

## **Implementing Land Rights for Women**

### **Revitalizing Rural Communities through Just Agrarian Reforms and Rural Development**

#### **India Case Study**

International Conference on Agrarian Reform and Rural Development

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Consult for Women and Land Rights, India.

Action Aid International - India



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# Executive Summary

## India Case Study

The India case study is to assert community women's claim to land and resource as a right at ICARRD. The key demand is to increase rural women's ownership of land, resources and productive assets through radical agrarian reforms. The key to the agrarian and land reform agenda is a gender just redistribution of land along with transforming anti-women laws, policies and unequal social and economic relations.

Land along with forest and water are major sources of livelihood for the rural poor and women represent the majority of the rural poor. The percentage of women agricultural workers has grown to 40% of overall agricultural workers, and continues to grow. Of all rural women in the workforce, 85% are in agriculture.<sup>1</sup> Further, women, as a result of their gender roles, are vital catalyst for food security and agrarian productivity. Despite these, rural women remain neglected in policy discourse. The revisions on

land legislation did not address the entitlement of women to land as citizens and individuals, except in the case of West Bengal, and Kerala.

The invisibility of women's representation is mainly because; the Indian women like else where in the world are at the bottom ends of the society and the work force. As a result, of the patriarchal socio-economic and political institutions they also bear the intra-household inequalities in terms of access and control of resources and workload. What makes things more complex in India is that along with gender, caste, class, community, disability, HIV and AIDS status structures women's access and control over resources.

When we look back after 58 years of independence only 1.8 of surplus land has been distributed to landless men. Irrigated land remains under the control of rich peasants linked to ruling elite who are acquiring land

that sustains the poor with multinational corporations, the political and social elite for entertainment complexes, natural reserves, industry, tourism, commercial agriculture and other industries. As a result, traditional livelihoods are decreasing from the state promoted market led agrarian reform that affect the women tillers the most. Land based movements and struggle from civil society has increased the pressure on the governments. In this context, access and control over resources is a key demand women's groups in rural areas are raising with their local and national administration in India.

In India there are three<sup>2</sup> sources of land for women: land transferred from government, from the market, and through family inheritance. Land most often is acquired through inheritance, as 86% of land is privately owned.<sup>3</sup> For women especially the small farmers and the

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<sup>1</sup> . For elaboration on these three sources see also, Agarwal, B. 2002. *Are We Not Peasants Too: Land Rights and Women's Claims in India*, SEEDS, New York.

<sup>2</sup> Agarwal, B. Jan 2006. "Engendering the eleventh plan approach paper: Agriculture, land, environment and forests, and law" Background note for the Think Tank on Gender for the 11th Plan. Unpublished paper. p.3v

<sup>3</sup> For calculations see Agarwal, B. 1994: *A Field of One's Own: Gender and Land Rights in South Asia* (Cambridge University Press), p.24, fn 52.

landless, land is a source of security to produce food for sustenance. Land therefore can not be viewed just in terms of property.

*Learning through an experience of struggle and land reform in India, the Indian women influenced the women's movement in Asia to speak for the issue at Beijing+10. The call was responded to by a clear stand on inheritance rights of women global as well as in India. Further work on the rights of land less needs to be undertaken to mitigate displacement, forced evictions, control of trust and corporate sector on land that has sustained the marginalised.*

CWLR asks for redistribution of land such that more land is available for redistribution. The **women's legal ownership of land needs to be encouraged through :**

- **Individual titles** in the name of women alone for farms, garden plots or housing/ homestead land for subsistence needs,
- **Joint ownership** for women with men for income generation and management of land and resources
- **Group rights** for women under control of women's groups on private agricultural land, common property resources, surplus ceiling land, forest and water resources.

*This group approach needs to operate through local governance structures where women through a resource right committee guide village resource mapping.<sup>4</sup> The rationale for a women owned information and resource centre has been highlighted to inform on what resources are available and how these can be distributed equally between women in the community. Consultations with communities to identify and protect adequate collectively held assets and resources under the long term ownership of women's groups is an important step to manage this transformation.*

**Key demands from the government are :**

1. Every rural family should be provided with at least 2 to 5 acres of land in the women's name especially for tribal, Dalit and other marginalised social groups through redistribution of surplus land identified under land ceiling laws.
2. The provision of land must be supplemented with livelihood-related resources, employment opportunities and skills.
3. Every woman has a right to homestead land and adequate housing. This must be implemented so that the property is in the woman's name.

4. Prohibit forced evictions such that families have security of tenure.
5. Women should be recognized as the major decision-makers and managers of grazing lands; forestlands, water and other common property resources. Women's rights to these resources should be legally guaranteed and ensured.
6. Increase in women's share in family inheritance and property bought via market must be supported and monitored by civil society and government through an agreed agenda of time bound actions.
7. The international community should look to the Government of India's leadership shown on gender budgeting and women in governance through allocation of 40% of government land grants for women and 33% reservation of seats for women in government. This can be built upon with reserving 33% of rural development budgets for women's development, through a one window approach.

The ICARRD outcome document and declaration can increase rural women's ownership of land and resources by ensuring that government agree to:

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<sup>4</sup> There have also been other recommendations, for a group rights approach to land for women. See e.g. Agarwal, B. Jan 2006. "Engendering the eleventh plan approach paper: Agriculture, land, environment and forests, and law" Background note for the Think Tank on Gender for the 11th Plan. Unpublished paper. See also Agarwal, B. 2002. *Are We Not Peasant's Too: Land Rights and Women's Claims in India*, SEEDS, New York.

*Initiate provision in Policy of land to rural women for security rather than as a commodity.*

**Engender Legal Reform** by amending land laws to include definition on resource rights for women and apply gender equity in inheritance rights.

**Women in governance** need resources to be effective in their roles as government representatives. For this the government must give land and resources to women independent of males in their families through the following means:

Set up a women's resource committee in every village with power to demand 33% share in rural budgets and to demand land redistribution exclusively for a woman resource right agenda.

Sanction land and money to

provide housing benefits for all categories of single women including subsidised housing for poor women and low-interest housing loans.

Make the implementation of existing programmes available at one location in a village. Support programmes which enable women to own / lease land by forming groups for collective management of economic activity. Ensure access to agricultural credit even in the absence of land titles to enable women to cultivate on leased land.

Provide **sex disaggregated data on resources** at women owned information centres

Carry out participatory village-level resource mapping, inclusive of women from all marginalised social groups to identify land that can be allotted to women for

livelihood. Sanction land and budgets for women groups to own rural information centres.

Train women to manage land and resources by developing a land literacy package educating rural women on legal processes and documents of implementing rights to land and resources and provide free legal aid.

Governments under their obligation to implement rights for women as full citizens must commit to this through agrarian reform and rural development by equitably distributing land and related resources to rural women for food security and sustainable livelihoods. Increasing women's bargaining power in this way is the first step towards the empowerment of rural women to be equal citizens with equal entitlements to the benefits of our globalising world.

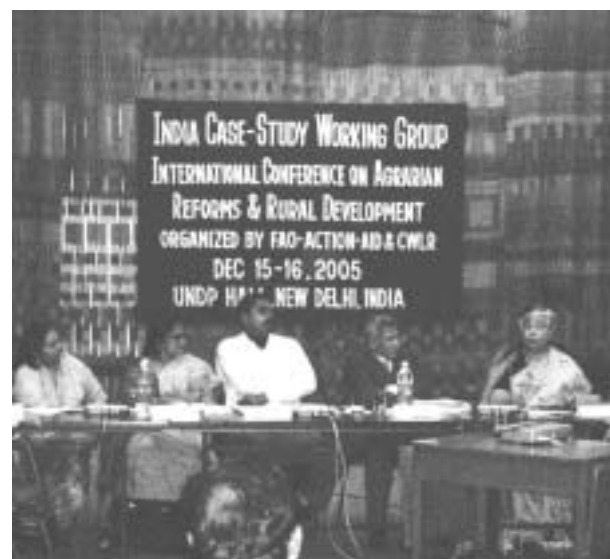
# 1. Background

Consult for Women Land Rights (CWLR) was set up in 2004 as an informal non-governmental, independent non-registered forum to impact the outcomes of Beijing +10. Since then it has impacted the MDG review process and created a membership base in eight countries. CWLR has grown into a global forum working at the local, state and international levels.

CWLR, FAO and Action Aid India hosted a national meeting in India on December 15-16, 2005 to firm a women's land and resource rights agenda at the International Conference on Agrarian Reform and Rural Development. At this meeting recommendations from an international consultation organised by Action Aid, UNDP, UNIFEM – IFAD and CWLR held on Nov 13-14, 2006, were utilised to provide a framework for discussion on what approach the government and civil society could take on women and land rights in India. CWLR's agenda at ICARRD will include three key objectives: to present a case study at the formal conference, organising events in the parallel informal civil society

conference, and to raise awareness through a rally on women and land rights by partnering with Via Campesina, which is to organise the ICARRD civil society events.

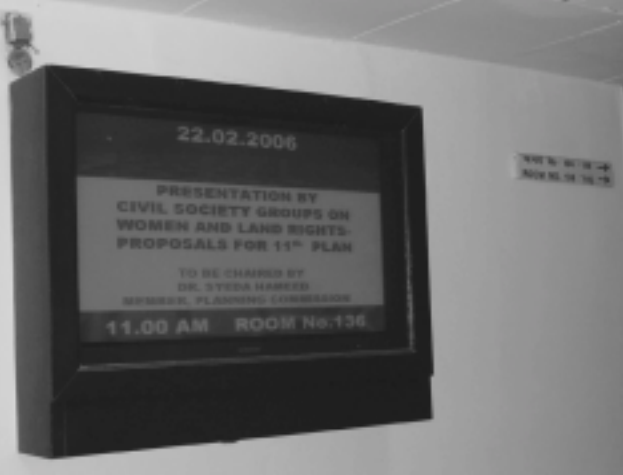
This case study has been specifically written to build the case at ICARRD for a gender just agrarian reform. At ICARRD, country case studies will be presented by civil society to the delegates of ICARRD on issues of agrarian reform and rural development. These case studies will represent a contribution to the body of knowledge on different country's experiences in agrarian reform and rural development. India was not originally included as one of the 'country case studies'. However due to CWLR's lobbying and advocacy efforts with ICARRD organisers, it was decided to take the case of India on board, and that CWLR in collaboration with Action Aid International-India would write the study with a focus on women's land and resource rights. CWLR's work has focused on facilitating emergence of key demands for access and control of land and resources for rural and marginalised women.



*Case study working group meeting December 15-16, 2006*

Thus this case study will highlight the context of access to these resources and how to support these different forms of access for rural and marginalised women.

The Working Group meeting on December 15<sup>th</sup> and 16<sup>th</sup> brought together journalists, officials, field activists and legal experts in CWLR, FAO, Action Aid India and the Government of India to collate experiences and knowledge on women and land rights into the India case study. The CWLR secretariat presented the first draft



*CWLR proposed the women resource agenda to be a part of the 11th plan document at the National Planning Commission of India.*

of the case study, to civil society groups who propose to develop pilot programmes on women and resource right agenda with participation from government representatives. Based on the input from the meeting a Working Group finalized a framework for this case study. The document draws on state-level fieldwork from eight states in India and existing research to propose an action agenda. The agenda needs to be essentially in line with the ongoing civil society movements in India. The views of the representatives of the movements have been utilised for an analytical summary and most conclusions on a way forward thus bases itself on Indian experience of women's land rights that can provide lessons in the global context of agrarian reform and rural development.

CWLR aspires to facilitate co-operation between government and community women around this case study so that at ICARRD, the different stakeholders can promise a definitive policy directive on women and land rights in favour of providing resources as a right and legally under women's ownership. As part of the preparations for this case study CWLR, FAO and Action

Aid India have already facilitated dialogue with the government on this issue which has led to a climate of co-operation among conference participants. Furthermore, Government representatives have given inputs of data on successful programs implemented by Government of India into the case study.

The final steps in compiling the case study on Women and Land Rights in India is to firmly establish the roles of government, rural women, and civil society in carrying this process forward. Based on program proposals submitted from CWLR members in Tamil Nadu, Pondicherry, Uttar Pradesh, Uttranchal, Jharkand, Gujarat, Maharashtra and Bihar, a series of six meetings have been held to finalise the case study of Women and Land Rights in India. This document bases itself on CWLR's presentation to the National Planning Commission of India on how the government can ensure women's land and resource rights in the 11<sup>th</sup> Plan from the Government of India.

## **Gender Just Agrarian Reform**

Agrarian reform and land reform are usually regarded as equivalent terms for reform to agrarian structure, with the objective of promoting social justice by providing a more equal distribution of land ownership, including the distribution of (unused) state lands (eg. Forest or wastelands), and improved access to rural services... FAO 2005. 128<sup>th</sup> session Rome 20-25 June 2005 ICARRD Concept

note. CL128/9SUP.1.P10. The CWLR emphasis the equitable distribution of land and resources in favor of marginalized women. The agrarian reform needs to be made women centric by promoting sharing of resources under ownership of women's group, giving women individual ownership and joint ownership of resources, adequate budgets and training along with transforming the existing feudal and patriarchal gender relations along with a reversal of the adverse impact of the Neo liberal policies.

For India's political processes of agrarian reform to adhere to principles of social justice, gender justice and distributive justice, agrarian reform must involve innovative and women-centred pluralist approaches. Throughout India's post-colonial history, numerous attempts were made to distribute land and resources equitably. However these have largely failed to achieve distributive and gender justice, with Kerala and West Bengal as two major exceptions.

When we look back after 58 years of independence only 1.8 % of surplus land has been distributed to the landless and most of them in the name of men. In other words, a major chunk of the fertile and irrigated land continues to remain under the control of rich peasants and landlords belonging to mainly the upper castes and ruling elite. This is because ceiling laws have not been implemented fully, production relations continues to be feudal and patriarchal in nature, the caste system still operates in the



villages, bonded labour is still a harsh reality, the agriculture workers have increased, loss of land is rampant due to squeezing operational holding, and large scale displacement due to mega projects for industrial development. Along with this is the loss of traditional livelihood due to changes in production patterns and technology.<sup>5</sup>

Since women are at the bottom end of society, the work force and bear the brunt of intra-household inequalities in terms of access and control of resources and workload, the consequences of growing threats from market-led land and agrarian reforms in collusion with the patriarchal social structures affects women of the poor households the most<sup>6</sup>.

In this context, for an equitable and gender-just process of agrarian reform to take place, it must use the human rights framework to promote a gender equal society, and protect the rights of women. Male out-migration, the rise of female-headed households, diversification of livelihoods, women's traditional roles with natural resource management, and the increase in rural women in agriculture<sup>7</sup> necessitates that resources be placed in the hands of rural women.<sup>8</sup>

This means using pluralist approaches to change existing laws and processes and to support group approach for rural women to guarantee women's rights over land and other resources. Programmes should prioritise empowerment of women to access their rights and utilise them to support sustainable livelihoods. Furthermore, programmes and processes which aim to implement women's ownership and access to land and related resources should be developed with the participation of all social groups, with particular focus on marginalised women such as *Dalit* and Tribal women, physically and mentally challenged women, women of minority groups, women engaged in work attracting social stigma such as sex work and those living with illness that attract social stigma such as HIV and AIDS.

Today, land-based movements and struggles from civil society has increased the pressure on governments and the international community on dealing with land ownership issues. The interest of rural women's rights to land and resources comes at a time when the resolution of issues need to be taken from a fresh perspective. Some spaces have been made available for dialogues on the status of the implementation of

rural women's rights to land and resources, which has increased visibility and interest on this issue. The Consult for Women and Land Rights among others has engaged different stake holders to discuss the options to create gender equality through allocation of land and resource rights for livelihood and homestead land. Organisations such as Action Aid, IGSSS, ICCO, HBF, UNIFEM, FAO, UNDP and IFAD are taking interest by supporting the development of



Consultation organized by Srijan Network U.P. November 18, 2005

women's forums for dialogue on these issues. This is leading to convergence and exchange of experiences and strategies on gender just and equitable land reform and application of inheritance rights. This case study first draws on these exchanges to summarise the Indian experience,

<sup>5</sup> Roma. "The Question of Women's Land Rights" Unpublished report. Uttar Pradesh Land and Agrarian Reform Campaign Committee, Jan 2006, See Annex 1 for suggestion to increase womens ownership of land best on categories of land available in India.

<sup>6</sup> Swapana Mukhopadhyaya article 'Women Under Economic Reform- The India Case' in Swapana Mukhopadhyaya and Rama Sundharshan ( pp 91-92) ed. Tracking Gender Equity Under Economic Reform, Published by Kali for Women, 2003

<sup>7</sup> It is estimated some 20-35% of rural households are defacto female-headed . Agarwal, B. 2002. Are We Not Peasants Too? Land Rights and Women's Claims, SEEDS, population Council New York.

<sup>8</sup> Between 1993 and 2000 there has been a 23% increase in female-headed households in India, as opposed to a 13.5% increase in male-headed households. Dr. Nitya ao posits that this trend may be a result of male out-migration from rural areas and adding to the "feminisation" of agriculture. Rao, Nitya, 2005. "Women's Right to Land, Assets and Other Productive Resources: It's Impact on Gender Relations & Increased Productivity." Paper presented at Regional Conference on Development Effectiveness Through Gender Mainstreaming. 10-12 May 2005, IFAD, UNIFEM, IDRC. .New Delhi, India. P.10

and then describes how CWLR has developed an agenda for change for all stakeholders at all levels to ensure and implement women's rights to land and resources.

Now that this dialogue has created a climate for change for gender equal processes within the government and at the grassroots

level, there is a unique opportunity for ICARRD to include in its concluding statement the agenda for all governments on women land and resource rights as the gender unequal distribution of land and property is a global phenomena.

After the ICARRD conference CWLR will continue to consult key

academics, policy analysts, government representatives, and rural women to come together in India and in countries where CWLR has members to foster a process of reform informed by the demands of rural women and supported by government and civil society.



*Participants agreeing to joint lobby initiatives at case study working group meeting, December 15, 2006*



## 2. Land reform: distributive justice for sustainable livelihoods or the market mechanism?

Supporting sustainable livelihoods means taking a women-centered and participatory approach to understanding and reinforcing factors that lie behind women and men's choices of their livelihood strategies, which promote choice and flexibility. The role of all stakeholders is to ultimately facilitate access to whatever self-defined inputs are required to expand choices and freedoms for women. For the Consult for Women and Land Rights, the overall objective of sustainable livelihoods must be for enhancing sustainable human development for poor and marginalised women. Formal and informal processes of ownership over land and resources registering land titles must be gender equitable.<sup>9</sup>

The development of economic globalisation promoted by state authorities is taking place at a faster rate than social development, whereby increasing

interconnectedness between the local and global economy is taking place in a context of increasing disconnection between the local and global civil society.<sup>10</sup> One of the implications of this is that economic forces supporting market-led reform are bearing a greater impact on policies of national governments than social forces. In India the asymmetrical forces of economic globalisation is reflected in government policymaking whereby small and marginal farmers, specifically rural women farmers, are becoming dispossessed and are unable to support their livelihood options because of the increase in land prices and the corporatisation of agriculture. All small farmers are becoming impoverished mainly due to the agrarian crisis led by the lack of investment in the rural sector in the last decade of the 1990s. This has facilitated the influx of corporations to come and buy land. The resistance against corporations taking tribal land and land that

sustains the poor has also become stronger, one of the most recent being the Kalinga struggle in Orissa. Because of the resistance most<sup>11</sup> political parties condemned the massacre at Kalinga in Orissa, where the police shot 12 tribal people dead while they were demonstrating against a steel plant taking legal possession of tribal land on January 2, 2006. Many violations like these prove that the current land reform processes are disproportionately protecting the



*Dueji Amma and Safia Zamir demanding protection after gaining land rights. International consultation November 13-14, 2005*

<sup>9</sup> Sustainable livelihood framework adapted from DFID. 'Sustainable Livelihood Guidance Sheets'. DFID 1999.

<sup>10</sup> Definition of 'globalisation' taken from J.A. Scholte, 2000. *Globalization: a critical introduction*. Basingstoke; New York, NY: Palgrave

<sup>11</sup> Kalinga Update <http://www.minesandcommunities.org/Action/press864.htm>

interests of large scale and corporate farmers rather than landless peoples and small farmers using land for sustainable livelihoods.

Amidst all this, women are the most adversely affected, but their voices and issues tends to be marginalized. The imbalance in representation of gender interests is more so in the case of women because women's status is vulnerable as the lack of resources infringe on her bargaining power and political freedom. What makes things more complex in India is that along with gender, caste, class and family as an institution structures women's access and control over resources.

Ground experiences shared by community women clearly tell us that environmental degradation and dispossession of land has accentuated women's livelihood and sustenance problems. With major shifts in production patterns and shrinking of common property resources women with already differential and restricted social and economic entitlements, capabilities and rights, duties and status have become further marginalised resulting in increasing involuntary migration, trafficking, prostitution, decline in sex ratio, violence, and increasing feminisation of HIV and AIDs. Intra-household power dynamics and poverty is making women and girls bear a disproportionate share of reduction of state subsidies and

services for development programmes such as health care, education.

In this context, access and control over resources is a key demand women's groups in rural areas are raising with their local administration. This is more so as hunger deaths have increased despite availability of food within the country. To mitigate this, landless poor women must have access and control over land and natural resources. Agrarian reform and land reform needs to be in favour of women to supplement the rise of women in the workforce every year. By agrarian reform, CWLR calls for distributive justice with an understanding of land as a livelihood resource and not a commodity.<sup>12</sup>

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<sup>12</sup> Roma. "The Question of Women's Land Rights" Unpublished report. Uttar Pradesh Land and Agrarian Reform Campaign Committee, Jan 2006

# 3. Social and Political Context

To understand shortcomings in implementation of women's right to land and resources, it is important to consider the social and political context within which land and property laws are applied. Land distribution laws in India are often implemented in a context of weak and inaccessible political infrastructure, which in turn engages with a thick web of social values, which directly impacts their efficacy on facilitating women's access to land and resources. Furthermore, women's agency and political empowerment is circumscribed by social relations. Issues of social values and customs vary widely from one region to another, increasing the inconsistent nature of implementation and impact on women's access to resources.

Until recently, the analysis and data collection of issues on food security and poverty levels remained at the household levels. Without looking at poverty and

hunger at the level of individuals within the household, gendered needs and roles of women in providing food security, and sustainable livelihoods, their contribution and participation remain invisible in statistical data. Therefore while the contribution of women to the sustenance and survival of South Asian economies is immense, it has historically remained formally unmeasured and thus unaccounted for and undervalued. This section attempts to give glimpses into this 'invisible' context of women's access to land and resources.

In India there are three sources of land for women: land transferred from government, from the market, and through family inheritance.<sup>13</sup> Most often land is acquired through inheritance, as 86% of land is privately owned.<sup>14</sup> As in many other parts of the world, land structures social relations as it holds symbolic meaning for one's social status. Land is thus deeply tied to survival, dignity and social

values for much of the rural poor. Economic globalization and privatization is directly impacting these aspects of land ownership by distorting equitable distribution of land, and creating pressures for the livelihoods of small and marginal farmers.

Land is being acquired more and more by multinational corporations, the political and social elite for purposes such as entertainment complexes, natural reserves, industry, tourism,



CWLR meeting at PANI in Sultanpur district Faizabad, U.P. during International Exposure Programme November, 2005

<sup>13</sup> Agarwal, B. 2002. "Are We Not Peasants Too? Land Rights and Women's Claims in India", *Seeds Population Council, New York*. See also Agarwal, B. Jan 2006. *Engendering the eleventh plan approach paper: Agriculture, land, environment and forests, and law*" Background note for the Think Tank on Gender for the 11th Plan. Unpublished paper: p.3.

<sup>14</sup> Agarwal, B. 1994. *A Field of One's Own. Gender and Land Rights in South Asia* (Cambridge University Press), p. 24, fn 52.

commercial agriculture and other industries. Often the interests of those with political and social status are linked to the interests of multinational corporations. For example in much of urban India, the social elite tend to be industrialists, and in rural India, the social elite tend to be landlords most belonging to upper caste. Often the social elite have acquired more land than legally permitted under the Land Ceiling laws.

At the same time when lands are distributed to rural landless peoples, they usually receive wastelands which require substantial human and financial capital to convert into productive lands. This process can take years and most men and women succumb to the pressure to mortgage the land or take loans against their property instead of using it for sustainable livelihoods.

The present socio-economic context renders rural women especially vulnerable as most women are not experienced in managing resources. Many rural women are illiterate or are not familiar with money lending practices. They are vulnerable to illegitimate moneylenders who charge exorbitant interest rates casting people into debilitating amounts of debt. Often landless labourers in this situation sell their land back to the landlords for extremely low prices, only to end up working on the land as free or bonded labourers. Thus placing

land and other resources in the hands of the rural poor is not enough. They also need skills and inputs to manage and keep their resources.

## **Labour issues for women workers**

Throughout South Asia, with the exception of Pakistan, women are generally concentrated in low-waged work. The call for minimum and equal wages for women has been made by women within the trade unions and unorganised sector movement in India. Little heed has been paid to amend existing practices of discrimination.

Constraints on mobility due to reproductive responsibilities and social norms imply that women tend to be absorbed at the lowest end of the labour market, in low-waged, casual and flexible jobs. With structural reforms and the expansion of global value chains, the social valuation of men as 'workers' has contributed to men getting better jobs than women in the informal sector to. The feminisation of labour here refers not then to greater female employment, but rather the devastation of working conditions for men as well.<sup>15</sup>

The recent National Rural Employment Guarantee Scheme gives a guarantee of 100 days of unskilled labour work to the poor. While it is a positive step to assure wage labour it does not ensure that

people own and are engaged in developing their productive assets. The call for increasing the asset base of the poor can be supported by the ongoing labour movement in India by implementing the demand of tripartite<sup>16</sup> labour boards. The labour boards can have women workers resource committees that work upon ensuring that demands for women's land and resource rights is met by building productive assets, in the name of and under the control and management of women.

## **Forest – dependent communities**

Tribal people traditionally held land and forests as a community resource for their sustenance and livelihood needs. Mining is degrading the quality of the land, destroying forests and bio diversity in this region which degrades agricultural land and limits the agricultural activities of local communities who are so dependent on these lands. The demand as per the Samatha Judgement of 1996, the local people are made shareholders and proper attention is given to rehabilitation, jobs to the local people, and services.

In the forest areas the pattern of industrialization is restructuring social relations. Labour roles are changing with the transition from traditional land- and forest- based livelihoods to mining- based. With this shift in labour roles and traditional livelihoods, gender roles

<sup>15</sup> Rao, Nitya, 2005. "Women's Right to Land, Assets and Other Productive Resources: It's Impact on Gender Relations & Increased Productivity." Paper presented at Regional Conference on Development Effectiveness Through Gender Mainstreaming. 10-12 May 2005, IFAD, UNIFEM, IDRC. New Delhi, India. P. 13

<sup>16</sup> Tripartite workers boards as proposed by the National Campaign Committee of Un organized Sector Workers through their bill "Un organized Sector Workers (Rights and regulation of employment conditions of work, social security and welfare) bill 2005 presented to the Petition Committee of Lok Sabha on May 5, 2005. This bill is in accordance recommendations of the second labor commission

are shifting as well. Where men and women had worked together in agricultural activities, now men are working daily in the mines to earn income to provide things, which would have previously been provided from agricultural activities. Women are staying at home to carry out only household duties with the degradation and alienation of lands.

Recent research indicates that violence against tribal women is increasing, and kinship bonds are decreasing. The practice of eliminating widows through “witch hunting”<sup>17</sup> has been condemned throughout the country. Nutritional intake is decreasing due to decreased traditional cultivation and agricultural activities, and as a result peoples’ immunity and health is declining as seen in the increasing incidences of diseases like tuberculosis and malaria. Among tribal and rural peoples this has not been supplemented with the provision of primary public health services. On the contrary attempts are being made to privatise the health services making it inaccessible to the marginalised and poor. The availability of home-based cures, traditional medicines and medicinal herbs has reduced, as they cannot be grown as easily with the reduction of the quality and availability of land. The traditional healthcare system has thus deteriorated and in the absence of adequate state healthcare facilities, people are turning more and more to baseless ‘magic-religious rituals’.

The increasing vulnerability of land- and forest- dependent people in rural India has conflated pressure to retain what remaining land and resources they do hold. Now tribal women are prohibited from owning land without the support of their father, husband, son or brother, so that if a woman is married to a non-indigenous person, the land can stay with the male relative and with the tribal community.

Livelihoods of forest-dependent peoples, especially women, are adversely affected by forced evictions. Non-timber forest produce forms a major source of income for many tribal communities. Women are almost exclusively involved in collection, storage, processing and marketing of minor forest products such as fodder, thatching, and medicinal herbs. However increased government control of forests and minor forest products are adversely affecting livelihoods choices of Tribal and forest-dependent women.<sup>18</sup>

The recent Forest Rights Bill considered by Government of India from the Ministry of Tribal Affairs takes steps towards placing forests in the hands of tribal peoples. The implications of this Bill is further detailed in legal and policy context.

### **Women’s organised strength**

Many land rights movements and women’s groups have showcased



*Discussing womens demands at the village meeting in Bihar*

successful interventions where women have come together as a group to manage a common resource for the sustenance of the community. Due to their traditional roles and reduction of vulnerability with a collective approach, rural women have proved themselves to be better skilled and more efficient at managing common resources than the men of the community. In areas where forests have been devastated, women have been better able to manage and rehabilitate forests than men due to their traditional roles and skills as fuel wood and fodder collectors. Furthermore women formed into Self Help Groups can collectively expand livelihood options for the community through investing their assets into land ownership and rehabilitation. In Shankergarh, Allahabad the Mahila Samakya Federation of women’s groups acquired fish ponds and mining areas on group lease As a group these women are collectively managing these resources and retain ownership’s.

<sup>17</sup> Kelkar, G and D. Nathan(1991). *Gender and tribe: Women Land and Forest in Jharkhand*.

<sup>18</sup> CWLR, IWW, APWW. *Women’s Equal Rights to Land, Livelihood and Adequate Housing*. 2005.

## 4. Legal and Policy Context

**W**ithin the Indian Constitution, there have been numerous revisions to land legislation to make provisions for land distribution for marginalized and vulnerable peoples. Land reforms unfortunately have not addressed the entitlement of women to land as citizens and individuals, except in the case of West Bengal, and Kerala, due to the political ideology of the state. Women in other states have remained ignorant of their right to equality in processing their claims for being beneficiaries of

land-related policies of the state.

However the Government has shown considerable progress in prioritising women empowerment. While the National Planning Commission did not at first consider women and resources, gradually over time women's needs have featured more and more prominently in the National Planning Commission documents.

During the 1950s, all the Indian States abolished intermediary rights and interests in land.<sup>19</sup> Those who were actually in possession of the land at that time, including tenants and sub-tenants, were given *raiyyati* (owner-cultivator) status. This meant that 8.8 million beneficiaries gained access to approximately 7.3 million hectares of land.

Despite this, it became clear by the 1960s that much of the land which had been legally retained by landowners for their own *raiyyati* interests, was now being cultivated through informal arrangements with, predominantly, sharecroppers. Further land reform legislation at

the provincial level attempted to grant *raiyyati* rights to these tenants and sharecroppers, through the offer of land titles in exchange for an officially determined fee, payable in ten instalments. Most of this legal management under informal systems are maintained through an understanding that is shared within a circuit of information, which is male-dominated.

### Building on lessons from positive cases

In the case of India, a progressive civil society climate has been the product of years of land-based struggles, academic research and lobbying. This has set the scene for stakeholders to carry forward the agenda of women's land and resource rights. The legal reform process in inheritance rights has been a result of this pressure from below.

Some of the land rights movements in India have adopted women's land rights on their agenda. Different movements and



Aarti Kori of Sultanpur district U.P. on her land won through collective struggle with community women

<sup>19</sup> FAO Land Tenure series <http://www.fao.org/DOCREP/004/Y2560E/y2560e03.htm#bm3>



organizations have addressed the issue differently. The land rights movements have mobilized women to create a system of demands that ask for redistribution of land. The Ekta Parishad land rights movement has begun mutual help groups to facilitate economic programs which can help women sustain land and housing grants. Jameen Adhikar Andolan try to identify fallow land and demand for its redistribution to marginalised families. The UP Land and Agrarian Reform and Labour Rights Campaign Committee informs us that women, out of hunger and survival needs, chose to forcefully occupy vacant land and begin tilling it. NGOs like Adithi for Women have asked for women's share in share cropping agreements. Now they will work to implement rights through widows' pension schemes and create awareness on their right to property. Adithi has also worked to get women leases for fishponds to set up women's fishing co-operatives. The work of the Centre for Women's Development Studies has focused on giving land grants to both men and women as in the Bankura project where women were helped make arjun plantations for cocoon raising on wastelands.<sup>20</sup> Their experience shows that while men sell off the land women continue to till and make alternate use of land granted to them. The Deccan Development Society and Mahila

Samakya in Andhra Pradesh have made land lease a possibility for marginalized women's groups from the market itself. Women have managed the land as a long-term sustainable livelihood option when civil society has supported their will to work on the land.

An examination of cases where land was allocated to women reveals that women are better able to retain land<sup>21</sup> and resources if given to group rather than an individual. If women who have struggled for their rights to land or resources are given a resource as an individual, they often face violence, pressure to hand the land over to the family, and are often pressured to choose male inheritors for their land. While other assets are needed, poor and landless women are also better empowered to manage and retain resources better in a group instead of individually. In Uttar Pradesh, Andhra Pradesh and Orrisa, programmes supported by the Government of India and UNDP indicate that promoting a group-approach to providing access to land leads to increased agricultural output, food security, and employment for poor women and their families. Furthermore, it has increased the cultivability and productivity of the land and distribution of resources within the community.<sup>22</sup>

The state government of Gujarat



has developed schemes for subsidising irrigation. This has motivated men affected by the schemes to transfer ownership of agriculture land and resources to the women in their families. The government of Pondicherry, a centrally administered Union Territory, has recently convened a meeting with women to discuss women's land rights being made a reality as a state-supported initiative.

This case study shares examples of the positive roles that the government and civil society has played in implementing women's rights to land and resources. It is critical for the international community to build on an understanding of how successful initiatives such as these can inform partnerships to develop the political, social and economic will to overcome gender inequality. This would be the key to functioning programmes to implement women's rights to land and resources.

<sup>20</sup> International Labour Organisation, 1988. *The Bankura Story: Rural Women Organise for Change*. ILO, New Delhi.

<sup>21</sup> As shown in the experience of the Bodhgaya peasant movement where land from a Hindu trust was re-distributed to landless men and women. In this case, men sold off the land that was redistributed to them for better market opportunities while women retained their land to have personal and livelihood security. *Struggle of sharecroppers under the leadership of Chattra Yuva Sangarsh Vahini in 1978, was the first struggle in south Asia in which women's land interests were taken into account. From Jagori Note Book 2005.*

<sup>22</sup> Agarwal, B. 2002. *Are We Not Peasant's Too: Land Rights and Women's Claims in India*, SEEDS, New York, also elaborate on a concept of group rights for women in agricultural land, and women's group farming.

### **Long term leases to empower at least two generations of women**

In 1995, a group of women formed their own co-operative and was leased 100 acres of fish ponds in Bihar for 10 years. The women converted the lake into a productive fish farm and earned a substantial income, however they face challenges in continuing their lease.



*CWLR presenting a way forward at National Planning Commission India February 22, 2006*

Once the 10 years had passed, they were only given a one-year extension of the lease. Floods had swept away the fish in the lake, and insurance companies cheated them. Without long term leases and ownership, awareness and proper insurance provisions, the women were vulnerable to disasters and to the complexities of negotiating an extension of the lease. If the programme gave resources and trained not just one, but also two or three generations of women within a family or community, it would increase the likelihood of long-

lasting change, allowing women to retain their rights and resources.<sup>23</sup>

### **Land to the women tiller<sup>24</sup>**

Women continue to work on the fields through many informal tenancy arrangements. According to the 48th Round of the National Statistical Survey Report, 1996, there are now 17.1 million households (15% of all rural households) engaged in leasing in or sharecropping land amounting to 9.4 million hectares (8% of all agricultural land). Of these 17.1 million tenants and sharecroppers, it is estimated that approximately 84% have no official record of their interests, no protection from eviction and, hence, no access to institutional credit or other inputs usually obtained through co-operatives or other formal channels. The call for land to the women tillers encompasses the need to have land registered in the woman tillers name that makes her eligible for benefits on the basis of her ownership documents. The women policy in Uttar Pradesh mentions state commitment to recognize women as farmers. This announcement is a first step ahead. The second steps may include mechanisms by which women gain this right legally.

Learning from what has worked in the Indian context researchers and land rights activists ask for specific government interventions to sustain a positive process towards implementing women's right to land and resources.

### **Climate of co-operation: recent pro-women reform**

Civil society organisations have raised voices on a common front around the problem of lack of implementation of women's rights to land and resources. The Government has taken progressive steps towards addressing access to land and resources for marginalised communities, for example with the discussion of the Forest Rights Bill and the implementation of the Rural Employment Guarantee Act 2005. Government has been particularly responsive on issues of women's rights with the Protection of Women from Domestic Violence Act 2005 and the Hindu Succession Amendment Act 2005. The recent Right to Information Act 2005 is also opening doors for civil society to participate better in governance and begin understanding how to improve distribution of resources to women. All of these initiatives rest within the historical context of the Government of India's 33% reservation for women in governance. This reservation pertains to all levels of governance in India so as to progress on gender-equalizing governance within India. While only two initiatives are discussed at length here, all provide a strong legal framework from which pluralist approaches can develop to bring women their rights to land and resources.

<sup>23</sup> These programmes were those of Adithi for Women.

<sup>24</sup> Madhok, Sujata. 'Land to the Woman Tiller' Sahara Time, 14.01.2006.

As mentioned above, agricultural land is primarily acquired through inheritance mechanisms that carry considerable weight in terms of status and prestige. Reforms of customary tenure systems and inheritance laws are underway to ensure women a fair share of privately owned land.

The Hindu Succession Amendment Act 2005, which governs inheritance of property for those belonging to the Hindu faith, was recently amended to become more gender equal. The Amendment is a landmark legislation towards reaching equality in inheritance and succession rights of Indian Hindu women. For example, whereas the Act previously only accorded rights of residence to unmarried, deserted, separated or widowed daughters, now daughters, whether single or otherwise, may have the same rights as sons to reside or claim partition of their parent's homes.<sup>25</sup> By formally addressing women's rights within this Act, the government has paved the way to initiate processes for implementing women's land and resource rights.

These recent amendments must be supplemented with comprehensive implementation to address the social context within which this legislation must achieve its objective. The Amendments do not address the needs of those who are without resources and property, or who do not belong to the Hindu faith. A similar legislation for other communities is awaited to make the

right to land a reality. While women have this legal capacity to enter into contracts in their own names, the majority do not do so as they do not hold much property. There must be further work done to secure tenure rights for those women who are excluded by this Act. Furthermore, due to a policy which dictates that communities themselves must first accept such changes before the State can intervene, amendments to existing laws are mostly unimplemented.<sup>26</sup>

There are several impediments under the customary and judicial laws being followed in various states where women are not being recognized as farmers and cultivators. The constitution clearly says that all those customary laws which are in conflict with the express provisions of the constitution cannot be enforced. However regarding women and development in agricultural sector, state-level governments obstinately kept pursuing traditional laws to the detriment of the welfare of the women of rural areas. Despite enforcement of constitutional provisions for women to be recognised as farmers and cultivators, some states are following old laws and have not modify their agriculture policies.

The Private Forest Acquisition Act of 1975 empowers the government to acquire any forest land that may be owned by a private party. Although there are many conditions



*Discussion on tribal women's land rights at National Planning Commission February 22, 2006*

to govern these acquisitions, many government and forest officials tend to acquire lands illegitimately leading to acquisition of non-forest lands, specifically lands for subsistence use: cultivation, housing lands and government allotments to the landless.

In regards to the situation of forest-dependent Tribal peoples, the recent Forest Rights Bill recognizes and provides a framework for recording the rights of Scheduled Tribes (a marginalized group within India with special constitutional provisions) who have been living in forests for generations. The Bill attempts to accord rights to live within the forests allowing them access to food security and their traditional livelihoods.<sup>27</sup> The Bill also encourages joint ownership between tribal men and his spouse for allocated forested lands. However this is the only inclusion of reference to gender relations within the text of the Bill. The Bill does not otherwise attempt to address the link between land, livelihood security and women. If the Bill can resolve this issue and

<sup>25</sup> Agarwal, Bina. 'Landmark Step to Gender Equality' *The Hindu (Sunday Magazine)*, September 25, 2005.

<sup>26</sup> FAO, IFAD & ILC. 2003. *Rural Women's Access to Land and Property in Selected Countries*.

<sup>27</sup> Ministry of Tribal Affairs, Government of India, 2005. *The Scheduled Tribes (Recognition of Forest Rights) Bill, 2005*.

ensure that the rights of Tribal women are recognised when titles are distributed, it will improve the status of their rights as the responsibility of collection and sale of non-timber forest produce (NTFP) is carried out by women.<sup>28</sup>

Given the role and sustainable resource management skills of women in forest – dependent communities, women, especially those from marginalised social groups, must be given a central role in forest – management institutions such as the Joint Forest Management Programme.<sup>29</sup> These and other resource management institutions must be made more accessible for women and gender-equal. At the same time stringent measures are required by the government to prevent private players to acquire forestlands until the law actually becomes operational. The State must protect the rights of tribal women over

forests and natural resources not only through laws but also ensuring measures to sensitize the administration on women’s rights to these resources.

The federalist structure of governance in India and the role of state level government under central-level policies and directives have sometimes impeded the implementation of women’s land and resource rights. These structural challenges directly impact implantation of already existing and any new gender equalizing land legislation. Land reform falls within the jurisdiction of the central government however implementation and processing land claims within the courts are the jurisdiction of the state governments. State governments are responsible for designing policies so that implementation is sensitive to the state context. Therefore for those who are

pursuing land claims in court based in directives from the central government are facing long delays due to delays in implementation.

Finally a progressive programmatic step has been taken by the Ministry of Agriculture. The National Commission on Farmers in the Ministry of Agriculture, recently produced a report which calls for its programme activities to include state-wise targets for:

“Allotting at least 40% of government land distributed (including water bodies, wasteland, surplus land, etc.) to women’s groups for taking up agriculture and allied activities.”<sup>30</sup>

Furthermore the Ministry of Agriculture has mandated that 30% of benefits from all development programmes should be distributed to women, and that the target is to be reached by 2006 – 2007.<sup>31</sup>

<sup>28</sup> Rao, Nitya, 2005. “Women’s Right to Land, Assets and Other Productive Resources: It’s Impact on Gender Relations & Increased Productivity.” Paper presented at Regional Conference on Development Effectiveness Through Gender Mainstreaming. 10-12 May 2005, New Delhi, India. IFAD, UNIFEM, IDRC. P. 28

<sup>29</sup> For a detailed analysis of women’s marginalisation in JFM and what can be done about it, see Agarwal, B. 2001: “Participatory Exclusions, Community Forestry and Gender: An Analysis for South Asia and a Conceptual Framework”, *World Development*, 29 (10).

<sup>30</sup> P. 86 National Commission on Farmers, Ministry of Agriculture, Government of India. December 2004. *Serving Farmers and Saving Farmers: First Report. Government of India.*

<sup>31</sup> P. 86 National Commission on Farmers, Ministry of Agriculture, Government of India. December 2004. *Serving Farmers and Saving Farmers: First Report. Government of India.*

# 5. The way forward for women in land reform processes

Poverty in India has been exacerbated by the long wait for reforms in rural development policies. For many years, they remained only on paper and were hardly implemented to the advantage of the poor. While core legislation is in place to address poverty-related problems of food security and land rights, the gap in implementation and ratification must be rectified for these laws to play their role in assuring food security and ending poverty.

The land reform process in India needs to be redirected to favour women. Policies and programs must be devised based on the legal and social contexts in which these laws are to be implemented. Male out-migration, the rise of female-headed households, of livelihoods, women's traditional roles with natural resource management, and the increase in rural women in agriculture<sup>32</sup> requires that resources be placed in the hands of rural women.

A recent comprehensive study conducted on gender discrimination in land ownership in India found that land laws introduced under land reforms programmes, such as the Ceiling Act, Consolidation Act, or laws relating to inheritance of agricultural land, needed to be amended to be gender just. It also identified education and improving legal literacy of women about their land rights as a key need to address ignorance in a context of illiteracy and oppressive traditions.<sup>33</sup>

In states where land reform has taken place in India, women's ownership of land has increased as indicated by recent research on women and violence in context of West Bengal and Kerala by ICRW. Thus gender just and equitable land reform is a prerequisite to facilitate gender equality in land ownership. Existing laws such as the Land Ceiling laws need to be enforced strictly instead of being repealed. This has been identified as one entry point for distributive justice

to poor and marginalised women. The Land Ceiling Act must be fully implemented and land which is compensated as about the designated ceiling should be redistributed to marginalised women workers.

The objective of land reform is to provide basic natural resources to the poor and to add supportive mechanisms to make smaller holdings viable through joint management. Currently individual



Meeting at CWLR Secretariat February 20-21, 2006 to firm strategy at ICARRD

<sup>32</sup> As men migrate out of agriculture to non-farm jobs, women are left predominantly dependent on agriculture. An estimated 53% of male workers but 75% of women workers and 85% of rural women workers are in agriculture (see Agarwal, B. 2003. "Gender and Land Rights Revisited: Exploring New Prospects via the State, Family and Market", *Journal of Agrarian Change*, 3 (1&2): p.192.

<sup>33</sup> M. Parwez, et al. 2004, *Gender Discrimination in Land Ownership in the Context of the Total Status of Women Empowerment*. Centre for Rural Studies, Mussoorie, 2004.



*Member Planning Commission India invites CWLR to submit state level woman and land use proposals*

and joint rights to land exist within the Indian constitution. Thus far rural women have struggled within the existing legal frameworks in to exact their rights to land by trying to attain individual titles, joint titles and group leases to land. The Working Group for Women and Land Ownership (GWLO) in Gujarat during September 2005 to January 2006 submitted to the government 212 applications for women's land ownership on private land, 911 individual applications for ownership in public land and 17 applications on public land for collective ownership of land to women's group. The network in a period of five months was successful in the sanction of land in women's name in 10 cases utilising existing legal processes.

The Consult for Women and Land Rights and other key stakeholders<sup>34</sup> are calling for these current frameworks to be made more accessible for women workers so as to facilitate access to programmes and allow them to play stronger roles in implementing their rights. There is need for making legal spaces women friendly, with group approach to implementing women's

rights to land and resources. There is scope within a newly developing 'third generation' of human rights which covers group and collective rights to natural resources and social development.<sup>35</sup>

The first generation of human rights are written from a context of individualist philosophy, which often does not suit the cultural realities of rural women's lives. It is time to reconcile these differences to implement rights for all women and have distributive justice in land reform policies.

To understand how pluralism can strengthen legal spaces for equitable land reform processes, women must be empowered with knowledge of their rights, as to what the intended effects of policies and associated laws are; and how their daily lives are impacted by legal frameworks. Only then can a pluralist approach to land reform be truly inclusive of women workers.

The ownership of land for women stands on the government's obligation to work on women's ownership of resources as affirmed in the Beijing Platform For Action and under the Convention on the Elimination of All Forms of Discrimination Against Women, and the UN Convention on the Rights of the Child.

To negotiate between international legislation and agreements and the local social climate of rural India, one must consider the communal

mode of living and the familial structures of support. Within this context, implementing rights only at an individual level may not be the most strategic way to implement rights. While some rights, as to private agricultural land have to be individual, for others, taking a group approach in implementation would have greater permeability within the social context as well as with livelihood practices. If land rights (particularly to common property such as ponds, grazing lands, wastelands) were accorded to a group of women instead of an individual woman, the group would be able to support each other to overcome hurdles in emerging from the margins as managers and owners of resources.

Policymakers must use flexibility within the Indian legal system to the advantage of women and facilitate spaces for women-centred pluralist approaches to resolving issues of women's rights to land and resources. Judges have a degree of liberty to rule on cases as per their assessment of a given scenario, as well as the law. This approach can be supported by legislation protecting citizens from the global market, and the fundamental right to form a group or association.

Currently, while there is no legal basis for a group rights approach to implementation of women's land to resource rights, one can draw on the legal basis of Articles 14, 15

<sup>34</sup> like Manual Workers Union- Tamilnadu, Nirmana Majdoor Panchayat Sangam - a construction workers union, Nirmana and Nirmela Nektan a domestic workers union of women from Jharkhand working in Delhi.

<sup>35</sup> The idea of the third generation of human rights was first introduced by Karel Vasek in *The International Dimensions of Human Rights*. Published in 1979 by UNESCO, Paris.

and 16 of CEDAW and Article 11 of the International Covenant on Economic Social and Cultural Rights, all recognise women's housing, land, property and resource rights. Activists working with women have expanded the scope of these rights to recognize the importance of natural resource rights and knowledge rights. Taking a bottom-up approach to understanding economic, social and cultural rights turns resources and security into prerequisites for

peoples' effective participation in civil and political spheres.<sup>36</sup> Pluralist approaches also indicate that the right to participation should be seen as a fundamental right as a citizen, which supports the guarantee of all other rights. Extending the right to political participation to encompass the right to participate in social and economic processes politicizes social rights, and re-casts citizens as active development agents<sup>37</sup>.

As a prerequisite to implementation of land and resource rights, strengthening and implementing existing legislation, improving law and order, and empowering and gender-equitising local village-level bodies through information collection and dissemination, transparent gender budgeting and are all key issues which must be addressed for programmes to be implemented effectively.

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<sup>36</sup> – *jones and gaventa 2002*

<sup>37</sup> <http://www.eldis.org/rights/guides/rights/citizenship.htm>

# 6. Implementing a Women's Land and Resource Rights Agenda

Informed by the experience of civil society, the Consult for Women and Land Rights calls for an agenda for implementing women's land and resource rights, implemented at all levels of governance, to be supported by all levels of civil society.

This agenda for change necessitates gender just reform of land and

resource distribution, governance institutions, information collection and dissemination processes, agency of rural women, and budgeting practices. This process of multi-level and multi-stakeholder reform describes actions which are the obligations of government towards initiating a woman land and resource right agenda that must be supported by civil society.

The broad demands which women's land rights organisations are calling for are<sup>38</sup>:

1. Every rural family should be provided with at least 2 to 5 acres of land in the women's name.<sup>39</sup> This land must facilitate access to livelihood options and prioritise landless women, tribal, Dalits and other marginalised social groups.
2. The provision of land must be supplemented with other
3. Every woman has a right to homestead land and adequate housing. This must be implemented so that the property is in the woman's name.
4. Families must have security of tenure and protection against eviction and displacement. All instances of forced eviction should be prohibited.
5. Women should be recognized as the major decision-makers and managers of grazing lands; forestlands, water and other common property resources. Women's rights to these resources should be legally guaranteed and ensured.
6. Increase in women's share in family inheritance and property brought via market

resources and jobs or skills.



CWLR executive committee member adding lobby points for tribal women's land rights

<sup>38</sup> These demands are the output of a consultative process with members of the Consult for Women and Land Rights, with Indian and international organisations working on women's land and resource rights. This chapter is based on CWLR proposal for the WomenResource Rights Agenda prepared for National Planning Commission India, presented on February 22, 2006.

<sup>39</sup>A minimal level of land ownership is needed to encourage both cultivation and maintenance of larger livestock. For cultivation and large livestock to be an option for women, a minimum of 2 ha should be supplied. Rao, 2002. *Standing One's Ground: Gender, Land and Livelihoods in the Santal Parganas, Jharkand, India*. University of East Anglia, Norwich. Cited in Rao, Nitya, 2005. "Women's Right to Land, Assets and Other Productive Resources: It's Impact on Gender Relations & Increased Productivity." Paper presented at Regional Conference on Development Effectiveness Through Gender Mainstreaming. 10-12 May 2005, IFAD, UNIFEM, IDRC. New Delhi, India.



must be supported and monitored by civil society and government through an agreed agenda of time bound actions.

7. The international community should look to the Government of India's leadership shown on gender budgeting and women in governance through 33% reservation of seats for women in local government, and allocation of 40% of government land grants for women. The 33% reservation for women in local governance must correspond to budgetary provisions by reserving 33% of rural development budgets for women's development.

Women have waited long enough for their rights as full citizens to their share of land and resources. Landless women and those with no immovable assets are the first priority for implementing rights to resources. Implementation begins by building on existing legal frameworks to modify and develop new government initiatives to be based on principles of non-discrimination, indivisibility of rights and gender equality. As opposed to needs-based initiatives, it is important to give assets to rural women on the basis of entitlements rather than concessions.

Making existing government programmes more accessible to rural women.

In a context of privatisation, civil society is stressing the need for continuing government involvement in monitoring access to resources and public services.

The Government of India has introduced a range of concession-based schemes aiming for the development and allocation of benefits to the poor and marginalized groups, including women.

Benefits distributed through concession-based programmes are often not easily accessible for rural women, particularly those from marginalised social groups, and because they are not based on rights, they lack strong accountability mechanisms.

Fragmentation of benefits through different government and organizational frameworks within a village means that benefits are distributed at different levels and different locations, making it difficult to access.

Effective mechanisms must be in place to converge existing programmes addressing issues of rural development, micro-credit, women's empowerment, health, education, and entrepreneurship development to be more accessible to rural women.

Such programmes can be implemented through one location or one framework in a village so that benefits are easier to access and programmes easier to understand. Furthermore, new and existing programmes must involve locally-appointed government staff for developing and managing such programmes.

*The 'Women's Resource Right Agenda' : A One Window Approach*

*It is imperative that existing programs ensured by government to increase women's ownership over land and associated resources are converged to create spaces within current structure and programmes for women to lay claim on public resources. This can be done by reorienting existing programmes to give primacy to needs of women that are specified through the resolution of women council in the village council (Mahila Sabha) with the recommendation of tripartite workers board <sup>40</sup> at block level.*

*Government schemes need to be rights-based, rather than offering concessions to women. Articles 14, 15 and 16 of CEDAW and Article 11 of the International Covenant on Economic Social and Cultural Rights, that recognise women's housing, land, property and resource rights form the legal frameworks for the One Window Approach to the Women's Resource Rights Agenda.*

Women draw on a range of entitlements and assets to support their livelihood options.<sup>41</sup> It is therefore critical that government programmes support access to these assets and entitlements. Facilitating access to information and resources for women in rural communities is also critical for constructing user-friendly programmes.

<sup>40</sup> *ibid*

<sup>41</sup> Rao, Nitya, 2005. "Women's Right to Land, Assets and Other Productive Resources: It's Impact on Gender Relations & Increased Productivity." Paper presented at Regional Conference on Development Effectiveness Through Gender Mainstreaming. 10-12 May 2005, IFAD, UNIFEM, IDRC. New Delhi, India. P.11



The National Commission for Women has already developed a programme for legal information to be provided to the rural women through local governance systems. This programme can be linked to a women's resource right agenda and a women's resource right centre. The centre can be a tangible space for women to implement existing progressive legislation and schemes with the support civil society. Due to the vulnerable situation of landless and land poor women, development practitioners, government and civil society all need to treat different types of land and natural resources under the access and control of communities and women as a source of support and security.

Since women are significantly involved in, and dependent on farming, they need to be recognized formally as farmers by governments by stating that those rural women who are not employed or skilled workers will, through presumption of law, be deemed as a cultivator and therefore get all benefits of the status of a farmer in

state policies and programmes<sup>42</sup>. Women farmers must be supported with agricultural inputs such as technology and credit. It is important to find new group – oriented strategies to cater to the interests of women farmer by fostering women's farming collectives and promoting pasture cultivation collectives.

This can be done by announcing a women land and resource right agenda nationally that has visible links to the land and agrarian reform process.

## Women in Governance

Gender – equitable institutions must be in place to manage the process of resource distribution to rural women by rural women. To play an active role in democratic processes of claiming entitlements, rural women must be able to articulate what resources are needed for each stage of implementation of women's rights to land and resources. This process of claiming entitlements through rights to resources must be linked

transformation processes engendered by redistribution of land and agrarian resources. Such a committee could either be part of the responsibilities of the *Mahila Mandals or Mahila Sabhas*, or local women's village council, or an alternative to this, depending on the demands of rural women. There must be at least 50 % representation of women of all social groups represented in local governance systems, inclusive of resource management committees and tripartite workers boards.<sup>43</sup> Such gender-equitable institutions can ensure primacy of the rights of women in implementation of rural development programmes and village micro-planning.

In order to facilitate stronger roles for women in governance, they must be given space to function within discriminatory patriarchal structures. Thus they must be given space to develop their own gender – sensitised systems of decision-making and budget allocations on the basis of resource mapping carried out by women as described above.

*It should be noted that Ministry of Agriculture, Government of India has recently agreed to allot 40% of government land grants in the women's name. They have set a deadline for reaching this target at 2007. This progressive step can be a model to other governments on taking action for a women's land and resource rights agenda.<sup>44</sup> It should be ensured that the quality of land given under this Government Order is cultivable and productive.*

to a women's resource committee to manage the social

<sup>42</sup> Suggestion provided by Advocate Sona Khan during a national workshop on woman and land rights, Allahabad, India May 2005

<sup>43</sup> Tripartite workers boards consists of equal representation of workers, employers and government officials to regulate employment for the unorganised sector workers in urban and rural areas as proposed by the NCCCL, India.

<sup>44</sup> National Commission on Farmers, Ministry of Agriculture, Government of India. December 2004. *Serving Farmers and Saving Farmers: First Report*. Government of India. Chapter 4.

## **Participatory information collection on land and resources and its equitable distribution**

### **Promoting sex-disaggregated data collection at all levels**

The lack of sex disaggregated data holds grave implications for gender budgeting and resource distribution processes. There is an urgent need to improve upon existing statistical surveys conducted by the government and civil society, specifically on issues such as land holdings, land use patterns, land access and the agricultural census. Paryay and Jamin Adhikar Andolan of the land rights movement in Maharashtra, recently spent 18 months collecting data of over 11,000 Dalit families and their relationship to land in the Marathwada region of Maharashtra. The process of collecting data involved training of people from local villages on participatory research methods and gender-sensitive data collection. The volume of data compiled led to key findings on the different perspectives of land ownership and use between men and women, the availability of fallow land for distribution and distribution patterns according to different social sections of society.

Such data must be used as indicators of progress towards gender equality and poverty alleviation.

### **Participatory village-level resource<sup>45</sup> mapping**

There is a lack of affordable and accessible information for rural women to learn and understand **what resources and schemes are available** to them and how to use them to assert their rights to resources. Therefore women from all social groups should be involved in village - and ward - level resource mapping exercises which would gather sex- and regionally- disaggregated data on all natural resources as well as schemes and programmes of the Government.

This information is critical to assess what is available and what inputs are required to implement resource and land rights of rural women. Information must be collected about how women are currently being productive with resources, and how to facilitate ownership and autonomy over those resources. This must be supplemented with capacity-building and monitoring mechanisms.

### **Supporting related research initiatives**

Research on the implications of implementing rights to land and other natural resources and empowerment of women is critical. Research must look at women across different religions, classes and regions to understand how to develop programmes which will adjust with the social transformation processes arising from redistribution of resources.

Furthermore it is important to understand the possibilities for gender just dimensions of property rights (individual, joint and collective rights) for women.

Such research must be supported and actively disseminated for mutual learning and finding innovative strategies to implementing women's land and resource rights through agrarian reform.

### **Dissemination of resource mapping information**

There should be a women-friendly **information and meeting centre in every village and ward**, constructed according to the expectations of rural women in the village and freely accessible to all without charge.

The Government of India is encouraging the creation of knowledge and information centres in rural areas. These centres need to be women-owned and women-



*International delegation at consultation held in Delhi, November 13-14, 2005*

<sup>45</sup> 'Resource' includes ownership of land, housing, assets and access to water and forest.



CWLR member presenting a paper on women and inheritance of forests and commons November, 2005

managed rather than owned and managed by private companies. The government grant for the land, building, and equipment of a women's Information Centre and salary for a trainer should be provided from a central government budget controlled by the Ministry of Women and Child Development. Drawing on central level budgets ensures that every state can begin developing woman information centres in spite of differing land laws between states.

Such a centre can facilitate the implementation of women's land and resource rights and women's ownership of resources. Depending on the inputs required to implement women's rights, the centre could house trainings, workshops, a shelter or hostel, crèches for trainee or employed mothers, and a counseling centre for traumatised women. For such information centres to be functional they must be supplied with civic amenities such as running water,

electricity, toilets, telephone and internet connection.

Information on budgetary allocations for development of women and natural resource distribution can also be made accessible to rural women through these women-owned information centres. This information must be translated into local languages and stored these information centres.

### Capacity-building to manage land and resources

Land and resource distribution is not enough. Women must trained in legal literacy, resource management, financial management to be able to deal with money lenders and proprietors, conflict resolution, negotiation and other skills so as to ensure that women can retain their resources to support their livelihood and security options.

Inter-regional exchanges between rural women from different states or countries can facilitate learning on innovative strategies developed to implement women's rights to land and resources. This will support progress in complex issues such as the applicability of gender just customary rights and inheritance related to the ownership of property and resources.

To fully avail the benefit of the

right to land and resources rural women will need to be able to access training, which should include:

- Education on laws, schemes and policies for increasing women's control over housing, land and property.<sup>46</sup>
- Information on the government orders promoting ownership of land to the landless or land poor.<sup>47</sup>
- Legal literacy and aid related to acquiring land through inheritance as a social custom and corresponding laws of succession
- Information on availability of credit and market facility.<sup>48</sup>
- Understanding what budget allocation is listed for a village such that women can claim 33% of that allocation within their resource right program.

### Policy Reform

The Land Right Acts should be made more gender just, taking into consideration women's particular circumstances regarding housing and land.

All cases of forced evictions must be avoided. In cases where forced evictions are inevitable, in addition to ensuring the enforcement of the due process of law, women should be given adequate protection

<sup>46</sup> Specifically rural women need to learn about How to (re) claim right on forest land, waste land, coastal land to get right of secure tenure if they belong to specific category of people like tribal, fisher people, dalit, women (disabled, single, widows and those belonging to other vulnerable groups). Rural women want information on which land is allotted to whom and why and clear guidelines for distribution of policy on how 40% of land distribution can be conferred in women's name. Women need to understand land tenure systems and land administration

<sup>47</sup> For example in Tamil Nadu there is a government order which states that if a person has stayed at a certain place or was in possession of place for more than 10 years they are granted title of that place.

<sup>48</sup> This has to go beyond micro-credit in order to support livelihood strengthening.

against all forms of gender - based violence against women. In the event of relocation, in all circumstances women and their communities must be covered under another resource right programme before she is relocated.

Government must design laws and policies with the **understanding** that land is a livelihood resource and social security measure. It therefore needs to be protected by the State, particularly in international and local trade agreements are agreed and corresponding legislative, policy and programmatic interventions decided.

Analysis on some government land development policies and schemes has revealed that they informally discriminate against women. In such instances, policies of the state have been modified to facilitate inclusion of the wife's name in their husband's land records, as in the states of Gujarat and Andhra Pradesh. Specific schemes have women's land ownership as a prerequisite to qualify for irrigation, land development (watershed) or agricultural credit assistance.

Women who already possess land do not qualify for these schemes.<sup>49</sup>

This helps the transfer of women's name on husband's land that she did not own before. This example can be used to develop similar measures in other areas to address the injustices of gender-neutral policies.

## Law Reform and its Implementation

Advocacy and programmatic activity for women's ownership of housing, land and resources needs to have a stronger and better defined legal base. Furthermore, organisations working for women's land and resource rights are calling for law reform in each state to support a women resource rights agenda. It is therefore critical that women's land and resource rights is mainstreamed into law reform processes.

Towards this end, research needs to be carried out and shared to know which existing laws can be amended at state level to facilitate women to own and manage property. The first step in agrarian reform can be making such laws gender just.

The definition of women land and resource rights needs to be debated among women of all social groups to establish what this right means as provided for in the constitution, national laws, state level laws, customary laws and international covenants. This agreed definition needs to appear in all related legislation addressing land and

resources, for example public distribution systems, employment regulation, living wages and tenancy rights.

To make women actively engaged in formal land ownership processes, women must be encouraged to apply for legal ownership of land under following classifications<sup>50</sup>:

1. **Individual Titles** for farms, garden plots or housing/homestead land for subsistence needs in the name of women alone,
2. **Joint ownership** for women with men for income generation and creating mechanisms for greater control and management of revenue land (like fishing rights, mining or pond lease), and
3. Reinforcing and enhancing **group rights** for women under management of women's groups on, private land, common property resources, forest and water resources.

Land needs to be made available for redistribution by acquiring more ceiling surplus land by applying ceiling laws.

## Supporting Pilot Programmes

For women to manage, own and control land, housing and productive resources on the basis of the law it is important to set in motion pilot programs which reflect the statements in this document to understand implementation mechanisms in different settings. Schemes can explore new ways to ensure women's access to land through land purchase, lease and its productive use by providing associated facilities like training, women friendly agricultural implements, loans and market access.

<sup>49</sup> Recommendation from the Working Group for Women's Land Ownership, Gujarat.

<sup>50</sup> Suggestion from Dr. Nitya Rao interview with CWLR in New Delhi on 13 January, 2006.

Where there are budgetary provisions, Pilot schemes should promote housing benefits for women, (single, married, separated, divorced and widowed) including subsidised housing for poor women, and low-interest housing loans. Schemes should include taxation allowances, insurance cover, and low-interest loans for women individually or jointly owning property and homes.

It is critical that women are enabled to lease land collectively by forming groups, with the mandate that the land be used for collective economic activity on long-term

leases, as in the state of Bihar for fish ponds and in the state of Tamil Nadu for waste land development or stone quarrying. This will assist in increasing women's assets through strengthening skills, knowledge, bargaining power, and access to new technologies.

### **Transparent Gender Budgeting**

Budgetary allocations for resource rights budget must be integrated and accounted for within state level and central level budgets as part of every government's national planning structures. The Consult

for Women and Land Rights requests this from the National Planning Commission of the Government of India.

### **Conclusion**

It is important for the Women Resource Right Agenda to link with ongoing pro- workers and pro-poor processes. In India these are identified with the right to information, right to food and employment and right to work movements. This will facilitate the support from the civil society that needs to also be accountable in promoting gender equity within social movements.

# Annex 1

## Suggestions to increase womens ownership of land best on categories of land available in India.

Within the process of land ownership and redistribution, guiding principles must advise that landless women and women SHG's be given preference for **revenue land** redistribution. Not every landless woman may be willing to begin a land-based livelihood program. Coastal women like fish workers may have different kinds of needs than those staying in hilly or desert areas. Thus land claims made by different women's groups need to be solicited after discussion with the identified community in question.

To promote ownership on **gram panchayat (village land)**, women workers may be asked to file a claim for usufruct rights for plots of land identified by them for collective economic activity. These may be wasteland, coastal land, agriculture land or land on which they could build a warehouse, storehouse or a work shed.

In the case of **ceiling surplus land**, the revenue departments and the local land records officers (*patwaris*) should provide information on surplus land so that land can be redistributed to identified women either individually, jointly (with spouses) or collectively. The legal basis of collective holding of land needs to be strengthened. This includes punitive action and penalties levied to the *Patwari* and other officers responsible for non-compliance<sup>51</sup>.

In case of **private land** a scheme for registering land in the name of the wife or entering it in joint names, in which a waiver of registration fee is given will encourage couples to register land in the names of men and women. This has been done in Gujarat where many husbands are willingly transferring land in the name of their wife.

Women may also identify plots under Indira Awas Yojna to provide for the housing under individual ownership of women in need on a priority basis. These **house plots** need to be near place the woman's of work. There needs to be differential compensation packages to women property owners as loss of house or land harms her social security as she is more prone to domestic violence. Coupled with this aspect she may share the loss of economic security, which is also experienced by men upon the loss of land and housing.

The identification of land for transfer of ownership (through lease, purchase or grant individually or in groups) needs to be accompanied by identification of a **legal means to have security of tenure** for the woman. The legal process must be strengthened by the sanction of budget proposals based on well-planned economic programs.

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<sup>51</sup> Suggestion from WGWLO

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