and women.

There are other various policies that work in favor for women rights. Such as 30.0 percent exemption has been given to the land registration tax on land transferring ownership to women in rural areas (GoN,

³ ibid

⁴ ibid

⁵ ibid

⁶ ibid

2010).The notion that land title holders should be the men “the household heads” was challenged and this policy acted as a tool for the paradigm shift in the concept of men land ownership. Further more land was increasingly transferred in the name of women giving them the title of landholders as a study was conducted in 13 land revenue offices across the country. 25.0 percent of the land registration was in the name of women (67,048 out of 163,495) (Adhikari, 2008). The launched of joint land ownership policy acted as a mechanism for promoting the idea of “gender” into land rights. Policy announcement has been made which has made further easier for women to be granted joint ownership of their husband’s land. The cost to the wife of affecting this transfer of ownership is a tax of NPR 100. In addition, 40.0 percent discount in the land registration fee has been made the provision to grant to village women living in remote areas.⁷

⁷ Policy & Program Announced in Nepal Budget Speech 2011/12 (2068/69)

CHAPTER III
SOCIO ECONOMIC IMPACT OF
JOINT LAND OWNERSHIP AND WOMEN'S LAND ENTITLEMENT

3.1 General Information

Sample population represents socio-cultural and economic characteristic of the total resident of the area from where the samples were drawn. Considering the facts of replicating and ensuring proportional representation of the total population in this study, a due considering was given in sampling stage to sum up socio-cultural divergent. The table (3.1) speaks about the status of demographic features of the sample respondents.

Table 3.1: Demographic Features

Details	%
Sample Population Composition	
Female	51.9
Male	48.0
Caste/Ethnicity	
IPs	50.5
Dalits	2.4
Others	47.2
Fully Illiterate	23.0
Agriculture as primary occupation	72.9
Average Household Size	4.82

3.2 Status of Joint Ownership and Land Entitlement

Ownership pattern of land under holding has been divided into joint land ownership and women land entitlement. The total land holding size (<0.5 ha and > 0.5 ha) was taken as a basis to compare between the two holding patterns in order to determine their land holding size.

Out of 150 respondents, 51.9 percent respondents women had land entitlement while 48.1 percent respondents got land through joint land ownership process. Among those who had land entitlement, 80.7 percent had land holding size lesser than 0.5 ha and just 19.2 percent had greater than >0.5 ha of land as in Nepal the overall holdings operated is less than 0.5 ha and, percent of total holdings is 52.7 (CBS, 2011) while the agricultural households with land (percent of total households) is 73.9 percent (CBS, 2011). Similarly, the respondents having joint land ownership, 70.2 percent had lesser than 0.5 ha of lands and 29.7 percent had more than 0.5 ha of land. In overall land ownership pattern, majority of them had the land holding size of less than 0.5 ha (table 3.2)

Types of land under holding as documented were low land suitable for high production and generally fully irrigated and the marginal upland generally not suitable for good agricultural crops. However, the sizes of land held by the poor were much of the marginal land than of the low irrigated land that give them a good production for their sustenance.

Table 3.2: Land Holding

Total Land Operated	Land Ownership Pattern			
	Women Land Entitlement		Joint Land Ownership	
	N	%	N	%
<0.5 ha	88	80.7	71	70.2
>0.5 ha	21	19.2	30	29.7
Total	109	100.0	101	100.0

3.3 Duration and Process of Land Entitlement

As the time length of holding rights over land resource contributes to think and set out decisions on diversifying the cropping pattern, adopting new and innovative skill and technology and promote sustainable farming that could support food security, the duration of land entitlement was also considered to be the critical factor and included in order to find out how long they have been involved in the land entitlement process.

Table 3.3: Duration of Land Entitlement

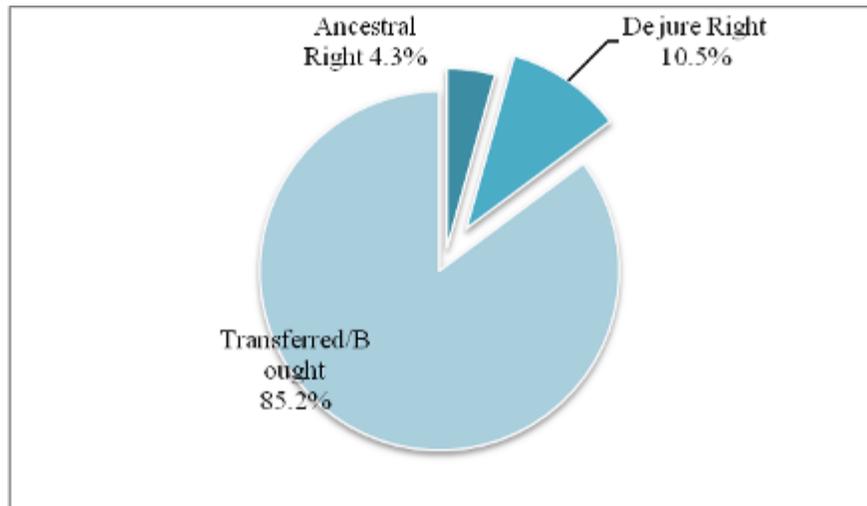
Duration	%
>5year	36.2
>10 Year	12.9
>1 Year	26.7
<1 Year	24.3
Total	100.0

The land holding period was divided into four different time periods. The first one was time period greater than one year (> 1 year) where 26.7 percent respondents agreed that they had entitlement on land which was more than one year. Likewise 24.3 percent had entitlement on land from less than one year period (<1 year) as joint ownership and women land practice was something new to the society as 30.0 percent exemption policy on women land entitlement came into the implementation 3- 4 years ago. Some 36.2 percent respondents had land entitlements from over 5 years whilst 12.9 percent respondents had land ownership from more than 10 years of time period.

Finding out the reasons on why land entitlement required was also another important area of inquiry in order to find how women could entitle land on their names. Scant women land and property ownership exists in Nepal, female ownership on house and land or land in the year 2001 in the national level was 11.7 percent and it was recorded 19.7 percent in the year 2011 (CBS, 2011).

Women land entitlement process was strengthened due to the launch of various policies, laws acts and regulations to ensure women with better land rights. The graph shown below give the picture that through ancestral rights 4.3 percent women were able to have entitlement on land as their parents provided them land in the form of dowry - the system of giving gifts cash or non cash to a woman by their parents on her marriage. As Interim constitution (2007) in part 3 of the constitution which is on 'fundamental rights', it has been clearly stated that woman have equal rights and there will be an equal rights to parental

(ancestral) property for men and women. Similarly due to *de jure* rights, about 10.5 respondents had entitlements on land. It is the right provided to single women on their husband's property. When husband dies all the property in the form of land or any types get automatically transferred in the name of the wife after then only as per wife's wish the property could be further divided among children.



Some 85.2 percent women enjoyed their land rights through the provision of land transferred/ bought on their names. This was possible due to various governing laws and policies ensuring women better rights such as 30.0 percent exemption has been given to the land registration tax on land transferring ownership to women in rural areas (GoN, 2010) and policy announcement on joint land ownership that ensured women to be granted joint ownership of their husband's land.⁸ Due to the tax exemption policy women were entitled land certificates so that family could take the advantages of tax waiver as it cost less before when men had land entitlement huge amount of cash went for paying the tax. The trend of male migration is increasing; the remittance that is sent by a husband to the family in such a case the amount sent is invested to purchase a piece of land which is transferred on the wife's name as women are receiving remittances as financial support them to mitigate the effect of an absent male (FAO, 2011).

Some of the women were economically capable to purchase a piece of land by their single effort and got the land certificates. Husband and wife could have a joint land ownership certificate which ensures men and women equal rights on property. The concept of joint land certificate brings the ownership feeling inbuilt in both husband and wife, higher mutual trust and cooperation develops. In the past, the situation where women of the household could get land entitlement was through the prevalence of *de facto* and *de jure* rights to female household heads. This concept was utterly challenged by the new concept that husband and wife can also have land certificate on both of their names without women being *de facto* and *de jure* headed household. As a result women got land entitlement through joint land ownership when husband's transferred land on their wife's name for enjoying equal land rights

⁸ Policy & Program Announced in Nepal Budget Speech 2011/12 (2068/69).

3.4 Government Support Services in Transferring Land Ownership

On what factors government support services were comfortable or uncomfortable in transferring land ownership was examined. Almost 30.8 percent respondents found that their registration process was done promptly without any delay because prior information on land registration process was disseminated by various organizations like women groups, land rights forums, NGOs working on land rights sectors.

About 20.5 respondents felt that office bearers helped them for all registration process and they didn't have to work hard for registration process. As land registration process seems lengthy, proper dissemination of information from staffs is needed in order to make the process less time consuming. About 23.1 percent found that they were provided with proper information on land registration procedures. Due to cooperative nature of staffs 15.7 percent agreed that they were cooperative in



registration process. Various para legal services are needed in order to apply for registration process like citizenship certificates, marriage certificate and other certificates and documents. They are the evidence based documents to claim for land rights certificate. Very few around 10.0 percent respondents felt that government para legal services were made available at ease. This result showed that still para legal services are time consuming to women and can stand as a problem in land registration process.

Table 3.4: Support Services

Comfortable Support Services (Yes)	%	Uncomfortable Support Services (Yes)	%
Prompt registration work	30.8	No lawyers to consult	54.4
All done by office bearers	20.5	Office bearers not cooperative	19.3
Information was disseminated properly	23.1	Office bearers not clear about procedures	10.5
Office bearers so cooperative	15.7	Legal service not prompt	14.0
Para legal services made available	10.0	No proper services given	1.8

Land registration is a legal process where the title holders have to submit various legal documents to apply for land registration process. In the part of government's uncomfortable supporting services having no lawyers to consult was agreed the most, around 54.4 percent respondents felt the absence of lawyer. Around 19.3 percent found that the office staffs were not very cooperative and 10.5 agreed that people in the office were unable to communicate clearly about the procedures. Legal service and registration

process was not prompt which 14.0 respondent agreed. People were provided with services but the service delivery was very slow and people found it time consuming and lethargic as 1.8 percent found so.

3.5 Perception of Society on Joint Land Ownership (JLO) Policy of the Government

The perception of society on Joint land ownership of the government was analyzed in order to find out in detail about the knowledge society had on JLO and also how well the information on JLO was disseminated at the community level.

Both husband and wife having joint land certificate was a subject that was something new and unfamiliar to the patriarchal society. So society people perception towards joint land ownership policy of government plays a vital role in order to develop knowledge, to understand in depth and disseminate the information. Almost 51.6 percent respondent agreed that there was community meeting on JLO issue on it's merits and demerits. Women groups, land right forums, various NGOs working on land sector disseminated information about JLO at a wider level. Community people somehow in the early days took JLO concept as, it was originated to bring conflict in the house and to create a row and misunderstanding between husband and wife as equal division of property between them was quite unacceptable.

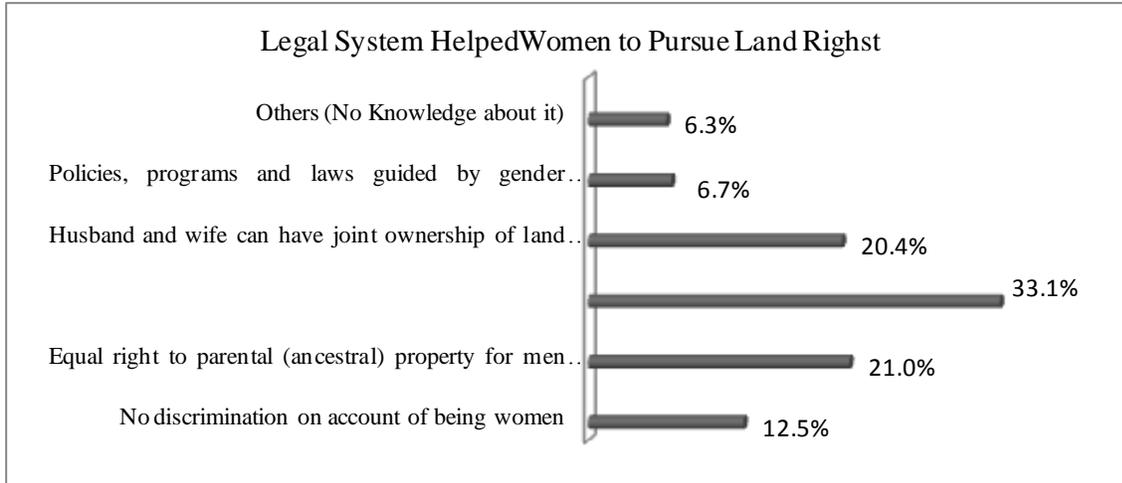
Table 3.5: Perception of the Society

Society's Perception on Joint Land Ownership	N	%
Community people discussed on JLO issue		51.6
People initially confused; later they realized		26.1
Common consensus of women adopted in the community for JLO		19.0
Family members decided jointly to go for JLO		3.3
Total		100.0

Proper knowledge shared on JLO concept made their confusion clear as 26.1 percent respondent felt that they were initially confused on the issue of JLO but later they realized the need. As women group have been actively campaigning on the issues of women land rights and community women were in favor of JLO as they believed joint land ownership could transformed their lives and make them the property owners since from ages they are deprived from their property and land rights. Therefore, 19.0 percent community women among them a common consensus was adopted to go for the JLO. Only fewer families around 3.3 percent were utterly in a position to accept JLO and jointly go for the JLO as still JLO concept is obscure for the community people and to accept it completely takes a longer time period.

3.6 Legal System: Helped Women to Pursue Land Rights

There exist various legal plans, programs and policies to ensure women with better land rights. The policies announced, laws executed for secure and better rights to women were analyzed to find out whether legal system was effective on behalf of women to pursue their land rights.



Among the various legal system announced and executed to ensure better women rights. The tax exemption policy of the government acted as a powerful legal system that helped women to pursue their land rights, almost 33.1 percent respondents agreed that it contributed in a larger extent. It is because this policy is based on tax wavier and men usually transfer his piece of land in his wife’s name. In the Interim constitution (2007) of Nepal it is clearly stated that there is a provision of equal right to parental property for man and women who helped 21.0 percent to claim for their land/ property rights. The joint land ownership policy of the government made provisions that husband and wife can have joint ownership with NRs 100 that made easier to transfer land on both of husband’s and wife’s name which helped 20.4 percent respondents to pursue their land rights.

As there is no discrimination on account of being women mentioned in the constitution of 2007, this ensured better rights to women. Around 12.5 percent felt that no discrimination in acts, rules and policies helped to gain their rights. Nepal’s ratification in CEDAW in April 1991 and its Optional Protocol in June 2007 which has promoted gender equalities and policies to end all kinds of discrimination against women, where gender mainstreaming is taken into major consideration almost 6.7 percent respondents believed that policies, programs and laws guided by gender mainstreaming concept made easier to claim for land rights. 6.3 percent respondents were almost unfamiliar about the legal system as because they are not properly communicated about it as well as social factors such as age, educational level made them disinterested in pursuing their land rights.

3.7 Social Factors Endured the Most as a Problem to Claim for Land Rights

Patriarchal society itself stands as a big challenge for all women to claim for their rights. When women claim their rights, it’s tough they have to fight within their household and major problem is when society is unsupportive towards them. There are various social factors responsible to put back women at a disadvantage position when they ask for their rights.

When it comes to trust the capacity and potential of women to carry out their land rights, the society is still dubious almost 20.2 percent respondent felt that the society doubtful nature as social factors that they

endured the most. There is a misconception in the society that women will elope after registering the land and property on their names as land is seen as having ‘sinister’ intentions either to run away from her marital home, or use it as a place to ‘entertain’ other men (Mbote, 2005). Support and Cooperation from society is needed for every woman to claim their rights, 19.3 percent respondents took uncooperative and non supportive nature of the society as a social factor to be endured.

Table 3.6: Social Factors

Social Factors Endured the Most	%
Society is dubious about potential to carry land rights	20.2
Society doesn’t provide full support and cooperation	19.3
Patriarchal society makes weak and lowers confident level	18.5
Family members afraid whether women become powerful	9.4
Gender mainstreaming ideas are not fully accepted	9.3
Domestic violence stop voice to pursue rights	7.4
Society doesn’t communicate nor allow others to disseminate information	5.9
Women lack interest in knowing their land rights	5.2
Society still take this issue as a minor and think women better stay quiet	4.9

Women are backward due to the predominance of patriarchy in law, policy, and practice ensures that the land has owners but that they are not women (Mbote, 2005) is vividly accepted as 18.5 percent respondent took patriarchal society as social factor that made them weak and lowered their self confident level. 9.3 percent respondent believed that male members of the family were afraid that when women had land rights they became powerful than them so they didn’t allow to go for rights .The unwilling nature and denial of power transfer to women acted as a social factor to be bear by women. The concept of gender mainstreaming that both men and women are equal in every sphere of life is not fully accepted by the people as it stood as a social factor that 9.3 percent respondents endured. Due to domestic violence within the household level and society 7.4 percent respondent couldn’t claim their land rights. 5.9 percent respondent felt that society people didn’t communicate nor allowed others to disseminate information which was a barrier to claim for rights. 5.2 percent respondent felt that women did lack interest in knowing their land rights and 4.9 percent believed that society unacceptable nature that women land rights issues are minor one and better they keep quiet on land rights issues stood as a social factor that women endured while claiming land rights

3.8 Land as Critical Resource for a Woman

Land is a critical resource for women as it is the most valuable assets. It has various functional roles like it is a part of economic activity; it is associated with dignity, culture, identity and source of power. When women become de jure and de facto household heads land is taken as a prime resource for future security in the case of male migration, abandonment, divorce and widowhood. Without prevalence of any unforeseen circumstances land is always a key resource to rely on whether it is used for agricultural purpose, homestead or commercial purpose. For a woman especially when she becomes a *de facto* or *de jure* household head land is only the resources that can boost up her social, economical, culture identity. *De facto* households women may be receiving remittances as financial support them to mitigate the effect

of an absent male (FAO, 2011). 13.8 percent respondent took land as a source of future security as serves as assets that can deal with any catastrophic loss. Women connect land with their self identity, as 13.5 percent respondents took land as matter of prestige in the society. Almost 13.0 percent respondent believed that land stood as the most powerful economical resource as it is a valuable asset which serve as “cash in hand” and “cash at bank” at the time of financial crisis.

Table 3.7: Women and Land

Land as a Critical Resource because	%
Source of greater future security	13.8
Social prestige	13.5
Powerful economical source	13.0
High psychological benefits	12.8
Easy access to financial services	12.1
Higher social networking	7.2
Gain of power to harness decision making	6.5
Ability to deal with food insufficiency	5.6
Better agricultural development	5.2
Better household management	4.2
Access to subsidies on agricultural services	3.5
Ability to deal with climate change	2.4

Qualitative benefits are also associated with land entitlement as 12.8 percent respondent got the psychological benefits like they felt satisfied, happy and a sense of power transferred to them. Access to credit is easy when land certificate is in the hands of women as 12.1 percent felt that land on their names

can get them into the financial market as land is a key asset for economic activity and the functioning of market such as credit and non market institutions (World Bank, 2003). 7.2 percent took land as a medium to built up and enhance their social networking among women’s groups and other community members as they shared their knowledge , understanding among them. Land stands



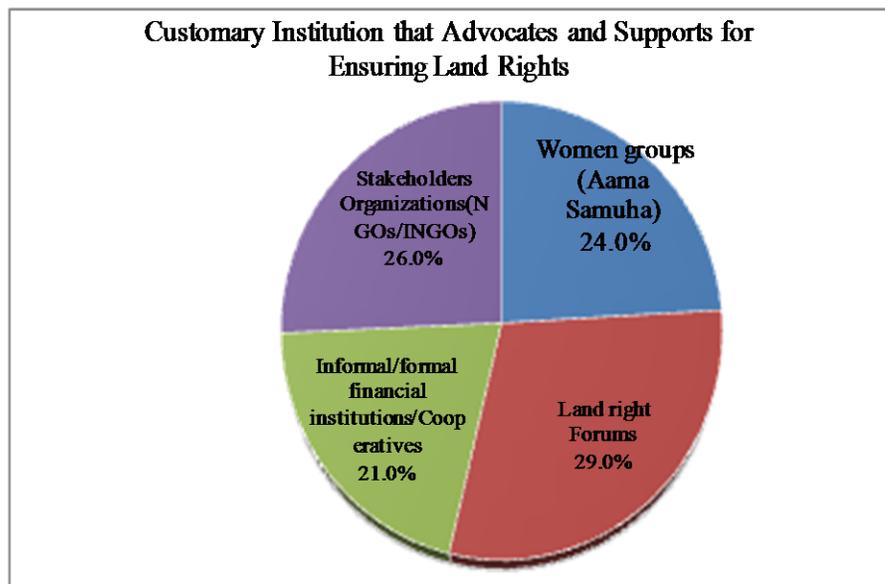
as a source of power as 6.5 percent respondent found land as a mechanism to gain power and a tool to harness decision making practices (Woldetensaye, 2007) such as decision making on land use and improvements, control of products harvested from land including incomes earned from sales of products and decisions on land transfer through bequeath, inheritance, sale or rent. 5.6 percent respondent took

land as food supplier that deals with food insufficiency and 5.2 percent found land as critical resource for better agricultural development. Household management could take place in a better way as 4.2 percent respondent agreed upon it. It provided a platform to have access to the input subsidies on agricultural services and it helped s to deal with climate change was agreed by 3.5 percent respondents and 2.4 percent respondent respectively.

3.9 Customary Institution in the Community that Advocates and Supports for Ensuring Land Rights

Customary institutions play a vital role in the community through advocacy and supporting people to ensure their land rights. They can play the role of catalyst through disseminating huge knowledge, ideas about land rights and its importance among the community people. The role of different customary institutions was analyzed to find out their supporting activities, synergy effect among various customary institutions working in land rights sector and their position in the community for ensuring better land rights.

Among the four customary institutions, land right forums played the most active role in order to advocate and support land rights to women and men. Around 29.0 percent respondents claimed that land right forums were able to advocate properly about women land rights, disseminated information on women land rights, provided the platform for women to raise voice for land rights and supported, helped for women to take joint land ownership certificate and women land entitlement certificates.



Through massive campaigning on women land rights majority of women got their land rights certificate. Another active role was played by various stakeholders' organization for ensuring land rights. NGOs were one of the key stakeholder organizations who worked for equal land rights as 26.0 percent respondent voted it as the second effective customary institution. NGOs advocated for women land rights, they campaigned jointly with land right forum on issues of land rights, disseminated information and provided basic information about women land rights . 24.0 percent respondent believed that women groups (*Aama Samuha*) did work for ensuring land rights to the community people. Provided necessary information to women about land rights, organized programs like talk shows, seminars on women land rights, communicated about the laws, policies about land rights and provided free consultation to women about land registration process. Nearly 21.0 percent respondents identified the role of informal/ formal financial institutions for supporting land rights through their financial services to women and men. The

land right document/ certificate can be placed in the financial institutions as collateral and the loan amount can be withdrawn at the time of need. The title of land makes it easy for farmers to use the land as collateral for credit and it is hypothesized that for farmers who have collateral can easily get access to financial market and increase the supply of credit available to them (Feder and Noronha, 1987 as cited in Tenaw et.al., 2009). The role of financial institutions was, they provided loan for commercial purpose as well for agricultural purpose.

3.10 Benefits Associated with Agriculture through JLO and Land Entitlement

Through women land entitlement and joint land ownership women can get various supportive benefits associated with agriculture. As it strongly believed that women land entitlement is correlated with agricultural development as enhancing woman land rights could increase overall production (Agarwal, 2003) and land productivity to transform women’s lives and its attainment requires multi-sectoral cooperation (Kachika, 2009) like access to other supporting services like inputs, extension services, credit, and technologies etc which boost the agricultural production.

Table 3.8: Benefits to Women

Benefits of JLO and Land Entitlement (LE)	%
Ability to expand agricultural business	19.1
Access to agricultural inputs	17.8
Responsibility towards land related decisions	16.9
Access to market as of husband	16.1
Access to formal credit	12.6
Ability to use knowledge for crop selection/diversification	10.6
Get extension services	5.9
Opportunities in trainings/seminars	1.00

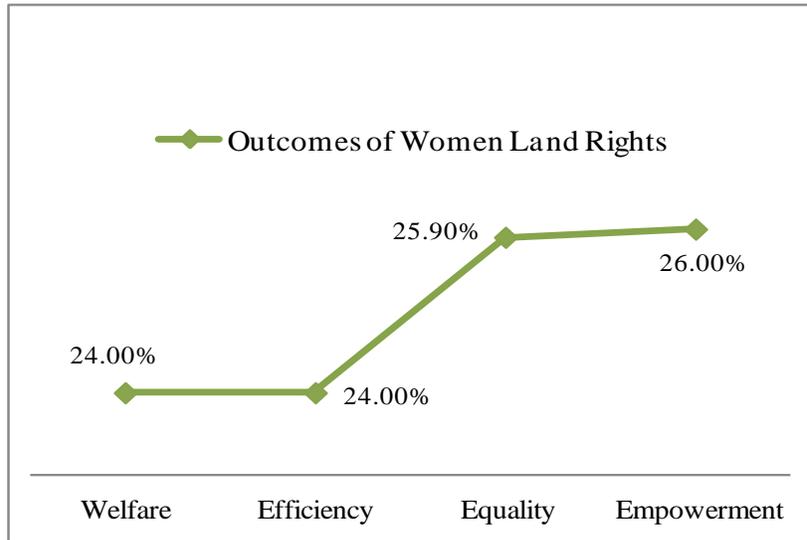
Almost 19.1 percent respondent found that land could be placed as collateral anytime and amount taken as loan could be invested into the agricultural business as it was stated that the availability of credit is indispensable to small farmers to improve their agricultural productivity and to enhance their household income and food supplies (Mvududu, 1994). Social networking was accelerated as 17.8 percent respondent found so. 16.9 percent found that through land entitlement they were made responsible towards land related decisions like selling, mortgage, crop diversification, to choose agricultural market. Through joint land ownership and women land entitlement 16.1 percent respondent could have access to market to sell the vegetables grown in their agricultural land. 12.6 percent respondent felt easy access to agricultural credit provided by various financial and non financial institutions. Nearly 5.9 percent respondent had achieved some sort of extension services from government and other organizations as a support in the agricultural sector. Very few around 1.0 percent could participate in training, seminar to gain knowledge in order boost the agricultural production and productivity.

3.11 Four Outcomes of Women Land Rights

This study basically had put effort to assess the outcomes in terms of welfare, efficiency, equality and empowerment. All those outcomes are found to have linked with the land entitlement to the women.

Several writers (Duncan and Ping, 2001; Agarwal, 2002) have opined that when women have access to land with entitlement, it provides direct channel for increasing women’s welfare as well as their contribution to the family welfare which eventually would enhance as betterment of children and family members. Formal rights to land for women can have an impact on intra household decision making, income pooling and women’s overall role in the household economy (WB, 2005).

Independent and effective land rights for women have been identified by researchers and policy makers as vitally important for family welfare, food security, gender equality, empowerment, economic efficiency and poverty alleviation. Studies (Agarwal, 1994, 2002) have attested that all such outcomes were highly achieved in the context of women land entitlement and joint land ownership. Among the four major outcomes, 26.0 percent respondent felt highly empowered due to land entitlement.



The major indicators that found to empowered women were, the more negotiating and bargaining capacity developed active involvement in the community level activities, built of confidence and enhanced the social networking. The outcomes stated as equality was also highly agreed upon by 25.9 percent respondent. They felt that it brought equality in terms of decision making at household level, more secured feelings, a sense of respect from family members, domestic violence couldn’t take place. Almost 24.0 percent respondent (in each) derived the outcomes of welfare and efficiency. Welfare in terms of that the overall family better management took place such as more girl child was sent to schools, cut off the extravagant income that goes on alcohol, tobacco, gambling ,better health of family members and children were sent to private schools. Efficiency were derived through purchased of additional household assets, amount invested in children better education, saved money and deposited into the bank and they were able to make smaller investments in productive sector.

REFERENCES

- Adhakari, Jagannath and Shrestha, Bharat.2010. “Nepal’s Experience on Agrarian and Land Reforms: A Retrospective Analysis” in Bharat Shrestha (ed.) Nepal: Land and Tenure System. Kathmandu: Mobilization and Development, Nepal, International land Coalition and College of Development Studies
- Agrawal, Bina.1998. A Field of One’s Own: Gender and Land Rights in South Asia. New Delhi: Cambridge University Press and Foundation Books, India.
- Giovarelli, Renee.n.d. Legal Reforms and Women’s Property Rights.
- Lastarria-Cornhiel, Susan.n.d. Gender Issues in Land Policy and Administration.
Lastarria-Cornhiel, Susan. n.d. Gendered Access to Land and Property.
- Shrestha, Bharat.2010. “Land Resources: Availability and Distribution” in Bharat Shrestha (ed.) Nepal: Land and Tenure System. Kathmandu: Mobilization and Development - Nepal, International Land Coalition and College of Development Studies.
- Agarwal,B.1988.Who Sows? Who Reaps?Women and Land Rights in India. The Journal of Peasant Studies 15 (4): 531-581.
- _____.1995.Women’s Legal Rights in Agricultural Land. Economic and Political Weekly, Bombay.Review of Agriculture, March.
- _____. 2003.Gender and Land rights Revisited: Exploring New Prospects via the State, Family and Market.Journal of Agricultural Change.Vol.3:184-224.
- _____.2001.Gender and Land Revisited: Exploring New Prospects via the State, Family and Market.UNRISD conference on Agrarian Reform.Geneva.
- _____. 2002. Are We Not Peasants Too? Land Rights and Women’s Claim in India. Population Council. New York. <http://www.popcouncil.org>.
- _____.1994.Gender and Command over Property: A critical Gap in Economic Analysis and Policy in South Asia.Volume 22:1455-1478.Elsevier Science Ltd, Great Britain.
- Cotulla,et.al.2006.Policies and Practices for Securing and Improving Access to Land .Issue Paper No.1.FAO,Rome,Itlay and IIED, London.
- _____. 2002.Gender and Law: Women’s Right in Agriculture. Legislative study 76.FAO.Rome, Itlay
- Woldetensaye,A.2007.Women’s Access to and Control over Land in the Current Land Administration System in Two Rural Kebeles in Ada’a Woreda of Oromia Region.The Institute of Gender Studies. Addis Ababa.
- Deere et.al.,2004. Female Land Rights and Rural Household Incomes in Brazil, Paraguay and Peru. Economics Department Working Paper Series. Paper 75.
- http://scholarworks.umass.edu/econ_workingpaper/75

FAO.2006. The Role of Agriculture and Rural Development in Revitalizing Abandoned/Depopulated Areas. Food and Agriculture Organization of the United Nations .Rome, Italy.

FAO.2010. Women in Agriculture: Closing the Gender Gap for Development. Food and Agriculture Organization of the United Nations. Rome, Italy.

Corbelle, E and Crecente, R.2008. Land Abandonment: Concept and Consequences .Revista Galega de Economía, vol. 17, no. 2.

Khanal, N and Watanabe ,T. 2006.Abandonment of Agricultural Land and Its Consequences. A Case Study in the Sikles Area, Gandaki Basin, Nepal Himalaya.Mountain Research and Development Vol 26 no 1: 32–40

Steinzor,N.2003.Women’s Property and Inheritance Rights: Improving Lives in a Changing Time .U.S. Agency for International Development.USA.

Mbote,K.,2005.Inheritance, Laws and Practices Affecting Kenyan Women In Makumi Mwangiru (ed.),African Regional Security in the Age of Globalisation.Heinrich Boll Foundation.Nairobi <http://www.ielrc.org/content/a0502.pdf>

Duncan,J. and Ping,L.2001. Women and Land Tenure in China: A Study of Women’s Land Rights in Dongfang County, Hainan Province. The Rural Development Institute.USA.

ECA.2003.Land Tenure Systems and Sustainable Development in Southern Africa.Economic Commission for Africa. Lusaka, Zambia.

FAO.2011 The role of Women in Agriculture.ESA Working Paper No. 11-02 Food and Agriculture Organization of the United Nations. Rome, Italy. www.fao.org/economic/esa

Chanda,R.2012. Migration between South and Southeast Asia: Overview of Trends and Issues.ISAS Working Paper No. 140.National University of Singapore. Singapore. www.isas.nus.edu.sg

Roa,N .2011. Women’s Access to Land School of International Development, University of East Anglia. United Kingdom.

McEvoy, 2008.Male Out-Migration and the Women Left Behind: A Case Study of a Small Farming Community in Southern Mexico. All Graduate Theses and Dissertations, Paper 179.<http://digitalcommons.usu.edu/etd179>

Trung, L.2008. Two-name Land Use Certificates and Gender Inequality: An Empirical Investigation for Vietnam.The DEPOCEN Working Paper Series No. 2008/19. Centre for Analysis and Forecasting, Vietnam Academy of Social Sciences. Vietnam. <http://www.depocenwp.org>

WB.2008. Analysis of The Impact Of Land Tenure Certificates With Both The Names Of Wife and Husband In Vietnam. World Bank. Washington, DC.

Klaus Deininger, K.2005. Land policies for growth and poverty reduction: Key issues and challenges ahead .J:\Admin\DAC_Paper.doc