

**A STUDY OF PEOPLES PERCEPTIONS OF
WOMEN'S RIGHT TO LAND: TWO
VILLAGES IN MADHYA PRADESH,
CENTRAL INDIA.**

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Organised

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VI Abstract

The gender gap in ownership and control over property is seen by many as the most critical factor affecting the position of women in India. Despite this, the topic of women's land rights in India remains relatively under-studied. Through interviewing women and men from two villages in the Katni District of Madhya Pradesh, this study looks at their perceptions of women's rights to land. The situation of women's land rights and the need for such rights in the two villages are examined and the barriers that exist to gaining these rights are addressed. This study looks at different types of land rights and poses the question of whether it is indeed possible for all women to own land in India given the high rate of landlessness.

VII Terms used

Bhumiswami	Landholder who, for all intents and purposes, has rights of ownership over the land. The interest of the <i>Bhumiswami</i> is transferable and is heritable according to personal law
Collector	Person responsible for coordinating operations of all Government land agencies at the district level
Panchayat Raj Institutions	Local councils
Patwari	Person in charge of maintaining village land records
Mutation Register	Record of changes in rights to land, e.g. transfer of land title following a landholder's death. This record is maintained by the patwari
Sarpanch	Elected village leader
Tasilhdar	Person directly responsible for supervision of lower level officers for revenue purposes, and provides general supervision of land records in a sub-district

1 Introduction

The gender gap in ownership and control over property is the single most critical contributor to the gender gap in economic well-being, social status and empowerment.

Agarwal, 1994b: 1455.

Women's effective exclusion from the possession and control of land is largely the basis of their subordination and dependence on men in rural India.

Kellar, 1992, cited in Thakur, 2002: 1.

Is the issue of women's land rights a concern for all women in rural India? Given that between 31 and 35 per cent of the total agricultural labour force are landless (The Hunger Project, 2002) is it even possible for all women to own land? Despite statements such as those quoted above, women's land rights¹ in India have received little attention in academia and policy. Few women own land and even fewer exercise control over it. In rural areas land is inextricably linked with livelihoods and represents power, dignity and security. Article 39(a) of the Constitution calls for equal rights to livelihood (see Appendix 1) yet the reality is far removed. Women's lack of ownership and control creates dependency on men, reducing women's fall-back position, leaving them vulnerable in situations of marital abuse or breakdown.

¹ Rights here are defined as claims that are legally and socially recognised and enforceable by an external legitimised authority. Can be ownership or usufruct rights. *Effective* rights are defined as rights in practice, not just in law, and rights of control not just of ownership (Agarwal, 1994).

This study looks at women's and men's perceptions of women's right to own land and investigates four questions: how important are land rights for women? What are men and women's views on different types of land rights? Would independent or joint rights be more beneficial to women? What barriers exist to women claiming land rights?

The study is situated in two rural villages in the Katni District of Madhya Pradesh² (see Appendix 2) and focuses on the land rights of caste Hindu women who are governed by different personal laws to Muslim women. Hindu women are the focus of this study as their land rights receive less interest than those of tribal women and they constitute the majority of the population of Madhya Pradesh. Comparisons of perceptions of Hindus, Muslim and tribal peoples would have been interesting but was beyond the scope of this study. Comparing the perceptions of tribals and non-tribals for example, would have been too complex given that the entire culture, law and history of the tribal communities is very different to that of non-tribals (see Malavi, 2002).

Access to natural resources in common property decrease daily. At the same time the 'feminisation' of agriculture³ continues. In this context it is argued that equal and independent rights to land are becoming increasingly important for women (Agarwal, 1994). This study therefore focuses on independent and joint land rights in ancestral and government distributed land rather than communal land.

² The rationale for choosing Madhya Pradesh is discussed later in the methodology section in chapter 3.

³ This growing phenomenon is largely the result of men moving to non-farm employment (Agarwal, 1997a).

The definition of joint rights lacks clarity in the literature and it is often unclear which form of joint rights is being discussed. Whilst different types of joint rights are discussed the case study focuses on those of husband and wife (as well as independent rights) to government distributed land; largely allotted to Scheduled Caste, Scheduled Tribes and landless people. Combining this focus with examining inheritance rights enables the study to take account of both landed and landless women.

The most prolific writer on Hindu women's land rights in South Asia is Bina Agarwal who has dominated the field since her seminal work 'A Field of One's Own' was published in 1994. Few other authors have written on issues of Hindu women's land rights and those that have refer in large part to her work. Agarwal's work therefore contributes the majority of the conceptual background in which this study is situated.

The next chapter reviews what Agarwal and others have written about Hindu women's land rights in India. Chapter three provides the context for the case study through describing the land situation in Madhya Pradesh and examining the space given for women's land rights issues at the State level and within civil society. Chapter four discusses the methodology used for the primary research whilst chapter five presents the findings and analysis of the case study. Chapter six discusses the implications of these findings before drawing conclusions in chapter seven.

2 Conceptual Background

This chapter begins by examining the rationale for women's right to land. The ongoing debate over whether joint or individual land rights are the most beneficial to women is then discussed. The arguments against giving land rights to women are then addressed and finally the barriers to women realising their claims are examined. This review focuses on caste Hindu women. Whilst some aspects may apply to other women this review does not attempt to cover any other groups.

2.1 The Case for Women's Land Rights

Agarwal's rationale for women's land rights rests on several broad interconnected arguments: welfare, efficiency, equality and empowerment. Each argument is examined here in turn.

3.2.2.1 Welfare

The welfare argument is premised on the idea that rights in land would decrease the risk of women's poverty and of the household in general, especially in already poor households. This would occur due to the positive effect of women having independent resources on family welfare (Agarwal, 1994). There is increasing evidence of intrahousehold inequality⁴ in the distribution of resources and studies have shown that when more resources are in the hands of women, their children directly benefit. Thomas (1990, cited in Kabeer, 1994) for example, found in Brazil

⁴ This is reflected in well-being differentials such as masculine sex ratios, low anthropometric measures for girls compared to boys, higher female morbidity and mortality rates and lower female literacy rates (Kabeer, 1996; Agarwal, 1997; Razavi, 1999).

that the probabilities of child survival was nearly 20 times greater when non-earned money accrued to women rather than men.

The last part of the welfare argument is that land rights can alter women's relationships (as indeed men's) with other family members. During her fieldwork in Rajasthan, Agarwal (1994) found that land owning widows living with their adult sons were treated with much greater respect and consideration than those who were landless and economically dependent.

3.2.2.1 Efficiency

The efficiency argument links women's land rights with increased productivity. Giving women titles to property would increase their access to credit, technology and information, as well as their motivation, thus enhancing productivity. This is even more important in the case of *de facto* and *de jure* female-headed households. However as Mears (1998, cited in Thakur, 2002) argues this is only true if the gender bias that exists in agricultural support services and factor markets are removed.

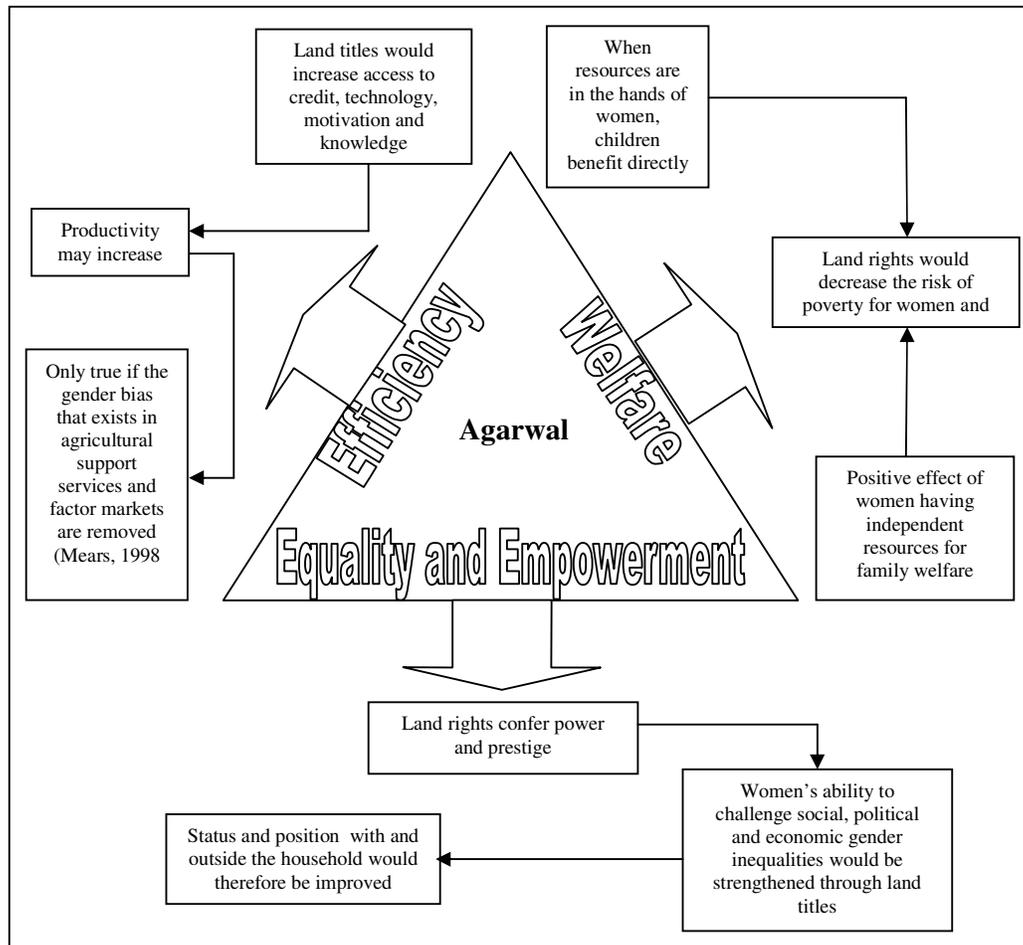
3.2.2.1 Equality And Empowerment

The equality and empowerment⁵ argument is concerned with women's position relative to men and in particular with women's ability to 'challenge male oppression within the home and in wider society.' (Agarwal, 1994: 38). Unequal rights to property affect relations between people, 'not only in well-recognised class terms but

⁵ The process whereby those who were unable to make life choices, go through a process of change whereby they acquire such an ability (Kabeer, 1999).

also in terms of gender, within and outside the household' (Agarwal, 1994: 470). In rural India land rights confer power and prestige. Women's ability to challenge social, political and economic gender inequalities would be strengthened through possession of land titles. Their status and position within and outside the household would consequently be improved (Unni, 1999). This argument together with those of welfare and efficiency are summarised in figure 1.

Figure 1: Agarwal's Rationale for Women's Land Rights



2.2 Types of Rights: Joint Vs Independent

There is a lack of consensus over which types of land rights should be given to women. Agarwal (1994) argues for independent rights on several counts. With joint rights women would be less in a position to escape from marital conflict or violence and in the event of the marital breakdown it may be difficult for women with joint titles to gain control over their share. Wives may have different land-use priorities from their husbands and would be in a better position to act upon with independent land rights. Women with independent rights would be better placed to control their produce. Lastly with joint titles the question of how land would subsequently be inherited could prove a contentious area (Agarwal, 1994). However as she later concedes, this problem may also occur with independent rights.

Rural women themselves expressed a preference for independent rights in Gupta's study in West Bengal (Gupta, 2002). They felt this would assure them of their independent right to livelihood and would enable them to take their own decisions.

Other reasons given for this preference were:

- Security in old age if sons do not look after them
- Daughters can inherit land if in mothers name
- Lack of security in matrimonial home, as women do not have a legal right to property
- To counter the system of dowry
- To free themselves of their dependent status

The women in Gupta's (2002) study as well as those in Unni's (1999) in Ahmedabad felt that joint titles to property would give them greater control over the sale/transfer/mortgage of property. Some of the women interviewed by Unni also felt a woman's joint claim to land would make it difficult for family members to expel her from her home (ibid.). However the women in Gupta's study still expressed a wish to own property solely in their own names for greater security and control⁶.

Aside from the theoretical debate, the practical aspect of the conferring of independent rights must be examined. Agarwal (1998) herself notes that about 86 per cent of arable land in South Asia is already in private hands. The question of where the land to be distributed will come from must be answered (Unni, 1999). Mid-1996 government of India figures show that the area declared surplus⁷ for all-India, came to only three million hectares or 1.6 per cent of arable land (Agarwal, 1994). Only 0.2 per cent was still available for distribution (ibid). Even if all the land is allotted independently to women, many will still go without. However as Thakur (2002: 2) points out, whilst distributing this land to women may not remove the gender imbalance in property rights, it will 'help reduce further distortions of the balance'.

Unni (1999) and others (Agnitori for example) argue that a more practical goal would be that of joint titles to husband's land, 'at least as a first step'. The next step however is not mentioned. Thakur (2002) explains that this form of joint rights is likely to be met with much resistance due to the prevailing view that the wife would

⁶ It must be pointed out that the women in Gupta's (2002) study were referring to joint titles in government allotted land, whilst those in Unni's (1999) were referring to a woman obtaining joint title to the land and property of her husband.

⁷ This is the area above the ceiling on holdings, as laid down by the Ceiling Acts Legislation. This limits the amount of land a 'family' can own.

benefit “doubly” with shares in parental and marital land. Thakur (2002) argues that the ‘alternative’ of joint titles in government allotted land would be more practicable but does not make the distinction that the latter is largely directed at landless women, whilst the former will only benefit those with land. This is discussed further in chapter six.

2.3 The Case Against Women’s Rights in Land

3.2.2.1 Inheritance

The case made for denying girl children titles to agricultural land is based on several factors. It is argued that operational problems would occur once a girl gets married and moves to a distant place and that giving land to daughters as well as sons would lead to a fragmentation of holdings (Unni, 1999). The first argument is difficult to counter, but the second may occur even when land is given to brothers, if the land is partitioned.

In areas where exogamous marriages are practiced there is also the fear that once a girl is married, her land will belong to another family, kinship group or clan (Agarwal, 1994).

Girls are perceived by some to receive their share of inheritance through dowry. In practice however, the content of dowry is most often in the form of immovables and not usually controlled or entirely owned by women themselves, as it goes to the in-laws (Agarwal, 1994). This is therefore not a fair share of inheritance.

3.2.2.1 Joint Titles To Husbands Property

As mentioned earlier, the demand for this type of joint titles may be countered by the argument that the wife already has a legal right to a share in parental property. This same argument may be used against independent rights. In practice however only a small minority of women actually acquire property through inheritance (Unni, 1999).

The fragmentation argument has also been used to deny joint rights in government allotted land. The state of West Bengal in 1990 for example gave the prevention of fragmentation of holdings upon marital breakdown as the reason for rejecting the women's movement demand for joint rights (Rao, 1997).

3.2.2.1 Independent Rights

Women in most parts of India are not allowed to plough. This 'social handicap' has been used against giving independent land rights to women (Rao, 1997). Under the slogan "land to the tiller", used in the land distribution programme in West Bengal for example, individual women were not considered as they don't plough. This was despite that fact that the women were engaged in sowing, weeding and harvesting as the term tiller means one who does all four operations (ibid.).

2.4 *Barriers to Achieving Land Rights for Women*

As well as the apprehensions discussed in the previous section there are other legal, socio-economic and ideological barriers that impede women's claims. These are looked at next.

3.2.2.1 Legal Barriers

2.4..1 *Inheritance*

The Hindu Succession Act, 1956 (HSA hereafter), is the personal law that governs inheritance of private property of Hindus⁸. Whilst the Act ‘purported to lay down a law of succession whereby sons and daughters would enjoy equal inheritance rights, as would brothers and sisters’ significant gender inequalities remain (Agarwal, 1994: 212).

Apart from four states in India⁹ the HSA does not recognise the daughter as a coparcener in joint family property¹⁰. Therefore a daughter on birth will not automatically get an interest in the coparceners property in her own right as her brother does. She only gets a share on the death of her father in his share of the joint family property (Breakthrough, 2002).

The virtually unrestricted testamentary rights¹¹ provided under the Act can be (and often are) used in practice to disinherit potential female heirs (Agarwal, 1994). Also unlike sons, married daughters have no residence rights in the ancestral home. Whilst daughters who are unmarried, separated, divorced, deserted or widowed have

⁸ In the Act Hindus were defined as including Sikhs, Jains and Buddhists. The Act is applicable to all states except Jammu and Kashmir covering about 86 per cent of the India population.

⁹ Andhra Pradesh, Karnataka, Tamil Nadu and Maharashtra (Thakur, 2002).

¹⁰ The joint family is a social institution unique to Hindus and consists of a common ancestor and all his three lineal male descendents, together with the wife (or widow) and unmarried daughters. Within the joint family is a narrower body of persons called the “coparcenary” which consists of the father, i.e. the last holder of the property and his three male descendants and the ancestral property is held only by them collectively, each of them having an equal share in it (Breakthrough, 2002).

residence rights, they cannot demand partition of the dwelling house until the males choose to do so (ibid.).

In practice, daughters' claims appear to hold 'little social legitimacy', and the most likely scenario of daughters inheriting is still in sonless families, usually involving uxorilocal¹² post-marital residence, though even this is rare (Agarwal, 1994). Whilst widows' claims enjoy greater social legitimacy than daughters, the available evidence suggests that many of those who are eligible to inherit do not, and those who do inherit do so mostly on severely restricted terms (ibid.). Under traditional Hindu law, a widow usually loses her rights to inherit if she marries, is unchaste or leaves her husband's village on his death. If she has only daughters or is childless she often only gets maintenance (ibid.).

Whilst the HSA covers owned land, other types of interests in agricultural land, such as 'tenancy rights' are exempted. The Government of India Act 1935 vested all legislative powers in relation to agricultural land exclusively in the state legislatures. In some states the succession rules relating to land held under tenancy have a different order of devolution than the personal laws specify. In states such as Haryana and Delhi, the rules of devolution show a strong preference for blood related males. Madhya Pradesh and Rajasthan are two of the exceptions that specify that such devolution will be according to personal law. This variation in legislation by state is believed to reflect regional differences in social attitudes and legal approaches (Agarwal 1994).

¹¹ Under the Act as person has the right to create a will naming the parties who will inherit.

¹² Where the husband takes up residence with the wife and (with or near) her parental family.

2.4..2 Land Reform Policy

The redistributive policies of the last three or four decades in South Asia have been modelled on the idea of a unitary household (Agnitori, 1996). Until recently, with the exception of widows, government distributed land was given to the male 'head of household'. According to Agarwal (1994) whilst land reform policies have been based both on the principle of redistributive justice and on arguments regarding efficiency, gender inequalities have not been taken into account. Indeed the Ceiling Act legislation is an example of a reform that serves to reinforce gender inequalities.

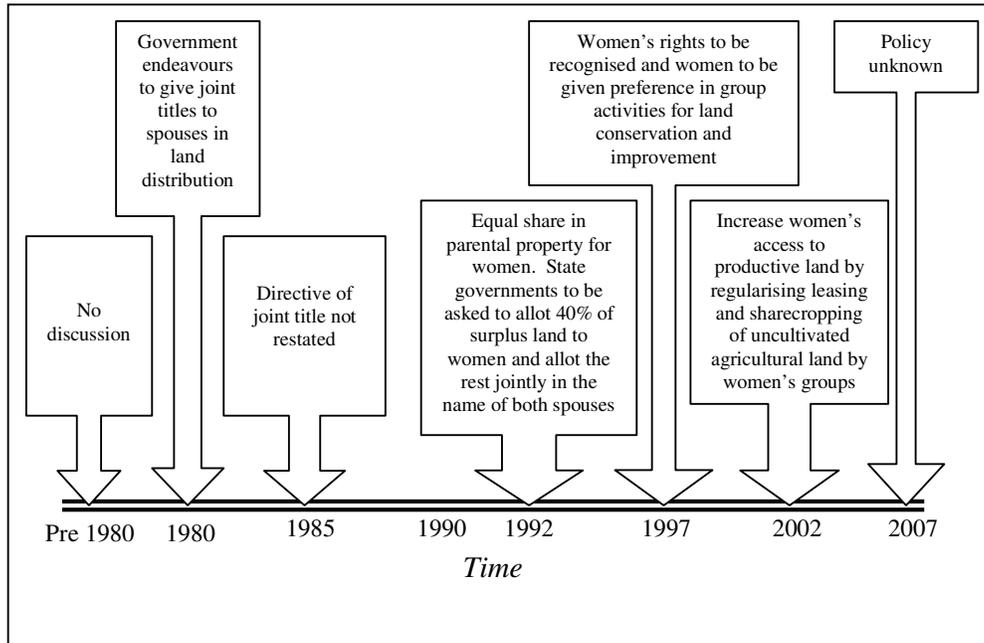
Acts relating to land ceilings, brought in during the late 1950s and early 1960s, limited the amount of land a 'family', (classified as comprising husband, wife and three minor children), could own. The amount was fixed by each state. Within the Acts unmarried daughters receive no recognition, except in Tamil Nadu and Kerala. Agarwal (1994) believes that underlying the ceiling specifications is the assumption that those recognised as part of the 'family' or separately, as with adult sons, will be supported by the land. Most states do not therefore give consideration for the maintenance needs of unmarried adult daughters and married minor daughters, while giving consideration to all sons, whatever their age or marital status (ibid.).

2.4..3 Women's Land Rights In Central Government Policy

The issue of women's land rights was not discussed in policies governing the distribution of public land until the 1980s when the first limited recognition of women's need for land was given in the Sixth Five Year Plan (1980-1985). This was not restated in the Seventh Year Plan (1985-90). Whilst the subject of women and

land is broached in the Eighth (1992-1997), Ninth and (1997-2002) and Tenth (2002-2007) Year Plans, women’s rights to land still receive little attention. (see figure 2).

Figure 2: Women’s Land Rights in Central Government Policy (Five Year Plans)



Source: GOI Planning Commission, 2002a, 2002b.

3.2.2.1 Socio-Economic Factors

In the few cases where women own land individually, cases of self-management are rare (Agarwal, 1994). Legal ownership is therefore not synonymous with control. Socio-economic constraints also impinge on women’s ability to own and control¹³ land. These are discussed next.

¹³ Control can have multiple meanings, such as ability to decide how the land is used, how its produce is disposed of, whether it can be leased out or mortgaged, bequeathed or sold etc (Agarwal, 1994).

2.4..1 Marriage Practices

In northwest India, marriages among Hindus are almost always outside the natal village. In contrast in northeast and south India there is a marked preference for in-village marriage, whilst in the western, central and eastern states, there is a mixture of the two (Agarwal, 1994). Women living outside their natal village experience difficulties in managing and supervising inherited land due to the physical and social distance from the natal home, in terms of restricted mobility (Agarwal, 1997a). It is not surprising that wherever women in India have customarily had rights in land, it has been associated with their typically residing within the natal village and often in the natal home (Agarwal, 1994).

Women living outside their natal village may try to retain the land through leasing but do not always realise the full benefit as they are unable to ensure a fair price or share of the crop. Pressure and intimidation from interested male parties may further compound these problems (Agarwal, 1994).

2.4..2 Dowry

Whilst Dowry was prohibited in 1961 it is still a widespread practice. As was discussed in section 2.3.1, dowry is often cited as a reason for girls not receiving a share in land. Dowry therefore acts as an obstacle to women claiming a share (however whether they would receive a share should dowry not be given is questionable).

Gupta (2002) found that dowry was also the cause of selling land. Of the 870 households surveyed in two districts in West Bengal, 295 households (mainly with

small holdings) had to sell or mortgage their land or borrow money at a high rate of interest to pay for dowry (Gupta, 2002: 1749). In such cases dowry impedes men's as well as women's access to land.

2.4..3 Taboo Against Ploughing

Agarwal (1994) believes that the taboo against ploughing is perhaps women's biggest obstacle to claiming land rights. Due to the vehemence with which this taboo is followed women are dependent on men to plough, meaning they are unable to exercise full control over the land.

2.4..4 Gendered Mobility

In rural areas of India women's social and economic relations with the world beyond the home are typically mediated through male relatives due to physical and social restrictions on mobility. This affects women's access to agricultural inputs, markets, credit, education and knowledge, as well as to judicial and administrative bodies. In Agarwal's words the restrictions on women's visibility, mobility and behaviour, 'whether internalised by women or imposed on them by threat of gossip, reprimand or violence, impinge directly on their autonomy and ability to claim and control land' (Agarwal, 1994: 30).

2.4..5 Gender Ideology

Gender ideology in terms of norms of women's needs, work roles, capabilities and entitlements impinge on the framing and implementation of public policies and laws

relating to property (Agarwal, 1994). This ideology also affects the legitimacy of their claims to land.

Whether women are aware of this ideology or whether they have internalised these ideologies as Kabeer (1999) and Sen (1993) suggest is a matter for debate. As Agarwal (1994: 430) argues, 'the appearance of compliance need not mean that women lack a correct perception of their best interests; rather it can be a survival strategy stemming from the constraints on their ability to act overtly in pursuit of those interests'.

2.4.6 Gender, Caste and Class

It must be remembered that gender is not the only axis along which differential access, control and ownership of land occurs. In the context of India caste as well as class are important factors in determining access to resources (Jassal, 1997). In general those of lower caste have less access and a greater need for land, due to greater poverty and fewer livelihood options. Whilst rights in private or public land are especially important as a poverty alleviation measure for women in poor households, they are also relevant for women of better off households given the risk of poverty following marital breakdown faced by all women (Jackson, 1998). The case of women's land rights should therefore not be diluted to mean the case of poor women's land rights.

The above section has shown that women face severe constraints in accessing, controlling and managing land. Methods suggested by Agarwal and others for overcoming these constraints are addressed next.

2.5 Overcoming barriers

Agarwal (1994) argues that for women to acquire and exercise control over land, simultaneous struggles in the different arenas of household, community and State are required. Contestations of the inherent inequalities that exist in the distribution of material resources, gender ideologies, social practices, and in law are critical (ibid.). Reducing women's economic and social dependency on sons, husbands or brothers through strengthening their fall-back position must also be tackled (ibid.).

Agarwal (1994) argues that providing infrastructural support for women will help increase their ability to function as independent farmers. This will mean removing gender inequalities associated with access to credit, labour, other production inputs, and information on new agricultural technologies (ibid.).

To enable women to claim their share in parental land Agarwal (ibid.) believes masses of women and their families will need to refuse to pay and receive dowry. All of the above changes necessitate collective support of women locally and nationally but most critically require women to take the initiative in fighting for their land rights (ibid.). Unni (1999) states that this needs to take place in the form of a mass movement, otherwise few women are likely to gain access to property within existing male-dominated structures.

Due to the difficulties of obtaining independent rights Agarwal (1994) proposes group ownership as a possible alternative where all can use but not dispose of land. Other alternatives such as these must be found.

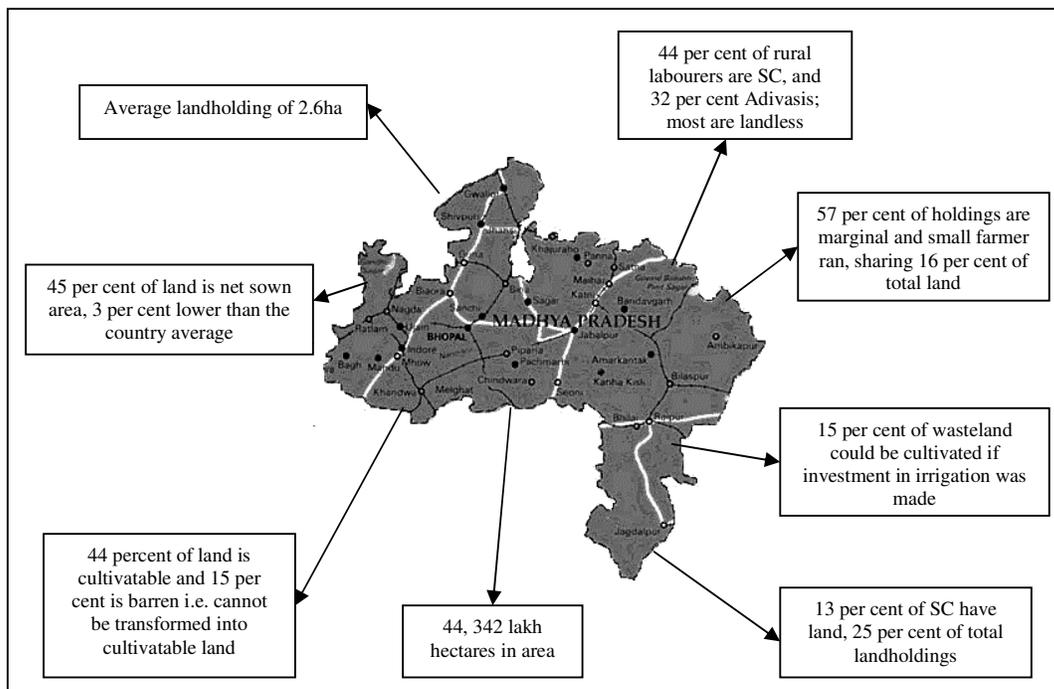
There many obstacles to women claiming land rights and the ways of overcoming them are far from simple. Agarwal (1994: 315) argues that this does not however justify 'depriving them of their claims'. The next chapter examines the extent to which women's land rights are being addressed in Madhya Pradesh, both at state level and amongst civil society.

3 Women's Land Rights in Madhya Pradesh

Madhya Pradesh (MP hereafter) is situated in central India (see figure 1). It has a population of approximately 60 million, 71 per cent of which is rural. The vast majority of the rural population (approximately 80 per cent) are dependent on agriculture, animal husbandry and allied occupations (NCAS, 2002).

Scheduled Castes (SC) constitute 15 per cent of the total population and Scheduled Tribes (ST) 20 per cent. Those belonging to Scheduled Castes and Tribes own the least land (see figure 3). In general SC and ST women (and men) are therefore more disadvantaged in terms of access to family owned land compared with Other Backward Castes (OBC) and General castes (e.g. Brahmin, Thakur).

Figure 3: Land Profile of Madhya Pradesh



Sources: Madhya Bharat Resource Centre, 1999; MP Human Development Report 1998; Bose, 2001; NCAS, 2002.

No macro data is available on the amount of land owned by women as no macro studies have been done and census data on land ownership is not sex-segregated.

3.1 Importance Given to Women's Land Rights in MP

The State created a Department of Women and Child Development in 1988. The MP Policy for Women (1995) was however the first attempt of the Department to formulate a comprehensive policy for the empowerment of women. The policy cites the gender gap in control over property as the 'single most important factor affecting women's position' and aims to promote an increase in women's control over land, property and other common resources through:

- Extending *co-parcenary* rights to women and entering names of all entitled women members of the family as landowners in the land records in all future *mutations*
- Distributing government land in the name of women
- Vesting village lands in joint control of adult women, promoting use of common land by women
- Ensuring at least 30 per cent of new *patwaris* are women
- Providing special training programmes for women, government functionaries, *Panchayat Raj Institutions* and other local institutions to ensure awareness and knowledge of government schemes relating to women's claims in land and agriculture

Whilst the policy was a step forward, several problems remain. The intention to give all future government distributed land in the name of women alters within the same

document to become ‘all land distribution and redistribution undertaken by the government will be made in future in the name of the wife too along with her husband’s’ (p37). Presumably the former intention was considered too radical or contentious.

An evaluation of the report (commissioned by the Government of MP in 2001) shows that of the 565 officials, non-officials and *panchayat* representatives interviewed in ten study districts only 213 were actually aware of the policy, with particularly low levels of awareness at the village and *panchayat* levels (Buch et al, 2001).

In five years of the policy the majority (59 per cent) of land entitlements issued in one district were given to male members only. Joint entitlements increased from 3.2 per cent in 1995-1996 to 40.6 per cent in 1999-2000. However it was found that in the last year of the policy (1999-2000), 22 per cent of entitlements were given in the name of males only. This violates the government’s own instructions (ibid.). Data was not available for other districts, perhaps indicative of the lack of importance given to these instructions.

Data supplied by five districts regarding informing female heirs in mutation cases, showed they had been informed in 51 per cent of cases in 1995-1996 and almost 69 per cent of cases in 1999-2000. However a number of revenue officers said there was still no accepted procedure for informing female heirs and after cross-checking selected cases, it was found that these figures were not supported (ibid.).

Whilst all *collectors* had been informed by the state revenue department in 1997 that preference should be given to women's groups in the granting of entitlements of river bed/tank bed for growing seasonal vegetables, none were reported as having been given in the ten districts (ibid.).

Only 10 women (4 per cent) were recruited as *patwaris* between 1995 and 2000 and women constituted only 1 per cent of agriculture extension officers (ibid.).

Whilst some progress is being made at the state level there is still a long way to go. It is within this context that the findings from the village study should be viewed.

3.2 Women's Land Rights Issues in Civil Society

Whilst gender focused organisations and those working for land rights exist in Madhya Pradesh, the two do not work on the same issues. Of those people spoken to no-one knew of gender-focussed organisations who work on land rights or land right's organisations who focus on¹⁴. One organisation which has begun to look at women's land rights is Ekta Parishad, a people's movement that campaigns for the land rights of scheduled castes and tribes (see Appendix 3). Ekta Parishad has been campaigning for joint land rights since 1989¹⁵ and has also helped several groups of largely landless tribal women gain access and rights to village wastelands (Nandi, 1999).

¹⁴ To my knowledge there are no organisations working mainly on women's land rights. It must be recognised that the time spent in MP for this study was limited and such organisations may not have identified.

Gender issues in general however are very weak amongst civil society in MP ¹⁶.

An environmental activist who was spoken to said land rights *per se* and land rights of women are seen as two separate struggles. The thinking is first to obtain land and to then worry about women's land rights.

Discussions were held with a senior government official, an ex-senior government official, 2 activists, a gender consultant, and 2 NGO workers to find information on women's land rights in MP. During these discussions the question of why women's land rights were not looked at in civil society was asked. The following responses were given:

- Have not really thought about it
- Issue of land generally researched by left-wing economists who do not look at gender
- Aside from activists, NGOs don't want confrontation so don't push for women's access
- It is too difficult to search through all of the land records and laws
- India is a male dominated society
- Researching land issues is dangerous
- What is researched depends in part on the interests of funding bodies
- Land issues are not of so much relevance to women in urban areas and those from higher castes. Issues such as violence against women are more relevant to these women so these are the issues they tackle

¹⁵ Personal communication, Ramesh Sharma, 2002

¹⁶ Personal Communication, Development organisation worker, 2002

There is therefore a wide range of reasons why women's land rights are not being addressed in civil society.

4 Methodology

Madhya Pradesh was chosen as the site for this research due to the large presence of Ekta Parishad, which made the research possible. It was also chosen due to the lack of information on women's land rights in central India (Agarwal, 1994). This section covers the parameters, methods, and limitations of the primary research undertaken in MP.

4.1 Parameters of the Research

Research was undertaken with the assistance of Ekta Parishad who chose the area in which the sample villages are situated. The choice was based on their working presence in the area, as this enabled easier access to villages and villagers. Interviewees were therefore more exposed to land issues, which made discussion of these sensitive issues possible. Workers of Ekta Parishad were of the opinion that discussion of land issues at a theoretical level would cause no conflict in this area. Caution was still taken when choosing and asking questions.

Ekta Parishad supplied an interpreter for two weeks to provide translation during the interviews. The primary research was thus contained within this time frame. Two villages of similar caste composition were chosen to enable more effective comparison and a week was spent in each.

4.2 Sample

The aim was to interview around 20 women and 20 men, split between the two villages. Both landless and those from families with land of different areas were

included in the sample. Women *and* men were interviewed to enable comparison of their perceptions and to understand the constraints, which a lack of support for women’s land rights by men may bring. This was also necessary due to a perceived lack of discussion with men in the literature. The sample group was further cut across by caste, age and marital status.

The final sample comprised those in the cross-section who were willing and available to be interviewed (see table 1).

Table 1: Sample Group

	NO. OF RESPONDENTS - VILLAGE 1				NO. OF RESPONDENTS - VILLAGE 2			
	Female		Male		Female		Male	
	Land*	L/less	Land	L/less	Land	L/less	Land	L/less
CASTE								
SC	2	5	0	2	2	1	3	0
OBC	1	2	4		7	1	5	2
Brahmin	1	0	1	1	0	0	0	0
Sub Totals	4	7	5	2	9	2	8	2
TOTAL	11		8		11		10	

*Land may belong to woman or man’s family and may not be individually owned.

4.3 Methods

Semi-structured individual interviews (where possible) were used based on a checklist of questions (see Appendix 4) formulated to gain insight into the research questions. The checklist was tested and any ambiguous questions were rephrased. It was found for example that the term control was not fully understood. Questions were phrased in terms of decision-making. Questions were not asked in a fixed order and were adapted depending on the situation of the interviewee. For example, when talking to

recently widowed women, questions about how women felt about land being held in both husband and wife's names were omitted to avoid upsetting the interviewee. In other cases answers given prompted the formulation of further questions. Whilst this made comparison of answers more difficult, it was felt necessary for ethical reasons, as well as for gaining the maximum insight possible.

Interviews were conducted in an informal conversational style to put the interviewee at ease as much as possible. No set amount of time was allotted for each interview and interviews took between 45 minutes and 1 and a half hours.

4.4 Methods of Analysis

No statistical techniques have been used as the sample size is very small. Transcripts of interviews were written and people's answers to each question, along with their sex, age, caste, marital and land status, and village were then transferred on to a database. The responses were then analysed by counting, collating and comparing the number of responses.

4.5 Limitations of Primary Research

The biggest limitation was time as fieldwork was cut short following advice to leave India from the government of the United Kingdom. The study of another village where joint land rights in government allotted land had been received was planned, but was not possible.

Interviews were semi-structured due to a need to focus given time constraints. It would have been beneficial to have several more open discussions with the same person to build up a rapport, learn about their life histories and to see if land issues were in fact raised.

The sample group was small due to the need to spend time with each individual discussing a wide-range of issues. The cross-section was therefore also small and consequently may not have been representative of different groups in society.

The use of additional research methods such as time-lines and activity profiles would have also been helpful. Time-lines of the villages would have been useful to observe any change in women's use and/or access or ownership of land. Activity profiles would have helped gain a clearer idea of what activities women were undertaking on land. As research was based around perceptions, interviews were considered the most important aspect of the research. Time was used accordingly.

A further limitation was that of using an interpreter. Whilst meanings and intentions of questions were clarified and practiced with the interpreter, some confusion was apparent. Some questions may have been asked with a different meaning to that intended. It is also possible that the interpreter may have influenced answers without my knowledge.

Asking people about a resource that many lack and many want carried the risk of raising expectations amongst respondents and the village as a whole. Whilst an

introduction and explanation of the purpose of the research preceded each interview, expectations were undoubtedly raised.

The findings of the case study are discussed in the next chapter.

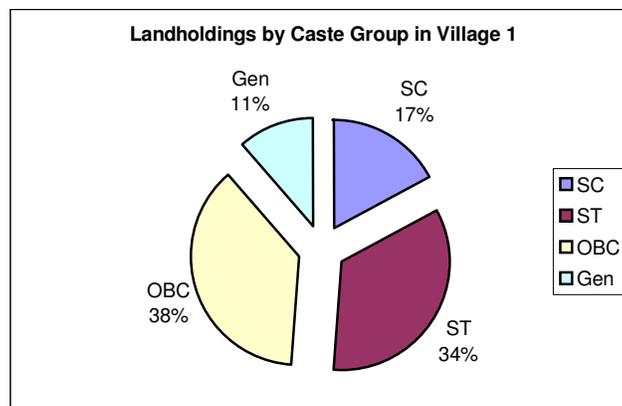
5 Case Study

The two villages used in this study are situated in the Katni District of MP (see Appendix 2). Both are roadside villages, which means they are more developed than interior villages in terms of access to infrastructure (roads etc) as well as to information due to the flow of people travelling through. Exogamous marriages to strangers were the norm in both villages. Whilst no exact figures could be obtained, female literacy was low and lower than male literacy.

5.1 Profile of Land in Village 1

Village 1 has a population of approximately 2622. Only 8-10 land entitlements have been given by the government in this village, the rest is ancestral land. No Scheduled Castes have land holdings above 3 acres whilst OBC, ST and General Castes all do. There is not a single case in the records of women having land entitlement and ownership. The majority of land is owned by OBC followed by ST, SC and General Castes.

Figure 4: Landholdings by Caste Group in Village 1



Source: Sarpanch and Patwari, 2002.

Table 2: No. of Families With Land Entitlements by Caste in Village 1

Caste	No. of families with land entitlement
Scheduled Caste	25
Scheduled Tribe	40
Other Backward Caste	102
General (upper caste)	30
Total	197

Source: Sarpanch and Patwari, 2002.

5.2 Profile of Land in Village 2

Village 2 has a population of 1050. No government land has been allotted in this village, all land was ancestral. A total of 12 women have entitlements in their name, 2 ST women and 9 OBC women.

Table 3: No. of Families With Land Entitlements by Caste in Village 2

Caste	No. of families with land entitlement
Scheduled Caste	20
Scheduled Tribe	35
Other Backward Caste	129
General (upper caste)	6
Total	190

Source: Sarpanch and Patwari, 2002.

Caste population data for this village was highly conflicting and therefore could not be used.

5.3 Findings and Analysis

Answers to some questions varied greatly resulting in long lists of answers with just one response. In these instances answers are presented in a table, as all cannot be discussed here due to word limitations. Some interviewees gave more than one response. The total number of responses for any one question may therefore be greater than the number of respondents.

Answers were analysed in relation to people's age, caste, marital and land status and the village in which they lived. Unless otherwise stated, answers given did not markedly differ according to the above variables.

3.2.2.1 Inheritance

➤ *Can women inherit land?*

This question relates to inheritance of parental property as opposed to that of husbands property by widows. This will be discussed next. Out of 32 respondents, 21 said that women could inherit land. Eight of these (4 women, 4 men) specifically said women could inherit by law. All respondents said that women don't inherit land in practice however (see table 4). This demonstrates the gap between law and practice discussed by Agarwal (1994). This also suggests that legal literacy in terms of inheritance may not be a large problem in the two villages.

Table 4: Responses - Can Women Inherit Land?

ANSWER	FREQUENCY
Married women give land to their brothers because they have more rights in in-laws	9
Brothers wouldn't like it, the relationship with their sister may break down	8

Dowry is given for girls	6
Land goes to brother	4
Only if there are no sons	4
Don't inherit if only small amount of land, can if there is large amount of land	2
Ancient tradition	1
Relationship with parents will break down	1
Girls brothers give their share to their brothers because there's already extra investment in marriage for girls so they don't like to take	1
Girls don't take their share	1

The most cited reason was that married women have more rights in their in-laws home. Unmarried daughters were not mentioned. Clearly the thinking is that all girls will get married at an early age, as is the reality in much of rural India (see Box 1). Once a girl is married she no longer has rights in her parental home as discussed in section 4.4.1.1. The fact that women live in another village after marriage was not mentioned.

Box 1: Caste Difference in Girl's Marital Age

The marriages of girls belonging to SC in Village 1 are often arranged as young as eight, though the girls are not actually sent to live with their husband and his family until the age of 12-16.

The situation amongst OBC in Village 1 is different however and most girls

The next most cited reasons (with 8 responses each) were that girls do not inherit because they get dowry and because the relationship with their brothers would break down. Six of the 8 respondents who gave the former answer were men, whilst the latter reason was given equally by men and women. It was apparent that some women wanted to give their share to their brothers. One woman said *the relationship with brothers is the most important thing in our lives* (OBC, village 2, 30-39). This

feeling was clearly echoed by many of the women interviewed. The ‘voluntary’ giving up of a claim in land may represent girl’s need for the help of their brothers in ensuring their own well-being. As discussed in section 2.4.2.4, women’s outside relations are mediated through male relatives, they also rely heavily on their brothers following divorce or desertion. Preserving relationships with brothers may therefore be a survival strategy.

Whilst a preference for sons was not explicitly mentioned, it was implicit in some conversations (see Box 2).

Box 2: Son Preference

When asking people how many children they have, some would answer by telling the number of sons they had. In some cases it was not until the question of whether they have any daughters was actually asked that it was discovered that they did have daughters too!

Another indicator of the importance of boy children arose during discussions of family with female interviewees. Some women

The feeling that a woman should not go to court to claim her rights if they are not freely given was expressed. One woman for instance said *if the girl’s brother and wife want to give its okay, but she should not go to court to fight for it* (OBC, 20-29). Women at a group interview also gave this response. This may have implications for those who do try and claim their rights. The opinions of the rest of the community appear very important to individuals and most do not wish to act in such a way as to have the community think badly of them. No case of women coming forward to claim their inheritance rights was known of in either village.

Four people said girls could inherit in the absence of sons. Three instances of this were found (see Box 3 below). This seems to be the only way in which girls can inherit land.

Box 3: Women Inheriting in the Absence of Brothers

One woman's father had 1 acre of land. When her father died the land was given to her and her sisters, as they have no brothers. They had to sell the land however as it was too far away to manage.

One man and one woman also said their mother and mother-in-law respectively had inherited land in the absence of brothers. In the women's

Two people said that women will receive land if there is a large amount, but will get nothing if only a small amount of land is available. This echoes the fragmentation argument. Given that the Scheduled Castes in both villages own smaller amounts of land than other castes, the fragmentation argument may be stronger amongst Scheduled Castes.

One man said that when his father died, the entitlement was transferred into his own, his mother's, and his brother's names. Upon finding he had sisters, the question of why their names were not included was asked. He replied that his sister's names were on the entitlement but that this was *forcefully done by the government* (OBC, 30-39, Village 1). He therefore did not recognise their claim, even though it was legally enforced. Changing social attitudes is perhaps more important than changes in law.

➤ *What happens/would happen to land when a woman gets married (if she had inherited land)?*

This question was asked to 5 interviewees (4 men, 1 women) who had suggested it is possible for girls to inherit land in specific circumstances, i.e. if the girl has no brothers or if the family has lots of land. Three different responses were given. These were that the girl could sell the land and keep the money, the husband and wife could live in the girl's parent's home, and that the land could be sharecropped and given to the girl.

As shown in Box 3 there was one case of a couple living on the wife's land. The likelihood of this happening may depend on (amongst other factors such as the type of marriage system) whether the husband's family has land.

The most practicable option in an area where exogamous marriages are the norm would be leasing/sharecropping the land. The legal rights of transfer as laid down in the MP Land Revenue Code, 1959, are very limited for married women however. Land cannot be mortgaged unless 5 acres of irrigated, or 10 acres of unirrigated land, is retained (Madhya Pradesh Land Revenue Code, 1959, section 165: 80). It is also not possible to lease the land for more than one year consecutively within a period of three years (ibid. 88). These laws are intended to protect the poor, however they deny those who cannot manage their land or need income the possibility of retaining it through leasing. They also deny landless or marginal farmers the ability to access more land. These laws have not stopped the practice altogether. Leasing is being

pushed underground¹² making people (especially women) more vulnerable to exploitation.

➤ *What happens to land if a woman's husband dies?*

Fourteen of the 18 respondents (10 women, 8 men) said that land would go to the widow in the first instance. Eleven people specified that land would devolve onto sons next and one man said it would go directly to the sons if they were old enough (OBC, 30-39, Landed, Village 2). Another said that widows don't get land as *they might go to another man* (Male, SC, 50-59, Village 1). Only one said that the brother-in-law could demand the land (Female, SC, Village 1, Landless).

In the majority of cases it would appear that land does go to the widow. This does not however mean she will have full control over it. Discovering how much control widows have proved very difficult and only three responses were shared. This may have been due to the lack of understanding of the concept of control. One woman said that *during old age sons will take control* (SC, 30-39, Village 1). Another said *nowadays sons will have more control* (SC, 50-59, Village 1). One quite different response was that *daughter-in-laws exploit mother-in-laws* (OBC, 50-59, Village 2). It was not clear if this was from personal experience, however this occurrence was also mentioned by my interpreter and warrants further research.

One dimension of exploitation of widows (or perhaps the poor in general) voiced by two women was that of women being illegally charged a sum between Rs500 and

¹² Personal communication from a development sector worker, 2002.

Rs2000 by the Patwari to transfer their husband's title into their own name. To put this amount in context, the average wage labourer earned between Rs20 and Rs40 per day. Whilst 1 widow in Village 1 said she had inherited land after her husband died, the records show that there is no land in women's names in Village 1. This indicates she had land but no entitlement.

Women have few land rights throughout their life-cycle, only when their husband dies do they have any and even then they often lack control.

➤ *If a woman owned parental land would this help her in her in-laws home?*

Out of 13 respondents (6 women, 7 men) three people said it wouldn't help women. Ten (5 women, 5 men) thought ownership of land would help women in her in-laws home. The main reasons given were that she would be more respected (5 responses) and less abused (3 responses). One explanation given was that in-laws *would worry that if they abused their daughter-in-law they would not get the land* (Male, 30-39, SC, Village 1). Two people said she would face less problems, one said she would have more power and the other said it would help because land is more important than money. The answers suggest that girls do face some problems in their in-laws home and that land ownership may lessen these problems.

3.2.2.1 Marital Breakdown

➤ *What happens to land when a marriage breaks down?*

Four of the 16 respondents (9 men and 7 women) said that women receive nothing, and three said women get half. Three stipulated that if the wife leaves her husband, she gets nothing. Even if a wife leaves her husband due to mental or physical abuse,

she may get nothing. Three said if the husband leaves his wife she would get half, though one said she would have to go to court. Three said she would receive a share if she has children. It may be the case that childless women are especially vulnerable, not only are they considered of less value by their husbands, they may also be considered of less value in their natal home.

One of the respondents remarked that she *couldn't afford to go to court for maintenance when she couldn't afford to live* (Female, SC, 30-39, Village 1). This highlights the problem of travel and opportunity costs, i.e. the cost of not working to attend the court, undoubtedly one of the deterrents that prevent poor women claiming their rights in court. One man said court cases take so long that *women end up compromising and the court sometimes doesn't give the right decisions* (OBC, 20-29, Village 2). Two women in Village 2 had been fighting for maintenance for years without success (see Box 4).

Box 4: Gender Bias in the Courts

A woman in Village 2 with two handicapped daughters, one of whom had a son, had been fighting the courts for 4 years for maintenance from her husband who had left her. Even in such a situation till date she had received nothing.

Another woman in Village 2 had been fighting for 10-12 years for

The legal sector in MP is male dominated and it would appear unsympathetic to the needs of deserted, separated or divorced women (Buch et al, 2001). As most women have no property (except perhaps jewellery), they are left in a very vulnerable position. They usually have to return to their natal home where their dependency on

their former husbands is transferred to a reliance on their male relatives. There are cases in the literature of women being treated poorly by family when they have to return home with nothing (see Agarwal, 1994).

In the first village there was some difference between the responses of those belonging to SC and OBC. Four of the 5 women belonging to SC said women get nothing, yet all 5 OBC said it was possible on certain conditions, i.e. if she goes to court or if the husband left his wife. It may be that OBC women are at least more likely to receive maintenance.

Ten of the 12 respondents who said women would get a share of land under certain circumstances were asked how this would happen in practice. Five said she would have to go to court whilst the other 5 gave different reasons (see table 5).

Table 5: Responses – How Would Women Receive a Share of Land Following Marital Breakdown?

ANSWER	FREQUENCY
She would have to go to court	5
She would have to live with her in-laws	1
She would have to live in her husband's house	1
She could employ someone else to work on it or could have a partition in the house	1
She would have to live there and when son grew up he could manage the land	1
They would split the land	1

The response of 'she would have to go to court' does not explain how the land could be divided. It was clear that none of the respondents really knew how division of land would happen. This is perhaps indicative of two factors: women don't get a share in

practice and finding a practical way of actually dividing land is very difficult. In practice then, as the women in Gupta's (2002) study pointed out, there is still no known way of dividing land after marital breakdown.

5.4 Different Rights: Joint Vs Independent

3.2.2.1 Joint Rights

➤ *What do you think about joint rights?*

No female respondents and only 2 male respondents had heard of joint rights in government allotted (or other) land. Once explained, only 2 of the 33 respondents (14 women, 19 men) felt they were a bad idea. These 2 men said with joint rights women would control men. The remaining 31 respondents thought it was a good idea (see table 6).

The majority thought joint rights were good as they would confer equal rights and because both husband and wife could decide about selling. More specifically, 3 respondents said a husband couldn't sell if he has a drinking and/or gambling problem. Independence following husband's death was a popular response given by women (5 responses), both after the husband's death as well as upon marital break-up. The rest of the responses varied greatly (see table 6). All the responses show that men and women are aware of women's inferior control over land. The responses also show people's (women's in particular) fears, for instance that women might be exploited after husband's death, a husband might take another wife and leave her with nothing or that the husband may sell the land.

Table 6: Responses – What Do You Think About Joint Rights?

ANSWER	FREQUENCY
Equal rights	8
Both husband and wife would decide about selling	8
Good	4
If husband dies they can easily become independent	4
Husband can't sell due to drink or gambling problem	3
Good if husband dies	2
Good but would have to be equal rights	1
If husband brings another wife will still have rights on land	1
If husband abuses his wife he may do so less	1
Wouldn't have to face problems of having to give money to patwari for transferring entitlement	1
Conflict between mother and sons wouldn't occur	1
If husband dies no-one can exploit her	1
If husband abuses wife she can claim her rights and become independent	1
It would be easy to have land in her name after husbands death	1
If someone dies there will be no quarrels	1
One person can't dominate the other	1
Divorce would be less as husband wouldn't leave wife	1
Doesn't matter because wife will get the land if husband dies	1
It would be easy to have land in her name after husbands death	1

Eight of the respondents were asked if they thought joint rights would give women more control¹³. One said it would because a wife could stop her husband from selling the land whilst another said she would have more decision-making power if the relationship was good. The remaining 6 said there would be no change, though 2 said the husband could not evict his wife from the home. One person said there would be no change as the husband would still plough and the wife would continue to do the same types of work. Another said the husband would still have more rights in practice, despite equal rights in law. The rest gave no further explanation.

¹³ Once again control was explained in terms of decision-making where it was not understood.

Some of the respondents who thought joint rights were a good idea as they would bring equal rights, said there would be no change in women's role or in their control. Rights were then not seen as synonymous with control. The only right people felt women would actually possess was that over selling, however sale of the joint entitlements issued in MP is not allowed. This benefit then would not accrue.

Whilst no joint entitlements were given in either village, the participation of women in the process of gaining such entitlement is uncertain. Mazumdar (1997) found that Revenue Officers in MP were unaware if women knew of these entitlements, as they were never able to speak to them. Similarly, if a meeting regarding the filing of applications for joint entitlements in a nearby village is atypical, their participation seems unlikely (see Box 5).

Box 5: Women Listen From Behind the Scenes

I went to a nearby village where joint entitlements were soon to be given. The Patwari was finalising the list of applicants for the entitlements. The Tasildhar arrived to confirm that the applicants were who they said they were and that they were landless. Confirmation was to be done with the Sarpanch who in this village was female. Her husband arrived in her place however, unquestioned by the Tasildhar, and gave the confirmations instead.

A striking feature of this meeting was that there were no women present,

3.2.2.1 Independent Land Rights

- *What do you think about independent land rights for women?*

The idea of independent land rights needed explaining to some interviewees, suggesting that people may not have thought of independent rights for women. Out of the 32 respondents (15 women, 17 men), 2 men said it depended if the woman had a ‘good mentality’, 1 man said independent rights should be given but women cannot manage land alone, and 1 man said it would be a long time before it happened so he couldn’t say. Seventeen people thought that independent rights were good (11 women, 6 men), 3 people gave no explanation. The explanations that were given as to why independent rights would be beneficial are shown in table 7.

Table 7: Responses – What Do You Think About Independent Land Rights for Women?

ANSWER	FREQUENCY
No-one can dominate another	4
A woman would have independence when husband dies	3
A woman would have independent rights	1
If a man takes another wife the woman can still keep the land	1
If land is in the husbands name and the son gets control he may mistreat her	1
The husband can’t sell the land	1
Both husband and wife would have more freedom	1
Women won’t be dominated	1
Women don’t have to depend on men financially	1
It will mean equal rights	1

The two most frequent answers: ‘no-one can dominate’ and ‘independence’, were similar to those given in support of joint rights. Answers again reflect people’s (especially women) fears, such as a son gaining control of land and mistreating his mother and a husband taking another wife, leaving her with nothing. Land is therefore thought by some to alter bargaining power.

One women could see no difference between joint and independent rights and thought there was no need for either saying *whilst a woman’s husband is alive, he can do*

everything (female, OBC, 40-49, Village 2). This was surprising coming from a woman who, since her husband had become mentally ill, had to manage the land alone.

Seven people, (1 woman, 6 men) felt independent rights were a bad idea (see table 8).

Table 8: Responses – Why Independent Rights are a Bad Idea

ANSWER	FREQUENCY
It could cause disputes	4
The wife may sell land and leave	4
The wife may not respect her husband	1
The wife may abuse and exploit her husband	1
It will spread more distance between husband and wife	1
It may cause a disturbance in joint family	1

The main reasons given were that women having independent rights could cause disputes and that the wife may sell the land and leave. In this instance the answers are more demonstrative of men's fears. Control over land is again tied up with power and respect. Abuse and exploitation were seen to be negatively correlated with ownership of land.

Twelve of the respondents (7 women, 5 men) were asked whether they would prefer joint or independent land rights, and why. Two said they could see no difference and 7 said they prefer joint rights (5 men, 2 women). The reason given by 1 woman was that she wanted *unity and sharing in her home* (OBC, 20-29, Village 1). The second woman preferred joint rights because she depended on her husband for *outside proceedings and for talking to those outside the village* (SC, 40-49, Village 1). The reasons given by men for preferring joint rights were that independent rights would cause disputes (2 responses), joint rights would give equal control (2 responses) and because a wife may exploit her husband if she has independent rights (1 response).

Five respondents (all women) said they prefer independent rights (see table 9).

Table 9: Responses – Why Independent Rights are Preferred to Joint Rights

ANSWER	FREQUENCY
Prefer independent to joint rights	2
More independence	2
Could choose more freely where to live	1
In case of dispute a wife can make independent decisions	1
The husband can't control the land	1
Under joint rights a man could take another wife and give her some of the land	1

The main reason given was independence. The feelings expressed on joint and independent rights show that the majority of women prefer independent rights and the majority of men prefer joint rights.

As was discussed in section 2.2, the practical aspects of independent rights need to be discussed. Agnitori (1996), Unni (1999) and Agarwal (1998) refer to the lack of surplus land to be distributed as a major limiting factor in obtaining independent rights for women. In both villages I was informed there was no surplus land available. In this situation, independent rights are not an option.

It was discovered however that several people in the 2 villages owned land that far exceeded the surplus limit. According to Bose (2002) there are 300 000 acres of

undistributed land (ceiling surplus and bhoodan land¹⁴) in MP. At present however, loopholes in legislation, poor implementation and consequent evasion of some of the provisions exist (Vyas, 2001). If the Ceiling Act were properly implemented there would be more surplus land available to distribute. Indeed, this was actually supported by the Ministry of Agriculture (GOI, 1988, cited in NCAS, 2002). The above authors do not mention these problems but appear to accept the situation.

However even if more land was available, the State Women's Policy (1995) promoted joint rather than individual land rights for women. The remaining entitlements are thus being issued in the joint names of husband and wife at best.

A further problem remains in that much of the land declared surplus and distributed never leaves the holding family. The government is unable to ensure physical possession as the land is often in the hands of powerful communities and government officials are often from the landed classes (P. V. Rajgopal, 2001¹⁵). A study of SC and ST households also found that in eight districts of the Bundelkhand and Baghelkhand region of MP (see Appendix 2), 22,000 households do not possess proper access and control over their land as they do not possess the land titles (Bose, 2001). Lack of title can make a landholder more vulnerable to losing their land as well as ineligible for Government schemes such as credit or wells. Getting possession of land into the hands of women (and poor men) is therefore a class struggle as well as a gender struggle.

➤ *Can women manage land alone?*

¹⁴ This is land that was donated by large landholders to be given to the landless in the 1950s on the appeal of Vinobha Bhava under the Bhoodan Movement (Madhya Bharat Resource Centre, 1999).

¹⁵ See URL: www.indiatogether.org/interviews/pvr.htm

Of the 23 respondents (13 women, 10 men) one woman said if women have money they can manage land alone. One man said most women can, but not all, due to illiteracy and lack of confidence.

Twelve respondents (7 women, 5 men) said women can manage land alone, but only under certain conditions. The majority (5 responses) believe women can manage land alone with the help of wage labour, one woman was managing land alone and one said it was possible as ploughing is now done by tractor. The rest gave no further explanation.

Six women and 4 men said women couldn't manage land alone (see table 10).

Table 10: Responses – Why Women Cannot Manage Land Alone

ANSWERS	FREQUENCY
Women need men to plough	5
She can't go to call for wage labour due to household work	1
She doesn't know about fertilisers etc.	1
She is not mentally strong enough	1
Some men need to sleep in field to protect it from wild animals	1

Ploughing was seen as the major obstacle to women managing their own land (see Box 6). This shall be discussed further in the next section.

Box 6: Land Alone is Not Enough

One widow in Village 1 had 3 acres of land. She could not use the land, as she had no one to plough. She said it is not possible to sharecrop the land either as there is no irrigation and it is not protected from wild animals.

Apart from the response that *women are not mentally strong enough to manage land alone*, the other reasons given represent very real obstacles. For instance the need to sleep in one's field to protect it from wild animals would be neither socially acceptable nor safe for women.

5.5 Gender Ideology

3.2.2.1 Differences in Types of Work

➤ *Are there differences in the work that men and women are doing on land?*

Of the 14 respondents (7 women, 7 men) in Village 1, only 1 person said that women and men carry out the same tasks on land. In Village 1, all respondents said women do weeding sowing, cutting and collecting whilst men plough and where necessary apply fertilisers and manage watering/irrigation. In Village 2 only 4 of the 9 respondents (4 women, 5 men) said such differences in work occurred. Of the remaining 4, 3 said men and women do the same work except for ploughing and 1 man said women do weeding and cutting while men do ploughing and sowing.

The division of tasks did not seem as rigid in Village 2. Respondents in Village 2 owned more land in general and hired more wage labour on their land. It is possible therefore that the tasks of wage labourers are not as gendered compared with when working on own land.

Amongst landed families it was found that it is mostly men who sell produce in the market due to women's restricted mobility. Men are therefore more likely to control the money in the household.

As was shown in the previous section, women are not allowed to plough. In Village 1 where ploughing is done by the traditional method of a pair of bullocks and plough, the majority of people said this was due to an ancient tradition. In two cases however, men said they couldn't plough because they are not strong enough. The question 'what if there was a really strong women, could she plough?' was posed. The answers were that women still couldn't plough as they're not allowed. The argument against women ploughing is perhaps also an assertion of masculinity and a means of retaining women's dependency on men. One woman remarked that if women did plough *society would think what's the use of men? If women do everything it may insult men* (SC, 30-39, Village 1).

In Village 2 tractors were predominantly used for ploughing, yet women are still unable to plough. Two men said women can't plough because of tradition (though ploughing by tractor is not an ancient tradition), 1 man said women don't have the knowledge to use tractors, and another said men are not putting stress on teaching them. Reasons given by women were that they're not allowed (2 responses) and that women are not experienced in driving (1 response).

Three of the 6 female respondents to the above question in Village 1 were asked if they would want to plough. This gave some amusement, suggesting the idea was unheard of. Two women said yes and 1 woman said no because the work is too heavy. Two of the 4 female respondents in Village 2 were asked the same question. One woman said that she wanted to but that *men don't want women to come forward so they don't teach them* (OBC, 40-49). The other woman said she wanted to, but is *not getting the chance; society doesn't think it is good* (OBC, 20-29).

3.2.2.1 Decision-Making

➤ *Who makes decisions on land and in the home?*

Many of the respondents did not know what was meant by decisions on land. Examples of types of decisions such as who decides which fertiliser to use and what to plant were given. With the exception of 4 men who said joint decisions were taken on land, both men (8) and women (12) said the husband makes most of the decisions on land. Four of the female respondents commented they have to ask their husbands for all decisions. 1 man said *women are dependent on men, men make the decisions in the field and in the home and that women need the permission of their husband or father-in-law to do something* (SC, 50-59, Village 1). Similarly 1 women said *the husband makes decisions in the field because he earns money, in the home the husband also makes more decisions, if I want it go anywhere or buy something I have to ask my husband* (SC, 40-49, Village 1).

Whilst having some decision-making power in the home, women seem to have little control over land in terms of the decisions that are made.

5.6 Gendered Mobility

3.2.2.1 Differences in Spatial Mobility

Women are not allowed to leave the village alone or without permission, this is especially the case amongst women belonging to OBC and General Castes. In the case of the latter, mobility outside the home is also restricted. As shown this infringes on women's ability to manage land.

3.2.2.1 Differences in Social Mobility

Both villages practice veiling. Women are not allowed to show their faces to any man except their husband and are restricted from talking to men other than family members. In the case of women belonging to General castes the fact that they cannot leave the house without permission also restricts their ability to speak with other women. For example one Brahmin woman had to ask her husbands permission before being interviewed.

This together with hindered spatial mobility may affect women's knowledge of legal rights as well as their confidence in talking at public meetings and with officials.

5.7 *Perceptions of Problems Faced by Women*

➤ *Does lack of ownership of land cause women any problems?*

Only 3 (1 woman, 2 men) out of the 17 respondents (12 men, 5 women) said women face problems because of lack of ownership. One woman said that the male side dominates, women have to go out for wage labour and they have no control over agricultural land. One of the men said women couldn't obtain a loan and the other said women face problems in in-laws homes because of lack of ownership. The remaining 14 said no. Eleven people gave no further explanation; the other 3 gave the following reasons:

- *She can claim in courts if she wants to* (Male, OBC, 30-39, Village 1)
- *Men provide everything* (Male, 30-9-39, OBC, Village 1)

➤ *What's mine is hers* (Male, SC, 60-69, Village 2)

Four of the 5 women said lack of ownership did not cause them problems. It is interesting to note that 3 of these women thought joint and independent rights were a good idea as they would give women more independence and reduce exploitation. Despite this, these women did not relate problems of exploitation and lack of independence to a lack of ownership.

➤ *What are the main problems faced by women in this village?*

It was thought problems faced by women would arise in the natural course of the interviews. Nearing the end of the two-week period in the villages it was apparent that this was not the case and the question was then explicitly asked, but only to 6 people.

Of the 6 respondents (3 women, 3 men) one woman said she didn't know. Two men said that lack of freedom to leave the village was women's main problem and another man said it was not being able to talk to anyone except their husband. One woman said the main problem was that the cost of Sari's was going up whilst profit from selling rice wasn't. Another said that lack of education and knowledge was their main problem, adding that women don't go out to talk to officials. If women go out, society thinks badly of them. Furthermore she said women have a lack of knowledge of laws and what's going on outside as they only leave the village every 6 months. She felt if more women could read they would know more about their rights (Female, SC, 20-29, Village 2).

The main problem was seen as restricted mobility. Lack of land ownership was not mentioned.

➤ *Which is the most important asset for women and why?*

Of 22 respondents (10 women, 12 men), 15 mentioned land as one of the most important assets. Nine (5 women, 4 men) said a women's husband was one of the most important assets. This may be because women's access to resources is mediated through husbands.

House (4 responses), jewellery (2 responses) and household items (1 response) were also seen as important. It must be noted however that some of the respondents did not understand what was meant by asset and the interpreter gave examples. This may have influenced the responses.

Several reasons were given to account for these answers. These, together with the combinations of assets seen as most important for women are shown in table 11. Land was obviously seen as very important for women, mainly because of the need for food, but also for security and independence. Most people therefore recognised that women have a need for land, be it access or ownership.

Table 11: Responses – Which is the Most Important Asset for Women and Why?

ANSWERS	FREQUENCY
Land	5
Land because it gives food which is the most important thing	3

Husband	3
House and husband	2
Land because it is needed for security	1
Land because they are uneducated so can't do anything else	1
Land for independence	1
Land, house and jewellery, for support at time of emergency	1
Land, property and husband	1
House	1
Independence	1
Husband, land and jewellery	1
Household items	1

5.8 General Problems

This section covers land related problems that were observed or expressed in the villages.

3.2.2.1 Poverty

There are several factors relating to poverty. The poor have less land and most are engaged in wage labour as well as working on their own land (if they own any) in order to earn sufficient income. It may be harder for poor landless wage labourers to make land productive as many people, (SC in particular) appear to be living 'hand to mouth'. Without credit facilities it would be difficult for them to find the outlay money for the necessary tools and inputs. Access to land is difficult for poor men as well as women.

It was discovered that wages differ for men and women on and off land. This will affect poor, mostly SC women, as they are the ones engaged in wage labour.

Finally, several people complained that government officials (Sarpanch, Patwari, and Tasilhdar) do not want to listen to the problems of the poor. One woman said that they don't want to listen to women's problems in particular.

3.2.2.1 Corruption

Three people suggested it is easier to get land if you have money to give government officials. The husbands of two women had given Rs 100 to the Patwari for help with obtaining land, which he readily accepted. This suggests that land may not always be given to those most in need.

The implications of these findings are discussed in the next chapter.

6 Implications

This study has produced a diverse range of findings. Whilst all of these findings warrant further discussion, this chapter focuses on the ways in which the various forms of rights affect women differently depending on land status and caste. This focus is due to the neglect of this aspect of women's land rights in the literature, as well as its important implications.

Lack of land ownership raises a number of concerns for women's security and autonomy. Women are socially and economically dependent on men, a situation that continues throughout a women's lifecycle. This prescribes them less bargaining power, but despite this, the women interviewed do not make a connection between these problems and a lack of land ownership. This suggests women may not have considered owning land and/or may indicate other problems take precedence. Women belonging to families with land have not come forward to claim their legal rights in the two study villages, as elsewhere. Long-term research is needed to establish the reasons for this; is it due to socio-cultural norms and fear of social sanctions, or is it because they have other priorities or because they face the reality that the prospect of land ownership is remote at best for some women?

Ownership rights do not automatically confer control. The taboo against women ploughing (despite the use of tractors) and the practice of exogamous marriages are two of the biggest obstacles preventing women from exercising control over land that they do or could own. The ability to manage own land may differ along caste lines. For example whilst socially it may be easier for SC women and to a lesser extent

OBC women to manage land alone than it would be for higher caste women, economically it would be more difficult.

Changes in inheritance law, leasing law and land reform policy need to be made, but it must be recognised that these laws affect women differently depending on their caste and land status. The distinction between which women will benefit from the different types of land rights has not been made.

Inheritance of land will only affect those women whose husbands or families have land to begin with. Similarly creating equal rights to husbands land will not affect the landless. Only government distributed land holds potential for landless women, who are largely SC and ST women, but this land is in short supply. There is no single strategy for tackling women's lack of land rights, as women are not a homogenous group. Changes to leasing laws are perhaps the only measure that could assist both the landless and the landed.

Changes to the Hindu Succession Act are needed to prevent the rights that do exist from being 'willed away' through unrestricted rights of testation. Co-parcenary rights should be extended to daughters from birth in order for them to inherit in equal share with sons (as recommended in the MP Women's Policy). However daughters' rights, whilst less than those of sons, already exist and are known, yet women still do not inherit in practice. Whilst equality must exist in law, change in societal attitudes and practices at all levels are critical in enabling women to claim their rights. Whilst dowry continues to be practiced for example, it will be used to deny girls their share of inheritance.

Joint rights to husbands land are likely to be met with much resistance due to the perception that women will gain twice as much as men through having shares in parental *and* marital land. This type of rights may be possible in certain situations, for example when they are linked with economic benefits, as in the case of SEWA's schemes where joint titling of land took place alongside loans obtained from women's savings and credit groups (see Unni, 1999). They are unlikely to gain acceptance otherwise however.

Women gaining rights in government distributed land is perhaps the most feasible as it poses no threat to ancestral land, the most precious form of land. Yet these rights exclude asset-less women whose husbands own land and those of higher castes who are also vulnerable following marital breakdown or widowhood. The possibilities even for SC and ST women of gaining these rights are limited due to the lack of surplus land.

In some regions, rights to government allotted land may no longer be a possibility. Land can only be distributed to women in their own or nearby villages where there may be no land declared surplus, as was the case in the two study villages. The geographical distribution of this land must be examined. Some areas may still have much to be distributed while others may not. Whilst proper implementation of the Ceiling Acts may increase the amount of surplus land available, it will still be insufficient. Campaigning is necessary to ensure the remaining land is allocated in women's names as independent rights will confer the most benefits in terms of security and control. In MP however there is no organisation or movement at present willing to take on this agenda. Unless state governments are pressured soon, it will be

too late as land will have been distributed in joint names at best. Given the lack of land markets in rural areas (Agarwal, 1994), once there is no surplus left, where will the land in which landless women are to have rights in come from? Clearly land ownership cannot be seen as the only solution. Examples of women taking over areas of wasteland are possible alternatives (Nandi, 1999), but not all land problems can have land solutions (Thakur, 2002).

A related concern is if little surplus land exists then the women's land agenda will largely benefit OBC and higher caste women, possibly creating new imbalances of power and new forms of domination amongst women. The complex interplay of gender, caste and class must be examined further.

Changes to the leasing laws are vital in terms of increasing the rights of married women to lease out land. This would help those with land to retain it, even from another village, and those who are landless to gain more access.

Legal changes will be of no use however without implementation and a change in social attitudes. Similarly a change in social attitudes may not be sufficient without legal change. All areas must be addressed simultaneously.

Given the scale of the constraints, without mass support little may happen. Rights based approaches alone are unlikely to work. Those linked to economic schemes, as in the example of SEWA of linking women's land rights with economic gains for the family, may have more success.

In areas where it is possible for women to gain independent rights, these avenues should be pursued. However as aforementioned, ownership alone may not dramatically increase women's bargaining power. Both in areas where women do have access to land, but more especially in areas where they do not, complementary and alternative ways respectively, of increasing women's bargaining power and fall-back position must be found.

7 Conclusion

Land rights are undoubtedly important for rural women in India. That does not however mean they are possible for all women. One strategy cannot be pursued for all, neither can it be formulated as part of an abstract agenda removed from the complex realities of different women's lives. Strategies must include the different needs, wants and possibilities of different women they seek to 'empower'. Where avenues exist for women gaining land rights and where women want such rights, steps should be taken. However in the absence of such possibilities other ways of improving women's fall-back position must be found. Only then will the gender gap begin to be closed.

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9 Appendices

9.1 Appendix 1: Constitutional Framework for Gender Equality

- Article 14: Equality before Law
- Article 15 (1): State may not discriminate against any citizen only on grounds of religion, race, caste or sex
- Article 16: Equality of opportunity in employment
- Article 39(a): Equal right to livelihood
- Article 39(d): equal pay for equal work
- Article 42: State to ensure just and humane conditions of work and maternity relief

(Source: UNESCAP, 2002).

9.2 Appendix 2: Ekta Parishad

Ekta Parishad was born as a mass movement out of necessity. Localized work by various voluntary agencies working in different regions could not get the desired policy reform necessary to create self-reliant communities. In 1990, therefore, a few voluntary organizations working on Gandhian principles of social agitation and constructive work came together on a common platform to deal with socio-economic issues which came up during the course of their work among adivasis and other marginalized communities. Over the years Ekta Parishad was shaped as a mass movement raising its voice against mindless exploitation and the corrupt practices of the government.

It was formally inaugurated in Madhya Pradesh in 1990 but it was based on work that had started since 1978. Recently it has been coming up in two other states, in Bihar and Orissa, and gradually it is getting constituted in Jharkhand, Uttar Pradesh and Tamilnadu. It is attractive to people as a form of social organization because there is a vacuum left by political parties and people are looking for other channels for representation.

One of Ekta Parishad's hallmarks has been its promotion of women's participation in the change process. Currently Ekta Parishad has an Rastriya Ekta Mahila Manche ("National United Women's Forum"). An important achievement has been to create local women's leadership representing the needs and aspirations of the poor and the marginalized. This is what Ekta Parishad means when it says that it is working from "the ground up".

Source: Ekta Parishad, 2002

9.3 Appendix 3: Checklist of Questions

N.B. Questions asked are dependent on persons marital status, e.g. married, divorced, separated, widowed, female-headed household and were altered accordingly.

- General questions about age, family, children etc
- What do have you been doing today. What did you do yesterday (land and other)? Is this what you do most days? What about your husband/wife, what does he do?
- Are there differences in the work done by women and men?
- Do you own land, how much land do you have, do you have entitlement of your land? *(to be asked to all women)* **If yes:**
- Who owned the land before you? (is it inherited land, and from whom, distributed government land etc?).
- How long have you had the land for?
- Whose name is the land under?
- **If no:**
- What access do you/your wife have to the land? What rights do you/your wife have to the land? Do you use any other land?
- Are there any differences in the work men and women do on the land?
- What control do you/your wife have over the land?
- What decision-making power do/your wife you have in the home/on land?
- Does lack of women's ownership create any problems for women?
- What about do you think about joint pattas?
- What do you think about independent pattas for women?
- Can women inherit land?

- What happens to the land in cases of marriage breakdown?
- What happens to land if husband dies?
- Which is the most important resource for women, and why?
- Does lack of ownership cause women any problems?