ADIVASI WOMEN’S RIGHTS OVER LAND

A report prepared for WGWLO, 2014

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Introduction

This report is a part of the documentation process being undertaken by WGWLO. This report particularly focuses on the issues pertaining to adivasi women’s rights over land. The report is being written as an effort to document the learnings of organizations working with WGWLO in enabling adivasi women to assert and recognize their rights over land. The analysis and observations presented in this report are a product of interviews with paralegals and other individuals working in this area belonging to the following organizations:

- Anandi in Devgarh and Bariya
- Sarthi in Santrampur
- Nyayika in Dang
- Utthan in Limkheda but working in Dahod
- Aga Khan Support Program in satbara
- Human Development Research Center in Meghraj
- Dakshin Gujarat Vikas Snghatan in Vyara

The primary objectives of the report are:

- To understand and document the legal, social, cultural, institutional and other challenges faced by Adivasi women in asserting and claiming their rights over land in the tribal areas of Gujarat;
- To document the learnings of the seven organizations mentioned above in their work of enabling and facilitating adivasi women through this process;
- To highlight issues that are particular to adivasi women in their struggle for land rights and to delve into further details of such issues;
- To document and analyse the strategies used by the seven different organizations in their work with adivasi women; and
- To also highlight the challenges faced by these organizations in their work with adivasi women in claiming land rights.

The report has been divided into four parts namely:

Part I: The first part of the report provides an outline of the research methodology followed for the drafting of this report;

Part II: The second part of this report will provide an overview of the overarching observations derived from the field visits to the different organizations and the interviews conducted therein; and

Part III: The third part of this report will highlight the organizational learnings of the seven listed above;
PART I

RESEARCH METHODOLOGY

The methodology adopted for the drafting of this report has been divided into the following stages namely:

Stage 1: Interviews with the paralegals and others working on the issue of land rights of women in the seven organizations mentioned;

Stage 2: Transcription of the interviews conducted in a naturalized method keeping in mind exact details of the interview and verbatim transcription;

Stage 3: Analysis of interviews to derive the overarching observations and analysis of organizational challenges and strategies;

Stage 4: Review of relevant secondary literature relating to land rights of adivasi women which has been listed in annexure I;

Stage 5: Detailed analysis of information derived from the interviews with that gained from the review of secondary literature; and

Stage 6: Developing a framework for the report that captures the information which is a product of the coupling of interview-based qualitative research and secondary literature review.
Interviews:

The interviews were conducted with the paralegals involved in the Swabhumi project as well as others within these organizations who have considerable experience in the area of adivasi women’s rights over land. Each interview process with the organizations spanned over one and a half hours and was mainly conducted in Hindi. Keeping in mind the objectives of the report the following were the questions that were asked in all interviews:

Organizational:

a. Why did the organization take up the issue of land rights of tribal women?
b. Did the organisation have any prior presence in the area or did they start afresh?
c. What were the internal challenges that the organisation had to deal with before integrating the issue in their agenda? How they are over come?
d. How did they start the work around this issue? What was the beginning point internally? How did they enter the community?
e. What kind of resistance was faced in the community? How was it addressed? In different roles that women have in a family [as daughter, wives, widows, sisters, mothers etc. with which category of women, working was simpler?
f. What were the “aha” moments in the organizations work around this issue
g. case studies of success and failure
h. How is the intervention located in the organisation?
i. What is the Institutional mechanism for holding the same?

Legal

a. What were the procedural hurdles faced during the work? What were the solutions?
b. Critique of the existing legislative and policy framework in terms of sensitivity/neutrality/insensitivity/vacuum towards the land rights of women?
c. How far as the Forest Rights Act, 2006 been implemented and what are the associated challenges?
d. What are the legislations or policies that you rely on beyond the existing framework that recognizes and allows for the claims to be processed?
e. What are your methods of dispute resolution especially if there are situations where families begin to quarrel?
f. How do you interact with the state agencies and what are their reactions to your efforts of the recognition of land rights of adivasi women?
g. What is the nature of land? And in case of forest land what is the interaction with the forest department like?
h. What are the institutional mechanisms evolved for legal assistance in such cases?
i. What challenges do paralegals face in the field?
j. How has the interaction with the court and other lawyers been on this issue?

Social and Cultural

a. What are the challenges faced by adivasi women within their village while claiming land rights?
b. What is the nature of resistance for the claiming and recognition of land rights within the family and village and how does it differ for the different category of women i.e. widows, daughters, wives and sisters?
c. What occurs in situations of bigamy or polygamy? Is this prevalent in the area?
d. How are widows treated within the community?
e. Can you explain the practice of labeling women ‘Dakin’? What violence do such women experience? Why have they been labelled so?
f. How is domestic violence impacted by the claim for land rights? Does it increase when such assertions are made by women?
g. Has the status of women changed after the claiming of land rights? What happens after recognition?
h. What do women use the land for once they have their rights recognized?
i. Is there a gendered nature in the relationship to forest land and its resource use? Is this different in revenue land and common land?
j. What strategies have been used to overcome these social and cultural challenges?

Transcription
The interviews were transcribed through a naturalized approach where they were transcribed verbatim. As the interviews were conducted in Hindi the same were translated into English and portions of the interviews were in Gujarati which were also duly translated. The following principles were followed for the transcription of the interviews:

a. To try and capture the factual information as closely as possible with what was stated during the interview;
b. To document the prioritization of issues faced by the organization and how they were tackled; and
c. To categorize the information gathered into the three pockets where the questions were posed to enable easier analysis;

The interviews were transcribed in a question and answer format and was then analyzed.

Analysis

The interviews were analyzed keeping the following frame in mind:

a. Organizational: This mainly focuses on the organizational element of the key topics that were discussed in the interview. It mainly focuses on the modality of the organization to work in this area and the looks at the questions listed above.
b. Societal and Cultural: This mainly looks into the sociological and cultural aspects to the legal intervention of recognition of land rights of women.
c. Legal/Procedural: This area would seek to understand the challenges with the use of legal frameworks and its sensitivity for the recognition of such rights.
d. Governance/Interaction with state agencies: This aspect mainly attempts to understand the perceptions and challenges of working with the State to enable the recognition of land rights of women.
e. Strategies: This aspect of the interview focused more on understanding how the organization has dealt with the challenges at the multiple levels.

Secondary Literature Review:

The relevant secondary literature review was guided by the following areas of inquiry:

a. The history of resistance and movements in the claiming of adivasi women’s rights over land;
b. The nature and understanding of land rights of adivasi women to get a better understanding of the different kinds of rights that result in both access and control over such land;
c. The impact it has on the cultural identity of adivasi women and resultant transformations within adivasi society;
d. The nature of violence associated with the process of claiming and recognition of land rights of adivasi women;
e. The nuanced understanding of land rights over different land categorizations mainly, revenue, forest and common land; and
f. The legal landscape within which this issue of land rights is embedded.

Merging of analysis gained from the interviews and secondary literature review

The analysis derived from the reading of secondary literature was merged with the analysis derived from the interviews to form the next part of the report that highlights the overarching observations. The overarching observations have been organized into the following aspects:

a. Challenges of claiming and asserting land rights of women mainly aspects of legal, institutional, social and cultural relevance
b. Over spilling of rights which refers to the impact of land rights on other rights of adivasi women; and
c. Motivations for securing land rights in the different categories of land;

Developing a Framework for the report

Based on the objectives of the report and the analysis derived from this methodology the four parts of the report highlighted earlier was developed as the framework for the drafting of this report.
PART II

OVERARCHING OBSERVATIONS

Introduction

The fundamental challenge with the overarching observations being made was to understand the meaning of rights over land for women in India and to then extend it to an understanding of what comes within the fold of these rights. The understanding of land rights stated below acted as a base for the documentation of the challenges faced on the ground as well as locating this issue within the legal landscape. This understanding of land rights has been drawn from generic literature but aspects have been adapted to make it particularly applicable to Adivasi women.

Understanding Land Rights for Adivasi Women in India

Bina Agarwal in her book ‘Are we not Peasants Too?’ Land Rights and Women’s claims in India argues for a gendering of land rights but also touches upon two important components of such a rights discourse. One that they need to be effective rights which are legal rights that are socially recognized and second that they need to be independent rights i.e independent from men in process of claiming such rights. Interestingly rights of women to land also finds echoes in the jurisprudence of economic, environmental and cultural rights in the case of Adivasi women as seen in the Madhu Kishwar case\(^1\) as well as Samata Judgement\(^2\) applicable in Schedule areas. As the question of land rights enter into the space of jurisprudence of property rights it further gets classified into:

- **use rights**: rights to use the land for grazing, growing subsistence crops, gathering minor forestry products, etc.
- **control rights**: rights to make decisions how the land should be used including deciding what crops should be planted, and to benefit financially from the sale of crops, etc.
- **transfer rights**: right to sell or mortgage the land, to convey the land to others through intra-community reallocations, to transmit the land to heirs through inheritance, and to reallocate use and control rights.\(^3\)

The understanding of land rights for women within the Indian legal framework acknowledges these multiple aspects but there are stark challenges for adivasi women to ensure that they are effective and independent. For the purpose of this report for analyzing the challenges and threats to assertion of such rights which may find their roots in the legal, social, institutional or cultural realm. The diagram below illustrates the inclusive yet not completely exhaustive understanding of land rights used in this report. This understanding does not include the change in the meanings of land rights based on the divergent

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2. Samatha vs State Of Andhra Pradesh And Ors on 11 July, 1997, Appeal (civil) 4601-02 of 1997
3. Are We Not Peasants Too? Land Rights and Women’s Claims in India by Bina Agarwal
interests attached to land which can be determined by its categorization as well as livelihood that is land based.

The report also goes beyond this framework to understand the relationship between the claiming and recognition of land rights on other rights of women within their communities. There are restrictions in the exercise of these rights which may be legal or social and/or customary. These restrictions have been identified in the challenges listed below in the report. In this report primary emphasis has been given to observations on the basis of access to land for women through inheritance and the state particularly in forest land. It is with the understanding that the land rights stated above have a relational impact within the family and the community in the areas where the field visit was conducted. It can be noticed that claiming of land rights including its multiple facets was seen as an act of resistance to the existing patriarchal paradigm that stays embedded in the customary rights as well as the perception of government authorities both revenue and forest in facilitating the recognition of rights of adivasi women over such land. The nature of challenges is also dependent on the role that a woman occupies in relation to the land and within the family i.e. a widow, a single women, daughters, wives, sisters or sister-in-laws.

**MOTIVATIONS FOR CLAIMING LAND RIGHTS FOR ADIVASI WOMEN IN THE AREAS VISITED**

The motivations that have driven claiming of land rights are dependent on the following factors:

a. Categorizations of land into revenue land, forest land and common land;
b. The role that women occupy within the family;
c. The institutional support for the claiming of land rights; and

a. **Categorizations of land:**

The motivation for the claiming of land rights differ on the basis of categorization of land into revenue, forest and common land. The difference in the motivations for such claiming of land rights can be located in the interests that are attached to each category of land and the institutional and legal structures that are restricting or enabling these interests from being recognized. These categorizations have been understood as:

*Revenue Land:* Revenue land as agricultural land where permission for non-agricultural activity needs to be sought and is subject to land revenue and comes within the governance of the revenue department consisting of the Talati at the village level, Mamlatdar at the Taluka level and the collector at the district level.

*Forest Land:* Forest land refers to any land that comes within the dictionary definition of forest and is recorded as forest land and comes within the purview of the forest department. Depending on the nature of categorization of forest land from protected forests, reserve forests or protected areas the governance structures will be subject to change.

*Common Land:* The following are the working definitions of the ‘commons’ or ‘common land’:

- a. A resource available to people, especially in context of pasture, wastelands and ‘lands that is not privately owned’.
- b. Common land (a common) is land owned collectively or by one person, but over which other people have specified traditional rights, such as to allow their livestock to graze upon it, to collect firewood, or to cut turf or shrubs for fuel.
- c. The term “commons” has come to be applied to other resources which a community has rights or access to. The rights are exercised such as,
- d. Pasture: Right to pasture cattle, horses, sheep or other animals on the common land. The most widespread right.
- e. Fishing: Right to fish.
- f. Use of fallow and shallow: Right to cultivate river bed in certain time of the year.
- g. Other rights: Right to take sufficient wood for the commoner’s house or holding; usually limited to smaller trees, bushes and fallen branches. Right to take sods of turf for fuel.5

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The motivations listed under each land categorization highlight only the dominant motivations from adivasi women which may act as a window to understand the nature of land use and the role of institutional structures in creating an enabling or restrictive environment.

Revenue Land: The primary motivations in the claiming of land rights in revenue land were

- To ensure better economic security with the potential to procure loans against the land and begin agricultural activity;
- To be able to provide better financial security to her children especially in the event of being deserted or widowed;
- To be able to be independent in their decision making in all aspects which will stem from the economic independence she would gain from the recognition of such land rights; and
- To reduce the degree of hostility and violence within that they have been subject to within their families and communities.

Forest Land and Common Land: The nature of motivations for the claiming of land rights in forest land and common land overlapped as most of the common land that were referred to in the interviews fell within forest areas and they were:

- The need to reduce the hostility being faced by the forest guards within the forest areas which emerge from policies that support restricted use and access to its resources;
- The need to be able to access forest land for grazing and collection of firewood and other minor forest produce;
- To counter the ability of the forest department to suggest encroachment of the adivasi women in these areas through the ownership of land within the forest;
- To be able to secure their rights over commons in the case of grazing and access to other resources which are presently being restricted by the forest department; and
- Lastly, to avoid arrests and criminalization of daily activities like grazing and collection of firewood through claiming the ownership of land with which resource use can be controlled by the community as opposed to the forest department.

The role that women occupy within the family

The role that women occupy within the family also brings with it different degrees of vulnerability to domestic violence and marginalization within their communities. In this section an elaboration of the motivations of widows, single women, wives and daughters has been explored based on the information that has been gathered in the interviews.

Widows and Single Women: In most cases widows and single women were motivated to claim their land rights due to the following reasons

- To be more secure economically and less dependent on the family which came to be seen as a site of violence and exploitation;
b. To overcome cultural challenges of being labelled a ‘Dakin’ or a witch and the violence that followed which can be countered if the land rights are recognized though the act of claiming of land rights can trigger such labelling;

c. In the event the widow had a child to support ensuring that they can become economically independent to do so was a dominant motivation; and

d. To have better access to resources in the case of forest land.

Wives: In most cases wives were motivated to claim their rights over their land because

a. It would ensure that they had more power to make decisions in relation to the use of land;

b. To have better access to resources in the case of forest land;

c. In the event that they are widowed they would be economically secure; and

d. This would set the precedent for them to enable their daughters to get a share in the land.

Daughters: In most cases daughters claimed their rights over land particularly after being married so that they can have an additional source of income or livelihood in the event that they are widowed or deserted by their husbands.

CHALLENGES OF CLAIMING AND ASSERTING LAND RIGHTS OF WOMEN MAINLY ASPECTS OF LEGAL, INSTITUTIONAL, SOCIO-CULTURAL AND ORGANIZATIONAL

LEGAL

The common legal hurdles are primarily procedural and the lack of clarity in terms of the space that Adivasi women occupy. The procedural aspects for the recognition of land rights require interaction with multiple institutional structures with overlapping jurisdictions of the revenue and forest department as in some cases the categorizations of land have not been clearly determined. The legal challenges stretch from the point of gathering of legal evidence to the actual realization of their rights.

The tussle between customary law and formal legal system: The recognition of adivasi women’s rights over land tend to fall within the realm of both customary and the formal legal system. In the recognition of land rights through inheritance the use of the formal legal system through the Hindu Succession Act, 1951 in the revenue land but in the case of forest land the Forest Rights Act, 2006 has been used. In the case of women’s rights over land customary practices and law in most cases do not recognize the rights of adivasi women over land. The existence of a formal legal system that allows for such recognition of rights for women in the different roles they occupy within a community challenge the contours of customary law within these communities. There is a constant tussle between the two sources of laws without any stark hierarchy in their relationship.

There are instances where there are clashes between the customary and formal legal system and the clash has been identified in the following pockets:
In cases where bigamy exists customary law recognizes the right of the second wife whilst the formal legal system does not include such considerations so the talati refuses to register their rights over land;

Another area of conflict is in case negotiations are under way in the panch on the basis of customary law and it is not resolved the formal legal system is brought in to resolve the issue by taking the matter to court. This highlights that the hierarchical relationship of the formal legal framework to customary law which exists in the modality of state functioning is also seen in the resolution of disputes at the local level.

Lastly, the practice of witchcraft though accepted in customary norms is not accepted in the formal legal system.

The relationship between the formal legal system and customary legal system is complex in the context of land rights while on the one hand the formal legal system is progressive in its recognition of women’s rights over land and challenging the boundaries of customary law. The same ability of customary law in the context of bigamy seems like a difficult argument for the formal legal system and its institutional structures to incorporate.

The other area of conflict is the notions of property rights within customary law of adivasi communities and that which is embedded in the formal legal system particularly in the case of common land. The recognition of rights over common land have strong roots in customary practices of these communities which is based on an internal system of rules for the management and restrictions in the use of resources which may not be reflected in the formal legal system. The recognition of rights over common land is possible within the Forest Rights Act, 2006 in the case it comes within forest land and it becomes difficult to reconcile this conflict in the case of revenue land where the formal legal framework is weak in its recognition of common land which does not directly intend that the customary law then becomes applicable.

Gathering of Legal Evidence and its Manipulation: An imminent hurdle in the processing of claims to land rights is twofold, firstly the absence of knowledge of legal evidence for such processes (Eg survey number, death certificates and others) and secondly lack of access to legal evidence. In the event of the lack of information it can be accessed through the use of the right to information act, 2005 or by requesting it from the talati who often holds the land records. The lack of access is primarily due to the prevalence of corruption or patriarchal structure which has seeped into the administrative body. In such cases the use of the RTI comes in handy to claim the information needed from the appropriate source. In many cases the legal evidence is also manipulated at the level of the talati or mammladar where there have been instances where records have been changed and at times they have been alerted by the sarpanch earlier before the paralegals intervene. The additional burden of costs that are incurred in the process of gathering of legal evidence can prevent women especially widows from following through with the process of filing their claims for recognition of land rights unless they are supported through an external source. In most cases the Self Help Group or the Mahila Sangathan tend to provide financial assistance in such cases.
**Multiplicity of Authorities**: There are overlapping jurisdictions in the management and governance of land as in some cases there is lack of clarity in the categorization of land as revenue or forest land. This acts as a hurdle in the claiming of land rights and women are subject to hostility from the forest department in case of use and access to resources. This also places the adivasi women in a grey area while claiming their rights over land where the use of laws are particular to the nature of categorization of land. In such cases most organizations file right to information applications to understand the nature of categorization of land or approach the authorities for such clarity so the appropriate legal route can be chosen. This however is a time consuming process and acts as a barrier in claiming of land rights.

**Adivasi Land being transferred to non-adivasis**: Most areas across the tribal belt of Gujarat namely Panchmahal, Dahod, Narmada, Tapi, Dangs and Sabarkantha have been categorized as schedule V where land cannot be sold or alienated to a non-adivasi's, yet there have been instances of such alienation in the form of:

a. Surrendering land in the form of security for debt to non-adivasis;

b. Sale of land to non-adivasis by the adivasi community; and

c. Claiming of land as forest land by the forest department through the planting trees and afforestation initiatives.

This acts as a violation of the provisions of schedule V which seek to protect the rights of adivasis over their customary lands and waters.

**SOCIO-CULTURAL**

**Dakin/Dyan**: The practice of labelling women particularly widows as Dakin or Dyans were seen as a pervasive problem. The act of claiming land rights or being vocal many a time triggered this process of labelling. The violence that accompanies this practice varies based on the amount of land being claimed and the support system that the widow/single woman has in her village. The nature of violence inhabits a spectrum that ranges from verbal abuse to murder. The interviewees described case studies that showcased both the expressions of violence. This practice very easily changed the identity of the widow and brought with it threats to her land and hence it acts as a strong social deterrent for woman especially widows to claim their rights over land. An interesting insight was that women whose rights had been recognized were better positioned to challenge the nature of violence that came with this label as she was economically independent. In many ways even if the claim for land rights acts as a trigger for such labelling it also acts as a strong foundation to challenge this practice.

**Nexus with Domestic Violence**: There is a deep nexus that was identified through the course of the case studies and insights shared in the interviews with the claim of land rights and increased instances of domestic violence. Daughters and wives were more subject to such violence in the observation of the interviewees. The assertion of land rights created a challenging dynamic particularly if there were male siblings who would subject women to such violence as their share was effected.
**Threat of ending relationships:** Another element that acted as a hurdle in the claiming of land rights is it was seen as symbolic of conflict and that the understanding that existed between family members were no longer trusted. The act of formally entering the name of the daughter/wife/widow into the title over land was seen as an act of defiance where the family ties were being challenged in relation to materiality of land. In many cases relationships have ended or been adversely effected through this process. Negotiations have helped in alleviating such impact yet this threat acts as an initial deterrent to women to assert their claims over land.

**Intercommunity Dynamics:** For instance the OBCs in the area of Devarh-Bariya were known to hold land as collateral for debts that have been given to the adivasis. They would then change the ownership documents to transfer the land into their own names. This further deepened the divide between the communities legally classified into these categories. This transference of land to non-adivasis is being countered by surrendering the land with the SHGs in exchange for debt which ensures that the ownership remains intact.

**Dawa:** In cases of love marriages there was a custom where this was not accepted and the bride is sold at a price and sometimes these transactions also involve the exchange of land.

**Challenges faced by Widows:**
- They are very often labelled as Dyan’s as mentioned earlier;
- They have no existing support system and this vulnerability prevents them from asserting their rights over land;
- They find it extremely difficult to pay for the expenses that need to be incurred for the claiming of rights over land;
- Their rights over land are sometimes not recognized because they might remarry or are accused of having an affair; and
- As their rights over land are recognized they need assistance to sow land and on occasions they do not receive this support.

**Challenges faced by daughters:**
- In case they have brothers very often they are denied this right when consent from the family is required because she will be married and will be given a share in the land of her husbands house; and
- She is often threatened with the ending of relationships with her family.

**Challenges faced by single women (ekal nari):** Single women have been described as:
- those who have not been married and have no other family alive;
- Those who have been married but have no children and their husbands have left them; and
- Women who have no existing relational support system.

The challenges faced by them are:
- They are also vulnerable to the practice of being called a dakin;
b. They have difficulty in gathering legal evidence as well as money to support the related expenses of this process.

**Bigamy:** Another practice among the adivasis in this area is that of bigamy. Usually it is known that young men tend to marry older women which pushes them to marry again. This poses challenges in the event of claiming land rights of women. In most cases the property is equally distributed based on customary law, however this is not always the case and sometimes there are cases of uneven distribution of property rights between different wives.

**INSTITUTIONAL**

a. Talati: The following were the challenges expressed:
   - They charge money for the processing of claims which can go to the extent of INR 6000
   - As they are in control of this process especially as the holder of the record of rights they tend to procrastinate the process if money has not been given; and
   - They also take more time with such cases particularly because of the patriarchal perception to the recognition of women’s rights over land.

b. Mamlatdar: The challenges seen at this level are:
   - Asking for monitory compensation to carry out their duty;
   - Manipulation of the evidence that is in their control;
   - Sometimes the 105 notice is stolen from the post or is never posted; and
   - Many swabhumi kendra’s are yet to get space within the mamlatdar’s office

c. Forest Department: Overlapping jurisdictions in forest land results in the following issues:
   - Denial of processing claims over land as it is forest land;
   - Arrest for forest offences in cases where other forest rights particularly those of use and access are exercised; and
   - The forest department has been claiming that land is forest land on the basis of plantations that they place. This technique results in a complications while land rights on the basis of it being revenue land are being processed.

**ORGANIZATIONAL**

The challenges at the level of the organization have been captured based on the stages of intervention and a mention of the organizational strategies used to overcome these issues have also been highlighted

a. Entering into a community: The challenges faced by the organization and the paralegals while entering into a community for the first time have been as follows-
   - The introduction of the need for recognition of rights of adivasi women over land often have been viewed by the community members as a tool for creating conflict within their family and society;
   - There is resistance from the male family members in allowing for the recognition of the rights of adivasi women to land and is at times expressed through violence;
- They have also accused the organization in intervening in a matter that is considered as a private affair of the family alone; and
- There have also been instances where they are seen as challenging the customary norms and systems through the assertion of such rights.

b. Institutional mechanism: Most organizations operate through the institutional mechanism of Self-Help groups within which they have set up a specific committee that attends to legal issues or issues affecting women. These committees then attend to these cases but also provide support of paralegals in the legal aspects. With the establishment of the Swabhumi project, Swabhumi Kendras have been set up which attend to cases of adivasi women’s rights over land two days a week. The nature of assistance by the paralegal extends from the gathering of legal evidence for the making of the claim, negotiation with the family and other stakeholders as well as following-up once the claim has been filed to ensure that it has been recognized. The diagram below illustrates the institutional structure that seems to run across the different organizations that have been interviewed.
**Strategies**

The common effective strategies that emerged from the interviews with the seven organizations were:

a. Introductory workshops and campaigns: Most organizations conducted a campaign in the villages they had decided to intervene on the issue of land rights of adivasi women. These workshops were conducted using innovative exercises and interaction with the community members on the need for the recognition of the land rights of adivasi women and though faced with resistance they used this as an opportunity to collect details of cases where women wanted to assert their rights over land. This initial method of interaction proved to be effective and as most organizations had existing links with the local SHGs they were harnessed in communicating the importance of this issue. The SHG acted as a nodal agency in most cases for the organization of this campaign with assistance from the other members from the organization.

b. Negotiation and Conflict Resolution: Most organizations when encountered with resistance to the intervention of facilitating the recognition of adivasi women's rights over land at multiple points whether with the family, with the revenue or forest department or within the village community. The organizations took the route of resolving conflict through non-adversarial methods of mediation and conciliation which was often conducted by the paralegals who were handling the case. This has proved to be effective in most cases as the cost and time that can be incurred if the case were to be taken to court acted as a strong deterrent in approaching an adversarial system of resolving the dispute. The dispute was also sometimes resolved in the local panch where a representative from the organization or paralegal was present to assist in providing details of the situation where the conflict has arisen due to the claiming of land rights by an adivasi woman.

c. Stakeholder analysis: In many instances organizations would study a case through the close examination of the multiple stakeholders who will be involved or effected by the realization of such a right. This enabled them to preempt conflict or resistance from within the family as well as from other institutional structures and strategize accordingly to resolve the conflict.

d. Focusing on widows and single women: Most organizations found that the cases concerning daughters and wives were easier to handle as they were not subject to similar marginalization that was experienced by widows and single women. Widows and single women were often labelled as Dakin or witch and were at times ostracized from their families and communities. Given the higher degree of vulnerability to violence and marginalizations the organizations interviewed focused their energies on assisting this particular group of adivasi women in their efforts to recognize their rights over land. It was also understood that the situation of the widows and single women would be drastically improved through the recognition of rights and control over land as they would be economically independent reducing the reliance on their families for their survival and livelihood.

e. Using formal law: All organizations used the language of the existing legal framework in their introductory campaigns, negotiation processes and in resolving disputes as it proved to act as a strong platform to challenge societal norms and customary law couched in a patriarchal structure which were posed as the roots of most conflicts. The formal legal framework pushed the boundaries...
of the patriarchal system and its normative expressions by recognizing the rights and establishing the same in law.

f. Overspilling of rights: Overspilling of rights is a term used to describe the positive impact on other rights of women that the recognition of land rights has. In most instances it was noticed that the recognition of land rights resulted in reduced domestic violence and better decision making within the community. Using land rights as a base it created an enabling environment for legal intervention on other rights of women. This was an impact of the recognition of land rights that was observed by all organizations and is being used as a strategy in some cases where questions of domestic violence are addressed simultaneously with the process of claiming land rights. The claiming of land rights when viewed as an act of resistance to customary practices like Dakin it is seen by some organizations as an effective method to counter such discriminatory practices particularly against widows and single women. The nexus between the assertion of land rights and its positive impact on other rights have been described in the diagram below and the areas are identified based on the information gathered during the interviews. This has proved to be an effective strategy of intersecting the recognition of land rights with the impact that it can have in the assertion of other rights of adivasi women.

![Diagram of Recognition of Land Rights of Adivasi Women]

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PART III

ORGANIZATIONAL LEARNING

This part of the report will highlight the key learnings from each of the organizations interviewed and a brief overview of the strategies that they have adopted to overcome the challenges that have been described above.

a. Area Networking and Development Initiatives (ANANDI)

Nature of work and Approach

The organization began to take up the issue of land rights as it was seen as an integral element to the intersectional approach of addressing women’s empowerment holistically. The first attempt to address the situation of land rights was in 1996 to tackle the issue of large amount of land that was moving away from the hands of the tribals to non-tribals (mainly OBCs in the area) which were given as guarantee for debts. The formation of the Devgarh Mahila Sangathan created a system where land could be given to the SHGs in exchange for debt keeping whilst maintaining the security over the ownership of land. The mahila sangathan operated in an integrated manner in addressing the issue of land rights and increased violence against women and discriminations against widows acted as key trigger for them to integrate land rights into their agenda with the notion that it will act as a strong base through which existing power dynamics in villages surrounding women can be challenged through an equal stake in the assets of the family as well as decision making on the use and control of resources. It was this expanded understanding of land ownership to include questions of access, control and determination of land use that few women were leased land to start nurseries. It was in 2003 that the recognition of women in land titles became a prominent space for intervention and ANANDI understood early on that land was a very dependent on family, village and other societal dynamics and thus worked with paralegals at a local level to initiate processes of negotiation for the recognition of land rights. The training of paralegals in 2003 by CSJ also furthered this area of work. ANANDI continues to work in this manner with land rights in revenue areas and in the context of forest land the implementation of the forest rights act, 2006 has begun in Dahod and Panchmahal areas though no claims have been recognized.

Organizational Model

The organizational model consists of a three layers of operation. The primary platform from which it operates is the DMS, as a part of this sangathan there are two bodies which look into the question of land rights which are:

a. Mahiti Kendra: Here all issues are brought to the fore to enable a holistic discussion of issues across the spectrum.
b. Nyay Samiti: Here is where questions relating to law are brought to the fore and negotiations in relation to land claims are facilitated.
c. Swabhoomi Kendras: This unit has recently been set up where two paralegals attend to cases on women’s right over land. The office is set up close to the Mammlatdar’s office and paralegals sit there on Mondays and Fridays.

The link between all these institutional layers is the paralegal who carries the case/claim across these institutional structures seeking the needed support. The paralegal in many ways acts as the initial point of entry for any case and is then allowed to navigate this space. The role of the paralegal is key in the processing and recognition of rights over land. The role of the paralegal in the interview was described as:

- A mediator who negotiates with the different stakeholders to create an enabling environment for the recognition of these rights.
- As a link between the community-legal system and the administrative machinery;
- The role of the paralegal in any particular case would include- gathering of legal evidence, submission of the claim, following-up of the claim in the event of procedural hurdles and ensuring that the any conflicts that arise are resolved in the course of this process primarily through conciliation and in certain events the threat to go to court; and
- If in any event the case does reach the court the paralegals accompany the women to the court and support them through that process.

**Strategies**

a. Negotiation and conciliation: ANANDI uses the non-adverserial process of facilitating negotiations and conciliation as a dominant way to resolve disputes and conflicts that arise in the process of claiming land rights. This counters many of the sociological challenges that have emerged in the course of the interview particularly where relationships are threatened and situations of domestic violence.

b. Working with the government: ANANDI seems to constantly engage with multiple stakeholders to enable the processing of these claims through paralegals acting as the connectors. They are in the process of working out of the mamlatdar’s office. This addresses many challenges that were raised in the section of legal and governance.

c. Intersectionality: The creation of an institutional structure that enables discussions of a wide range of issues and then narrows it down through specialized groups that tend to these issues. It ensures a holistic approach with an anchoring over prominent issues. This intersectionality enables more connections to be made between different issues like domestic violence that is related to the assertion of land rights.

d. Following each case: The paralegals actually follow each case from the start to its eventual recognition. This strategy has enabled them to experience the entire array of challenges that come with a wide variety of cases making them more intuitive in their reaction to cases that follow.

e. Land as an asset in the control of the SHGs: This allows for ownership to remain within the adivasis and prevents the exploitation from the OBCs in the area.

f. Theater: A theater group which is now commissioned by the police department has been traveling through different villages to spread awareness about the practice of witchcraft and have been successful this far and is a locally driven exercise.
b. South Action for Rural and Tribal In-habitants of India

Nature of work and approach

SARTHI began taking up the issue of land rights of women as an outcome of their extensive work in the gender sensitization of local panchayat members. Being an organization that has a gender focus in their interventions and working towards the women's empowerment as well as legal aid the extension into the recognition of land rights was a product of these initiatives. SARTHI was also influenced by the thinking around the genderisation of land rights and as a member of WGWLO it incorporated it at the core of its work and presently has a team of paralegals within the Swabhumi project that focus on these efforts. They had also established a multi-purpose women's center that addresses the issues of land rights. SARTHI has been working with the SHGs in the area of women's health and supporting midwives. This institutional base provided a trigger to look into questions of land rights as a holistic approach to women's empowerment.

Organizational Model For The Recognition Of Land Rights

The organizational model consists of the following:

Self Help Groups: Self Help Groups have been formed in 40 villages of Santhrampur and act as the base for discussion of issues concerning women and acted as the initial platform for the discussion of land rights of adivasi women particularly widows.

SHG cluster: A cluster of SHGs were formed from 60 village based SHGs where the issue of land rights was discussed with the objective of increasing the number of claims and creating a momentum within the district on the recognition of land rights of women.

Village Development Committees: The village development committees were also involved in the recognition of land rights of women to create more cohesive action in this process as well as to strengthen the networks between the SHG and the VDC in light of the recognition of property rights of women. There were meetings held with the SHG on the issue on the 15th of every month where there were only women representatives and in the case of VDCs a meeting was held after the 15th where this issue was broached before an audience of both men and women and this worked to their advantage in negotiating with the men in the community of the benefits of the recognition of adivasi women's rights over land.
**Mahila Sabha:** A mahila sabha was also present in the villages parallel to the SHGs for the discussion of issues specific to women and to ensure that the same was represented in the gram sabha meetings.

**Multipurpose womens center:** The paralegals worked in this center which was to address a myriad of concerns of women and now placed specific emphasis on the claiming of land rights of women two days a week.

**Paralegals:** Paralegals are presently based organizationally with SARTHI and work out of the multipurpose womens center. They work collaboratively with the SHGs from the different villages where SARTHI has been working.

**STRATEGIES**

Multistakeholder involvement: The key strategy used by SARTHI in their process of claiming land rights is to involve multiple stakeholders in the mahila sabha especially government representatives from the revenue department. This initial platform for dialogue has created an enabling environment to facilitate the recognition of land rights.

Integrated approach: SARTHI has integrated through its diverse institutional mechanism an approach where the need for recognition of land rights does not sit in isolation but complements efforts to counter domestic violence and issues of womens health and the development of the village.

Using social schemes: SARTHI also lays emphasis on working towards the recognition of land rights of women of incorporating within this fold the use of social schemes which allow for the granting of land rights as well as schemes which increase access to farming equipment and seeds.

c. **UTTHAN**

**Nature of work and approach**

Utthan began work with a focus on resource vulnerable communities and enabling better access to water. While working on this aspect it enabled women to be more vocal about these issues and thus a gendered lens on understanding the issues of resource use and water were developed. In 1995 there was a shift from gendered lens on resource use and drinking water to womens development. This shift resulted in the focus on land rights. It continues to also focus on issues of livelihood, peace and conflict and agricultural aspects like seed banking. This transition shapes Utthans approach of looking at land rights through the lens of access and control over resources which is integrated into their work on community-development projects like watershed development.

**Organizational Model For The Recognition Of Land Rights**

Self-Help Groups: Self-help groups have been established at the village level and have also formed clusters. A federation of 210 SHGs have also been registered.
Nyay Samiti: The Nyay samiti has been formed as a sub-committee within the SHG to work exclusively on addressing legal issues and acts as the first institutional layer where the claims of land rights have been brought in.

Paralegals: Paralegals are associated both with the Nyay Samiti as well as Utthan and work collaboratively in addressing cases that come before them for the claiming of land rights by adivasi women.

Strategies

Gathering of information with the use of the Right to Information Act, 2005: Utthan has been successful in the use of the RTI in gathering both information and evidence from the Talati and Mammlatdar to understand if the death of the husband or other family member is registered in claiming inheritance. It is also used as a threat to ensure that the Talati is more cooperative in sharing such information.

Working on the Forest Rights Act, 2006: Utthan has been actively using the forest rights act in forest land and have been following-up on claims that have been filed. This has become an active element of their legal strategy in facilitating adivasi women in claiming their rights over land where joint titles are now available within the FRA.

d. HUMAN DEVELOPMENT RESEARCH CENTER

Nature of work and approach

HDRC began working on strengthening womens cooperatives with the intention to create a platform with a focus on womens empowerment through securing their livelihood. This extended to increasing the political representation of women in local bodies like the gram sabha in areas of Bhilod and Vijaynagar. There was also an issue of recognition of forest rights in these areas and atrocities by the forest department were experienced by women. The work on land rights was a product of these efforts to ensure livelihood security, adequate representation and recognition of forest rights through the recognition of land rights as mentioned in the Swabhumi project.

Organizational Model For Recognition Of Land Rights

Self-Help Groups: Self-Help Groups: Self-help groups have been established at the village level and have also formed clusters. The heads of the SHG groups have been trained on the issue of recognition of land rights of adivasi women.

Mahila Gram Sabha: To ensure that women are adequately represented in the gram sabha a mahila gram sabha has been established which actively discusses questions of women’s rights over land and other resources. They also participate in the panch in cases to ensure that they are represented in the dispute resolution process.
Paralegals: The paralegals chosen are primarily women and are associated with HDRC and the SHGs in the villages where such claims have been made.

**Strategies**

Using empathy: HDRC actively uses empathy through paralegals who are women and one of them who was widowed to encourage members from the community to recognize the rights of adivasi women over land. They also work closely with the women by acting as a role-model in having their rights over land recognized.

Using the Forest Rights Act, 2006 and Panchayat Extension of Schedule Areas Act, 1996: HDRC has been actively working on the implementation of the following legislations to enable the recognition of land rights of women with the motivation to avoid the atrocities by the forest department that tend to effect women the most.

Promote local representation: HDRC tries to focus on establishing local leadership in the ensuring that the recognition of land rights of adivasi women is taken forward. The paralegals also belong to the local community and work closely in their villages.

e. **NYAYIKA**

**Nature of work and approach**

Nyayika was set up as a localized center to provide subsidized legal aid for a range of cases and has been handing cases of land rights of women. The nature of cases varied from assisting widows in the recognition of their rights over land to daughters, wives and single women. The issues encountered by Nyayika are based more on the inheritance of land than the recognition of rights over forest land. The Nyayika center acts as a base for the negotiation and conciliation processes that emerge in the processes of claiming land rights.

**Organizational Structure For Recognition Of Land Rights**

Mahila Samhuk: There is no particular organizational structure for women but the mahila samhuk reports to the paralegals as and when any cases arise.

Paralegals within the Nyayika Center: The two paralegals within the nyayika center provide legal assistance to the cases that come before them and also source cases when they do conduct field visits in the villages through campaigns or other efforts.

**Strategies**

Conciliation: The organization took the route of resolving conflict through non-adversarial methods of mediation and conciliation which was often conducted by the paralegals who were handling the case. This has proved to be effective in most cases as the cost and time that can be incurred if the case were to be taken to court acted as a strong deterrent in approaching an adversarial system of resolving the dispute.
Using community radio: Information about the rights of women over land was discussed through the means of a community radio that has been established in Dang.

f. Aga Khan Rural Support Program, Satbara

Nature of work and approach

AKRSP first began work in the area on sustainable natural resource management and forest rights. The gendered lens to their work was developed as a product of their rural development initiatives which was based on the underpinning of social development and women's empowerment and the formation of self-help groups for micro credit. The organization has just begun work with a focus on land rights based on their involvement in the Swabhumi project. They presently work closely with the SHGs in facilitating the recognition of their rights over land.

Organizational Model For The Recognition Of Land Rights

Self-Help Groups: Self-help groups have been established at the village level and have also formed clusters. These groups act as the base for mobilizing the women in the community around the issue of land rights.

Shri Navjeevan Adivasi Mahila Vikas Manch: Registered in 2004 it acts as another federation for the issue concerning women like land rights to be discussed.

Paralegals: The paralegals chosen are women as a part of the Swabhumi project and are associated with AKRSP as well as the SHGs and Shri Navjeevan Adivasi Mahila Vikas Manch where such claims may be made or cases can be sourced.

Strategies

Fusing the claim for land rights with other initiatives to ensure financial security: In an effort to ensure the financial security of women. AKRSP has adopted a strategy of fusing the process of claiming of land rights with:

a. Widow pension schemes and efforts to realize this;
b. Micro insurance; and
c. Working with NABARD for financial assistance once the land rights have been recognized.

g. Dakshin Gujarat Vikas Sanstha

Nature of work and approach

DGVS began work in the area of forest rights and has been responsible for assiting in the filing and recognition of forest rights claims. They became involved in the issue of recognition of land rights of
women through their support in the forming of the Ekal Nari Shakti Manch. This has propelled their work in the recognition of land rights of single women who have been identified as women who are:

a. Widowed;
b. Deserted;
c. Have no family support system; and
d. Have no children and have not been married.

**Organizational Model For Recognition Of Land Rights**

Ekal Nari Shakti Manch: A group of single women who collectively address issues that effect single women including land rights.

Paralegals: The paralegals are a part of the Swabhumi project and are associated with DGVS as well as the Ekal Nari Shakti Manch where such claims may be made or cases can be sourced.

**Strategies**

Focusing on issues of single women: DGVS has developed a focused approach on dealing with cases concerning single women where they have established strong links and have a good understanding of the issues that impact them. They have also been using the Forest Rights Act,2006 in cases where the land comes within the categorization of forest land.
ANNEXURE I

List of references

2. Are We Not Peasants Too? Land Rights and Women’s Claims in India by Bina Agarwal
4. ‘Gender And Environmental Management In South Asia: Can Romanticized Pasts Help Model Desirable Futures?’ Bina Agarwal, Macalester International Vol. 6 137-163