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**Property Rights, Intersectionality, and Women's
Empowerment in Nepal**

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ABSTRACT

Property is widely recognized as an important resource for empowering women. Many development policies worldwide therefore call for strengthening women's rights to property, especially to physical assets such as land and livestock. However, the relationship between property and women's empowerment is more complex than generally assumed because of the overlapping and dynamic nature of property rights. In this paper, we explore how property rights affect the empowerment of women at different stages of the life cycle and different social locations, ethnicities, household structures, and social class, using the lens of intersectionality. Drawing on ethnographic research conducted for the "Evaluation of the Welfare Impacts of a Livestock Transfer Program in Nepal," we examine patterns in women's ability as well as desire to exercise specific rights over joint and personal property within their households. The findings show that legal categories of property rights in Nepal fail to account for nuanced rights to assets shared within households. Rather than emphasize individual control over assets for women's empowerment, the social relations around property need to be considered to understand which rights women value and want. The paper makes recommendations for how research and development projects, especially in South Asia, can avoid misinterpreting asset and empowerment data by incorporating nuance around the concepts of property rights over the life cycle.

Keywords: Gender, Property Rights, Life cycle, Intrahousehold, Empowerment, Intersectionality

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1. INTRODUCTION

Property is widely recognized as an important resource for empowering women. Numerous studies, mostly based on household surveys (Carter and Barrett 2006; Meinzen-Dick et al. 2011; Quisumbing et al. 2015; Johnson et al. 2016), have shown that enhancing women's ownership of and control over physical and financial assets improves their bargaining power within the household, makes them more economically autonomous and independent, and increases their control over income generated by the assets. In contrast to income, assets can generate products and services for income and consumption, store wealth, buffer shocks, increase labor productivity, be passed on to future generations, and serve as a visible sign of status (Deere and Doss 2006; Doss, Grown, and Deere 2008; Meinzen-Dick et al. 2011). In Nepal, several studies have found that women's land ownership is associated with greater involvement in household decision-making, a common indicator of women's empowerment (Allendorf 2007; Campus 2016; Mishra and Sam 2016; Pandey 2003, 2010).

Many development policies worldwide call for strengthening women's property rights, especially over physical assets such as land and livestock. However, the relationship between property and women's empowerment is more complex than assumed in these policies because of the overlapping and dynamic nature of property rights, and the intersection of gender with other identities such as ethnicity, caste, class and social location of women within a household.

The term "assets" refers to that which is valued.¹ Property is better and more usefully understood not as a valued good or even as relations between persons and valued goods, but as relations between persons with respect to valued goods (Benda-Beckmann, Benda-Beckmann and Wiber 2006; Hann 2000; Sabeen 1997). Norms and understandings of what constitute property rights and 'ownership' vary across contexts. Social relations, influenced by gender, caste/ethnicity, class, kinship, and so on, determine to a

¹ The Gender, Agriculture and Assets Project (GAAP) defines assets as, "The stock of all resources that a person accesses, controls, or owns make up his or her assets...The term 'assets' and the term 'capital' are often used interchangeably" (GAAP 2012, 6). This can include a wide range of assets, including physical, financial, human and social capital, but among these, ownership of land and other major tangible assets have received particular attention.

great extent the distribution and actualization of property rights (Benda-Beckmann and Benda-Beckmann 2000). Moreover, women in different social and economic contexts experience different norms around acquiring, maintaining, using, and benefiting from assets, and therefore how women use property to empower themselves varies.

Most analyses of property rights as social relations focus on the links between the rights-holders and the state, or with other communities and households who either contest or uphold claims to property rights. While all of these are relevant for women's property rights, it is also essential to look at social relations within the household, which are structured by gender and kinship norms and practices. These, in turn, may vary across ethnic and caste groups, some being more egalitarian and less discriminatory than others. Relations between men and women, parents and children, daughters and in-married women, husbands and wives are unequal and consequently they all have different and unequal property rights to the joint property of a household.

Property rights are not fixed but rather dynamic, subject to change due to changes in laws and norms pertaining to property, in gender and kinship norms and practices, in marriage and divorce norms, in the availability of employment and earning opportunity outside the family farm or business, and so on. Because property rights are embedded in social relations (Hann 2000, Varley 2010; Whitehead and Tsikata 2003), changes in social relations lead to changes in property rights relationships. In particular, changes in the household, including marriage, divorce, birth and death provide opportunities for individuals to (re)negotiate property rights.

In this paper, we explore how different norms around property rights affect the empowerment of women of different social positions over the life cycle. We first review the conceptual foundations of property, empowerment, and intersectionality, and then present the methodology and empirical findings from ethnographic field work in Nepal. Going beyond formal ownership of property, we look at changes in property rights over personal and joint property at different stages of women's lives. Finally, the paper makes recommendations for how research and development projects, especially in South Asia, can avoid

misinterpreting asset and empowerment data by incorporating nuance around the concepts of property rights over the household life cycle.

2. CONCEPTUAL FOUNDATIONS

Property

To understand women's property rights in practice, it is important to go beyond narrow conceptions of property as statutory "ownership" of things, to recognizing property rights as social relations among people, encompassing many different bundles of rights, which may derive from not just state law but a range of religious, project, customary, and local law (see Meinzen-Dick and Pradhan 2002). In this section we review how these key concepts relate to women's property rights.

Legal pluralism

When thinking of property rights, especially over land, many people, especially from the global North or cities in the global South focus on statutory definitions of rights, especially titles to land and statutory inheritance rights. But state law is not the only, or even always the most salient, influence on property rights in practice, especially in rural areas or where the state has limited control. The coexistence of multiple legal orders—legal pluralism—is widely acknowledged, even by lawyers. Legal anthropologists note that every "social field" such as a village, an ethnic community, an association, or a state creates its own kind of formal or informal rules (Moore 1973). These include state (or statutory) law enforced by the government; religious law, based on written doctrines and accepted practice; customary law, which may be formal written custom or living interpretations; project (or donor) regulations associated with particular programs; organizational rules, such as those made by user groups; and a range of local norms, which may incorporate elements of other laws (Meinzen-Dick and Pradhan 2002). In the case of women's property rights, it is also important to consider the household as a "social field" which creates its own type of law.

The influence of each of these varies over space and time. For example, state law may have a stronger influence in cities, or shortly after the passage of reforms of property or inheritance law, if these are widely publicized; customary law would be expected to be more salient in more isolated areas. However, the different legal orders are not isolated. Rather, they interact and influence each other, and are

“mutually constitutive” (Guillet 1998). For example, a statutory reform giving inheritance rights to wives may not ensure that this happens overnight, but as women begin to appeal to state courts, the “custom” may change to recognize stronger rights for widows.

Having a right does not necessarily mean that one can operationalize that right. Benda-Beckmann and Benda-Beckmann (2000), distinguish between categorical rights, which are general rights in principle, and concretized specific rights that an individual can avail in specific contexts. These specific contexts are generally shaped by the social relations in which property rights are embedded.

Bundles of rights

It is now common to use the term “bundles of rights” to refer to the multiple, overlapping kinds of rights an individual can have over a property or the different kinds of rights that different individuals can have over the same valued good. One approach to this follows the formulation suggested by Schlager and Ostrom (1992, 250-51), who offer a hierarchy of five bundles of rights: access, withdrawal, management, exclusion and alienation. An individual may have access and withdrawal rights but not management rights, which may be held by another person. “Ownership” is then considered to be holding all five types of rights.² Whereas for natural resource management all five bundles are important, within the household the difference between access and withdrawal is not as important,³ nor the difference between management and exclusion. Therefore, a number of studies of women’s property rights focus on three critical bundles of rights: use, control (which, in this usage, usually refers to management and exclusion), and ownership (Agarwal 1994; Doss et al. 2014; Johnson et al. 2016).

Another strand of literature, based on legal anthropology, also uses the bundles of rights concept in discussing property rights. According to this view, rights to use and exploit economically are distinct from rights to control, regulate, supervise, represent in outside relations, and allocate property (Benda-

² Schlager and Ostrom group these five rights as operational level rights (access and withdrawal rights) and collective-choice level rights (management, exclusion and alienation), but they are now more commonly considered as use rights and decision-making rights, respectively.

³ It is useful to distinguish between access and the right to access. Women may be allowed to farm a particular plot of land—given access to it—without having a recognized right to access land. The right to access would involve having a claim or a right to be able to use it—rather than simply that someone is willing to allow them to use it under a specific set of circumstances—which Pradhan and Pradhan (2000) refer to as “tolerated use”.

Beckmann and Benda-Beckmann 1999, Wiber 2005; Hann 2000).⁴ Rights to control, regulate, supervise include rights to manage and to make decisions, whereas rights to allocate include rights to decide whether to lease, sell or bequeath an asset. The right to exploit economically is similar to the ‘*fructus*’ bundle of rights derived from Roman law. Fructus is the “right to the produce, income, or profit of the resource” (Benjaminsen and Ba 2009,77).

For the purposes of analyzing women’s property rights, we find it useful to draw from several of these classification systems, and focus on use, fructus, management, and alienation rights to property. **Use** refers to the rights to use an asset, such as to cultivate a plot of land, or milk a cow. **Fructus** refers to the rights to control the produce, or benefit economically. This is distinct from the use rights, in that women often cultivate land or care for animals, but the produce is sold by husbands or others in the household, and the woman has little control or direct economic benefit. **Management** refers to the rights to make specific decisions about the asset, such as which crops to plant, whether to plant trees or invest in other soil conservation measures on a plot of land, or get veterinary care for livestock. **Alienation** refers to the right to sell or give away the land (including to choose inheritors of the land). We also use the term **control** in the sense of exercising a higher-level decision-making authority than management right.⁵ Multiple people can have overlapping bundles of rights to the same property. For example, farmers may have the exclusive rights to land during the growing season, but those with animals have the right to use the land for grazing during the fallow season. Arnold (2002) argues that overlapping bundles of rights create a “web of interest” among people. The presentation of results in this paper shows how interlinked this web is in rural Nepal.

Property Rights and Women’s Empowerment

Women’s ability to benefit from property will vary according to the type of assets and household power dynamics. Agarwal (1994) asserts that agricultural land is the most important asset for increasing

⁴ These two categories of rights are similar to Max Gluckmann’s (1972, 89) distinction between “estates of production” and “estates of administration”.

⁵ Others (e.g. Johnson et al. 2016) use “control” to cover management and alienation rights, as specific decisions. We use the term to refer to broader decision-making, and refer to management and alienation when discussing those specific decisions.

women's bargaining power within households in rural economies because, as a durable asset, land is less likely to be sold than smaller, more liquid assets that women are more likely to own; others have pointed out the value of land as a visible way of increasing status and often political recognition. Deere et al. (2013) find that the value of assets relative to other household member's holdings matters for bargaining power. For women in households with other adult decision makers, women's own control over assets may also increase bargaining power through increasing women's status and control over income. Women can threaten to revoke spouse's or other household member's access to or inheritance of the assets that women control, or use assets as an exit option to escape (or threaten to leave) a household.

Assets could contribute to empowerment by helping expand women's ability to make strategic life choices in contexts where this ability was previously denied (Kabeer 1999), but important nuance in women's relationship to assets are necessary to interpret whether assets are empowering. In terms of rights to the asset, women's use or management rights to an asset do not necessarily guarantee her ability to control income generated by the asset (fructus right) (Theis et al. 2017). Finally, the use of physical assets to achieve women's goals may be relatively minimal compared to other contributors to bargaining power, such as cash income earnings, education, or maternal family support (Allendorf 2007).

Intersectionality

Although a broad literature discusses how gender should not be considered a "stand alone marker of social difference, but as a social category that gains meaning through its time- and place-specific interplay with other social markers of difference" (Carr and Thompson 2014, 187), very often binary gender variables are used for gender analysis, without defining or analyzing additional social differences systematically (Carr and Thompson 2014; Chant 2008; Davis 2008; Bastia 2014; van Aelst and Holvoet 2016). However, a growing body of literature draws on intersectionality theory to identify how different

social categories, in addition to gender, interact and affect outcomes in rural development.⁶ With its roots in feminist and critical race studies of the 1980s, intersectionality challenged the “single-axis” focus of feminism and antiracism, particularly challenging mainstream feminism to acknowledge the qualitatively different experiences of women of color (Anthias and Yuval-Davis 1983; Crenshaw 1991; Nash 2008). Intersectionality seeks to understand the mutually constitutive relationships between systems of oppression and privilege, which shape people’s experiences of inclusion and subordination (Davis 2008; McCall 2005). Nightingale (2011, 153) calls intersectionality an imperative to see “how people are subjected by race, ethnicity/caste, class, gender and other forms of social difference ... as simultaneous.”⁷

In a different context, Benda-Beckman and Benda-Beckmann (2000: 34) make a similar argument, though they do not use the term intersectionality:

“...women never function as holders of land and water rights just as ‘women’. Their legal and social position on which they claim rights or enter into negotiations is always a compound of status elements. Some of these elements derive from their individual relationship to their father’s and husband’s family. Some are general, derived from their caste and class status. In any negotiation or struggle over water, they enter as a Chhetri or low caste woman; as a married woman or as a widow; as a member or a head of household.... Women are thus simultaneously constrained by all these positional characteristics. This means that gender cannot easily be isolated from other social differentials.”

In our paper, we expand the usual understanding of intersectionality as the multiple and simultaneous identities of women in terms of race, ethnicity/class, gender and other forms of hierarchy and difference to include social locations of women within households as daughters, daughters-in-law, mothers, mothers-in-law, wives and widows. We find that these identities and relations are often more

⁶ Studies that explicitly apply an intersectional lens to rural development have investigated a range of identities and combinations of identities, including gender and marital status in Tanzania (van Aelst and Holvoet 2016); class, household headship, age, and stage of life in Vietnam (Huyh and Resurreccion 2014); and a woman’s marital position within polygamous unions, sex of her offspring, birth order of her husband, class/wealth, religion, and generational relations in Senegal (Evans 2016).

⁷ Others have argued that gender may not even be the most important social difference, and that a starting point should be to solicit communities’ own definitions of difference relevant to the issue discussed (Warner, Al-Hassan and Kydd 1997). Carr and Thompson argue for a “new kind of gender analysis, which focuses on social difference more broadly and allows gender to emerge as important where appropriate” (2014, 190).

relevant and significant than caste or ethnicity and other wider social identities for women's property rights and empowerment.

Intersectional Identities, Property Rights, and Empowerment in Nepal

Many scholars stress the necessity of analyzing the interplay of gender with other vectors of hierarchy, inequality and identities in Nepal in order to avoid homogenizing or essentializing women (Ahearn 2004; Bennett 2013-14; Cameron 1995; Ortner 1996; Tamang 2002 Watkins 1996). Anthropological studies show that in general gender norms and practices are more egalitarian among most ethnic groups and Dalit castes than among higher Hindu castes, as may be seen for example in their marriage norms and practices (divorce and remarriage permitted), greater physical mobility, more flexible gender division of labor, and more widespread wage labour and contribution of cash to the household economy (Acharya and Bennett 1983; Bennett 1983; see review of the anthropological literature in Pradhan 2014).

Interactions between gender, caste, ethnicity, social location, household structure, and class in Nepali rural society influence women's property rights and manifestations of empowerment, e.g. decision-making and participation in social and collective organizations (Allendorf 2007; Cameron 1995; Nightingale 2011; Onta and Resurreccion 2011; Thomas-Slayter and Bhatt 1994).⁸ While caste and ethnicity have some bearing on women's empowerment, especially in indicators such as physical mobility, marriage choice, divorce, they may not always create significant difference in empowerment⁹,

⁸ Intersectional experiences of empowerment also have bearings on participation and benefits from empowerment-oriented development programs. Several scholars point out the risk of reproducing inequalities and exclusion that empowerment projects incur when they assume solidarity between women and overlook class and caste differences (Leve 2001; Sharma 2008; Singh 2016). Singh (2016) relates a narrative of a woman who feels further marginalized through her participation in a self-help group because her involvement in the group is essentially used as a vehicle to secure a loan for her brothers' use, and feels sidelined by more educated members of the group.

⁹ A study of women (aged 15-49) in decision-making about own health care, purchases of daily household needs, major household purchases and family visits revealed that approximately 40 percent of upper caste Hindu women participate in all four decision-making compared to 37.5 % for all ethnic (janajati) women, while the percentage is slightly higher for hill janajatis (42 %). The participation of women in major household purchases is approximately the same across castes and ethnic groups (55.5 % for upper castes, 55 % for all janajatis, and 57.4 % for hill janajatis) (Bennett et al. 2013: 36, Table II). Thus, despite the accepted anthropological view that ethnic women have more decision-making authority than upper caste Hindu women, this study revealed that there is not much difference across caste and ethnic groups concerning participation in decision-making.

especially in relation to property rights over *joint* property of the household.¹⁰ However, caste/ethnicity does matter to some extent in women's property rights over their *individual* or personal property. Singh (2016) argues that location within the household (as mother-in-law, daughter-in-law, or daughter) matters more than caste/ethnicity in household decision making, with women in nuclear households or senior women (mothers-in-law or elder daughters-in-law) having more say in the sale or purchase of land, livestock, and crops. Her social location and household structure (nuclear, joint) are closely linked to her status (Singh 2016). Indeed, Allendorf (2007), using data from the 2001 Nepal Demographic and Health Survey, argues that women's location in the family structure, i.e., as the wife of the household head or as a daughter-in-law or sister-in-law, is even more significant than land ownership in determining women's household decision making power (an indicator of empowerment).

Household structure typically shifts over the life cycle. Upon marriage, or a few years later in some communities, such as Tamangs (March 2002), Limbus (Gilbert 1993), and Maithili speakers (Acharya 1981), women usually move into a joint (extended) household with her in-laws. After a time the marital couple may split off from the joint household, with or without formal partition of the joint property. With the marriage of sons, the development cycle of the household is repeated: the nuclear household expands to a joint household, and the former daughter-in-law becomes a mother-in-law. Both household structure and social location have implications for division of labor within the household and women's decision making power. Daughters-in-law in joint households tend to have the least decision making power and largest burden of labor whereas women who are co-heads of households or heads of female headed households have more decision-making power, sometimes along with great labor burden. This in turn influences women's property rights. In other words, a woman's kinship identity and social location within a household (as mother-in-law/daughter-in-law; head of household, etc.) could be more important than her caste/ethnicity identity for property rights and decision-making.

¹⁰ Gilbert (1993: 95) writes about the Limbus, another ethnic group in eastern Nepal, that "whether a certain amount of sexual and social (physical) freedom was matched by a real equality of power relations within the marital unit has not been demonstrated." In a footnote (no 6 page 95), she adds, "The position of Limbu women vis-à-vis the significant property rights exercised by their husbands were, at least in recent times, no different from those of a Brahmin-Chetri woman, and divorce of a man meant divorce from the land controlled by his family..."

In addition, significant rates of male out-migration from rural areas creates de facto female heads of household, shifting decision making, labor burden, and access to income (Adhikari and Hobley 2011; Kaspar 2005; Maharjan, Bauer, and Knerr 2012; Sijapati et al. 2017).¹¹ While women in migrant households play a greater role in household decision making than women in non-migrant households (Maharjan, Bauer, and Knerr 2012), women in nuclear households are more autonomous than women in joint households with parents-in-law or adult males (Kaspar 2005; Sijapati et al. 2017; Rashid 2013 for Bangladesh). However, in all households, women's decision-making power is greater in everyday and operational matters than in strategic affairs (Kaspar 2005; Maharjan, Bauer, and Knerr 2012).¹²

Several other factors add complexity to women's property rights in Nepal as a source of empowerment. First, because patrilineal inheritance is the primary means of gaining rights to land in Nepal, women's access to land is largely determined by their relations with men (Allendorf 2007; Bennett 1979; Gilbert 1993), and several authors have argued that women exercise their agency by conforming to gendered norms and expectations to strengthen ties with husband and in-laws and secure their position in the family (Singh 2016; Rashid 2013), and with it, access to resources. Women in these settings prioritize "material and emotional interdependence in marital and familial relations over autonomy and resistance" (Singh 2016, 244). Singh gives examples of women who restrict their mobility and withdraw their membership of or attendance in self-help groups to secure their household's protection and respect. Similarly, Nightingale (2011) describes many women's sense of pride in carrying heavy loads of firewood, compost, and fodder, evidence of their strength and suffering (*dukha*). Leve (2001) points out that for some Nepali women, conscious that performances of disempowerment can leverage resources from NGOs and donors for their community, "embracing this putative disempowerment was many women's most visibly empowered act" (118).

¹¹ As early as 1976, Jones and Jones (1976,47) wrote about Limbus, "Men's long absenteeism and the assumption of new responsibility and decision making by women fostered a more independent-minded woman and drastically revised the marriage process" (1976: 47). Similarly Watkins observed that, "Several researchers have noted that male absence may be a key variable in fostering conditions that enhance women's control over basic resources and over their own lives" (Watkins 1996: 101).

¹² Some studies show that migration's impacts on women are related to their caste/ethnic identity. Women of some castes and ethnic groups, such as Dalits and Janajatis, which considered more gender egalitarian, enjoy greater mobility, decision-making roles and empowerment than women of other castes and ethnic groups, after their husbands migrate (Jones and Jones 1976; Watkins 1996; Kaspar 2005; Sijapati et al. 2017).

3. METHODS

The paper draws on a review of statutory legal frameworks on property rights and inheritance as well as ethnographic research conducted in 2015 for the research project on “Evaluation of the Welfare Impacts of a Livestock Transfer Program in Nepal.” Ethnographic study combining focus group discussions, semi-structured interviews, and life-histories were conducted in four sites for a period of 60 days each, focusing on topics of empowerment, social capital, property rights, migration, and in one site, the focus was on the impact of Heifer’s livestock project on women’s empowerment. A parallel study conducted surveys of over 3000 households (see Janzen, Magnan and Thompson 2017).

The four research villages, two in the hills and two in the Tarai, were part of Heifer’s livestock transfer programs and the sites selected for the survey. To study the significance of ethnicity, sites were selected to include predominantly Tamang (in Kafaltar, Dhading), Magar (in Arbasing, Palpa), Tharu (in Patwari, Nawalparasi) and Madhesi (in Kisannagar, Mahottari) ethnic groups. Most of the research participants were women. Attempts were made to select respondents with different social locations, including from different ethnic groups, castes (especially Dalits), members of nuclear and of joint households, women from migrant and non-migrant households, and young as well as old women. A total of 188 respondents (148 women) were interviewed for all four topics, of which 14 life histories and 33 semi-structured interviews focused on property rights.

The 13 researchers (seven women and six men) were graduates of Nepā School’s Graduate Diploma in Social Sciences Program and were trained for a total of two months prior to fieldwork. Most of the interviews were conducted in Nepali, except in Mahottari, where some were conducted in Maithili with the help of a Maithili speaker. Most of the interviews were recorded and then transcribed. In presenting our results, we first describe the broad categories of joint and personal property in statutory law and as presented in practice in our field sites. We then discuss how these change over the life cycle.

4. JOINT AND PERSONAL PROPERTY IN STATE AND CUSTOMARY LAW

Nepali state law and many customary or local laws classify property in two major ways: 1) moveable (*chal*) property and immovable (*achal*) property, and 2) joint (collective) property of the household and personal property of individuals. Rights to these categories of property differ among household members, depending on gender, generation, kinship relations, and marital status and whether the property in question is classified as moveable or immovable or joint or personal property. Rights to immovable property such as land and house are more constrained than rights to moveable property such as livestock, household goods, agricultural implements, jewelry, and savings. Similarly, rights to joint property are more restricted than rights to personal property. State law grants absolute rights over personal property, whether moveable or immovable, including full alienation rights, without having to seek the consent of any other person.

State law pertaining to property and inheritance was based mainly on Hindu norms and discriminates against women.¹³ Several amendments have been made in the state law regarding property rights of women, especially of daughters and wives, notably the amendments to the Muluki Ain (Country Code) in 2002 and 2007 following the Gender Equality Maintenance Act of 2006.¹⁴ Despite these amendments, the legal norm, to a large extent, continues to uphold the model of patrilineal and patriarchal joint family, wherein the male head of the household (the *ghar muli*) is considered the manager and the ultimate decision-maker of the joint property (*sagol sampati*) of the household.

Joint Property

Joint or collective household property (*sagol sampati*) includes ancestral property (*paitrik sampati*) inherited by the male head of household and property acquired by the household through purchase or gift.

Joint property usually comprises of land, house, bank deposits, money loaned out, agricultural

¹³ The main body of state law, called Muluki Ain (National Code), which includes provisions on ‘family law’ such as inheritance, marriage and divorce, was mainly based on Hindu norms and despite many changes in the law still continues to be influenced by Hindu norms (Bennett 1979, Gilbert 1993, Tamang 2000; Hofer 2004).

¹⁴ We are also cognizant of the need to locate property rights in the context of women’s movements in Nepal as well as the Supreme Court decisions that have led to legal changes (Tamang 2000, 2009; Pradhan 2013). For an extended of the state laws pertaining to women’s property rights in till the late 1970s see Bennett (1979), until the early 1990s (Gilbert 1993), late 1990s (Tamang 2000); for more recent laws, see Subedi (2009).

implements, livestock, food grains, and household goods—virtually everything except the assets that are expressly recognized as individual or personal property.¹⁵ At the partition of the joint estate managed by his father, the title to his share of the estate, especially land and house, would be transferred to the son. Although the male head of the household is the title holder (and thus the formal owner) of the property, his wife and children too have rights to these properties, which are considered joint property of his household.

Who are the coparceners (rightful shareholders) of the joint property of the household and thus have rights of inheritance and of maintenance? The joint property is to be partitioned equally among the father, mother, wife and sons. Before the recent amendments to the law (in 2002 and 2006), an unmarried daughter had rights to an equal share in the inheritance if she was 35 years or older. The current provision is that unmarried daughters have rights to inherit the joint property equally, irrespective of their age. In both the old and the new provisions, unmarried daughters who have received their share will have to return the unspent property if they later marry.

Although all coparceners have rights to equal share in the partition of the joint property, they do not have equal property rights. The male head of the household, as the manager of the joint property and the inheritor of the ancestral property from his father, has the most control. He is permitted to dispose of all of the moveable and half of the immoveable property that he inherited and all of the moveable and immoveable property that was acquired by the household during his lifetime at his discretion ‘for household expenses’. Disposal of more than half of the property he inherited requires consent from his wife and adult sons (and, more recently, adult unmarried daughters). However, he is permitted to dispose of all moveable and immoveable property of the joint property that was not part of the ancestral property without taking permission from his wife and children.

¹⁵ According to state law, in joint households, especially at the time of partition of the property, all property, including pewa and daijo, is considered joint property, unless there is documentary proof that they were given as gifts (as daijo or pewa) or self-earned.

Just as the male head of the household cannot force partition of the joint property against the wishes of his wife and children, they too are not permitted to demand partition during his life time.¹⁶ The wife and sons (and unmarried daughters), however, can demand their share of the joint property and live separately if they are denied maintenance, i.e., for example, if the male head does not provide them with food and clothing, according to his financial capacity and status.¹⁷ Before the amendment in 2002, wives could not claim their share of the joint family property from their husbands if they divorced; they had right to alimony for 5 years so long as they remained unmarried and did not have affairs (remained true to their ex-husbands). According to the current law, wives can ask for their share upon divorce and they do not have to return their share if they remarry.

Earlier, an unmarried woman, a married woman or a widow who has taken her share of the joint property and lives separately could dispose of all moveable and half of immoveable property as she wished. She could dispose of the other half of the immoveable property with permission from her father if she were an unmarried daughter and from her adult sons if she were a married woman or a widow. Currently, with the 2063 Gender Equality Act, women can dispose of both moveable and immoveable property at their discretion.

The patriarchal and patrilineal norms and practices across all castes and ethnic groups in Nepal are so robust that caste/ethnicity is not of much significance for women's property rights to joint property of their households. Just as descent is transmitted from father to son, so too is inheritance.¹⁸ A review of the anthropological literature showed that in general, across all castes and ethnic groups, it is the men who control and inherit the joint property of their households (Pradhan 2014). Women's property rights are secondary to men's: They have rights to the ancestral and household property not on their own standing

¹⁶ The recent amendment reads that children cannot force their parents to partition the joint estate and parents cannot force partition on their children.

¹⁷ The recent amendment adds: The husband or the parents have to provide food and clothing to their children according to their status and financial capacity and should also provide for appropriate education and medical treatment, as necessary, failing which they have to give them their share (of the joint property).

¹⁸ Among almost all caste/ethnic groups inheritance is closely linked with patrilineal descent or in Kunreuther's formulation, *amśa* (share of 'ancestral property') is closely connected with *vamśa* (genealogy) (2009, 551-552). Watkins (1996, 111), however, argues that some ethnic groups, such as Nyeshang, Sherpa and Tamang, practice parallel inheritance. Daughters inherit from their mothers and sons from their fathers.

but through their husbands and fathers. Daughters normally do not inherit, and do so only if they remain unmarried or their parents do not have male heirs.

However, all household members, irrespective of gender or generation have at minimum rights to economic benefits from the joint property, expressed as right to be maintained, including expenses for food, clothes, housing, education, medical treatment and so on, which we could term fructus rights. Women have these rights only so long as they remain members of the household as wives, widows, or unmarried daughters/sisters.

Women's ability to enjoy rights to use or benefit from as well as to make decisions about joint property of the household depends on such factors as their position in the household as daughters, daughters-in-law, mothers-in-law, the necessity for women to manage the household's agricultural and financial activities due to the absence of men, their cash contributions to the household economy, and their relationship with their husbands and other household members. Across all castes and ethnic groups, daughters-in-law, especially new brides, in joint households not only have weaker rights or abilities to enjoy use and fructus rights, they have very little or no decision-making rights about joint property of the household, and to some extent even personal property, as discussed below.

Married women could ask for their share of the joint property and live separately from their husbands, e.g., if they were not clothed or fed, or he brought a second wife or otherwise mistreated her. In the past, divorced women had rights to alimony for only five years, or less if she remarried within five years of the divorce. A divorced woman did not have rights to her share of her husband's property. However, among most communities, divorced women do not get any alimony and instead have to depend on their parents/brothers, manage on their own, or remarry. However, in our field sites, divorce is not common and in the cases where divorce did occur or wives separated from their husbands, they have not claimed their share of the property or even alimony.

Personal Property

Personal property could be self-earned (*so-arjan*) using one's skills and resources, or received as gifts or inheritance from sources other than the patriline (e.g., for a woman, inheritance from her parents' estate). There are two kinds of specifically women's personal property which are received as gifts, namely *pewa* and *daijo* (dowry).¹⁹ There are some differences in the definitions of *daijo* and *pewa*, as well as in property rights to these two categories of property, in state law and customary laws. *Daijo* and *pewa* are defined in the Chapter on *Striangsadhana* [Women's Inheritance and Wealth], No 4 of the National Code as "All moveable and immoveable property given to a woman by her natal family, her mother's natal family and other relatives and friends as well as any increment on these property are *daijo*. All moveable and immoveable property given by a husband or his coparceners with their consent in writing as well as those given to her by other relatives and friends on her husband's side as well as any increment made or occurring thereto, is *pewa*." Women have absolute right over their *daijo* or *pewa* and may dispose of it as they wish.

In customary law, *pewa* is understood as gifts given by a woman's natal family before marriage, or sometimes after marriage, over which she ideally is supposed to have absolute rights. *Daijo* has similar meanings in both state and customary laws; however, women's rights over their dowry vary considerably, depending on their ethnicity/caste and social position in the household (see below).²⁰ Among upper caste Hindus, women are more likely to have very little control over their *daijo* and even *pewa*, which are often treated as joint property of the household as compared to women belonging to various ethnic groups such as Limbus, Kham Magars, Rais, Tamangs, who have more control over their personal property (Bennett 1979, 25). Yet, as will be shown later, women's location or position in the household structure is an

¹⁹ The term in state law for women's property is '*striangsadhana*' (women's inheritance and wealth or property), which is an extension of the classical Hindu concept of *stridhanam* (women's property), (see Bennett 1979 for an extensive discussion on *stridhanam* and its difference with *striangsadhana*).

²⁰ Bennett (1979, 25) for example, writes that upper caste hill Hindus treat *daijo* and *pewa* as the property of the husband's joint family. If a daughter-in-law complains about her in-law's appropriating her *daijo-pewa*, "she would be considered shameless, ill-bred and ungrateful." She claims that Hindu women in rural communities have no effective control over their personal property. She also observed that some anthropological studies indicate that women among ethnic groups such as Limbus, Kham Magars, and Rais "enjoy enjoy a much higher degree of economic independence and have more control over their marriage portion than women in neighbouring Hindu groups" (*ibid.*, 27).

important determinant in how their personal property is treated and their ability to exercise their property rights.

Pewa

Most castes and ethnic groups in our study area do have the notion of personal property and women's personal income that are separate from the joint property of the household. Though customary definitions of various ethnic groups differ,²¹ *pewa* is usually gifts of livestock such as chicken, goat or buffalo, given to daughters or sisters usually before their weddings. *Pewa* can include cash gifts, income and savings from their own work or petty business, or interest from loans given out. Parents may gift additional livestock or cash to their daughters some years after their marriage to ensure that they have sufficient money of their own and "will not face hardship." Many women across all caste and ethnic groups said that they liked to have some money of their own so that they did not have to ask their husbands for personal expenses. Some women, e.g. Tamang women of Dhading, said that their husbands would despise them if they did not bring some *pewa* to the marriage.

The income that women generate from their *pewa*, for example, by selling the offsprings of goats or buffalos, or the interest they earn from loans they give out, is usually only a few thousand rupees a year. It is pocket money that they use to buy personal things before they are married and for themselves and their children after they are married. Women who are careful about their expenses, work hard and invest wisely may accumulate substantial *pewa* - more livestock, larger savings, and thus more income. In such cases, *pewa* becomes more than just a source of pocket money for women; they can use *pewa* to see the family through difficult times, like a family member's medical care, or have small loans paid off, or even purchase land. A woman could use her *pewa* to support herself and her children temporarily if she is abandoned or divorced by her husband.

²¹ *Pewa* is known as *koseliya* or *koshaliya* among Tharus of Nawalparasi and Maithili speakers in Mahottari. It is known as *dzo* among Western Tamangs (March 2002). *Dzo* consists of a) implements such as hoe, sickle and a bowl that a woman receives to perform funeral rituals in her natal home as well as b) personal gifts from her parents, which could include, depending on the wealth of her natal family – fine clothing, jewelry, money, grains, small livestock, and sometimes even land (March 2002, 90).

Women have more robust property rights over their personal property, especially *pewa*, than over joint property. Many women said that what is given to the daughters as *pewa* by their parents should not be taken away by others (i.e., their in-laws). One 49-year-old woman respondent put it even more strongly, “Even King Rama cannot take away what is given to daughters as *pewa*.”

Although *pewa* is considered women’s personal property in all our research sites, caste, ethnicity, class, structural position in the household, and the long-term presence or absence of adult males in the household all influence women’s property rights to what is nominally their ‘personal’ property, to which they should have full property rights. As detailed below, women’s ability to maintain control over their *pewa* and their willingness to use *pewa* for other household members depend on their structural location in the household and their relations with them. For example, married women may take their *pewa* with them to their conjugal homes, but it is not uncommon for young women living in joint households to keep their *pewa* with their parents or brothers to retain control over their *pewa*. Thus, women’s husband and joint household may not necessarily know about her *pewa* holdings.

But when they are in a position of control over their *pewa* as female (co)heads of their households, they usually do not differentiate between their *pewa* and household property because there is no need to maintain the separation, especially if they have good relations with their husbands (and children). At the same time, they could claim full rights to their *pewa* when relations between them and their husbands are strained.

Daijo

Dowry is gifts of household goods and cash given to brides by their natal relatives and guests at their weddings and during other wedding related rituals several years after the marriage.²² In contrast to *pewa*, dowry giving is always at public events, witnessed by the community and a reflection on the status of the

²² For a brief review of the literature of different marriage practices among several ethnic groups, see Pradhan 2014.

bride's and groom's families. Land may also be given as dowry, and is more common among some ethnic groups than upper caste Hindus (Watkins 1996).²³

Nepali speakers, irrespective of their ethnicity, use the term *daijo* for dowry.²⁴ According to state law, dowry (*daijo*) is women's personal property; women have the full bundle of property rights over her dowry. However, the significance of dowry is not the same in all ethnic groups.²⁵ Dowry is more likely to be considered personal property among women of some ethnic communities like Tamangs and as part of household property, among Hill Brahmins, Koiris of Mahottari and Tharus of Nawalparasi. The dowry could be pooled as joint property and divided among the different households when the joint household splits. Cash, as part of the dowry, especially if deposited in banks, is more likely to be considered personal property, especially among ethnic groups.²⁶

Among many ethnic groups, the customary law is for the divorced woman to take along her dowry, or at least half of her dowry, unless she elopes, in which case she may not be allowed to collect her dowry. Among high caste Hindus, divorced women were usually not allowed to collect their dowry,

²³ Among many ethnic groups and some castes dowry was not always given to daughters if they were poor or the daughter eloped. Further, many ethnic groups, such as Tamangs, Rais, Limbus, and Tharus, and some castes (e.g., Dalit castes) used to give bridewealth (paid by the groom's family to the bride's family) instead of dowry, or gave both dowry and bridewealth (see Pradhan 2014 for review of the literature). Bridewealth is no longer practiced, or done so only symbolically, whereas the practice of giving dowry has increased among all castes and ethnic groups, probably because of the influence of upper caste Hindus. Srinivas (1995) describes this pattern of social mobility by copying practices of upper caste Hindus in India as "Sanskritization". In Nepal, it is more appropriate to speak of Hinduization of ethnic groups (and in the case of Dalits, of Sanskritization).

²⁴ Among Maithili speakers, the term '*dahej*' is used, which is equivalent to the term *daijo*. Grooms and grooms' families too may receive gifts of clothes and cash. Among the Maithili community of Mahottari, gifts given to the daughters are known as *dahej* whereas gifts given to the groom are known as *tilak*. The Tamang term for dowry, *deidso*, differs from the Nepali term, *daijo*, and concept of dowry according to Campbell (2005). Fricke et al. (1993) too writes as though the Tamangs practice dowry, which he terms *djo*. Both Campbell and Fricke et al. do not mention whether the Tamangs have a term for or practice *pewa*. March (2002) on the other hand, uses the Tamang term *dzo* to refer to all gifts given to daughters/sisters, including gifts at marriage, and at other times, which could be considered similar to *pewa*. The Tamangs of Dhading, one of our fieldsites, use the term *cho* (a variant of *djo*?) to refer to *pewa* and sometimes for *daijo*. However, among Tamangs, as among most ethnic groups, women, except the very poor, do have personal property, whether they are given to them at marriage as dowry or before and after marriage as '*pewa*'. Moreover, it is possible that the custom of dowry may have been prevalent among the upper class, along with bridewealth, in the past and now spread to the lower classes, or those aspiring to middle class.

²⁵ Contrasting *pewa* and *daijo*, March observes, "Dowry, or *daijo*, is the Parbatiya practice whereby a bride's parents endow the new couple with furniture, linens, pots, plates and other requirements for their eventual domicile, along with as much gold jewelry as they can. *Daijo* is distinguished from another Nepali word for property given to daughters – *pewa* – both in terms of when it is given and who controls it. *Daijo* is negotiated and mostly given at the time of marriage, while *pewa* can be given to daughters or sisters at any time. *Daijo* can result in dispute and abuse since it is less clear who is to control it – the woman, her husband, their children, or the husband's family – but *pewa* belongs unequivocally to the woman" (March 2002, 90). Bennett 1979, however, says that at least among the hill Brahmins she studied, both *pewa* and *daijo* become part of the joint property of the household.

²⁶ The cost of the dowries has been increasing and poor families get into debts to buy dowries considerable respectable. Dowries could cost between half a million to one million rupees, according to women respondents in Nawalparasi. They also reported that many Tharu men migrate to foreign countries so as to earn money to pay for the dowries of their daughters or sisters.

except perhaps cash, jewelry and other items in their possession. Both ethnic groups and high caste women, however, are allowed to take their pewa with them in most divorce cases.

5. LOCAL NORMS AND PRACTICES OF WOMEN'S PROPERTY RIGHTS OVER THE LIFE CYCLE

While there are broad patterns of joint and personal property, our research shows how rights to joint and personal property change over the life cycle after marriage, following a daughter-in-law in a joint household, to a wife and female head of a nuclear household, to old age and widowhood in a joint household.

Daughters in Joint and Nuclear Households

Daughters have limited rights to joint property of her parental household, whether it is joint or nuclear. They are not considered coparceners of the joint household property and thus do not have rights to inherit, unless they remain unmarried or their parents did not give birth to sons. Many women accept the norm that only sons and not daughters have rights to inherit from their parents. As Indra Maya Tamang, a 45-year-old widow, stated: “Daughters do not have rights to property...If there are sons, daughters do not get (inheritance). Daughters are loved, that is all. They are like guests for a few days.” When asked why daughters did not inherit, the most common answer was that daughters got dowry while sons got inheritance (*angsa*). Some answered that daughters received property through their husbands. Rita Devi Singh, a married woman of 27 living in a joint household in Mahottari, said that she does not have rights to her parental property nor does she want property from them because they belong to her brothers. When pushed further, many women said that they would like it if they received their share of the ancestral property (*angsa*) –because daughters and sons should be treated as equals. While the fieldwork did not come across any case of unmarried daughters who had brothers receiving inheritance, it did record several cases of women who received inheritance from their parents because they did not have any brothers.

Although daughters may not have inheritance rights, they have use and fructus rights to the joint property of their natal family. According to both state law and customary law of different communities, unmarried daughters have rights to maintenance – to food, clothing, etc. according to the financial ability and status of her family. The fieldwork did not record any instance of daughters being denied

maintenance by their parents. Ideally, married daughters can call upon their natal family for financial and other support in times of need, e.g., separation or divorce. Among some communities (e.g. Tamangs (March 2002) and Tharus (Rajaure 1981)) married daughters have rights to a portion of the harvest, for which they are expected to contribute labour for harvesting the crop.

One of the main reasons why daughters do not want to claim rights to their share of the inheritance is that they fear that this would lead to strained relations with their brothers and sisters-in-law, whom they may have to call upon in difficult times, and who have to invite them for festivals and rituals (see also Agarwal 1994; Kunreuther 2009). Sabita Gurau of Nawalparasi said that her father and brother had wanted to give her some land but she did not accept it because she feared that her brother's wife would not like it. Similarly, Rajkali Thakur, 27, of Mahottari said that she did not want any land (as inheritance) from her parents because it may cause conflicts with her brother's wife. Moreover, "Sisters wish only this: that brothers respect us when we visit our natal house (*maita*)."

Further, daughters may be said to have, if not rights, then certainly 'claims' to joint property, especially moveable property such as livestock, household goods and cash as *pewa* and even *daijo*. Many women said that while sons received inheritance, expressed as 'land', daughters received dowry and *pewa*, expressed as 'things'. Indra Maya said that she would not give land to her daughters, but would give things (livestock, jewelry, and cash). Rita Devi said, "Daughters are given dowry, not land." Munni Devi Mahato, 39 years, says that she thinks that daughters should receive something (i.e., dowry) at their wedding because sons get inheritance. Rem Kumari Chaudhari said that daughters get only gifts not *angsa*.

While unmarried daughters' rights to her household's joint property is rather weak, she has stronger and more robust rights – even absolute rights over her personal property, given to her as gifts by her parents or which she earned herself. Parents and brothers may use her *pewa* in times of need, with her permission, but they usually return it as soon as possible.

Joint Household: Daughter-in-law

One of the most critical shifts in Nepali women's life, across all caste, ethnic groups and class is marriage. Marriage changes a woman's physical and social locations and her property relations and rights. Due to customary patrilocality among most communities, a bride moves into her husband's home, usually a joint household, with her parents-in-law, husband's brothers and their wives and their children and husband's unmarried sisters.²⁷

As daughters-in-law in joint households, they have little control over their time, work, body and property. Women recall this period from right after they begin living in joint households to the time they and their husbands set up separate households as the most difficult period of their life, full of suffering and hardship (*dukha*). As a 38-year-old Koiri woman from Mahottari put it, "Dukha begins as soon as parents send their daughter to another person's house", meaning as soon as she marries. The *dukha* of the daughter-in-law in a joint household is one of the most common tropes in women's narratives (see also March 2002; Des Chene 1988).²⁸

Maya Lhayo, an 80-year Magar widow, currently living in Mahottari, had an arranged marriage, when she was 16 years old, with a man from her natal village. Her husband's family was poor, but more importantly, they did not treat her well. Of her conjugal family, she said:

When I married there were 13 people in the house for whom I had to grind millet the whole night. There was never enough food. 'We do not have sufficient food today', they would say and give us a small ball of millet gruel, leaving us hungry. At night we got only one thin piece of flat bread (*roti*). My mother-in-law distributed the food for us to eat... We could never take the food by ourselves, but had to work very hard to plant corn, break earth, and so on but my mother-in-law was never satisfied.

²⁷ Among Maithili speaking communities, brides often live with their parents for several years after marriage before finally shifting to their husbands' homes (Acharya 1981). Similarly, among many ethnic groups, brides live with their parents for several years – in some cases up to 10 or 12 years – and may spend a few weeks at a time at their husbands' homes – before shifting finally to their husbands' homes (March 2002; Schuler 2015).

²⁸ The *dukha* of women could also be a source of pride, according to Nightingale (2011).

I did whatever my mother-in-law ordered me to do, went wherever she asked me to go. I was never allowed to go where I wanted to go. I was never allowed to do what I wanted. I could only go out freely when I wanted to urinate and defecate.

She said that she spent the three years crying and finally left her husband and lived with her mother for one year, then remarried after several years.

Joint property of the household

In a joint family, the male head of the household (father/ father-in-law/husband, and in his absence, the female head), manages and regulates the household property and affairs, and mothers-in-law manage and supervise daughters-in-law's labor for the household (see e.g., Gilbert 1993). Maya's rights to use and to benefit economically from household property were limited; even the food she could eat was controlled by her mother-in-law.

The women respondents, irrespective of their caste and ethnic identities, said that as daughters-in-law, they had no option but to obey their fathers-in-law or mothers-in-law. When asked, "who made decisions about family land?" the answer often was, "our father-in-law made all the decisions, as he is the head of the house". According to Rudal Kumari Gurhaun, a Tharu from Nawalparasi, her parents-in-law make all decisions regarding agricultural activities. She added, "as daughters-in-law we are supposed to do what they (parents-in-law) tell us to do." Similarly, Rajkali Thakur, 38, from Mahottari said, "Those days my mother-in-law would decide what to plant, how many labourers to hire, and she herself paid the labourers. Only her decision counted. Those days who would ask daughters-in-law anything? All we did was work."

Personal property in joint households

Although state law grants absolute rights to women over their personal property, the rights that women have over their personal property, especially daijo and pewa, vary depending to some extent on their caste/ethnicity and especially on their location in the household. Among Hindus of the hills and the Tarai (Maithili speakers of Mahottari) and ethnic groups such as Tharus of Nawalparasi and Dang,

daughters-in-law in joint households have very little control over their dowry, which is most often considered part of the joint property of the household. The parents-in-law decide what is to be done with the dowry and who may use it. Dowry goods such as large jars to carry and store water, and furniture and consumption goods such as radio and TV, may be used by the whole household without the bride's permission. Some of the dowry goods may even be sold to meet household expenses. Women belonging to many ethnic groups have stronger property rights to their dowry. However, among poorer households, some of the cash gifts received at the wedding may be used by the groom's family, especially to help defray marriage expenses (as reported by a few Tamang women and a Dalit woman). In these cases, dowry is not just a woman's personal property but becomes part of the joint property of her new household.

Brahmin, Dalit as well as Tharu women respondents reported that increasingly the newly married daughters-in-law, often aided by their parents, resist giving up their dowries to the common property of the households. Parents use various strategies to prevent disputes and give their daughters more control over their dowry: giving cash in addition to goods, depositing cash in the daughter's account without informing the in-laws, and giving some dowry in the form of cash or land only after the daughter has shifted to a nuclear household, even if some of the goods or cash gifts received at weddings may be used by the groom's family to pay off marriage and other household expenses. Among these communities, dowry may be used by the household but when the household splits and the estate is partitioned, women are allowed to take possession of their dowry. Women are allowed to take their dowry with them if they separate from or divorce their husbands.

Although *pewa* is considered women's personal property, daughters-in-law are in a weak position in joint households, so it is not uncommon for her *pewa*, especially livestock, to be treated as though it were a part of the household property. Her livestock may be slaughtered for meat or sold to have money for medical or other expenses. Asmita Tamang, 29, of Dhading, recalls her experience of coming to a joint household as a new daughter-in-law, "I had brought two goats from my natal home (*maita*). But the mother and son (her mother-in-law and her husband) conspired and slaughtered one of my goats."

Dilmaya Nepali, a Dalit woman of Palpa, said that she was forced to share her pewa livestock with other family members: “While my parents-in-law were alive, I had boars, a cow and goats. I carefully used some money I earned from them. I used the pewa as pocket money because my husband did not give me any money... You could not keep all the income of the pewa only for yourself. You had to give them half.” In other words, in this case, household members too, by virtue of their kinship relations, exercise ‘fructus’ rights to a woman’s pewa, especially in times of need.

Depending on class and interpersonal relations among household members, persons who use a household member’s pewa may return the equivalent value later. For example, a father-in-law buys a goat for his daughter-in-law to replace the one they slaughtered or sold, or he returns money he borrowed from her. Hira Kumari Chaudhari, a 50-year-old Tharu from Nawalparasi, said that she had sold two of her daughter-in-law’s buffalos to meet household expenses and later paid for another two buffalos that her daughter-in-law bought.

The pewa used by the household, especially by poorer households without many assets, might not be returned, with the argument that daughters-in-law are members of the household and should not expect to get their pewa back. Daughters-in-law are not in a position to refuse such requests.

It is not surprising then that many women living in joint households often hide part of their pewa (especially cash) from their in-laws or keep it with their parents. There are negotiations within each household about whether to allow daughters-in-law and other women to keep pewa, especially livestock, for fear of competition, jealousy and conflict between the in-married women with unequal pewa, less attention to the household livestock, and more attention to one’s own needs. In some households among Tharus, Tamangs, Magars, etc. daughters-in-law are not allowed to keep pewa if the mother-in-law or the elder-daughter-in law does not keep pewa. Daughters-in-law, however, would attempt to keep pewa, so as to have their own source of income. Maithili women of Mahottari were more likely to hide their pewa than women from other communities.

At the same time, women may ‘agree’ to their pewa being sold off to meet emergency expenses, as when a family member needs medical treatment. Many women respondents stated that, as one of the

woman explained, “I cannot insist on keeping my pewa while someone from my household is ill.” As discussed in the next section, pewa is to be used not only for oneself but also for other family members, especially children and husband. By giving up or not, by using pewa only for oneself or others, women negotiate their identity and position within the family and household as ‘selfish’ or ‘good’ daughter-in-law, mother, or wife, moving between political and moral economy of the family (Uberoi 2006).

There are also examples of daughters-in-law, especially among ethnic groups, who have more robust property rights and are able to retain their pewa income. Kumkanti Pachabhaiya, a Magar from Palpa, stated that her daughter-in-law sold her goats without even informing her and kept the money for herself.

The structurally weak position of the daughter-in-law in a joint household is also reflected in the manner which remittances sent by her husband are handled, raising questions about whether the salary he earns with his own skills and efforts is his personal property or belongs to the joint household. If a woman lives in a joint household, her migrant husband normally sends his salary to his mother, father or some other person but rarely to her. He may ask his mother to give his wife some money for her personal expenses and may even send money secretly to her or her nominee. He may withhold part of his salary for later use, and especially to make it financially viable for his wife to establish their own nuclear household (see Maharjan 2015).

As many women respondents stated, when they are living in a joint household they need pewa to have some personal income of their own, but this is also when they have least control over their pewa and often must hide it. Because daughters-in-law are in a weak position in joint households, it is not uncommon for her pewa, especially livestock, to be treated as household property.

Nuclear Household: Wife and (Female) Head of Household

It is normal for joint households to split into several households when the sons have married and are able to run their own households. As the 50-year-old Rem Kumari Chaudhari, who lives with her youngest

son, explained, “This is what happens with all families, no? When they are of age, sons want to separate, no? So when they want to separate, we tell them, ‘Fine, live separately then,’ and we separated.”

There are several reasons for the joint household to split: the household may become too large and unable to support all its members; sons may accumulate sufficient capital or reliable income and want to become heads of their own households instead of chafing under the authority of their fathers; tension and conflicts between the brothers and between their wives or between the mothers-in-law and daughters-in-law, over sharing of income and expenses or workload. Over the past two or three decades with greater employment and income opportunities available in Nepal as well as outside, people are less dependent on the family farm for their livelihoods and it is easier to become financially viable to set up independent households (Marharjan 2015).

One of the first steps in establishing an independent household is to have a separate kitchen. Separate kitchens or hearths symbolize separate households, even if the households live in the same house and have not yet partitioned the joint property.

The coparceners (father, mother, wives and sons and unmarried daughters) have to agree on how the estate is to be divided. It is not uncommon for households to split into several households with only informal partition of the immovable joint property, especially land and house, to which they have use, fructus, and management rights but not alienation rights. Most of the land and houses, especially those that the male head inherited, would be registered in his name. It is only after the partition deed (*angsa banda patra*) has been signed by all the coparceners and registered with the Land Revenue Office that the titles of plots of land, house, etc. would be transferred to the individuals to whom the particular property has been allotted. Such formal partition of the estate is often done after the death of the father, or when he is very old. It is also not uncommon, especially among those with substantial wealth to formally partition the estate only after the death of the widowed mother. Among some communities, such as the Tharus and Tamangs, neighbours and respectable village elders are invited to witness as well as to mediate, if required, the partition of the estate.

One of the sons may remain behind with the parents, in the parental home, to continue the joint household. It is not uncommon for parents to keep aside a part of the family land and the family house for their old age, which may be in addition to their share of the estate. This share is known as *jiuni*.²⁹ The parents could live off the income from the *jiuni*, which could be used to pay for their upkeep, medical expenses and mortuary rituals after their death. The parents can will *jiuni* to whomsoever they want, even a married daughter who cares for them during old age to inherit it.

When the household splits, each coparcener takes possession of his or her share of the joint property, such as land, house, household goods, livestock, cash, etc., even if the title to some of these properties may not be transferred. Women (and men) take possession of their personal property (self-earned income, *daijo*, *pewa*, etc.), i.e., personal property which has not been merged with joint property of the household.

Women experience a major shift in their well-being, autonomy and property rights when they move from joint to nuclear households and become the wife of the male head. As compared to when they were daughters-in-law in joint households, as married women in nuclear households they acquire more property rights over joint property and are better able to exercise these rights because they no longer have to share rights with their in-laws. However, because wives acquire rights to joint property of the household through their husbands, they retain these rights only as long as they remain married to their husbands or if they are widowed or separated, but not if they are divorced.

Joint property of the household

The differences in the property rights that are actualized by women over joint property and the property rights that women want depend to a large extent on relations with their husbands. In their narratives,

²⁹ The legal definition and customary definition of *jiuni* differ. “*Jiuni* is legally defined as a share, not amounting to more than five percent above or below an ordinary share, given in lieu of formal *aungsa* share to an individual. It has the connotation of a lifetime interest in a property rather than of full ownership. It is generally used to mean the properties assigned informally to widows, old men, elderly parents...” (Gilbert 1993, 223). According to Bennett (1979,35) “*Jiuni* or *jiuni bhagh* is thus loosely used to mean the portion of coparcenary property a person takes merely to sustain himself or to ‘exist’ for the remainder of his life.” While in state law the holder of *jiuni* may will it to whosoever she or he wishes, according to Bennett, among Hindus, there is less freedom in disposal of the *jiuni*. Most often it is shared equally by all the sons. See Bennett 1979 and Gilbert 1993 for detailed discussion of *jiuni*.

women with cooperative relationships with their husbands valued managerial and fructus rights over land, but did not seem interested in formal titles to land. Devi Karki explained that she was indifferent to her husband's suggestion that she register some of the land to which he had title in her name because she is on good terms with her husband. Moreover, as a wife she had rights to the land (*mero pani hak lagchha*). Her understanding was that the Land Revenue Office would not allow her husband to sell land registered in his name, without her approval. In contrast, women with strained relations with their husbands appeared to be more concerned to secure formal titling, probably because they are aware that they, as wives, have rights to joint property of the household. Still others, feeling vulnerable to divorce, saw titling as the first step towards separation and a threat to marital union.

Several women reported that after moving from joint to nuclear households, they were able to exercise managerial rights to land and agricultural production. Phulkumari Mahato from Nawalparasi, who is a successful vegetable farmer, said, "After we separated (from the joint household), we consult with each other, whatever we do. Neither he nor I make decisions alone. Usually both of us, old man and old woman, discuss with each other about which paddy or cucumber or tomato to plant. We both discuss and bring the seeds."

For these women in more cooperative relationships, their primary concerns were to use all the resources available to the household to pay for household expenses, children's school fees, and medical bills and save and purchase more land, livestock, household goods, etc, for which they were willing to work hard and even use their personal property. In other words, their main concern was about use, management, and fructus rights over joint property, not alienation.

Women who contribute substantially to the household finance, either by managing the joint property or through their personal earnings and *pewa*, strongly influence the decision about purchase of land. One of the major projects of both men and women is to purchase more land, both agricultural as well as residential, build houses, and buy consumer durables. Land is a source of income, status and security, especially during old age. Women's narratives often recall, usually with pride, how hard they worked, saved, and convinced their husbands to buy land. Land that is bought with the husband's

earnings or his and her earnings is usually registered in the husband's name, but more recently, partly because of tax concessions, land is being registered in women's names too. Migrant husbands sometimes ask their wives to buy land in their names because it is more convenient: they do not have to be present to buy or sell the land. In all these cases, irrespective of who has title, land is considered joint property of the household.

When many women narrate their efforts to purchase land, their voice becomes active, agentive: "I worked hard and saved." "I borrowed money to buy the land." "I told my husband to look at the land." Sometimes, they use the word 'we': "We saved", "we bought" etc.

For other women, the conjugal relationship is the primary means of economic security, and the prospect of titling joint property under individual names made them fear the relationship would break apart. Bindu Mahato, a 38-year-old Koiri woman from Mahottari, is totally financially dependent on her husband, who works abroad. She does not have any property of her own, nor does she work in the family fields due to poor health and the need to look after her children. She said that her husband had suggested that she transfer some land registered in his name to her but she refused. Her main worry is that her husband would leave her for another woman, but by keeping their property joint, she hoped to avoid this situation and maintain ties to her migrant husband. Her reasoning was "Why is there any need for land? No matter how much land you have, it is useless if your husband does not love you... what is the use of property if your husband does not love you?" Furthermore, even if she had rights to land, her poor health and childcare obligations would make it difficult for her to profitably exploit it on her own.

However, there are women who want land registered in their names. Maya Lhayo, the 80-year-old widow, said that while her husband was alive, she had requested him several times to transfer title to some of the land that he had bought and to which she had contributed financially to her, but he refused. One of the main reasons she had wanted some of the land to be transferred to her was for security during old age. However, her husband said that he would never transfer land to any woman because she would then sell it and run away with another man; similar to the previous example, the husband here worried

that individual titling could eventually lead to separation.³⁰ He is alleged to have said, “Do you think I am so stupid that I would transfer land to a woman, only to have her ‘eat’ the land, sell the land and elope with another man?” In this case, even though Maya worked hard in the fields and at home, contributed her *pewa* income to meet regular household expenses, and even contributed cash to buy agricultural land, her husband, with whom she did not get along ever since they got married, limited her fructus rights to their joint land. He often sold the harvest from their fields and kept all the money for himself. When she asked him what he did with the money, he said that it was none of her business, as though she had no rights to the produce of their land. He also used the income from her *pewa* money for himself. Despite the strained relationship with her husband, she did not want to leave him because she felt women need husbands for protection and to maintain their reputation: “Whatever type of person a husband is, whether dumb or blind, a thief or a robber, you need a husband because you are despised (*hela garchha*) if you do not have a husband”. Although Maya could have left the relationship and supported herself independently, the social cost of divorce and loss of security was too high a price to pay to negotiate for individual rights to joint property. While intrahousehold bargaining theory holds that she could be in a stronger position to bargain for her fructus rights over land if she had the alienation rights to it, she did not perceive it this way.

Women, even in nuclear families, may not always be willing to make decisions, even if they could, probably because, dependent as they are on their husbands, they want to inhabit the gender and kinship norms in order to please their husbands and secure their relationship. Rajkali Thakur, a 38 years old woman of Mahottari, is financially dependent on her husband because she is often sick and does not have independent income. She reported that her husband, who works as a mason in a hospital, makes most of the household decisions and is the primary decision maker on agriculture-related matters. She carries out all the agricultural activities, doing whatever her husband instructs her to do because she is worried that she may displease him. According to her,

³⁰ Her husband allocated land to his son to enable him to live separately and even to one of his daughters who was unmarried (‘because unmarried daughters have rights to share of the joint property’) but not to her. He however did not transfer title to any plot of land, neither to his sons, nor to his daughter.

“We discuss what is to be done, then my husband tells me what crop to plant... I do not do (anything) until my husband tells me to do. Ultimately, my husband must tell me what to do... Up till now, I have not planted anything without asking my husband. I am afraid that he will shout at me (scold me), this is why I have not done anything that I want to do without asking for his permission.”

According to her narration, she is no better than just a ‘labourer’ working in the fields, following her husband’s instruction. Actualizing only her use rights, she is too afraid to make any independent decisions of her own, to exercise her management or fructus rights over joint property for fear of displeasing her husband. For her as well as for Bindu Mahato, having a good relationship with their husbands on whom they are financially dependent, is more important than exercising fuller rights to the joint property. But then perhaps security and good relations are what they value more than autonomy, empowerment, and what others might perceive as agency (see also Mahmood 2005; Rashid 2013; Singh 2016).

Personal property in nuclear households: ‘Mine’ becomes ‘ours’?

Women have more robust property rights over personal property in nuclear households, as wives of the male heads, and even more so as the de facto heads of households if their husbands are absent for long periods, for example due to migration or inability to function as heads due to illness or incapacity.

Women who are divorced or widowed have the strongest property rights over personal property because they do not have to contend with their husbands.

After the joint household splits, women take along whatever dowry they are allowed to take with them to their new homes. It is increasingly common now for women to claim and to take along most, if not all, of their dowry to their new homes. Dowry then anticipates the newly married couple moving to a new household.³¹

³¹ Rankin (2004, 181) suggests that dowry is given to daughters as “endowment for the conjugal couple’s own nuclear household” when they split from the joint household. See also Goody and Tambiah (1973).

In the new nuclear household, more than in joint households, dowry belongs to the woman to whom it was given. “That bed, carpet, and rice cooker are my dowry”, women say even many years after marriage, and others would agree; “that is her dowry.” Nevertheless, other household members use the dowry without the need to ask permission from her – rice cookers, crockery, sofa set, and the husband would sleep on the bed that is his wife’s dowry. In this sense dowry becomes joint property of the household, and household members have use rights.³²

In a household where the couple have been married for long and have reasonably good relations, the question of who the dowry belongs to and who has use or decision-making rights over them does not really arise. Some argue that in nuclear households, all property can be considered joint-property, so the question of personal property such as *pewa* is irrelevant. As Dilkanta of Palpa explained, “When there are just the two of you, husband and wife, and your children, everything is yours. So there is no need to keep *pewa*.”

Another way that *pewa* may become joint property is when women themselves erase the distinction between their personal property and the joint property of the household. Dilmaya Nepali, a 50-year-old Dalit woman, echoed the view of many women when she said, “There is no need to keep *pewa* when one manages the household affairs (*byavahar garyo bhane*).”³³ The phrase, “there is no need to keep *pewa*”, does not mean that women household managers do not keep *pewa*, but that because they have to use their *pewa* to meet household expenses they do not distinguish between their personal property and joint property of the household.

Dilmaya later offered some nuance on the fructus rights over *pewa*. She explained that when she sold the family buffalo, she used all the income for household expenses. But when she sold her *pewa*, she used most of the income for household expenses; however, she kept some money aside for her own personal expenses such as buying clothes and eating food she likes when she goes out: “Wear the clothes

³² Rankin (2004, 181) suggests that with the increase in consumption goods, such as sofas, TV, steel cabinets, given as dowry, women have less control over their dowry, which becomes less of their personal property and more of joint property.

³³ Samjhana Pachabhaiya, a Magar woman, made a similar statement: “There is no need to keep *pewa* when you are the head of your household.”

one wants to wear, eat the food that one wants to eat, that is pewa.” She has now begun saving some of her pewa income in savings groups, for her future. There are many stories of women at this stage of life from different castes/ethnic groups resourcefully increasing the value of their pewa and using income from their pewa for themselves and also for their children and husbands.

Some women could not afford to consider pewa as personal property. They are compelled to use their pewa because, as among many poor households, the household income is not sufficient to meet expenses. Manju BK, a Dalit woman living in Nawalparasi, sadly recounted that due to her household’s poverty, she had to sacrifice her pewa for the household.

“I bought that buffalo with the money that I earned by working... My husband can sell the buffalo to pay for the household expenses. I cannot ‘do pewa’ because I run the household. This is what my pewa is like. I raise pewa but have to spend the money in everything. I have to manage the household myself – it will not do to maintain debts while keeping pewa.... The goat is mine too. Well, such things are called pewa. But I cannot say that they are my pewa because I have to manage household expenses.”

Many women recount their years of struggle after they shifted to nuclear households to make ends meet and to improve their economic situation. They contributed the income from their pewa, and sometimes sold off their livestock or jewelry, to help meet regular household expenses, medical expenses, pay off debts, and even to help buy land. Manmajju Tamang, a 45-year-old widow from Dhading, for example, said that her husband did not have much property when she married him. As they were not well off, she did not treat the livestock that her parents gave her as her pewa and instead used the income from the livestock to meet household expenses. She managed to increase the stock of her herd of goats to eighteen which she sold to help her husband buy land. Moreover, she had to sell her jewelry and a buffalo to pay for her husband’s medical expenses. Although the livestock were hers, she did not ‘do pewa’ and treat them as her personal property. “What is the use of ‘keeping’ pewa when your husband or children need money?” she asked rhetorically. In other words, her personal property is no longer hers alone: other family members too have some fructus rights to the property.

Women in financially better off households may also have to use their pewa because their husbands do not contribute cash for household expenses, either because of strained relations between the spouses or because the husband's income is being saved to purchase land. Yogmaya Gauri, for example, is compelled to use her pewa to meet household expenses and to pay for laborers to help her with agricultural production because her husband, who is a teacher and also owns a shop, and with whom she does not get along, refuses to give her money for the household expenses.

According to some women and men, husbands have rights over their wives' pewa, which range from fructus to alienation rights. Putalimaya, Samjhana, and Srijana, all janjati women, believe that husbands have the right to be consulted if their wives wanted to sell their pewa. Kamala Tamang did not sell her pewa goat because her husband refused her permission to sell her pewa and use it for herself. Some men, such as Bal Bhadra Shahi, are of the view that husbands can sell their wives' pewa and keep the income themselves even if their wives object. Ambica Mahato from Nawalparasi reported that her husband, with whom she does not get along, sells some of her livestock pewa and keeps the income for himself against her wishes. In these views and instances, a woman no longer has the sole property rights over her pewa; she must share or even cede alienation or fructus rights to her husband.

But women may also insist on keeping their pewa separate from the joint property and tell their husbands, "This goat is my pewa, sent to me by my parents. Do not sell it." This notion of separate personal property persists and can be asserted when spousal relations sour, best exemplified by the norm that a woman has the right to take along her dowry if she separates from or divorces her husband. It should be noted that the pewa women use for their household's expenses is almost always livestock, income from livestock and wages, and their savings. Women also mention that they sell their jewelry, given to them by their parents or husbands or which they bought with their pewa. None of the women we interviewed said they sold their own land, originally given to them by their parents or that they bought with their own money.

In their narratives, women made statements such as, "I use my pewa to buy 'salt and oil'"; or "I have to use my pewa to pay for my children's school fees". There seems to be both regret at having to use

their pewa for household expenses and pride that they are able to contribute financially to the household. One woman said wistfully that if she not used up all her pewa for household expenses, she could have bought enough gold jewelry to be worn from her head to her feet. But more often women spoke of using their pewa for their household because it was required and they could not insist on 'doing pewa', when their husbands and sons needed money.

Old Age and Widowhood: Property for Care

In their forties and certainly by early fifties many women and their husbands, except for the poorest families, would have managed to accumulate assets, perhaps some land, livestock, and savings, especially if the husband had cash income and the wife managed agricultural activities and livestock. A woman by that age would probably have sent her husband or a son or two abroad for work. She would have more control over the joint property of the household as well as her own personal property. By this stage in their life, women, especially those who have good relations with their husbands and/or have to manage the household expenses, do not distinguish between joint and household property, except perhaps for a few items, such as jewelry or land they value.

In the latter stages of their lives, women, especially if they are widows, begin to think about their old age, when they are no longer able to work and earn. Sons who are married and have their own income would have set up separate households and begun to demand that the joint property be partitioned. How will they manage when they are old? Who will look after them? As the 80-year-old Maya Lhayo, who now lives with one of her daughters, put it, "You think that life will be easier after your children grow up but your life is still full of hardship. This is why old people say, 'Despite twelve sons and thirteen grandsons, the old man continues to carry the wicker basket on his shoulder.'"

At this stage of life, alienation rights over joint property of the household and over their personal property become particularly crucial. Most often the male head of the household holds the title to the joint property of the household, especially land and house. When the joint household splits into different households, the male head often still retains the title while allocating specific plots of land to the different

shareholders (parents and sons). The title to the property is often transferred only after the death of the father, and sometimes only after the mother's demise. Sometimes the parents retain some land for themselves as *jiuni*, off which they live, and transfer the title of the rest of the property to the sons. Because the title of the joint property, even *jiuni*, is rarely transferred to the wife/mother, and she rarely has other land of her own, an old woman is in a vulnerable situation. Land, savings and other assets then provide a safety net for them at old age, which they can sell to buy food, pay for medical expenses, or use as an incentive for one of their sons to look after them.³⁴ Several women shared reflections on bargaining land for care.

Manmaju Tamang, a 45-year-old widow was fortunate that she was able to transfer the joint property to her name after her husband died. She said that she would retain the title to the land as long as she is able to work and then transfer part of the land to her son and retain a portion of the land for herself as *jiuni*. She said that if you do not keep *juini*, your sons will not look after you when you are old, or perform mortuary rituals for you when you die. "If you have land in your name when you are old, the sons would vie with each other to care for you because the person who looks after you will inherit the land...If you do not have land, your sons will despise you (*hela garchha*) whereas they will love you if you have *juini*."

Sun Kumari Mandala, a Dalit woman, lives with her husband and three sons, two of whom are married. She is not sure whether any of her sons and their wives would look after her when she is old. Though she is 53 years old, she does all the work in the field and looking after the livestock while her two daughters-in-law do the cooking, look after their children and watch TV the rest of the time. By working hard, she managed to save money with which she bought some land in Mahottari. She registered the land in her name as insurance for her old age. "Why did I register the land in my name? Well, what should I do if I am not looked after later? I do not know whether they will feed me or not. Now if they do not look

³⁴ Gilbert (1993, 439-40) points out the importance of *pewa* for old women. She writes that Aama Ooli, an old Brahmin widow in eastern Nepal, living in a well off family, had over five thousand dollars worth of jewelry and loans in her own name, which was her *pewa*. This *pewa* was her insurance money. "She often told me that it would support her in the event that Buwa Ooli's sons refused to care for her in her old age... [S]he planned on using it to bribe her own son, Kancha, and his future wife. With money like that she was assured of future independence, no matter what happened...The *pewa* had served Aama Ooli as a cushion for many years, a weapon, a bribe, and a source of emotional support."

after me, I can sell it to buy food. They will feed me because of the land... When I am no longer able to work, I will give the land to whoever looks after me.” She deposits 500 rupees monthly in several savings groups in the village, from the money she earns doing wage labour and selling buffalo milk. She plans to continue saving as much as possible mainly for her old age, as incentive for one of her sons to look after her. “They will look after me, in the hope of getting the savings,” she said.

Property rights are used not so much for ‘empowerment’ but to ensure care during old age. And it is in this context that women’s alienation rights become important: the right to transfer (or withhold) land or other assets to children functions as an incentive to care for an elderly mother, or the right to sell assets to provide income to live off if children do not provide care.

Having property rights, including alienation rights based on title, by itself does not ensure that the rights holder is able to exercise these rights because property is embedded in social relations. An elderly widowed Tamang woman from Dhading, who is unable to work and lives with her son, complained that he forced her to sell the land which was transferred to her after her husband’s death. Women, especially widows, who are old, unable to work and thus dependent on their children for care are more likely to have weak property rights over joint property, especially land, or even their own personal property. Such a woman may be shunted from one son’s household to another son’s household or even live with her one of her daughters.

The 80-year-old Maya, whose husband refused to register any land in her name, currently lives not with her married son but with a daughter. Maya’s household owns substantial property which is still registered in her deceased husbands’ names. As co-parceners of her estate, she has full property rights to at least her share of the joint property of the household but is unable to effectively exercise her rights. Maya depends on her children (currently, her deceased sons’ wives) to enjoy rights to the produce of their agricultural land. The widow’s ability to exercise her property rights are weak because of the weak or strained relations with her deceased husband (who refused to register land in her name) and with her sons and daughter-in-law who have effective control over the joint property. This example illustrates the

argument that property rights are only as strong and as effective as the social relations in which they are embedded.

Although property can be and is used by elderly women as social insurance during old age, including as a resource to negotiate care by their children (especially a son), it should not be assumed that children care for their elderly parents only in exchange for assets. Family relations, or household relations, are more than just property relations. Just as women who are female (co-) heads of households often merge their personal property with the joint property of their households to benefit the whole household, sons may also care for their elderly parents, out of a sense of filial duty or love, irrespective of whether they receive or do not receive extra assets for doing so. Moreover, as in the example of Maya, some sons (and their wives) would rather not receive the extra asset than take on the responsibility and burden of caring for ailing, old parents. Ultimately, what is important for elderly women (and men) is not only the cold logic of the political economy of bargaining and exchange of care for assets but simultaneously also the moral economy of the family which calls into play the norms of kinship amity, love, affection, duty.

6. DISCUSSION

To understand how women use assets for livelihoods and empowerment, it is important to look beyond legally defined rights (such as individual or joint property), categories (such as “ownership”) and physical classifications of assets to social classifications of property, which are often determined by the mode of acquisition. Although Nepalese state and customary laws identify a dichotomy between joint or collective household property and individual or personal property, in practice there is more of a continuum of rights between individual and joint, with certain assets moving along the continuum over time as social relations change.³⁵ Understanding these social relations, which are influenced by social location, household structure, relative household wealth and livelihood strategies, as well as kinship norms, helps us identify the ‘social rights’ to property, including why people want to actualize certain rights and not others. Women are more likely to have moveable property such as jewelry, livestock and savings as ‘personal property’ than immoveable property such as land and house. Some women do have land registered in their names – land given to them by their parents as dowry or *pewa*, land they inherit from their parents in the absence of male heirs, and land they bought with their own or their ‘husband’s’ money. Traditionally and most often even currently, livestock was given as *pewa* so that women could have some income, while clothes, jewelry and household goods were given as *daijo*, anticipating setting up new households.

Across all castes and ethnic groups, women have more bundles of property rights and more control over personal property, especially *pewa* and self-earned income, than joint property of households. While there are some differences among caste and ethnic groups in terms of dowry, overall we found common norms on joint property and *pewa*. The biggest differences were in the ability of women to operationalize their rights at different stages in the household life cycle. Women who are actual or de facto heads of households in nuclear or joint households, and thus in position of authority, have more rights and authority to exercise these rights than other women in the households (unmarried daughters, daughters-in-law, junior sisters-in-law). Women who are active in managing the household

³⁵ As Gilbert (1993: 208) astutely argues, “The classification of a particular property as one thing or another: *dowry*, *pewa*, *aunghsa* (*angsa*), is a social act, subject to negotiation,” especially during partition.

affairs, including finances, or have their own sources of income (e.g., through their *pewa* or work) and thus are less dependent financially on their husbands, are more likely to be involved in making decisions over joint property and personal property than those who are not very active or do not manage household affairs.

In the four communities of our fieldwork, changes in social relations, including kinship relationships, affects property relations and property rights. Over the course of a woman's life, her relationship with household members, household structure and composition, and her social location within her household change, impact her personal and joint property rights. The life course of women, like that of men, is structured by gender and kinship norms and practices including divisions of labor, who manages household property and provides for the family, physical mobility, residence after marriage, and relationships between mother-in-law and daughter-in-law, between husband and wife, between parents and children, and so on.

Shifts in women's social location, household structure, and associated social relations affect women's ability as well as strategic interests to exercise certain rights to property. As a result, women employ different strategies to claim or preserve rights to property through the life cycle. In general, the findings reflect that women have less ability to maintain control of their personal property as daughters-in-law in joint households, whereas women in nuclear households have more control over their personal property but also weaker incentives to claim this property as an individual. In a sense, coerced sharing of personal property gives way to voluntary sharing as women gain more control over not only their property, but their household in general.

The mode of acquisition plays a role in determining who claims which bundles of rights to joint property. Ancestral property, usually acquired by inheritance, may be most associated with the male head of household and shared with other male heirs. As newly married daughters-in-law in joint households, women have use and limited *fructus* rights but little further claim to joint property. When they become managers of a nuclear household, women typically have use, management, and some *fructus* rights to joint property. However, some men may treat joint property, especially inherited property, as their

‘personal’ property, retaining for themselves the full bundles of rights, and treating other household members as though they were at best secondary property rights holders. Women have stronger claims to the joint property that is acquired by the couple during their marriage, especially if the wife contributed to the acquisition.

The full bundle of rights is not always strategic for women. Social relations also influence which rights women seek to claim. Many women value management and fructus rights to jointly owned land to cover household expenses. While most lack alienation rights to joint property throughout the life cycle, only in certain circumstances do some women expressly seek these rights. Women with good relations with their husbands do not feel the need to have land registered in their names, whereas those with strained relations with their husbands want title but are unable to persuade them to register land in women’s names. Other women prefer not to get formal title to land to maintain good relations with spouses and in-laws, which they see as more valuable. For some, abdicating rights such as individual title to joint property may be a strategy to solidify a relationship perceived as tenuous, especially when the husband is working abroad. And it was not uncommon for women and men to view individual titling as a step signaling eventual breakup of marriage.

However, upon old age, title to property and alienation rights do become more valued by women. With alienation rights to land, women can designate children to inherit the land or choose to sell it to live off the income in old age. Women spoke of leveraging land and financial assets to bargain for care from their children. Formal title and financial assets may help to give women more bargaining power in their old age because children would vie to provide care in the hopes of becoming inheritors of this land or wealth.

For legally-recognized individual property, dowry given by the bride’s family is still generally shared among the husband’s family, at least among most castes and some ethnic groups, and therefore could be considered joint property. Women have the strongest individual claims to *pewa*, which is given directly to them by their natal family or earned by their efforts.

Nevertheless, pewa is often spent on household and individual expenses, and can even become joint property of the household. While there are numerous examples of women being coerced to give up their pewa, particularly in low status roles as daughters-in-law in a joint household, women spending pewa on household expenses is not necessarily a sign of disempowerment. Women may choose to do so, particularly when they are heads of nuclear households, responsible for meeting household needs, and when poverty requires that they mobilize all resources available to them.

Older respondents in nuclear households indicate a sense of pride in contributing to their families' expenses or investments. As noted by Kabeer (1998) and Jackson (2002), households are places of interdependence, with shared as well as separate interests. Uberoi (2006: 29-33) argues that in analyzing gender relations within the household or family, we must consider both the political economy of self-interest and contestation, as well as the moral economy that prompts people to sacrifice their self-interest for the common good. The latter is reinforced by social norms regarding the roles and behavior of a good wife, daughter-in-law and mother.

7. CONCLUSION

To understand the gendered nature of property rights, we need to go beyond looking at male-female dichotomies to examine the intersection of different vectors of hierarchy and sources of identity. Much of the literature focuses on the intersection of gender, race, ethnicity, caste, class, and religion. But just as gender may not always be the most relevant identity, so too ethnicity or caste may not always be the most relevant category for property rights. We found that the most salient differences between the rights women hold and their ability to exercise them were often based on social location in the household and identity as daughter, daughter-in-law, wife, mother, mother-in-law, or widow.

Both the academic literature and development projects emphasize the vulnerability and need for empowerment of young women. Our research reinforces this point: daughters-in-law in extended family households often have to work hard with little decision-making power and limited fructus rights. Their position improves when the extended joint household splits, and women become female co-heads of households, and then mothers-in-law themselves. But it is not a uniform upward trajectory: elderly women, especially widows, are also vulnerable, and robust property rights, especially alienation rights, can help strengthen their bargaining power for care with the younger generation of their family.

In this paper, we have tried to demonstrate the value of an intersectional analysis of the links between property rights and empowerment. To understand the processes of women's empowerment, a life cycle perspective proves useful. Because property rights are embedded in social relations, both are gendered, and change over the life cycle. While much scholarship emphasizes how women's rights over assets can shift social relations by empowering women, there has been limited clarity on what specific rights women hold over assets, and less attention to how social relations affect whether women can or want to actualize specific rights to assets.

These findings point to key factors that influence whether women's rights over assets lead to empowerment, and when women are able to exercise certain rights over assets. In so doing, it complicates

arguments that women's rights to assets are uniformly beneficial and desired, by showing what types of rights women are able to exercise, and which rights they want, at different stages in the life cycle.

Women's property rights reveal an ironic trend through the life cycle: when women are least powerful as daughters-in-law in joint households, with weakest rights to joint property, they would benefit most from individual property. However, this is when their *pewa* is most likely to be appropriated against their wishes, and some employ strategies to try to hide their *pewa*. While dowry, publicly bestowed, is more visible and can raise social status, *pewa* in contrast is often kept privately, even hidden. In contrast, when women have the most authority as heads of a nuclear household, many do not distinguish between personal and joint property.

While the data presented in this paper come from detailed ethnographic study, it provides several insights that can be applied to quantitative data analysis as well. To understand the status of women, it is essential to record whether they are part of nuclear or extended families, and a careful roster of household members (which may require more than just relation to head of household, so that one can identify which daughters-in-law are associated with which sons and which grandchildren, for example.) Researchers should be careful to record and control for household structure and social location when investigating extent and drivers of empowerment. Including household position along with caste and ethnicity, and where relevant, race or religion, in larger surveys can help to identify broader patterns than possible in our qualitative field work. Future household surveys could ask explicit questions about asset acquisition, distinguishing between joint, *pewa*, and dowry property. Specific bundles of rights to assets could be recorded - including use, management, fructus, and alienation rights - to reveal where property lies on the continuum between individual and joint, and which household members in an extended family hold which rights. Future research also needs to distinguish between personal property that is involuntarily appropriated by other household members, and personal property that is willingly relinquished by women to meet household needs. Finally, land and assets have different purposes and are valued differently by people during the life cycle and according to their abilities and social relations.

Asking women about their use and perceptions of the value of property is therefore important to identify how property increases women's power and which specific rights are necessary. Do women seek fructus rights to control their own stream of income? Do they want alienation rights to secure an exit option from an abusive relationship or to hold the power to choose who inherits their land in old age? Some arguments hold that control over assets help women bargain for specific outcomes, but there was limited evidence from this research on which bundles of rights to joint or personal property would improve women's position. While personal property could help women bargain for rights to joint property, asserting these individual rights could also weaken their claims to joint property.

Finally, these findings also point to lessons for future project implementation. Women reveal that they do not necessarily want full bundles of rights to assets due to social risks or ability to defend their rights to an asset. Joint titling may be less socially threatening to both men and women than individual titling of parcels of land, which both men and women perceive as a potential sign of divorce. However, securing women's alienation rights to land are critical for their ability to command care from their children in old age. For projects that distribute assets like livestock to women, investigating how social relations in a household assign property rights to the asset would help to show how women, and which women, are benefiting from or controlling the asset, if at all.

Current policy that encourages registration of land in women's names has had a limited impact in our study areas. The reluctance of some women to claim formal title to land and skepticism towards individualizing joint property underscores the importance of social, as well as legal, protection of property.

Nevertheless, it is important to stress that formal title or 'ownership' by itself does not guarantee that the owner of the property will be able to exercise any of her property rights, just as it does not mean that a woman who lacks formal title has no rights. Social relations structure how property rights are distributed within the household and who is able to actualize which of the bundles of property rights. Ultimately, property rights are only robust and effective if recognized by their social relations and, for women, maintained only as long as the social relationships, in which they are embedded, endure.

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