

PLOUGHING...PINK



Indo-Global Social Service Society

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“You can tell the condition of
a nation by looking at the
status of its women.”

– Jawaharlal Nehru



Indo-Global Social Service Society

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FOREWORD



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MESSAGE

I would like to convey my hearty congratulations to the Indo-Global Social Service Society for conducting important studies in 23 states of India on the land rights of women. In my tenure in the last 5 years as member Planning Commission, I travelled across the length and breadth of the country. In most of my field interactions with social workers, the issue of land rights for women has been expressed as a major concern. It is also widely recognized that women's unequal access to land in rural India is one of the most important forms and causes of gender inequality. Indeed, because the majority of the India's poor are women and girls, the failure to focus on gender and implement gender sensitive policies has held back our progress in development.

Women's independent land rights mean not only her entitlement and empowerment; but also the positive externalities of family welfare. Studies show that women's independent land rights can enhance farm productivity, food security, improve child health, nutrition and education and even help reduce domestic violence.

To help women exercise their legal claims and rights, we need to work on many fronts – improving women's literacy and the school enrollment of girl children, increasing access to microcredit and programs for income and asset generation. We need an attitudinal change and programs to combat the discrimination against the girl child. We also need to create a policy environment that is sensitized and recognizes the importance of land rights for women.

Peasant women in Bodhgaya, Bihar said when they first received land in their names in 1982:

*We had tongues but could not speak
We had feet but could not walk
Now that we have the land
We have the strength to speak and walk!*

I wish IGSSS all success in its noble endeavours to bring about gender equality and equity in the society.


(Syeda Hameed)

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MESSAGE

There is a prevailing notion that women's issues are women's issues meaning that the issues do not concern men. A moment's reflection will show that it is a wrong notion. No society where women do not live with dignity can claim to be cultured.

To live with dignity a human being needs many assets. Property is one of the more important of such assets. Even as we rightfully celebrate the phenomenal progress made by Bharat since 1947, it is important to draw attention to the unsatisfactory state of women's property rights.

The present study by a multi-disciplinary team in 23 states is meant to highlight the ground realities, the remedial action taken so far, and the further action that needs to be taken.

The IGSSS in its Golden Jubilee Year is glad to present such a study to the general public, the civil, society, the academia, and the decision-makers within and without the government. We do hope that others will be prompted to come up with more and better studies.

The task before us is immense. All the more reason for us to search for synergy among all the stake holders.

Ambassador K.P. Fabian

ACKNOWLEDGEMENTS

*T*his document is a result of consistent efforts of committed individuals who have spent their lives voicing women's concerns. IGSSS thanks all these guiding forces behind this study. We express our heartfelt gratitude to Mr. K.P. Fabian, President, IGSSS who conceptualized the study and its framework. His focussed interventions facilitated in commencing regional consultations and state studies on Women's Land and Housing Rights in a large scale. IGSSS acknowledges the significance of the understanding shown and contributions made by Misereor, without which it would have been impossible to steer ourselves towards accomplishing our goal.

IGSSS is also thoroughly impressed by the hard work of its Regional Offices in this regard. Last but not the least, IGSSS thanks the consultants who helped in getting relevant information from their respective states, union territories and regions for this document. Their names are given below:

1. Andhra Pradesh	Sumathi
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15. Nagaland	Ashin Konyak
16. Orissa	Jankalyan Sansthan
17. Punjab	PWN & SATHI
18. Rajasthan	Narender Kumar
19. Tamil Nadu	Kamila
20. Pondicherry	Kamila
21. Tripura	Rubul Sharma
22. Uttar Pradesh	Roma Malik
23. Uttarakhand	Tarun Joshi
24. West Bengal	Sudhir Dey & Partha Raha

INTRODUCTION

*I*n 2007, Indo-Global Social Service Society initiated a process to know the status of the land and housing rights of women in India and also to explore the possibility of building a platform to raise issues for networking, advocacy and ground level interventions.

Land is a state subject in India. There are lots of small civil society organisations and state or regional networks working on land rights of marginalised and backward people. However, there seems to be no visible effort to underline women's rights in the land rights campaign.

Indo-Global Social Service Society (IGSSS), in its history of 50 years of service to the marginalised sections of India, often initiates consultations on key socio-developmental issues affecting the disadvantaged to build solidarity and provide a platform for deliberation and analysis on the various facets of the issue. Women and land rights is one such issue and a priority area of IGSSS work as it integrates the issues of sustainable livelihood and human rights.

IGSSS believes that as the main food producers, women's access to land and natural resources is a key factor in eradicating hunger and rural poverty. Ownership of house and property provides security to women to take a stand against violence, and makes it difficult for family members to throw her out of the house. Sale of houses would not be possible without the consent of the woman title-holder. The title to house and land would improve her access to credit, increase her economic worth, enhance her productivity and earning capacity and the immovable property would boost her confidence, worth and dignity.

With this belief, IGSSS initiated the process with following objectives:

- To have a platform to share the present status and interventions with regard to women and land rights
- To analyse and acknowledge shift in different policies (state and national levels) affecting and promoting land and housing rights of women
- To produce a time-bound action agenda at the regional and national levels and advocate for the same

To realise the above objectives, following strategies were adopted:

- a. To consult various NGOS, activists and women across India and find out the common agenda point for networking and advocacy
- b. To conduct state wise researches on – status of women vis-à-vis social, political, cultural framework in the state, state wise recommendations and list of people who are willing and can support the issue of access and control of women over land.

This document attempts to summarise the above process.

EXECUTIVE SUMMARY

This document is an effort of IGSSS to map the present status of women's land and housing rights in India. Landlessness is invariably connected with inequality and poverty, more so in the case of women. The rights of women over land, housing, and other resources are essential not only to reduce their poverty but also to increase their financial efficiency. This shall, in turn, bring about gender equality and equity in the society.

Land and housing rights are generally explained within a patriarchal framework – without giving due recognition to gender equity. It was observed during the study that women's rights over land, particularly agricultural land, are important in rural settings since it is a source of livelihood. The right to housing is strongly advocated as a protective measure in urban areas, since space is a scarcity there.

There is lack of verifiable data related to women's land ownership patterns. So this document heavily depends upon the sample surveys guided by our qualified consultants, by various regional consultations and on secondary data available in various personal, public and Government publications.

Identifying the avenues through which women obtained land, the land rights can be categorized under three broad categories: 1. Inheritance, 2. Transfers from the State and 3. Tenancy arrangement/Land purchase. Since 86 per cent of arable land in India is private, inheritance laws become the most important indicator defining land ownership patterns. According to preliminary findings, land and housing laws governing inheritance can be further categorized under (i) Religion – the faith one follows, (ii) Region – the location of one's inhabitation and (iii) Nature of law – constitutional law, customary codes, personal laws etc.

Due to the vastness of the Indian canvas any effort to capture all the dimensions of women's land and housing rights cannot be fully realized in a manuscript. Thus, this dossier is not a comprehensive record of all the States/Union Territories of India. It is rather a summary of the key issues, trends and strategies involved and our recommendations. We admit that any attempt to fix a definition for women's land and housing rights for a country as large and diverse as India, using the "one-size-fits all" approach, would be counterproductive. Through this study, we have sought to redefine the land and housing rights parameters for Indian women.

This study has two annexures. In the first one, IGSSS acknowledges various sources of its references and in the second one, it enlists certain important women land rights documents.

1

CHAPTER

HISTORICAL PERSPECTIVE

*T*he issue of women's rights in housing and land has been largely neglected in both research and policy. In almost all developing countries, large-scale surveys and agricultural census collect property-related information only by households, without disaggregating it by gender. In most of South Asia, including India, dependency upon small-scale surveys and village studies to assess women's access to land cannot be undermined. These sources reveal that typically few women own arable land and even fewer have any effective control over them. In the Indian context, female workforce participation rates, rather than property rights, are widely used as the main indicator of women's economic status (Agarwal 1995).

Women in Asia, Africa, and Latin America depend critically on land for a livelihood. The typical process of agrarian transformation, under which labour shifts from agriculture to non-agriculture, has been slow and gender-biased. In many countries, those who have moved to non-farm work are largely men, while women have remained substantially in agriculture. Hence a disproportionate number of those still dependent on land are women. In India, for instance, 58 per cent of the male workforce is in the agriculture sector. It goes up to 78 per cent in the case of females. And out of the total rural female workers, 86 per cent are engaged in agriculture. Since women constitute 40 per cent of the entire agricultural workforce (Approach paper to Eleventh Five Year Plan), their right over agricultural lands becomes more significant. Women's domestic work burden, lower mobility, lesser education, and fewer productive assets, limit their entry into non-agriculture, and also their range of non-farm options. Moreover, the nature of women's agricultural work is, (to a greater extent than for men) casual in nature.

All these contribute to their lower real wage rates and lower average real wage earnings in comparison to men, thus hampering their livelihood.

The right to adequate housing has been defined by the UN Committee on Economic, Social and Cultural Rights in December 1991 in its General Comment No. 4. It says that the State should not interpret the term 'right to housing' in a narrow or restrictive way as "merely having a roof over one's head or as a commodity but as the right to live somewhere in security, peace and dignity" (Para. 7). It reflects both the holistic conception of the right and the value it gains from the aspect of adequacy. Based on this broad interpretation, the General Comment identified seven aspects of the right to housing that determine "adequacy": (a) legal security of tenure including legal protection against forced evictions; (b) availability of services, materials, facilities and infrastructure; (c) affordability; (d) habitability; (e) accessibility for disadvantaged groups; (f) location and (g) cultural

adequacy (para. 8)¹. At the international level, this is the single most authoritative legal interpretation of the right to housing.

In the light of the above definition it is depressing to note that, according to the census 2001, over 82 million of India's population, about 30 per cent of the country's urban population lives in slums and other low income informal settlements. They have slim or no access to adequate housing and basic amenities. The situation in rural areas is even more dismal violating one of the most important basic human rights.

In the Indian context housing right is now recognised as a fundamental human right. As a primary user, a woman's requirements rank the highest in a house. Beyond being a shelter, a house has multiple dimensions for her. It is a place of livelihood. It is the point for social interaction. It serves as a refuge from social instability, sexual exploitation and legal authority. There are seven elements as regards the rights of women towards housing. They are – establish the house, use the area, manage, dispose, regulate, sanction and perform rituals in it. If a woman is able to exercise these rights, only then her right to house is affirmed.

Women's right to housing has to be understood in terms of their access to and control over housing and property. 'Legal rights in housing and property' broadly refers to security of tenure, i.e., right to own, lease, rent, mortgage or dwell in house and property, and the right not to be forcibly evicted.

In general, the condition of Indian women, (both rural and urban) has been pathetic as far as their land and housing rights are concerned. The women's movement in the early decades of the 20th century, witnessed an intensified demand for changes in women's legal status from a number of quarters, especially from women's organizations and from progressive male reformers. By 1930 several women's organizations had been founded most notably the Women's Indian Association, All India Women's Conference and the National Council for Women in India. These organizations, which were new in those times, worked for the social reform legislations, especially on women's rights to education, divorce, maintenance etc. However, these groups could not

institutionalize the land or property rights as an exclusive area for reform activities and campaign by exerting pressure on policy makers to change the scenario.

The issue of women's housing and land rights has received little attention in policy formulation till the 1980s. It was in the Sixth Five Year Plan, (1980-85), that the women's need for land received some state recognition. The plan stated that the government would 'endeavour' to give joint titles to 'spouses' in programmes involving the distribution of land and home sites to the landless. In the Seventh Plan, (1985-90), this directive on joint titles was not restated.

However, the Eighth Plan (1992-97) does mention two specific points in relation to women and agricultural land. The first one was about the inheritance laws. It stated that one of the basic requirements for improving the status of women is to change inheritance laws so that women get an equal share in parental property. This was directly relevant for the women who already belonged to the propertied class. The second point concerned a redistributive process from the existing resources. For this, the central government asked the states to allot 40 per cent of the surplus land (i.e. land acquired by the government from rural households owning more than the specified holding amount) to landless women, and the rest jointly in the names of landless couples.

According to the approach paper to the Eleventh Five-Year Plan, women constitute 40 per cent of the agricultural workforce. This percentage is rising due to large scale migration by men, preoccupation of men in nonfarm activities and rapid industrialization. An estimated 20 per cent of rural households are de facto female headed due to widowhood, desertion, or migration of males. The increasing number of women in agricultural work needs to be seen in the context of concentration of unskilled women in this sector. This leads to decline in agricultural produce which leads to further poverty.

In the Indian context, women's rights to land and housing is not expressed specifically as a human right. It does encompass the right to life, right to health, right to livelihood, right to food and the right to work. These rights are legitimized claims and the State has an obligation to respect, protect and fulfil them. But it will become a reality only when women begin to realise their full potential as human beings and assert their rights in all spheres of their lives.

¹ General Comment No. 4 of the Committee on Economic, Social and Cultural Rights (CESCR) on the right to adequate housing (Sixth Session. Document No. E/1992/23).

Home to diverse religions, large number of customary codes and personal laws, that at times overlap each other, India is yet to bring in a uniform civil code for its women. Therefore every religious community continues to be governed by its respective personal laws in several matters – property right is one of them. In fact, even within the different religious groups, there are sub-groups and local customs and norms with their respective property rights. Thus Hindus, Sikhs, Buddhists and Jains are governed by one code of property rights, while Christians are governed by another code and the Muslims have not codified their property rights.

Also, the tribal women of various religions and states continue to be governed for their property rights by the customs and norms of their tribes. Due to the complex legal pluralism that exists everywhere in India; defining women's land and housing rights become difficult. Moreover, as per our Constitution, both the central and the state governments are competent to enact laws on matters of succession which adds to the problems. There is, therefore, no single body that deals with this multifaceted housing, land and property rights issue of Indian women making its assertion all the more complex.





SUMMARY OF POLICY AND LEGAL FRAMEWORK

THE CONSTITUTION OF INDIA, 1950

The Constitution of India is one of the most rights based constitutions of the world. Drafted around the same time as the Universal Declaration of Human Rights 1948, the Indian Constitution captures the essence of human rights in its Preamble, and the sections on Fundamental Rights and the Directive Principles of State Policy.

The preamble of the Indian Constitution clearly states “We, the people of India having solemnly resolved to constitute India into a sovereign, socialist, secular, democratic, republic and to secure to all its citizens:

- JUSTICE, social, economic and political;
- LIBERTY of thought, expression, belief, faith and worship;
- EQUALITY of status and of opportunity;

And to promote among them all

- FRATERNITY assuring the dignity of the individual and the unity and integrity of the Nation”

Provisions Ensuring Women’s Rights (Directly or Indirectly)

Article 14. Equality before law

The state shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

Article 15. Prohibition of discrimination on grounds of religion, race, caste, sex, or place of birth

1. The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, and place of birth or any of them.
2. No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to:
 - a. Access to shops, public restaurants, hotels and places of public entertainment; or
 - b. The use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of general public.
3. Nothing in this Article shall prevent the State from making any special provision for women and children.

Section 16. Equality of Opportunity in Matters of Public Employment

1. There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.
2. No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the State.

Article 21. Protection of life and personal liberty

No person shall be deprived of his life or personal liberty except according to procedure established by law.

Right to Life

The right to life with human dignity with minimum sustenance and shelter and all those rights and aspects of life which would go to make a man's life complete and worth living, would form part of the right to life.

Right to Health

Right to health is an integral to right to life, as such the Government has constitutional obligation to provide the health facilities to a Government servant.

Article 21-A. Right to education (Inserted by the 86th amendment in December 2002, but yet to be brought into force)

The State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine.

Article 23. Prohibition of traffic in human beings and forced labour

Trafficking in human beings and beggars and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.

Directive Principles of State Policy

Article 38. State to secure a social order for the promotion of welfare of the people

1. The State shall strive to promote the welfare of the people by securing and protecting as

effectively as it may a social order in which justice, social, economic, and political, security shall prevail to all the institutions of the national life.

2. The State shall, in particular, strive to minimize the inequalities in income, and endeavour to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations.

Article 39. Certain principles of policy to be followed by the State

The State shall, in particular, direct its policy towards securing:

- a. That the citizens, men and women equally, have the right to an adequate means of livelihood;
- b. That the ownership and control of the material resources of the community are so distributed as best to sub serve the common good;
- c. That the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;
- d. That there is equal pay for equal work for both men and women;
- e. That the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter vocations unsuited to their age or strength;
- f. That children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.

Article 39-A. Equal justice and free legal aid

The State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.

Article 42. Provision for just and humane conditions of work and maternity relief

The State shall make provision for securing just and humane conditions of work and for maternity relief.

Article 44. Uniform civil code for the citizens

The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India.

Article 47. Duty of the State to raise the level of nutrition and the standard of living and to improve public health

The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health.

Reservation of Seats

Article 243-D. Reservation of Seats

- I. Seats shall be reserved for:
 - a. The scheduled castes; and
 - b. The scheduled tribes,

In every panchayat the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in that panchayat as the population of the scheduled castes in that panchayat area or of the scheduled tribes in that panchayat area bears to the total population of that area and such seats may be allotted by rotation to different constituencies in a panchayat.

2. Not less than one-third of the total number of seats reserved under clause (I) shall be reserved for women belonging to the scheduled castes or, as the case may be, the scheduled tribes.
3. Not less than one-third (including the number of seats reserved for women belonging to the scheduled castes and the scheduled tribes) of the total number of seats to be filled by direct election in every panchayat shall be reserved for women and such seats may be allotted by rotation to different constituencies in a panchayat.

4. The offices of the chairpersons in the panchayats at the village or any other level shall be reserved for the scheduled castes, the scheduled tribes and women in such manner as the legislature of a state may, by law, provide:

Provided that the number of offices of chairpersons reserved for the scheduled castes and the scheduled tribes in the panchayats at each level in any state shall bear, as nearly as may be, the same proportion to the total number of such offices in the panchayats at each level as the population of the scheduled castes in the state or of the scheduled tribes in the state bears to the total population of the state.

Provided further that not less than one-third of the total number of offices of chairpersons in the panchayats at each level shall be reserved for women.

Provided that the number of offices reserved under this clause shall be allotted by rotation to different panchayats at each level.

5. The reservation of seats under clauses (1) and (2) and the reservation of offices of chairpersons (other than the reservation for women) under clause (4) shall cease to have effect on the expiration of the period specified in article 334.
6. Nothing in this part shall prevent the legislature of a state from making any provision for reservation of seats in any panchayat or offices of chairpersons in the panchayats at any level in favour of backward class of citizens.

Article 243-T. Reservation of Seats

- I. Seats shall be reserved for the scheduled castes and the scheduled tribes in every municipality and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in that municipality as the population of the scheduled castes in the municipal area or of the scheduled tribes in the municipal area bears to the total population of that area and such seats may be allotted by rotation to different constituencies in a municipality.

2. Not less than one-third of the total number of seats reserved under clause (1) shall be reserved for women belonging to the scheduled castes or, as the case may be, the scheduled tribes.
3. Not less than one-third (including the number of seats reserved for women belonging to the scheduled castes and the scheduled tribes) of the total number of seats to be filled by direct election in every municipality shall be reserved for women and such seats may be allotted by rotation to different constituencies in a municipality.
4. The offices of chairpersons in the municipalities shall be reserved for the scheduled castes, the scheduled tribes women in such manner as the legislature of a state may, by law, provide.

Acts Related to Women: A Brief Summary

The Protection of Women from Domestic Violence Act, 2005

Acclaimed by the civil society and social activists and organizations working on issues of gendered violence the Act was an outcome of consistent advocacy towards legislative and judicial reform. This is “an Act to provide for more effective protection of the rights of women guaranteed under the Constitution who are victims of violence of any kind occurring within the family and for matters connected.” The Act states that “domestic violence is undoubtedly a human rights issue and serious deterrent to development. The Vienna Accord of 1994 and the Beijing declaration and the Platform for Action (1995) have acknowledged this. The United Nations Committee on Convention on Elimination of All Forms of Discrimination against Women (CEDAW) in its General Recommendation No. XII (1989) has specified that State parties should act to protect women against violence of any kind especially that occurring within the family.”

The Hindu Widows' Remarriage Act, 1856

This Act intended to remove all the obstacles that prevailed on the remarriage of Hindu widows, giving it the required legal sanction. The Act had a significant bearing on women's right to properties, as to the effect that “all rights and interests which any widow may have in her deceased husband's property by way of maintenance, or by inheritance to her

husband or to his lineal successors, or by virtue of any will or testamentary disposition conferring upon her, without express permission to remarry, only a limited interest in such property, with no power of alienating the same, shall upon her remarriage cease”. The Act also states that the widow shall not, by reason of her remarriage, forfeit any property or any right to which she would otherwise be entitled and that every widow, who has remarried, shall have the same rights of inheritance as she would have had, had such marriage been her first marriage.

The Hindu Widows' Remarriage (Repeal), Act, 1983

This Act repealed the Hindu Widow's Remarriage Act of 1856 because of the passing of four more Acts, in the century that followed viz. The Hindu Marriage Act, in the centuries that followed 1955, The Hindu Succession Act, 1956, The Hindu Minority and Guardianship Act, 1956, and The Hindu Adoptions and Maintenance Act, 1956.

The Hindu Women's Rights to Property Act, 1937

In traditional society, women had no property rights. In the eyes of the law, she was a minor or a ward. This Act recognized a widow of a deceased person as his surviving personality with the same right as his in the joint property. Thus through this Act, women in the Hindu society received the right to property to a limited extent.

The Medical Termination of Pregnancy Act, 1971

This is an Act to provide for the termination of certain pregnancies by registered medical practitioners and for matters connected therewith or incidental thereto. It legalized the termination of pregnancy on various socio-medical grounds. This Act is aimed at eliminating abortion by untrained persons and in unhygienic conditions, thereby reducing maternal morbidity and mortality.

The Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Amendment Act, 1994.

This is an Act to provide for the prohibition of sex selection, before or after conception, and for regulation of pre-natal diagnostic techniques for the purposes of detecting genetic abnormalities or metabolic disorders or chromosomal abnormalities or certain congenital malformations or sex-linked disorders and for the prevention of their misuse for sex determination. The Bill, *inter alia*, provided for prohibition of the misuse of pre-natal diagnostic techniques for determination

of the sex of the foetus, leading to female foeticide; prohibition of advertisement of pre-natal diagnostic techniques for detection or determination of sex; permission and regulation of the use of pre-natal diagnostic techniques for the purpose of detection of specific genetic abnormalities or disorders; permitting the use of such techniques only under certain conditions by the registered institutions and punishment for violation of the provisions.

Amendment Act 14 of 2003

Certain inadequacies and practical difficulties in the administration of the said Act necessitated this amendment. The amniocentesis and sonography were being found to be used on a large scale to detect the sex of the foetus and to terminate the pregnancy of the unborn child if found to be female. Techniques are also being developed to select the sex of child before conception. These practices and techniques are considered discriminatory towards the female sex and not conducive to maintaining/upholding the dignity of women. Therefore, the amendment provided for the enactment and implementation in letter and spirit, a legislation to ban the pre-conception sex selection techniques, the misuse of pre-natal diagnostic techniques for sex-selective abortions and to provide for the regulation of such abortions.

The National Commission for Women Act, 1990 (20 of 1990)

Successive commissions on women have noted the unequal status of women in every sphere of life in their various reports. They have suggested the setting up of an agency to fulfil the surveillance functions and facilitate grievance redressal of women. Several women activists and voluntary action groups have also been making persistent demands for setting up of a commission for women. The country cannot progress as long as this inequality persists with reference to half of its population. Having realized the importance of the issue, the Government decided to set up a commission for women, to be called the National Commission for Women, consisting of a Chairperson and six Members. The main task of the Commission was to study and monitor all matters relating to the constitutional and legal safeguards provided for women, to review the existing legislations and suggest amendments, wherever necessary. It also looks into the complaints and takes suo moto notice of the cases involving deprivation of the rights of women in order to provide support, legal or otherwise, to helpless women. The Commission also monitors the

proper implementation of all the legislations made to protect the rights of women, so as to enable them to achieve equality in all spheres of life and ensure equal participation in the development of the nation.

The Act enables the Commission to look into the complaints and take suo moto notice of matters relating to deprivation of women's rights; non-implementation of laws enacted to provide protection to women and also to achieve the objective of equality and development; non-compliance of policy decisions, guidelines or instructions aimed at mitigating hardships and ensuring welfare and providing relief to women; and to take up the issues arising out of such matters with appropriate authorities.

The Maternity Benefit Act, 1961

This Act is to regulate the employment of women in certain establishments for certain periods before and after child-birth and to provide for maternity leave and certain other benefits. Prior to the Act, maternity protection was provided under different State Acts on the subject and three Central Acts, viz., the Mines Maternity Benefit Act, 1941, the Employees' State Insurance Act, 1948 and the Plantations Labour Act, 1951. The legislation intended to reduce disparities in this respect. It applies to all establishments, including mines, factories and plantations, except those to which the Employees' State Insurance Act, 1948 applies.

Amendment Act 21 of 1972

The amendment remedied the situation that a woman, unless she fulfils the conditions laid down under section 50 of the Employees' State Insurance Act, 1948, is not qualified to claim any maternity benefit there under. Thus, she is deprived of maternity benefit under both the Acts. To remove this lacuna, the Maternity Benefit Act, 1961 was amended so as to provide that in the event of the application of the Employees' State Insurance Act, 1948 to any factory or establishment, maternity benefit under the Maternity Benefit Act would continue to be available to women workers therein, until they become qualified to claim similar benefit under the Employees' State Insurance Act.

Amendment Act 52 of 1973

The amendment extended maternity benefit to the women workers in the circus industry and assigned the administrative responsibilities related to the Act to the Central Government instead of the State Government.

Amendment Act 53 of 1976 – Statement of Objects and Reasons

It was brought to notice that the women employees employed in factories or establishments covered by the Employees' State Insurance Act, 1948 and in receipt of wages exceeding the amount specified in that Act are not in receipt of maternity benefit either under the Employees' State Insurance Act, 1948 or the Maternity Benefit Act, 1961. It was proposed to make the above mentioned category of women employees eligible for maternity benefit under the Maternity Benefit Act, 1961.

The Muslim Women (Protection of Rights on Divorce) Act, 1986

Followed by the controversy aroused by the Supreme Court, in *Mohd Ahmed Khan V. Shah Bano Begum* A.I.R. 1985 S.C. 945, where the Court came to the conclusion that if the divorced wife is able to maintain herself, the husband's liability ceases with the expiration of the period of iddat. However, if she is unable to maintain herself after the period of iddat, she is entitled to have recourse to section 125 of the Code of Criminal Procedure, 1973. This Act specified the rights to which a Muslim divorced woman is entitled. The Bill accordingly provides for a Muslim divorced woman to "be entitled to a reasonable and fair provision and maintenance within the period of iddat by her former husband and in case she maintains the children born to her before or after her divorce, such reasonable provision and maintenance would be extended to a period of two years from the dates of birth of the children. She will also be entitled to Maher or dowry and all the properties given to her by her relatives, friends, husband and the husband's relatives. If the above benefits are not given to her at the time of divorce, she is entitled to apply to the Magistrate for an order directing her former husband to provide for such maintenance, the payment of Maher or dowry or the delivery of the properties". Where a Muslim divorced woman is unable to maintain herself after the period of iddat, the Magistrate is empowered to make an order for the payment of maintenance by her relatives who would be entitled to inherit her property.

The Dissolution of Muslim Marriages Act, 1939

This is an Act to consolidate and clarify the provisions of Muslim law relating to suits for dissolution of marriage by women married under Muslim law. It also

aimed to remove the doubts as to the effect of the renunciation of Islam by a married Muslim woman on her marriage ties. The Act specified the reason that there is no provision in the Hanafi Code of Muslim law enabling a married Muslim woman to obtain a decree from the Court dissolving her marriage. It may be because the husband neglects to maintain her, or makes her life miserable by deserting her or is persistently maltreating her or absconds without providing for her or due to certain other circumstances. The absence of such a provision has entailed unspeakable misery to innumerable Muslim women in British India. The Hanafi jurists, however, have clearly laid down that in cases in which the application of Hanafi law causes hardship, it is permissible to apply the provisions of the "Maliki, Shafi's or Hambali law". As the Courts are sure to hesitate to apply the Maliki law to the case of a Muslim woman, legislation recognizing and enforcing the above given principle is called for in order to empower countless Muslim women.

The Family Courts Act, 1984

Through this Act, the Government of India acknowledged that several organizations and individuals have urged, from time to time, that Family Courts be set up. These courts were meant for the settlement of family disputes where emphasis should be laid on conciliation and achieving socially desirable results the meaningless adherence to rigid rules of procedure and evidence should be eliminated. The Law Commission in its 59th Report (1974) had also stressed that, in dealing with disputes concerning the family, the court ought to adopt an approach radically different from that adopted in ordinary civil proceedings, and that it should make reasonable efforts at settlement before the commencement of the trial. The Code of Civil Procedure, 1908 was amended in 1976 to provide for a special procedure to be adopted in suits or proceedings relating to matters concerning the family. However, not much use has been made by the Courts in adopting this conciliatory procedure, and the courts continue to deal with family disputes in the same manner as other civil matters and the same adversary approach prevails. The need was, therefore, felt in the public interest, to establish Family Courts for speedy settlement of family disputes.

The bill inter alia, seeks to provide matrimonial relief, including nullity of marriage, judicial separation, divorce, restitution of conjugal rights, or declaration as to the validity of a marriage or as to the matrimonial status of any person; the property

of the spouses or of either of them; declaration as to the legitimacy of any person; guardianship of a person or the custody of any minor; maintenance, including proceedings under Chapter IX of the Code of Criminal Procedure, 1973.

The Dowry Prohibition Act, 1961

The Act states that 'the object of this Bill is to prohibit the evil practice of giving and taking of dowry. This question has been engaging the attention of the Government for a long time and one of the methods by which this social problem, a social one, was sought to be tackled was by the conferment of improved property rights on women by the Hindu Succession Act, 1956. It is felt that a law, which makes the practice punishable, and at the same time ensures that any dowry, if given does ensure for the benefit of the wife, will go a long way to educating the public and in the eradication of this evil'. The Act takes care to exclude presents in the form of clothes, ornaments, etc., which are customary at marriages, provided the value thereof does not exceed Rs. 2,000.

Amendment Act 63 of 1984

The Committee on the Status of Women in India pointed out that the educated youth is grossly insensitive to the evils of dowry and contributes to its perpetuation. The Joint Parliamentary Committee recommended that the definition of "dowry" contained in section 2 of the 1961 Act should be modified by omitting the expression "as consideration for the marriage" used therein on the ground that it is impossible for the giver to prove that anything given was in consideration for the marriage. The parents who are usually the victims would be reluctant and unwilling to set the law in motion. Therefore, the Act substituted the words "in connection with the marriage" with "as consideration for the marriage". Also the amendment made punishments more stringent and cognizable. The Act reduced to three months from one year, the time limit for restoring the dowry to the affected party (women).

Amendment Act 43 of 1986

The Dowry Prohibition Act, 1961 was further amended taking in to consideration the opinions expressed by representatives from women's voluntary organizations and others to the effect that the amendments made are still inadequate. The provisions of the Act were made further stringent and effective.

The Immoral Traffic (Prevention) Act, 1956 List of Amending Acts

In 1950, the Government of India ratified an International Convention for the Suppression of Immoral Traffic in Persons. Under article 23 of the Constitution, traffic in human beings is prohibited and any contravention of the prohibition is an offence punishable by law. Under article 35, such a law has to be passed by Parliament, as soon as may be, after the commencement of the Constitution. The Government observed that the legislation on the subject of suppression of immoral traffic existed only in a few States but the laws are neither uniform nor do they go far enough.

In the given circumstances, it was felt necessary and desirable that a Central law should be passed which will not only secure uniformity but also would be a sufficient deterrent for the said purpose. The Bill is generally on the usual lines with penalties sufficiently deterrent for the purpose, but a special feature of the Bill is that it provides that no person or authority other than the State Government shall establish or maintain any protective home except under a license issued by the State Governments.

Amendment Act 44, of 1986 – Statement of objectives and reasons

Despite the amendments of the Act in 1978, it was felt that the Act has not been effective enough to deal with the problems of immoral traffic in all its dimensions. Suggestions have been made to the Government by voluntary organizations working for women, advocacy groups and various individuals urging the enlargement of the scope of the Act, to make penal provisions more stringent and to provide for certain minimum standards for correctional treatment and rehabilitation of the victims. In view of the aforesaid suggestions, the amendment widened the scope of the Act to cover all persons, whether male or female who are exploited sexually for commercial purposes and also to include seducing or soliciting for purpose of prostitution and seduction of a person in custody.

The Indecent Representation of Women (Prohibition) Act, 1986

The Act states that the law relating to obscenity in this country is codified in sections 292, 293 and 294 of the

Indian Penal Code. In spite of these provisions, there is a growing body of indecent representation of women or references to women in publications, particularly advertisements, etc. Indecent representation of women has been defined to mean the depiction of the figure of a woman, her form or body or any part thereof in such a way as to have the effect of being indecent or derogatory to, or denigrating, women or is likely to corrupt or injure the public morality or morals. It intends to prohibit exhibition, sale distribution and circulation of such literature containing indecent representation of women.

The Commission of Sati (Prevention) Act, 1987

The Act was prompted by the incident of the commission of *Sati* (burning alive the widow in along with the husband's dead body) in the village of Deorala in Rajasthan, its subsequent glorification and the various attempts made by the protagonists to justify its continuance on religious grounds. This had aroused apprehensions all over the country that this social evil, believed to have been eradicated long back, will resurface. Protests and demands were made throughout the country by the women's organizations and parliamentarians for the enactment of a strong Central law to prevent *sati*. Earlier only three laws in force in the States, including the Rajasthan Sati (Prevention) Act, 1987, The Bengal Sati Regulation, 1829 (Bengal Regulation XVII of 1829) and the Tamil Nadu Sati Regulation, 1830 (Tamil Nadu Regulation I of 1830) were in practice. It was, therefore, considered desirable to enact a Central law which would be applicable to the whole of India other than the State of Jammu and Kashmir.

The Act states that the offence of attempt to commit *sati* will be punishable with the same punishment as is provided for the offence of attempt to commit suicide under section 309 of the Indian Penal Code. Promoters of *sati* will be punishable with death or imprisonment for life and shall also be liable to fine; while any attempt to commit *sati* will be punishable with imprisonment for life and fine. The glorification of *sati* is punishable with a minimum imprisonment of one year and with a minimum fine of rupees five thousand. The Representation of the People Act, 1951 is being amended to provide for disqualification for contesting elections during the period of conviction for commission of *sati* or its glorification.

The Hindu Succession Act, 1956

On and from the commencement of the Hindu Succession (Amendment) Act, 2005, in a Joint Hindu family governed by the Mitakshara law, the daughter of a coparcener shall by birth become a coparcener in her own right in the same manner as the son; have the same rights in the coparcenary property as she would have had if she had been a son; be subject to the same liabilities in respect of the said coparcenary property as that of a son, and any reference to a Hindu Mitakshara coparcener shall be deemed to include a reference to a daughter of a coparcener. The Act further states that any property to which a female Hindu becomes entitled by virtue of subsection (1) shall be held by her with the incidents of coparcenary ownership and shall be regarded as property capable of being disposed of by her by testamentary disposition.

Where a Hindu dies after the commencement of the Hindu Succession (Amendment) Act, 2005, his interest in the property of a Joint Hindu family governed by the Mitakshara law, shall devolve by testamentary or intestate succession. The coparcenary property shall be deemed to have been divided as if a partition had taken place and, the daughter is allotted the same share as is allotted to a son; the share of the pre-deceased son or a pre-deceased daughter, as they would have got had they been alive at the time of partition, shall be allotted to the surviving child of such pre-deceased son or of such predeceased daughter; and the share of the pre-deceased child of a pre-deceased son or of a pre-deceased daughter, as such child would have got had he or she been alive at the time of the partition, shall be allotted to the child of such pre-deceased child of the pre-deceased son or a pre-deceased daughter, as the case may be.

Before 1937, the "simultaneous heirs" of a male Hindu dying intestate comprised only the son, the son of a pre-deceased son and the son of a pre-deceased son of a pre-deceased son. The Hindu Women's Rights to Property Act, 1937, added to the list the widows of the first two as well as the intestate's own widow. Class I of the preferential heirs in the Schedule now adds to the existing list of simultaneous heirs, the daughter, and further seeks, as far as possible, to treat the other grandchildren of an intestate, whose parent has pre-deceased the intestate, on the same footing as the son of a pre-deceased son, except that in the former case the share to be divided among the children will be less than in the later case. The Joint Committee felt that

there was no justification for treating the daughter differently from the son in the matter of the shares to be allotted to them.

The Rau Committee vested a Hindu woman with full rights over strandline property and laid down certain rules of succession with respect to stridhana. The Select Committee on the Hindu Code incorporated the substance of all these provisions in a separate chapter titled “Woman’s Property” and provided that after the commencement of the code, whatever property was acquired by a woman became her absolute property and devolved on her own heirs. Clause 16 of the Bill follows the Select Committee’s draft and declares that whatever property is acquired by a Hindu woman after this law, it shall be her absolute property and the term “property” is defined as comprehensively as possible for the purpose.

In the opinion of the Joint Committee there is no reason why the Hindu woman’s limited estate should not be abolished even with respect to existing properties. Clause 19 of the Bill has, therefore, been omitted and this clause [which was clause 16 in the Joint Committee stage corresponding to the present section 14] has been suitably modified.

The Act revised the order of succession among the heirs to a Hindu female and stated that the properties inherited by her from her father revert to the family of the father in the absence of issue and similarly property inherited from her husband or father-in-law reverts to the heirs of the husband in the absence of issues. At a partition in a joint Hindu family governed by the mitakshara law, the coparcenary property shall be so divided as to allot to a daughter the same share as is allocable to a son.

The Hindu Marriages Act, 1955

This Act prescribes the essential requisites for a Hindu marriage. The subsequent amendment ensured that until the bride attains majority, no marriage takes place without the consent of the guardian-in-marriage. Under the original Bill, consent of the guardian was required only if the girl was between the ages of 15 and 16, and once she attained her 16th year she could dispense with the consent of her guardian although she was still a minor. The Act has also laid down provisions and conditions for restitution, of conjugal rights, judicial separation, divorce, permanent alimony and maintenance as well as for the custody, maintenance and education of minor children.

The Protection of Human Rights Act, 1993

The Central Government constituted a body known as the National Human Rights Commission to exercise the powers conferred upon, and to perform the functions assigned to it under this Act. Section 12 specifies the Commission’s functions as to inquire, suo motto or on a petition presented to it by a victim or any person on his behalf, into the complaint of (i) Violation of human rights or abetment thereof, (ii) negligence in the prevention of such violation, by a public servant; or (iii) intervene in the proceeding involving any allegation of violation of human rights pending before a Court with the approval of that court, (iv) to undertake research with regard to human rights, (v) study treaties and other international instruments on human rights and make recommendations for their effective implementation and (vi) to encourage the efforts of non-governmental organizations and institutions working in the field of human rights.

State Human Rights Commissions

Section 21 of the Act states that a state Government may constitute a State Human Rights Commission to exercise the powers conferred upon, and to perform the functions assigned to, a State Commission.

Human Rights Courts

Section 30 of the Act states that for the purpose of providing speedy trial of offences arising out of violation of human rights, the State Government may, with the concurrence of the Chief Justice of the High Court, by notification, specify for each district a Court of Session to be a Human Rights Court to try the said offences.

The Indian Divorce Act, 1869

The Act seeks to provide the grounds of dissolution of marriage. Existing provisions of section 10 of the Act make a distinction between the husband and the wife in the matter of grounds on which they could obtain dissolution of marriage. While adultery, without any other ground, is a ground for seeking dissolution of marriage by the husband, in the case of the petition by the wife, there is in addition another requirement that it should be incestuous adultery or bigamy with adultery or adultery coupled with cruelty or desertion for two years. Certain High Courts including the High Court of Kerala have struck down the words

“incestuous” and “adultery coupled with” in section 10 on the ground of gender inequality. This clause seeks to substitute the said section 10 with a new section providing same grounds for husband and wife for seeking dissolution of marriage. However, a wife may also get divorce on the ground that the husband has since the solemnization of marriage been guilty of rape, sodomy or bestiality.

At present a petition for dissolution of marriage could be presented either to the District Court or to the High Court. It is proposed that the petition may henceforth be presented to the District Court only.

Section 10-A Dissolution of marriage by mutual consent: Subject to the provisions of this Act a petition for dissolution of marriage may be presented to the District Court by both the parties to a marriage together.

Section 27 Deserted wife may apply to Court for protection: Any woman to whom section 4 of the Indian Succession Act, 1865 does not apply, may, when deserted by her husband, present a petition to the District Court, at any time after such desertion, for an order to protect any property which she may have acquired, or may acquire, and any property of which she may have become possessed or may become possessed after such desertion, against her husband or his creditors, or any person claiming under him.

The Hindu Adoptions and Maintenance Act 1956

Section 18: Subject to the provisions of this section, a Hindu wife, whether married before or after the commencement of this Act, shall be entitled to be maintained by her husband during her lifetime.

Section 19: A Hindu wife, whether married before or after the commencement of this Act, shall be entitled to be maintained after the death of her husband by her father-in-law.

Section 20: Subject to the provisions of, this section a Hindu is bound, during his or her lifetime, to maintain his or her legitimate or illegitimate children and his or her aged or infirm parents.

Section 22: Subject to the provisions of Sub-section (2), the heirs of a deceased Hindu are bound to maintain the dependants of the deceased out of the estate inherited by them from the deceased.

Section 28: Where a dependant has a right to receive maintenance out of an estate and such estate or any part thereof is transferred, the right to receive maintenance may be enforced against the transferee if the transferee has notice of the right, or if the transfer is gratuitous; but not against the transferee for consideration and without notice of the right.

The Indian Evidence Act, 1872

Section 113-B Presumption as to dowry death: When the question is whether a person has committed the dowry death of a woman and it is shown that soon before her death such woman had been subjected by such person to cruelty or harassment for, or in connection with, any demand for dowry, the Court shall presume that such person had caused the dowry death.

The Equal Remuneration Act, 1976

Section 5 of the Act states that no employer shall, while making recruitment for the same work or work of a similar nature, or in any condition of service subsequent to recruitment such as promotions, training or transfer; make any discrimination against women except where the employment of women in such work is prohibited or restricted by or under any law for the time being in force.

The Beedi and Cigar Workers (Conditions of Employment) Act, 1966

Section 14 of the act provides for crèches. In every industrial premises, where more than fifty female employees are ordinarily employed, there shall be provided and maintained a suitable room or rooms, for the use of children under the age of six years of such female employees.

The Factories Act, 1948

The Act makes special provisions for separate enclosed accommodation to be provided for male and female workers and that “No woman or young person shall be allowed to clean, lubricate or adjust any part of a prime mover or of any transmission machinery while it is in motion, or to clean, lubricate or adjust any part of any machine if the cleaning, lubrication or adjustment thereof would expose the woman or young person to risk of injury from any moving part either of that machine or of any adjacent machinery”.

Further by Section 27, no woman or child shall be employed in any part of a factory for pressing cotton in which a cotton-opener is at work. By Section 48, every factory wherein more than thirty women workers are ordinarily employed, there should be provision and maintenance of a suitable room or rooms for the use of children under the age of six years of such women. By Sec 66 no woman shall be required or allowed to work in any factory except between the hours of 6 a.m. and 7 p.m. Section 87 states where the State Government is of opinion that any manufacturing process or operation carried on in a factory exposes any person employed in it to a serious risk of bodily injury, poisoning or disease, it may make rules applicable to any factory in such ways specifying the manufacturing process or operation and declaring it to be dangerous; prohibiting or restricting the employment of women, adolescents or children in the manufacturing process or operation.

The Mines Act, 1952

Section 46 of the Act states no woman shall be employed in any part of a mine which is below ground and in any mine above ground except between the hours of 6 a.m. and 7 p.m. Every woman employed in a mine above ground shall be allowed an interval of not less than eleven hours between the termination of employment on any one day and the commencement of the next period of employment and prohibits employment of any woman between the hours of 10 p.m. and 5 a.m.

The Employees' State Insurance Act, 1948

Maternity benefit Section 50: The qualification of an insured woman to claim maternity benefit, the conditions subject to which such benefit may be given, the rates and period thereof shall be such as may be prescribed by the Central government.

The Special Marriage Act, 1954

By Section 19, the marriage solemnized under this Act of any member of an undivided family who professes the Hindu, Buddhist, Sikh or Jain religion shall be deemed to have the effect of his severance from such family. By Section 36, during court procedures for separation if it appears to the district Court that the wife has no independent income sufficient for her support and the necessary expenses of the proceeding, it may, on the application of the wife, order the husband to pay to her the expenses of the proceeding. By Section 38,

during such procedure the district Court may, from time to time, pass such interim orders and make such provisions in the decree as it may seem to it be just and proper with respect to the custody, maintenance and education of minor children. By Section 44, every person whose marriage is solemnized under this Act and who, during the lifetime of his or her wife or husband, contracts any other marriage shall be subject to the penalties provided in section 494 and section 495 of the Indian Penal Code.

PROVISIONS AND SECTIONS IN INDIAN PENAL CODE, CODE OF CRIMINAL PROCEDURE AND CODE OF CIVIL PROCEDURE

The Indian Penal Code, 1860

Section: 304-B Dowry death

Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called "dowry death", and such husband or relative shall be deemed to have caused her death. Whoever commits dowry death shall be punished with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life.

Section: 312 Causing miscarriage

Whoever voluntarily causes a woman with child to miscarry, shall, if such miscarriage be not caused in good faith for the purpose of saving the life of the woman, be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both; and, if the woman be quick with child, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Section: 313 Causing miscarriage without woman's consent

Whoever commits the offence defined Section 312 without the consent of the woman, whether the

woman is quick with child or not, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Section: 314 Death caused by act done with intent to cause miscarriage

Whoever, with intent to cause the miscarriage of a woman with child, does any act which causes the death of such woman, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and if the act is done without the consent of the woman, shall be punished either with imprisonment for life, or with the punishment above mentioned.

Section: 366 Kidnapping, abducting or inducing woman to compel her marriage, etc.

Whoever kidnaps or abducts any woman with intent that she may be compelled, or knowing it to be likely that she will be compelled, to marry any person against her will, or in order that she may be forced or seduced to illicit intercourse, or knowing it to be likely that she will be forced or seduced to illicit intercourse, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and whoever, by means of criminal intimidation as defined in this Code or of abuse of authority or any other method of compulsion, induces any woman to go from any place with intent that she may be, or knowing that it is likely that she will be, forced or seduced to illicit intercourse with another person shall also be punishable as aforesaid.

Section: 366-A Procuring minor girl

Whoever, by any means whatsoever, induces any minor girl under the age of eighteen years to go from any place or to do any act with intent that such girl may be, or knowing that it is likely that she will be, forced or seduced to illicit intercourse with another person shall be punishable with imprisonment which may extend to ten years, and shall also be liable to fine.

Section: 366-B Importation of girl from foreign country

Whoever imports into India from any country outside India or from the State of Jammu and Kashmir any girl under the age of twenty-one years

with intent that she may be, or knowing it to be likely that she will be, forced or seduced to illicit intercourse with another person, shall be punishable with imprisonment which may extend to ten years and shall also be liable to fine.

Section: 373 Buying minor for purposes of prostitution etc.

Whoever buys, hires, or otherwise obtains possession of any person under the age of eighteen years with intent that such person shall at any age be employed or used for the purpose of prostitution or illicit intercourse with any person or for any unlawful and immoral purpose, or knowing it to be likely that such person will at any age be employed or used for any such purpose, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Section: 375 Rape

A man is said to commit "rape" who, except in the case hereinafter excepted, has sexual intercourse with a woman under circumstances falling under any of the six following descriptions.

1. Against her will.
2. Without her consent.
3. With her consent, when her consent has been obtained by putting her or any person in whom she is interested in fear of death or of hurt.
4. With her consent, when the man knows that he is not her husband, and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.
5. With her consent, when, at the time of giving such consent, by reason of unsoundness of mind or intoxication or the administration by him personally or through another of any stupefying or unwholesome substance, she is unable to understand the nature and consequences of that to which she gives consent.
6. With or without her consent, when she is under sixteen years of age.

Explanation: Penetration is sufficient to constitute the sexual intercourse necessary to the offence of rape.

Exception: Sexual intercourse by a man with his wife, the wife not being under fifteen years of age, is not rape.

Section: 376-A Intercourse by a man with his wife during separation

Whoever has sexual intercourse with his own wife, who is living separately from him under a decree of separation or under any custom or usage without her consent, shall be punished with imprisonment of either description for a term which may extend to two years and shall also be liable to fine.

Section: 376-B Intercourse by public servant with woman in his custody

Whoever, being a public servant, takes advantage of his official position and induces or seduces, any woman, who is in his custody as such public servant or in the custody of a public servant subordinate to him, to have sexual intercourse with him, such sexual intercourse not amounting to the offence of rape, shall be punished with imprisonment of either description for a term which may extend to five years and shall also be liable to fine.

Section: 376-C Intercourse by superintendent of jail, remand home, etc.

Whoever, being the superintendent or manager of a jail, remand home or other place of custody established by or under any law for the time being in force or of a women's or children's institution takes advantage of his official position and induces or seduces any female inmate of such jail, remand home, place or institution to have sexual intercourse with him, such sexual intercourse not amounting to the offence of rape, shall be punished with imprisonment of either description a term which may extend to five years and shall also be liable to fine.

Section: 376-D Intercourse by any member of the management or staff of a hospital with any woman in that hospital

Whoever, being on the management of a hospital or being on the staff of a hospital takes advantage of his position and has sexual intercourse with any woman in that hospital, such sexual intercourse not amounting to the offence of rape, shall be punished with imprisonment of either description for a term which may extend to five years and shall also be liable to fine.

Section: 493 Cohabitation caused by a man deceitfully inducing a belief of lawful marriage

Every man who by deceit causes any woman who is not lawfully married to him to believe that she is lawfully married to him and to cohabit or have sexual intercourse with him in that belief, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Section: 494 Marrying again during lifetime of husband or wife

Whoever, having a husband or wife living, marries in any case in which such marriage is void by reason of its taking place during the life of such husband or wife, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Section: 495 Same offence with concealment of former marriage from person with whom subsequent marriage is contracted

Whoever commits the offence defined in the last preceding section having concealed from the person with whom the subsequent marriage is contracted, the fact of the former marriage, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Section: 496 Marriage ceremony fraudulently gone through without lawful marriage

Whoever, dishonestly or with a fraudulent intention, goes through the ceremony of being married, knowing that he is not thereby lawfully married, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Section: 497 Adultery

Whoever has sexual intercourse with a person who is and whom he knows or has reason to believe to be the wife of another man, without the consent or connivance of that man, such sexual intercourse not amounting to the offence of rape, is guilty of the offence of adultery, and shall be punishable with imprisonment of either description for a term which may extend to five years, or with fine, or with both. In such case the wife shall not be punishable as an abettor.

Section: 498 Enticing or taking away or detaining with criminal intent a married woman

Whoever takes or entices away any woman who is and whom he knows or has reason to believe to be the wife of any other man, from that man, or from any person having the care of her on behalf of that man, with intent that she may have illicit intercourse with any person, or conceals or detains with that intent any such woman, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Section: 498-A Husband or relative of husband of a woman subjecting her to cruelty

Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine. Cruelty in this Section would mean (a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or (b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is because of failure by her or any person related to her to meet such demand.

The Code of Criminal Procedure, 1973

125 Order for maintenance of wives, children and parents

If any person having sufficient means neglects or refuses to maintain

- a. His wife, unable to maintain herself, or
- b. His legitimate or illegitimate minor child, whether married or not, unable to maintain itself, or
- c. His legitimate or illegitimate child (not being a married daughter) who has attained majority, where such child is, by reason of any physical or mental abnormality or injury unable to maintain itself, or
- d. His father or mother, unable to maintain himself or herself, a Magistrate of the first class may, upon proof of such neglect or refusal, order such person to make a monthly

allowance for the maintenance of his wife or such child, father or mother, at such monthly rate as such Magistrate thinks fit, and to pay the same to such person as the Magistrate may from time to time direct.

The Code of Civil Procedure, 1908

Section 132: Exemption of certain women from personal appearance

Women who, according to the customs and manners of the country, ought not to be compelled appear in public shall be exempt from personal appearance in Court.

Muslim Women's Property Rights

Indian Muslims broadly belong to two schools of thought in Islamic Law: the Sunnite and the Shiite. Under the Sunnite School (which is the majority and therefore largely practiced) there are four sub categories; Hanafis, Shafis, Malikis and Hanbalis. The vast majority of Muslims in India are Hanafis. The Shiites are divided into a large number of sub schools, the two most important of which, in the case of India, are Ismailis and the Ithna Asharis, but they form a smaller section of the Indian Muslim population than those of the Sunni sect. Till 1937, Muslims in India were governed by customary law which was highly unjust. After the Shariat Act of 1937 Muslims in India came to be governed in their personal matters, including property rights, by Muslim personal law as it "restored" personal law in preference to custom.

Broadly the Islamic inheritance is based on three key features, which are in contrast to the Hindu inheritance codes:

- i. The Koran gives specific shares to certain individuals
- ii. The residue goes to the agnatic heirs and failing them to uterine heirs and
- iii. Bequests are limited to one-third of the estate, i.e., maximum one-third share in the property can be willed away by the owner.

That is, unlike under the HSA, certain groups or sub-groups (which in practice generally constitute of women) cannot be arbitrarily excluded nor the same can be done through the provision of the absolute right to will. The main principles of Islamic inheritance law which mark an advance vis-à-vis the



pre-Islamic law of inheritance and have significant bearing on the property rights of women, are:

- i. The husband or wife was made an heir
- ii. Females and cognates were made competent to inherit
- iii. Parents and ascendants were given the right to inherit even when there were male descendants and
- iv. As a general rule, a female was given one half the share of a male.

The newly created heirs were mostly females; but where a female is equal to the customary heir in proximity to the deceased, the Islamic law gives her half the share of a male. For example, if a daughter co-exists with the son, or a sister with a brother, the female gets one share and the male two shares.

The following 12 heirs constitute Class I heirs (Koranic Heirs):

- a. **Heirs by Affinity** – Husband and Wife
- b. **Blood Relations** – Father, True Grandfather (howsoever high), Mother, True Grandmother (howsoever high), Daughter, Son's Daughter (howsoever low), Full sister, consanguine

sister, uterine brother, and uterine sister. Therefore while qualitatively women find larger representation under the Muslim law in terms of concrete and quantitative shareholding they are discriminated against their male counterparts.

Property rights through marriage

The Supreme Court of India has laid down that the mahr (dowry) ranks as a debt and the widow is entitled, along with the other creditors of her deceased husband, to have it satisfied out of his estate. That is, through her right, she is not entitled to a charge on the husband's property unless there be an agreement. The Supreme Court has laid down that the widow has no priority over other creditors, but that mahr as debt has priority over the other heir's claims. This right is known as the widow's right of retention.

Will

There is a provision against destitution of the family members in the Islamic law in that it clearly provides that a Muslim cannot bequeath more than one third of his property. However if he registers his existing marriage under the provisions of the Special Marriage

Act, 1954 he has all the powers of a testator under the Indian Succession Act, 1925.

Housing and land Rights of Christians and Parsi Women

The laws of succession for Christians and Parsis are laid down in the Indian Succession Act, 1925 (ISA). Sections 31 to 49 deal with Christian Succession and Sections 50 to 56 deals with Succession for Parsis (Pandey 2003; Singh). Prima facie the property rights of the Parsis are quite gender just. Basically, a Parsi widow and all her children, both sons and daughters, irrespective of their marital status, get equal shares in the property of the intestate while each parent, both father and mother, get half of the share of each child. However, on a closer look there are inherent discriminations: for example, a widow of a predeceased son who died issueless gets no share at all. The Indian Christian widow's right is not an exclusive right and gets curtailed as the other heirs step in. Only if the intestate has left none who are of kindred to him, the whole of his property would belong to his widow. Where the intestate has left a widow and any lineal descendants, one third of his property devolves to his widow and the remaining two thirds go to his lineal descendants. If he has left no lineal descendants but has left persons who are kindred to him, one half of his property devolves to his widow and the remaining half goes to those who are of kindred to him. Another anomaly is a peculiar feature that the widow of a predeceased son gets no share, but the children whether born or in the womb at the time of the death would be entitled to equal shares. Again we see that women are made dependent on the rest of the family and her children.

Tribal Women's Land Rights

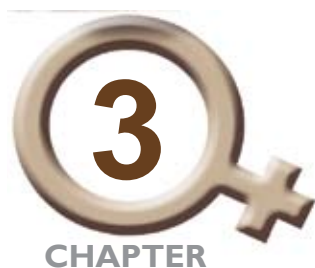
Based on our examination of the main canons of law in the case of women differentiated by religion and region, we can say that this still leaves out a vast chunk of women like tribal women out of the present purview.

These women are governed by customary practices and other state laws like the Indian Forest Act which have come to affect their livelihood in a gross way.

In the history of tribal women's land rights, the case of October 1996 is an important one. A mass meeting of adivasi representatives was organized in Ranchi. It was a protest meeting against a Supreme Court judgment. The members felt that the Supreme Court's judgment in determining tribal women's right over that of her family/community land was an attempt to create divisions in their society. Initiating a discussion on individual rights (whether male or female) was counter to their claim to community rights. They felt that women had better position, respect and autonomy in adivasi society, than in any other. So the issue of women's rights could not be examined separately from the overall social context. Similar concerns were voiced across the country by the various tribal communities and organizations.

Tribals do not consider their resources as wealth but rather as a means of livelihood. In most of the tribal communities it is generally felt that demanding rights in parental property would damage the bonds of love and pass it into the hands of the wealthy. So while the adivasi leaders are now willing to consider joint titles in marital property, they continue to oppose the issue of women's rights to inherit land as daughters and sisters.

In the case of tribal lands, the Land Acquisition Act is considered the most important influencing factor and also the most draconian. Through the impositions of this Act, the Government, in the name of preserving forest areas, moves into tribal lands and acquires their property. The compensation against these lands is minimal that remain only as promises. Even if the tribals acquire the land provided as compensation, it is so cut off from their area of residence that to make a livelihood out of it is next to impossible.



WOMEN'S LAND AND HOUSING RIGHTS IN INDIA: A STATEWISE SUMMARY

Denial of access and control over land, housing and property constitute violation of human rights and is a crucial factor in poverty among women. This report analyzes the gender dynamics of land rights in India and summarizes the historical, social, economic, political and legal perspectives of the following states in this regard:

1. ANDHRA PRADESH

Andhra Pradesh (A.P) is the first state in India to start a State Housing Corporation. It formed the Andhra Pradesh State Housing Corporation Limited in 1979, to formulate and implement a housing program for the weaker sections. It is implementing the housing programs of both central and state governments like Indira Awaas Yojana, Gruhini, Dukan-O-Makan and other schemes like housing for beedi workers, weavers, fishermen etc. In urban areas, they have the EWS Housing, VAMBAY, Rajiv Gruha Kalpa etc. but none of these schemes have women housing rights perspective or focus.

Even though there was no focus on women's housing till the mid 1990s, the A.P Government was the first among all states of India to declare land and property rights for women. The Government of A.P also initiated a number of schemes to address the problems in women's housing rights. As a first step towards this goal, in 2002, the A.P Government introduced "Gruhini" scheme. Under the scheme it provided credit-cum subsidy for housing to members of self-help groups in the state. It was carried out in collaboration with NABARD, nationalised banks,

cooperative banks and regional rural banks. The Commissioner of Women Empowerment and Self Employment, Hyderabad, has issued guidelines to the concerned government departments and banks on implementation of "Gruhini" scheme. It has helped the women in accessing housing rights in the state.

The Andhra Pradesh Legislature adopted a Bill in 1985 to confer equal right to property to Hindu women. A new chapter consisting of sections 29-A, 29-B and 29-C was inserted into the Hindu Succession Act. Section 29-A stipulates that in a joint family governed by the Mitakshara law, the daughter shall, by birth become a coparcener in her own right. And she would have the same rights in the coparcenary property as she would have had if she had been a son. It makes the daughter's right to ancestral property direct and absolute. Section 29-B provides for the devolution of such interest by survivorship. Section 29-C gives preferential right to acquire property in certain cases.

Since 2002, the Society for Eradication of Rural Poverty (SERP), a non-profit organization established by the A.P state government and supervised by the Andhra Pradesh Department of Rural Development,



has worked to help rural families gain access to land as part of the Indira Kranthi Patham (IKP) program.

The basic strategy of the IKP program is to help the rural poor operate self-managed institutions. Through this women can initiate collective action to reduce poverty. SERP's work builds upon the fifteen years of expertise of women's Self Help Groups (SHG) established throughout Andhra Pradesh. The SHGs typically consist of 10 to 12 women, and several SHGs may exist in a village. The SHGs are federated at the village, mandal, and district levels. They engage in activities like ensuring food security, creating new employment opportunities, organizing collective marketing, and improving access to health and education services.

As of October 2007, 4,442 acres of land was purchased on behalf of 4,795 beneficiaries, paying a total of Rs. 2,897 lakhs under IKP land purchase scheme.

Andhra Pradesh has witnessed incidences of forced evictions on a large-scale, executed by government authorities. This is in addition to the displacements due to floods during the monsoons. The government of A.P has often come up with beatification plans like

'Nandavanam' of Musi River and evicted the people from the Musi river banks.

Another major eviction in Hyderabad is in the Hi-tech city, which has a sizeable homeless population mostly belonging to the working class. The city has some of the worst instances of violations of building norms in the country that has resulted in persistent floods during the monsoons. In August 2000 around 7,500 houses were washed off and more than 80,000 people were rendered homeless.

Large scale evictions are also reported in Vishakapatnam district urban and rural areas. It was due to urbanization, mining, and the coastal growth corridor project, the Gangavaram port, the international airport and the Special Economic Zones. Women are spearheading protests in these residential areas.

There are numerous opportunities and methodologies that exist for advancing an objective of gender equity in land and housing rights. Agarwal (1994a, 1994b) suggests that granting land rights to groups of landless women is perhaps the most promising course of action, with NGOs playing a catalytic role in it. Some precedents do exist, such as

the Deccan Development Society, Andhra Pradesh Dalitha Mahila Samakhya and Andhra Pradesh Mahila Samatha Society. They work in several districts across the state on the women's rights to land, livelihood and housing. Evidence indicates that through such collective action the bargaining power of women can be strengthened to a large extent. Joint ownership or leasing of land by groups of women need not imply joint management or joint cultivation. It is likely that collective action (e.g. in making joint investments in irrigation or inputs) will increase women's bargaining power in dealing with government officials. It may also help to deal with the various factors at play in the marketing linkages, going by the successful women SHG (Self Help Group) models.

While the government's efforts to provide housing to women have been definitely noteworthy, its concept of housing is far from the international standards/norms. Their efforts are restricted to providing shelter whereas adequate amenities and security are largely ignored.

2. BIHAR

Bihar is basically an agricultural state. The rural population is clearly divided into farmers, agricultural labour, fishermen, indigenous craftsmen and forest dependant tribes. Both men and women are part of

this division. Prevalence of patriarchy is reflected in the land holding patterns also. Land holding, especially agricultural land holding by women is extremely low despite the high percentage of women in the agricultural work force.

The beginning of regularly assessed land revenue may be traced to Akbar's settlement, which began in 1571 AD. There had been some earlier attempts, but those attempts were neither systematic nor had the details. In the survey settlement of 1571 AD land was classified in the following categories:

- i. **"Pulaj or Pulej" land:** The land that was continuously cultivated and did not require fallow.
- ii. **"Phirawati" (rotational) land:** The land, which requires periodical fallow.
- iii. **"Chichar" land:** Those land that lay fallow for three or more years, or rather flooded or otherwise bad, and could only be occasionally dependent upon for crop.
- iv. **"Banjer" Land:** The land that has not been cultivated for five or more years and considered waste.

With the gradual expansion of the British Empire in India, the administration in different parts experimented with different systems through a trial and error method. Finally, by the second half of the



nineteenth century, the land revenue system that has evolved in British India could be categorised as following:

- Zamindari System
- Raiyatwari System
- Mahalwari System

The state of Bihar has a typical patriarchal culture where male is at the centre of all kinds of social-cultural economic and political activities. Therefore when it comes to ownership over land it is the male who has the control and legal ownership. The influence of patriarchy on all systems can be understood from the fact that there is no specific data available on woman's land ownership status. There is also almost no research to indicate this factor. In a state where large chunk of rural population comes under the category of landless or marginal landowners, identifying women owned land and households becomes doubly difficult.

List of Land Related Acts in Bihar State

The Bihar Land Reforms Act, 1950.

The Bihar Displaced Persons Rehabilitation (Acquisition of Land) Act, 1950.

The Bihar Land Reforms (Amendment) Act, 1953.

The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961.

The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Act, 1972.

The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Act, 1973.

The Bihar Land Reforms (Amendment) Act, 1972.

The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Amending Act, 1974.

The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Act, 1976.

The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Act, 1978.

The Land Acquisition (Bihar Amendment) Act, 1979.

The Bihar Tenancy Act, 1885.

The Chota Nagpur Tenancy Act, 1908.

The Santahal Parganas Tenancy (Supplementary Provisions) Act, 1949.

The Bihar Scheduled Areas Regulation, 1969.

The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Act, 1982.

The Bihar Privileged Persons Homestead Tenancy Act, 1947.

The Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956.

The Bihar Consolidation of Holdings and Prevention of Fragmentation (Amendment) Act, 1970.

The Bihar Privileged Persons Homestead Tenancy (Amendment) Act, 1970.

The Bihar Consolidation of Holdings and Prevention of Fragmentation (Amendment) Act, 1981.

The Bihar Consolidation of Holdings and Prevention of Fragmentation (Amendment) Act, 1981.

The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Act, 1987.

The Bihar Privileged Persons Homestead Tenancy (Amendment) Act, 1989.

The Bihar Land Reforms (Amendment) Act, 1989.

3. CHHATTISGARH

Chhattisgarh is predominantly inhabited by Tribals/ Adivasis and Dalits. 'Adivasi' rightly connotes the tribals as being the original settlers of the country. They are different from the caste groups racially and culturally. Their understanding of property/ ownership rights is fundamentally different from the Aryan and Modern Concepts. For the tribals, property, particularly land, is God given and is owned by the community. Land is not a commodity to be bought and sold. Tribal life is need based and not profit oriented. These two life perspectives tend to create confusion, conflict, exploitation and oppression of the weaker by the stronger. Scheduled tribes, the term used to indicate 'advasi' for administrative purposes, are found in the lowest ladder of Indian society and they have the highest proportion of the poor in them.

The Government has been spending a lot of money on the tribals by way of subsidies, concessions and other provisions. It is done with an emphasis upon the policy of forced assimilation of the community into the mainstream. There exists a struggle between the tribals and the (state and central) government over the control of the land and forest. A few individuals and families have benefited by reservation in jobs, schools and colleges. This has helped create a small

middle class in tribal societies. The majority of *Adivasi* communities still depend on agriculture and forest products.

As for Dalits, 75 per cent of them are agricultural labourers which mean that their common economy is bound up with land and agriculture. Therefore, the reform that will empower them will be the one that will change them from agricultural labourers to owners of land.

Since Chhattisgarh is a predominantly ST (Scheduled Tribe)/SC (Scheduled Caste) populated area; reference to Indian legislation that provides protective measures to them becomes imperative. These provisions in the Fifth and Sixth Schedule of the Indian Constitution ensure special rights enshrined in the structure of Scheduled Tribes in Scheduled Areas, i.e. where the tribal population is predominant. The provisions in scheduled areas deal with the prohibition of transferring land property from *Adivasis* to Non-*Adivasis*, certain level of autonomy and special governmental development schemes.

Adivasis still have traditional institutions of governance though they have lost ground particularly since the colonial rule. After independence, statutory Gram Panchayat (village council), Panchayat Samiti (Council on block level) and Zila Parishad (Council on district level) were established in the Fifth Schedule areas. In the Sixth Schedule areas, autonomous councils were set up. In addition, Gram Sabhas (Village assembly) have been built up, to continue as close as possible with traditional powers, customary practices, beliefs and culture. In 1992 through the 73rd amendment to the Constitution, which mandated that resources, responsibility and decision-making be devolved from central government to the local self-government units, this became a reality.

While the Indian legislation in general may favour the *Adivasi* communities, there are some laws which disfavour them. Take for example the rule on access to forest and water. Forests are considered state property and therefore, all the forest acts and wildlife acts look down upon *Adivasis* as poachers and



encroachers. They threaten to evict them from their genuine livelihood.

4. DELHI

In Delhi land ownership largely vests with the central government controlled Delhi Development Authority (DDA). It has a virtual monopoly over acquiring and developing land. DDA selectively allots the land based on its whims and fancies and inclination towards people, housing cooperatives, schools, hospitals, offices, commercial complexes etc. However, in the wake of the DDA housing scam in January 2009, the court has issued orders to scrutinise the allotments now. It is alleged that details of SC/ST people of a village were collected by few scamsters. Applications were then submitted in the villagers' names, without their knowledge, with a view to get allotment of flats.

To perpetuate hierarchy and socio-economic distinctions, the city is administered by three different civic bodies: the Defence Cantonment is managed by the Cantonment Board, the VIP area where ministers and bureaucrats live is managed by the New Delhi Municipal Corporation (NDMC) and the rest of the city is managed by the Municipal Corporation of Delhi (MCD). The lowest per capita resources from government budgets have traditionally been allocated to the MCD area although it comprises most of the city and houses most of its population.

The city has an acute shortage of housing units. Much of DDA built housing is meant for middle class and higher income groups while the issue of decent lower income group housing remains unaddressed. According to Delhi Human Development Report 2006, an estimated 45 per cent of Delhi's population resides in slums that include informal settlements – squatter settlements and illegal sub-divisions as also unauthorized colonies.

The Census records 2001 depict the deprived condition of Delhi life. It states that one in five houses in Delhi has no access to tap water supply and is dependant on hand pumps, tube wells or other sources. Only 49 per cent of houses were connected to closed drains. The numbers of households without toilet facilities rose from 1.18 million in 1991 to 1.99 million in 2001.

A house is more than a shelter for a woman and its unavailability and inadequacy have severe adverse effects on her. Linking the lack of housing facilities

and the increasing incidences of violence against women, a report of UN (Special Rapporteur on Adequate Housing, Miloon Kothari - Women and Housing, Commission on Human Rights, E/CN.4/2006/118, 27 February 2006) states that lack of adequate housing can make women more vulnerable to various forms of violence. It adds that, conversely, violence against women can lead to the violation of women's rights to adequate housing.

In the absence of official data on the extent of homelessness in Delhi one has to depend on small surveys. In such a survey by Aashray Adhikar Abhiyan (an NGO for the homeless) it is estimated that there are around one lakh homeless people in the city. Night shelters run by government and NGOs can hardly accommodate 5000 people. The rest are forced to sleep on pavements, in markets, in parks, under flyovers, and in the precincts of temples and other places of worship – all areas where they are prey to violence from criminals and oppression by the police. To counter the problem of homelessness of the poor, IGSSS has initiated a drive in 2008-09 to provide logistics and services to ten temporary shelters across Delhi that are operationalised during winter seasons by the Delhi Government.

Despite the lack of housing facilities for urban poor there are areas where massive development work is taking place in the heart of Delhi. Construction sites of the Delhi Metro Rail Corporation (DMRC) and various upcoming commercial units have compelled the authorities to lay pipelines and sewer lines, thereby raising property prices. In view of the improving civic amenities MCD is also planning to revise the property taxes in 2009, based on the increase in the Consumer Price Index.

It appears that the Government of NCT of Delhi (GNCTD) does not have policies to allocate land or housing exclusively to women, either as individuals or as groups/organizations of women – excluding rehabilitation sites. A few women's institutions have managed to get land allotted (at government rates) as social welfare institutions. Some have similarly managed to get long-term leases to government allotted office spaces.

According to the Delhi Human Development Report 2006 (Partnerships for Progress, Government of NCT of Delhi), "there continues to be a serious



shortage of working women's hostels in Delhi despite government recognizing the importance of providing dignified and proper shelter for working women." It calculates that, "there are only around eighteen working women's hostels in Delhi run by government and NGOs that can accommodate barely 1500 to 1600 women. Though most single women find paying-guest accommodation often home owners are reluctant to take in single women..... Delhi's North, North-West, West and North-East districts are devoid of hostel facilities for working women".

The long history of evictions and resettlements in Delhi city can be traced from the time of Pandavas of Mahabharata, Mugal Emperors to colonial period and post independence era. More recently Yamuna Pushta eviction, Kanchanpuri demolition and subsequent resettlement sites of Bawana and Holambi Kalan points towards the inadequacy of spaces, inaccessibility of schools, health care centres etc. as well as inadequate basic amenities like water and sanitation in those localities. Forceful evictions and large number of resettlement sites in Delhi make it necessary that future evictions are accompanied by compatible and supportive legal, judicial and policy measures. Although land issues for women remain largely unaddressed in Delhi, the government is aware of the problems and has taken a few measures to foster women's access to housing

and land. In recent years, the central government has made a policy to encourage women's ownership of property by suggesting that the states levy a lower stamp duty on women owned properties. In Delhi women who buy property need to pay a stamp duty of only 4 per cent whereas men have to pay 6 per cent duty. Incidentally, low property rates are also a condition for the state to access funds from the centre under the Jawaharlal Nehru National Urban Renewal Mission (JNNURM).

Being a woman herself, the Chief Minister of Delhi is gender sensitive and is trying to chalk out a plan to resolve women's housing problems. Lately the Delhi Government has allotted lands in the names of women under its rehabilitation and resettlement schemes. At present it is considering ways to improve the living conditions of its existing homes for girls and women in distress. Another noteworthy incentive for property to be registered in women's names is the lower house tax to be paid to municipal authorities. Delhi offers a rebate of 30 per cent to properties owned by women.

5. GOA

The presence of a uniform civil code, high literacy rate, very low maternal mortality and massive development projects indicate Goa's progressive

status. However, the existence of certain structural faults and systematic gender bias against Goan women cannot be denied.

Due to the long Portuguese rule, The Portuguese Civil Code made an entry in Goa with the code of 1897 being made applicable to the State from July 1870. In 1910, when Portugal became a republic, the family laws underwent substantial changes. A special law of marriage, law of children and law of divorce were enacted, besides amendments introduced in the chapter on Succession. Further changes were made in 1930.

Upon Goa's liberation from Portuguese rule in 1961, several laws prevailing in the rest of India were made applicable to Goa via the Goa, Daman and Diu Administration Act 1992. But the personal laws were not extended to Goa. The portions of the Portuguese Civil Code relating to family laws stood retained. There have been changes in the family laws in Portugal post 1961, but Goa's laws have remained as they were at the time of Goa's liberation.

Therefore, as far as Goan women are concerned they are governed, not by the personal laws like Hindu Marriage Act or the Indian Divorce Act, but

by the Family Laws of Goa. These are portions of the then Portuguese Civil Code dealing with marriage, divorce, children and parental control, guardianship, succession and inventory proceedings. It is pertinent to note, at this juncture, that the laws applicable to people of Goa are, therefore, not laws that have been an outcome of social struggle or social engineering.

As far as parental property is concerned, sons and daughters have an equal right to the property of their parents. There is also a unique concept of "matrimonial property" embodied in the law relating to marriage itself. Marriage is defined as a contract and there is a set of provisions relating to the concept of how matrimonial property can be held by the spouses. According to these provisions, the decision as to how the properties will be held by the spouses has to be taken at the time of marriage.

Following are a few other relevant land Acts/laws applicable in Goa:

- Land reform laws
- Rent act
- Munmdkar Act
- Tenancy act



- Real Estate Developers Regulation Law
- Co-operative Society Law
- Code of Communitidades
- Common Property Resources
- TCP ACT
- Goa Housing Board Act

Women have always played a very significant role in the various local movements and development work carried out in Goa. The struggle by women of Goa against Thapar-Dupont's Nylon project at Keri, Meta Strips Plant and Baina beach campaign are significant indicators.

Religious prejudices also played a part the demolitions that witnessed an entire fakir community being dislodged. As an aftermath, a fact-finding committee constituted by Bailancho Saad in 1997 in the Baina demolitions came up with several recommendations. The Committee recommended drawing up of detailed socio-economic profile of women engaged in prostitution in Baina. It felt that if displacement is inevitable, the State Government has to provide an apt rehabilitation – shelter, livelihood, health facilities and vocational assistance. Subsequently the National Commission for Women set up a committee headed by the retired Gujarat High Court Chief Justice Kamat came up with a few suggestions.

One of the first major “development” projects to set foot on Goan soil after the liberation of Goa was the Zuari Agro-Chemicals Pvt. Ltd. The concept of Gated colonies or communities that demanded the best of the available resources and exerted pressure on the already scarce land and resources was opposed by the locals. In *Goa Real Estate Ltd. Case*, (Project Aldeia de Goa) excluded the local tribal populations from the lands has ostensibly purchased and developed it in total violation of their rights. Writing for Tehelka, Ajit Sahi says: “The state government, in the name of the Regional Plan 2011, has tried to sell hundreds of acres of prime land to people whom the locals call ‘land sharks’. It was reluctantly scrapped after massive protests. However, its variants keep coming back to scare Goans. Hundreds of flats have been built for rich Gujaratis and NRIs on a two-kilometre ridge in Siolim village, uprooting trees and driving out hundreds of monkeys from their habitat who now devastate the nearby Goan houses.”

An assessment of housing needs, namely ‘Report on Comprehensive Housing and Habitat Policy for Goa and an Integrated Action Programme for its Effective Implementation’ was prepared in June 2004 by

Dr. S.P. Deshpande for Goa Chamber of Commerce and Industry and Goa Chamber of Housing Industry. However, there is gender blindness in the exercise. This omission needs to be corrected keeping in mind that housing cannot be viewed in isolation from land and livelihoods.

6. GUJARAT

Gujarat was formed in the 1960s following bifurcation of the erstwhile Bombay state. In terms of historical, socio-cultural and physiological background, Gujarat consists of two sub-regions, namely, mainland Gujarat and peninsular Gujarat. Gujarat's land tenure systems shaped during the colonial era were distinct.² Several legislations largely eliminated intermediaries and zamindars in 1950s.³ The land ceiling legislation under newly formed Gujarat state not only placed limits to existing holdings and future acquisitions, but also directed that surplus land be distributed to landless labour, to small holders and to co-operatives of scheduled castes and tribes. The Land Ceiling legislation passed through five amendments and a 1973 amendment banned purchase of agricultural land by non-agriculturalists and allowed the “male dependants” of a farmer's household to be independent landowners. Benefiting from the white revolution (the co-operative dairy movement) and the green revolution, the rising urban entrepreneurial class/caste maintained its *khedut* (farmer) identity in the 1970s. In the early 1980s, the emphasis shifted from land policy to schemes that periodically leased government land to the poor, and to the *Dalit/Adivasi* co-operatives not without opposition from landed sections. The 1980s

2 There were three types of land tenure systems during colonial period in Saurashtra-occupancy, *girasdari*, *barkhali*. Under occupancy tenure, land was held by the cultivator directly from the state. Except in few principalities, the cultivators did not own the land. In the other tenures, there were mainly intermediaries between cultivators and the states. They were *girasdars* who included *talukdars*, *bhagdars*, *mulgiris*, *barkhalidars*, and the majority being Rajputs. They were landlords with property rights who collected shares of agricultural produce from the cultivators without tilling the land. This system also existed in mainland Gujarat. The Rajput landlords lost their land ownership to the former cultivators- mainly from Kanbi- Patidar middle castes that formed the base of the Indian National Congress during the freedom struggle in this region. They constitute 12% of Gujarat's population today. In contrast to Saurashtra, mainland Gujarat had few zamindars and the peasant landowners were Brahmins, Banias, and *Kanbi-Patidars* using low caste tenant tillers.

3 Shah, Ghanshyam & DC Sah (Eds) *Land Reforms in India*, Vol. 8, pp. Editor's Introduction. Sage 2002



also saw changes in the law disallowing purchase or sale of agricultural land beyond the 8 kilometres residential limit, providing opportunity for wealthy farmers and others to buy the land of vulnerable small and middle farmers. This limit was completely done away with in mid 1990s. Also removed were restrictions on conversion of agricultural land to non-agricultural status for industrial purposes. This was also interspersed with schemes for distribution of government wasteland for the poor. A new Land Policy was announced by the state government in 1996, where persons holding *navi sharat* (new tenure) would be able to sell it after converting it into *juni sharat* (old tenure). The barrier put earlier to sale of such land was directed at protecting beneficiaries of land distribution from money lenders. In 2003, all such tenures were automatically converted as “old tenures.”⁴

Gujarat, among the developed states in India, witnessed an accelerated economic growth in the 1990s. However historical legacy (colonial agrarian policy, regional unevenness of natural resource base and climatic conditions) and dynamics of liberalization

process have created imbalances between regions and social groups. This has had an adverse impact on women’s livelihood, resource bases and status. This trend is closely linked with the sector imbalances in Gujarat’s economy that emerged since the 1980s. The primary sector, in particular agriculture, was lagging far behind the other sectors and showed a negative growth in 1990s.⁵ The unstable nature of agriculture tends to leave small farmers and farm labour in poverty. The share of agricultural labour in the rural workforce increased from 41 per cent in 1991 to 47 per cent in 2001. About 55 per cent of the operational holdings are with small and marginal farmers who own only about 2 per cent of the cultivated area ⁶ and this area too is on the decline. Rural women workers pre-dominate the primary sector, in particular in “difficult to measure” sectors such as unpaid family work, home work, subsistence work and other informal work and lack occupational diversification. Rural marginal workforce is increasing as also seasonal is the unemployment and

4 Sud, Nikita: *Khedut Na Zamin to Land Liberalization: The political Economy of Gujarat’s shifting Land Policy*. Paper presented at the BASAS Conference, 2005.

5 Bagchi, AK et al (2005): growth and Structural Changes in the Economy of Gujarat, 1970-2000, *Economic & Political Weekly*, Vol. 40, No. 28, July.

6 Department of Economics and Statistics, 2003 quoted in the *Gujarat Human Development Report (2004)* pp. 34, Mahatma Gandhi Labour Institute, Ahmedabad.

underemployment in agriculture. This increases the burden of women in particular for whom agriculture remains the main absorber if not the last resort for work.

A study on Kutch highlighted the (i) caste variations in land ownership among women, (ii) degree of control, (iii) women's cultural perceptions on land ownership, (iv) transfer of land to daughter/daughter in law and (v) economic activities and decision-making. A narrative of a woman from the wealthy Patel caste highlighted her perception that women do not need land ownership since the social practice in the community was to support widows or women deserted by their husbands. Transfer of land in the name of daughters was not recognized by women across castes as it would involve "breaking a norm" while other forms of property – jewellery; livestock, etc. were given to the bride during marriage.⁷

Regarding women's land and housing rights it is highly recommended that the Government implement the Gujarat Gender Equity Policy (2005) which states that land distributed under various schemes be allotted to women, singly or as collectives.

Some relevant land laws prevalent in Gujarat:

- Saurashtra Protection of Tenants of Agricultural Lands Ordinance May 1948
- Saurashtra Land Reforms Act 1951
- Saurashtra Estate Acquisition Act 1952
- Land Ceiling Act 1960
- Amendments in Land Ceiling Act (Act-5)- 1973–74
- Provisions in Land Ceiling Act, 1973

7. JHARKHAND

Jharkhand like many other resource-rich but peripheral regions of the Indian civilization, exhibits a declining process in the women's status – from a comparatively better gender-just situation to one of discrimination. This process that gathered momentum during the colonial period was perpetuated over the years leading to a crisis that one can observe today. Both internal and external factors can be identified for this social transformation. However, the external factors appear to be more aggressive in gender degradation than the internal ones.

Land ownership pattern in Jharkhand may be categorized as follows.

1. Inherited Family Land
 - a. Communally owned but individually possessed
 - b. Individually owned
2. Acquired Land- purchased from the market
3. Received land
 - a. Under Land Reform
 - b. Under Bhoodan
4. Government Lease Land
5. Inherited Forest Land
 - a. Communally Owned
 - b. Privately Owned

Rest of the land, such as Gaiyr Majrua (GM) land and forests, except for private forests, such as Mindari Khuntkatti forests, is owned by the state. This arrangement leaves the woman at the mercy of the family and the state.

The socially accepted norm is that a woman is not supposed to own agricultural lands. It might be because she does not till it or because she is tabooed against tilling it or it is a homestead land or maybe because she does not head her family. And on the same grounds she is refused land distributed under Land Reform or Bhoodan. Even the left-led land reform movements interpret their slogan of 'land to the tillers' or '*jote, boye, kate dhan jamin ka malik wohi kisan*' in terms male ownership of land. What is deliberately ignored is the role of women in agricultural operations. The taboo against women touching the plough does not exclude them from carrying on the rest of the hard work, the sowing, weeding and reaping. According to a study about 85 per cent of women in Jharkhand are engaged in agriculture as cultivators and labourers. It is estimated that they normally work for 12 to 14 hours a day where as men spend only 7 to 9 hours (Dewan, Renu. 2001:191). In Jharkhand customs play a crucial role in determining the land rights of women irrespective of their tribe and caste.

The history of the formation of the present Jharkhandi society comprising of the *Adivasis* (tribes) and the *Mulvasis* (castes) still remains fresh in people's memory. Land was first occupied by the ancestors of the *Adivasi* communities presently categorized as schedule tribes under the Constitution of India (Section 342 A). The *Mulvasi* communities, consisting

⁷ Gautami & Rajgor, Meena (2008) Women's Perceptions of land ownership: A case study from Kutch, Gujarat, India, *Gender & Development*, Vol. 16, No. 1, March, 2008

of scheduled castes and the other backward classes, joined them at much later dates. So the customary laws of the former enjoy precedence over that of the latter. Therefore, Customary laws of Jharkhand, as recognized by the Chotanagpur Tenancy Act, 1908 and the Santal Pargana Tenancy (Supplementary Provisions) Act, 1949; in reality uphold the Adivasi or tribal customs and practices.

The nature and level of patriarchy prevalent in a community are the factors that decide its women's rights. "The nature of patriarchy is different in different societies, in different classes of the same society, in different periods of history of the same people. The broad principle remains the same, i.e., men are in control, but the nature of this control may differ. The experience of patriarchy is different for tribal women and for upper caste Hindu women (Bhasin: 1993:5)." Similarly, tribal patriarchy differs from tribe to tribe depending on economic and social factors promoting or stalling its growth. The Santal women enjoy more access to land than their Munda counterparts, for instance.

The de-scheduled tribes and the scheduled caste communities, now call themselves as the Mulvasis, also are guided by their respective customary laws of inheritance, which are similar to that of the Adivasis (Singh. 1994). Among the Muslims in the rural areas, especially the Adivasi converts and weavers largely follow the tribal customary laws. The rest of the people abide by the Muslim Law of Inheritance as coded in the Shariat.

The observations and documentations of the tribal customary law of inheritance by W. G. Archer on the Santals (1984), S.C. Roy on the Mundas and the Uraons (1912, 1915), J.B. Hoffman on the Mundas (1915) and D. N. Majumdar on the Hos (1950) S. C. Roy and R. C. Roy on the Kharias (1937), Govind Kelker and Dev Nathan (1991) summarize the tribal women's rights in the parental land as follows:

"Adivasi custom has a fine gradation of various rights in land that women in different stations can have. The rights of unmarried daughters, wives, widows, etc. have all been elaborately spelled out. Summing up of the whole gamut of these rights one can say that they are of two kinds – one is a life-interest in land, a right to manage land and its produce; and the other is a right to a share of the produce of the land." (Kelker and Nathan. 1991: 88–89)

"The second right, a right not to manage or use the land as one wishes but to share of the produce, is

again of two kinds. The first is maintenance (*khorphosh*) right. The second is to a share of produce, which may be over and above such maintenance needs – that of an unmarried daughter to a small portion of any crop that she has helped harvest, which may be accumulated by her or be used to buy her own clothes, ornaments etc. This in poorer families would only be a way of assuring maintenance for the daughters. But in that case too, such a right to decide one's own consumption would give the daughters a superior position as compared to that where their every act of consumption has to be approved before hand by the head of the house. In the case of better-off families, this share of the income can be used by the daughters to, say, lend out money or purchase a goat etc. Accumulation from *ir arpa*, as the share of the harvest is known, can also be exchanged against a part of the family land." (Kelker and Nathan *ibid*)

To have an elaborate understanding of these rights the following details may be considered.

Rights of Unmarried Daughter

Unmarried daughter is entitled to maintenance during the lifetime and even after the death of her father.

Rights of Married Daughter

A married daughter may enjoy rights on her father's land only under the arrangement of the *ghar jamai*, the son in law living in the father-in-law's home and help him in cultivation of his land as a son.

Rights of Widow

The panch generally sets aside some land for the maintenance of the widow; she has only a life-interest in that property of her deceased husband. If she lives separately from her sons this land is repartitioned upon her death. She cannot sell this land without the consent of the agnates, to whom the property passes after her death.

The Tenancy Acts of Jharkhand do not spell out the land rights of women. They only recognize the customs of both "aboriginal tribes and aboriginal castes". The SPTA permits the transfer by a recorded *Santhal* of his holding or any portion thereof as gifts to a sister and daughter.

It is important to note that among the sedentary tribal communities the customary laws of the *Santhals* provide the woman more access to the ancestral land



than that of the *Mundas* and together than that of the *Uraons*. The *Hos* and the *Kharias* follow the *Mundas*.

Women's struggle for land rights in Jharkhand has taken two different routes; one, through the demand of individual rights to both agricultural and homestead land, either ancestral or acquired; and the other, through building up resistance to the erosion of the customary rights in land and its restoration to the pre-colonial situation. In the case of the former, non tribal women take resort to the Hindu Succession Act as amended in 2005 that entitle the widow and the daughter equal share in both agricultural and other land with the son; and the Shariyat that provides at least some share in the father's non-agricultural property. In the case of the latter, involving mostly tribal women, it is the struggle to retain or restore the life interest of the widow and the unmarried daughter in the family land of the husband and father respectively, as provided by the customary law.

8. KARNATAKA

Karnataka was formed in 1956 by combining regions from various states and provinces. Parts of Coorg province, Mysore Princely state, Hyderabad province, Bombay Presidency, and the Old Madras Presidency were merged to form the Karnataka State. Its name

was changed to Karnataka ("lofty land") in 1973. Administratively the State of Karnataka today is divided into 27 Districts, 51 Sub-Divisions, 177 Taluks, and about 30,500 villages.

According to Government of India census 2001, in Karnataka 55 per cent women are engaged in cultivation on their household's landholding and 41 per cent work as agricultural labourers. Women in families with larger landholdings sometimes also work with and supervise labourers, though they are generally not hired or paid.

Land reforms are a major policy focus of the Department of Rural Development under the Ninth Plan (1997-2002). Karnataka was one of the Indian states that approached land reform in a serious manner, enacting legislations and implementing land reforms with vigour. There have been several extensive reviews of the land reform program in Karnataka with four distinct phases of land reforms identifiable.

Key features

- The abolition of intermediaries and village offices
- The imposition of ceilings on agricultural land holdings
- The provision of legal assistance to poor farmers and the protection of socially

disadvantaged groups including Scheduled Castes and Scheduled Tribes and

- A relaxation of both the ceilings in certain cases and the restrictions on the acquisition of agricultural land for certain non-agricultural purposes.

Karnataka Land Use Board was established in 1975 with a mandate to prepare guidelines for the various agencies. However this Board has not functioned as planned. The Board was established in the Directorate of Agriculture, which means that the agency is seen as concerned only with agricultural land and the head of the Board lacks the authority to coordinate the activities of other agencies. Mysore Housing Board Act 1955 and Mysore Labour Housing Act 1949 are in force in the Mysore area only. Amending Act 13 of 1999 is considered necessary to amend the Karnataka Housing Board Act 1962 to provide for thirty percent representation to women among the nominated members of Karnataka Housing Board.

Computerisation of Land Records: Based on the pilot work in the 1980s, the National Information Centre started work on a system to computerise the RTC. This system is being implemented at the Taluk level and has helped in updating of land records besides strengthening the revenue administration.

Although intestate succession laws in Karnataka grant Hindu and Christian (but not Muslim) widows and daughters the right to inherit land, these laws are mostly ignored or unknown, and in any case can be circumvented by drafting a will. In cases where women have some legal right to land, they are often reluctant to exercise this right because of the hardship that their families have suffered in raising funds for their dowries and wedding expenses. While women are reluctant to assert their rights because of these expenses, they themselves have no control over dowry paid on their behalf.

Some of the Major laws related to land administration in the State:

- Indian Transfer of Property Act 1882
- Indian Stamp Act 1899
- Indian Land Registration Act, 1908
- Karnataka Stamp Act 1957 (as amended)
- Karnataka Town and Country Planning Act 1961 (as amended)
- Karnataka Land Reform Act 1961 (as amended)

- Karnataka Village Offices Abolition Act 1961
- Karnataka Land Revenue Act 1964 (as amended)
- Karnataka Municipalities Act 1964 (as amended)
- Karnataka Municipal Corporations Act 1976 (as amended)
- Karnataka Appellate Tribunal Act 1976
- Karnataka Scheduled Castes and Scheduled Tribes (Prohibition of Transfer of Certain Lands) Act 1978
- Karnataka Panchayat Raj Act 1993

9. MADHYA PRADESH

Madhya Pradesh was created in 1956 from the former British Central Provinces and Berar and the princely states of Makrai and Chhattisgarh, with Nagpur as the capital of the state. The new states of Madhya Bharat, Vindhya Pradesh, and Bhopal were formed out of the Central India Agency. In 1956, the states of Madhya Bharat, Vindhya Pradesh, and Bhopal were merged into Madhya Pradesh, and the Marathi-speaking southern region Vidarbha, which included Nagpur, was ceded to Bombay state. Bhopal became the new capital of the state.

In November 2000, as part of the Madhya Pradesh Reorganization Act, the south-eastern portion of the state split off to form the new state of Chhattisgarh. The population of Madhya Pradesh according to the 2001 census was reported to be 60.3 million of which 31.4 million were men and 28.9 million women. The sex ratio of Madhya Pradesh is 919 females per 1000 males. Among the women 50.3 per cent were reported to be literate and among men 76.1 per cent and the total literacy rate of the state is 63.7 per cent.

Agriculture is the mainstay of the state's economy as 74.73 per cent of the people are in rural areas. As much as 49 per cent of the land area is cultivable. Nearly 33 per cent of the state's geographical area is covered by forests and 20 per cent of state's population are tribal people who depend on the forest produce traditionally. The colonial mindset of the ruling class in India after independence continued with the timber-centric management of the forest in accordance with the India Forest Act 1927. This has destroyed the biodiversity of forest resulting in the deprivation and marginalization of tribal communities in the State. The Forest Act

does not recognise the land rights of people living within the forest areas. Forest Conservation Act does not allow non forestry activities on forest land. This phenomenon has forced most of the tribal families to migrate to nearby towns to work as daily wage earners and survive under sub human living conditions.

When the state came into being in 1956, it had one single property and revenue code. In the colonial period, there were multiple systems of agrarian relations. In particular, the relationships based on tenure had a great impact on the nature of peasant protests and land movements in the state. Historically, one can find traces of struggle for land in this area. However, as Dunu Roy points out these popular protests were essentially not mobilization to 'struggle over property rights to land' but the 'overall struggle for survival'. Survival was the foremost concern as it depended on their right to all resources. It is significant to understand that land not only implies property but also a larger gamut of cultural and social relations. Survival issues need another level of gender justice that has yet to be introduced in most wards. From this research it appears that this work has begun in the State.

To explore the dynamics of land politics one has to essentially locate the regional variants of the

disparate popular land movements in Madhya Pradesh. In the colonial period, the discomfort with the revenue administration led to series of opposition and protests. Of these, many focused on the issue of rights to ownership of land too. Hence, we find that the *Mawasi* tribes of Pipariya under Raja Bhoobhat Singh rebelled against the British imperialists' policy of control over forests. There were similar revolts in Panchmarhi by the *Korkus*. The *Gonds* revolted in Garha Mandla while the women of Banjari Dhal used the sickle to oppose the colonial policy of acquiring their grazing land.

In contemporary times, Hoshangabad has emerged as an important seat of political fervour and activity. There are a number of organizations critically active in this area. These include Kisan Mazdoor Sangathan, the Samata Sangathan and the Kisan Adivasi Sangathan. They have pursued issues that are development-related like water, irrigation and displacement, as well as governance-related like corruption, communalism, caste oppression and timber smuggling. In 1974, an educational project called Kishore Bharati was started in this area. Kisan Mazdoor Sangathan had been given hundred acres of land for cultivation and was promised that the legal title would be transferred to the people when Kishore Bharati withdrew from the area. Another thirty acres of land was distributed



and used as a joint holding by Kishore Bharati and the Kisan Mazdoor Sangathan for social forestry. The management of the land was the sole responsibility of the Sangathan for the purpose of community use. However, the closing of Kishore Bharati in 1990 led to violence over the issue of land ownership.

Another important issue that emerged in this area was the question of displacement and the subsequent rehabilitation after coal mines were opened in Betul and Chhindwara. Under the leadership of Communists and trade union members like *Haldurkar*, *Ruikar* and *Thakur*, the local population organized themselves to demand for employment, minimum wages, and fixed hours of work and job security.

In the Malwa Plateau region, the entire tribal belt of Jhabua has retained some forest cover and also has been engaged in primitive agriculture. Historically this area had witnessed an anti-*Jagirdari* movement led by the socialists in the pre independence period. Again, there was a tribal movement led by Mama Baleshwar Dayal demanded the regularization of encroachment of forest lands. In the decade of 1990s, the issue of rights to common grazing lands came to the forefront. In fact there is a consensus among scholars that this area is largely dependent on the forest and its products to meet its need for survival. PESA – a revolutionary Act that devolved financial and planning control in the local governance structure was passed at the behest of strong leadership of Sri B.D Sharma and others in a manner that not many within the administration understood its implications. When the tribals were organized and they developed their own education, health and revenue systems the *babus* in the administration alleged that a parallel government was being run and this was illegal. The police attacked the village and killed four tribal leaders to which the latter retaliated. A long drawn case was fought in the court. Currently the high court has acquitted the members of Khedut Mazdoor Chetna Sangh and held the officials at fault.

An incident of violence between the Forest Department and the tribal population took place in Kiti village of Alirajpur on the dispute of common grazing land. It has been documented that forest guards fired on villagers engaged in a peaceful dharana. This was considered to be a planned move as the Khedut Mazdoor Chetna Sangathan members and activists who were participating in the agitation had been arrested on the previous day. In tribal societies, men and women equally take part in a fight but when

any gains come, patriarchy comes into play. Tribal leaders have not articulated the need to vocalize tribal women's need and rights on land, housing and commons.

The Mandala district of Madhya Pradesh has also witnessed spurts of the pulse of land movements. In this district, the *Baiga Adivasis* were engaged in 'bewar' cultivation in the pre-independence period. However even after independence and abolition of the zamindari system, they were not entitled to patta for their land. This was indeed a matter of concern for these poor tribals. In 1994 when the government decided to launch a forest land development programme, the *Baiga Adivasis* were displaced from their land. This expropriation of the Adivasis was done forcefully. When they tried to resume their efforts to cultivate their land, the forest officials inflicted physical force to dislodge them.

The historical trajectory of land movements in Madhya Pradesh elucidates the fact that the region has witnessed popular protests with regard to land rights. It becomes evident that people of this region are aware and conscious about the importance of land as a resource. Further, they also have the experience of political mobilization. However, it is interesting to note that despite women actively participating in such struggles, their role have been ignored in meta-narratives.

Madhya Pradesh Land Revenue Code 1959

To explore the issue of land as a resource it is important to look into the Madhya Pradesh Land Revenue Code 1959. This revenue code brought about uniformity in the revenue system by formulating a common code of revenue system. It came into force on 2 October 1959. The Code provides for only one class of tenure holders of land from the state called "*bhumiswami*". A *bhumiswami* has the right of transfer and also right to mortgage his land. The code also protects the rights of the sub-tenants who are given the status of occupancy tenants. The rights of the intermediary's estates were vested in the government. Apart from the land, such transfer included tanks, ponds, water channels, wastelands, community land, village forest, mines and minerals etc. If we analyse the Madhya Pradesh Revenue Code from a gendered perspective, we find that it is not gender-neutral in terms of the language used to define the clauses of the document. Like any other land law in India, masculine bias

becomes prominent. The inherent presumption about the owners of land is that they are male.

Meeta and Rajiv Lochan observe, “In the 264 sections and 3 schedules of the Madhya Pradesh Land Revenue Code, which have been amended 48 times till 2002, never was any effort made to make the text gender neutral, even when there were significant examples of women, especially from the Nawabi family of Bhopal, owning land.” This biased language is visible in the recent landmark judgment on the Omkareshwar Dam. The land right activists have struggled and succeeded at the reversal of government practice to give cash compensation in this case. But they failed to impress upon the judge that land for land should be given 50 per cent equally in the name of women and men as equal grantees. If this was too revolutionary at least the judge could have heard statements during the hearing that women too are entitled to land and Bhumiswami could be both a male and a female.

In a survey conducted by LBSNAA to understand the patterns of distribution of government land to weaker sections, it was found that the government undertook various schemes and programmes to regularise eligible poor encroachers. In 1984 the bhumiswami rights on agricultural labourers were granted by the Madhya Pradesh legislature.

The Madhya Pradesh government also undertook Scheduled Castes Forest Displacement (*Van Vyasthapan*) Scheme. Under this scheme all encroachment of forest land made before 1976 were regularized and the person was given the benefit of other development schemes on a priority basis. The Madhya Pradesh government also initiated the tree patta scheme in which landless agricultural labourers were given pattas to raise trees in government land.

Given the vast inequalities in land ownership and control, it can be argued that there is an urgent need for land reforms to be placed in Madhya Pradesh governance agenda. The essential thrust may be to ask for a ‘redefinition’ of the land agenda in Madhya Pradesh. A new and comprehensive agenda of land reforms can be visualised, encompassing:

- i. Redistribution of surplus land
- ii. Security and fair terms of tenancy
- iii. Land use reform based on watershed approach
- iv. Land-record reform in tribal areas
- v. Common property access reform

Status of Women in Madhya Pradesh

Madhya Pradesh is the largest state in India, with a total population of over 60 million, a large concentration of tribal population, and great regional and cultural diversity. Less than half of this population is constituted by women (47 percent of population). The proportion of women in the population (sex ratio) is low in the northern and north western districts, but reaches parity and beyond in the southern and south eastern districts. Women in Madhya Pradesh work mainly in agriculture, forestry, home based production and the urban informal sector.

Effective and independent land rights for women are important on at least four counts: welfare, efficiency, equality and empowerment. But women seem to be missing out on the agenda as an independent category in the agrarian economy of Madhya Pradesh. There are many grassroots and civil society organizations which have expressed their concern over women’s ownership of land, particularly among the tribals. Amongst the Adivasis the acquisition of land in their own name is not a priority. What is important for them is payment regarding the sale of forest produce. It is estimated that most of the women are engaged in picking *Mahua* and *Tendu* leaves but the payment for this work goes to the male member of the family. This emerges as a challenge for these women in the unorganized sector.

Steps Taken with Regard to Land and Housing Rights for Women in Madhya Pradesh

The state government has taken few decisions to fulfil the objectives of the policy for women in the state. Some salient features of the steps taken with regard to land and housing right of women in the state are given as below:

- The Madhya Pradesh government has initiated policies to ensure the extension of coparcenary rights to women in practice. On the death of a person, notification regarding the transfer of his land will not only be served to his sons but to his daughters as well. It will stop the deprivation of women by granting them their due rights. In the future, all land distribution and redistribution done by the government will be made in the name both the spouses. It will ensure that the husband can’t sell or mortgage that piece of land on to

his whims and fancies. The same mechanism has been incorporated in the renewal of pattas to forest dwellers also.

- Till now, only the sons of the displaced families were deemed as a separate unit and were given separate lands. From now on, the adult girls of rehabilitated families shall also be considered as separate units and shall be granted separate lands of their own.
- In the unorganized sector, especially in agriculture, discrimination against women is rampant. They are given those jobs which involve hard-toil and drudgery and less wages are paid to women as compared to men, for the same amount of work. To prevent this deprivation and exploitation of women, the state government has started close monitoring of all these endeavours.
- Government has decided to give preference to women groups in granting of river bed/tank bed pattas for growing seasonal fruits and vegetables, thereby enabling them to increase their income.
- Thirty percent of posts of the *patwaris* have been reserved for women in an attempt to protect the interests of women in land/property disputes.
- The presence of Revenue Department officials in the '*Jagriti Shivirs*' organized by the Department of Women and Child Development and in the information camps organized by other departments has been made mandatory.
- It has been decided to ensure the participation of one man and one woman from each family in the Forest Protection and Forest Development Committee to enable direct participation of women in the Forest Conservation Programmes.
- The Madhya Pradesh Minor Minerals Act has been suitably amended to provide for the preferential rights to women applicants on the excavation *pattas* of minor minerals. Relevant orders to this effect have also been issued.
- Thirty percent of posts in the government jobs are now being filled by women. To this effect, the state government issued the orders on November 1, 1996.
- Age relaxation of 10 years has been given to women, for getting them into government jobs. Now women up to 43 years of age are able to get government employment.
- Women's participation in the co-operative institutions has been rather dismal. Therefore, to enhance the participation of women in the co-operative endeavours, the government has decided that these institutions should have at least 50 per cent women participation. For this a vigorous campaign is being carried out throughout the state. From now on, only cooperatives with at least 50 per cent of women members would be registered.
- To accelerate the distribution of supplies through cooperative consumer stores, the government has set up Women Cooperative Stores. These stores comprise only of female members and are also organized only by women. Some 1740 primary women cooperatives have been set up in the state and 13 women co-operative Banks have also been established.
- The statistics regarding the work of men and women are neither collected nor presented according to gender. The mechanism of data collection, classification and presentation as per gender has been implemented now so as to make the status and work of women visible.
- Women suffer the most in familial disputes and conflicts. To settle such disputes and to give proper advice, family counselling centres have been set up in women police stations of the state. At state level too, a women cell has been constituted at the police head quarters in which a lady IPS officer has been appointed. Efforts are on to increase the number of women in police force. It has been decided that 30 per cent of the Deputy SP and Deputy Inspectors posts and 10 per cent posts of the constables shall be reserved for women.
- Nine courts of additional districts judges have been established to settle family disputes. Arrangements are being made so as to make sure that in all these courts, the judges appointed are women.

- Lakhs of tribal and rural women are occupied in *tendu* leaf collection during the season. To prevent their exploitation it has been decided that 50 per cent posts of 'Phad Munshis' shall be filled up by women. It has been further decided to include the names of both husband and wife in *tendu* leaf collection cards and that the wages should be handed over to the women only.
- To cover the risk of working in forests, Madhya Pradesh Minor Forest Produce Consortium has implemented an insurance scheme. Under the scheme any disability caused, is compensated by an amount of Rs. 3,500/- and death compensation amount is Rs. 7,000/-. Similarly in the Family Welfare Scheme of Government of India, disability is compensated by Rs. 5,000/- and death by Rs. 10,000/-.
- To do away with this prevalent discrimination against women, the state has decided to give technical inputs to them.
- To enhance women's participation in the organized sector, steps have been taken in the policy for women. Since August 1996, 30 per cent of the seats in the polytechnic and Industrial Training Institutions have been reserved for women in all the subjects, so as to train them in advanced technologies.
- Literacy to women has been kept as the prime objective of literacy campaign. In this respect, it has been decided that now onwards a village will be declared as a literate one only when 85 per cent of its women become literate.
- The text books in general, depict women as weak, oppressed and frail. The State Government has decided to change this image and depict women as capable, strong and independent.
- Not to let liquor gobble up a family, government has decided to shift a liquor outlet away from a locality, if 50 per cent of the women registered on the voter's list from that locality demand the closure or transfer of liquor outlet.
- In every district at least one women's cooperative bank is being opened. These banks are staffed only by women and it caters to the financial assistance needs of women.
- Financial assistance to rural women is also being made available through IRDP (Integrated Rural Development Programme).
- The state Government has made arrangements to make free legal aid available to all women (without any age bar).
- Arrangements have been made to ensure that the cases related to women oppression are heard by a woman judge.
- Instructions have been issued to the Labour Department to ensure that the work places, where women are employed should have separate toilets and eating/lunch rooms meant for them only.
- As an effective way of empowering women, they are being made aware of various laws, different government programmes etc. specifically meant for them.
- Persons convicted in the cases of violence against women will not be deemed eligible for Government jobs. Where such cases are pending and the charges have been framed by the court, appointment of such persons will remain suspended till their cases are finally dispensed with.

Important Laws in Madhya Pradesh:

- Madhya Pradesh Panchayat Raj Adhiniyam (Act), 1993
- Madhya Pradesh Panchayat Raj (San shodhan) Adhiniyam of 2001
- The New Forest Policy announced in 1988
- Schedule Tribes Forest Rights Act, 2006 as notified, by the Government on 1st January 2008

10. ORISSA

In Orissa land was allocated to the highest bidders during the British rule. These high revenue providers were allocated large chunks of land that gave birth to Zamindari system. These tyranny and exploitation of the peasant communities i.e. the Tribals, Dalits and other vulnerable masses lead to a fight against the state whether it was in direct British ruled Orissa or in the princely states which were indirectly controlled by the British.



As large as forty six percent of land in tribal dominated districts are categorized as forest land. The displacement of people through land acquisition under development projects pose major constraints of tribal access to land in this hugely tribal dominated state.

While agrarian laws like Bengal Rent Act 1859 was extended to British Orissa to confer occupancy rights on the peasants no such efforts were made in the princely states of Orissa. Tenants were at the mercy of the rulers. *Rajas* (kings) were imposing different type of illegal dues known as *magun*. People were forced to give free service not only to *Rajas* but also to the royal officers.

From 1822–27 the Mahalwari settlement was in force in Orissa. The Orissa Tenancy Act of 1913, a separate agrarian law for Orissa was brought into force to secure the rights and obligations of tenants. Settlement operations began in Orissa in 1921 followed by a resettlement of land revenue in 1925 and amendment of The Orissa Tenancy Act of 1913 in 1928.

Some other important land laws prevalent in Orissa:

- The Rent Act, 1839
- The Orissa Tenancy Act of 1913
- The Orissa Tenancy (Amendment) Act, 1928
- The Orissa Tenancy (Amendment) Act, 1938
- The Orissa Land Mortgage Bank Act, 1938
- Orissa States (Application of Laws) Order, 1948
- The State Merger (Governor and Provinces) order, 1949

11. PUNJAB

On an all India comparison, out of 25 Indian States, Punjab ranks 6th in Human Development Index (HDI) but is 16th as far as the Gender Development Index (GDI) is concerned. Thus, the State has the highest negative differential in the HDI and GDI. This indicates that gender equality cannot be linked to the income levels alone.

Increasing incidences of female foeticide is an issue of grave concern in Punjab. The researchers were warned that opening up issues around land, inheritance and property will lead to more sex selective foeticide and strife within families and communities in the state. Even the surveillance of sex determination tests has not checked the steep decline in number of girls in the state. This is because of the root cause – a conservationist and patriarchal mind set is not effectively addressed.

⁸Contemporary Punjab is contradictory and at times conflicting with reference to gender equality. In some areas of social life, the Punjabi woman is highly visible and in others she is quite invisible. Again, people living outside Punjab have always considered a Punjabi woman to be educated, bold, accomplished and competitive but are baffled to learn that the proportion of women workers in the state is the lowest in the country. Social researchers are also confused to note that sex ratios of the state have been declining drastically over the last two decades. Punjab's sex ratio is one of the lowest in the country, the second lowest among Indian States. Some reports note that of the ten districts in India that have the lowest child sex ratio, seven are from Punjab. This dismal performance on Gender Development Indices is reflective of some of the contradictions that have crept into the construction of gender in Punjab.

To understand this one needs to look into the distinctive social, cultural, economic and political configurations of the multiple layers in the Punjabi society. The unfolding of these distinctive layers will give us a clear idea of the emerging constructions of gender in the State. One important aspect of a Punjabi woman's social life hinges on the ownership and control of land or any other immovable property and her large-scale work participation so that her share of the earned income of the state matches with that of men.

Land is an important resource in the Green Revolution of Punjab, and women, a majority of them Sikhs and Hindus, are entitled to a share as per the Hindu Succession Act, 1956. The Sikh inheritance rights have recently been in the news. The new trends need to be documented with a perspective on women and land rights as provided in the Indian constitution. Given the large number of men in the

armed forces over the years, one finds in Punjab a large proportion of widowed women – the most recent instance of conflict with many casualties was the Kargil conflict of 1998-99. Widows have been granted both land and other kinds of support, such as petrol pumps and agencies, by the state. These women have become the centre of conflict between the natal and marital family, both wanting to control these assets or demanding a share of them, often leading to the killing of some widows.

Main trends that have emerged from war widows and high migration of men to foreign shores have led to a situation where women cannot cultivate the land all by themselves resulting into land sales to urban developers. The money earned is spent on consumption rather than the investment in other productive activities.

Many people from Punjab have migrated to the UK, Canada and the US in 1980's. They have maintained very strict cultural norms within their religious practices. The new migrants as well as those who have settled report very high rate of domestic violence. However the discourse on women and resource rights has not been heard in context of these settlers or in those places from where they migrated in Punjab.

The majority of the Punjabi women who have acquired the status of cultivators during the last three or more decades were widows or daughters who had no brothers. The title of cultivators was thrust on them because of the emergent situation caused by the death of the male head of the household. Once they acquired the status of cultivators, many widows were forced by their circumstances to go in for "Karewa" marriages with the deceased husband's brother who helped them to look after their estate. Some educated and independent women refused to go in for such marriages. They preferred to manage and control their estate themselves. Such women constitute a minuscule proportion of the total women cultivators shown in the land records. The women, who dared to cultivate their lands themselves, encountered several problems in emerging as successful managers of their estate.

An interesting fact that came to light during the course of interviews was that some couples, who were actually living together, had obtained a legal divorce through mutual consent. They now could own a separate permissible area of land for each one of them, thus circumventing the land ceiling laws. The

8 Adapted and reproduced from Dr. Raj Mohini Sethi's paper for Lal Bhandhur Shashtri Academy



lands of these women cultivators were, in reality being cultivated by the husbands or sons.

Thus, majority of women have no actual control over, or access to land. Women are being used largely as instruments of “*benami*” transactions; they might be the legal owners but not necessarily be the beneficial owners. Even those women who were effective owners of land had leased out their lands to others. Sometimes their male relatives such as brothers or husbands cultivated and managed the lands for them. In an earlier study by Sethi and Sibia 1987, it was found that almost all agricultural households disapproved of the daughter’s right to succession in the father’s property.

The basic legal framework for land rights in Punjab was framed by the Pepsu Tenancy and Agricultural Lands Act, 1955. This was later impacted by The Punjab Land Reforms Act 1972. However most issues around women’s ownership of land in Punjab are governed by the Customary Law of Punjab and Personal Laws of Hindus, Muslim and Christians.

In Punjab it was observed that customary rules guided the agricultural communities rather than the Hindu law in many aspects such as succession, adoption and wills. These customs varied from community to community and from one place to another and they were specific to a certain tribe, sect or even family. They governed the life of the people of Punjab both

directly and indirectly in the ownership and transfer of land, property and other tangible assets of the group to whom they were applicable.

Today village communities in Punjab consist of groups of families bound together by common descent. It is this feeling of agnatic kinship apart from the common interest in land which regulates their customary practices. The daughters who had to marry outside the village and the clan along with their children belonged to another village and clan and therefore, there was no need to provide them a share in the village patrimony. Ancestral property or land could be inherited by descendants who could trace their origin from a common ancestor from generation to generation in the male line. Thus, on the death of the proprietor, his landholding and other property would devolve on the sons. Daughters are generally excluded by custom from inheritance under the customary law. However, a daughter could sometimes inherit ancestral property in preference to collaterals in the absence of male heirs. By and large, no daughter’s son or sister’s son could inherit property because they were not fellow kinsmen.

Customary laws recognized the mother’s rights of succession in preference to that of male collaterals or married daughters if there were no male lineal descendants. The mother of the deceased succeeded

to the life estate. However, if she had remarried during the lifetime of her son, she would be disentitled to her estate on his death. In the absence of a male child, the widow of the deceased proprietor succeeded to a life estate in his property; and on her death or remarriage; the deceased son's mother came in for succession before the collaterals and took life interest in the property. The mother succeeds not as a mother of sons but as a widow of her deceased husband. When there were sons, they exclude the mother. However, when the last surviving son dies without issue, then the mother succeeds in her capacity of a widow of her deceased husband.

Punjab Land Reforms Act (1972)

It aimed at consolidating and amending all existing law relating to ceiling on land holdings, acquisition of proprietary rights by tenants and other ancillary matters in the state of Punjab. It unified the Punjab and Pepsu laws in matters of ceiling on holdings and the conferment of proprietary rights on tenants, landless agricultural workers and members of the scheduled castes and backward communities. The area over and above the ceiling limit was to be declared as surplus area. The state was authorized to take possession of the surplus area and after the delivery of its possession it would vest with the state.

12. RAJASTHAN

Rajasthan is the state in the north-west of India. It encompasses most of the area of the large, inhospitable Great Thar Desert of India, which has an edge paralleling the Sutlej-Indus river valley along its border with Pakistan. Rajasthan is the largest of the Indian States in terms of area. It is divided into thirty three districts and seven divisions.

The population of the state is more than 56 million. The urban population of Rajasthan is more than 13 million and its rural population is more than 43 million. More than 25 per cent of people are from SCs and nearly 9 per cent of people belong to the STs. According to the census of 2001, there are 933 females per 1000 males. The sex-ratio in the age group of 0-6 years is 909. The state has a low literacy rate.

Alarming incidences of violence against women, rape, trafficking of women and girl children, dowry deaths and not to mention female foeticide and infanticide depicts pathetic condition of women in the state.



According to National Crime Records Bureau (NCRB) figures for 1998 issued by the Ministry of Home Affairs, Rajasthan ranked fourth in the ratings of recorded crimes against women. These crimes include rape, kidnapping, dowry death, mental and physical "torture", molestation, sexual harassment, trafficking, practice of child marriage, preference for sons, and *Naata pratha* (forced remarriage of widow).

In some places in Rajasthan personal laws are applicable while in other places state government's orders or legislations are at play. There are incidences where combinations of many cultural, social and legal dimensions contribute towards women's lack of housing and land rights. Each of these cases needs to have separate strategies worked out.

13. TAMILNADU AND PONDICHERRY

In ancient Tamilnadu, it is stated that the Scheduled castes and Scheduled tribes were the owners of land being the sons of the soil. After the invasion of *Aryans*, the land ownership has changed. The land ownership has been closely associated with the social stratification or caste systems.

When we look at the Indian history or history of Tamil Nadu, from 300 to 1200 A.D., there were many kingdoms and kings ruling different parts of the country. Usually, the Kings gifted “*Inams*” to the Brahmins for the maintenance and management of the Temples. The *Inams* mainly constituted cultivable lands, covering one or more villages and sometimes hundreds of villages. When a land is given on *Inam pattayam* to Brahmins, this included the rights over revenue or tax collection from the people living in the area, rights to control the labour and rights to adjudications which are known as *Dasabaratham*, meaning that the owner of the land can punish those found guilty.

The ownership of land as a private property could be traced out to the colonial period of British. The Governor General of Bengal for the British Government, Lord Cornwallis introduced the Zamindari system in 1793. The land was given to Zamindars or Land Lords on a yearly payment of revenue. This ensured regular revenue for the rulers. If the Zamindars failed to pay the revenue, the property was set for auctions.

Henry Munro who ruled the South Eastern Madras Presidency disagreed with this system and introduced Ryotwari system where private property rights were given to individual tenants. Munro argued that such individual property rights were in tune with the traditional ethos of Indian society. This system also hoped to establish direct relationship between the State and the cultivators.

There were varieties of ownership of lands in Tamil Nadu in the 18th century. Due to the traditional system that existed in Tamil Nadu, around 50-60 per cent of total land was donated as “*INAM*” and exempted from tax revenue. The system which existed during the rule of Kings were superimposed by the British with a view to raise revenue and created big land lords like Zamindars and poor peasant communities.

Panchama land is an example of the colonial government’s attempt to connect the depressed classes directly to the land. They were assigned cultivable wastelands which are known as depressed class lands (*Panchama lands*). This system envisaged to remove the slavery of scheduled castes and tribes.

The system of land control that immediately preceded the colonial rule was known as the *Kaniyatchi* system.

Kaniyatchi was not an absolute individual property right just on land, rather it was a set of rights over village resources including the land, (both dry and wet) the water, the well and the customary rights over the labour of other touchable castes lower in the hierarchy, and the untouchable castes and the Cheri (Dalit colony).

The cultural economy of the village society was marked by collective control of land by the *Kaniyatchikarars* and a spectrum of caste specific role in the agrarian production relations that reflected brahminical ritual hierarchy. At the top of this agrarian organization were the *Kaniyatchikarars*, who belonged to either Brahmin, or Vellala castes (cultivators, who were mostly non-brahmin but “touchable”). The lower castes known as *Paraiyars* and *Pallars*, who were the labourers, were classified as *pannaiyal* (permanent labour) and *padiyal* (temporary labour). The *Pallars* have gained the status of cultivars in some parts of Tamil Nadu whereas the *Paraiyars* have remained as *pannaiyal* or *padiyals*.

Kaniyatchi rights included absolute rights over the agricultural labour and the *pannaiyals* were transferable by way of sale, mortgage, or gift along with the *Kaniyatchi* rights. *Kaniyatchi* system underwent lots of changes during the colonial period.

The privileges of the Zamindars/Mirasis continued during most of the colonial period and the British abstained from intervening in the rights of local customary practices. The process through which the system of collective control became private ownership was not through curbing the Mirasi privileges at once. Rather it has been a slow process and it has curbed the economic privileges of the Zamindars. The introduction of Permanent settlement in the Madras Presidency and followed by Ryotwari tenure and its economic implications have brought a significant limitations in the rights of the Mirasidars.

The Ryotwari system recognized the state as a sole owner and the cultivators were acknowledged as a Ryots and were granted Patta. The Ryot who got the patta are known as Pattadar and he can continue to use the land as long as he can pay the taxes.

While these changes reduced the status of the *Mirasidars* to that of mere land owners in the official sphere, it never altered the role of an individual belonging to a particular caste. The role of the individual in the agrarian production process is structured by the spectrum of ritually hierarchal socio-cultural role as a member of a caste.

In the year 1843, The Slavery Abolition Act was passed after identifying the situation of bonded labour enslaved and the Act provided room for altering the policies of land rights. The Dalits were identified as depressed classes and also the *Panchama* schools and wastelands in every village were provided to the Scheduled castes. The condition was that these lands should not be sold over a period of 10 years and even after 10 years the land should be inherited or sold only to other Scheduled caste people. In case if the land has been sold or mortgaged or alienated from scheduled caste people, then the Government will have the absolute power to take back the possession of the land.

Thus the rights to land and property were completely structured by caste and class systems and there were no space for gender equality or equity as these were based on the religious symbolisms.

The prevailing attitude to women was still conditioned by religious symbolism which highlights the self sacrificing, self effacing pure image of women. The preferred role of a woman is that of a faithful wife and devout mother, whilst at the same time emphasizing the subordination of women, i.e. the daughter or wife is a commodity or possession.

In Tamil Nadu and Pondicherry, the personal law varies according to religious belonging. While reforms have been thought about particularly to improve the position of women, the statutory law mainly reflects religious norms. Hindus are governed by Hindu Marriage Act of 1955, and the Hindu Succession Act of 1956. Muslims are governed by the Muslim Personal Law (Sharia) Application Act of 1937 and the Dissolution of Muslim Marriage Act 1939, and the Muslim Women's Protection Act 1986. Christians and Parsis are governed by the Christian Marriage Act and the Parsis Marriage and Divorce Act, respectively, and by the Indian Succession Act of 1925 (as amended in 1991) All Indians contracting the marriage under Special Marriage Act of 1954 are governed by this Act and by the Indian Succession Act.

In case of Tamil Nadu, complementary section is added to Hindu succession Act, further improving the position of women by giving unmarried daughters' equal coparcenary rights like that of sons.

The Personal Laws of women belonging to religious minorities differ. According to the Muslim Personal Law (Sharia) Application Act 1937 family and



succession disputes between Muslims are decided as per the Sharia Law superseding local customary norms. This differs from the codification of Hindu Law, (which codifies religious law and at the same time improves the position of women), the 1937 Act merely refers to Sharia Law by legislative measures.

Christians, Jews, and Parsis and all others, contracting or registering the civil marriage under Special Marriage Act of 1954 are governed by the Indian Succession Act of 1991. No gender discrimination is contained in this Act. However, there are no restrictions on testators' freedom of will, which allows disinheriting widows and daughters.

Policies on Land Reforms

The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act 1961 was enacted to achieve the objective of reducing the disparities in the ownership of agricultural lands by fixing a ceiling on land. This objective is realized by taking over the surplus lands and distributing them amongst the landless poor.

The present limit of land ceiling is 15 acres for a family consisting of 5 members with an additional 5 acres for each additional member with an overall ceiling of 30 acres. Charitable Trusts are allowed to have 5 acres of land as in existence on 1 March 1972 and after this is prohibited from acquiring agricultural lands.

Rural development policies of Tamilnadu includes Indira Awas Yojana and Sampoorna Grameen Rozgar Yojana, the acquisition of land for implementing various welfare schemes, distribution of waste lands to families of landless poor and the Tree Patta Scheme. A pro- woman agricultural land development scheme known as Tamil Nadu Women in Agri Business and Extension (TANWABE) which helps to improve the women socially and economically is a praiseworthy effort of the Govt. An amount of ten thousand rupees for each women group is given as financial assistance and so far 620 groups have been provided financial assistance with a total cost of Rs. 62 lakhs.

The pro poor policies of the government of Pondicherry are not well developed as that of Tamil Nadu and there are no separate welfare departments dealing with the depressed sections. Under the Planning Department, there is a scheme called Kamaraj Scheme, which provides financial assistance of Rs. 50,000/- to each of the homeless poor living below the poverty line to construct a house with proper sanitation. The scheme is applicable to a homeless poor person with an annual income below Rs. 24000/-.

14. UTTAR PRADESH

The biggest state of India in terms of population and second in area, Uttar Pradesh has a total population of 19 crores. Out of this about 14 crore live in rural areas about 13 crore depend on agriculture.

Uttar Pradesh which was known as United Province and was divided into several Zamindari Provinces mainly Agra and Awadh provinces. The British made three types of settlements namely the Permanent Settlement 1793, Royotwari Settlement 1792, and the Mahalwari Settlement 1820. All these settlements were enforced in the form of revenue. Uttar Pradesh was divided on the basis of these three types of management settlements. These settlements were made with the help of kings in some places while Malguzars (revenue officers) and Zamindars in others. Permanent settlement was done in Uttar Pradesh except in Awadh and Agra where Mahalwari system was implemented. Under the permanent settlement system the British govt. collected taxes through middlemen. In this system the middle men started collecting sixteen times more revenue and the farmers were overstressed. The public land was privatized and the land went into the hands of Zamindars, malguzars and Taluqdars.

After independence the land and forests taken from zamindars were vested with the Gram Sabha or the forest department. In many places farmers' agitations took place against this settlement and this struggle along with struggle for freedom assumed wider character. It is necessary to understand this settlement because these lands after freedom disappeared from land records.

In spite of eighty percent of the women being in agriculture there is discrimination in government statistics with regard to them. According to the 2001 census the total workforce in UP is five crore of which 76 per cent are male and 24 per cent female. Out of this 24 per cent 41 per cent are agricultural labour and 34 per cent are farmers whereas among males only 20 per cent are agricultural labour and 42 per cent are farmers. These statistics indicate the attitude of planners towards women. Even now in the Five-Year Plans they are not recognized as labourer and farmer.

The ownership of land among women is negligible in Uttar Pradesh. In the year 1995 the government issued an order in connection with leasing out of land in the joint names of man and woman but it was limited to lease only. If at all the ownership of women on land is visible somewhere, then it will only be in the families of big farmers and landlords. Mostly to escape from the disputes of ceiling it will be in the name of widows or in exceptional cases, due to division of properties.

With the exception of welfare budgets for women and children, Uttar Pradesh does not have a gender-based budget. In the budget of 2008-09 there is a provision of only 780.75 crore for women which is just 0.69 per cent of the total plan outlay. Thus, despite their significant contribution to agriculture women of this State do not have the farmer status.

The situation of women's land rights is quite pitiable. After the implementation of land reform laws in the country the surplus land was acquired but only two percent of it has been distributed. Women hardly figure in this distribution and among those women who do, the quality of the land is extremely bad.

The Uttar Pradesh Government has introduced a law for collective registration of property and distribution of joint lease. Recently the zamindari abolition and land reforms laws were amended with regard to providing right of succession to daughters in the paternal land.



Important land laws/Acts in Uttar Pradesh:

1. **UP Zamindari Abolition and Land Reforms Act, 1950:** The policy behind the formulation of this Act was that the owner of the land should be the actual cultivator.
2. **Uttar Pradesh Ceiling Act, 1960:** Was formulated to distribute the land earned through ceiling to poor and landless so that the ownership of land is available to all and social interest is protected.
3. **Uttar Pradesh Panchayati Raj Act:** gives details about PRIs land management roles.
4. **Uttar Pradesh Land Document Rules:** This book makes available all information regarding land management.
5. **Hindu Succession Law:** Though this law was originally applicable only for the family land rights of Hindu women it is now not limited to Hindus.

15. UTTARAKHAND

The Uttarakhand State comprises of 13 districts. About 70 per cent of its population sustains on agriculture and animal husbandry. The population of Uttarakhand is 84 lakh and about 26 lakh people, mainly men, have migrated to the plains in search of

a livelihood. This significantly makes the land issues more important for the Uttarakhand women.

It is a historical fact that this region was reined by *Adivasis* since pre-Vedic period. Traditionally land distribution and succession was on *Katyuri* pattern. It means that a person having more than one wife has the right to distribute his land either among his wives separately or among all his sons collectively. The elder brother also had right to get some benefit in the property. Among higher classes of Brahmins and Rajputs, only the first wife or wives from the similar castes and their sons were eligible for share in properties. Sons of the other 'temporary' wives were given a small piece of land only for sustenance. Liberal *Khasas* (a tribe) have norms to distribute land among all the sons equally irrespective of their mother's background. Females of *nayak*, *raod*, *paatar* castes, whose girls are now forced into prostitution, have right to paternal properties.

The British introduced a new system wherein unlike kings' rule, land as an item could be sold and purchased by Zamindars. Even after independence, the condition of Uttarakhand women has not improved much and they are still being deserted by men – some are made *dasi* (maids), some are forced into prostitution, some face polyandry while others suffer due to polygamy.



Till 1999 Uttarakhand was a part of Uttar Pradesh. According to Rights of Women under Uttar Pradesh Land Settlement (Amendment) Act 1954, under section 171, women have following rights:

1. Right of Unmarried Girls

Volume (D) of Section 171 of the Act says that father is at 3rd position as the heir in property and unmarried girls at the 4th position. At first unmarried girl was at the 9th position. After another amendment in 1958 girls were categorized as married and unmarried. Married girls were placed at the 7th position and unmarried girl placed at the 4th position. There is yet another amendment in 1998 specifying the rights of unmarried girls.

2. Married Girls

Volume (G) – In the series of heir rights, unmarried girl is at 4th position, brother is at 5th, sister 6th and married girl at the 7th position. Before enacting this Rule of 1954, the married daughters were nowhere in list but after the amendments,

married daughter are placed in a position before a nephew.

3. Widowed Mother

In the case of heir rights, a widowed mother has seniority in her son's property. This rule does not count step-mother as mother. In special circumstances government has the authority for amendment.

16. WEST BENGAL

The Left Front came to power in West Bengal in 1977. Immediately they initiated the land reforms in right earnest. Two major initiatives were: (i) to register the names of thousands of sharecroppers under the scheme 'Operation Barga' in 1978 and (ii) to identify the surplus land above the legal ceiling for distribution to the landless. Over the years the above measures brought in remarkable success to the land reform movement in West Bengal. An official estimate of land distributed in West Bengal vis-à-vis whole country wise quoted in Parliament in 2004 highlight the achievement.



Table: Distribution of land as Patta till 19th August 2004 (area in acres)

State	Area declared as surplus	Area taken in possession	Area distributed as patta
West Bengal	1394180	1304185	1088445
All India	7335937	6496471	5402101

Major beneficiaries of land reforms in West Bengal are schedule castes, schedule tribes, other backward castes and the landless section among the minorities.

It is apparent that the West Bengal Government has made a positive impact by distributing land to the socially and economically disadvantaged sections of the society. However the govt did not pay proper attention towards gender balance in land distribution at the beginning. Joint pattas in the name of the husband and wife or patta individually in the name of women was neither mandatory nor was a policy guideline. It was only in 1992 that the government woke up and took note of the serious gap in the number of pattas held by women compared to men. A circular was issued in 1992 making it necessary to

issue patta title jointly in the name of husband and wives. Further it made it a policy to issue patta only to women, wherever possible. It was a step forward in the right direction but a delayed action without any retrospective application of the deed. As a result, lot of women were deprived of the benefits that would have changed their lives. In spite of this, it is no mean achievement that about 4 lakh joint pattas and 80 thousand pattas to single women have been distributed in West Bengal.

The North East States

Nagaland, Tripura, Meghalaya, Arunachal Pradesh, Assam, Manipur and Mizoram are States of North East India and are known as the seven sisters. They comprise more than 200 different indigenous tribes/communities having rich distinctive traditions and culture. There are many more tribes yet to be known and recognized. Women belonging to various indigenous tribes/communities in this region are subjugated in different ways not only by the mainstream society but also by their traditions and customs. Women's entitlement to privileges and rights continues to be inadequate to a large scale.

This document has considered all these seven together as North East States. There are a number of studies done on the status of women of North East but it appears that no study has been made exclusively on 'Women's Rights to Land and Housing' so far.

17. ASSAM

The history of Assam dates back very early since the time of epics. After the Indian Independence Assam had to witness several separation of territories - the separation of Arunachal Pradesh in 1978, Nagaland in 1963, Meghalaya in 1972 and Mizoram in 1987. At present Assam is largely dominated by the Indo-mongoloid race.

There are many communities and tribes with different personal laws in Assam. In general women in Assam do not inherit land. The parental property is distributed amongst the sons and not the daughters. A girl inherits property only if she doesn't have any brothers. A widow can inherit her husband's property.

18. ARUNACHAL PRADESH

Arunachal Pradesh was once known as North East Frontier Agency (NEFA). Immediately after independence, Arunachal Pradesh was under Part-B

of the Sixth Schedule to the Constitution as a tribal area of Assam. Part-B includes NEFT - Balipara Frontier Tract, the Tirap Frontier Tract, the Abor Hills district, the Mishmi Hills district and the Naga tribal areas. All these districts together were renamed as North-East Frontier Agency (NEFA) in 1951 and again it was reconstituted in 1954. From 1950 the administration was carried out by the Assam Governor on behalf of the President of India. NEFA became Union Territory in 1972 and finally a complete state in 1978.

Arunachal Pradesh is inhabited by the tribals who have a distinct Tibet-Burmese linguistic origin. There are about 26 major tribes divided into a number of sub tribes. In most of the tribes the property is distributed amongst the sons and the daughters are only entitled to movable properties. Polygamy is practiced customarily. If a boy child is born out of an extra martial affair automatically he belongs to the father's side and in case of girl child she will belong to mother's clan. Usually it is the youngest son who stays with the parents and inherits the ancestral house. In case of childlessness the property is transferred to the clan and not to the woman.

Polygamy, which is one of the customary practices, is despised by women in Arunachal Pradesh. It has



eventually increased, declining and worsening the status of women of these indigenous tribes.

Women in Arunachal Pradesh are more independent and financially sound compared to men. In certain cases it is the women who have more access to resources and they can even finance the men in need. But they do not have a legal standing.

In Arunachal Pradesh a traditional court known as 'Kebang' plays a very important role in the lives of the common people and more so in case of women. Kebang is a male dominated strong political body which gives judgments and makes decisions for the society. Women can come to Kebang only as an appellant, litigant or witness but never be part of it. This depicts very vividly their poor legal standing.

19. MANIPUR

Manipur consists of *Meiteis* belonging to the Indo-Mongoloid race settled in the valleys and the tribal communities of *Nagas* and *Kukis* living in the hills. They have distinct traditions and customs.

According to the customary law prevalent in Manipur, land basically belongs to the community and women in particular do not inherit land or property. According to their custom the family of a bride benefits by 'mandu' the bride price (usually paddy) paid by the groom's family in instalments. Even if the bride dies before clearing all the mandu instalments, it still has to be paid by the husband's side.

Among few *Mao* tribes in the state, it is found that daughters also inherit immovable properties such as land, paddy field etc. The condition is that those properties should not have been inherited but individually earned by the father. In *Meitei* community, though women can claim property, usually they do not. Women in *Maring* community cannot inherit land and in case there are no sons in the family the land goes to the clan. Like other communities in Manipur, women are only entitled to immovable properties.

Traditionally the concept of private ownership of land was not prevalent in most of the tribal communities. But now many tribal lands have become private property with legal ownership rights whether it is paddy land, wasteland or forest. There are also no steps in the direction of the land ceiling systems to protect the community's common property. While

going through the land holding pattern among the tribes it was found that they had a three tier system - clan, village and private land. With the joint forest management coming into play in many of these lands, there is a fear among the tribals that the lands may be annexed by the government on the pretext of protecting the forest.

Every ethnic group in the state is trying to preserve their land which reflects their identity, culture and tradition. This process has given rise to an ethnic strife within the state. This in turn has compelled the continuation of the armed forces in Manipur in the name of protecting the people from insurgency and has itself become a matter of concern in the state. Military has not only committed atrocities but also occupied vast areas of land which actually belongs to indigenous tribes and communities.

20. MEGHALAYA

The state of Meghalaya has been the land of tribal communities comprising of *Khasis*, *Jaintias*, and *Garos* in majority and these indigenous tribes are believed to have settled in this land before the start of the Christian era. British influence in Meghalaya began in 1872 and after independence Meghalaya was inaugurated as an autonomous state in 1970. It was declared as a state of the Indian Union on January 21, 1972.

In Meghalaya, the *Khasi*, *Jaintia* and *Garo* tribes follow matriarchal system where the children take their mother's title. Land and property is distributed amongst the daughters with youngest daughter getting the lion share of the ancestral property. Apparently, women enjoy privileges but in reality they have no control over the land.

As mentioned earlier, in Meghalaya, it is the women who inherit their mother's property, either ancestral or self-acquired. Property here includes money, jewellery, lands, houses, cattle and such other property owned by an individual family or clan. The limitation is that the youngest sister or youngest daughter of the family is the custodian of the ancestral property. Among the *Garo* tribes the parents have an option to select any daughter as the heiress.

Though all these three tribes are matrilineal, each tribe has distinct customs and culture. Interviews with women group in the East Khasi Hills district reveal the fact that men are more privileged and are at advantaged positions even after marriage since they are taken care of by their wives.

Discussions with groups led to an insight about the land systems of the *Khasis* which it seems, is clubbed with their customs. The Transfer of Property Act does not apply at Khasi Hills. There are two principal types of lands – private lands and village community land. Private land property is demarcated by the founding fathers or mothers of the clan for the exclusive use of the clan members. Village community lands belong to the entire population of a specified village community. A person belonging to the *Khasi* community may acquire a permanent and inheritable right if he or she develops it by raising crops, digging ponds for fisheries etc. But if the occupant leaves the land unattended for more than three years then the land is recouped occupied by the village community.

21. MIZORAM

The term ‘*Mizo*’ is a composite of two words: ‘*Mi*’ means people and ‘*Zo*’ means hill. Thus *Mizo* means “hill people” and this term gives a racial and distinctive ethnic identity to the people of the state. The District of Lushai Hills (Mizoram) came under British rule in 1891. After the Indian independence, Lushai Hills District was changed to Mizo Hills District in 1954 by an Act of Parliament. Separate homeland became the demand of the Mizos and in 1966 the Mizos resorted to the armed struggle to meet their objectives of separate state. But in the year 1986 peace was established and Mizoram joined the Indian Union. Meanwhile, in 1972, Mizo Hills District was made into a union territory and came to be known as Mizoram. Finally Mizoram became the 23rd state of the Indian union on February 20, 1987.

In Mizo community it is customary that the son inherits the property and the youngest son gets the largest share but has to take care of his parents during old age. In case of absence of a son or the son is unable to take care of the parents than the women in the family can inherit the property. Widows generally do not inherit property but if it is so mentioned in the will of her demised husband than she may get it. In case of divorce, women get nothing except the things that she bought/brought during marriage.

22. NAGALAND

Some Naga scholars believe that Nagas originated from Chindwin, Irrawaddy valley, before migrating to

Naga Hills. After independence, the Naga territory remained divided in Assam and the North East Frontier Agency. Finally Nagaland was formed in 1963 as the sixteenth state of the Indian Union. Still demand for a separate single administrative unit comprising all the Naga inhabited areas is continued by Naga separatist till today.

In most tribes in Nagaland inheritance wise the land rightfully belongs to the man and not the woman. A widow with children can inherit her husband's property until her remarriage. It is observed that they do not give land to the daughters because after marriage the land goes to a new family.

23. TRIPURA

Tripura was earlier ruled by kings known as ‘*Manikya*’. In 1280 AD Tripura kingdom was invaded by Muslims which later brought the Muslim settlers into Tripura and the Muslim domination continued till 1515 AD. In a latter period the Tripura kings confronted the Mughals losing a portion of the Tripura kingdom after defeat. British later dominated Tripura till our independence and it was only in 1949 that Tripura joined the Indian Union and attained full statehood in 1972.

The male inheriting the property is the norm for all the tribes of Tripura. In the case of a Riang tribe widow, she can inherit the property only if she has male child. The Jamatia tribe is somewhat pro-woman and its customary practices are flexible. Sometimes it provides opportunity to women in terms of heritance. For instance if there are no sons, the daughter can inherit the property. Women have the right to enjoy their husband's property in their capacity as caretakers of the property but cannot own it.

In most of the Tripura tribes women can't inherit from their father. A widow can inherit property from her husband provided she does not remarry. The Jamatia tribe, though, doesn't allow women to inherit property from the father but father can give property as a gift to his daughter.

Out of the 19 tribal communities of Tripura, the Tripuri is the largest and occupies powerful positions in all political, social, cultural and religious aspects. The place of women in Tripuri community is not inferior to men in the society. Tripuri women can compete with men in social and economic works.

Though Tripuri women are not allowed to participate in political affairs, a woman can inherit property from the father or husband.

The tribal communities, for centuries, are traditionally attached to the land and forests with which they have a close affinity. But now they are ready to sell or mortgage it in want of better economic conditions. The privatization of land in turn is gradually leading to commoditisation, resulting in large scale mortgaging and sale of land creating class alienation.

The privatization of land and the creation of individual land ownerships indirectly strengthen patriarchy since the land holding documents are made in the name of males only. This excludes women from owning lands, making their situation more vulnerable.

District Councils and Land System

Due to demands for regional autonomy and for better status of the Assam tribals within the constitutional framework, 'District Councils' were set up in tribal areas. These Councils were accepted and incorporated into Article 244 (2) of the Sixth Schedule of Indian Constitution. The aim was to help the tribal people preserve their traditional way of life and safeguard their customs and culture.

Besides other activities the District Councils briefly carry out land administration as per the customs and traditions of the inhabitants. The sixth schedule of the Indian Constitution prohibits transfer of land from a tribal to a non-tribal. It is observed that most of the District Councils have not yet made laws regarding land holding. The basic structure of the customary or traditional system of land tenure remains the same.

Interactions with primary stakeholders reveal that till now the Councils have not been able to protect the common lands or codify the customary system of land tenure. Wherever individual land ownership is accredited, no land reform measures are initiated.

Inner line regulations and the Sixth Schedule rules have, in a way, made it easier for the rich locals and the emerging middle class tribals to acquire vast landed property. Thus private ownership is gradually increasing and pushing the real poor towards the large margin of landless farmers and agricultural labourers.

Majority of the respondents were of the view that the Councils should develop codification of tribal rights in lands. They should enact laws regarding land holding system. Otherwise the social harmony will be out of control in the future.

Joint Forest Management: Land and Forest

JFM in 2002 authorized Village Forest Management Committees (VFMCs) under the supervision of the Forest development Agency (FDA). The VFMCs have failed in addressing the land needs and practices of the indigenous institutions.

VFMCs were given powers to impose fines and punish offenders as part of forest management. This is already practiced by traditional institutions and it is at disagreement with the traditional authority structures. FDA's rights over forest land are also questioned as it has been preserved by indigenous communities since ages.

The National Forest Policy 1988 of the Government has paved the way for the encroachment by industry over the forest wealth. Due to the promotion of various development projects large scale displacement is taking place in different parts of the North East. The construction of Kapili dam in NC Hills, hydro power project at Loktak, Tipaimukh dam in Manipur Subansiri project in Arunachal, Uranium mining in Meghalaya and other industrial development projects have and will displace indigenous people and would have long-term negative impacts on the society at large.



SUMMARY OF REGIONAL CONSULTATIONS

EASTERN REGION

State representation from **Orissa, Bihar, Chhattisgarh, West Bengal and Jharkhand.**

About 94 participants, including women rights activists, NGO workers and intellectuals, from eastern India participated in the consultation on “Land and Housing Rights for Women” organized by IGSSS in Ranchi, on 26th and 27th February, 2008.

The major points of discussion were that Gender issues are related to the mindset of the people. The people of the region are governed by “Khut Kattidar Tenancy”, which means one who cuts the wood is the owner of the land. They have the concept of community land, collective ownership and customary laws. The rights of women over land and housing are legally sanctioned but socially denied. Apart from commercial land, forest land also holds a prominent place when it comes to empowering women.

It is challenging to ensure the rights of women on land and house in the existing legal framework. Women need to be actively involved in the power equations. Awareness can be brought about only through a joint community effort by both men and women. The bargaining capacity of women will increase and her confidence will boost if she can secure her land and housing rights. The modalities of addressing the issue need to be thought, taking into consideration the social and cultural systems of the land.

The consultation came up with framing of the ‘Regional Charter of Demand’ on the issue. The

eminent persons who actively participated in the event included Ms. Laxmi Singh, Chairperson, Jharkhand State Women Commission; Justice Samresh Banerjee, Lokayukta of West Bengal; Mr. P.K. Siddharth, I. G. Vigilance, Jharkhand; Ms. Rashmi Katyayen, senior advocate; Dr. Sanjoy Basu Mollick, social activist; Fr. Savri Mutthu, social activist; Mr. Gautam Bandhopadhyay, social activist; Fr. Benjamin Lakra, ex-director-Xaviers Institute of Social Sciences in Ranchi; Prof. Partha Raha of Calcutta University; Ms. Rose Kerketta, a social activist; Dr. Dominic Bara, General Body member of IGSSS; Mr. Bharat Thakur, social activist; and Mr. Prabhat Failbus, social activist.

WESTERN REGION

State representation from **Gujarat, Madhya Pradesh, Goa and Maharashtra.**

A three-day consultation titled “Women’s Right to Land and Housing” was organized at Pune from 9th to 11th April 2008, by IGSSS Western Region in

collaboration with ActionAid India. Over 75 participants from four states, Gujarat, Madhya Pradesh, Goa and Maharashtra having extensive and diverse experience of working on the issue participated in this consultation.

The state-wise study on women's land and housing rights were presented by Ms. Seema Kulkarni, SOPPECOM (Maharashtra); Ms. Shivani Bhardwaj, Sathi All for Partnerships and Mr. Jayant Verma, Samvad (Madhya Pradesh); Adv. Albertina Almeida (Goa); and Ms. Meera Velayudhan; Working Group For Women and Land Ownership (Gujarat). The consultation called for appropriate provisions in place for joint ownership of land and housing as a right of women. It was also expressed that single women should get government plots for housing, since they are deprived from secured place of their own on the account of being landless. Recommendations also included provision of allotting common land in the village to women's collectives with appropriate support for development and cultivation.

SOUTHERN REGION

State representation from **Karnataka, Kerala, Andhra Pradesh and Tamil Nadu.**

A consultation was held for the southern region from 21st to 23rd January, 2008 at UTC Resource Centre, Bangalore.

Most states realised that the existing land and housing rights have to be transferred in the name of women. The government should emphasize land allotment for widows/deserted and homeless women while allotting land/housing. There should be women's membership in all village level NRM committees. Applications filled under form 50 and 53 for land allotment should be allotted in the name of women as a joint property right holder. All the government allotment sites in urban slums and rural areas should be registered in the name of women. Land assignment committees formed by government at all levels – from mandals to districts should have 50 per cent women and must be chaired by women. There should be a 25 per cent exemption of fee for all land and housing registrations done in the name of women. Marriage registration should be made compulsory at gram panchayat level. There should be legislation assuring equal rights for men and women on the parental property right from birth. The government should display all the information

regarding availability of land and the list of allottees who have been allotted with justification for selecting each beneficiary or RTI may be used to procure such information. Vigilance and enforcement committees should be established at all levels. Gram panchayats promoting women's rights should be awarded. It was also discussed that in the name of SEZ/development projects, the inhabitants should not be evicted from their original place or sent to a far off place denying them easy access to livelihood.

Eminent speakers included - Dr. Devaki Jain, development economist, social worker and human rights activist; Ms. Shalini Rajanish, Principal Secretary, Women and Child Development, Government of Karnataka; Ms. Tejaswini Gowda, Member of Parliament; Ms. Evangeline Rajkumar, faculty member, UTC Bangalore; Pramila Nesargi, former Chairperson of Karnataka Women's Commission; Ms. Katyayini Chamaraj, Managing Trustee of CIVIC, Bangalore; and Dr. (Adv) Sebastian Paul, Member of Parliament.

'Charter of Demands' came up at the concluding session of the Consultation.

NORTH-EAST REGION

State representation from **Assam, Arunachal Pradesh, Mizoram, Manipur, Tripura, Meghalaya and Nagaland**

The two-day North-East Regional Consultation on Land and Property Rights to Women was organised jointly by IGSSS, ActionAid, Churches Auxiliary for Social Action (CASA) and Catholic Relief Services (CRS) on 13th & 14th March, 2008 at Guwahati. The regional consultation was a culmination of all the state-level consultations held in the seven north-eastern states. Around 200 participants, which included NGO representatives, women activists, journalists, legal experts and grassroot-level workers, attended the consultation.

Various ethnic groups in the Northeast have their customary laws and traditions, which are very close to the social system. Issues such as different customary laws, inheritance laws, marriage and succession acts (6th Schedule), impact of Look East Policy/neo-liberalization on Land and property rights to women, violation of land and property rights of women and also the role of media in this context were explicitly discussed.

Ms. Mridula Saharia, Dr. Jamini Devi and Dr. Biloris Lyndem, chairpersons respectively of Assam, Manipur and Meghalaya State Women's Commissions marked the occasion along with Ms. Patricia Mukhim, eminent journalist and activist from Meghalaya and K.P. Fabian, President of IGSSS on the first day of the consultation. The organisers took an opportunity to felicitate seven women working on women's issues.

Participants said traditional laws debar women from owning movable and immovable property. An attempt was made to disseminate information on what provisions are there for women in the existing Marriage and Succession Acts. It was observed that bias and gender discrimination is the only reason for which Indian daughters are isolated and remain dependent on the male heirs for their share and right to seek distribution of property. This leads to differences in families and long legal battles. Important legal aspects in the context of North-East like the provision and practice of documenting will for women, legal awareness campaign on land and property rights for women, amendments to discriminatory customary inheritance laws, joint ownership of property and equal distribution of property and Land ceiling Act and Land Reforms Act in all NE States especially in Mizoram, were the main issues that were highlighted.

The participants finally came up with a 21-fold Charter of Demands to carry forward the campaign.

NORTHERN REGION

State representation from **Uttar Pradesh, Uttarakhand, Rajasthan and Jammu & Kashmir**

About 40 representatives from different NGOs of northern region participated in the regional workshop organised by IGSSS on 11th and 12th September, 2007 in Lucknow.

The discussion were on the following issues:

- Historical overview of land rights of women: gender aspects of land rights, inheritance of land and resources, land rights in patriarchal system, evolution of land and resource rights with special emphasis on women and control of women on land and other resources.
- Understanding issues of women in different situations: women in rural areas, Muslim, tribal and dalit women.
- Women's resource right agenda: concept, how it developed, and how it could work.
- Legal provisions: constitutional provisions, succession laws, legislation on land reforms, laws on forest and water bodies in the context of women's rights.
- How to get land rights for women.
- Strategies to ensure the implementation of laws for women on land, social securities, insurance and other schemes.
- Effective utilisation of Right to Information for accessing land and resource rights for women.
- Review of MDGs, UN declarations, and how they can be used for advocacy.
- Future course of action: common agenda, what contributions can IGSSS make to strengthen the movement for women land and resource rights, need for national consultation on the issue and national resource centre.

Representatives from networks like Dynamic Action Group (network addressing the issue of dalit rights), Abhiyan Samiti and Bhumi Adhikar Manch (networks addressing the issue of land rights) in Uttar Pradesh also participated in this workshop.

5

CHAPTER

CONCLUSIONS AND RECOMMENDATIONS

There is a need for recognition of land and housing rights for women with a universal applicability. The patchwork of laws and policies, by their varied nature, lack of uniformity, and complexity in application aggravate the problem of inequality. The often half hearted (or at least half realized) efforts at legislative reforms truly succeed in only one aspect- they effectively push the issue of female inheritance down to the local level for recognition and enforcement - with predictable results. The amendment to include Hindu daughters as coparceners has had little effect on female inheritance patterns. Most women interviewed stated that they considered their dowry and wedding costs as their fair share of family resources, and they rarely claimed their legal right to a share of the family property. Similarly, while Muslim women noted that their daughters could inherit agricultural land (presumably under local custom) they reported that daughters usually elected not to claim a right to the land in order to be free to turn to their brothers for assistance as and when required. Amendments to the inheritance laws are not sufficient in themselves to change the patterns of rural or urban land and housing ownership. This discovery is hardly surprising.

Indeed, the need for a decisive action has never been felt more acutely. The Indian Government has failed to issue periodic reports on measures adopted and progress made to The International Covenant on Economic, Social and Cultural Rights Organisation. The civil society organizations presented an alternate report, titled, “Acts of Commission, Acts of Omission: Housing and Land Rights and the Indian State”, in May 2004. A couple of years down the line, instead of any improvement, land rights implementation only seem to deteriorate for the majority of India’s population.

RECOMMENDATIONS

In the light of findings observed in the process of the documentation of this report it is realized

that government facilitation alone can alter the unwarranted equation that exists in India, where women’s housing, land, property and other resources have an inherently unjust and inequitable distribution and therefore following recommendations can be made for further perusal:

Policy level

1. The issue of land rights to women should not just be looked as a point of civil law alone but with serious concern on land related criminal impacts and the violation of economic, social and cultural human rights of women.
2. The context of property rights shall be redefined in context with their survival and livelihood rights.

3. Need to evolve a gender sensitive National Land Policy, National Housing Policy and National Slum Policy.
4. A need to generate gender disaggregated data on ownership of land, housing and immoveable property. Policy should evolve for enumerating and accounting separately the women land holdings in state land records and in the census records.
5. The land rights of women should be natural and by birth. They should be emphasized in all the laws related to women, land reforms and land management committees.
6. There should be an All India survey (and resource mapping) on the resources available with women. On the basis of this, policy/law should be framed to promote/ensure the resources for women.
7. Women's Resource Rights Agenda (WRRRA) should become a state-led agenda and part of the government policy. This should be accompanied by budgets for trainings, exposures and resource mapping.
8. Need of clearer understanding within legal bodies, collaborative work with other mandate holders and treaty bodies, cooperative work between stakeholders, special procedures and mechanisms involved.
9. There must be more participatory consultative processes for development planning and existing processes must be made gender-friendly.
10. Reservations to be made for land and housing rights to victims of domestic violence, trafficked women and rescued bonded labour.

Awareness/Sensitization

11. Need of Legal literacy Drive with regard to women's land and housing rights to educate common man and change social attitudes.
12. Emphasis should be laid on mass awareness/sensitization programmes on gender sensitive policies (Domestic violence act, property rights of girls).
13. There should be proper initiatives to sensitise the government bureaucracy.
14. Govt should organize awareness and information dissemination programmes for

panchayats and NGOs on women's rights on land.

Land Distribution/Allocation

15. Availability of updated land records through computerization of land records in all states.
16. Priority should be given to women-headed households in the allotment of ceiling surplus, Bhoodan, pattas, commercial complexes and housing units. Recording of the already allotted land, housing etc. jointly in the name of husband and wife to prevent land alienation without the wife's knowledge.
17. There should be special provisions in the land reform laws to give land to the women from weaker sections, dalit and tribal communities.
18. The vacant lands should be identified and allocated to the dalit women.
19. A policy should be made for the landless women through which they can easily make use of the gram sabha lands.
20. Government shall display all the information regarding availability of land and the list of allottees who have been allotted, with justification for selecting each beneficiary (RTI Act could be instrumental).
21. Application filed under form 50 and 53 for land allotment shall be allotted in the name of women or as a joint property right holder.
22. Pressurize for speedy allotment of PATTAs/ issue total property rights pass books to every one so as to ensure minimum land holdings and to bar sale of land by small and marginal landholders.
23. Emphasize land allotment for widows, deserted and homeless women while allotting land/housing.
24. Dalit women should be helped to take possession of the land which is already allotted to them in the records.
25. The ceiling limit should be revised and surplus land should be distributed.
26. Implement the Land Ceiling Act effectively so as to curtail owning more than 15 acres of land.
27. Land available after enforcing the ceiling act should be made available to the poor women through panchayats.

28. The 1893 G O should be abolished and the land thus freed should be allotted to women from dalit and poor families. (Uttar Pradesh).
29. All the government allotment sites in urban slums and rural area shall be registered in the name of the women (eligible legal heir).
30. In line with the Karnataka's Sangha Mane (Women's collective zones) common land, wasteland, Panchayat land should be given to women's collective to promote their livelihoods.
31. At the time of registration or transfer of ownership or revalidation/updating of land records by the govt, the name of the woman should come before the name of the man.
32. If the husband is selling the land/house, then the governmentt agency should verify the consent by the wife.
33. There should be enough encouragements and discounts for purchase of movable and immovable property in the name of women.
34. Land Assignment committees formed by government at all levels from mandal to districts levels shall have 50% Women members and must be chaired by Women.

Schemes/Programmes

35. Gender neutral Indira Awas Yojana that provides housing to BPL families, should focus on women while making allotments.
36. Budgetary provisions need to be increased sharply towards allotted shelter homes run by state Governments and NGOs for women.
37. There should be special program to extend credit and other inputs to women land beneficiaries by encouraging them to utilize it productively and organize themselves into groups or collectives more productively.
38. Social security of women especially the unmarried, divorced, deserted, widows and lonely women has to be brought under the preview of law.
39. On the line of Child line & a help line for women in distress, a 24 hr. emergency response with a toll free number to tackle women's housing and land rights matters exclusively, is highly recommended.
40. Waste land programmes, National Watershed development programmes, and all watershed

programmes in Tamil Nadu calls for a detailed review and requires amendment so as to benefit women and poor.

Marriage/Inheritance

41. Women's name should be entered into the family property at the time of her marriage. Married women's rights to matrimonial property need to be legislated as is generally done in most of the developed countries.
42. Any family income coming through any governmentt sources should automatically have 50% ownership by the women in the family.
43. Marriage Registration should be made compulsory at Gram Panchayat Level.
44. Marriage registration shall be effectively implemented and the property shall be shared/ transferred within 90 days of marriage in the name of his wife and she shall be included in all the property rights as equally with her husband rights, failing to do so he shall be punished or fined.
45. No will of a husband shall be entertained stating his male children's rights over all his property - all forms of wills shall be banned if there is no scope for women in the property rights.
46. Uttar Pradesh Zamindari Abolition Act which is applicable in both UP and Uttararakhand must be revised and both the son and daughter must get equal right in succession as heir.
47. There is an urgent need to regularize the process of varsai (inheritance) entries in Gujarat which has been pending for few generations.

Tribal Women

48. Need of development of a comprehensive policy on indigenous and tribal people beyond legal provisions and government schemes and not limiting it within the scope of mere financial assistance and goodwill of the administration ending up into charity and dependency.
49. The internal social processes and external forces have been pushing the tribal and semi-tribal Jharkhandi communities towards feudal

relations of production and corresponding internal polity of patriarchy. The rights of sisters, daughters, widows and wives should be recognized as legitimate transfers in SPTA (Sec. 20).

50. There should be a proper law to prohibit the possession by non-tribals on the tribal lands.
51. The tribal settlement shall be decided in consent with women and other livelihood dependent families.
52. Amendments of discriminatory customary laws basically in inheritance to property & land rights.
53. Documentation but no codification of customary Laws & recognition of Customary Laws over land.

Eviction/Displacement

54. Forcible eviction and displacement of the urban poor from the slums and informal settlements is an anti-people policy and must be banned.
55. In case of large scale of displacement caused by development project (SEZs, dams, green-belting etc.) the resettlement and rehabilitation plans should focus on registration of land in the name of women.
56. Rehabilitation must precede displacement where displacement is inevitable.
57. In the name of development and civilization the inhabitants shall not be evicted from their original place or to a far off place denying their easy access to livelihood.
58. Special Economic Zones (SEZ) and similar development projects like smart city always evict a section of people leaving them landless. These victims shall be rehabilitated ensuring implementation of the rights contemplated in the verdicts of SC providing adequate and proportionate job in the development project, similar living environment, proper shelter etc.; the jobs and the shelter thus provided should be given to women members of the family.
59. Panchamar (Deprived Caste) land to be studied through appointing a Commission and based on the study the panchamar land to be restored and redistributed to women.

The Commission to be headed by a Supreme Court Judge and members should be drawn from among the Panchamar community women and NGOS working for it. (Tamil Nadu).

Women farmers

60. Like Madhya Pradesh Govt. other states should also give recognition to women as farmers officially & legally. In view of high migration rate of men to cities, land is the only source women can rely upon and therefore agricultural extension services should be offered to women farmers.
61. Agricultural Seeds Patent Rights to Women farmers.

NGOs/Funding agencies

62. Mainstreaming the rights to adequate housing, land and property in the work of national & international organizations.
63. Women's access to land and housing remains at the level of highly academic discussions without much supporting data and requires further research and efficient advocacy plan.
64. Conferring of Awards to Gram Panchayats which promote women rights.
65. We should work together to pressurize the government to give equal rights to women in all aspects.

Governance

66. There should be 33% reservation for women in the lowest revenue cadre (lekhpal /patwari) so that this section becomes sympathetic to women.
67. There should be clear documentation on land rights of women and it should be made available to all just like the RTI.
68. The state government should take complete and full responsibility to disseminate information at district/block and gram panchayat level – regarding the land rights amendments where in women have been given rights at par with men.
69. Gender disaggregated data on available resources and their ownership should be

available and be a key input in framing state policies and programmes.

70. Women's Membership should be ensured in all village level NRM Committees.
71. Government should have a nodal/designated officer at every district to look after and implement women land rights.
72. The courts should be facilitated to resolve the land disputes in a short time bound manner.
73. Establishment of Vigilance and enforcement committees at all levels.
74. If there is no 50% participation by the women, then i) No resolution should be passed by the gram sabha meeting ii) No proposal should be recommended by the Gram Panchayat iii) No govt. scheme to be implemented.
75. All the key positions in women and child development department shall be occupied by women.
76. Proper monitoring and effective enforcement of land reform laws.
77. Without the consent of the local governance/ PRI/CBOs, no forest land, grazing land, C&D land shall be taken over from the local community for any form of industries/ development like SEZ, power station, etc.

Forests/Forest produce/Mining/Environment

78. Dalit and tribal women should have rights over the forest produce.
79. Right to Women on Non timber Forest Produce (tables, chairs, etc. made from cane, reeds).
80. Women ownership on mining land should be ensured.
81. The rural economy is in the hands of women especially in the management of livestock, seed, water, firewood, fruit collection, honey, gum and medicinal plants, etc. Unfortunately the supportive natural resources of these sources are at risk because of depriving the women from their stake on these natural resources. Hence none of the natural resources shall be over harvested or used for other than the specified purpose.

82. Ensure minimum forest land for every PRI for livestock and other activities of the inhabitants.

Single women/destitute

83. Government should provide 5 acres land to the widows and single women for their livelihood.
84. Give priority to the single women, elderly women (above 60 yrs) in the allocation of house plots especially from dalit, tribals and muslim communities.
85. Poor women having ownership records should be helped to get actual control of the land.

Legal

86. In the Uttarakhand context, the Supreme Court order (1993) of converting the government land to forest land should be challenged and new law should be framed by the central government.
87. Central government should enact suitable law for effective implementation of the KUPA act and ensure 50% land holdings to women for Uttarakhand women.
88. State government should not change the 42 – B regulation banning the sale of dalit lands. (Uttar Pradesh).
89. A sub-clause should be inserted in the amended act to override any gender discriminatory clauses in state-level tenurial laws currently in place in many states.
90. The rules under the 1937 Shariat Regulation should be revised. Delete from section 2 – “save the question related to agricultural land.”

Social/Cultural

91. Women should have the opportunity to express their views within and outside the household.
92. Girls from the weaker sections must get the education facility.
93. Lesson on Women's Rights & Acts to be included in the syllabus at high school and college level.
94. Appeal for fighting against issues like polygamy, child marriage.

SOME QUOTES FROM THE CONSULTATIONS

“In order to ensure the land and housing rights of women their name must be entered in the land deeds along with their husband’s name.”

Mrs. Laxmi Singh, Chairman, State Women’s Commission, Jharkhand

“Land and housing rights of women is primarily a gender issue. Awareness can be brought about only through a joint community effort from both men and women.”

Justice Samresh Banerjee,
Lokayukta of West Bengal

“Women must have a reach, control and ownership on the land and housing of their family. Some people discard their old parents in places like Kumbh Mela and Vrindavan just because they have no land in their names.”

Mr. P.K. Siddharth, IG vigilance, Jharkhand

“Women’s rights cannot be viewed separately from land rights, as there is an interrelationship between land rights and women’s concerns, and violence against women intersects all.”

Dr. Devaki Jain, renowned development economist,
social worker and human rights activist

“The links between land, caste and gender is pivotal because the inequalities are represented therein.”

Dr. A.R. Vasavi, Dean, National Institute
of Advanced Studies (NIAS)

“When a woman own land, it changes the power equations within the family with husband and in-laws. Her status in the village goes up; how much wages she earns, her safety, autonomy over her body, her chances of being deserted and destitution, are all affected.”

Ms. Anita Ratnam, Director, SAMVADA

“Without legal rights, women with HIV are pushed out of the house by the family after the husband’s death – they have nowhere to go, and have no resources to fight the case, as the land/property is not in their name.”

Mr. Rajkumar of Lawyer’s Collective

“Interstate workshops of this nature would enhance absorption of learnings across states”

Ms. Shalini Rajanish, Principal Secretary, Women and
Child Development, Government of Karnataka

“If 50 per cent of population is deprived of legal rights, will the society grow?”

Pramila Nesargi, former Chairperson, Karnataka
State Women’s Commission, active social worker and
political leader

“There is a need to reframe the land reform processes so that there is equi-distribution of land to every citizen irrespective of class, caste, gender.”

Ms. Roma, social activist

“Right on property will act as a support system for women, she will not be forced to live in a house against her wish.”

Ms. Jahnvi, women’s activist

“The present legal entitlements meant for women are not sufficient to ensure their right to land and housing and hence special provisions are must”

Ms. Rajani Satav, Chairperson of Maharashtra State
Commission for Women

“The government grants related to agriculture, land, housing and social security should be exclusively routed through the women in order to maximize their benefit”

Ms. Prajakta Lavangare, Collector, Dhule, Maharashtra

Voices from Field

“Now I can teach my daughter too, that there are equal rights for men and women,”

says Radha Lutaru of Kawadjai village, Maharashtra

“It gives a sense of security. Now, there is no fear. No one can ask us to get out of the house,”

says Varsha of Haveli block Pune.

“I have reason to be happy. I got security by registering the house in my name too. I will share this with my fellow women, so that they too can be secure,”

says Anjana Patil.

CONCLUSIONS

Thus, women’s right to land and housing remains at the level of highly academic discussions without much supporting data and requires further research and efficient advocacy plans. In order for legislative amendments to change patterns of inheritance, the

social and religious norms that impact inheritance (like dowry practices) must also be considered. The public must be educated as to the purpose of the amendments, a plan must be developed for their enforcement, and an effort made to assure that

inheritance practices change in accordance with the amendments. In the absence of a comprehensive education, implementation, and enforcement program, the legislative amendments have no traction in the lives of women and are easily ignored.

ANNEXTURE

REFERENCES

1. Constitution of India
2. Indian Penal Code
3. Code of Criminal Procedure
4. Code of Civil Procedure
5. Relevant acts and amendments passed by the Indian Parliament
6. Relevant legislations and amendments by the Bihar Legislative Assembly
7. “Acts of Commission: Acts of Omission–Housing and Land Rights and the Indian State–update April 2008” A report to the United Nations Committee on Economic, Social and Cultural Rights- Coordinated by Housing and Land Rights Network and Habitat International Coalition.
8. Agarwal, Bina and Panda, Pradip. 2005. Marital violence, human development and women’s property status in India -World Development, Vol. 33 No. 5, pp. 832–805, U.K.
9. Kelkar, Govind and Dev Nathan. 1991. Gender and Tribe: Women, Land and Forests in Jharkhand. Kali for Women, New Delhi and Zed Press, London.
10. Government of Andhra Pradesh, Housing Department – INDIRAMMA Phase-II Housing Programme – Guidelines for sanction of houses to the eligible beneficiaries – Orders – Issued.
11. Gender and Land Rights Revisited: Exploring the new prospects via the state, family and market-Bina Agarwal.
12. Government of Andhra Pradesh, Housing Department – INDIRAMMA Phase-II Housing Programme – Guidelines for sanction of houses to the eligible beneficiaries – Orders - Issued.
 - G.O. Ms. No. 360, PR & RD (RWS-III) Department, Dt. 28.10.2005.
 - G.O. Ms. No. 78, Housing (RH-I) Department, Dt. 6.12.2005.
 - G.O. Ms. No.19, PR & RD (RWS-III) Department, Dt. 17.01.2007.
 - G.O. Ms. No. 188, PR & RD (RWS-III) Department, Dt. 10.05.2007.
 - G.O. Rt. No. 100, Housing (RH-I) Department, Dt. 22.05.2007.
 - G.O. Rt. No. 135, Housing Department, Dt. 23.07.2007
13. Agarwal, B. (1994): ‘Gender and command over property- an economic analysis of South Asia’, World Development, Vol. 22.
14. Gender Asymmetry: Engendering Development. 2001. World Bank

15. Miloon Kothari, Sabrina Karmali 7 shivani chaudhry - The human right to adequate housing and land.
16. Dewan, Renu. 2001. Socio-Economic Status of Tribal Women in Jharkhand.
17. Bhagat, L.N. and Verma, backwardness of Jharkhand: Causes and Remedial Measures. Abhinav Pustak Bhandar, West Singhbhum, Jharkhand.
18. Implementing Land Rights for Women: Revitalizing Rural Communities through Just Agrarian Reforms and Rural Development. 2006.
19. Women's Access and Rights to Land in Karnataka, Jennifer Brown, Kripa Ananthpur and Renee Giovarelli.
20. KARNATAKA LAND REFORMS ACT, 1961 (as amended) 45.
21. KARNATAKA LAND REVENUE ACT, 1964 (as amended) 94A.
22. M Rajivlochan and Meeta (2005) Women's Ownership of Land in Madhya Pradesh: A Preliminary Survey for Lal Bhadur Shastri National Academy.
23. Kishwar, M. (1999): Off the beaten Track: Rethinking Gender Justice for Indian Women- Oxford University Press, New Delhi.
24. Agarwal, B. (1994): A Field of One's Own: Gender and Land Rights in South Asia, Cambridge University Press, Cambridge
25. Dr. Taradatt (2001) Tribal Development in India (Orissa).
26. D.P Baxi (2004) Land Question and Land Struggle in Orissa.
27. Akhanda Anugatamani; Marriage System of Tribal Societies of Tripura; Tribal research institute, Govt. of Tripura.
28. CPI (M) Policy Document on Tribal Question- The Marxist, Volume: 18, No. 03-04.
29. Gupta Vishal - The Nishis of East Kameng District, Arunachal Pradesh.
30. Chinzakham Ngaihte (1998), Tribal Agrarian System of Manipur.
31. Land Reform Policies of Tamilnadu and Pondicherry Governments.



ANNEXTURE

SOME IMPORTANT DOCUMENTS

United Nations Economic and Social Council

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GENERAL

E/CN.4/SUB.2/RES/1997/19

27 August 1997

Original: ENGLISH

Women and the right to land, property and adequate housing

Sub.: Commission resolution 1997/19

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling the recognition and legal foundations of the right to adequate housing contained in, *inter alia*, articles 7, 12, 17 and 25, paragraph 1 of the Universal Declaration of Human Rights; article 2, paragraph 2 and article 11, paragraph 1 of the International Covenant on Economic, Social and Cultural Rights; article 2, paragraph 1 and articles 17 and 26 of the International Covenant on Civil and Political Rights; the Optional Protocol to the International Covenant on Civil and Political Rights; article 5 (e) (iii) of the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women.

Recalling also general comment No. 4 (1991) on the right to adequate housing and general comment No. 7 (1997) on forced evictions adopted by the Committee on Economic, Social and Cultural Rights.

Recalling further Commission on Human Rights resolution 1993/77 of 10 March 1993 entitled “Forced evictions”.

Recalling its own resolutions 1991/26 of 29 August 1991, 1992/26 of 27 August 1992, 1993/36 of 25 August 1993, 1994/38 of 26 August 1994 and 1995/27 of 24 August 1995, entitled “Promoting the realization of the human right to adequate housing”.

Recognizing that women face particular constraints in securing and maintaining their right to housing because of the continued existence of gender-biased laws, policies, customs and traditions which exclude women from acquiring land, security of tenure and inheritance rights to land and property and owing to women’s reproductive role, and that these constraints are particularly acute for women who also face discrimination on one or more other grounds, including race, ethnicity, creed, disability, age, socio-economic status and marital status.

Alarmed that more women than men live in absolute poverty and that female-headed households, which comprise one fourth of all households worldwide, are very often among the poorest.

Concerned that continued discrimination faced by women in all matters relating to land and property is the single most critical factor in the perpetuation of gender inequality and poverty.

Disturbed that millions of women worldwide suffer from extremely poor housing and living conditions, including severe pollution, overcrowding, polluted water and inadequate sanitation, all of which give rise to serious mental and physical health problems and cause thousands of women to die, or to live in a permanent state of ill-health.

Aware that women are largely excluded from the housing and planning development process, which leads to the underutilization of their knowledge and experience and results in development policies and projects that are insensitive to women's requirements for the improvement of their housing, neighbourhoods and communities.

Aware also that women experience discrimination by being denied access to, inter alia, the right to rent, own or inherit housing, land and property; economic resources, including agricultural and housing credits and loans; economic opportunities through employment and self-employment, training, information and education; health care and social support services, and that such discrimination has a particularly adverse impact on female-headed households.

Concerned that women and children suffer disproportionately from the practice of forced eviction and that women bear the brunt of traumatized and dislocated communities.

Deeply concerned that inadequate and insecure housing and living conditions contribute to, cause and are often the result of violence against women and that women's lack of security of tenure, resulting from domestic violence as well as gender-biased laws, customs and traditions which exclude women from renting, owning or inheriting land or property, exposes women to homelessness and landlessness.

Stressing that the violation of women's right to adequate housing results in the violation of other civil, cultural, economic, political and social rights such as the right to equality before the law and equal protection of the law, the right to life, the right to security of the person, the right to work, the right to health and the right to education.

Aware that the Secretary-General, in his report "Women in urban areas: population, nutrition

and health factors for women in development, including migration, drug consumption and AIDS" (E/CN.6/1994/3) submitted to the Commission on the Status of Women at its thirty-eighth session, stated that security of tenure promotes greater participation of women in community management and that this, in turn, helps households escape the poverty trap.

Mindful that the Habitat Agenda (A/CONF.165/14), adopted by the United Nations Conference on Human Settlements (Habitat II), recognizes women's right to adequate housing and to land and property and the importance of all actors adopting and implementing policies, laws and programmes aimed at the realization of these rights.

Mindful also that the Platform for Action (A/CONF.177/20) adopted by the Fourth World Conference on Women recognizes the links between women's poverty and lack of access to economic opportunities including land ownership and inheritance.

Noting that the Plan of Action adopted by the World Food Summit recognizes women's right to land in relation to their right to food.

Noting also that the Special Rapporteur on violence against women of the Commission on Human Rights in her preliminary report (E/CN.4/1995/42) noted that economic and social factors, including inadequate housing, can cause domestic violence.

Noting further resolution 16/7 of 7 May 1997 entitled "The realization of the human right to adequate housing" adopted by the United Nations Commission on Human Settlements in which it recommended that a joint programme be elaborated between the United Nations Centre for Human Rights and the United Nations Centre for Human Settlements (Habitat) to assist States with the implementation of their commitments to ensure the realization of the right to adequate housing as provided for in international instruments:

1. *Reaffirms* the universal nature and existence of the right to adequate housing in terms of its relevance to all human rights with respect to women;
2. *Encourages* States to comply fully with all their international and regional obligations and commitments concerning the legally recognized rights of women to land, property, inheritance, adequate housing including

- security of tenure, an adequate standard of living and the continuous improvement of living and housing conditions and to create opportunities for women to acquire training, education and information in all matters related to these rights;
3. *Reminds* Governments of the critical importance of providing women with legal resources and human rights information and education to address the violence they experience in relation to housing, and to enact and enforce laws and policies that protect women against violence in this context;
 4. *Recognizes* the importance in this regard of international cooperation and the need for cooperation between Governments, non-governmental organizations and international agencies;
 5. *Requests* the United Nations High Commissioner for Human Rights, in pursuance of her mandate, to undertake initiatives to promote women's right to adequate housing and to land and property;
 6. *Encourages* the High Commissioner/Centre for Human Rights to include fully in all the projects undertaken by the technical cooperation and advisory services programme specific activities related to the promotion and protection of women's right to adequate housing and to land and property;
 7. *Also encourages* the High Commissioner/Centre for Human Rights to include fully in all its field operations specific activities relating to the promotion and protection of women's right to adequate housing and to land and property;
 8. *Recommends* that the Special Rapporteur of the Commission on Human Rights on violence against women include in her next report an in-depth analysis of the relationship between violence against women and violations of the right to adequate housing and to land and property, including forced evictions;
 9. *Also recommends* that all relevant special rapporteurs and the special representative of the Secretary-General on internally displaced persons take into account in the preparation of their reports the question of the housing, land and property rights of women;
 10. *Invites* the Commission on the Status of Women to consider the right to adequate housing and to land and property in its continued research on the impact of violations of economic, social and cultural rights on women;
 11. *Invites* the Committee on the Elimination of Discrimination against Women to pay special attention to the issue of the housing, land and property rights of women when examining States parties' reports and to explore the possibility of adopting a general recommendation on women and housing rights as this relates, *inter alia*, to the provisions of article 14 of the Convention on the Elimination of All Forms of Discrimination against Women, with a view to clarifying the obligations of States parties to the Convention in this respect;
 12. *Invites* the Committee on Economic, Social and Cultural Rights to consider devoting a day of general discussion to the impact of structural discrimination, poverty and inadequate housing and living conditions on the economic, social and cultural rights of women, with a view to adopting a general comment on article 2, paragraph 2, of the International Covenant on Economic, Social and Cultural Rights;
 13. *Strongly suggests* that the joint programme of the Centre for Human Rights and the United Nations Centre for Human Settlements (Habitat) focus directly on women and the right to adequate housing and to land and property;
 14. *Requests* Governments, the organizations and bodies of the United Nations and the specialized agencies actively to support local, national and international initiatives, including the development of human rights indicators, aimed at assessing and improving the housing and living conditions of women throughout the world, in full consultation with and with the full participation of women themselves, their representatives and community-based non-governmental organizations and other relevant groups;
 15. *Invites* the Food and Agriculture Organization of the United Nations, in its implementation of the Plan of Action adopted by the World

Summit on Food, to focus on women's poverty in relation to their rights to land and property;

16. *Invites* the International Labour Organization to consider women's housing, land and property rights in its monitoring and development of the Recommendation concerning Workers' Housing, 1961 (No. 115) and the Home Work Convention, 1996 (No. 177);

17. *Urges* the international financial institutions, in particular the World Bank and the International Monetary Fund, to take fully into account the human rights implications for women of their policies, in particular structural adjustment programmes and the

funding of large-scale development projects that often lead to forced evictions;

18. *Decides* to review the question of women and the right to adequate housing at its fiftieth session, under the relevant agenda item.

35th meeting
27 August 1997

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E/CN.4/SUB.2/RES/1998/15

21 August 1998

Original: ENGLISH

Women and the right to land, property and adequate housing

Sub.: Commission resolution 1998/15

The Sub-Commission on Prevention of Discrimination and Protection of Minorities

Recalling Commission on Human Rights resolution 1998/51 of 17 April 1998 calling for the integration of the human rights of women throughout the United Nations system.

Recalling also Sub-Commission resolutions 1997/19 of 27 August 1997, entitled “Women and the right to adequate housing and to land and property”, and 1997/9 of 22 August 1997, entitled “Implementation of the human rights of women and the girl child”.

Recalling further the recognition and legal foundations of the right to adequate housing contained in, *inter alia*, articles 7, 12, 17 and 25, paragraph 1, of the Universal Declaration of Human Rights; article 2, paragraph 2, and article 11, paragraph 1, of the International Covenant on Economic, Social and Cultural Rights; article 2, paragraph 1, and articles 17 and 26 of the International Covenant on Civil and Political Rights; the Optional Protocol to the International Covenant on Civil and Political Rights; article 5 (e) (iii) of the International Convention on the Elimination of All Forms of Racial Discrimination; articles 4 and 27 of the Convention on the Rights of the Child and article 14, paragraph 2 (g) and (h) and article 16 (h) of the Convention on the Elimination of All Forms of Discrimination against Women.

Reaffirming the right to be free from discrimination based on sex and the equal right of men and women to the enjoyment of all civil, cultural, economic, political and social rights as stipulated in, *inter alia*, the International Bill of Human Rights.

Bearing in mind the Habitat Agenda (A/CONF.165/14), adopted by the United Nations Conference on Human Settlements (Habitat II), and the Platform for Action (A/CONF.177/20) adopted by the Fourth World Conference on Women.

Concerned that as a result of the discrimination faced by women with respect to acquiring and securing land, property and housing, the number of women living in poverty is increasing disproportionately to the number of men and that women’s experiences of poverty are particularly severe and prohibit women from escaping the poverty trap.

Recognizing that the existence and perpetuation of gender-biased laws, policies and traditions which deny women credit and loans and keep women from owning and inheriting land, property and housing and which exclude women from fully participating in development processes discriminate against women and create insecure and inadequate housing and living conditions.

Deeply concerned that inadequate and insecure housing and living conditions give rise to serious mental and physical health problems for women and contribute to, cause and are often the result of violence against women.

Stressing that the impact of discrimination and violence against women on women’s ability to access and secure land, property and housing is particularly acute for women who are internally displaced as a result of armed conflict situations and development projects.

Concerned that international and regional trade, finance and investment policies often increase gender inequality in terms of access to land, property, housing and other productive resources and undermine women’s capacity to gain and retain these resources,

Mindful that women’s inequality will not always be remedied by the identical treatment of men and women and that adequate remedies may require that women be treated differently from men based on a consideration of women’s specific socio-economic context,:

1. *Affirms* that the discrimination faced by women with respect to acquiring and securing land, property and housing, as well as financing for land, property and housing, constitutes a violation of women’s human rights to equality, protection against discrimination and to the equal enjoyment of the right to an adequate standard of living, including adequate housing;
2. *Strongly urges* Governments to comply fully with all of their international and regional obligations and commitments concerning women’s rights to land, property, inheritance,

adequate housing, including security of tenure, and an adequate standard of living;

3. *Urges* Governments to take all necessary measures in order to amend and/or repeal laws and policies pertaining to land, property and housing which deny women security of tenure and equal access and rights to land, property and housing, to encourage the transformation of customs and traditions which deny women security of tenure and equal access and rights to land, property and housing, and to adopt and enforce legislation which protects and promotes women's rights to own, inherit, lease or rent land, property and housing;
4. *Encourages* Governments, international agencies and non-governmental organizations to provide judges, lawyers, political and other public officials, community leaders and other concerned persons with information and human rights education concerning women's rights to land, property and housing;
5. *Recommends* that Governments, international financial institutions, local lending agents, housing finance institutions and other credit facilities review their policies and eliminate those which discriminate against women and keep women from securing financial resources necessary to access and secure land, property and housing and, in this regard, that special consideration be given to single women and households headed by women;
6. *Calls upon* that the international trade, investment and financial institutions, in particular the World Bank, the International Monetary Fund, the World Trade Organization and the Organization for Economic Cooperation and Development, take fully into account the human rights implications for women of their policies;
7. *Invites* Governments, the United Nations Development Program, the Office of the United Nations High Commissioner for Human Rights, the Office of the High Commissioner for Refugees, the United Nations Centre for Human Settlements and the United Nations Development Fund for Women to allocate

resources for further documentation of the impact of internal displacement as a result of armed conflict situations and development projects on women, particularly with respect to women's access to land, property and housing;

8. *Invites* the United Nations High Commissioner for Human Rights, in pursuance of her mandate and in coordination with the appropriate United Nations bodies to undertake initiatives that promote women's rights to land, property and to an adequate standard of living, including adequate housing;
9. *Invites* the Committee on the Elimination of Discrimination against Women to pay special attention to women's rights to land, property and an adequate standard of living, including adequate housing, when examining States parties' reports and to explore the possibility of adopting a general recommendation on this theme as it relates, inter alia, to the provisions of article 14 of the Convention on the Elimination of All Forms of Discrimination against Women, with a view to clarifying the obligations of States parties to the Convention in this respect;
10. *Invites* to the Committee on Economic, Social and Cultural Rights to undertake a thorough discussion of the critical issue of the relationship between women's rights to land and property and the International Covenant on Economic, Social and Cultural Rights and to include the results of this discussion in its general comment on women.

29th meeting
21 August 1997

[Adopted without a vote]

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