



Gender Equitable Land Governance in Odisha

A study by:

NRMC

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LIST OF ABBREVIATIONS

ARI	Assistant Revenue Inspector
BPL	Below Poverty Line
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CRPs	Community Resource Persons
CSO	Civil Society Organization
CBOs	Community-Based Organizations
DLVC	District Level Valuation Committee
FAO	Food & Agriculture Organization
FGD	Focus Group Discussion
FRA	Forest Rights Act
GELG	Gender Equitable Land Governance
GKP	Gramkantha Paramboke
GOI	Government of India
GOO	Government of Odisha
HSA	Hindu Succession (Amendment Act), 2005
IAY	Indira Awaas Yojana
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICRW	International Centre for Research on Women
IFAD	International Fund for Agricultural Development
ITDA	Integrated Tribal Development Agency
JFM	Joint Forest Management
LGAF	Land Governance Assessment Framework
MDG	Millennium Development Goals
MGNREGS	Mahatma Gandhi National Rural Employment Guarantee Scheme
MVG	Market Value Guideline
NALSA	National Legal Services Authority
NGO	Nongovernmental Organizations
NLRMP	National Land Record Modernization Program
OAS	Odisha Administrative Service
OGLS	Odisha Government Land Settlement
OLR	Odisha Land Reform
OPLE	Odisha Prevention of Land Encroachment
OSATIP	Orissa Scheduled Areas Transfer of Immovable Property
OSPGW, 2014	Odisha State Policy for Girls and Women, 2014
OTDP	Orissa Tribal Development Program

OTELP	Odisha Tribal Empowerment & Livelihoods Program
OTFP	Other Traditional Forest Dwellers
OWM	Odisha Watershed Mission
PESA	The Panchayats (Extension to Scheduled Areas) Act, 1994
PR	Panchayati Raj
PRIs	Panchayati Raj Institutions
PVTGs	Particularly Vulnerable Tribal Groups
R & R Policy, 2006	Resettlement and Rehabilitation Policy, 2006
RDM	Revenue & Disaster Management
SC	Scheduled Caste
SDG	Sustainable Development Goals
SECC	Socio-Economic and Caste Census
SHG	Self Help Groups
SLSA	State Legal Service Authority
ST	Scheduled Tribe
UN	United Nations
UNHR	United Nations Human Rights
USAID	United States Agency for International Development
VGGT	Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests
VSS	Van Suraksha Samiti
WNOs	Woman Nodal Officers
WSC	Women Support Centre

GLOSSARY OF TERMS

Amin	Field surveyors under Revenue Inspectors.
Anganwadi	A government sponsored mother and child care center in India. The word literally means "courtyard shelter" in Hindi. The program was started by the Indian government in 1975 as part of the Integrated Child Development Services program to combat child hunger and malnutrition.
Benchmark Valuation	The estimated value of property per acre. It is revised biennially by the district administration.
Cadaster	A set of land records showing the size, value and ownership (or other basis for use or occupancy) of land. It precisely describes and identifies each particular piece of land and acts as a continuous record of rights to land. The scale of cadastral Maps is 1:500 to 1:10,000.
Common Land	It includes 'wastelands', grazing lands, and certain types of forestland. Commons account for an estimated 20 percent of Orissa's total land area.
Community Forest Rights	Community forest rights (CFR), are traditional rights of the tribal and forest dwellers on forestland, recognized under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, better known as the Forest Rights Act (FRA).
Customary rights	Established, traditional patterns and norms that can be observed within a particular socio-cultural setting.
Differential Global Positioning System, (DGPS)	An enhanced Global Positioning System that uses a network of reference stations established at known locations, to broadcast the difference between the positions indicated by the satellite systems and the known fixed positions.
Electronic Total Station (ETS)	A modern surveying instrument. It is an optical theodolite combined with an Electronic Distance Measurement (EDM) instrument and a mini computer, which is helpful in collecting data about distance, angle and height.
Gender Equitable Land Governance	A form of governance of land tenure that seeks to improve governance of tenure [...] for the benefit of all, with an emphasis on vulnerable and marginalized people, with the goals of food security and progressive realization of the right to adequate food.
Government Land	Under the Orissa Government Land Settlement Act, 1962, Government land means any waste land belonging to the Government, whether cultivable or not, recorded as house site, <i>Anabadi</i> , <i>Chot Jungle</i> , <i>Puratan Patit</i> , <i>Nutan Patit</i> , <i>Parityakta Bedakhali</i> , <i>Gochar</i> or by any other description.
Gram Nyalayas	A village court for speedy and easy access to the justice system in rural areas of India; regulated by the Gram Nyalayas Act, 2008.
Gramakantha Paramboke land	Community titled land, a legacy of the colonial Madras presidency. At this time surveys of agricultural land opted to count entire village sites as one single plot, excluding residents of these villages from any individual record of rights to that land.
High Resolution Satellite Imagery (HRSI)	High-resolution satellite imagery is a viable source of imagery for spatial data generation. Half-meter to 1m resolution HRSI has the potential to be used for topographic map compilation and 2.5m stereo imagery could be employed for

	DEM generation and for mapping in more remote, non-urban and non-agricultural areas.
Homestead land	Any land, whether recorded or not as such, ordinarily used as house site, ancillary or incidental to agriculture.
Homesteadless person	Defined under the Odisha Prevention of Land Encroachment Act, 1972 as a person who, together with all the members of his family who are living with him in common mess, does not have any homestead land anywhere in the State and owns less than one standard acre of land other than homestead and whose total annual income, together with the annual income of all the members of his family living with him in common mess, does not exceed rupees forty thousand or any amount which the State Government may, by notification from time to time, specify in that behalf.
Industrial park	A portion of a city that is zoned for industrial use (as opposed to residential or commercial use).
Joint Forest Management	It involves the regeneration and conservation of forests through the involvement of village communities in association with the state forest departments.
Khasmahal land	Mahals held under Khas which are treated as Government estates and the rent of which are payable under Section 3 of the Bengal Land Revenue Settlement Regulation, 1822 or under section 4 of the Bengal Land Revenue Settlement Regulation, 1825.
Land Commission	The Land Commission constituted by the Government under section 53 of the Odisha Land Reforms Act, 1960.
Landless person	Defined under the Odisha Prevention of Land Encroachment Act, 1972, as a person, the total extent of whose land excluding homestead together with the lands of all the members of his family who are living with him in common mess, is less than one standard acre and whose total annual income of all the members of his family who are living with him in common mess, does not exceed rupees forty thousand or any amount which the State Government may, by notification from time to time, specify in that behalf.
Legal heirs	Any person, male or female, who is entitled to succeed to the property of an intestate under the Hindu Succession Act, 1956.
Lok Adalats	A specific type of people's court in which disputes are resolved by direct talks between the litigants. Organized under the Legal Services Authorities Act, 1987.
Minor Forest Produce	All non-timber forest produce of plant origin including bamboo, brushwood, stumps, canes, tasar, cocoon, honey, waxes, Lac, tendu or kendu leaves, medicinal plants and herbs, roots, tuber and the like.
Mutation	Refers to the amendment of state records to reflect a change in ownership or other rights in land through sale, purchase, gift, inheritance or mortgage.
National Park	An area consisting of any reserve forest or the territorial waters with adequate ecological, faunal, floral, geomorphological, natural or zoological significance, for the purpose of protecting, propagating or developing wildlife or its environment is declared, whether under section 35 or section 38, or deemed, under sub-section (3) of section 66 of the Wildlife Protection Act, 1972.
Non-Timber Forest Produce	All biological materials, other than timber, extracted from natural forests for human and animal use. It includes plant tissue used for fiber, building material, medicine, edible leaves, roots, flower, fruit, seed, nuts, honey,

	resin, glue, lac etc. and has both consumptive and exchange value.
Panchayati Raj Institution	A decentralized type of government institution introduced in the 73rd & 74th Constitutional Amendment Act 1993.
Pani Panchayats	A Society registered under the Societies Registration Act, 1860 consisting of all the farmers within the command of a minor or sub-minor canal, or of a Lift Irrigation Point.
Paralegals	Educated and trained youth who act as intermediaries between the common people and Legal Services institutions, thereby removing barriers to access to justice.
Particularly Vulnerable Tribal Groups	The poorest of the poor groups among the Scheduled Tribes are regarded as Particularly Vulnerable Tribal Groups. There are seventy-five such tribal communities living in India, spread over 17 states and one Union Territory. Odisha is home to 62 Scheduled Tribes, of which 13 groups and subgroups are recognized as Particularly Vulnerable Tribal Groups.
Record of Rights (RoRs)	Evidence of title to or possession of land. The record of rights in land in India is presumptive, not conclusive unlike in many other countries. The titleholders are presumed to be owners of the designated land unless proved otherwise.
Registration	A system that aims to provide a public record of land ownership to protect individuals from being deceived by entering into transactions relating to properties previously disposed of, and to provide notice of the existence of certain continuing interests, encumbrances, and claims. It is governed by the Indian Registration Act, 1908, which provides for the registration of deeds in the case of transfers of immovable property including land.
Reserve forest	A fully protected land mass, duly notified under the provisions of the India Forest Act or the State Forest Acts. In Reserved Forests all activities are prohibited unless permitted. Reserved Forest is notified under section 20 of the Indian Forest Act, 1927 [Act 16 of 1927] or under the reservation provisions of the Forest acts of the State Governments of the Indian Union.
Sanctuary	An area consisting of any reserve forest or the territorial waters with adequate ecological, faunal, floral, geomorphological, natural or zoological significance, for the purpose of protecting, propagating or developing wildlife or its environment is declared, whether under section 18 or section 38, or deemed, under sub-section (3) of section 66 of Wildlife Protection Act, 1972.
Scheduled V Areas	Defined in the Indian Constitution as "such areas as the President may by order declare to be Scheduled Areas". The criteria applicable for an area to be declared a Scheduled Area are the preponderance of a tribal population; compactness and reasonable size of the area; under-developed nature of the area; and marked disparity in the economic standards of the people. It covers Tribal areas in 9 states of India namely Andhra Pradesh, Jharkhand, Gujarat, Himachal Pradesh, Maharashtra, Madhya Pradesh, Chhattisgarh, Orissa and Rajasthan. Schedule V areas in Odisha: Mayurbhanj, Sundargarh, Koraput, Rayagada, Nabarangpur and Malkangiri districts in whole, Kuchinda tehsil of Sambalpur district, Keonjhar, Telkoi, Champua, Barbil tehsils of Keonjhar district, Kondhamal, Balliguda and G.Udayagiri tehsil of Kondhamal district, R.Udayagiri tehsil, Gumma and Rayagada block of Parlekhemundi tehsil in Parlakhemundi Sub-division and Soruda tehsil of Ghumsur sub-division in Ganjam district, Thuamul Rampur and Lanjigarh blocks of Kalahandi district and Nilagiri block of Balasore district. The scheduled areas cover 44 percent of the State area.
Spatial Planning	The methods and approaches used by the public and private sector to influence the distribution of people and activities in spaces of various scales. Spatial planning can be defined as the coordination of practices and policies

	affecting spatial organization.
Special Economic Zone (SEZ)	A geographical region regulated by economic laws different from a country or a state's typical economic laws. Usually the goal is to increase foreign investments.
Standard acre	The unit of measurement of land equivalent to one acre of Class I land, one and one half acre of Class II land, three acres of Class III land or four and one-half acres of Class IV land.
Sustainable Development Goals	Sustainable Development Goals, otherwise known as Global Goals are an inter-governmentally agreed set of targets relating to international development. They include a set of 17 Sustainable Development Goals (SDGs) to end poverty, fight inequality and injustice, and tackle climate change by 2030
Transgender	A person, who does not identify with the gender assigned to them at birth. In 2014, the Supreme Court recognized them as "third gender" and under the socially and economically backward category.
Watershed	The area of land where all of the water that is beneath it or drains off of it, flows into the same place

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Executive Summary

INTRODUCTION

The FAO's Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests (VGGT), in the context of National Food Security, seeks to operationalize gender equitable land governance (GELG) for the progressive realization of poverty eradication, food security, sustainable livelihoods, social security, housing security, rural development, sustainable social and environmental development (FAO, 2012).

The homestead land grants program in Odisha, based on the idea of settling government wasteland and ceiling surplus lands upon landless persons through joint titles, has been noted as a best practice in enabling secure land tenure for women. More recently, the state has made attempts to increase women's participation in the land policy-making process and in the institutions dealing with land tenure governance, as well as enhancing their access to land dispute resolution mechanisms. Odisha has pioneered some innovative partnerships with NGOs to identify and allot homestead land to the vulnerable women groups (namely widows, unmarried women, divorced women) through women support centers.

The present study was commissioned by the World Bank to document Odisha's experience and the emerging best practices for GELG. The objective was to assess and analyse the state's efforts toward GELG in relation to the VGGT, to document the best practices, identify challenges and to suggest recommendations for policy and institutional arrangements, capacity building and strategies.

FAO's VGGT and Gender Equitable Land Governance

The *Voluntary Guidelines for the Responsible Governance of Tenure of Land, Fisheries, and Forests in the Context of National Food Security*, an internationally negotiated document adopted by the Committee on World Food Security (CFS) in May 2012, provide a framework for countries and states to establish laws and policies, strategies, and programs which clarify and secure tenure rights for the benefit of all, with an emphasis on vulnerable and marginalized people. Gender equality is one of the ten core principles of the VGGT and it intends to ensure that women and men participate equally in their relationships to land.

VGGT's Technical Guide on gender (FAO, 2013) prescribes 5 broad themes to improve gender equity, namely: policy making (gender equity), legal framework (gender sensitive legal instruments, processes and positive discrimination in favor of women), institutions (gender equitable representation), technologies (gender equity in existing systems and technologies); and communications (gender responsive strategies) to ensure *gender-equitable governance of land tenure*

This report borrows from and is structured around the five thematic areas described in the FAO technical guide "*Governing land for women and men: A technical guide to support the achievement of responsible gender-equitable governance of land tenure*" (FAO, 2013).

PARTICIPATION IN POLICY MAKING FOR GELG

Women's representation in land administration and law-making institutions (the Revenue and Disaster Management Department (RDM) and State Legislative Assembly respectively) is below 10 percent despite the state's reformative policies aimed at increasing the institutional participation of women. However, progressive land legislation, such as the Resettlement and Rehabilitation Policy, 2006 and the Odisha State Policy for Girls and Women (OSPGW), 2014, followed an inclusive and participatory policy-making process and reflect gender sensitive provisions for women's land rights. In 2015, for the first time since independence, the state appointed a lady bureaucrat as head of the RDM department.

International agencies like the World Bank and the IFAD have encouraged the state to adopt gender-equitable policies such as joint titling. Civil society in the state, led by International NGOs like Landesa and Action Aid, have played a critical role in influencing land policy making, through advocacy and research. However, their role in the policy making process is very uncertain and remains at an embryonic stage. While reservations for women in Panchayati Raj Institutions (PRIs) have recently been increased to 50 percent, from the previous 33 percent, their participation needs to be increased in the land policy-making process.

LEGAL ASPECTS AND ACCESS TO JUSTICE AND DISPUTE RESOLUTION

MECHANISMS

Odisha has introduced progressive secondary legislation to enhance and ensure women's land rights and their inclusion in decision making related to land – 40 percent reservation for women in the distribution of ceiling surplus land (2002); mandatory joint-titling under the Vasundhara scheme for allotment of homestead land (2005); women's participation in Joint Forest Management (JFM) Committees (2011); reduced stamp duty for women for land registration (proposed, 2014) etc.

State policy regarding the drafting of laws or subordinate laws, regulations and procedures does not necessarily include or invite participation and consultation. However, a trend toward this is emerging, based on positive experiences during the formulation of the State R & R Policy, 2006 and the OSPGW, 2014. Civil society also played an important role in drafting secondary legislation under the Forest Rights Act, 2006.

The Hindu Succession (Amendment) Act, (HSA) 2005, provides for equal inheritance regardless of gender, but Muslim Personal Law and the Indian Succession Act (applicable to Christians) do not, so people of different religions are treated differently. The HSA, 2005 is not applicable to Scheduled Areas, which represent 44 percent of the state area. In addition there is low awareness about inheritance laws and barely three percent of women were aware of these legal inheritance provisions (field study).

People who live in Schedule V areas, or tribal areas, are governed by customary laws that are not codified, documented, or legally enforceable, but they nonetheless influence the

land rights of men and women who inhabit these areas. The FRA 2006 makes some provision for the recognition of tribal customary tenures and the Odisha Gram Panchayat Act, 1964, was amended in 1997 to safeguard and manage the village commons or community resources, authorized under the Panchayat (Extension to Scheduled Areas; PESA) Act, 1994.¹

In addition to the formal adjudicatory system (revenue and legal institutions), alternative mechanisms for the resolution of disputes, such as mediation, conciliation, arbitration, and Lok Adalats are being strengthened to increase the efficacy of the justice delivery process. Vulnerable groups have access to free legal aid under the Odisha Legal Services Authority Rules, 1996, and the State Legal Service Authority organizes various activities to promote legal literacy.

While it is easier to allot land under the OPLE, 1972 than under the OGLS Act, 1962, the possession rates of homestead land allotted (under OPLE) to women are very low, at only 66 percent, and remain a cause for concern. The allotted land is often encroached upon and despite the use of the Odisha Prevention of Land Encroachment (OPLE) Act to repossess the land, it is difficult to restore this land to the beneficiaries. Single women are most vulnerable to non-possession.

PARTICIPATION AND REPRESENTATION IN INSTITUTIONS OF LAND TENURE

GOVERNANCE

Women are under-represented in land tenure governance institutions despite the state's continual efforts toward gender equitable representation of women in the institutional framework. Although one third of the total number of posts at different levels of land governance institutions are reserved for women, they still represent less than 10 percent of the staff in the RDM department.

RDM department employees at the village level, the Amin and Revenue Inspectors (RI), deliver land related services to the people. However, they are constrained by an increasing workload, limited manpower and a low level of motivation. Recruitment of women (as per the one-third reservation clause) to RI positions appears to improve services, as we observed through the field study.

The Women's Support Centre (WSC) program is a woman centric initiative for homestead land allocation to women in general and single women in particular. There are 76 WSCs in 4 districts of Odisha. Apart from the 50 percent reservation for women in PRIs, most local land management institutions also have reservations for women. However, in some instances, the number of women is below the mandated reservation level (13 percent of Forest Rights Committees had less than the required number of women).

Several NGOs are involved in capacity development for GELG. In partnership with the GOO, Landesa piloted the Community Resource Persons (CRPs) initiative to make the homestead land allocation process in tribal areas decentralized and inclusive. PRADAN works with SHGs, promoting agriculture-based livelihoods through group-tenure based land leasing.

¹ The State has not yet framed PESA rules following the GOI's enactment of the PESA, Act, 1996 that provides for local land governance in Scheduled areas.

Vasundhara initiated a program called Sambhavana with the district administration in Phulbani, to promote women's land rights under the FRA, 2006.

EQUITY AND PARTICIPATION IN ADMINISTRATION, TECHNOLOGIES AND SYSTEMS

The state's endeavor toward joint titling of land records goes back to the late eighties. In 1989, the GOO made joint titling compulsory for allotment of any government land. The analysis of computerized land records (including agricultural and homestead) in four sample districts of Odisha, indicates that a little over one fourth of the titles (26.5 percent) are held by women (women-only 9.3 percent or jointly, in both the spouses names, 16.2 percent). An analysis of the beneficiaries of the homestead land grant schemes indicates a higher percentage (86 percent) of titles issued in the name of women (women only 12 percent and jointly 74 percent). Similarly, 93 percent of homestead and farmland titles distributed through the CRP program were jointly titled, and 2.5 percent were women-headed households. While these are encouraging figures, the percentage of women-held agricultural land holdings in Odisha, reported by the Agriculture Census (2010–11, is only 3.3 percent in comparison to the all India figure of 12.8 percent. A robust gender-disaggregated land information system is required to carry out a comparison and harmonize these ambiguities.

The GOO has computerized textual (Record of Rights) and spatial (cadastral maps) land records and made them freely accessible on their website. It has launched e-dhaRani to facilitate the e-registration of land records, providing the option of paying stamp duty by e-payment as well as easy access to information about land valuation. However, although these portals provide equal access, they lack positive gender-discrimination. Earlier there was no provision in the paper or computerized records to enter the gender of the landowner, but it is difficult to track and monitor the status of GELG without this information. As per the instructions issued by the GOI, the state has agreed to add a gender parameter to computerized land records, prospectively. However, there are no plans to update the 14 million (approximate) existing records.

The State initiated a high-tech survey in accordance with the Odisha Special Survey and Settlement Acts and Rules of 2012. In the absence of a State Land Use Policy, spatial planning is limited to urban areas, industrial areas and conservation areas. While urban plans are sometime available through websites, other spatial planning is not adequately publicized.

SENSITIZATION, ADVOCACY & LITERACY TO SUPPORT REFORMS AND GOVERNANCE

Policies, laws or procedures are rarely publicized in Odia or in tribal languages. There is a large gap in information sharing, and consequently low awareness about distributive land reforms among stakeholders. The RDM department is a law enforcement and revenue-

collecting department and it lacks the necessary expertise and resources to communicate appropriately.

An established and elaborate institutional mechanism for spreading legal awareness exists at the tehsil, district and state levels, through the Legal Services Authority, with a special focus on 'women'. The State Legal Services Authority promotes legal literacy by organizing legal literacy camps at the district or tehsil level, mobile legal services and a Legal Aid and Mediation Publicity Centre. A cadre of paralegals (that includes women), has been successfully engaged at the sub-tehsil level, on a pilot project to promote awareness about legal issues and rights in rural areas. Despite such enabling provisions, the field study found that only 3 percent of women respondents were aware of Lok Adalats and Legal aid provisions.

The presence of civil society in most tribal areas is improving awareness levels (field study). NGOs like Landesa, Care-India, Action Aid, Vasundhara and Pragati have devised innovative strategies to communicate legal and programmatic information to rural and tribal communities, with a focus on GELG.

COMMUNITY PERSPECTIVE ON THE STATE'S OBLIGATIONS AND PERFORMANCE (TO RESPECT, PROTECT RIGHTS TO LAND FOR MEN AND WOMEN EQUALLY)

Women in Odisha perceive land rights as a form of security. They also feel it enhances self-esteem, provides social recognition and helps improve family relations. Almost two-thirds of the women interviewed for this study felt that secure land rights are an insurance and security against threats of illegal possession, displacement and future landlessness etc., in comparison to 45 percent who saw it as a means of 'livelihood'. The majority of respondents believed that secure land rights have positive effects on their self-esteem (53 percent) followed by better food and nutritional security (37 percent) at the household level.

Secure land tenure has significant influence on the vulnerable women group especially the single women group (unmarried, divorcee, widow). Our fieldwork shows that the fact of having land granted in their name changes the lives of vulnerable women: we found evidence of unmarried women getting married, widows receiving offers for remarriage, divorcees being invited back into their families etc. In the case of jointly titled land, we found that decisions regarding the land were taken together by the spouses. However, patriarchy was found to have a strong influence on the inheritance of land rights, with almost half of the women interviewed wanting their son to inherit the land.

EQUITY & PARTICIPATION IN LAND ADMINISTRATION

The state needs to strengthen the RDM department, develop their staff's capacities and make them gender sensitive, while ensuring that the office environment and service delivery process are gender friendly and equitable. Numerous vacancies at revenue offices and very low representation of women across the hierarchy, coupled with a lack of basic amenities (ladies toilets) obstruct service delivery as well as equal access to revenue

offices for women. The state needs to fill all vacancies at tehsil and RI and ARI offices, with a focus on recruiting more women.

Collaboration with PRIs and CSOs during the process of identifying single women as well as that of establishing WSCs to improve the security of women's land rights has shown positive results. These experiences encourage further collaboration with non-state actors for more inclusive governance.

As stated above, revenue offices need to be gender sensitive and equal representation of women in revenue offices may not suffice for this. More importantly, there needs to be an attitudinal change toward the inclusion and participation of women. In this context, the GOO could introduce courses on gender and land rights in the pre-service (entry stage) and refresher training programs for revenue staff.

The following figure illustrates the formulation and contents of Odisha State Policy for Girls and Women, 2014 along with VGGT modules prescribed for GELG.

Odisha State Policy for Girls & Women, 2014 : An Attempt towards Gender Sensitive Land Governance

•Policy Making

Inclusive policy making process

More representation of women in policy designing

Multi stakeholders engagement (Government officials (39), State Resource Centre for women, United Nations Population Fund (UNFP), DFID, UNICEF, Academia, Civil Society, Subject Experts (30)

•Legal

Participatory and gender sensitive legal drafting mechanism

Out of a total of 2787 people consulted in the drafting process, more than two-thirds (68%) were women.

Legal provision for allocation of Ac. 0.04 decimal of land in favour of rural socio-economically vulnerable women's groups

Provision of land leasing for women's groups at a nominal rate

•Institutional

Provision of special courses on women's land rights & related laws in the training curriculum of revenue officials (OAS & ORS)

•Technical Issues

Provision of reduced stamp duty for landed properties registered by women

Ensuring that women's inheritance rights are reflected in land records

•Communication

Land literacy programme on women's land & inheritance rights for different stakeholders

WAY FORWARD

Providing land or homestead land to landless women is only the first step forward for GELG. Having laid the foundation for this, the GOO now needs to work toward an enabling environment for and engendering access to the decision-making process. This study suggests a set of context specific actions that would help operationalize GELG in the state. As requested by the State's Chief Secretary during the State validation workshop, we have also delineated action points that could be implemented. While acting on the recommendations, the state must also engage with multi-stakeholder think tanks to make the process of integrating recommendations into the state's legal-institutional framework more inclusive and effective. As the action points highlight, a collaborative pilot project at a district or sub-district level, to implement and demonstrate reforms that would lead to better land governance, is of the utmost importance.

The following matrix contains module-wise gaps or challenges and some key recommendations for gender equitable land governance.

Table 1: Summary of observations (VGGT module wise) & some key recommendations

Module	Observations	Key Recommendations	Potential Monitoring Indicators and (Agency)
Policy Making	<ul style="list-style-type: none"> ○ Most of the state land policies are gender-neutral and lack gender-sensitive provisions. ○ Of late attempts there have been several efforts toward participatory processes such as seeking public opinion and carrying out consultations with stakeholders with regard to some specific policies (for example R & R Policy, 2006 and Odisha State Policy for Girls and Women, 2014). ○ The state has yet to make provisions for the participation of directly affected individuals and groups in the land related policy-making process. 	<ul style="list-style-type: none"> ○ Involve all stakeholders (CSOs, Private Sector, PRIs and affected communities) in the policy-making process with adequate representation of women. ○ Create adequate provision for training and sensitization workshops for legislators, government officials and other stakeholders involved in the land policy-making process. ○ Engage with media to create awareness about the need for multi-stakeholder participation in the land policy-making process. 	<ul style="list-style-type: none"> • Percentage of women from government departments, civil society organizations, private sector, affected communities and bilateral and multilateral agencies involved in policy-making bodies <p>(RDM Department)</p>
Legal	<ul style="list-style-type: none"> ○ Odisha has a number of progressive land reform laws (OLR Act, 1960, OGLS Act, 1962, OPLE Act, 1972 etc.) with gender-sensitive provisions that aim to achieve social justice in land tenure governance. ○ Odisha Legal Services Authority Rules, 1996, has provisions for free legal services (legal aid) to women. ○ The Hindu Succession Act (2005 amendment) has made daughters coparceners in their parental property. ○ The definitions of family and single women are not clear and uniform in the existing land laws (OLR Act, 1960, OPLE Act, 1962 and OGLS Act, 1972); most laws treat ‘women’ as ‘married women’. ○ Customary rights of indigenous communities (26 percent of the population; 62 tribes including 13 PVTG) are not documented. HSA, 2005 is not applicable to tribal communities. 	<ul style="list-style-type: none"> ○ Organize a gender audit of existing land laws and ensure the rights of single women (widows, divorcees, unmarried), by including provision for and a clear definition of ‘single women’ under the relevant land laws (OLR Act, 1960, OPLE Act, 1972 and OGLS Act, 1962). ○ The RDM Department needs to execute a notification for <i>suo moto</i> mutation of all holdings to include the name of the daughters along with sons ○ Execute notification for the implementation of the provision for a reduced stamp duty for registration of land in the name of women, as per OSPGW, 2014. ○ Recognize land rights of transgender people. 	<ul style="list-style-type: none"> ○ Number of notifications or circulars for <ul style="list-style-type: none"> • Review of land laws from a gender perspective • inclusion of daughters’ names in land records • reduced stamp duty • Number of gender-sensitive amendments in relevant land laws <p>(RDM Department)</p> <ul style="list-style-type: none"> ○ Policies, circulars, notifications for identification and allotment of land to transgender <p>(Department of Social</p>

Module	Observations	Key Recommendations	Potential Monitoring Indicators and (Agency)
			<i>Justice and Empowerment of PWDs, RDM department).</i>
Institutional	<ul style="list-style-type: none"> ○ The State has adopted ‘reservation’ as a strategy (50 percent reservation for women in PRIs and Executive Committees under JFM; and one-third reservation in government jobs etc.) to make the land administration gender sensitive. But the presence of women remains nominal (less than 10 percent) at various levels of revenue administration. ○ High number of vacant posts coupled with inadequate infrastructure (for example electricity, toilets) and computer skills among the staff affects service delivery and quality. ○ There have been institutional innovations in terms of partnerships with civil society and the community (Women Support Centre, Sambhavana etc.) to enhance land and forest rights for women, particularly single women. ○ There are few women in technical positions such as survey and mapping and this reduces the capacity to work toward gender equitable land governance in technical areas. 	<ul style="list-style-type: none"> ○ Fill all vacant posts at the revenue offices with 50 percent reservation for women to ensure the mandatory 1/3rd reservation level is reached faster. ○ Ensure an equitable engagement of women staff in technical positions such as surveying and mapping, land record management etc.); ○ Start building partnerships with CSOs, PRIs and community institutions involved in policy making, implementation including surveying and mapping, record updating etc. ○ Make additional resources available to the RDM department in the state budgetary allocations and also through separate packages or projects from the Centre or through External aid ○ Creation or augmentation of gender-enabling infrastructure at field offices ○ Follow a single-window approach and prioritize delivery of all social security support schemes (for livelihoods, housing, agriculture, pensions, etc.), along with homestead land allotments to single women. 	<ul style="list-style-type: none"> ○ Percentage of Women in the revenue offices and in technical and professional positions (surveyors) related to land governance (provision vs. actual) (<i>RDM Dept</i>); ○ Percentage of women in the grass roots level institutions (PRIs, JFMC etc.) and customary institutions (Village Councils etc,) provision vs. actual) (<i>PR, Forest, Agriculture Departments</i>) ○ Number of instances of partnership with non-state actors in policy making and implementation (<i>RDM Department</i>). ○ Percentage increase in the RDM department budget dedicated to gender- equitable provisions (<i>Finance Department</i>)
Technical	<ul style="list-style-type: none"> ○ Joint titling of land records under various government land grant schemes in general and homestead land in particular, has been an important initiative. ○ Gender disaggregated data on land records is 	<ul style="list-style-type: none"> ○ Add ‘gender’ attribute to the existing 14 million land records already in the Bhulekh database, while introducing ‘gender’ recording provisions for prospective recording in response to instructions from Department of Land Resources, Government of India. 	<ul style="list-style-type: none"> ○ Percentage of land records with gender attributes ○ Percentage of land registrations made in the

Module	Observations	Key Recommendations	Potential Monitoring Indicators and (Agency)
	<p>not maintained in the Bhulekh records (Odisha Revenue Department's land record portal hosted by NLRMP); the inclusion of a gender parameter is being planned now, the focus is on a prospective application, which may ignore all old land records.</p> <ul style="list-style-type: none"> ○ The field study shows that in homestead land grant schemes, discretionary use of legal provisions, limited attention to size of land allotted and post-allotment possession status, were hindrances to gender equity. 	<ul style="list-style-type: none"> ○ Update land Records (textual & spatial) and link them to other database like Census, BPL census etc. to make it easier to identify landless, homesteadless, single women etc. ○ Include name of wife and daughters in all new records created through online mutation, following the Hindu Succession Act, 2005 (Amendments). ○ Start introducing community-based and gender-friendly GIS-IT tools to make the survey effective and participatory. ○ Start reporting gender-disaggregated data in the RDM department annual and other reports. 	<p>name of women (using data from sub-registrar offices).</p> <ul style="list-style-type: none"> ○ Percentage of mutation cases recording land in the name of women (using tehsil level data base) <p><i>(RDM Department)</i></p>

Module	Observations	Key Recommendations	Potential Monitoring Indicators and (Agency)
<ul style="list-style-type: none"> ○ Getting the message across 	<ul style="list-style-type: none"> ○ Odisha has established elaborate institutional mechanisms at the tehsil, district and state levels to spread legal awareness through the Legal Services Authority, with provision for a focus on 'women'. However, these provisions are not widely publicized in the relevant languages and in formats accessible to all. ○ A cadre of paralegals with a fair percentage of women, has been engaged at sub-tehsil level to promote awareness on legal issues and rights in rural areas ○ There is limited coordination and convergence between government departments and civil society for awareness generation activities or efforts to approach GELG in the state. ○ There is low awareness about the new provisions of the Hindu Succession Act (Amendment), 2005 & provisions for legal aid. 	<ul style="list-style-type: none"> ○ Launch mass awareness programs to make the community well informed about their rights and entitlements related to land. ○ Make available Information, Education and Communication (IEC) materials in applicable languages (including tribal dialects), including all relevant application forms and the contact details of the concerned officials. ○ Create a cadre of trainers and resource persons among local NGOs, CBOs, and PRI members to carry out awareness generation activities. ○ Organize orientation camps and training programs for PRI/CBO (SHG, Watershed Committee, FRC, etc.) on gender and land rights. 	<ul style="list-style-type: none"> ○ Number of land policies and laws (including secondary and subsidiary) translated into Odia and at least two tribal dialects. (<i>RDM, SC ST Development Department</i>) ○ Awareness level about women's land rights and entitlements (<i>RDM, Women Department</i>). ○ Percentage of Tehsils where at least one Legal Services Authority event or activity is held (<i>Justice Department</i>). ○ Number of community members and members of NGOs and PRI members trained (<i>Department of Women</i>)

INTRODUCTION

WOMEN AND LAND RIGHTS

Women's equitable and secure access to land and productive resources is a vital link between food security, sustainable resource management, peace and security, and consequently the reduction of poverty (International Land Coalition, 2007; FAO, 2007, IFAD, 2012). Granting women inheritance rights equal to men's increases their access to physical and human capital (World Bank, 2010) while their enhanced access to productive resources could increase yields to levels 20-30 percent higher than those of men. Land ownership elevates a woman's status in the family (Bhatla, Duvvury and Chakraborty, 2006) through the complete enjoyment of other fundamental rights (UNHR, 2013), expands options in the non-farm sector (Chadha, 1992) and ensures better old age care by children (Caldwell et al. 1988). For women who are single as a result of widowhood, desertion or divorce, land remains the fall back option (Agarwal, 1997).

Despite all the legislation supporting equal rights, women's access to and control over land, mainly homestead and agricultural land, is extremely limited (GOI 2000; Agarwal 2002; Hanstad *et al.* 2004; Hanstad *et al.* 2005; GOI 2009a, Census, 2011, SECC, 2011). Women face widespread discrimination in inheritance rights, and when they access land through markets and redistributive reforms, they are less likely than men to obtain land (World Bank, 2012). Women rarely purchase land on their own because of culturally constrained gender roles and a lack of financial resources (Haque, 2012).

In recent years, there has been increased advocacy at global forums for the need to harmonize and formalize land resources for the most equitable and sustainable use in terms of economic, environmental and social desires. FAO's Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests (VGGT), intends to ensure that women and men participate equally in their relationships to land, through both formal institutions and informal arrangements for land administration and management. In the context of National Food Security, the VGGT has outlined the importance of equitable and good governance of land tenure for a progressive realization of poverty eradication, food security, sustainable livelihoods, social security, housing security, rural development, sustainable social and environmental development (FAO, 2012 and UN, 2014). The importance of 'Equal land rights of Women' has been acknowledged in the recently adopted Sustainable Development Goals (SDG).²

NATIONAL AND INTERNATIONAL OBLIGATIONS FOR GELG

The Government of India ensures its citizens the right to enjoy a range of economic, social and cultural rights, without any gender-based discrimination. The Indian constitution

² https://sustainabledevelopment.un.org/content/documents/7891TRANSFORMING_percent200UR_percent20WORLD.pdf

guarantees equality of women and men in the enjoyment of fundamental rights, which creates a need for gender-sensitive legislation.

India is signatory to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), and has also ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR).

NATIONAL INITIATIVES FOR GELG

National efforts toward engendering land governance can be traced to the eighties, primarily through Planning Commission recommendations to extend joint titles to women. As land is a state subject³, the Centre tried to achieve this by persuading the states to adopt this recommendation. The key policy initiatives indicated in various five-year plans are presented in Table 2.

<<Insert Table 2 about here>>

Table 2: National efforts toward Provisioning Land Rights for Women

Source	Provisions
Sixth Five-Year Plan (1980)	Government shall endeavor to provide joint titles to husband and wife, initially in cases of transfer of agricultural land and house sites.
Perspective Plan for Women (1988–2000)	Women’s undiluted access to land would bestow on her necessary economic independence and power and would improve her social position in the family.
Eighth Five-Year Plan (1990–95)	Underscored the need to increase women’s control over economic resources to improve agricultural production. It recommended that in the case of married women, joint titles would be desirable for productive assets, houses and housesits.
Chief Ministers' Conference held in New Delhi, in 1992	'Joint title' should be given to both husband and wife in all land distribution measures. West Bengal and Assam were the first to adopt this provision.
The Revenue Secretaries' Conference held in New Delhi, October, 2000	Emphasized that states should identify the causes of the failure of the revenue machinery to allot ceiling surplus land, <i>bhoodan</i> land and government wasteland in the name of women beneficiaries and take corrective action in a time bound manner. At least 40 per cent of land should be exclusively assigned to women and in the other cases, the allotment may be made jointly, in the name of the husband and wife.
Agricultural Policy-2000	Mentioned that efforts will be made to grant property rights in land to women wherever possible and self-help women’s groups may be encouraged to take up activities like the regeneration of wastelands. Women will be given preference in the allotment of ceiling surplus

³ The seventh schedule of the Indian constitution allocates powers and functions between the Union and the States. The Union list consists of 100 items (previously 97 items) over which Parliament has exclusive power to legislate, while the State list consists of 61 items (previously 66 items). Though States have exclusive powers to legislate with regard to items on the State list, articles 249, 250, 252, and 253 cite situations in which the federal government can legislate on these items. The concurrent list consists of 52 items. In this case if any provision of a law made by the Legislature of a State is repugnant to any provision of a law made by Parliament, which Parliament is competent to enact, the latter shall prevail and the law made by the Legislature of the State shall, to the extent of the repugnancy, be void.

	lands.
Ninth Five-Year Plan (1997-2002)	The land rights of women must be ensured. This would require an amendment of the existing legislations in some states to ensure women's rights with regard to inheritance of both land owned and also under tenancy. The government would endeavor to give joint titles to both husband and wife when distributing agricultural land and house sites. Because land reform is a state subject, the states would have to be persuaded to take up these measures

STATUS OF WOMEN LAND RIGHTS IN ODISHA

Odisha has a female population of 2, 0762,082, which represents 49.5 percent of the total population of the state (Census data 2011). Private land, including individual (agricultural and homestead) and institutional land (owned by Government Departments, endowment trusts etc.) constitutes about 9.27 million ha in the state according to Bhulekh data⁴ (LGAF, 2014). An indirect analysis⁵ of data from four representative districts indicates that on average, a little more than one fourth of the records (26.5 percent are in the name of women, (only women – 9.3 percent and joint title, husband and wife, – 17.2 percent). However, a perusal of the Agriculture Census⁶ data, 2011, shows that according to state records, only 3.3 percent of holdings are owned by women, a figure much lower than the 12.8 percent average for the country as a whole. This is largely because the Agriculture Census records actual possession and only takes agricultural land into consideration, excluding homestead land and other land not used for agriculture; for this reason it excludes a large number of joint title records as it focuses solely on the head of the household. In Odisha, the percentage of land owned by women remains less than that owned by men across all social categories, and also less than the country average (Agriculture Census, 2011).

There are 10600000 (10.6 lakh) women-headed rural households (12 percent of total rural households) in the state, of which 40 percent are landless, deriving a major part of their income from manual labor. More than 25,000 women-headed households do not have their own house, nor do these families live in rented houses (SECC, 2011).

Widowed, divorced or separated women in Odisha constitute about 9.5 percent (3,987,551) of the total population in the state, a proportion higher than the national average of 8.2 percent (Census, 2011). The state WSC initiative identified 174,000 single women through field verification in 9736 villages (out of about 50,441 villages).

⁴ Data from the Land Governance Assessment Framework, provided by the RDM Department through the National Informatics Center that manages Bhulekh. The assessment was carried out in the state in 2014 with the assistance of the World Bank. The portal is hosted by the National Informatics Center, Bhubaneswar under the guidance of the Revenue and Disaster Management Department and funded by the National Land Record Modernization Program (NLRMP); hosted at <http://Bhulekh.ori.nic.in>

⁵ Gender disaggregated data on land records are not available on Bhulekh. Our study carried out an indirect analysis of this data, the details are presented in Chapter 4: Technical Issues

⁶ In the Agriculture Census, the unit for data collection is the actual cultivator's holding; the data are collected on the basis of the *de facto* possession or situation rather than *de jure* possession; homestead lands that include habitation or are allocated from government land are excluded. Data is collected in the name of the head of the household, therefore women's land ownership is limited to 'female headed households'; the focus on the 'head' also ignores information about land distributed to women, such as joint *pattas* issued as part of a land distribution program.

STATE INITIATIVES FOR LAND ALLOTMENT

Odisha's pioneering initiatives to improve women's access to homestead land as well their inclusion in land governance institutions are well recognized. The State has made provisions for joint titling of land records during fresh allotments of homestead lands to vulnerable and landless groups. The establishment of Women Support Centers (WSCs) at the tehsil⁷ level and the engagement of Community Resource Persons (CRPs) at the village level, to facilitate the identification of the landless has also been remarkably successful over the years. The homestead land grants program in Odisha, along with the settling of government wasteland and ceiling surplus lands on landless persons through joint *patta*, are regarded as best practice in enabling secure land tenure for women. Table 3 gives a brief description of these projects, while appendix A gives details about each project.

Some of the State initiatives to identify and allot homestead land to the landless and single women are based on innovative partnerships with NGOs. Through the Community Resource Person (CRP), a GOO initiative, 93 percent of homestead and farmland titles distributed were jointly titled, and 2.5 percent went to women-headed households. Further, about 2000 single women have received land rights through the WSC. The Vasundhara scheme covered 11,500,000 (1.15 lakh) homesteadless families. By 2011–12, 0.56 million families had received settlements of houses on Gramakantha Paramboke (GKP) land⁸ from the GOO. Further, by 2014, 36,000 landless families had been provided with agricultural land for cultivation. Since the inception of the FRA in 2006, individual forest rights had been granted to 34,900,000 (3.49 lakh) tribal people by May 2015. All of these land grants are through joint titles.

<<Insert Table 3.about here>>

Table 3: Government or other agencies land related initiatives

No	Initiative	Brief description	Gender provision
1.	Vasundhara	Distribution of Government land up to 10 decimals (0.04 ha) to each homesteadless family for house site purpose. Since 1974–75.	Joint titling in case of married couples & individual titles in case of single males and females.

⁷ An Indian administrative division denoting a sub district; Tehsils are also referred to as "talukas" or "mandals" in some states.

⁸ Gramkantha Paramboke land to be used for homestead purposes is available only in undivided Ganjam (that now includes Gajapati), Koraput (Raygada, Nawrangpur and Malkangiri) and Kondhamal districts. This is a homestead land category that exists in the Madras Estates Land Act under the Madras Presidency. The rights of Raiyats (Farmers) in these areas were governed by the Madras Estate Land Act 1908 that dealt mainly with the rights and responsibilities of the occupier's ownership over farmland. The village sites or the basti area where the villagers resided, otherwise known as Gramkantha, were excluded from raiyat lands. Under the M.E.L. Act the survey of agricultural land started in these districts in the 1930s, the village sites were not surveyed and defined as a single plot for identification purposes. During the settlement, basti sites in rural areas (except in a few villages) were not surveyed, and as a result, no RORs could be issued to the villagers for their house sites in villages

2.	Rehabilitation scheme in Phailin Affected Areas (WB supported)	Rehabilitation of the homeless cyclone-hit families living in villages within five km of the coastline with both land & housing support. Started in 2013.	Joint titling in case of married couples & individual titles in case of single males and females.
3.	Land To Green Card ⁹ Holders	A homesteadless person holding a green card is eligible for 8 decimals (0.032) of land in rural areas. Since 1984.	Issue of only women titles.
4.	Gramakantha Paramboke	Regularizes individual tenure of household property, earlier under village tenure, by granting them formal documents to the land on which they already reside.	Joint titling in case of married women.
5.	Mo Jami Mo Diha (My land My homestead)	A campaign for the protection & restoration of land rights along with assured possession (especially for ST and SC). Effective since 2007.	Only possession is ensured; the title remains the same as it was at the time of allotment.
6.	Tribal Land Restoration In Scheduled Areas	Restoration of illegally transferred land belonging to STs in the Scheduled Areas of the state.	Only restoration of ownership as per earlier title.
7.	OTDP-IFAD Project	Settlement of Dongar Lands (land on hill slopes above 10 degree, earlier recorded as Government land) in tribal areas. Started in 1992.	Joint titling of land, with wife's name mentioned first.
8.	Dafayati Patta	Usufruct rights on land of about 2 acres (0.8 ha) planted with fruit plantations in tribal districts. Started in 1981.	Joint titling of land.
Joint collaboration with NGOs			
1.	CRP Program	Literate & trained village youth known as CRPs or <i>Bhumi Sanjojaks</i> are engaged to assist RIs in identifying landless people. Since 2009.	Mostly in the form of joint titles. 93 percent of titles issued are joint titles.
2.	Women's Support Centers	Identification of homesteadless single women (widow, divorcee, unmarried above 30 years) and allotment of land Since 2011.	Individual title in favor of single women.
3.	Sambhavana	Facilitation in the FRA recognition process and capacity building of women FRA title holders, PRI members and other front line workers. Since 2014.	Only for women members. Separate list of women titleholders available at the district portal.

⁹ Green card holders are those who undergo health department sponsored family planning birth control measures. They are entitled to land and other benefits from the government.

Though laudable, these efforts are not sufficient to bridge gender inequality in the land governance framework of the state. It is essential to improve the state government's initiatives and to align the state strategy with FAO's VGGT. The present study aims to assess these state government initiatives in the context of a broader gender equitable land governance strategy, as outlined in FAO's VGGT (FAO, 2012). It is based on secondary data as well as primary field research. The objectives of the study are summarized below.

STUDY OBJECTIVES

The present study is an attempt to assess the status of gender equity in land tenure governance in Odisha, following the principles of FAO's VGGT, in the context of National Food Security. The key objectives of the study are as follows:

- To discuss the present status of women in land governance in Odisha (compared with the VGGT gender framework);
- To identify and understand the challenges to achieving gender-equitable land governance;
- To determine capacity gaps in gender-equitable land governance;
- To develop a set of monitoring indicators to facilitate improved gender-equitable land governance in Odisha;
- To document and share the existing good practices in gender-equitable land governance.

The study is based on extensive consultations with key stakeholders such as Government administrators, the World Bank team, civil society, researchers and academia (the detailed methodology is provided in Appendix B). The study has been designed to achieve the following outcomes:

1. ***An agreed mechanism to monitor GELG in Odisha through an established set of indicators:***

Odisha's appreciable progress in ensuring GELG in homestead land allotment requires regular monitoring, as does the entire land governance framework, to facilitate effective and expeditious transition to GELG through informed decision-making.

2. ***Improved understanding of challenges to achieving GELG in Odisha along with a strategy for addressing capacity-building needs related to these challenges:***

Existing land governance processes, including policy making, legal and institutional frameworks, technical methods and communication methods, all have challenges and gaps that need to be addressed to achieve GELG in the state. Strategically, the right kind of capacity building to enable gender-inclusive policy making, a gender-equitable legal and institutional framework and a gender-sensitive and participatory technical and communication process would ensure the desired governance.

3. ***A dissemination strategy for collated best practices on gender-equitable land governance:***

Pilot projects initiated by the state for gender equitable homestead land rights allocations have provided critical insights and learning for policy and practice. Correct dissemination of these experiences, even within the state, can trigger gender-sensitive follow-up action. This knowledge and learning also has potential application in other settings.

The study is hence organized to deal holistically with the mainstreaming of gender issues in the state, with an aim to achieving more gender-equitable land governance. It presents and discusses the status of the state's legal and institutional framework and administration and management processes, in comparison to the gender provisions of the VGGT, and reveals challenges and gaps, while trying to delineate capacity-building needs and potential monitoring indicators.

While the scope of the study as per the Terms of Reference was limited to an assessment of GELG in homestead lands, this report covers the whole landscape of rural land including agricultural and forest land, along with issues of inheritance, customs and religion. Issues related to fisheries however, have not been covered.

METHODOLOGY

The study follows a hybrid methodology comprising desk research, thematic group consultations and fieldwork. The field study included structured and semi-structured interviews with key stakeholders, namely women land rights holders, government officials, academia, legal experts, NGO facilitators and PRIs and women groups.

Desktop Review or Secondary data collection

A rigorous review of the legal and institutional framework in the state was undertaken to screen for gender equity elements, and included the following:

1. Land Governance Assessment Framework (LGAF) background information repository, Context Analysis and Panel Reports;
2. Secondary data regarding the relevant state government schemes, namely land grant or possession and restoration schemes (for example Vasundhara, Mo Jami Mo Diha, etc.), Women's Support Centers and other GO or NGO initiatives in the field;
3. Published (including internet) or grey literature related to the state's legal and institutional framework, critiques and other reports, court cases, and newspaper articles;
4. Land records (extracted from the Bhulekh Portal) from selected districts (tribal, rural, urban) using IT tools.

Fieldwork

The purpose of the fieldwork was to

- Review the process of land rights allotment or recognition and post land rights situations and the implications of these for women, through various schemes

involving homestead land allotment (Vasundhara, GKP, Land to Green Card holders, Rehabilitation in Phailin affected area), *Dafayati patta* or usufruct rights in IFAD-OTDP, land encroachment regularization through OPLE, tribal land restoration in scheduled areas through OSATIP, forest rights recognition through FRA, inheritance issues including HSA and mutation and land leasing through women groups;

- Document good practices and analyse the institutional frameworks of the new initiatives such as the WSC and Sambhavana;
- Validate and examine land rights for women in various situations, within different geographies and socio-economic contexts: tribal, coastal etc.;
- Analyse institutional and legal access for women and arrangements to provide legal services and remedies for enforcing land rights;
- Study stakeholders' involvement in and perceptions about enhancing women's land rights;
- Appreciate issues related to the Hindu Succession Act, post-amendments.

Sample Size and Sampling Methodology

The field study follows a purposive stratified sampling method. Six districts were selected covering coastal and tribal areas, with and without NGO collaboration, and also according to the type of land rights programs (homestead, agriculture and forest). From each selected district, 1–3 blocks were selected, with a total of 15 blocks. Within each selected block about two villages were chosen for the fieldwork, based on the availability of local contact persons and villagers, hence, the study covers 6 districts, 15 blocks and 26 villages.

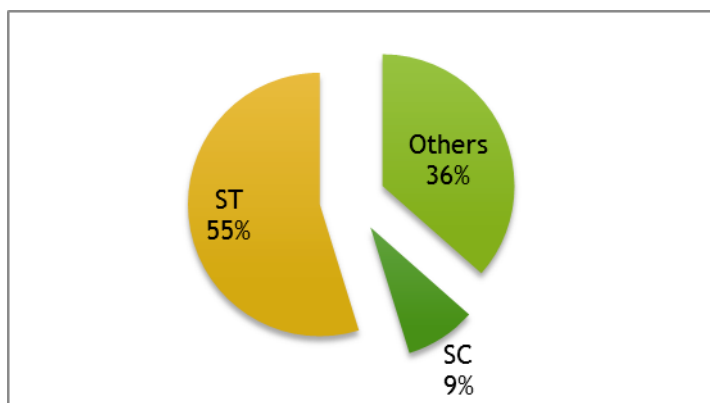
In the study villages, in-depth interviews were conducted with targeted women and focus group discussions (FDGs) were held with women's groups. One hundred and fifteen tribal and non-tribal respondents were interviewed, covering different social categories of women, and different land grant schemes. Besides, FDGs were conducted with eight Self Help Groups (SHGs) and two Joint Forest Management Committees (JFMC).

Interviews with key stakeholders: revenue officials (16), PRI members (3), and NGO team members (8) were also conducted. Out of the 115 women interviewed, a little more than half (56 percent) belonged to tribal districts.¹⁰ 55 percent of the respondents belonged to the ST category, and 9 percent belonged to SCs (Figure 1). Most of the other caste respondents were from Ganjam district.

¹⁰ Rayagada -23 percent, Kandhamal-17 percent and Koraput -16 percent; 44 percent of the women were from coastal districts, with 31 percent of from Ganjam; the total number includes non-ST members in tribal districts and ST members in non-tribal districts.

<<Insert Figure 1 about here>>

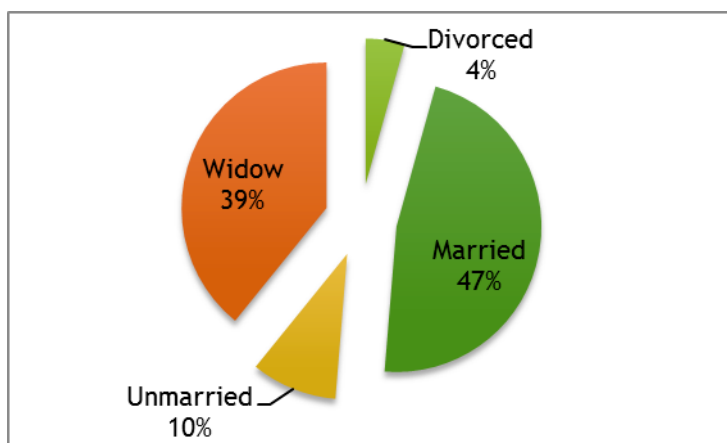
Figure 1 Distribution of sample by caste



In terms of marital status, 47 percent were married, 39 percent were widows, 10 percent unmarried and 4 percent were divorced (Figure 2). There was a higher percentage of married women among the STs, while widows and unmarried women belonged primarily to other castes.

<<Insert Figure 2 about here>>

Figure 2 Distribution of sample by marital status



The 40–50 years and 30–40 years age groups together constituted about half of the sample and almost two-thirds of the respondents were over 40 years old. More than 90 percent of the respondents had not attended school and were illiterate. 37 percent of the respondents were covered by homestead schemes, and 32 percent were beneficiaries under the FRA. One-sixth (15 percent) of the sample households had land rights through lease, 12 percent through succession, 3 percent had usufruct rights and 1 percent through purchase (Table 4).

<<Insert Table 4 about here>>

Table 4: Percentage of respondents for various land rights

Type of land rights	Percentage of respondents
Homestead schemes	37
Forest rights	32
Land rights through lease	15
Succession	12
Usufruct	3
Purchase	1

Stakeholders Consultation

The study followed a deliberated process of consultations with policy makers (members of the State Legislature, land administrators etc.), legal experts (judges and advocates), researchers, civil society and academia to gather different perspectives on gender equitable land governance in Odisha and future needs.

Expert Stakeholder Consultation meetings (with 8–10 stakeholders drawn from a mix of LGAF Panel of Experts, stakeholders involved in the implementation of Women’s Land Rights Initiatives) were organized on thematic areas¹¹ for an exhaustive analysis of various issues and to arrive at policy recommendations. These consultations led to the integration of years of cumulative experience and informed perceptions into the gender dimension of land governance. Besides these, interviews with key stakeholders (16 revenue officials, 3 PRI members, 8 NGO team members) were also conducted.

CONTENTS OF THE REPORT

The findings of the study, obtained through a secondary review of the legal and institutional framework and primary information collected through peer consultations and a field study, are organized as six modules, structured as per the VGGT. The first five follow the five modules delineated in the VGGT (FAO, 2013), while the sixth presents the community’s perceptions of women’s land rights captured through the field study (Table 5 below).

<<Insert table 5 about here>>

Table 5 Contents of the Report

Module	Theme	Synopsis
1	Policy Making	Building gender-equitable participation into the land policy-making processes.
2	Legal Issues	Legal pluralism, legal drafting, access to justice, land dispute resolution, legal support.

¹¹ The thematic areas included “Legal framework and issues related to GELG” and “Institutional arrangements and options to improve GELG”

3	Institutions	Gender-equitable participation and representation in the institutions of land tenure governance.
4	Technical Issues	Gender equity in land administration activities, technologies and systems, and women's participation in land administration.
5	Getting the message across	Communication strategies and methods to support responsible gender-equitable land tenure governance.
6	Community Perception	Perceptions of women land right holders on the implications of secure land rights, constraints and on future inheritance of land.

Module 1 deals with gender-inclusive and equitable participation in land policy-making processes in the state. It identifies issues for different sets of stakeholders and at different levels of governance, down to the Panchayat and village levels. Module 2 presents the legal framework for land governance in the state, including the provisions for religious and customary laws. Applying a gender filter, it discusses the different legal dimensions involved in the drafting of laws, access to justice, land dispute resolution and legal support mechanisms. Module 3 focuses on institutional arrangements for land management in the state, and discusses strategies for improving the representation and participation of all stakeholders (both women and men) in the institutions of land tenure governance - including customary and local institutions. Module 4 addresses technical issues in land administration and dwells on how to account for and address women's needs, interests and concerns. It also examines how women can participate equally with men in land administration activities, as target groups and clients. Module 5 looks at the state's communication strategies for GELG, including gender sensitization, awareness raising, advocacy, legal literacy and long-term change in values and attitudes. Module 6, presents the perceptions of women who received land rights through different schemes, as captured during the field visits. It discusses their views on secure land rights, constraints faced in accessing and controlling land, inheritance of land and participation in the household decision-making process.

The document also provides a list of recommendations and action points. It aims to provide the Government of Odisha (GOO) a document to act upon, as suggested by the Chief Secretary of the State during the state validation workshop.

REFERENCES

- Agarwal, B (1997): "Bargaining & Gender Relations within and beyond households. *Feminist Economics* 3(1): 1–51.
- Agarwal, B (2002): "Are We Not Peasants Too? Land Rights and Women's Claims in India" SEEDS Pamphlet Series 21 (New York, NY: Population Council), available at <http://ccc.uchicago.edu/docs/AreWeNotPeasantsToo.pdf>.
- Bhatla Nandita, Swati Chakraborty, and Nata Duvvury. (2006). Property Ownership and Inheritance Rights of Women as Social Protection from Domestic Violence: Crosssite Analysis. In Property Ownership and Inheritance Rights of Women for Social Protection - The South Asia Experience. International Center for Research on Women, Washington, DC.
- Caldwell, J.C. et al (1988) The Causes of Demographic Change: Experimental Research in South India. Wisconsin: University of Wisconsin Caldwell et al. 1988.
- Census, (2011), Government of India, available at <http://censusindia.gov.in/>.
- Chadha, G. K. (1992). Non-Farm Sector in India's Rural Economy: Policy, Performance and Growth Prospects. Delhi, India: Jawaharlal Nehru University, Centre for Regional Development.
- FAO (2012), Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security, <http://www.fao.org/docrep/016/i2801e/i2801e.pdf>.
- FAO (2013) Governing land for women and men: A technical guide to support the achievement of responsible gender-equitable governance of land tenure, GOVERNANCE OF TENURE TECHNICAL GUIDE No. 1, FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS, ROME.
- FAO. (2007), Good governance in land tenure and administration. Land Tenure Studies No. 9. Rome. <ftp://ftp.fao.org/docrep/fao/010/a1179e/a1179e00.pdf>FAO (2007).
- Government of India (GOI) (2009a), Department of Land Resources, Ministry of Rural Development. Report of the Committee on State Agrarian Relations and the Unfinished Task in Land Reforms. <http://dolr.nic.in/agrarian.htm>. GOI 2009a.
- Government of India (GOI) 2000. Ministry of Agriculture, _India Agricultural Census 1995/1996 and Livestock Census 1997. New Delhi: Government of India. http://www.fao.org/fileadmin/templates/ess/documents/world_census_of_agriculture/main_results_by_country/2000indiaweb.pdf GOI 2000.
- Hanstad, T., Nielsen, R. & Brown, J. (2004). Land and livelihoods: making land rights for India's rural poor. LSP Working Paper, Access to Natural resources Sub-Program. FAO, Rome.
- Hanstad, Tim, *et al.* (2005). Meeting the Goals of Land Policy Reform in India: An Analysis of the Legal Framework Governing Rural Land Policy and Recommendations for the Road Ahead. On file with RDI, Seattle.

Haque, Hina (2012), "Empowering Landless and Voiceless Women in Rural India," in T. Haque (ed.), Land Policies for Inclusive Growth, Concept Publishing Co., New Delhi.

International Fund for Agricultural Development. (2012). Land Tenure security and poverty reduction. Rome: IFAD.

International Land Coalition (2007) Strategic framework 2007–11: Putting a pro-poor land agenda into practice, Rome.

Socio-Economic and Caste Census Report 2011, Government of India, available at <http://www.secc.gov.in/welcome> ECC, 2011.

UN (2014), The Road to dignity by 2030; Ending Poverty, Transforming All Lives & Protecting the planet A/641; 700.

UNHR. (2013), Realizing Women's Rights to Land and Other Productive Resources available at <http://www.ohchr.org/Documents/Publications/RealizingWomensRightstoLand.pdf>.

World Bank (2010) Research Digest, 4(4) available at http://siteresources.worldbank.org/DEC/Resources/84797-1154354760266/2807421-1255556544915/6476708-1280516928024/Inheritance_Laws.pdf.

World Bank (2012) World Development Report 2012: Gender Equality and Development. Washington DC: World Bank.

Module1: Gender Equitable Participation in Land Policy Making

VGGT Vision on Policy Making for GELG

- Provides for stakeholder (men and women) consultation and participation prior to decision making (par. 3.8.6 and 5.5); incorporation of mechanisms to access stakeholder implementation capacity and communication of gender-sensitive approaches in local languages (par. 5.5); and provision of technical and legal assistance to affected communities to participate in tenure policy formulation processes and projects (par. 9.10).
- Stresses the need to ensure recognition of legitimate tenure rights, including customary and informal rights (par. 5.3 and 10.1); emphasizes that the process of establishing these policies and laws should be participatory, gender sensitive and strive to make provision for technical and legal support for affected communities and individuals (par. 10.1).
- Prescribes that the state must ensure that existing land policies reaffirm the commitments under the applicable international conventions on women's rights.
- Seeks non-discrimination on grounds of sex in the registration of land rights, and introduction of positive discrimination measures in favor of women for their welfare and advancement.

1.1 INTRODUCTION

Gender-equitable participation in land policy making is one of the ten core principles of the FAO's *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security* - consultation and participation (par. 1.2, VGGT, FAO, 2012). The key to ensuring responsible gender-equitable governance of land tenure is, to start with, a gender-equitable policy-making process in which all stakeholders, women and men, are equally included in formulating and implementing land policies (FAO, 2013).

This chapter documents and analyses the provisions for gender-sensitive policy-making processes in Odisha in relation to those suggested in the VGGT, as well as the actual contents of existing land policies with reference to gender issues. The chapter also identifies the gaps and challenges for a more gender-equitable policy-making process and the capacity-building needs for a more participatory process.

1.2 POLICY-MAKING PROCESS FROM THE VGGT PERSPECTIVE

With respect to policy making, the VGGT provides for stakeholder (men and women) consultation and participation prior to decision making (VGGT par. 3.8.6 and 5.5); incorporation of mechanisms to access stakeholder implementation capacity and communication of gender-sensitive approaches in local languages (par. 5.5); and provision of technical and legal assistance to affected communities to participate in tenure policy formulation processes and projects (par. 9.10).

In Odisha, the formulation of the Resettlement and Rehabilitation Policy (R&R Policy) 2006, and the Odisha State Policy for Girls and Women (OSPGW), 2014, were both based on the participation of a wide range of stakeholders, including women. However, whether the participation of the affected people was well informed and effective was not ensured.

1.2.1 STAKEHOLDERS IN THE POLICY-MAKING PROCESS

The land policy-making process in the state has largely been driven by the state legislatures with the support of bureaucrats. Other stakeholders, including international organizations, academia, corporate and civil society have also influenced policy making to some extent.

People's Representatives and Government Officials

- The share of women in the legislative assembly as well as in state bureaucracy is a crucial determinant of participation and influence in policy making. Women's representation in the State Legislative Assembly is less than 10 percent¹².
- Women also occupy less than 10 percent of the total posts in the state RDM Department¹³. The representation of women at the level of senior bureaucrats in all line departments is very low. For the first time, in 2015 the state appointed a

¹² There are eleven women members in the present (15th) assembly out of a total of 147 members; there were 13 in 2000, 12 in 2004, 7 in 2009 and 10 in 1995. (<http://www.thehindu.com/todays-paper/tp-national/tp-otherstates/out-of-115-women-candidates-11-make-it-to-the-assembly/article6021746.ece> accessed on September 19 2015).

¹³ <http://www.odisha.gov.in/revenue//web/WebDirectory.asp?GL=1&PL=3> accessed on 19.9.2015

woman as head of the Revenue & Disaster Management (RDM) Department, Government of Odisha.

- The percentage of women in local self-government¹⁴, Gram Panchayat¹⁵, Panchayat Samiti¹⁶ and¹⁷ is 35.2 percent, 35.5 percent and 34.4 percent respectively (Raman, 2002), however they are not usually consulted in the policy-making process. Since, 2011, the state has raised the reservation for women to 50 percent in PRIs¹⁸.

International Organizations

- International Organizations such as The World Bank, IFAD, DFID, UNICEF, UNFP, UN Women etc. have influenced the formulation of land policies in the state. For example, the state's first actions to encourage joint titling of land records in the 1970s were due to the influence of The World Bank, through project implementation support. IFAD support and influence has been instrumental in enhancing secure land rights for the tribals with greater focus on women's secure land rights. Organizations like UNFP, UNICEF and DFID were involved in the formulation of State Policy for Girls and Women, 2014.

Other Stakeholders

- In the existing land policy-making space, civil society and the private sector play a very limited role. The private sector has some indirect influence on the creation of 'land banks' to facilitate investment flows.

One of Odisha's major achievements in terms of more inclusive policy making and the inclusion of gender-equitable policy measures is the recently formulated OSPGW, 2014. This policy paves the way for women's development and empowerment in the state. It contains a myriad of positive discriminatory measures in favor of women. In regard to land governance, it seeks to provide secure land rights to women, increase their institutional participation and strengthen women's federations. This policy was formulated by a dedicated, women-dominated team comprising representatives from the following stakeholder categories:

- Government departments
 - Statutory body for women (State Resource Centre for women)
 - United Nations Population Fund (UNFP)
 - DFID
 - UNICEF
 - Academia
 - Civil Society
 - Subject Experts
- (Source: OSPGW, 2014, Women and Child Development, Government of Odisha).

¹⁴ As laid down in Article 243D of the Constitution, following the 73rd and 74th Amendment, not less than one third of the total number of seats to be filled by direct election in the 3-tier Panchayati Raj system should be reserved for women.

¹⁵ The cornerstone of the Panchayati raj system, a local self-government organization in India at the village or small town level.

¹⁶ A local government body at the tehsil (taluka) level in India

¹⁷ A local government body at the district level in India; It looks after the administration of the rural area of the district and its office is located at the district headquarters.

¹⁸ The GOO has enhanced the quota for women from 33 to 50 percent in Panchayat Raj institutions to achieve gender equality in representation in Panchayatiraj bodies. The state legislature passed the Odisha Panchayat Laws (Amendment) Bill 2011, by amending the Odisha Gram Panchayat Act, 1964, Odisha Panchayat Samiti Act, 1959 and the Zilla Parishad Act, 1994 (Xaxa, 2013).

1.3 CONTENTS OF LAND POLICIES AND GELG

The VGGT stresses the need to ensure the recognition of legitimate tenure rights, including customary and informal rights (par. 5.3 and 10.1). Further, the VGGT emphasizes that the process of establishing these policies and laws should be participatory, gender sensitive and strive to make provision for technical and legal support to affected communities and individuals (par. 10.1).

At present, despite the high tribal population in the state, Odisha has no mechanisms for the legal recognition of customary tribal rights or tenures except for those set out under the Forest Rights Act (FRA), 2006. Under the FRA, 2006, however, the government recognizes the rights of forest dwelling communities and individuals and has made an attempt to provide a maximum number of individual titles to tribal communities. The IFAD funded, Orissa Tribal Development Project (OTDP) implemented in the nineties, recognized customary rights in land on hill slopes (above 10 degree slope) and such areas were settled on tribal households in the form of joint titles.

The forest rights of Other Traditional Forest Dwellers (OTFP) as well as informal tenure of non-forest common lands, including community rights, are not legally acknowledged. Further, the rights of unmarried women are not adequately addressed in the laws relating to land in Odisha. Table 4.1 summarizes the provisions stipulating the contents of land policies and gender issues and the present status of Odisha with regard to these provisions.

1.4 STATUS AND CHALLENGES

<<Insert Table 1.4.1 about here>>

Table 1.4.1 below, summarizes Odisha's status with regard to a policymaking process that promotes GELG from the VGGT perspective.

Table 1.4.1 *Desirable Policy Action to encourage gender-equitable governance of land tenure*

Desirable Policy Action for gender-equitable governance of land tenure	Odisha Status
Applying international conventions on women's rights	India being a federal entity, international conventions are ratified and agreed to by the Centre, and remain applicable to the states. India has endorsed important international treaties such as the Convention on Elimination of All Forms of Discrimination Against Women (CEDAW), the Mexico Plan of Action (1975), the Nairobi Forward Looking Strategies (1985), the Beijing Declaration as well as the Platform for Action (1995) and the Outcome Document adopted by the UNGA Session on Gender Equality and Development & Peace for the 21 st century for the welfare of women.
Making sure that women can register their land	Policy provision is equal for both men and women in the registration process of land.

rights under the same conditions as men	
Making sure that all stakeholders can participate equitably in land tenure governance, including in local land administration and management institutions	Land tenure governance in the state is largely the domain of the RDM department along with other Government Departments (Forest, Urban Development, and General Administration etc.). There is very limited participation of other stakeholders in land tenure governance. However, the Local Self Governance unit, the Gram Panchayat, that has a 50 percent reservation for women (Shankar, 2014), has the authority to manage and protect village common lands ¹⁹ .
Introducing positive discrimination measures	In the State Policy for Girls & Women, 2014, the state shows positive discrimination by prescribing a lowering of the stamp duty for registration of a house or land purchased in the name of a woman, or gift deeds of immovable property. Positive discrimination also exists in the form of protection for tribal communities under the Orissa Land Reform Act, 1960 and the Orissa Schedule Area Transfer of Immovable Property Act, 1956.

1.5 GAPS & CHALLENGES

Given the above status, the Box below (Box 1.4.1) summarizes the key gaps and challenges for GELG.

<<Insert Box 1 about here>>

Box 1.4.1 Key gaps and challenges for GELG

<p><<text box>></p> <ul style="list-style-type: none"> • Nominal representation of women in the land tenure governance framework in the context of policy making, except to some extent through their representation in local self-governance institutions • Limited space for consultation and participation with land stakeholders including the affected communities and individuals • Limited space for civil society participation in the land policy-making process in Odisha (except for OSPGW, 2014) • Lack of provisions or mechanisms to involve the private sector in gender equitable land governance policy-making process<<end text box>>

1.6 EQUITY & PARTICIPATION IN LAND ADMINISTRATION

- There is a need for training and sensitization on gender and land issues among men and women politicians and senior government officials in order to make the policy-making process more inclusive, participatory and consultative, with a focus on

¹⁹ As per Section 44(1) and Section 71 of OGP Act 1964; Amendment to this Act in 1997 u/s 5(6), the Gram Sabha is entrusted with safeguarding and preserving (among other things) the community resources in Scheduled Areas. The Supreme Court judgment dated 28 Jan 2011 on Common land in Civil Appeal No.1132 /2011 @ SLP(C) No.3109/2011 (in the case Jagpal Singh vs. State of Punjab) reiterated the role of Gram Sabhas/ Gram Panchayats to manage and provide protection to the common lands in the villages.

women. This can be done through the organization of regular workshops or consultations on gender and land rights issues for government officials, politicians and other stakeholders.

- For revenue officials, introducing training modules on gender and land issues will help in more inclusive policy making. Exposure visits to states practicing such an approach will have a practical influence.

1.7 MONITORING INDICATORS

The state needs to monitor the participation of women and men involved in different policy-making bodies and processes:

- Percentage of women legislators in the State Assembly and ratio of men and women legislators participating in land policy debates;
- Percentage of senior government officials directly involved in the land policy-making process having received training on gender issues;
- Percentage of women among civil society representatives and private sector organizations participating in the land policy-making process;
- Number of women from affected communities consulted in the policy-making process;
- Percentage of international organization funding for the land policy-making process linked to the promotion of gender-equitable participation in policy-making.

1.8 RECOMMENDATIONS

Building gender-equitable participation in policy making is a long-term process that requires pro-active planning and interventions at various levels, and the involvement of different groups of stakeholders. It needs political will on the part of government, along with engagement and support from stakeholders in civil society, the private sector and international organizations. The key steps include:

LOW HANGING FRUIT (*based on priority, ease of action in terms of resources and time frame*)

- Engage with media to create awareness about the need for the participation of multi-stakeholders in the land policy-making process in general and the need to make it gender-equitable in particular.
- Create provisions for training and sensitization workshops for legislators, government officials and other stakeholders involved in the land policy-making process.
- Make the one-third women reservation clause applicable to the policy-making committees²⁰ and involve women from all stakeholder groups (academia, CSOs etc.).

LONG-TERM EFFORTS

²⁰ A team of experts engaged for the policy-making process as occasionally constituted by the Government. It may include bureaucrats, academicians, members from civil society etc.

- Make the land policymaking process inclusive, participatory and consultative, by ensuring the involvement of all stakeholders, including PRIs, CSOs and affected communities
- Ensure the one-third reservation is fulfilled by recruiting women officers to fill policy-making positions (Odisha Administrative Service (OAS), Odisha Revenue Services (ORS) etc.)

REFERENCES

FAO (2012) Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security

<http://www.fao.org/docrep/016/i2801e/i2801e.pdf>

FAO (2013) Governing land *for* women and men; A technical guide to support the achievement of responsible gender-equitable governance of land tenure.

<http://www.fao.org/docrep/017/i3114e/i3114e.pdf>

Odisha State Policy for Girls and Women-2014, Women and Child Development Department, Government of Odisha

<http://wcdodisha.gov.in/sites/default/files/pdf/Odisha%20State%20Policy%20for%20Girls%20and%20Women%202014%20English%20.pdf>

Raman, V. (2002). The Implementation of Quotas for Women: The Indian Experience. Paper prepared for workshop hosted by International Institute for Democracy and Electoral Assistance (IDEA) on 25 September 2002 in Jakarta, Indonesia. http://www.quotaproject.org/CS/CS_India.pdf.

Shanker, Richa (2014) Measurement of Women's Political Participation at the Local Level: India Experience, Ministry of Statistics & Program Implementation, India.

http://unstats.un.org/unsd/gender/Mexico_Nov2014/Session%206%20India%20paper.pdf

Xaxa, Jahani (2013) Empowerment of Women in Panchayati Raj System: A Study in Odisha.

<http://odisha.gov.in/e-magazine/Orissareview/2013/Feb-Mar/engpdf/117-123.pdf>

Module 2: Legal framework in Odisha and GELG

The VGGT Vision of legal frameworks for gender equitable land governance

- In the legal context, the VGGT outlines the need for a rule based approach with greater focus on communication of laws in applicable languages (3.B.7); fixation of accountability at every level (3.B.9); non-discriminatory and gender sensitive recognition and safeguard of all tenure rights including the ones that are currently not protected (4.4, 4.6 & 5.3); special attention to the recognition of rights of indigenous people through a participatory approach (9.2, 10.1), and provisions to ensure women's equal access and participation in dispute resolution mechanisms including customary ones (21.1 & 25.3). (Details in Table 2.1)
- The VGGT reflect a set of desirable legal actions that the state must follow to establish a gender sensitive legal framework. This includes non-discriminatory and gender sensitive tenure arrangements, secure rights of women and indigenous communities, consultative and participatory legal drafting and women's fair and equal access to justice.

2.1 INTRODUCTION

Gender-equitable laws and rules provide an enabling environment (Englert and Daley, 2008) in which women and men are more likely to be able to exercise and realize their rights to land equitably. Rule of law and accountability are two core principles of the VGGT. CEDAW also requires²¹ state parties to pursue both *de facto* and *de jure* equality. It directs states to think beyond general land amendments, with proactive engagement in promoting social change through positive discrimination, including the formulation and implementation of target specific policies that promote and protect women's land rights and gender justice in land governance (ILC, 2013).

The Constitution of India not only guarantees²² equality to women as a fundamental right, but also empowers the states to adopt measures of positive discrimination in favor of women. Within the framework of a democratic polity, India's laws, development policies, plans and programs have aimed at women's advancement in different spheres. An understanding of the context and complexities of the legal framework in the country concerned is vital (FAO, 2013).

This chapter studies existing land laws, religious laws, customary arrangements and rules in the context of gender-equitable land governance in Odisha. It provides an appreciation of the overall legal framework of land governance including land reform laws, protection-laws, and inheritance (religious and tribal customary) laws from a gender perspective. It goes on to dwell on access of women to legal and land dispute resolution institutions and their participation in legal drafting. It highlights the gaps and challenges for gender equitable land governance, delineating the capacity-building needs for gender sensitive drafting and effective implementation of legal instruments. Listing potential monitoring indicators to achieve gender equitable land tenure governance, it ends with recommendations for future action.

2.2 OVERVIEW OF LAND LAWS FROM A GENDER PERSPECTIVE

Odisha has undertaken legal or policy level reforms and has promulgated a number of progressive land legislations in the past. In the late eighties, state initiated schemes were especially designed to realize the potential of gender-sensitive land governance.

- The Odisha Tenancy Act, 1913, was repealed. This Act gave priority to males (from the father's side) in inheritance and allowed widows to inherit property only in the absence of male heirs. In reality, women were not considered owners in their own right, making them disproportionately vulnerable to losing their entitlement to land²³.
- The Orissa Land Reforms Act was promulgated in 1960. This is regarded as a watershed Act in the state for promoting proper and effective utilization of land in an effort to increase

²¹ Vide Articles 1,2,3,4 & 5 of the treaty.

²² Art 14 confers on men and women equal social, economic and political rights and opportunities. Art 15 prohibits discrimination against any citizen on several grounds, including gender.

²³ Kunjalata Purohit v. Tehsildar, Sambalpur and others, 1985.

food production in the state and the country (UNDP, 2008). This act contained certain gender sensitive provisions.

- Beginning in the late 1980s, a series of circulars were issued, allotting government land (wastelands, forestlands and homestead sites) to landless people with the provision of joint titling, that is, land would be recorded in the name of the wife followed by the name of the husband²⁴. Table 2.1.1 illustrates details of specific gender equitable provisions of some of the legal instruments.

<<Insert Table 2.1.1 about here>>

Table 2.1.1 Major Land laws governing women’s land rights in Odisha

State Act	Gender equitable provisions
Orissa Land Reforms Act, 1960	Equality of access to ancestral property irrespective of the marital status ²⁵ . After the death of a husband, the wife becomes a joint shareholder of the deceased’s land, along with her children. If a family has more land than the ceiling limit set by the government, the surplus land is recorded in the name of the wife or daughter to avoid ceiling restrictions. When there is no male heir in the family, daughters have the Record of Rights (R&R) transferred to their names .
Odisha Bhoodan and Gramdan Act, 1970 and ceiling surplus Act (2002 circular)	Earmarks 40 percent of ceiling surplus land for distribution among women. Of this, at least 40 percent is for women belonging to disadvantaged groups, including ST and SC.
Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006	Provides individual and community tenure rights to all forest dwelling STs and OTFDs on all forestlands.

Sources: UNDP (2008), GOO (2012 and 2013)

The state’s journey toward gender sensitive land governance took a new shape after 2000 when it started formulating progressive policies or amending existing policies namely, 40 percent reservation for women in the distribution of ceiling surplus land (2002), launch of the Vasundhara scheme (2005), gender sensitive R & R policy (2006) etc. The following sections

²⁴ The first circular was issued vide letter no 48425 dated 19 August 1987.

²⁵ Section 2(21) of the Act includes widows, or an unmarried woman or a woman who is divorced or separated from her husband by a decree or order of a court or under any custom or usage having the force of law within the definition of “persons with disability”. This allows all single women to lease their land whereas the Act prohibits land leasing for people not in this category.

describe the legal framework, from a gender perspective, that determines most land governance in the state, especially:

- a) Regulations that affect GOO initiatives toward allocation of land;
- b) Inheritance laws that affect management of private property in the state; and
- c) Tribal laws and customary practices that affect the rights of tribal communities.

2.2.1 LAWS RELATED TO THE ALLOCATION OF LAND

In 1987, Odisha started creating new land rights through the allocation of government lands (government wasteland, house sites and ceiling surplus lands) to landless people or by individualizing community tenure. These rights were usually attributed as joint titles in the names of the husbands and wives, providing an additional layer of legal protection for women Savath et.al (2014)²⁶. These were based on a series of administrative circulars²⁷; some of the important ones are detailed in Table 2.2.1 below. Through these initiatives, the GOO ensured that women became landowners and were considered equally important in the families.

<<Insert Table 2.2.1 about here>>

Table 2.2.1 Gender equity in land rights through joint titling

Initiative	Relevant regulations issued by the GOO
Circulars dealing with allotment of government lands	In 1989, the Government observed that the Tehsildars ²⁸ were not issuing <i>pattas</i> or intimation slips in joint names. Reiterating the earlier order, a letter ²⁹ was issued to emphasize the same. In the case of widows or widowers, the <i>patta</i> or intimation slip was to be issued in the name of the individual applicant. In other cases, it directed the Tehsildars to reject applications unless they were signed by both the husband and wife.
Vasundhara Scheme	Launched in 1974–75, this scheme deals with distribution of government land up to the extent of 10 decimals (0.04 ha) to each homesteadless family for house site purposes. Joint titling was introduced in the eighties. In 2008, the GOO enhanced the limit of distribution of government land for house sites under the Vasundhara Scheme from 4 decimals (0.016 ha) to 10 decimals (0.04 ha). It also reiterated ³⁰ that lease of homestead land had to be made jointly i.e., in the name of the wife followed by the name of the husband. In June 2015, the annual income ceiling for homesteadlessness was increased from Rs. 24,000 (369 USD) to Rs. 40,000 (616 USD) to increase the number of people eligible for land allotment.

²⁶ In a recently concluded study it was observed that in Vasundhara and Gramakantha Paramboke (GKP), two Odisha government land titling programs, the emphasis was on titling land jointly in the husband and wife’s names to provide an additional legal layer of protection to women.

²⁷ The first such circular was Circular No 48425 dated 19th Aug 1987.

²⁸ A revenue officer in charge of a Tehsil.

²⁹ Letter no. 73774/R dated 27-12-89.

³⁰ Letter no. LD-25/2008-28733/R&DM dated 03.07.2008.

Usufruct Rights	In 2008, recognizing the ' <i>Dafayati</i> ' rights of ST persons in tribal areas, the Chief Secretary issued a circular ³¹ granting tree <i>pattas</i> of up to 2 acres of cashew plantations per family, under joint title.
Dongar patta	In 1994, Dongar lands (land on hill slopes above 10 degree, earlier recorded as government land) were settled ³² through joint titles in Kashipur tehsil of Rayagada District, during the implementation of the IFAD funded Orissa Tribal Development Project. This was also made applicable to all Dongar lands in the Tribal Sub-plan area of the state.
GramKantha Paramboke	GKP is a program that provides individual titles to households that were previously living on collectively owned land (communally owned as per provisions under the Madras Presidency legislation), under the 2009 Amendment of the Odisha Government Land Settlement Act, 1983

Protection against dispossession, ensuring possession and land restoration

In 2007, the government launched a new program specially designed to protect the poor against dispossession of government land allotted or leased under various schemes (ceiling Surplus, Bhoodan, OSATIP and OLR). Called Mo Jami Mo Diha³³ (My land My housing Plot), this scheme focuses on ST and SC households; it protects and ensures the land rights of those who were allotted a lease to government land but were unable to take possession because of land related disputes. The scheme is designed uniformly for all poor, with no positive discrimination in favor of women.

Another legislation (the Orissa Scheduled Areas Transfer of Immovable Property (OSATIP) (By Scheduled Tribes Regulation, 1956) is specially designed to protect lands belonging to people of the STs. It also regulates the transfer of immovable property for a female member of the ST, who is married to a person not belonging to a ST. Under this Act³⁴, this shall be deemed to be a transfer made in favor of a person not belonging to a ST. The 2001 amendment banned the transfer of land belonging to ST households to non-STs, without any gender based discrimination (see Box 2.2.1 below).

<<Insert Box 2.2.1 about here>>

³¹ Letter no GE (GL)–23/2008/51607/R&DM dated 11.12.2008.

³² Letter no S-23/93-17783/R dated 21st April 1994, issued by the then Revenue and Excise Department.

³³ In 2007 the State Government launched a campaign called Mo Jami Mo Diha to protect the land rights of the poor. The objectives of the campaign are (a) to protect and ensure the land rights of the poor, who had earlier been allotted a lease to government land, or to restore their lost land (b) to achieve convergence with development schemes to improve the situation of land allottees so they are in a better position to utilize the land and (c) to assist the poor, with an emphasis on those belonging to ST and SC communities, to retain their land and homestead within the existing legal framework. It has provisions for a 100 percent physical verification of whether the allottee is actually in possession of the land. The approach adopted was to collect instances of allottees who were not in physical possession of their land and also verify the Tehsil records, so as to undertake a physical verification of every case. This campaign is meant to ensure and consolidate the gains of land reforms by the poor. It has components that include legal aid for the above stated categories of persons. It also has a component to initiate prosecution against influential persons of the society as per law

³⁴ Section 3(1)

Box 2.2.1 OSATIP: regulations to protect ST ownership of land

<<text box>>In 2001, as the result of progressive amendments to the OSATIP Regulations, the transfer of ST land to non-STs was banned³⁵.

The regulations provide for the eviction of persons who forcibly occupy land belonging to any tribal person and restoration thereof.

They protect against the division of ST land by providing that a member of the STs shall not transfer any land to a member of an ST if the total extent of his land remaining after the transfer is reduced to less than two acres (0.8 ha) of irrigated land or five acres (2 ha) in the case of un-irrigated land.

<<end text box>>

2.2.2 INHERITANCE LAWS

Throughout the country inheritance is largely determined by religious laws. The Hindu Succession Act (HSA), 2005, hence has a large influence on gender equity in land rights in India. The HSA (1956) was amended in 2005, as a result of strong advocacy by civil society organizations. Under the 1956 Act, coparcenary was limited to males (Deininger, 2013; Ramachandran 2008), after amendment it provides that unmarried daughters, like sons, are coparceners³⁶ and entitles them to receive a share of the undivided joint family property (including land) at birth. Coparceners acquire a notional share in joint family property, which includes land to be realized upon inheritance.

Muslim inheritance is governed by the Muslim Personal Law (Shariat) Application Act of 1937, which has limited provisions for women's land rights. Under the provisions of the Indian Succession Act, 1925, Christian widows and daughters are believed to be more likely to inherit land than Hindu or Muslim women (Obaikol, 2009). Table 2.2.2 below summarizes the relevant provisions for the three religious laws.

<<Insert Table 2.2.2 about here>>

Table 2.2.2 Provisions governing women's inheritance rights under religious laws

Name of the Act	Relevant provisions
Hindu Succession Act, 1956 (2005 Amendment)	Unmarried daughters, like sons, are coparceners and receive a share of the undivided joint family property (including land) at birth. A widow will naturally inherit her husband's property but not if she marries again.

³⁵ The competent authority can either initiate a *suo moto* case or it can be on the basis of a petition from the interested person or on the basis of information received from the Gram Panchayat to that effect. The competent authority can declare such a transfer illegal and shall restore the land to the lawful landowner or his/her heirs and inform the Gram Panchayat of this act.

³⁶ http://www.hrln.org/admin/issue/subpdf/HSA_Amendment_2005.pdf

Muslim Personal Law (Shariat) Application Act of 1937	<p>The wife or widow is entitled to one-fourth of her husband's property, and one-eighth in the case of a joint family.</p> <p>The daughter is entitled to half of her parental property if she has no brothers and half of what the brother gets in case she has a brother. A mother has rights over her son's property (UNDP, 2008).</p> <p>It prohibits Muslim men from bequeathing more than one-third of their property by will.</p>
Indian Succession Act, 1925 (for Christian community)	<p>If a Christian man dies without a will and has children, his widow receives one-third of the estate and the sons and daughters get equal shares in the rest.</p> <p>If there are no children, but there are other, more distant family heirs, the widow receives half the estate; otherwise she is entitled to the whole estate.</p>

Despite these provisions, the three important Religious Acts mentioned above are criticized for their approach to the issue of gender equity in land inheritance. Deininger *et al.* (2012) found that though the 2005 amendment of the HSA led to an increase in girl's educational achievement in India, a substantial bias still persists in land inheritance. Further, women as "wives married into the family are still deprived of any share in the coparcenary property as a matter of right" (Datta, 2006, Lawyer's Collective Women's Rights Initiative 2011). However, coparcenary rights as envisaged by the HSA (amendment), 2005 are yet to be realized, largely as a result of poor monitoring and facilitation by the Government as well very poor awareness and continued patriarchy on amongst the heirs. The HSA also remains non-applicable to tribal (Schedule V) areas.

The Muslim Personal Law (Shariat) Application Act of 1937 does not extend to agricultural land. Agricultural land is left for devolution by state law or, if state law is silent, by custom. Only some states, such as Tamil Nadu, Andhra Pradesh and Kerala, extend Muslim Personal Law to agricultural land (Agarwal, 1994 and UNDP 2008).

Under the Indian Succession Act, 1925, the wife does not have any rights over her husband's property as long as her husband is alive (UNDP, 2008).

Therefore, strong legal provisions should be introduced and supported by an effective implementation system as well as by the creation of enabling conditions, effective organization and the voice of rural women (Haque, 2013).

2.2.3 TRIBAL CUSTOMARY RIGHTS & PRACTICES

Twenty-six percent of Odisha's population is tribal, consisting of 62 tribes, including 12 belonging to the Particularly Vulnerable Tribal Groups (PVTGs). They inhabit 44 percent of the state's geographical area (Schedule V Area). The property rights of tribal people are

governed by their local customs, which are neither codified nor legally recognized. Post-independence, Survey and Settlement Operations were not equipped to survey areas with slopes above 10 degrees and they therefore declared all the land on slopes with gradients higher than 10 degree, government land. This land was de facto cultivated and customarily owned by tribal communities in the Schedule V areas. Similarly, the forest reservation process did not recognize the customary ownership of tribal communities at the time of demarcating forest areas (Kumar *et al*, 2005). While some of these historical injustices have been addressed by the reformist Forest Rights Act, 2006, rights to and access over non-forest common lands (Government owned wastelands) that constitute about one-third of the geographical area in these districts, remain contested (Odisha State LGAF Report, 2014).

Tribal inheritance is often governed by the Indian Succession Act, 1925,³⁷ (applicable to Christians) and the provisions set out in the Hindu Succession Act (Amendment) 2005 are not applicable to tribal people, as per Section 25 of the Act, unless the State Government makes a notification in this regard. Recently, in July 2015, the High Court of Himachal Pradesh held that daughters in the tribal areas in the State should inherit property in accordance with the Hindu Succession (Amendment) Act, 2005 and not as per customs and usages, in order to protect the women from social injustice and prevent all forms of exploitation.³⁸ Moreover, the enactments of certain legislations like the FRA, 2006, have provided habitat rights to PVTGs, Community Forest Resource (CFR) rights to village communities, etc. The following table (Table 2.2.3) details some of the tribal and region specific customary rights and statutes related to women’s land rights.

<<Insert Table 2.2.3 about here>>

Table 2.2.3 Customary practices related to women’s land rights in Odisha

Tribes/Area	Customary Practices
Santhal Tribe	<p>In <i>Santhal</i> law a daughter has no inheritance rights in land as the women are expected to move to the husband’s house after marriage. However, when a father dies leaving no widow or sons, a married Santhal daughter either shares the father’s land with her sisters, or, if there are no sisters, she inherits it entirely. (Archer, 1984; Rao, 2008).</p> <p>In some areas, ‘<i>taben jom</i>’, a small piece of land, is kept aside for the married daughter by her parents, to support her if the need arises. However, the daughter’s children cannot inherit this land, as they represent a different</p>

³⁷ Section 3, part I of the Act states that the State Government may, by notification in the Official Gazette, either retrospectively from the sixteenth day of March, 1865, or prospectively, exempt from the operation of any of the following provisions of this Act, namely, sections 5 to 49, 58 to 191, 212, 213 and 215 to 369, the members of any race, sect or tribe in the State, or of any part of such race, sect or tribe, to whom the State Government considers it impossible or inexpedient to apply such provisions or any of them mentioned in the order.

³⁸ <http://mylibertatem.com/tribal-women-can-inherit-property-as-per-hindu-succession-act-1956-himachal-pradesh-high-court/>

	lineage.
Kandha Tribe	The inheritance of land in the case of <i>Kandha</i> women is patrilineal, and tribal customary laws deny women equal rights to property. A widow does not inherit her husband's property if she has a son or sons. There is a social obligation for the sons to support their mother. However, widows can inherit land when they have no grown up sons. The villagers do not believe that the social status and welfare of women is reduced by their inability to inherit property (Tisdell and Roy, 2009). Women also seldom have any role in the allocation and management of CPRs. They do not enjoy inheritance rights, but run the household expenditure (Mohapatra, 2014).
Rural areas in Ganjam district	Among some communities in this area there is a customary practice of giving land as a gift to a daughter at the time of marriage. This practice is locally known as "Pasupa Kunkumam".
Coastal area	Only unmarried daughters receive a share of land from their parental property and this share is very meager as compared with the shares given to sons.
Rayagada district	Unlike other areas, in most parts of this area, widows living with their in-laws are better placed and enjoy certain rights over property. It also emerged from the field study that the local communities allow unmarried women to enjoy user rights.
Paraja Tribe	Childless widows do not get a share of land from their in-laws property however, they continue to live with their in-laws.
Mahanta and Giri Tribes	Joint titling of land and granting land in favor of women is extremely rare.
Saoras	The property is divided between daughters and sons, with the unmarried daughters getting equal shares and married daughters a lesser share.

Sources: Field study, Tisdell and Roy, 2009; Mohapatra, 2014; Archer, 1984; Rao, 2008

Odisha laws are largely silent on the recognition of rights of indigenous communities over non-forest common lands and fisheries (esp. on water bodies) in the absence of rules specified under the Panchayat (Extension to the Scheduled Areas) Act 1996 as well as the implementation of the Amendment of Orissa Gram Panchayat Act, 1964 in 1997. The Orissa Gram Panchayat (Amendment) Act, 1997³⁹ provides traditional rights to the **Gram Panchayat** and makes it competent to safeguard and preserve the traditions and customs of tribal people, their cultural identity, community resources and customary mode of dispute resolution consistent with laws and in harmony with the basic tenets of the Constitution and human rights. (Padhi & Panigrahy, 2012).

Customary rights of tribal communities are not always recognized, as custom is not generally recognized as law. For customs to be recognized, they have to have existed since time immemorial, they have to be ancient and should not oppose public policy, as set out in the provisions of the Hindu Succession Act, 1956. It is often difficult to fulfill these conditions,

³⁹ As per section 4 (iv) of the Act.

hence these customs often remain subject to interpretation, as commented by members of the judiciary in the peer consultation process.

2.3 DRAFTING OF LAWS, REGULATIONS AND PROCEDURES

Good land laws are often not implemented because of a lack of secondary legislation, supporting regulations and procedures (FAO, 2013). It is therefore essential to improve land law enforcement and develop gender-equitable regulations, procedures and strategies for implementation (FAO, 2008a: 12).

Primary land laws in Odisha adhere to the principles of equality as guaranteed under the Indian Constitution. Land policies in the state give due respect and acknowledgement to the international treaties or conventions that have been endorsed by India. For example, the preamble of the Odisha State Policy for Girls and Women, 2014, acknowledges certain international conventions for women's welfare and empowerment. More recently, the state introduced a participatory process and a consultative legal drafting method to ensure adequate representation of a wide range of stakeholders, including women, in the process of drafting new legislation. Box 2.3.1 shows a good practice for a move toward a participatory and inclusive legal drafting process for land governance in Odisha.

<<Insert Figure Box 2.3.1 about here>>

Box 2.3.1 *Participatory and gender equitable legal drafting in Odisha*

<<text box>>Before the OSPWG 2014 was drafted, 1159 participants were consulted for policy level suggestions on different thematic areas. Workshops were organized by civil society to allow people to formulate their suggestions. Inputs from subject matter specialists and women's organizations were also acknowledged. About 1494 persons participated in the district level consultation meetings (28 districts). In all, 2787 people contributed to the drafting process, 2653 of whom had participated in the consultation meetings; 39 were senior government officials, 30 were subject matter specialists and 65 participated through virtual media. More than two-thirds (68 percent) of the total participants were women. Similarly, 62 percent of the total participants were from urban areas and 38 percent from rural areas. This wide participation has helped the state to make it an exemplary and effective legislation. <<end text box>>

Source: Odisha State Policy for Girls and women, 2014.

Apart from their participation in drafting primary land laws, Civil Society Organizations (CSOs) play a critical role in the drafting and formulation of secondary legislation relative to land governance in the state. For example, Landesa was involved in the drafting of an office order, issued by the RDM Department, to identify single women during an ongoing survey that intended to count landless households in accordance with the revised annual ceiling limit applicable to homesteadless families. Similarly, Vasundhara (a local NGO), in consultation with the Ministry of Tribal Affairs, Government of India, has brought about many reforms⁴⁰ in

⁴⁰ <http://tribal.nic.in/WriteReadData/CMS/Documents/201504230255000176646guidelines.pdf>

the Forest Rights Act, 2006, including initiating the recording of gender disaggregated land rights.

2.4 LAND DISPUTE RESOLUTION

Establishing a robust legal foundation for responsible gender-equitable governance of land tenure requires paying attention to the different elements involved in enabling women and men to realize and exercise their rights to land. These involve access to justice, dispute resolution mechanisms and legal support, and legal literacy.

The local revenue authorities are legally empowered to resolve land related disputes. For example, the Odisha Land Reforms Act, 1960, empowers revenue authorities (at the tehsil level) to confer better rights on the real cultivators, enforce ceiling limits with respect to agricultural land holdings of landlords, to determine surplus lands, and to settle these lands upon the landless people. Similarly, the Odisha Survey Settlements Act, 2012, empowers Tehsildars to determine the rights and titles to and ownership of land holdings. However, appellate forums are also available to dispute the orders issued or decisions taken by the revenue officers.

In Odisha, the court of Civil Judge Junior Division (at tehsil level), the court of Civil Judge Senior Division (at sub-division level) are the primary conflict resolution institutions that deal with all kinds of land related disputes, unless its jurisdiction is barred under special statutes. Further, there are Gram Nyayalayas (formal rural courts) that operate at the Panchayat level. In addition to a formal adjudicatory system, the civil courts are now mandated to refer cases to alternate modes of dispute resolutions such as mediation, conciliation, arbitration, and *Lok Adalats*⁴¹. Mediation centers have been established at the tehsil level to resolve conflicts through mediation.

The State Legal Service Authority (SLSA) was constituted under the Legal Service Authorities Act, 1987 (Box 2.4.1). It mandates District Level Legal Services Committees and Taluk Level Legal Services Committees to organize Lok Adalats at regular intervals to settle disputes. Lok Adalats provide the claimants with a free and quick means of resolving conflicts as well as other benefits.⁴²

⁴¹ A special kind of people's court organized under the Legal Services Authorities Act, 1987 in which disputes are resolved by direct talks between the litigants.

⁴² Benefits of Lok Adalats (Public Courts)

<<Insert Box 2.4.1 about here>>

Box 2.4.1 *Legal assistance for weaker sections of the society*

<<text box>>The Legal Services Authorities Act, 1987, enacted by Parliament, came into force on 9 November 1995, with the objective of establishing a nationwide uniform network for providing free and competent legal services to the weaker sections of society (including women) on the basis of equal opportunity. The National Legal Services Authority (NALSA) was constituted under this Act to monitor and evaluate the implementation of legal services available under the Act. The Free Legal Services include:

- Payment of court fees, process fees and all other charges payable or incurred in connection with any legal proceedings;
- Providing an advocate for legal proceedings;
- Obtaining and supply of certified copies of orders and other documents required for legal proceedings;
- Preparation of appeal, paper book including printing and translation of documents in legal proceedings. <<end text box>>

Source: <http://www.archive.india.gov.in/citizen/lawnorder.php?id=10>

The GOO launched a cadre of paralegal volunteers (40 percent of them are women), to work as mediums of communication and coordination between the people and the SLSA, as well as providers of legal aid to poor and backward people. Graduates, trained by the Legal Services Authority, were engaged to promote legal awareness among people in their locality and to conduct seminars on legal issues and rights. However, as they are not paid, (they only receive a nominal amount for commuting) and have no formal office structure, their interest is dwindling. A demand for an honorarium of Rs. 1000 per month was reported (UNDP, 2012).

<<Insert Box 2.4.2 about here>>

Box 2.4.2 *Encouraging women's access to justice*

<<text box>>The Department of Justice, GOI, in partnership with the UNDP, initiated a project on "Access to Justice for Marginalized People" in seven states including Odisha, seeking to focus on two issues, namely, improving the institutional capacities of key justice providers to enable them to effectively serve the poor and marginalized, and directly empowering marginalized people to seek and demand justice services. The project seeks support and partnership from the Judiciary, Legal

-
- There is no court fee and even if the case is already filed in a regular court, the fee paid will be refunded if the dispute is settled at the Lok Adalat.
 - When assessing the merits of a case, procedural laws and the Evidence Act are not strictly applied. Although they are represented by their advocate, the parties can interact directly with the Lok Adalat judge and explain their stand in the dispute and the reasons therefore, which is not possible in a regular court of law.
 - Disputes can be brought directly before the Lok Adalat instead of going to a regular court first.
 - The Lok Adalat decision is binding on the parties and its order can be executed through legal process.
 - Lok Adalat orders cannot be appealed, whereas in regular courts of law there is always the option of appealing to a higher court, which causes delays in the final settlement of the dispute. In Lok Adalats, the decision is based on mutual settlement and hence there can be no cause for appeal.

Services Authorities, Civil Society Organizations, Professional Bodies and Academic Institutions. In pursuance of this, the Orissa SLSA conducted a State Level Round Table Consultation in 2010, to consult on and assess the State of Orissa's priorities within the broad goals of the project. <<end text box>>

Source: [UNDP, 2012](#).

There are mechanisms to create accountability among all the stakeholders for every action related to land governance. For example, the FRA, 2006⁴³ provides that any authority or officer contravening the provisions of the said Act is liable to punishment. Similar provisions also exist under the Odisha Land Reforms Act, 1960.

District and taluk level committees, formed under the Legal Services Authorities Act, 1987 require the organization of Legal Literacy Camps to provide basic and essential knowledge to the vulnerable groups (including women). Besides, the engagement of paralegals has contributed to increasing awareness among communities and a larger number of rural people approach the paralegals (UNDP, 2012).

Women's access to conflict resolution mechanisms in Odisha is further enabled by the involvement of NGOs at the field level, in promoting land literacy. In spite of these facilitating institutional mechanisms, access to legal services and remedies remains constrained in rural and tribal areas of the state as observed during the field study.

2.5 ACHIEVEMENTS UNDER EXISTING SCHEMES OR PROGRAMS

- Under the Odisha Bhoodan and Gramdan Act, 1970, and the ceiling surplus Act (2002 circular), 0.16 million acres (0.06 m ha) of ceiling surplus land was distributed among 0.14 million beneficiaries. As per the report received from the *Bhoodan Yagna Samiti*, 0.64 m acres (0.26 m ha) of land was collected as donations, of which 0.58 million acres (0.23 m ha) was distributed to 0.15 million landless people.
- Since the inception of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, 0.35 million individual forest rights had been granted to tribal people by May 2015. Of these, 87.6 percent were joint titles, 5.5 percent were female titles and 6.9 percent male.
- The GOO began to issue *Dafayati Patta* (Usufruct Rights) in the 1980's. Joint rights over more than 15,000 ha were allotted under the Economic Rehabilitation of Rural Poor (ERRP) scheme and other schemes in Koraput district alone from 1980–99.
- Since 1994, more than 7000 ha of Dongar land have been settled collectively in the names of 6,137 tribal households in Kashipur, in the tehsil of Rayagada District (Government Circular, 1992 during the implementation of IFAD-funded Orissa Tribal Development Project).

⁴³ Section 7 (Chapter V).

- Of the 0.15 million families identified as homesteadless in 2012, 0.115 million families had been given homestead land under the Vasundhara scheme by 2014. In 13 districts, homestead land was provided to all the identified beneficiaries (GOO, 2014).
- By 2011–12 GOO had settled 18,859 acres (7635 ha) of GKP land on 0.56 million families (GOO, 2012).
- Out of 658,000 (0.658 million) applications received under the Mo Jami Mo Diha scheme, for an allocation or restoration of a lease or *patta*, in 621,000 (0.621 million) cases physical possession has been restored, to the original leaseholders (GOO, 2014). Because the records are not changed, women-only or joint titles are applicable as per the past records.
- By 2014, more than 40,000 acres of land had been restored to more than 50,000 SC and ST beneficiaries through the OSATIP and OLR (Annual Report, 2014–15, RDM Department, Government of Odisha).

2.6 Gaps and Challenges

Odisha's efforts toward progressive and inclusive law making and gender equitable land governance face roadblocks largely because of entrenched patriarchy and inertia in land administration. Some of the specific gaps are discussed below:

1) Definition of family and single woman:

Several definitions of family exist under the OLR Act, the Land Ceiling Act, 1974, and the R&R Policy, 2006.

The OLR Act defines family as the individual and his or her spouse and children. However, a childless widow is not considered a member of her deceased husband's family. Further, a mother is not treated as member of her son's family, although a son is a member of his mother's family. Since the family in relation to the mother would include the married daughter, it must also include the widowed daughter (*Maharani Bewa v. State of Orissa, 1985*).

Under the Land Ceiling Act, 1974, a family unit comprises a husband, wife and up to three minor children.

In contrast, the R& R policy, 2006 is not very progressive. When providing compensation,⁴⁴ it considers widows, abandoned women, destitute women and unmarried women above the age of 30 years, as separate families. With regard to a move toward more progressive policies, the OSGWG, 2014 is the first instance of a Government of Orissa policy including the term 'single women'.

2) Preference to allot land under Vasundhara through the OPLE

⁴⁴ Under Section 37 of the Act.

Field level revenue staff feel that allotment of land to homesteadless families under the Vasundhara scheme, as per the prescribed OGLS Act and Rules, is a lengthy and confusing process (that is purchasing private land and allotting it). With regard to the OGLS, the possession issues that arise mainly concern the non-demarcation of boundaries or the identification of plots.

Land allotment under the OPLE is considered easier, because this allows for a regularization of permissible encroachment, but land allotted under this Act shows a high rate of non-possession. The possession rate of land allotted under the OPLE was only 55 percent as against 70 percent for land allotted under the OGLS (field study). This is largely because the OPLE allotment process followed was often incorrect and women were usually allotted land that they had not encroached upon. In many cases these lands were found to be encroached upon and in the possession of other people, which led to the non-possession of allotted lands. The likelihood of being able to regularize non-possessed land allocated under the OPLE is very low, because the allotted lands have been illegally encroached upon by other powerful residents of the village.

This is a serious challenge for the state as it intends to provide landless women secure access, control and ownership over land.

3) Inheritance and Succession Provisions in the Hindu Succession Act

The Hindu Succession Act (2005), which brought hope to many with its latest amendment, is, by itself, neither adequate nor effective in ensuring gender equitable succession and inheritance. Awareness about the new provisions is extremely low, at hardly 3 percent (field study). The provision for prospective partitioning and interpretations of issues related to retrospective partitioning for un-partitioned property need further clarification and unscrupulous people find it easy to deny the rights of daughters and sisters set out in the HSA (Amendment), 2005.

4) Application of HSA, 2005 among tribal communities

Tribal people are not often considered Hindus as the laws applicable to STs are free from religious details and so far, there has been no judicial decision stating that all STs are born Hindus. Further, there is a declaration stating that nothing contained in the HSA, 1956 (amendment 2005) is applicable to the STs, unless the Central Government issues a special notification in this regard.⁴⁵

5) Difficulties with informal group tenure

⁴⁵ The Hindu Succession Act, 1956 specifies that nothing contained in the act shall apply to the members of any Scheduled Tribe within the meaning of Clause (25) of Article 366 of the Constitution unless the Central Government, by notification in the Official Gazette, otherwise directs. (Section 2 of the Act).

In spite of tenancy being legally banned in Odisha, it remains highly prevalent. Rayagada has the highest percentage of widow and female-headed households in the state. A majority of them are landless agricultural laborers, and depend mainly on leased lands for farming. PRADAN (an NGO), has mobilized such women in two villages under different SHGs to practice group leasing, this has helped increase their bargaining power in the land leasing market, which is mostly informal and uncertain. Presently, almost 60 percent of women's households have adopted the practice of farming on 20 acres of leased lands belonging to different landowners. On average, the SHG members earn a net profit of about INR 18,000 to 20,000 (USD 281 - 312) per year from 1 acre (0.4 ha) of leased land. However, the informal arrangements between the parties restricts women SHG members from accessing formal credit required to scale up the farming. An annual lease system also makes repeat leasing highly uncertain.

6) **Land Rights of Transgender people**

In spite of the Supreme Court judgment⁴⁶ to add a third gender, to date the state has made no attempt to incorporate the land rights of transgender or third gender people. Odisha is home to over 15000 transgender people, or about 4 percent of the country's total transgender population (SECC, 2011). In many instances, they have been deprived of their inheritance rights to landed property and are often not allowed to stay with the family. As their fundamental rights are not respected, they suffer and lead a life of mere destitution.

Some states like Tamil Nadu, Kerala & Karnataka have already formulated special policies for the overall welfare of transgender communities. The NLRMP has provisioned the inclusion of transgender as third gender under the 'Gender' parameter in land records. The tendency of most transgender people in Odisha to migrate and not stay with their families makes it difficult to integrate their name into land records.

Odisha has created a new department namely the Department of Social Security and Empowerment of Persons with Disabilities (SSEPD) that looks into the social security of vulnerable groups including transgender. The department has already drafted a proposal for the recognition of transgender persons and subsequently providing them with certificates declaring them as third gender. It has also decided to implement five sub-themes (monthly financial assistance, skill development training, educational scholarships etc.) for the empowerment of transgender communities in the state. The Government of Odisha recently set up a committee to review various demands raised by the All-Odisha Eunuch Association (AOEA) for equitable recognition and the welfare of the transgender community in the state. Providing homestead lands and houses for transgender persons who are deserted by their families, remains one of AOEAs key demands.

7) **Grounding of Lok Adalats in rural areas**

⁴⁶ "Recognition of transgender as a third gender is not a social or medical issue but a human rights issue," Justice KS Radhakrishnan, who headed the two-judge Supreme Court bench in his ruling on 14th April 2014.

There is lack of awareness among rural people about the existence of Lok Adalats and provisions for legal aid. The present field study found that almost none (3 percent) of the women respondents had heard of legal aid services and the functioning of Lok Adalats at the taluk and District levels, although it has a provision for free legal aid to women.

A case study (Box 2.6.1) from the fieldwork demonstrates the gap between legislation and reality. A tribal woman fights the government for her land rights⁴⁷ for over ten years and the court has still not pronounced a judgment.

<<Insert Box 2.6.1 about here>>

Box 2.6.1 *Struggle for protection of tribal women's land rights*

<<text box>>Khillio Damai, a 55-year-old widow from Kulabir village of Koraput district, has been fighting the government for over 10 years to have her land restored to her after it was forcefully occupied by Padwa Police Station, Koraput.

As her father, Sunu Burudi's, only legal heir, Khillio had inherited 1.79 cents⁴⁸ (0.0179 ha) of agricultural land through mutation. However, the Padwa police station illegally occupied 1.09 cents (0.0109 ha) of her land and constructed buildings on it - the present Padwa Police Station and another office building. Despite several requests by Khillio, the revenue authorities have not restored the land to her but the local revenue officials continue to collect land cess from her every year for the same land. As Khilio belongs to a ST, and the land is agricultural land, the construction of buildings on this land is illegal, unauthorized and violates OSATIP Regulation 2/56.

Disheartened by the District Revenue Office's inertia, in 2012, Khillio moved the court to restore the land to her. The case is pending before the court. This long struggle with the government system has made her life miserable and vulnerable to social and economic insecurity. <<end text box >>

Source: Field study

2.7 EQUITY & PARTICIPATION IN LAND ADMINISTRATION

The state needs to strengthen the capacities of all the stakeholders involved in the legal drafting process, as well as those of government executives who need to understand the importance of gender sensitive provisions under different land laws in order to ensure they are effectively implemented at the grassroots level. Some of the capacity-building needs the state should consider are as follows:

⁴⁷ Violation of Regulation 2 of OSATIP, 1956

⁴⁸ A cent is an ancient Tamil measurement of land, still in use today. 1 cent of land is equal to about 40 m².

- Decision makers need to understand the importance of inclusive legal drafting and law making.
- Introduction of training modules on gender in land laws and circulars highlighting gender issues for RDM department staff.
- Both women and men should be provided training about access to justice through collaboration with civil society under the Legal Service Authority Act and other revenue laws.
- All stakeholders involved in the legal drafting process should be provided training on gender equitable legal drafting, rules and procedures for the formulation of equitable land laws

2.8 NEED FOR MONITORING

There are few enabling provisions in the state to monitor the progress of legal reforms. In the absence of the availability of gender-disaggregated data in the legal system, an indirect attempt⁴⁹ was made to estimate the number of cases related to inheritance issues filed by women. The research indicated that 45 percent of cases involving women (female, woman or women) were related to HSA, 1956, and 35 percent were related to HSA, 2005. However, according to information obtained through interactions with legal practitioners, the number of civil suits involving women’s land inheritance, brought before the Bhubaneswar (capital of Odisha) court, has increased over this decade.

The RDM Department and Law Department should monitor the following indicators annually:

Monitoring indicators	<ul style="list-style-type: none"> • Percentage of women participating in legal drafting of land-related laws, regulations and procedures. • Government notifications for Review of land laws, Inclusion of daughter’s name in land records, Reduced stamp duty. • Presence of CSOs and other stakeholders in the legal drafting processes involving women and men from the grassroots level. • Number of gender-sensitive amendments in relevant land laws. • Notifications or actions on Policy on transgender (<i>by Department of Social Justice and Empowerment of PWDs</i>). • Percentage of women and men receiving training regarding access to land justice. • Percentage of women members in land dispute resolution institutions and mechanisms, including local community institutions. • Number of women who obtain free legal aid from the Legal Services Authority.
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⁴⁹ Keyword search of the number of court cases in different courts of India available through the legal search engine <http://indiankanoon.org>

- Number of land disputes involving women in revenue and civil courts.

2.9 RECOMMENDATIONS

The following Table (Table 2.9.1) summarizes the status of the legal framework from the VGGT perspective and suggests actions that would lead to an improved legal framework for GELG.

<<Insert Table 2.9.1 about here>>

Table 2.9.1 Status of legal framework compared with VGGT Vision

Legal Aspects	Odisha Status
Multiple tenure arrangements and legal pluralism	The Hindu Succession (Amendment Act) of 2005 provides for equal inheritance regardless of gender, but the Muslim Personal Law and the Indian Succession Act (for Christians) do not, so people of different religions are treated differently. In addition, the HSA is not applicable to Scheduled Areas. Customary laws are not codified and documented and not legally enforceable, although they affect the land rights of men and women in Schedule V areas. The FRA currently excludes recognition of OTFD rights. The JFM mode of forest tenure (by virtue of Government Order) co-exists with the constitutionally legitimized Community Forest Resource (CFR) Rights as per the FRA. While under JFM regulations, there is a provision for joint management involving the Forest department, CFR under FRA provides for community rights.
Gender and indigenous land rights	Tribal communities in the state follow different customary practices (Table 2.2.3), although these are not legally enforceable. FRA has mandatory provision for joint titling, applicable to all homestead, agricultural lands and usufruct rights allotted by the state to tribal homesteadless and landless families.
Power dynamics at the community level	Widows and single women are unable to take possession of government allotted land as a result of illegal possession by other influential people and government institutions (Box 2.6.1).
Land Rights of Single Women	Odisha Land Reforms Act, 1960, and Odisha R & R policy, 2006 have indirect and conditional provisions dealing with single women's land rights. Odisha State Policy for Girls & Women (2014) categorically prescribes secure land rights for single women.
Consultative, participatory and gender-equitable legal drafting	Participation and consultation are often not embedded or called for in drafting laws or subordinate laws, regulations and procedures that help in implementing the law. However, of late, civil society has influenced the legal drafting process with respect to some laws including the Orissa Gram Panchayats (Minor Forest Produce Administration) Rules, 2002, Forest Rights Act, 2006, Odisha R & R Policy, 2006 and also Odisha State Policy for Girls & Women, 2006
Access to justice	Women's access to justice is obstructed by social, institutional and legal

	barriers despite the availability of free legal services in the state.
Legal support	Legal aid provision in IFAD funded OTELP; As per Odisha Legal Services Authority regulations; Legal training on FRA by NGOs like Vasundhara; Training for CRP (Community Resource Persons) by Landesa.

Based on the situation described above, the following are some recommendations to improve gender equitable land governance in the state.

LOW HANGING FRUIT (*based on priority, ease of action in terms of resources and time frame*)

1. Organize a gender audit of existing land laws and include ‘single women’ when required.
2. Ensure the rights of single women, who constitute about 10 percent of the state’s population (Census, 2011) by including provision for and a definition of ‘single women’ under the OLR Act, 1960, and also by inserting a priority clause for single women in the OGLS Act, 1962 and the Rule for allotment of government land.
3. Develop policy in line with other states like Tamil Nadu, for providing secure land rights to the transgender community.
4. The RDM Department should immediately execute a notification to bring a *suo moto* mutation case against all holdings to include the name of the daughters along with the sons, setting a time frame, to implement the spirit of the Hindu Succession Act, 2005 (Amendment) as well as per provisions under Section 19 of the OLR Act, 1960 and Section 34 of the Survey & Settlement Rule, 1962 (records should be in the name of both sons and daughters after the father’s death).
5. Create a provision⁵⁰ for land leasing to women, individually and as groups (lease to Women SHG as prescribed in the OSPGW, 2014) and also legalize private land leasing to women’s groups (group tenure).
6. Amend the OGLS, 1983 to make provisions less hierarchical and enable easy homestead land allotment, to avoid clever officials using the OPLE, 1972 to prevent the allottees from taking possession of their land.
7. Execute a notification for the implementation of the provision for a reduced stamp duty for registration of land in the name of women, as per provisions in the OSPGW, 2014.
8. Increase the amount of financial incentives for paralegals engaged by the State Legal Service Authority (SLSA), from Rs. 1000 (16 USD) to Rs. 5000 (78 USD), in line with similar initiatives in Andhra Pradesh; make arrangements for permanent office space for paralegals at the Gram Panchayat level.

LONG-TERM EFFORTS

⁵⁰ By amending Section 3 of the OGLS Act and Section 51(2) of the OLR Act.

1. Document customary laws and practices related to women's land rights among different tribal communities to develop mechanisms for gender equity for 26 percent of the State's population, living in about 44 percent of the state's area. This is all the more necessary as some aspects of the Constitution, especially the Hindu Succession Act, (Amendment) 2005 are not legally applicable to them.
2. Restore dispossessed land to women of all communities, in line with the provision for land restoration to ST under the OSATIP regulation, 1956 (Amendment 2001) and for SC and ST under the OLR Act, 1960.
3. Increase the limit of the period of transfer of settled land for agricultural purposes to privileged raiyats⁵¹ (which include single women) from 10 to 30 years⁵² to avoid these people losing their land rights.
4. Revive the Land Commission at the State level, along with the District Executive Committee and Local Committee⁵³, as per the OLR Act, 1960, and ensure a minimum one-third membership for women, to develop a robust legal and institutional framework for gender equitable land governance.

⁵¹ Odisha Land Reforms Act, 1960 defines a raiyat as (i) the holder of a raiyatwari *patta* under the raiyatwari settlement in the districts of Ganjam and Koraput and in Baliguda subdivision of Boudh district ; (ii) a person with whom land has been settled for agricultural purposes after the commencement of this Act under a lease from a land-holder, or under a permanent lease from Government ; (iii) the holder of a raiyatwari *patta* under the raiyatwari settlement in the districts of Ganjam and Koraput and in Baliguda subdivision of Boudh district ; (f) a person with whom land has been settled for agricultural purposes after the commencement of this Act under a lease from a land-holder, or under a permanent lease from Government etc.

⁵² By amending Section 6-A (1) of the OLR Act, 1960.

⁵³ As per Chapter V (Section 53-54) of OLR Act, 1960.

REFERENCES

- Agarwal, B (2002): “Are We Not Peasants Too? Land Rights and Women’s Claims in India”, SEEDS Pamphlet Series 21 (New York, NY: Population Council), available at: <http://ccc.uchicago.edu/docs/AreWeNotPeasantsToo.pdf>
- Agarwal, B. (1994). *A Field of one’s own: Gender and land Rights in South Asia*, Cambridge: Cambridge University Press.
- Archer, W G (1984) *Tribal Law and Justice: A Report on the Santal* (New Delhi: Concept Publishing Company) Published under the Authority of the Bihar Government.
- Census-2011, Government of India <http://censusindia.gov.in/>
- Datta, Namita (2006): “Joint Titling - A Win-Win Policy? Gender and Property Rights in Urban Informal Settlements in Chandigarh, India”, *Feminist Economics*, Vol. 12, Nos 1-2, - 2/January/April, pp. 271-98(28).
- Deininger, Klaus, Goyal Aparajita, and Nagarajan, Hari. 2012. *Women’s Inheritance Rights and Intergenerational Transmission of Resources in India*. <http://www.ruraldev-irma.in/attachments/research/hssa.pdf>.
- FAO (2013) *Governing land for women and men; A technical guide to support the achievement of responsible gender-equitable governance of land tenure*.
- FAO. 2008a. *Compulsory acquisition of land and compensation*. Land Tenure Studies No. 10. Rome. <ftp://ftp.fao.org/docrep/fao/011/i0506e/i0506e00.pdf>
<http://www.fao.org/docrep/017/i3114e/i3114e.pdf>
- GOO (2012). *Annual Activities Report 2011–12*, Revenue & Disaster Management Department for the Year, Government of Odisha.
- GOO (2013) *Annual Activities Report, 2012–13*, Revenue and Disaster Management Department, Government of Odisha.
- GOO (2015) *Annual Activities Report, 2014–15*, Revenue and Disaster Management Department, Government of Odisha.
- Haque, T. 2013. *Empowering rural women in developing countries-Challenges and Pathways*. Seminar Proceeding, sept 2013.
- Englert, B. & Daley, E. 2008. Introduction. *In E. Daley and B. Englert. Women’s land rights and privatization in Eastern Africa*. Woodbridge, UK, Boydell and Brewer.
<https://siteresources.worldbank.org/INTWDR2012/Resources/7778105-1299699968583/7786210-1315936222006/Complete-Report.pdf> accessed on 18 August 2015.
- International Land Coalition (2013) *Women’s land rights and gender justice in land governance: pillars in the promotion and protection of women’s human rights in rural areas*, pp.1-21.
- Mohapatra. A. 2014. *The Empowered Women in Kandha Community: The Highest Figured Tribe in Odisha*. *American International Journal of Research in Humanities, Arts and Social Sciences*, 2328-3688.
- Odisha State Land Governance Assessment Framework Report-2014, KIIT School of Rural Management, Bhubaneswar, Odisha.
- Odisha State Policy for Girls and women, 2014.

(<http://wcdodisha.gov.in/sites/default/files/pdf/Odisha%20State%20Policy%20for%20Girls%20and%20Women%20C%202014%20perce%20nt28English%29.pdf> accessed on 17th August 2015).

Odisha State Policy for Girls and women, 2014.

(<http://wcdodisha.gov.in/sites/default/files/pdf/Odisha%20State%20Policy%20for%20Girls%20and%20Women%20C%202014%20perce%20nt28English%29.pdf> accessed on 17 August 2015).

Orissa Government Land Settlement Act, 1962.

(http://www.odisha.gov.in/revenue//Acts_Rules/Acts/OGLS_Act.pdf accessed on 18 August 2015).

Orissa Land Reforms Act, 1960)
(http://www.odisha.gov.in/revenue//Acts_Rules/Acts/OLR_Act.pdf accessed on 18 August 2015).

Orissa Prevention of land Encroachment Act, 1972

(http://www.odisha.gov.in/revenue//Acts_Rules/Acts/OPLE_Act.htm accessed on 18 August 2015).

Orissa Scheduled Areas Transfer of Immovable Property (by Scheduled Tribes) Regulation, 1956 (http://www.odisha.gov.in/revenue//Acts_Rules/Acts/regulation2.pdf accessed on 18 August, 2015).

Padhi and Panigrahy, 2012. Human Rights Documentation* Indian Social Institute, Lodi Road, New Delhi - 110 003, (India).

Rao, N. 2008. "Good women do not inherit land": Politics of land and gender in India. New Delhi: Social Science Press and Orient Blackswan.

Status of Forest Rights Act as in May 2015

(<http://tribal.nic.in/WriteReadData/CMS/Documents/201508100959332745375MPRfortheMont%20hofMay2015.pdf> accessed on 16th August 2015).

UNDP, 2012. Needs Assessment Study of the Legal Services Authorities in the States of Madhya Pradesh, Jharkhand, Bihar, Uttar Pradesh, Odisha, Rajasthan and Chhattisgarh. 195 p.
<http://www.in.undp.org/content/dam/india/docs/DG/needs-assessment-study-of-selected-legal-services-authorities.pdf>

UNDP.2008. Status Report; Land Rights and Ownership in Orissa. 72p.

http://www.undp.org/content/dam/india/docs/land_rights_ownership_in_orissa.pdf

Module 3: Institutional framework for GELG

The VGGT Vision of Institutional Frameworks for Gender-equitable Land Governance

- VGGT prescribes a consultative and participatory decision-making process in land institutions in accordance with national laws and legitimate tenure rights (3.B.6, 5.3); fixation of responsibility at levels of government for effective and fair delivery of services (5.6) and provisions to address all forms of capacity gaps for timely and effective implementation of gender sensitive policies and laws (6.1).
- To operationalize GELG, the state must ensure that both men and women represent the land governance institutions equally and there is equal space in the decision-making process. The State should provide for the desired capacity building and attitudinal change on gender issues amongst revenue staff, to facilitate effective implementation of land policies and laws.

3.1 INTRODUCTION

Equitable inclusion of both genders in all land institutions and governance processes helps establish a fair and responsible land governance mechanism that provides positive gains for society as a whole (FAO, 2013). However, the land administration institutions discriminate against women, either explicitly or implicitly (FAO 2010b; UN–HABITAT 2008). FAO’s Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (CFS) seek equitable inclusion and capacity building of both genders in all land institutions and governance processes, for establishing a fair and responsible governance mechanism. Gender-equitable representation and participation in the institutions of land tenure governance includes having women as leaders in decision-making bodies and as active participants in planning processes, and may increase the likelihood of achieving gender-equitable outcomes from the processes of land tenure governance (World Bank/FAO/IFAD, 2009).

This chapter presents the state’s institutional framework for land tenure governance from the VGGT gender perspective. It describes the gender sensitive provisions in the existing land governance institutions as well as the status of women’s access to these institutions. It highlights institutional gaps and challenges and delineates capacity-building strategies and monitoring indicators, along with specific recommendations for a participatory, gender inclusive land governance institutional framework.

3.2 LAND GOVERNANCE INSTITUTIONS

Land governance in Odisha has undergone reforms in three fairly distinct phases - first, the post-independence land reforms in the sixties; second, in the 1990s, with an emphasis on local governance of land, encouraging investments in the state; and third, in the twenty-first century, with an integration of GIS and Information Technology (IT). All these reforms require an expansion of the ambit of the nodal Revenue Department, thus making it imperative to create a more inclusive institutional framework.

3.2.1 WOMEN IN STATE INSTITUTIONS

A gender-balanced representation of women is needed at various levels of the land and revenue administration. This section looks at the various departments that play a role in the land and revenue administration in the state and the representation of women within these departments.

The **Revenue & Disaster Management (RDM) Department** looks after all revenue administration in the state, with the support and cooperation of other departments as presented in Figure 3.1. The Board of Revenue (BoR)⁵⁴ is the apex authority for revenue

⁵⁴ Land administration in Odisha is mandated to two, parallel government agencies: the Revenue and Disaster Management Department, responsible for policy formulation and revenue collection; and the Board of Revenue,

related matters. Judicial authority has been delegated to the Revenue Development Commissioners (RDCs) and policies related to land are implemented by the BOR.

At the District level, District Collectors oversee all revenue functions and report to the RDC of their respective zones. Each district is further sub-divided into one or several sub-divisions headed by Sub-Collectors, beneath them we have the tehsil administrative unit that functions under a Tehsildar. Each Tehsildar supervises Revenue Inspectors (RIs, or *patwaris*) who oversee a number of villages within the revenue circle. (An RI circle covers 20–30 villages).

Since 2000, 33 percent of the positions in the RI have been reserved for women, however, the actual number of women is much lower (Table 3.2.1) although with the increase in women’s literacy, adequate human resources are available to fill these positions⁵⁵.

<<Insert Table 3.2.1 about here>>

Table 3.2.1 Gender Equity in land administration in Odisha

Position	No of sanctioned posts	Posts occupied	No of female staff
Tehsildars	317	228	41
Odisha Revenue Service (ORS) Officers	1180	395	20
ORS Officers as Additional Tehsildar		238	11
Total No. of staff (Assistant Section Officer (ASO)/Section Officer/Desk Officer) in RDM Department		168	6
Officers in RDM (Revenue and Disaster Management) Department at the Secretariat		28	2

responsible for the implementation of land policy and judicial matters. The Board of Revenue (BoR) administers all Land Rules or Acts, assisted by Secretaries and Offices of the Revenue department. The Board of Revenue (BOR) is headed by the Member, BOR. It is the apex authority on matters of revenue administration and revenue policy implementation and it also has judicial authority. The BOR coordinates land reforms and maintains land records. It is a legacy of the colonial period and its importance is declining over time (Mearns and Sinha, 1999 and Odisha State LGAF Report, 2014).

⁵⁵ It is worth mentioning that the literacy rate in Odisha has increased 4.6 times from 15.80 percent in 1951 to 72.90 percent in 2011, growing at an annual rate of 2.59 percent, as against 2.35 percent at the national level. At the national level literacy has increased from 18.33 percent in 1951 to 73.0 percent in 2011. While male literacy in Odisha has increased 2.99 times, from 27.32 percent in 1951 to 81.6 percent in 2011, female literacy has grown much faster (i.e., 14.16 times) from a low level of 4.52 percent in 1951 to 64.0 percent in 2011. Further, rural female literacy has increased 2.8 times, i.e., from 21.90 percent in 1981 to 60.74 percent in 2011.

In order to improve the literacy rate in the state, Sarva Shiksha Abhiyan (SSA Universal Literacy Movement) has been introduced in all 30 districts with three objectives, i.e., universal enrolment, student retention and quality of education. Similarly, two special schemes, the National Program for Education of Girls at Elementary Level (NPEGEL) and Kasturba Gandhi Balika Vidyalaya (KGBV; Kasturba Gandhi Girls School) have been introduced in educationally backward blocks of the state to reduce the gender gap and encourage greater participation of girls in education. Besides, the state is taking special care to enhance female tribal literacy in the tribal pockets of the state by providing residential hostels, bicycles, and scholarships for students.

The gender gap in the literacy rate in Odisha has fallen by 7 percent, from 24.8 percent in 2001 to 17.6 percent in 2011, in comparison to 21.59 to 16.6 (5 percent) for India. The female literacy rate has also increased by 13.5 percentage points over the last decade, while the male literacy rate increased by 6.3 percent.

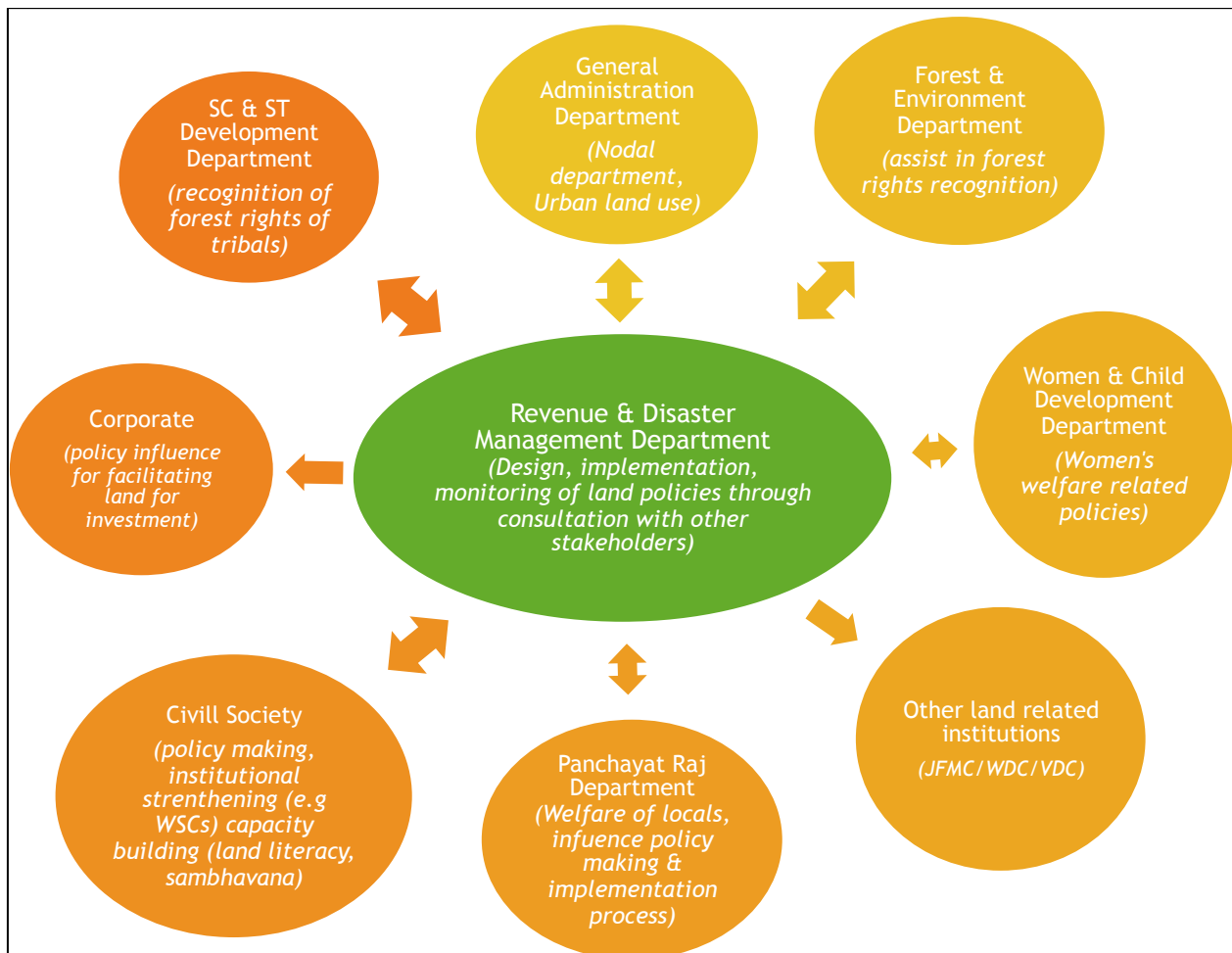
RI/Assistant RI/ Amin (Field surveyors under RI) in 2 tehsils [#]		42	10
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Sources; Ganjam & Mayurbhanj districts Field Study; For all others: Personal interview with Staff of RDM Department

Women need to be present especially at the RI and Amins levels because these officers work at the village level and form the interface between the Department and the villagers, including the women. Local women would find interactions easier if the Department were represented by women too. The State Government is taking steps to increase the number of women staff members in Odisha’s RDM Department, however, given the low receptivity and socio-cultural mind-sets, women and/or their families are not very interested in these positions (field survey⁵⁶).

<<Insert Figure 3 about here>>

Figure 3.1 Institutional arrangement related to GELG in Odisha



The General Administration (GA) Department is the nodal department for the whole state administration and it controls the governance framework in the state. It is responsible for the

⁵⁶ Interactions with officers at different levels, and with other stakeholders

final approval of all Acts and policies including those related to land. It is entrusted with the regulation of urban land use in some major cities including the state capital, Bhubaneswar. It has a vital role to play in the operationalization of gender equitable land governance, however, only 2 out of 29 officers at the GA department headquarters in the State Secretariat are women and in the department's land section, only 1 out of 4 land officers is a woman.

The Women & Child Development (W&CD) Department works for the welfare and advancement of women in the state. It provides critical inputs for the formulation of gender sensitive land policies. The OSPGW, 2014 was a major contribution made by this department. Angan Wadi Workers (AWWs), a village level cadre of women under the W & CD Department play a crucial role in the identification of landless households in the state. Presently, 8 out of 37 officers at the W&CD Department headquarters in the State Secretariat are women.

The ST & SC Development Department is the nodal department for the recognition of Forest Rights of tribal communities. In the ST & SC Development Department, only 3 out of 14 officers at the State Secretariat headquarters are women.

The Forest & Environment (F & E) Department plays an important role in the recognition of Forest Rights and is also the agency that implements JFM. There are no women amongst the 36 staff members at the F&E Department headquarters.

The Panchayat Raj Department is responsible for the management of the PRIs. PRI representatives play a major role in the decision-making process at the village level, including for land related issues. It also assists in the identification of landless people and allotment of land titles. Currently, 35–36 percent of PRI positions are occupied by women. In 2012, the state increased the reservation for women in PRIs to 50 percent.

3.2.2 WOMEN IN LOCAL GOVERNANCE INSTITUTIONS

Several development projects in Odisha seek to enhance the role of women in decision-making processes and ensure their representation in the institutional arrangements. Institutions such as the Local Watershed Development Committee, irrigation management committees, pastoral range management institutions and customary land administration institutions often deal with issues at the interface of land and other natural resources, such as access to water for domestic use, pastoral water rights, customary access rights to water for irrigation, and access to rangeland for pastoral grazing (FAO, 2011). Women are involved in these land related institutions and there are several institutions at the local level that have provisions for the representation of women. Some of these are listed below along with gender based representation provisions.

Gram Sabha: Gram Sabhas (village assembly) have complete powers⁵⁷ for tribal self-rule. They consist of all the adult members of a village or Panchayat including the women, and have the supreme authority to decide and be consulted on the use of village lands and resources. Although this gives tribal women equal rights to decisions concerning their land, the implementation of the Act is pending the formulation of supporting rules.

⁵⁷ As per the provisions of the Panchayats (Extension to Scheduled Areas) Act, 1994 (PESA).

Forest Right Committee (FRCs): as per the FRA, 2006 rules, one-third of FRC members should come from the STs and not less than one-third of these should be women. It is further provided that in places where there are no STs, at least one-third of all members should be women. FRCs are elected by the Gram Sabhas and consist of ten to fifteen members, who include STs, OTFDs, and women. A recent survey by Vasundhara, a local NGO, indicates that about 13 percent of FRCs have less than the prescribed number of women (personal correspondence).

Watershed Committees: All Watershed Committees (WCs) should be composed of at least 10 members, half of them shall be representatives of SHGs and User Groups, SC and ST communities, women and landless persons in the village⁵⁸.

Joint Forest Management Committee (JFMC): 50 percent of the Executive Committee (EC) membership is reserved for women under the JFM Resolutions 2011, GOO. Further, either the Chairperson or Vice-Chairperson of the EC should be a woman and at the General Body meeting, at least one third of the members present should be women.

Pani Panchayats (Irrigation Management Committee): The law⁵⁹ reserves not less than one-third of the total number of seats on the EC of every Pani Panchayat for women.

The Environment Protection Act, 1986, makes it mandatory to hold public hearings for affected communities to raise objections before their lands are taken over for any development projects. However, women's participation in such events is limited for socio-cultural and political reasons

Women Self Help Groups (WSHGs): WSHGs are also involved in a variety of activities⁶⁰ at the village level. In Rayagada, WSHGs lease land in groups or individually for their livelihoods. To support WSHG activities, the state government has extended⁶¹ land-leasing provisions (at nominal rates) in favor of women's groups for productive activities, it has also made provisions to allot government land on temporary leases to WSHGs for agricultural and horticultural activities.

3.3 WOMEN'S ACCESS TO LAND INSTITUTIONS

Women's access to revenue offices is very limited. Data from the field survey showed that only 37 percent of women respondents had accessed revenue offices for their problems. Women's accessibility to revenue offices varies according to the districts, though tribal districts show better accessibility.

⁵⁸ As per the Common Guidelines for Watershed development Projects, 2008, GOO.

⁵⁹ Section (2-a) of Odisha Pani Panchayat Amendment Act, 2008.

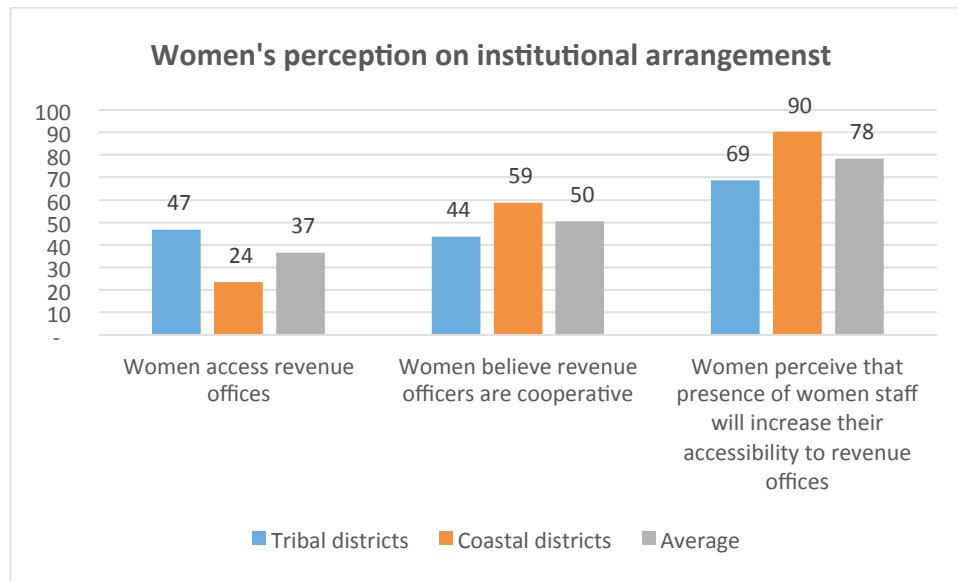
⁶⁰ WSHGs may engage in the protection of the community forest resources (CFRs). In Kandhamal, they guard the CFR area against illegal logging and theft of forest produce. They can undertake plantation activities in the wastelands to meet wood fuel requirements, thereby reducing pressure on natural forests. They are also engaged in awareness generation activities toward the conservation of forest resources. In the JICA funded OSFDP, WSHG members were managing a part of the forest area allocated to the JFM committee for food and livelihoods.

⁶¹ Vide OSPGW, 2014

Fifty percent of women believed that revenue officers were cooperative. This figure was higher, at 60 percent for coastal women and lower, at 44 percent, for tribal women. This may be a positive outcome of civil society engagement in issues related to the institutional framework, as most of the samples in coastal districts are from Ganjam district, where WSCs are active through the joint efforts of the district administration and Landesa. The engagement of civil society institutions has helped ensure timely and effective delivery of services that are otherwise delayed as a result of manpower constraints in the RD.

<<Insert Figure 3.2 about here>>

Figure 3.2 Women’s perception of institutional arrangements (in percentages)



More than two thirds of the women felt that the presence of women staff in revenue offices would make it more accessible. They felt that it would enable the RD to better understand their problems and constraints, and would assist in better and appropriate presentation of cases leading to successful and desired outcomes.

Ninety percent of coastal women expressed the need for a higher number of woman revenue staff in the revenue offices. This perception may be due to the presence of active WSCs in the coastal districts, especially in Ganjam. These centers operate at the tehsil level, and are headed by a Woman Nodal Officer (WNO) at each tehsil. This has been a positive and productive outcome of Government–NGO partnerships in land governance.

3.4 INNOVATIVE INSTITUTIONS TO ENHANCE WOMEN’S PARTICIPATION

Odisha presents a distinct picture in terms of the involvement of non-state actors in supporting the State Government in GELG. The support of multi-lateral agencies such as the World Bank, IFAD etc. helps the state overcome institutional challenges and limitations. It was during the 1970s that for the first time the World Bank influenced the state with regard to making provisions for joint titling of land records. The IFAD supported the OTDP and Kashipur allocated land rights on hill slopes, and later, in partnership with OTELP and the

Rural Development Institute (RDI), piloted the Community Resource Persons (CRPs) model for empowering local communities through information and training on land administration, to strengthen the land allocation process in tribal areas of the state.

International NGOs like Landesa and Action Aid support the identification of landless single women through WSCs in 76 tehsils of Odisha and Landesa and Care-India assist in the land literacy program in 11 blocks in three districts.

3.4.1 Women's Support Centers (WSC)

The Women's Support Centre Program pioneers women centric institutionalized initiatives focusing on homestead land allocation in Odisha. The GOO, in collaboration with Landesa and Action Aid, established 76 WSCs in four districts of Odisha (Ganjam, Mayurbhanj, Koraput, and Kalahandi).

The WSCs aim is to ensure that single women can access the benefits provided by several government services, including land titling programs and social security entitlements. These centers are headed by WNOs, mainly at the rank of Revenue Inspectors (RI), or Assistant Revenue Inspectors (ARI), in the concerned tehsils.

The WNOs are responsible for identifying landless, single women or female-headed households in the area, with the help of *Anganwadi* workers at the village level. This has led to a high number of homestead *patta* being distributed to single women. So far (till September 2015), 3000 single women have been provided land through WSCs. This program has set a target to provide secure land rights to 500000 (5 lakh) single women in the state and the GOO plans to set up WSCs in other districts of Odisha.

3.4.2 World Bank, GOO and PRI partnerships

The GOO, with the support of the World Bank, initiated the "Phailin⁶² Rehabilitation special scheme for landless households" for the poor landless and/or homesteadless people living in villages within five kilometers of the coastline of the cyclone prone Ganjam district. Under this scheme, a team of government officers, supported by Landesa, identified affected families, with or without land ownership. These families were allotted both land *pattas* and housing facilities. As a part of this scheme, the land *pattas* were allotted either jointly, in the name of the husband and wife, or individually in the case single women (widowed, unmarried above 30 years or divorced). The Gram Sabhas were entrusted with the task of preparing the final list of beneficiaries, subject to random verification by the District Collector. This scheme was very successful (field study) especially in providing social security and land possession to the single women. The results of the scheme were a hundred percent possession with convergence (namely housing scheme, old age or widow pension etc.).

3.4.3 Mayurbhanj Success Story

The district administration of Mayurbhanj initiated an exemplary review and monitoring mechanism for the successful implementation of land grant schemes. In monthly review meetings, chaired by the District Collector, staff from all concerned departments including the RDM department, (all tehsildars, Revenue Supervisors, RIs, etc.), ITDA etc., and NGO

⁶² A severe cyclone that hit the East coast of Odisha in 2013, affecting over 8 million people in in the state.

representatives present monthly progress reports. The interaction among the key stakeholders in a common forum ensures better and timely co-ordination, cooperation and mediation resulting in the timely completion of different project activities such as beneficiary identification, verification, allotment etc.

The district administration had started allocating land to the landless in May 2015, and by September 2015, 1179 single women including widowed, deserted, differently abled and unmarried women (over 30 years), had received legal titles to small pieces of land through WSCs. This district has a higher number of women Tehsildars and Revenue Inspectors, which also contributed to the performance of Women Support Centers. The Forest Rights recognition process in the district has set an example for other districts of the state particularly in terms of recognition of community forest resource rights, through an inclusive process involving the RDM department, NGO, PRIs, FRC etc.

3.4.4 Community Resource Person Initiative

This initiative, started in 2009 under the OTELP, in collaboration with RDI, has been very successful over the last 6 years in terms of providing land to tribal landless households. The program approach was based on training a local youth, the Community Resource Person, identified by the community to work as a “barefoot revenue (land) official”. He was trained by the facilitator (RDI) to assist in the identification and allotment of government land to landless families. Initially, this program was launched in seven districts (Tribal Sub Plan blocks) covering 1042 villages. Given the success of this approach, the state government further extended the CRP initiative to 17974 villages, covering 118 Tribal Sub Plan (TSP) blocks for a period from 2012–17. According to the distribution figures (January 2014), 17,050 individual land titles were distributed in 551 villages and of these, 93 percent of homesteads and farmlands were jointly titled, and 2.5 percent were women-headed households.

3.4.5 Encouraging participation through Capacity Development

Capacity building for both men and women is imperative for an effective operationalization of gender equitable land governance in Odisha. Some CSOs organize capacity development for PRIs, women titleholders and women groups, with the objective of increasing the institutional participation of stakeholders.

Vasundhara (a local NGO), in partnership with the district administration of Kandhamal, piloted the Sambhavana initiative to enhance women’s access to and participation in institutional processes. They aim to build resilience among women titleholders through timely links between different social security schemes. The program focuses on organizing orientation workshops at the Gram Panchayat level, with women FRA title holders, PRI members, FRC members, SHG members and government officers (ITDA staff under the SC ST Development Department). This has improved mutual understanding, brought clarity to their roles in the decision-making process and aided institutional collaboration in the forest rights recognition process.

In Rayagada, PRADAN (a NGO), carries out training programs to enhance the capacity of WSHGs. This has increased their access to and participation in land tenure governance institutions (field study).

3.5 GAPS AND CHALLENGES

In spite of the considerable progress made in Odisha to promote gender-equitable land governance, land administration in general, and gender-equitable land governance in particular, face several challenges.

The RD officials have multiple duties that include the preparation of electoral rolls, conduct of elections, implementation and monitoring of development schemes, implementation of land administration, management of natural disasters, maintenance of law and order, etc. In recent years, there has been a rapid increase in other responsibilities that cover disaster relief operations and several welfare programs related to land distribution etc. At the same time, the department suffers from a shortage of manpower, with several positions lying vacant. Very little recruitment has been carried out, especially at the field staff level. Hence, the RDM department finds it a challenge to cope with the volume of work, given the increase in population and the consequent escalation in land transactions.

A Revenue Inspector allocates about 25 percent of his time to updating land records and maintenance of other records (Mearns and Sinha, 1999). Over the years, the scope of RIs' operations has increased both in terms of the area they cover and the quantum of tasks they perform. On average, an RI circle in Orissa now covers 20–30 villages with an annual revenue demand that is nearly 10 times the figure prescribed in the 1961 'Manual of Tehsil Accounts' (Tripathy, 1992). The 1985 conference of State Revenue Secretaries agreed that 'the real jurisdiction of the Revenue Inspector should be brought down to a manageable level such as four villages or 3000 *khatiyans* per [RI]' (GOI, 1985: 53) but this was never achieved in practice. Institutional interventions like the creation of CRP positions, in which additional man power and knowledge-based support were provided to the RI, has led to better achievements in terms of land rights. Similarly we find that adding a gender focus through the creation of WSCs has also led to the same RI and RDM departments returning more gender sensitive results.

As the RDM department is a law enforcement agency, this also implies built-in attitudinal barriers among its staff and perception barriers on the part of the communities (in approaching the RDM department and demanding rights), these are major constraints that reduce access to and limit the delivery of women's land rights. Women constitute less than 10 percent of the staff in the RDM department, despite a one third reservation for women for RI positions and the availability of sufficient numbers of qualified women graduates (about 34 percent).

The following are the institutional gaps and challenges that restrict the operations of gender equitable land governance

- Nominal representation (<10 percent) of women in the revenue offices.
- High number of vacant posts affecting service delivery and the quality of services; out of 2934 state service officer posts (Odisha Administration Services and Odisha Revenue Services), 2152 (73 percent) are vacant. Out of 631 Tehsildar and Block Development Officer (BDO) positions, 129 (20 percent) are vacant (Interviews during the study).
- Poor and inadequate infrastructure: 90 percent of RI offices lack electricity, and most RI offices and tehsil offices do not have toilet facilities (Interviews during the study).
- Limited computer skills among most senior staff affects data entry, information retrieval and dissemination (Interviews during the study).
- Low compensation and work pressure on computer operators involved in the computerization of land records at the tehsil level, who continue to be contractual staff. As the positions are contractual and the staff recruited locally, often the one-third reservation clause for women is not respected or it is compromised. This position is an important one, particularly for adding the 'gender' parameter to online land records.
- Heavy work burden on revenue staff: more time is now being spent on issuing certificates or on relief and census operations etc., therefore less time is available for revenue administration.
- Low level of motivation of staff at different levels, due to lack of promotional avenues as a result of poor cadre management.
- Sociocultural barriers and patriarchal attitude toward women.
- Limited willingness of the RDM department to engage with NGOs. The RDM department lacks experience in working with NGOs, unlike the case of development departments such as health and education etc. At present, these collaborations are limited to cases in which they have initiated the partnership to showcase the benefits, as in the case of WSC, CRP etc.

3.6 EQUITY & PARTICIPATION IN LAND ADMINISTRATION

Policy reforms should be followed by efforts to sensitize government or local leaders, traditional leaders, and others with decision-making power over land distribution and management, so that they are able to protect women's rights to land. Officers need to be sensitized to allow them to understand why it is important to protect and increase women's ownership and management of land.

In some rural areas, national land policies and laws have little relevance to how land is accessed and used, because customary systems determine access to and control over land through complex social relations (Knight, 2010). Given the importance of customary institutions in rural areas, approaches that harmonize customary and statutory systems need

to be established in order to resolve competing claims over resources without disenfranchising vulnerable groups. (Byamugisha, 2013).

Appropriate and iterative capacity building of RD employees and other stakeholders is critical to ensuring women's land rights. The government should consider introducing academic modules on gender and land rights in the pre-service (entry stage) and the refresher Training Programs for OAS, ORS, RIs, ARIs and Amins. The Gopabandhu Academy of Administration, as well as the Revenue Officers' Training Institute (Gothpatna, Bhubaneswar) must make gender a mainstream issue in their training curriculum, and develop relevant modules with a roster of suitable resource persons (this could be done in consultation with the W&CD Department).

Some areas that training and capacity-building exercises could focus on are summarized below:

Training topics could include:

- Importance and relevance of GELG in the present context;
- Government gender policy (OSPGW, 2014, R& R Policy);
- Gender-specific provisions in the legal framework of the state;
- Gender-equitable land survey and record management;
- Monitoring of GELG;
- Attitude and behavioral change required for a more gender accessible administration;
- Role of partnerships with CSOs, PRIs and other community institutions in addressing the resource and skill gaps;
- Measures and methods to make land governance more accountable, accessible and inclusive.

3.7 MONITORING NEEDS

Continuous monitoring of GELG is essential to ensure the success of various initiatives in the initial stages and to ensure desired outcomes in the long term. Besides community monitoring of the land allocation and post-land rights process, ensuring discussions about and an audit of the same during Gram Sabha Meetings must be encouraged and institutionalized by formally engaging PRIs. Examples of Gram Sabhas steering the FRA process successfully, as legally mandated, in hundreds of thousands of villages across states like Odisha, Maharashtra, Gujarat, Tripura etc. according to the forest rights progress figures, demonstrates their potential.

At the same time, monitoring of institutional participation of women and ensuring their presence in revenue offices, at various levels, in line with FAO'S VGGT is imperative to ensure a robust GELG framework in the state. Women with property rights are more likely to be active members of their communities, and community institutions themselves are more likely to be responsive to the needs of women as a result (Agarwal 2003; FAO 2002b; Scholz et al. 2013). Certain monitoring indicators are summarized below:

Monitoring indicators

- Percentage of Women Tehsildars, RIs, ARIs, Amins etc. in RDM department.
- Percentage increase in annual budget of RDM department related to gender-equitable provisions (*Finance Department*)
- Percentage of women in technical positions (surveying and mapping under department of Land Records within RDM Department (namely Survey and Settlement Officer) related to land governance;
- Percentage of women and their participation (attendance at meetings) in land institutions like FRCs, JFMC, Watershed Committees and Pani Panchayats;
- Percentage of Women in customary institutions (village institutions etc.) governing land issues;
- Number of gender sensitization and training activities organized for revenue officials and number of men and women staff who received such training;
- Number and coverage of projects/schemes/activities in GOO–NGO partnerships and in PPP mode.

3.8 RECOMMENDATIONS

The status of the institutional framework, from the perspective of the VGGT recommendations is summarized in Table 3.8.1 below.

<<Insert Table 3.8.1 about here>>

Table 3.8.1 Status of institutional framework compared with GELG vision

Institutional aspects	Odisha status
Gender equity in state land administration	Men dominate state land administration, despite the state’s continual efforts to increase the presence of women in the land administration framework. It has reserved one third of total posts at different levels for women, however, to date women represent less than 10 percent of the staff in the RDM department. A similar or worse situation is observed in the other line departments, such as General Administration, Forest and Environment, Urban Development etc. that deal with land. The first woman head of the RDM department was appointed by the state only in 2015.
Women’s participation in local land governance	In Odisha, 50 percent of seats in Panchayati Raj Institutions (PRIs) are reserved for women. The Forest Rights Committee, which decides questions of rights to forestland under the FRA, has to have at least one-third of women members. However a recent study by Vasundhara indicates that there are about 13 percent of FRCs, where the number of women members is less than the provision. The Government of Odisha, in partnership with Landesa and Action Aid, has established pilot Women Support Centers (WSCs) in 4 districts, to provide secure land rights to women, especially single women, through a more participatory mechanism involving an Anganwadi worker. These centers are established at the tehsil level and headed by Woman Nodal Officers (WNOs).
Gender-equitable	State’s laws encourage the participation of women in land related institutions such as the Watershed Committee, Joint Forest Management Executive

participation in land-related institutions	Committee and Executive Committee, Pani Panchayats (Water User Associations) etc. (section 3.2.2).
Other institutions	<p>Women Self Help Groups (WSHGs) are also involved in land tenure governance for example in Rayagada, WSHGs practice group or individual land leasing and in Kandhamal some WSHGs are engaged in the protection of the community forest resources</p> <p>As per Odisha State Policy for Girls and women–2014, the Government will extend land-leasing provisions at nominal rates to women’s groups for productive activities. It has also made provisions to allot government land on a temporary lease basis to WSHGs, for agricultural and horticultural activities.</p>
Capacity building for gender-equitable land tenure governance	Odisha State Policy for Girls and Women, 2014, provides for training state administrative officers involved in land administration, on gender issues. Some NGOs such as Landesa, PRADAN, Vasundhara etc. provide capacity-building support to government staff, PRIs, WSHGs etc., to encourage effective land governance in the state.
Gender-equitable representation in technical professions	Comparatively far fewer women work in technical professions related to land, surveying, mapping etc. Moreover, as per the new Odisha Special Survey and Settlement Act and Rule, 2012, high-tech surveys (using DGPS, ETS, HRSI and Aerial Surveys), will be carried out by private vendors and the state stipulated reservations are not applicable to them.

Based on the status summarized above, the following are some recommendations to improve gender-equitable land tenure governance institutions in the state:

LOW HANGING FRUIT (*based on priority, ease of action in terms of resources and time frame*)

1. Introduce a course on gender and land rights in the pre-service (entry stage) and refresher Training Programs for the OAS, ORS, RIs, ARIs and Amin.
 - a. Develop modules and a roster of resource persons;
 - b. Training topics should include the Importance and need for GELG, the government’s gender policy (namely OSPGW, 2014, R& R Policy), gender in land laws and circulars, attitudinal and behavioral changes to create a more gender accessible administration;
 - c. Start building Partnerships with CSOs, PRIs and community institutions to address the gaps in resources and skills and also make land governance more accountable, accessible and inclusive.
2. Start a process to include ‘land issues’ related to women, within the existing institutional mechanisms related to ‘women’s’ development (such as those under W& CD Department).
3. Fill all vacant posts at tehsil and RI/ARI offices with a higher, 50 percent, reservation for women to ensure reaching the mandatory 1/3rd reservation level faster.
4. Ensure the safety of single women who are allotted land, as they often become a vulnerable target in society, by allocating this responsibility to local governance institutions like PRIs.

LONG-TERM EFFORTS

1. Make additional resources available to the RDM department (through reallocation, reintroduction of land-rent, charging service fees and external fund mobilization) to ensure:
 - a. Recruitment of more staff, especially more women staff;
 - b. Creation or augmentation of a gender-enabling infrastructure at field offices;
 - c. Land record updating;
 - d. More women staff in technical positions.
2. Follow a single-window approach and prioritize the delivery of all social security support schemes (for livelihoods, housing, agriculture, pensions, etc.), along with homestead land allotments to single women, drawing from the Phailin Rehabilitation Experience. This will be useful for women and easier to implement, as all eligibility and application formalities can be completed simultaneously.
3. Pilot inclusive land governance initiatives, projects or schemes with the participation of PRIs, CSOs and CBOs to generate experiences that highlight the importance of building partnerships

REFERENCES

Agrawal, B (2003), 'Gender and Land Rights Revisited: Exploring New Prospects via the State Family Market', op. cit., pp. 206, 2015.

Byamugisha, F. F. 2013. Securing Africa's Land for Shared Prosperity: A Program to Scale Up Reforms and Investments. Washington, DC: World Bank.

FAO (2010b) Gender and Land Rights Database. Rome: FAO. URL: <http://www.fao.org/gender/landrights/en/>.

FAO. 2011a. *Governing land for women and men - gender and voluntary guidelines on responsible governance of tenure of land and other natural resources*, E. Daley and C.M. Park. *Land Tenure Working Paper No. 19*. Rome. <http://www.fao.org/docrep/014/ma811e/ma811e00.pdf>.

Food and Agricultural Organization of United Nations (2011): *The State of Food and Agriculture 2010-2011: Women in Agriculture, Closing the Gender Gap for Development* (Rome: FAO).

FAO (2013) *Governing land for women and men; A technical guide to support the achievement of responsible gender-equitable governance of land tenure*.

<http://www.fao.org/docrep/017/i3114e/i3114e.pdf>

GOI, 1985, *Proceedings and Papers of Conference of Revenue Ministers on Land Reforms*, Ministry of Agriculture and Rural Development, Government of India, New Delhi. http://punjabrevenue.nic.in/BLR/N_26.11.85.pdf.

Knight, R. (2010) *Statutory Recognition of Customary Land Rights in Africa: An Investigation into Best Practices for Lawmaking and Implementation*. FAO Legislative Study No. 105. Rome: Food and Agriculture Organization of the United Nations.

Mearns, R., & Sinha, S. (1999). *Social exclusion and land administration in Orissa, India*. Policy Research Working Paper 2124, World Bank, Washington DC.

Scholz, B., Chaves, P., and Al Hassan, F. (2013) Where Is Security in Secure Tenure? Promoting an Alternative View of Tenure Security for Grassroots Women as Key to Building Resilient Communities. Annual World Bank Conference on Land and Poverty, Washington, DC, April 9.

Tripathy, A.K., 1992, 'Revenue Laws and Land Administration in Orissa – A Critique', *The Administrator*, 37: 115–133.

UN-HABITAT (United Nations Human Settlements Program) (2008) *Secure Land Rights for All*. A Global Land Tool Network publication. Nairobi: UN-HABITAT. URL: <http://www.responsibleagroinvestment.org/sites/responsibleagroinvestment.org/files/Secure%20land%20rights%20for%20all-UN%20HABITAT.pdf>

World Bank/FAO/IFAD. 2009a. Module 4: Gender issues in land policy and administration. *In Gender in agriculture sourcebook*. Washington, DC and Rome.

Module 4: Technical Issues in GELG

VGGT vision

- In the context of technical issues, the VGGT provides guidance on equal rights recognition in the land records (7.4); legal recognition of informal tenure through a participatory approach (10.3); safeguard of land rights of legal heirs and against infringement of legitimate tenure rights (11.6, 7.1); fair registration processes (17.3), regulated spatial planning (20.3, 20.3); land restitution (14.4) and redistributive reforms (15.5).
- In addition to general administration and management issues, the VGGT emphasizes gender sensitive land survey, titling, registration, taxation and valuation and land use planning. Further, it also talks about a strong data management system to maintain transparency and ensure social and gender equity.

4.1 INTRODUCTION

Land governance is a matter of technical and administrative governance, rather than only a matter of democratizing access to and control over wealth and power (Saturnino and Jennifer, 2010). Modern technology is often easy to apply and saves costs, thereby supporting gender equity by making technical activities more affordable and accessible to a much wider group of people. Improving gender equity in the technical aspects of land administration is therefore an achievable goal (FAO, 2012). The use of modern technologies in land governance has been instrumental in making land registration and titling accessible and gender equitable in countries like Ghana, the Philippines, Nepal, etc. (FAO, 2013).

India launched the National Land Records Modernization Program (NLRMP) in August 2008, to modernize the management of land records, minimize the scope of land/property disputes, enhance transparency in the land records maintenance system, and facilitate a gradual shift toward guaranteed conclusive titles to immovable property in the country.

This module discusses the technical issues related to GELG, including desirable actions relative to the VGGT gender provisions. It describes the process of land registration, surveying and titling from a gender perspective. It identifies the gaps and challenges to strengthening gender-equitable land governance in the state and delineates capacity building and monitoring needs. It suggests specific recommendations for a more informed and gender inclusive land governance.

4.2 LAND SURVEY

The NRLMP program is implemented in all 30 districts of Odisha. As per the provisions of the Odisha Special Survey & Settlement Act, 2012, the state will undertake a resurvey of all villages using modern techniques, such as High Resolution Satellite Imageries (HRSI), Differential Global Positioning System (DGPS), Electronic Total Station (ETS) and Aerial Surveys, to create a digital cadaster to facilitate the goal of land titling in revenue administration. As these surveys are being carried out by private vendors, it may not be possible to ensure the stipulated involvement of one third of women.

However, public consultation and participation in this process has not been clearly spelt out. The experiences of WSCs as well as rights recognition through FRA have demonstrated the benefits of involving Community Institutions or PRIs (implementation of FRA) and CSOs (OTELP, CRP and WSC) in making enumeration inclusive, effective and transparent through such participatory processes. The absence of such participatory involvement in land surveys and the fact that textual and spatial records have not been updated, as we have seen in the field, has led to limited possession, defeating the objective of land allotment.

4.3 TITLING⁶³

Odisha introduced joint titling of land records uniformly across the state in 1987, following which, all newly allotted rights to government land are recorded in the name of both spouses. An IT based data analysis was carried out on land ownership records for four districts in the state and the field study attempted to investigate the execution of joint titling of land records.

4.3.1 Secondary data analysis

The study carried out an analysis of Bhulekh data⁶⁴ for four districts of Odisha (Jagatsinghpur, Baragarh, Koraput and Sambalpur). Out of about 1.5 million records analysed, about 35 percent do not mention the ‘year⁶⁵’, though this varied across districts; the lowest was 14 percent in Jagatsinghpur and the highest 60 percent in Koraput. The revenue officials interviewed, opined that this result could be due to the post-dated creation of those records, that is, after Survey and Settlement⁶⁶.

The study analysed the remaining 65 percent of records that mentioned the ‘year’. Data was disaggregated on the basis of gender (land in the names of only women or in the joint names of the husband and wife) using an indirect method⁶⁷ to observe trends in property records.

It was observed that during the period 1975–99, there was a sharp increase in land rights recorded in the name of women (women only and joint title) with peaks in 1977, 1983–85 (Figure 4.1). Given the fact that these districts provide a fairly representative sample⁶⁸, this data endorses Odisha’s efforts toward adopting a gender equitable land governance approach at that time. In 1976, with assistance from the World Bank, the GOO began to allocate land

⁶³ “Titling” in the context of land administration in Odisha, refers to the names under which the land is recorded in the Record of Rights (RoR). This follows the present land titling system followed in India that is based on a presumptive title system, where the title serves to reflect the land rights as per the Record of Rights, and is not a conclusive title, which guarantees the title for its correctness and indemnifies the title holder against loss arising from any defect therein.

⁶⁴ The data pertains to all land records downloaded from Bhulekh website in Apr-June, 2014.

⁶⁵ Year in a record refers to either the year of the Survey & Settlement when the record was prepared, or the year it was mutated following a change of ownership; in terms of gender, it provides useful information regarding the policy during that year, based on the number of records for that year with joint or only women titles.

⁶⁶ The Survey and Settlement (S&S) takes place through a process elaborated in the Orissa S&S Act, 1958 and Odisha Special S&S Act, 2012, where the preparation of cadastral maps and RoR are created to settle land revenue. A separate sketch is made for each survey field during the S&S process. Between two S&S, which may be carried out every 25 years, the transfer of ownership takes place through registration and mutation, resulting in the RoR being updated while the map remains unchanged.

⁶⁷ As gender-disaggregated land records were not directly available on Bhulekh, we adopted an indirect method. As the records mention the phrases ‘husband of’ and ‘father of’ against the titleholder name, we developed software to segregate the records according to these differences to obtain an approximate figure. Land records with only the field “*husband of*” are treated as belonging to ‘women’ and records with the fields ‘*husband of*’ and ‘*father of*’ are interpreted as ‘joint’ title. The process of data extraction is based on a technical and automated process and there may be a certain percentage of error. This aim of this analysis was primarily to provide an indicative, quantitative measurement for a gender based land ownership analysis, as this information was not available at the macro level.

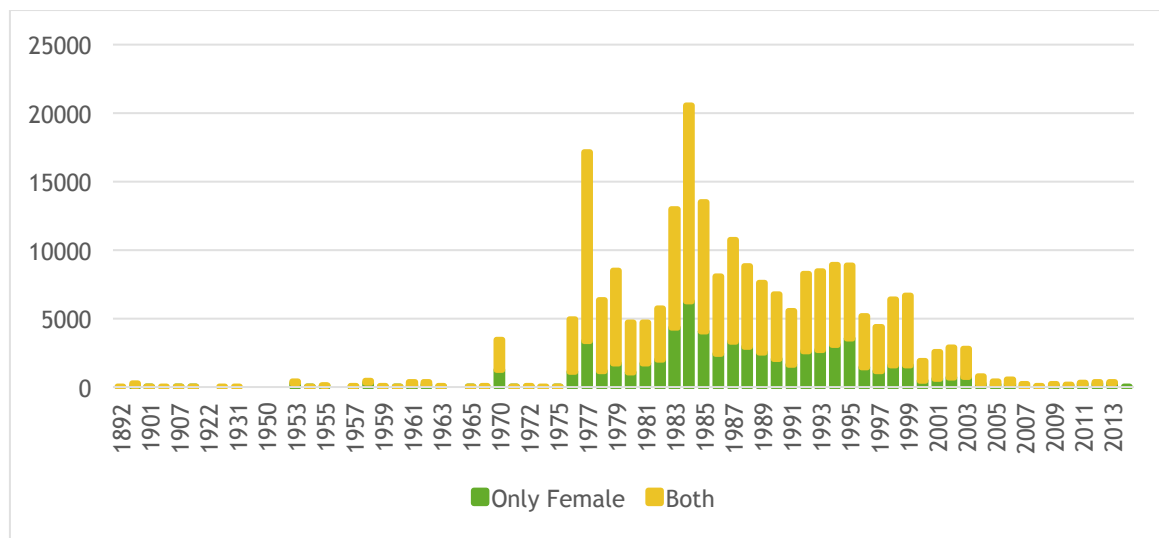
⁶⁸ Jagatsinghpur is a coastal district, Bargarh is partially heavily irrigated and partially rain fed, Koraput is a tribal dominated hilly district and Sambalpur is an irrigated district.

jointly under the land reforms initiative. The peak in 1977 reflects the result of this effort, as records would have been created at that time, during the Survey and Settlement process.

Following the signing of the CEDAW (1976), women’s organizations in the state demanded land rights for women, and in the Sixth Five-Year Plan (1980) the GOI also emphasized the need to provide jointly titled land to husbands and wives, initially in cases of transfer of agricultural land and house sites. The Survey and Settlement process was carried out during this time in most of the districts. Therefore, the land records prepared during this period reflect an increasing trend toward women land rights. (The data for the figure includes new records created through S & S as well as records created through mutation).

<<Insert Figure 4.1 about here>>

Figure 4.1 Year wise trend of Land Records in Odisha

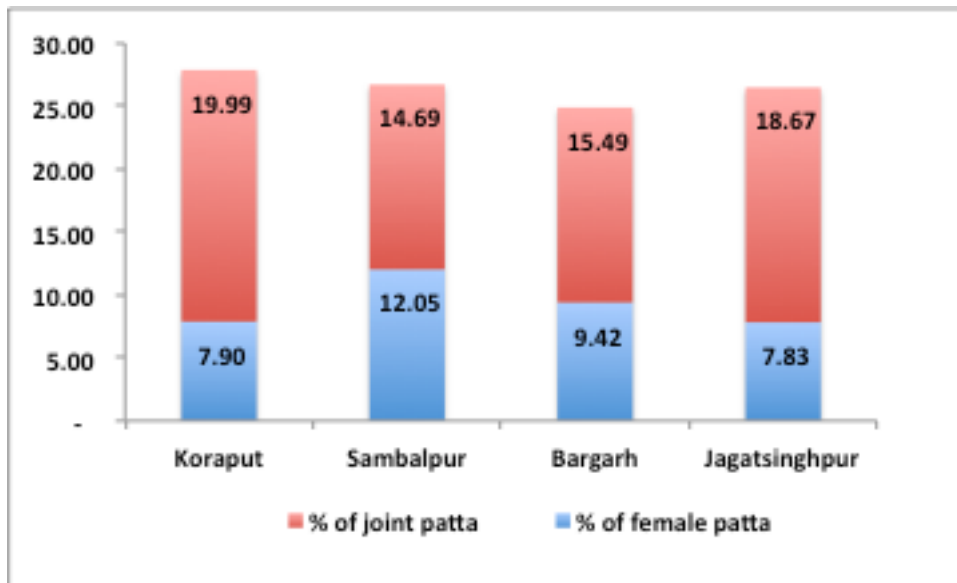


Taking the whole data set into consideration (including land records without years), it was observed that about 9 percent of the records were in the name of only women, with irrigated districts like Sambalpur and Bargarh having a higher percentage.

The number of jointly titled land records is almost double (18 percent) the number of ‘women only’ records. Koraput, a tribal district has the highest share of joint-titled land records, followed by Jagatsinghpur (coastal district), and Koraput has the highest share of land recorded in the name of women only or jointly (Figure 4.2).

<<Insert Figure 4.2 about here>>

Figure 4 2 Gender wise status of land records in 4 districts of Odisha

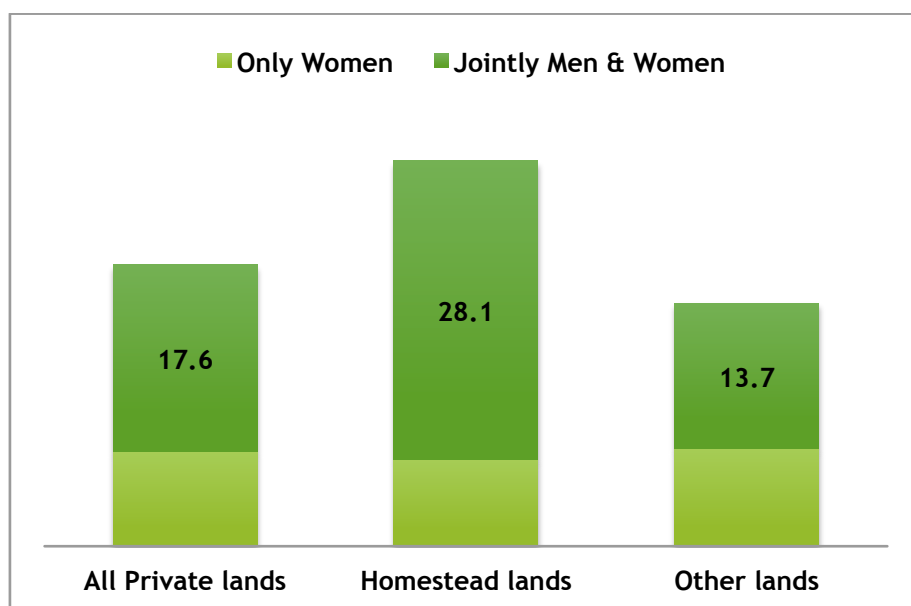


Source Bhulekh Records, April 2014

Taken together (recorded either singly or jointly), a little over one fourth of the records (26.5 percent) are in the names of women in these districts. When segregated across agricultural and homestead lands, there are homesteads recorded in the name of women, especially with more 'joint *patta*' which confirms the government's gender-equitable initiative with regard to homestead land. However considering the percentage under homestead and other lands as well as the smaller size of homestead plots, there is a long way to go to achieve gender equitable outcomes.

<<Insert Figure 4.3 about here>>

Figure 4.3 Gender wise disaggregated land records dealing with homestead and other lands in 4 districts of Odisha in percentages



Source: Bhulekh Records, April 2014)

4.3.2 Field study

An analysis of the field study data collected on homestead title holders (includes GKP and land allotments under other schemes like Vasundhara) in four random villages, (in Ganjam, Rayagada, Koraput and Balasore districts), indicates that 74 percent of total homestead titles were joint, 12 percent were in the names of women and 14 percent were in men’s names.

In 2008 the GOI increased the size of homestead land allotted to homesteadless households including women, under land grant schemes, raising it to 10 decimals (0.04 ha) from the earlier limit of 4 decimals (0.016 ha). An analysis of homestead titleholders in three villages (in Ganjam, Rayagada and Koraput districts) indicates that the average size of homestead holdings was about 2 decimals (0.008 ha). The average holding size for men was 2.3 decimals (0.009 ha), higher than the average for women (2 decimals or 0.008 ha) and for joint titles (less than 2 decimals). This suggests that there was discrimination in the allotment of plots, with the smaller plots being given to women. The previous module also discussed the lower possession rate of land allotted to women and we see that while land rights for women are stressed in policy and in secondary legal documents, in reality, women continue to face problems and constraints in exercising these rights.

4.4 REGISTRATION AND MUTATION

In Odisha the registration process is computerized. Different types of land Records in different forms are maintained by two different organizations under the RDM Department i.e. Survey and Settlement or Consolidation and Tehsils. The registration department is also involved in the process, as it creates a temporary record of land transactions, but the registration act does not provide for or empower the Sub- Registrar to verify the ownership of

the land that is sold or purchased. All transactions involving immovable properties under the Registration Act, 1908, take place in Registration Offices.

Regulations for the mutation (correction of records after sale, partition or death) of land records are set out in the Orissa Mutation Manual, 1962. Under section 17 (1), the eligible applicants file an application before the Tehsildar. After proper verification and hearing, mutation is allowed in favor of the petitioner in respect of the scheduled land with fixation of fair rent as cess etc. as admissible. The RDM department has made provision for *suo-moto* mutation (initiated by the Tehsildar after receipt of form no 3 from the Sub-Registrar's office, following the land transaction) of land records, strictly adhering to a time frame of 90 days (after enunciation of Odisha Public Services Delivery Act, 2014).

The status of the disposal of pending Mutation Cases and consequent updating of land records is reviewed regularly. Several new initiatives aim at streamlining the old systems, increasing efficiency, transparency and sufficiency in land record maintenance. Some of the commendable practices initiated in the land registration processes in Odisha are highlighted below:

Digitization of Land Records and Online access

All the map sheets providing spatial data (cadastral maps) about the State have been digitized and recently (2015) uploaded to the Bhu-Naksha website⁶⁹. However, these maps are 30–60 year old cadastral maps, created during the Survey and Settlement process and the spatial information they provide is not up to date. Textual data has been computerized since the nineties and the online portal Bhulekh⁷⁰ has been operational since early 2000. This year, Bhulekh data was migrated from the earlier ASCII, to Unicode format, which will enhance access. Both these online sites provide open access, maintaining transparency of the records. However, the gender parameter is not available in online or off-line land records, as there is no provision for the collection of such data. Following a recent order⁷¹ issued by the GOI Department of Land Resources, Odisha has started including 'gender' in land records. However, from interviews with NIC officials responsible for maintaining the website, we learnt that the addition will be applicable prospectively to new records, and the existing 14 million land records will remain unchanged.

E-Registration of land in Odisha

The RDM Department launched e-dhaRani in 2010, a comprehensive computerized project for all the 182 Registration offices across the state. The e-dhaRani system simplifies the registration process, thereby reducing the time it takes to register a deed. The Project

⁶⁹<http://164.100.140.80:8080/bhunakshaweb/>
⁷⁰<http://Bhulekh.ori.nic.in/RoRView.aspx>

⁷¹ In April 2015, the Department of Land Resources, GoI, advised the states to introduce a "gender" field for landowners in their property records, as part of NLRMP. West Bengal (already notified), Andhra Pradesh (started following the practice) and Odisha (NIC is creating the attribute for prospective recording) are the three states that have started the process of complying with the directive. However, updating of the records with gender attributes will take place prospectively.
http://articles.economictimes.indiatimes.com/2015-04-18/news/61278888_1_land-ownership-women-workforce-property-records

received the e-World 2011 Award for “Best Electronic Delivery of Services” on 2nd August 20. The salient features of the project are as follows:

- Benchmark Valuation configuration of more than 50 million (5 crore) plots & automated property valuation;
- Capturing of Digital Photo and Biometric Fingerprints of parties (executants & claimants) and identifier;
- Maintenance of all records in integrated digital form in a central repository - first time in the country;
- SMS Intimation.

Online Mutation

The Revenue & DM Department developed a mutation application software to link the registration offices with tehsil offices, in keeping with the objective of automatic and automated mutation after registration. The same is under trial and will soon be operational across the state.

Other initiatives

- The GOO has made it mandatory to complete the mutation and correction of records in favor of the legal heir(s) within 90 days following the death of the recorded tenants. Further, in the absence of a will the records should be in the names of both the son and the daughter after the death of the father⁷². Urgent registration of joint holdings can be carried out if all the legal heirs come to an agreement;
- Capacity building of government employees;
- Digitization of Legacy Records (Registered Deeds) for the last 14 Years;
- STQC Certification for Security;
- Issuance of online Certified Copies of registered documents & Encumbrance Certificates;
- Automated Transmission of Form No.3 from the registration office to concerned tehsil office for the initiation of mutation cases;
- In June 2015, the GOO directed all revenue officials to facilitate the e-payment of stamp duty, this will further enhance inclusive access to the system, while increasing transparency.

Proposed gender based initiative

The levy and collection of Stamp Duty (SD) and the Registration Fee (RF) are regulated under the Indian Stamp (IS) Act, 1899, the Indian Registration Act, 1908 and Rules made thereunder. There is no gender-based differentiation in providing access to the registration process, and the stamp duty is the same, at five percent for both men and women. However, the OSPGW, 2014, envisages reducing stamp duty for women as an act of positive discrimination. The government is considering implementing this measure.

⁷² As per Section 19 of the OLR and Section 34 (c) of the S & S Act, 1958.

4.5 LAND TAXATION AND VALUATION

The levy and collection of Land Revenue (LR) is regulated under the Orissa Government Land Settlement (OGLS) Act, 1962, the Orissa Prevention of Land Encroachment (OPLE) Act, 1972, the Orissa Land Reforms (OLR) Act, 1960 and Rules made thereunder.

There is equal opportunity for both men and women to express their views or comments on the revised benchmark value⁷³. However, very few women are represented on the Subdistrict & District level Valuation Committees⁷⁴ owing to their minimal presence in the revenue offices.

4.6 CHALLENGES

The following are some of the gaps or challenges the state needs to address:

1. Gender disaggregated data on land records are not available on Bhulekh (Odisha Revenue Department's land record portal, hosted through NLRMP); the proposed prospective inclusion of a gender parameter does not currently include adding this parameter to the existing 14 million land records; the online spatial database Bhunaksha is out of date;
2. Land distribution, redistribution and restitution schemes do not maintain and report gender-disaggregated information;
3. Few women in technical positions, specifically survey and mapping, despite the availability of sufficient numbers of female technical graduates (as per the Census 2011, over 35 percent of the total number of technical graduates in the state are female);
4. The existing staff do not have the capacity to ensure gender inclusion in the technical aspects of land governance
5. No consultative and participatory processes related to survey and mapping and spatial planning issues;
6. No automatic recording of the names of both sons and daughters during the mutation process following the death of the father; no provision for compulsory joint titling of all new land records created through registration;

⁷³ As per the guidelines of the Inspector General of Registration I (guidelines for the registration of sale deeds), Odisha, representation/objection from the public should be considered before finalisation of the market value of land by the District Level Valuation Committee. Besides, the copies of valuation should be pasted at prominent places in the offices of the Registering Officer, the Sub-Collector, the Tehsildar and Panchayat Samiti inviting objections from the public.

⁷⁴ As per the provisions in Rule 39 (a) of Orissa Stamp (Amendment) Rules, 2001 the Sub-District Valuation Committee shall collect and compile data pertaining to property values. At the time of projecting the market value of property, the committee will take into account the average value of the last three years sales statistics, valuation of building as reported by the concerned engineering Department and prevalent market value of the property provided by the Revenue Inspector through Tehsildar. Rule 40 of the Orissa Stamp (Amendment) Rules, 2001 stipulates that the District Level Valuation Committee (DLVC) headed by the Collector of the District should issue the Market Value Guidelines (MVG) containing the set of values of immovable properties in different villages, NACs, Municipalities, Corporations and other local areas of the District as soon as it is prepared and thereafter revise it biennially from the 1st April.

7. No mechanism to ensure the fair allocation of equal size plots of land to men and women under the homestead land grant schemes.

4.7 EQUITY & PARTICIPATION IN LAND ADMINISTRATION

The government should consider introducing a course on technical issues related to gender and land rights in the pre-service (entry stage) and refresher training programs for OAS, ORS, RIs, ARIs and Amin.

Gopabandhu Academy of Administration and the Revenue Officers' Training Institute (*Gothapatna*, Bhubaneswar) must make gender a mainstream issue in their training curriculum and develop relevant modules along with a roster of suitable resource persons (in consultation with the women's department).

Training topics would include:

- Gender inclusive land survey and record management (by ensuring the equitable participation of women in the surveying and record updating and management processes and facilitating women's access to land records)
- Monitoring of GELG using modern technology

4.8 MONITORING NEEDS

There is a need to increase the percentage of land owned by women in line with gender equity, as per the Constitution and as per the global consensus reflected in the VGGT and the UN's SDG. As the existing land record systems, including Bhulekh, do not record and maintain gender-disaggregated data, it is impossible to report on or monitor the progress made in terms of improving women's land rights.

The State may consider adopting the following strategies to develop a robust monitoring system to start monitoring women land rights:

- While the state has introduced a 'gender' parameter in new land ownership records, it should also consider updating the 14 million-land records already in the Bhulekh database.
- The land registration database, maintained through the online registration platform e-dhaRani must record and periodically report gender-disaggregated data on land registration.
- The State must establish a Regular Monitoring System to track the progress of land distribution schemes through systematic data collection and management. The system should be able to monitor the number of plots allotted, the size of the parcel, time of possession, end-use etc.
- It should be made mandatory to report gender-disaggregated data in the RDM department's annual and other reports, showcasing achievements under different land grant schemes and the status of surveys.

Based on the available administrative district-wise data, and the Agriculture Census data, Table 4.8.1 below provides indicators that should be monitored and reported annually.

<<Insert Table 4.8.1 about here>>

Table 4.8.1 Indicators for regular monitoring

Indicators	Potential data source
Land Ownership: Percentage of land area (area of holdings) in the name of women, Percentage of holdings in the name of women , Ratio of average size of holdings owned by women and men, Number of plots allotted, size of parcel, time of possession and end-use related to homestead land allotment.	Bhulekh Agriculture Census
Land registration or mutation: Percentage of land registered in the name of women, Percentage of mutations recording land in the name of women.	Sub registrar / Directorate of Land Records; tehsil offices

4.9 RECOMMENDATIONS

The following Table (table 4.9.1) summarizes the status of technical issues related to GELG in Odisha from the VGGT perspective.

Table 4.9.1 Desirable institutional actions toward GELG relative to the state situation

Institutional aspects	Odisha status
General land administration and management issues	<p>Odisha's revenue administration is still dominated by male staff and a socio-culturally entrenched patriarchy.</p> <p>Women are rarely involved in technical matters like the land mapping process.</p> <p>There are insufficient public education and awareness raising actions to encourage gender-equality in technical matters related to land governance.</p>
Recording tenure rights	<p>Gender equity must be ensured in the formalization of traditional rights: Joint titles must be issued for settlement of <i>Paramboke</i> land with the wife's name mentioned first.</p>
Land survey, titling and registration	<p>The Odisha Special S&S Act only refers to a team of 'Persons' to be involved in Surveys, it does not have specific provisions to ensure the team includes 'women' members, although it does not exclude women either.</p> <p>There is no gender parameter in the land records. Women do not benefit from preferential treatment in terms of reduced stamp duty, as prescribed in OSPWG, 2014.</p> <p>The analysis of Bhulekh data from 4 sample districts in Odisha revealed that 26.5 percent of land records are registered in the name of women (either singly or jointly) and there are a higher number of women titleholders in tribal districts. An analysis of Bhulekh data by year indicates that the number of women <i>pattas</i> (both individual and joint) was higher in the 1980s, the period when the GOO introduced joint titling of land records under land grant schemes, uniformly across the state.</p> <p>Another analysis of the beneficiaries of government land grant schemes implies that about 74 percent of titles issued include the woman's name. However, as was the case above, tribal districts again showed a higher number of women titleholders.</p>
Alternatives to land titling	<p>Proof of formal tenure or a land record title is essential in Odisha, to obtain a 'caste certificate', which gives access to caste related subsidies and reservation benefits. The land title is also required to be able to benefit from many public services like housing, agriculture or horticulture related services and if women do not possess these documents or their names are not mentioned on the documents, they are excluded from a number of benefits. This particularly affects single women.</p> <p>The SHGs in Rayagada district get temporary land leases from other landowners for group cultivation of vegetables as an income generating activity, supported by PRADAN. However in the absence of long-term lease tenancy provisions, their future remains uncertain.</p>
Gender issues in designing and setting up land information systems and databases	<p>At present there is no provision for recording the gender of the landowner in paper or computerized records, although following directives issued by the GOI, the state began to address this issue in 2015. The absence of this parameter limits the recording and reporting of gender-disaggregated data by the land record database or registry</p>

Taxation and valuation	No positive discrimination even in favor of single woman or women headed households
Land-use planning	There is no land use planning in the state as yet

Based on the status study above, the following are some recommendations to address technical issues and improve gender equitable land tenure governance:

LOW HANGING FRUIT (*based on priority and ease of action in terms of resources and time frame*)

1. Add the 'gender' attribute to the existing 14 million land records already in the Bhulekh database, while introducing this attribute to prospective recording in response to instructions from the Government of India, Department of Land Resources.
2. Issue instructions to ensure the participation of and consultation with men and women in the survey, mapping and land record updating process.
3. Record women's land rights during the ongoing Resurvey (High Tech Survey & Settlement).
4. Start reporting gender-disaggregated data (joint, only men and only women) in the RDM department's annual report and other reports on achievements under different land grant schemes and on the survey status.
5. Issue instructions to encourage community participation and monitoring of land allocation and the post land rights process; ensure there is a discussion and audit of the same during Gram Sabha meetings. Develop an institutionalized feedback loop through PRIs.
6. Ensure the addition of the wife and daughters' names in the online mutation process

LONG-TERM EFFORTS

1. Update land records (textual & spatial) and link them to other databases like Census, BPL census etc. to make it easier to identify the landless, homesteadless, single women etc.
2. Increase the numbers and skills of women involved in mapping, surveys and the land record modernization program;
3. Include the names of the wife and daughters in all new records created through online mutation, following the Hindu Succession Act, 2005 (Amendments);
4. Start introducing community-based and gender-friendly GIS-IT tools to make the survey effective and participatory.

REFERENCES

Government of India (2011) Census Report–2011.

FAO (2012) Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security. <http://www.fao.org/docrep/016/i2801e/i2801e.pdf>

FAO (2013) Governing land for women and men; A technical guide to support the achievement of responsible gender-equitable governance of land tenure.

<http://www.fao.org/docrep/017/i3114e/i3114e.pdf>

Odisha State Policy for Girls and Women (OSPGW)-2014. Women and Child Development Department, Government of Odisha.

<http://wcdodisha.gov.in/sites/default/files/pdf/Odisha%20State%20Policy%20for%20Girls%20and%20Women%20C%202014%20%20English%29.pdf>

<http://timesofindia.indiatimes.com/city/bhubaneswar/Birth-certificate-to-come-with-resident-caste-docu/articleshow/47609298.cms>

Saturnino M. Borrás Jr. and Jennifer C. Franco (2010) Contemporary Discourses and Contestations around Pro-Poor Land Policies and Land Governance, *Journal of Agrarian Change*, Vol. 10 No. 1, January 2010, pp. 1-32.

World Bank/FAO/IFAD (2009). Module 4: Gender issues in land policy and administration. *In* Gender in agriculture sourcebook.

Module 5: Getting the message across

VGGT Vision

- In the context of communication, the VGGT prescribes transparency (3.8 B), availability and accessibility of land-information in applicable languages, in a gender sensitive manner, especially to indigenous peoples and other communities with customary tenure systems (8.9 B) and implementation of redistributive reforms by ensuring receipt of full and clear information by affected parties (15.9)

5.1 INTRODUCTION

Communication and awareness raising are crucial to changing values and attitudes, including those about gender and land tenure governance. Communication can mobilize people for development actions, such as claiming their land rights, while helping to build consensus on problems and their possible solutions through the participation of all stakeholders (FAO/GTZ, 2006). Awareness raising has an important role to play in helping remove barriers to women's access to land information within land sector projects and throughout all the processes and institutions of land tenure governance. People need to be aware of issues and rights to exercise both voice and choice effectively (FAO, 2011a: 20).

Gender sensitization on land tenure can take various forms: programs for raising public and community consciousness about women's tenure rights; basic educational measures to inform women and men of their rights; actions that support legal literacy and protect land rights; and programs that encourage the active participation of women and women's groups in the governance and management of resources (FAO, 2000). The process of awareness raising is most effective when different stakeholders collaborate with each other and when entire communities are involved in awareness raising activities. Important factors for success in awareness raising include using carefully targeted interventions, in collaboration with civil society organizations, facilitating women's clear leadership of awareness-raising meetings, and adopting a participatory approach that works with local beneficiary communities (FAO, 2013). FAO's Voluntary Guidelines on the Responsible Governance of Tenure of land, Fisheries and Forests, (VGGT) in the context of National Food Security stress the need for gender sensitive and gender-targeted messages.

This chapter describes the communication mechanisms for land related issues in Odisha relative to the VGGT provisions for gender equitable land tenure governance. It highlights the communication gaps and challenges while delineating the capacity-building needs, monitoring indicators and recommendations for an operationalization of gender equitable land tenure governance.

5.2 GENDER SENSITIZATION AND LEGAL LITERACY

Nearly eighty-five percent of people in Odisha live in rural areas but rural people in general and rural women in particular have very limited access to information about land related issues, schemes and their roles in the land governance process. Rural women usually lack knowledge of their rights, as do others in the community. Women often have little functional literacy because they have less access to education, they also lack the capacities, documents and opportunities to participate in land governance. All these factors reproduce and reinforce gender inequalities in access to land (ILC, 2013).

Legal literacy for gender-equitable land tenure governance requires that both women and men be aware of what is legally possible and have information on how to record land rights, engage in land transactions, and participate in the processes and institutions of land tenure governance. They must also understand the complexity of land issues, the limitations of the law and of the implementation capacity of land administration and management institutions, and the various formal and informal options, mechanisms and legal spheres that may be

available for pursuing their land claims. The people charged with implementing land laws and running the institutions regulating land tenure governance, such as local leaders, judicial authorities and land sector administrators and technicians, must also understand the law and its implications⁷⁵.

The government, through the SLSA, carries out legal awareness camps in different parts of the state. These are publicized by advertisements in the local press as well as hoardings. The topics are chosen from the different laws and schemes as specified by the NALSA. Legal literacy classes and mobile legal services are provided every week in every taluk (and at district levels almost every month). Materials such as pamphlets, booklets, and posters are distributed among participants (UNDP, 2012). CSOs have also been engaged to increase legal literacy. Some of these initiatives organized both by the state and the CSOs are described below.

5.2.1 STATE INITIATIVES

In Odisha, the DLSA and Taluk Legal Services Committees are required⁷⁶ to organize **Legal Literacy Camps**⁷⁷ to provide basic and essential knowledge to the vulnerable groups mentioned (women are included) in the Act to help them understand the law and their rights under the law, to enable them to assert their rights. They also aim to educate the weaker sections of society on their rights and to encourage them to settle their disputes through the Alternate Dispute Redressal (**ADR**) Mechanism.

They organize other programs, including seminars, workshops etc., as well as campaigns to spread legal literacy, which are advertised through hoardings, wall posters, leaflets, banners etc.

In addition, to widen the network of Lok Adalat and other legal services, the SLSA has introduced **Mobile Legal Services**⁷⁸ in accordance with the guidelines received from the Central Legal Services Authority. The objective of this program is to approach the poor and marginal sections of society (including women), living in remote rural areas that are otherwise unable to approach the Legal Services Authorities.

Under the aegis of the SLSA, a **Legal Aid and Mediation Publicity Centre** was established at Badadanda, Puri, in 2009, to spread awareness about various legal services, provision of free and competent legal aid, mediation mechanisms, and other welfare schemes.

The state has engaged **paralegals**⁷⁹ (about 6 per tehsil) to promote legal awareness among the people in their locality and to conduct seminars on legal issues and rights. This has

⁷⁵ Sources: FAO (2011a: 18-19); World Bank/FAO/IFAD (2009a: 144).

⁷⁶ As per the provisions of the Legal Services Authorities Act, 1987 and the Orissa State Legal Services Authority Regulation, 1996.

⁷⁷ These camps are organized by District & Taluk Legal Services Committees to create legal awareness about the existing laws or policies and also guide the community toward settling disputes through Alternate Dispute Resolution mechanisms.

⁷⁸ The objective of this program is to approach the poor and marginal sections of society (including women) living in rural areas, which are unable to approach the Legal Services Authority to access the services provided under the Legal Services Authorities Act and to enforce their legal rights.

⁷⁹ Educated local youth are trained as paralegals to promote legal awareness.

contributed to increasing awareness among communities and a larger number of people now approach the paralegals for assistance (UNDP, 2012).

However, the RDM department has not yet created a mechanism to organize communication about land policies, laws and programs.

5.2.2 CSO INITIATIVES

CSOs have also been engaged to increase the level of awareness about fair and equitable land rights among women. Some of the main programs include:

Program on Land Literacy

Landesa, in collaboration with CARE India, implemented a “Land Literacy Program” in the CARE-Pathway project villages in the Kalahandi and Kandhamal districts of Odisha. In Mayurbhanj district, this program was piloted in partnership with Odisha Watershed Mission (OWM) and is presently limited to only two blocks, with 50 women’s groups. Training on land issues has been integrated into their existing OWM training module and Landesa aims to bring the 8000 watershed User Groups under the umbrella of the Land Literacy Program.

The major focus of this program is to generate awareness about issues related to access to land, land titling, and government documents among women’s groups and to show how women can protect or retain their land rights and prevent them being illegally transferred or alienated. The project was implemented in 108 villages that covered 9 blocks in Kalahandi and Kandhamal districts.

- The project follows a ‘training of trainers’ model, through which women from different collectives and households are provided training to empower them in negotiating with revenue officials for their rights, demanding land titles in their names or at least joint titles, opposing domestic violence relating to land, enhancing capacities to ensure land ownership for single women, especially widows.
- Training is provided in two phases i.e. in the pre-*patta* phase and the post-*patta* phase. In the first phase, training focuses on creating awareness among the women about their land rights, thus increasing their negotiation skills and empowering them to obtain a land *patta*. In the second phase, the focus is mainly on maintaining the quality of land through suitable land use practices.

Training on gender and land rights

In Rayagada, PRADAN imparted training on gender and land rights to 200 SHG members, mostly landless and single women (widow, divorcee, separated). The program discussed land rights, including both formal and customary land tenure. Trained SHG members conduct regular village level meetings with other women, women PRIs, and health workers etc. to make them aware of their legal land rights. This also helps strengthen the women’s network in the village to fight for fair and equitable access to and control over land.

This program has increased community awareness about land rights, including rights under government schemes, inheritance or succession rights, mutation etc. Besides, this has also increased the women's bargaining power in society, access to revenue offices, participation in local land governance institutions and the household decision-making process etc. (as observed during the field study).

Campaign for Women's land rights under FRA

In Koraput, Pragati (a local NGO), supported by Trocaire in collaboration with the district administration, launched a massive awareness campaign about women's land rights under the FRA. The campaign targeted 14 blocks to generate awareness amongst important stakeholders such as local communities, forest department staff, SHG leaders, FRC members and representatives of PRIs, through the following activities;

- Establishment of a District level Forest Network with about 30 NGOs in 2009;
- Village level meetings, federation meetings, public campaigns, rallies and submission of memorandums etc.;
- Leaflet distribution in local Odia language to help the communities gain a better understanding of the Rules and Procedures of the FRA, 2006;
- 10,000 claim forms were printed and distributed to villagers in the most remote and unreachable areas, to enable them to submit their claims, as the forms were not available in their Panchayats;
- The print and electronic media were regularly involved in disseminating information about the obstacles to implementing processes like making claims or demanding recognition of ownership, because of the lack of cooperation on the part of the concerned revenue or forest official. The media also encouraged people to participate in the rallies and campaigns organized by the NGO.

These activities help resolve conflicts and **overlaps of individual's claims within and between villages, as the process of claiming rights is inclusive and transparent and involves the whole community.** The campaigns also promote gender equity as the RoR is issued in the names of both spouses or in the name of single women. Most importantly, by creating awareness and enabling action, campaigns like this create a space for women to participate in forest rights claims and recognition processes. For the first time, tribal women had land rights registered in their names, as according to many tribal customs, women are not given official land rights.

5.3 FINDINGS FROM THE FIELD STUDY

Data gathered from the primary survey suggests that the efforts toward increasing legal awareness have not reached the women in tribal and rural areas adequately. As per the **study**, only 3 percent of the women respondents reported having heard about legal aid services and the way Lok Adalats function at the taluk and district levels, or about the provision of free legal aid for women (field study).

The field study found that women have very low awareness of their land rights and the level varies across geographical areas, caste and the woman’s marital and social status.

Awareness about Inheritance, Mutation, Partition

The findings of the field study indicate that women in general have limited awareness about inheritance laws and rights. Awareness levels according to region and caste are as follows:

- Women in the tribal districts have higher awareness (60 percent) about inheritance rights than women from the coastal districts (51 percent).
- Tribal women (74 percent) were also found to be more aware than the SC (20 percent) or other caste (36 percent) women.
- Married women (65 percent) are more aware about inheritance rights than single women: widows (38 percent), divorced (40 percent) and unmarried (36 percent).

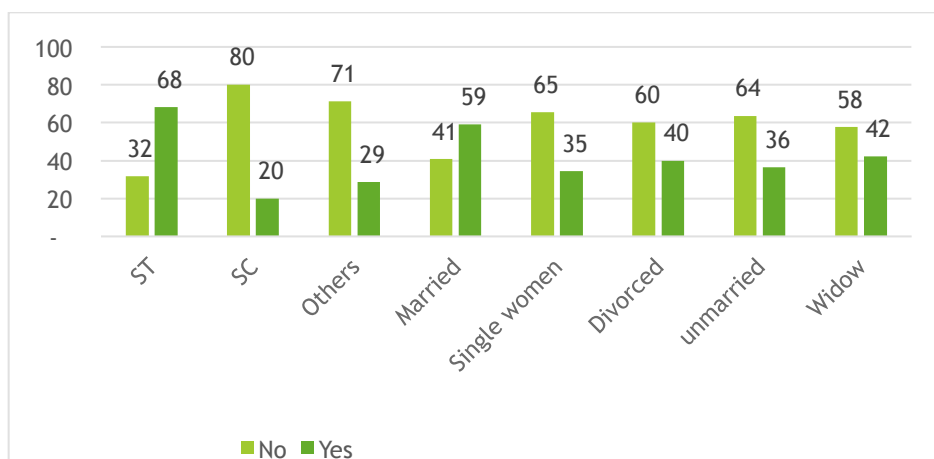
Awareness about Land Grant Schemes

Women from tribal districts (Kandhamal and Rayagada) showed higher awareness about government land grant schemes than those from the coastal districts. There is about 64 percent awareness in the tribal districts in comparison to 31 percent for the coastal districts. This could be due to the government’s focus on homestead schemes in these regions and the efforts of CSOs (working on land rights in tribal areas including forestlands). Awareness about FRA rights was higher than for other schemes. This may be because of the devolutionary governance process in the FRA, which ensures the active involvement of the Gram Sabha in the whole process.

Figures (5.1 and 5.2) below show women’s awareness about land grant schemes.

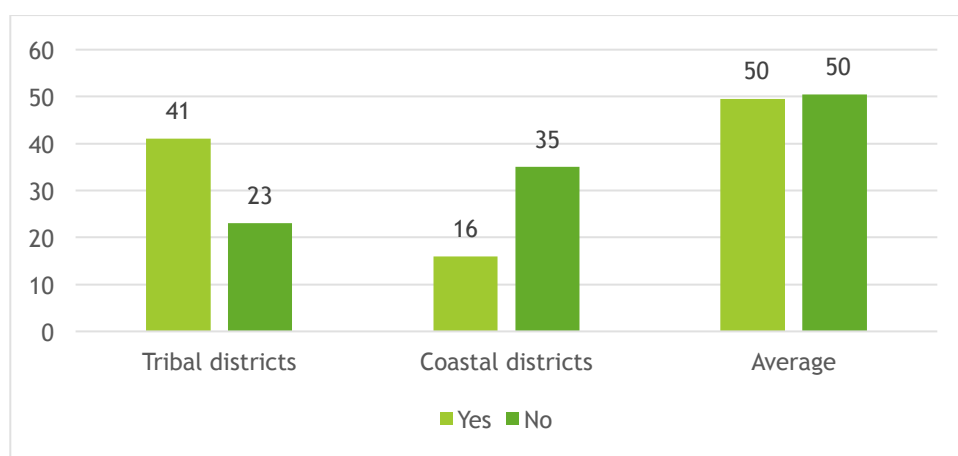
<<Insert Figure 5.1 about here>>

Figure 5.1 Women’s awareness about land grant schemes



<<Insert Figure 5.2 about here>>

Figure 5.2 Women's awareness about land grant schemes in different geographical areas



5.4 CHALLENGES

Providing accessibility to information about land schemes and to legal services, though crucial, is difficult to achieve. An important reason for poor access is the physical remoteness of certain areas, another reason is the low level of literacy. Community awareness and demands for land allotment schemes are limited in comparison to awareness about and demands for other developmental entitlements. Low literacy regarding land issues is often cited as the reason for landlessness, especially landlessness among women and tribal people (field study and stakeholder interviews).

At present, the RDM and W&CD Departments of the GOO are not involved in proactive or reactive actions to make women aware of their land and legal rights. Nonetheless, it is quite clear that enhanced rights and women's access to land are issues that are much better known than other development entitlements, related to health and nutrition, for example. Land literacy initiatives are essentially covered under wider legal literacy awareness initiatives and access is through the **SLSA programs**. Some of the main gaps and challenges to increasing legal literacy in the state are summarized below:

- Lack of initiatives and efforts by the concerned departments to develop effective communication and reinforce the idea of gender equity in relation to equitable tenure governance; largely due to resource and capacity limitations;
- Lack of coordination and convergence between government institutions and civil society organizations in developing awareness generation activities or approaches;
- Very limited efforts toward making information on legal provisions and rights and processes related to tenure governance available in local languages, including tribal dialects and making this information gender accessible;
- Lack of provisions for office & financial assistance to paralegal volunteers for better

service delivery;

- Lack of coordination between the administration and district authorities in legal awareness programs.

5.5 EQUITY & PARTICIPATION IN LAND ADMINISTRATION

The government should consider introducing a course on gender-equitable and inclusive communications strategies related to land tenure governance in the pre-service (entry stage) and refresher training programs for OAS, ORS, RIs, ARIs and Amin. Gopabandhu Academy of Administration and the Revenue Officers' Training Institute (Gothpatna, Bhubaneswar) must make gender communication a mainstream issue in their training curriculum and develop appropriate modules along with a roster of suitable resource persons (in consultation with the women and child development department). The training topics would include:

- Gender inclusive IEC (Information Education Communication) Strategy,
- Effective communication, networking and Government of Odisha–NGO coordination.

5.6 MONITORING

Some monitoring indicators for communication strategies that the state could adopt to enhance legal literacy include the following:

Monitoring indicators

- Number of RDM department staff members trained in gender-equitable and inclusive communication strategies;
- Number of land policies and laws (including secondary and subsidiary) translated into Odia and at least two tribal dialects;
- Number of different gendersensitive means of communication adopted to reach out to disadvantaged communities;
- Percentage of tehsils where there is at least one event or activity organized by the Legal Services Authority.
- Awareness level about women's land rights and entitlements (*RDM, Women Department*).
- Number of community members and members of NGOs and PRIs trained (*Department of Women*).

5.7 RECOMMENDATIONS

Odisha's status with regard to the communication strategy for GELG in the state is summarized in Table 5.7.1 below.

<<Insert table 5.7.1 about here>>

Table 5.7.1 Status summary on communication toward GELG

Areas of Communication	Odisha status
Awareness-raising, gender sensitization and advocacy	<p>Information is not accessible in local languages (written and spoken) and communication is not tailored to Scheduled tribe audiences. Awareness raising about land and gender issues is carried out largely by CSOs (Landesa and Action Aid), sometimes in partnership with the government. Gender sensitization is limited essentially to women, (men are often not targeted) and the protection of their land rights.</p> <p>The field study found that women in tribal districts have better awareness about inheritance rights (61 percent) and land grant schemes (64 percent) than women from coastal districts. Tribal women (74 percent) were also found to be more aware than other communities, SC (20 percent) and other caste (36 percent) women. This can be attributed to the presence of NGOs, who are involved in such communications about land. Single women have lower awareness than women living with a family.</p>
Legal literacy	<p>Legal Literacy Camps are organized by the DLSA and Taluk Legal Services Committees under Orissa State Legal Services Authority Regulation, 1996, to generate legal literacy among the vulnerable groups. Seminars, workshops etc. are also conducted along with publicity campaigns to spread legal literacy through hoardings, wall posters, leaflets, banners etc. Mobile Legal Services are provided to approach the poor and marginal sections of society (including women) living in remote areas.</p> <p>A Legal Aid and Mediation Publicity Centre was established at Badadanda, Puri in 2009 to spread legal literacy and awareness among the public, focusing on various legal service activities, provision of free and competent legal aid, mediation activities and different welfare enactments and schemes.</p> <p>Paralegals are also appointed at the grass roots level to spread legal awareness in different ways.</p> <p>Despite such enabling provisions, the field study found that only 3 percent of women respondents are aware of Lok Adalats and Legal aid provisions and awareness about HSA and mutation issues is very limited (5.4.1).</p>
Use of Gender equitable communication and awareness-raising strategies	<p>Pragati, an NGO in Koraput District, supported by Troicare in collaboration with the District Administration, carried out a massive awareness campaign on women's land rights under the FRA, in 14 blocks in the year 2009. The aim was to enhance awareness amongst different stakeholders particularly local communities, forest department staff, SHG leaders, Forest Rights Committee members and representatives from Panchayati Raj Institutions (PRIs) through different platforms and means of communication (section 5.2.2) 1).</p> <p>Landesa, in collaboration with CARE India, has also launched a "Land literacy campaign" in three districts of Odisha using a different communication strategy for generating mass awareness (section 5.2.2)). Vasundhara has been promoting women's literacy about Forest Rights by using different means and platforms of communication, in Kandhmal in particular. Similarly, PRADAN has trained the</p>

In view of the above observations, the state needs to consider the following recommendations in order to operationalize gender equitable land tenure governance:

LOW HANGING FRUIT (*based on priority, ease of action in terms of resources and time frame*)

1. Organize the translation of important land laws and provisions into Odia and the major tribal languages (Santhal), dialects (Kui) and make them available at PRIs along with Information, Educational and Communication (IEC) material in these languages or dialects) including:
 - Relevant application forms related to land for the landless, homesteadless and mutation issues;
 - Addresses of the RI/Tehsildar should be posted at the Gram Panchayat Office and in the villages (in common areas such as CBO, Youth club, Community hall etc.).
2. Enlist a cadre of trainers/resource persons among local NGOs, CBOs, and PRI members to carry out awareness generation activities.
3. Organize orientation camps and training programs for PRI or CBO (specifically SHGs, Watershed Committees, FRCs, etc.) on gender and land rights, as part of their existing training programs
4. Revise the fees of legal practitioners identified by the state to provide free legal aid in compliance with the provisions of the Legal Services Authority, to encourage them to provide a better service.
5. Establish a Help Desk at the tehsil office to provide all relevant information, application forms and guidance as well as to facilitate the delivery of land related public services as per the Odisha Right to Public Services Act 2012.
6. The RDM department should start coordinating with the Law Department to converge land legal literacy with their legal awareness program.

LONG TERM EFFORTS

1. Launch mass awareness programs to make the community in general and women in particular, well informed about their rights and entitlements with regard to land. The awareness programs should include information about:
 - a. Relevant provisions under applicable Laws & Policies such as OLR, OGLS, OPLE, OSATIP; R& R Policy, Women and Girl Policy etc.;
 - b. Relevant government schemes: Vasundhara, Mo Jami Mo Diha, GKP, WSCs etc.;
 - c. Provisions under the Legal Service Authority especially information about free legal aid and Alternate Dispute Resolution Mechanisms such as Lok Adalats;
 - d. Provisions under inheritance laws including the Hindu Succession Act, 2005 (and Amendments)

- e. At the state and regional levels, the means of communication used should include radio, TV, newspapers etc. At district and Panchayat levels other mediums like videos, posters, brochures, pamphlets in Odia and tribal languages can be used, along with attractive events like land stalls at exhibitions and fairs at the district and block levels.
2. Establish a system of post-training monitoring in partnership with CSOs, to monitor the change in levels of awareness among women about land rights.
3. Upload information (including reports, acts, laws and rules, scheme or project documents, case studies, news bulletins related to land etc.) to a single website.

REFERENCES

FAO (2013) *Governing land for women and men; A technical guide to support the achievement of responsible gender-equitable governance of land tenure.*

<http://www.fao.org/docrep/017/i3114e/i3114e.pdf>

FAO/GTZ. (2006) *Framework on effective rural communication for development.* Rome and Eschborn, Germany. www.fao.org/nr/com/gtzworkshop/a0892e00.pdf

FAO-Dimitra. (2010). *Projet club d'écoute: Rapport d'activités, 2ème étape: janvier-août 2010*, H.A. Adamou. Brussels.

FAO-Dimitra. (2011). *Communiqué le genre pour le development rural.* Rome.

International Land Coalition, 2013. *Women's land rights and gender justice in land governance: pillars in the promotion and protection of women's human rights in rural areas*, pp. 1–21.

UNDP (2012) *Needs Assessment Study of the Legal Services Authorities in the States of Madhya Pradesh, Jharkhand, Bihar, Uttar Pradesh, Odisha, Rajasthan and Chhattisgarh.* 195 p.

<http://www.in.undp.org/content/dam/india/docs/DG/needs-assessment-study-of-selected-legal-services-authorities.pdf>

World Bank/FAO/IFAD. (2009) *Module 4: Gender issues in land policy and administration. In Gender in agriculture sourcebook.* Washington, DC and Rome.

Module 6: Community perspectives on GELG

6.1 INTRODUCTION

Women's equitable and secure access to land and productive resources is a vital link between food security, sustainable resource management, peace and security, and consequently the reduction of poverty (International Land Coalition, 2007; FAO, 2007b, IFAD, 2012). Women face widespread discrimination in exercising their land rights, and when they access land through markets and redistributive reforms they are less likely than men to get land because of discrimination in land markets, differences in incomes and access to credit, and social discrimination (World Bank, 2012: 155) especially patriarchy in Indian society. In the case of women who are single as a result of widowhood, desertion and divorce, land remains the fall back option (Agarwal, 1997). Despite these, women's access to and control over land mostly homestead and agricultural land is extremely limited (GOI 2000; Agarwal 2002; Hanstad *et al.* 2004; Hanstad *et al.* 2005; GOI 2009a, Census, 2011, SECC, 2011).

Women's access to secure land rights has the potential to transform their livelihoods and life. For example, research studies suggest that granting women inheritance rights equal to men's, increases their access to physical and human capital (World Bank, 2010). As per the FAO estimations, if women had the same access to productive resources as men, they could increase yields on their farms by 20-30 percent. Land ownership elevates a woman's status in the family (Bhatla, Duvvury and Chakraborty, 2006) through the complete enjoyment of other fundamental rights (UNHR, 2013), expands options in the non-farm sector (Chadha, 1992) and ensures better old age care by children (Caldwell *et al.* 1988).

6.2 FIELD FINDINGS

The present study gathered women's perceptions of secure land rights, constraints to fair and equitable access to and control over land, implications of secure land rights, perceptions of future inheritance of land and participation in the household decision-making process.

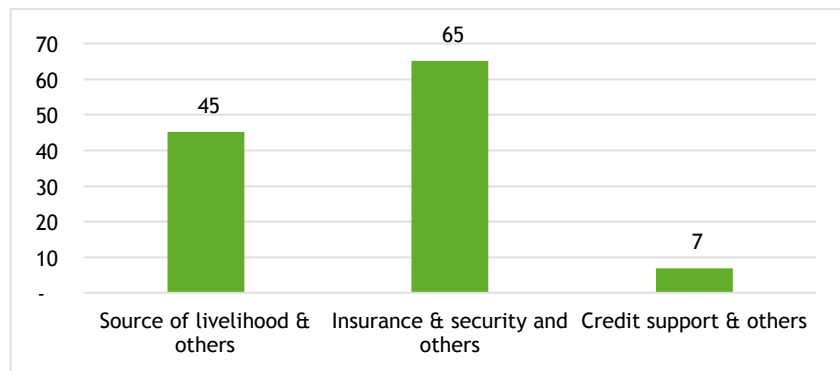
6.2.1 PERCEPTIONS ABOUT LAND OWNERSHIP

Perception of the importance of land rights

Almost two-thirds of the women interviewed for this study felt the need to have secure land rights as an insurance and security against threats of illegal possession, displacement and future landlessness etc. Forty-five percent of rural women respondents perceived land rights as a source of livelihood, followed by 7 percent of women who viewed land rights as a means of ensuring credit support (figure 6.1).

<<Insert Figure 6.1 about here>>

Figure 6.1 Women's perception of the importance of land rights

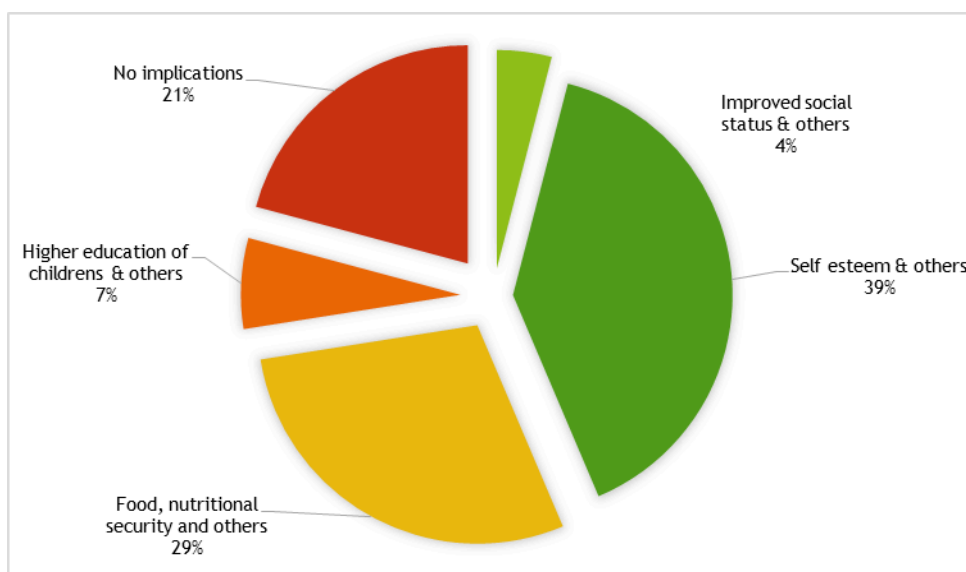


Implications of land rights for women

The majority of respondents believe that secure land rights have productive implications on their self-esteem (53 percent) and dignity, followed by better food and nutritional security (37 percent) at the household level (Figure 6.2).

<<Insert Figure 6.2 about here>>

Figure 6.2 Implications of land rights for women



On the other hand, the women who are still fighting for possession of the land allotted to them, mostly single women, perceive that homestead land rights will have no effect on their socio-economic status.

6.2.2 PERCEPTIONS AFTER THE ALLOTMENT OF LAND RIGHTS

Possession of land allotted

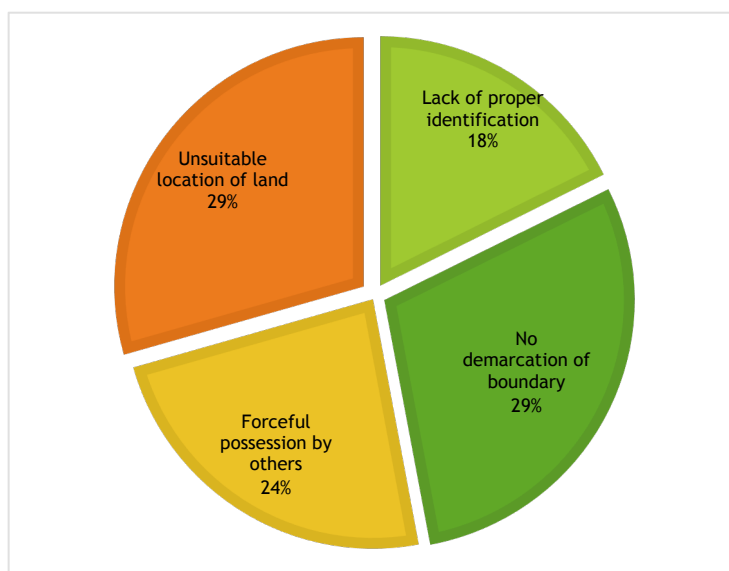
Secure and timely possession of the land allotted to them is imperative for landless women to be able to make productive use of the land. The state's good intentions, pioneering initiatives and land grant-achievements seem to be somewhat defeated by the fact that women who are allotted land actually have limited possession of it. The field investigation revealed possession in two out of every three homestead allotments.

Ironically, the percentage of possession is low in the state and it is mainly single women who are the victims of non-possession (42 percent), in comparison to married women (18 percent), thus continuing the spiral of insecurity and landlessness.

The unsuitable location of land (29 percent) and the absence of a boundary demarcation (29 percent) seem to be major causes of non-possession of land. Forceful possession by others (24 percent) and lack of proper identification of the plot (18 percent) also influence possession (Figure 6.3).

<<Insert Figure 6.3 about here>>

Figure 6.3 *Reasons for non-possession of land*



Effects of land rights on women

The survey responses suggest that land rights have a big influence on the lives of women, especially single women. As a result of the improved self-esteem and economic conditions, they are better settled in life and also reported higher opportunities for marriage or re-marriage. The responses also highlight the predominant rural perspective that marriage provides a social security that is not available in the same measure to single women. The

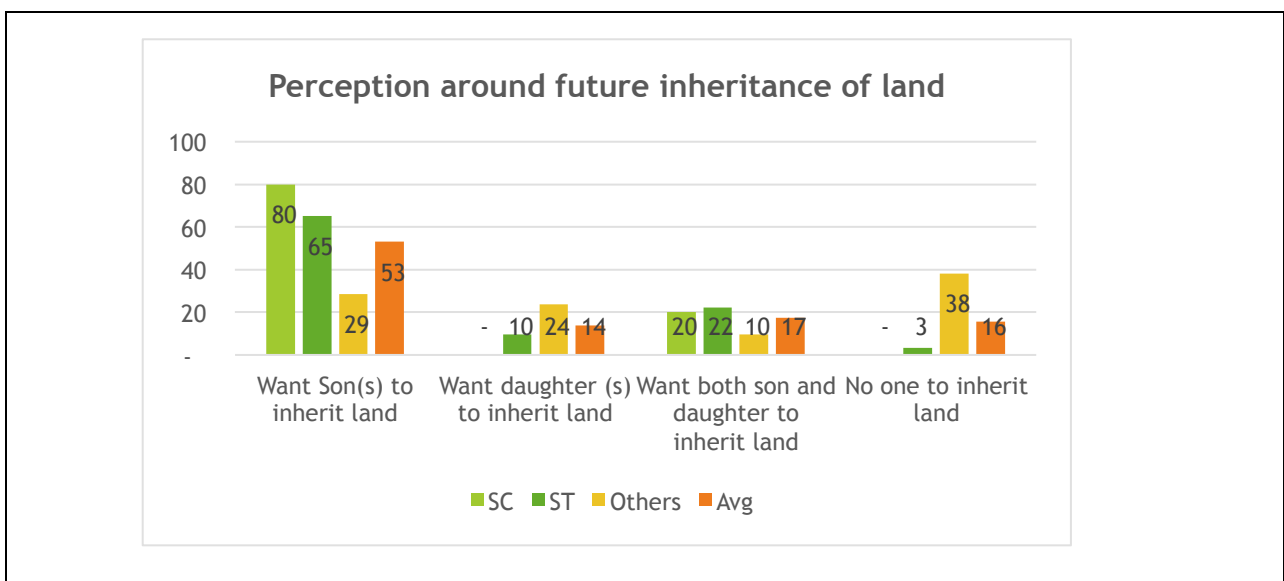
attitudinal bias against single women, especially in rural areas, is so strong that even land ownership as a means to marriage, is regarded favorably.

Future inheritance of land

Almost half of the women interviewed wanted their son/s to inherit the land. However, this seems to be a caste effect with more SC (80 percent) favoring sons, followed by ST (65 percent) and other caste (29 percent). Only one in seven women was willing to pass the land on to their daughters, while about 17 percent wanted both sons and daughters to inherit. (figure 6.4).

<<Insert Figure 6.4 about here>>

Figure 6.4 Perception of women regarding future inheritance of land

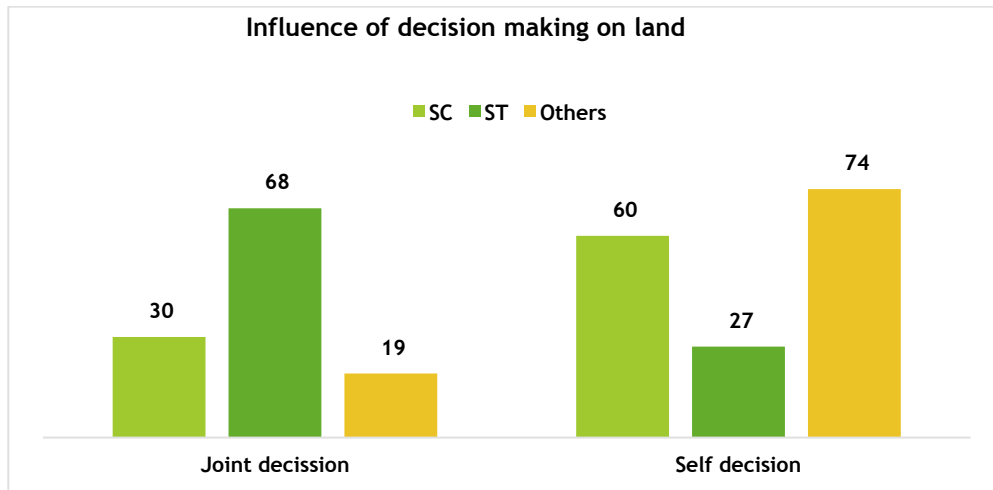


Decision making related to land

Decision making is one of the three core principles of good governance. Participation in the decision-making process elevates the confidence level as well as societal position of women. The study found that any decision regarding land is either joint, in the case of married women, or self in the case of single women. Almost all (52 out of 54) married women interviewed, said that decisions about land are taken jointly. Joint decisions were also more common among STs (figure 6.5).

<<Insert Figure 6.5 about here>>

Figure 6.5 Influence on decision making on land



6.3 RECOMMENDATIONS

In view of the above observations, the state needs to consider the following recommendations to better operationalize gender equitable land tenure governance:

- Launching massive awareness campaigns on gender-equitable land rights among men and women;
- Documentation of success stories of change with new land rights.

Appendixes

APPENDIX A: DETAILS OF VARIOUS INITIATIVES ON LAND RIGHTS

Name of Initiative	Applicable Provisions	legal Type of land right	Brief description	Gender provision	Implementing agency	Coverage
1. Government Schemes or Projects						
Vasundhara	Odisha Government Land Settlement Act, 1962 and the Rules, 1983.	Homestead	Distribution of government land up to 10 decimals (0.04 ha) to each homesteadless family for house site purposes (Since 1974–75).	Joint titling for married couples & individual titles for single males or single females.	Revenue & Disaster Management Department	1,15,827 homesteadless families have been allotted land as on 31.12.2014.
World Bank supported Rehabilitation scheme in Phailin Affected Area	Odisha Government Land Settlement Act, 1962 and Odisha Prevention of Land Encroachment Rule, 1972.	Homestead	Rehabilitation of the homeless cyclone hit families living in villages within five km of the coastline, with both land & housing support (started in 2013); convergence organized with other schemes including housing and agriculture or horticulture.	Joint titling for married couples & individual titles for single males or single females.	RDM Department in collaboration with Panchayati Raj Department, PRI and NGOs	In Ganjam 5 villages have been rehabilitated. During the field study we observed 100 percent possession under this scheme;
Land To Green Card Holders	Odisha Land Reforms Act, 1960 & 1984 notification by RDM department.	Homestead	A homestead landless person holding a green card is eligible for 8 decimals (0.032 ha) of land in a rural area (since 1984).	Issue of only women titles.	RDM Department	
Gramakantha Paramboke	Odisha Government Land Settlement Act, 1962 and the Rules, 1983, 2009, 2014.	Homestead land	Regularizes individual tenure of the household's property that was earlier under village-tenure, by granting them formal documents to the land on which they already reside.	Joint titling in case of married couples.	RDM Department	Settlement of 18,859 acres (7635 ha) of <i>Gramakantha Paramboke / Nazul / Khasmahal / Abadi</i> land in favor of 5,58,392 families.

Name of Initiative	Applicable Provisions	legal	Type of land right	Brief description	Gender provision	Implementing agency	Coverage
Mo Jami Mo Diha (My land My homestead)	Odisha Scheduled Areas Transfer of Immovable Property (By Scheduled Tribes) Regulation, 1956 & Odisha Land Reforms Act, 1960		Restoration of homestead & agricultural land	A campaign for the protection & restoration of land rights guaranteeing the poor possession, with emphasis on those belonging to ST and SC communities and also achieving convergence with other schemes (since 2007)	Only possession is ensured; the title remains the same, whatever was issued at the time of allotment	RDM Department	Physical possession has been restored to the original lease holders in 6,21,753 cases
Tribal Land Restoration In Scheduled Areas	Regulation 2 of OSATIP, 1956 (Amendment 2001)		Homestead & agricultural land	Restoration of land to the original owners, in the case of illegal transfers of properties belonging to Scheduled Tribes, in Scheduled Areas of the State	Only restoration of ownership as per the earlier title	RDM Department	13,462 cases, involving a land area of 11,126.53 acres (4504 ha), have been decided in favor of the tribal communities
OTDP-IFAD Project	1992 - GOO Circular		Usufruct rights	Settlement of Dongar Lands (land on hill slopes with a gradient above 10 degrees, earlier recorded as government land) in tribal areas (started in 1992)	Joint titling of land, with wife's name mentioned first	RDM Department in collaboration with SC & ST Development Department	More than 7000 ha of land has been settled in the names of 6137 tribal families.
Dafayati Patta	GE (GL)– 23/2008/51607/R&DM dated 11.12.2008		Usufruct rights	Distribution of usufruct rights to plots of about 2 acres (0.8 ha) occupied by fruit plantations in tribal districts; began in 1981 under the Economic Rehabilitation of Rural Poor (ERRP) scheme, later promoted through the Integrated Rural Development Program (IRDP), watershed, soil conservation and Innovative JRY initiatives etc.	Joint titling of land	Department of Soil Conservation, RDM Department, SC & ST Development Department	More than 15000 ha distributed in Koraput district from 1980–99.
2. Joint collaboration with NGOs							
Community Resource Person (CRP) Program	Odisha Government Land Settlement Act, 1962 and Odisha Prevention of Land Encroachment Act, 1972		Homestead land & agricultural land	This is a program in which literate & trained village youth known as CRPs or Bhumi Sanjojaks are engaged to assist the Revenue Inspector or RDM Department in identifying landless people and available government land. They	Mostly in the form of joint titles. 93 percent of titles issued are joint titles	SC & ST Development Department in collaboration with Rural Development Institute (RDI)	17050 land titles have been provided to homesteadless and landless families in 7 districts (Tribal Sub Plan blocks) that cover 1042 villages. It was further

Name of Initiative	Applicable Provisions	legal	Type of land right	Brief description	Gender provision	Implementing agency	Coverage
				also facilitate land grants and convergence. Initiated as a pilot project in the Orissa Tribal Empowerment and Livelihoods Project (OTELP), it was later scaled up in all the tribal blocks in the state (since 2009).		(presently known as Landesa).	extended to 17974 in all 118 Tribal Sub Plan (TSP) blocks in the state: from 2012–17.
Women's Support Centers	Odisha Government Land Settlement Act, 1962 and Odisha Prevention of Land Encroachment Act, 1972.		Single women's land rights	Identification of homesteadless single women (widow, divorcee, unmarried above 30 years) and allotment of land in their favor followed by convergence with other schemes (since 2011).	Individual title in favor of single women.	RDM Department in partnership with Landesa and Action Aid	About 2700 land titles have been issued in 4 districts of Odisha; 1,74,000 homesteadless single women have been identified in 9736 villages, through field verification
Sambhavana	Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006		Forest Rights	Facilitation in the FRA recognition process & capacity building of women FRA title holders, PRI members and other front line workers (since 2014).	Only for women members. Separate list of women titleholders available at the district portal.	District Administration especially Integrated Tribal Development Agency (ITDA), Phulbani & Vasundhara (a local NGO)	This program is operational in 2 blocks of Kandhamal district.

APPENDIX B: FIELD STUDY INSTRUMENTS

A. Interview format for women's access to land rights through different schemes

A1. Basic Information

1. Name:
2. Father's Name/Husband's Name:
3. Age:
4. Caste: SC/ST/OBC
5. Religion:
6. Village:
7. Education:
8. Category of women: 1. Married 2. Single (Unmarried/widow/divorced)
9. Husband's occupation:
10. Your occupation:
11. Total family members:
12. Total land owned by the family:
13. Do you own any land? From where and how did you acquire the land?
 - a) Private source (Purchase/inheritance/gift/lease/partition/will)
 - b) Government Source (Govt. scheme (mention)/Govt. lease)
14. Are you a member of any SHG: 1. Yes 2. No
15. Major source of income: 1. Agriculture 2. Wage labor 3. Service 4. Business 5. Other
16. Do you have any land related conflict within family or with others? If yes, please specify
17. Has any non tribal ever dispossessed you from your land? If so, has a case been instituted in the revenue court for restoration of that land?

A2. Level of Legal Awareness (0–5 scale and qualitative response)

1. Inheritance right as per law
2. Right to own homestead/agriculture land as per law
3. Government schemes providing land
4. Eligibility for free legal assistance
5. Tribal land alienation
6. Forest Rights Act
7. Settlement of land disputes on compromise through Lok Adalat
8. Mutation of land records by Tehsildar
9. Partition of lands among the shareholders

A3. Customary practices

1. Do your customs allow women to inherit or own land from her predecessors?
 - As a family member
 - As a single woman
2. Whether the custom which disentitles women from inheritance of land is codified or not? If yes, who says this?
3. If yes, then what is the process of inheritance of land?
4. If no, why women cannot inherit land?
5. If yes,
 - a. Who takes the decision on inheritance of land?
 - b. How women use the inherited land?
 - c. Is the land inherited by women formally documented?
 - d. In case of any conflicts in inheritance of land who do women approach?
 - e. What happens to the land when the marriage of the daughter happens?
6. Is there a customary institution to resolve land related conflicts? If yes, name the institution.

A4. Land Rights through Inheritance

1. Are you aware that you are legally eligible to get a share of your paternal property?
2. Have you inherited any land from your parent's property? If yes, then what is the share of land you inherited as compared to your brother? If no then why?
3. Are you claiming or willing to claim a share of paternal property, if you find that you are legally eligible? If yes, how much you will demand? If no, then tell us the reasons?

Bad relation with brother	
Already taken share as dowry	
Customs do not allow to own land	
Others (Specify)	

A5. Information about applicable Land Rights

1. Are you aware about the legal provisions for women's land ownership rights? If yes, how did you come to know about them?
2. Have you received any land from the Government?

Type of Land	Area (acres)	Year of allotment	Name of the scheme	Year of possession	Kissam	Khata No Plot No
Homestead						
Agriculture						

3. If you are not in possession of the land, then cite the reasons?

4. Do you or your family possess any land other than that allotted by the Government?

Type of Land	Area (acres)	Kissam	Khata No	Plot No
Homestead				
Agriculture				

5. Do you or your family possess any land without land records?

Type of Land	Area (acres)	Year of possession	Kissam	Khata No	Plot No
Homestead					
Agriculture					

6. In case of any land related conflicts, who do you approach?

1. Legal
2. Customary

A6. For Forest Rights Committee (FRC) members

1. Name of FRC Committee:
2. Address:
3. How many members are there in the FRC committee?
4. What is the composition of FRC?
 - i. Male.....ii. Female.....iii. SC.....IV. ST.....V. Others.....
5. What functions the FRCs used to do?
6. What roles the women members are playing in FRCs?
7. How actively have the women members participated in the process of rights recognition by the Gram Sabha?

Gender Equitable Land Governance in Odisha

B. CHECK LIST FOR SPECIFIC CASES

B1. For FRA Women beneficiaries and other Joint title holders

(Try to collect the IFR recognition details of that village)

1. Have all of your forest rights been claimed and recognized?

No of Plots	Area (acres)	Year of allotment	Continued possession	Land use	Revenue Land (within Village area)	Forest Land (outside Village area)

2. Do any of the rights recognized not refer to your earlier possessions?
 3. Do you see any change in your husband’s and family member’s attitude after the land ownership was conferred on you? Kindly explain? (for joint title holders).

B2. For Widow (Partition/Mutation)

1. Is the name of your husband included in the land *patta*?
 2. Have you received your husband’s share of land from your in-laws?
 a. If yes, what, please share details?

Type of Land	Area (acres)	Kissam	Khata No	Plot No
Homestead				
Agriculture				

- b. If no, why?
 3. Are you aware of the suo mou mutation process? If yes, have you applied for that? If not, are you willing to apply?
 4. Why did not you demand your share of property?
 5. Is the partition/mutation pending? What are the issues and for how long?

B3. For Divorced women (Partition/Mutation)

1. Have you experienced any domestic violence relating to land?
 2. Have you received any land from your husband’s share?
 a. If yes, what, please share details?

Type of Land	Area (acres)	Kissam	Khata No	Plot No
Homestead				
Agriculture				

- b. If no, then why?
 3. Is the partition/mutation pending? What are the issues and for how long?
 4. Have you experienced any land related conflicts with your brother (s)? Please specify.
 5. If in future you have any land related conflicts with your brother, then whom do you approach?

Gender Equitable Land Governance in Odisha

C. Effect and Processed related questions: Applicable to all

C1. Implications of land rights

1. Who takes the decisions on land use practices (Yes/No)?

Decision taken by	On Land use	Mortgage	Lease/ share cropping	Sale	Others
Self					
Husband					
Other family members					

2. Implications of land ownership (0-5 scale)? *Mention Scheme :*

	Pre-Patta	Post-Patta
Dignity/ self esteem		
Food		
Nutrition		
Children's education		
Health		
Social status		

C2. Facilitation and support received (0-5 scale and qualitative response)

1. From where did you come to know about the scheme and who helped you in the process of land occupation?

2. Type of help received

Awareness about the scheme	Provided guidance to file the application form	Regular Pursuance	Assistance in land identification process	Other supports (Land use planning/Link with other social schemes)

3. What additional support do you need?

C3. Perception (0-5 scale and qualitative response)

1. What does a land title mean to you?
2. Do you think that land ownership is essential for you?
3. Do you think that the land you possessed is adequate for you?
4. Are you happy with the land allotted to you?
5. Do you think that obtaining land ownership is enough for single women like you?
6. Do you see any advantage in/need for a separate title?

a. Perceptions: Institutional

1. Do you approach the Revenue Officers for any land related issues? If yes, then what are the issues for which you generally approach them?

2. Can you say in the last one-year how many times you approached them and what the issues were?
3. Do you believe that Revenue Officers are cooperative with people? If no, please share your experiences.
4. Do you need to pay a bribe to get a land related services? How much do you pay?
5. Do you think that the presence of women staff will make revenue offices more accessible?
6. Do you get facilitation support by anybody in this regard? If yes? Who and How?
7. Do the Gram Sabha/other village level institutions help in the issues relating to women's land rights? If yes, then please share the detail process?

b. Perceptions: Future Issues

1. How do you think about the future inheritance of the land? Will you divide it equally among the sons and daughters or only among sons? Explain the reason for any of the case
2. If in future any land related conflicts will arise, whom will you approach?

Gender Equitable Land Governance in Odisha

D. Interview format for Govt. Staff/Facilitators

D1. Basic Information

1. Name:
2. Designation:
3. Tehsil/RI Circle:
4. District:

D2. Customary practices

- a. Do the local customs allow women to inherit or own land?
 - As a family member (wife and unmarried daughter/sister)
 - As a single woman
- b. For any of the cases, are the customs codified or not? If yes, who ascertains that?
- c. If yes, then what is the process of inheritance of land?
- d. If yes,
 - a. Who takes the decision on inheritance of land?
 - b. How do women use the inherited land?
 - c. Is such inherited land formally documented?
 - d. In case of any conflict over inheritance of land, where do the women go?
 - e. Following her marriage, does the daughter get a share of paternal property?
- e. Is there a customary institution to resolve land related conflicts? If yes, name the institution?
- f. Do the customary institutions actively resolve all land related conflicts? If yes, tell us the process?

D3. Legal Awareness

1. Are you aware of all relevant legal provisions?
2. Are you aware about the Hindu Succession Act, 2005? Do you see any change after that?

D4. Perception

1. How do you see the scope of Gender Equitable Land Governance in Odisha (explain - rights, institution and policy? Give your opinion and suggestions in this regard?
2. Will women's land right help them and the society as a whole? If yes, how?
3. Do you have any suggestions regarding the definition of single woman?

D5. Capacity Building

1. Do you think that there are some gaps and challenges in the Revenue Administration? Kindly share and also suggest the additional support you need?
2. Do you feel the need of any training? If yes, what themes are you interested in?

D6. For Staff of Revenue Department:

A. Land Rights

1. Status of *patta* distribution under OGLS, OPLE and FRA?

Scheme	Total	

	Joint title					Individual (Women)					
	SC	ST	Others	Total received	Total applied	Total applied			Total received		
						Widow	Divorcee	Unmarried	Widow	Divorcee	Unmarried
OGLS											
OPEL											
FRA											
Others											

- Are all these beneficiaries in possession of the land? If not then what are the constraints?
- How many applications have been rejected? What are the grounds for rejection?
- Status of mutation and partition cases

Type	Total application			Total resolved		
	SC	ST	Others	SC	ST	Others
Mutation						
Partition						

- What are the reasons for the large number of pending cases? How this can be solved?
- Average time taken for land allocation (mention scheme/act)?
- How many cases relating to dispossession of tribals from his/her own land by a non-tribal have been instituted in the revenue court? If so, please provide details.

B. Institutional

- Do you think that WSCs function effectively? Can you share some of the achievements of WSCs in your area?
- What changes would you suggest for strengthening the WSCs.
- Do women approach your office for land related cases?
- Has there been an increase in such cases recently?
- What are the different types of cases women usually approach you for?
- Do you see any issues with women's access to your office? If yes, what are they?
- Will the presence of women staff improve access for women?
- How many women staff are working in the Tehsil/RI circle?
- Will the presence of women staff help produce better results in women's cases?

D7. WSC (Facilitator)

A. Land Rights

- Total number of landless women identified to date in the district?
- How many women have been allotted land through WSCs?

	Sanjeevani	Ashreya					
		OGLS	OPEL	mutation	Partition	Conversion	De-reservation

Total							
-------	--	--	--	--	--	--	--

3. How many of them are in possession of the land allotted?
4. What are the major constraints relating to possession of the land?
5. Are there any socio-cultural inhibitions?

B. Institutional

1. What are the challenges for WSCs?
2. How the WSCs can be strengthened?
 - Physical
 - Human Resources
 - Others

D8. For Anganwadi workers

A. Land Rights

1. Status of claims

Total number of applications collected	No of applications verified by RI/Amin	No of claimants received <i>patta</i>	How many of them are of possession of the land

2. Have you had any training in this regard?
3. What are the problems you had to face during the data collection?

B. Institutional

1. Have you received full cooperation from the Revenue Department staffs and facilitators?
2. Do you think that the presence of women staff can make a difference in accessibility and cooperation for undertaking this work?

D9. Sambhavana – Vasundhara team

A. Land Rights

1. Status of land allocation?

District/Subdivision	Total no of beneficiaries identified		Total number of beneficiaries received land		Total no of beneficiaries are under possession over the land	
	Homestead	Agriculture	Homestead	Agriculture	Homestead	Agriculture

2. In regard to CFR rights, what is the position of women members?
3. Does CFR have any implications for women's rights? Please do share?
4. How many of them have received IFR title?

B. Institutional

- a) Why Sambavana
- b) Processes of Sambavana
- c) Challenges of Sambavana
- d) Suggestions of Sambavana

D9. PRADAN-RDI Collaboration (Facilitators)

A. Land Rights

1. How women from different caste groups are vulnerable to insecure land rights?
2. Total number of SHGs involved in the process of identification of the landless and allocation of land?
3. Have they received any training? If yes how many times and what were the training themes?
4. What are the achievements realized so far in the intervened areas?
5. Any good customary practices reported? Explain in detail?
6. How common and forestlands are accessed and operated by women?

B. Institutional

- i. Process
- ii. Challenges
- iii. Suggestions

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Legal Issues

E. Interviews with Legal Experts

1. Are you aware of any tribals who have been given free legal assistance in case of land disputes, if so give details?
2. How many land disputes come to court for adjudication? Please tell the nature of the land disputes?
3. How many land disputes have been settled through the Lok Adalat (period, percent to total)?
4. How many land disputes have been settled through court by the process of arbitration/ conciliation/mediation?
5. What is your suggestion to popularize the legal aid system among the tribal?
6. Whether the existing legal aid system is sufficient to resolve the land disputes of the tribal in an effective manner

APPENDIX C: LAND LAWS IN ODISHA

<<Insert table Legal instruments about here>>

Legal Instruments	
The Constitution	Equal rights to women Articles 14 & 15
Primary legislation	Orissa Land Reforms Act, 1960 Orissa Government Land Settlement Act, 1962 Orissa Prevention of Land Encroachment Act, 1972 Orissa Scheduled Areas Transfer of Immovable Property (By Scheduled Tribes) Regulation, 1956 Benami Transaction Prohibition Act, 1988 Resettlement and Rehabilitation Policy, 2006 Forest Rights Act, 2006 Hindu Succession Act (Amendment), 2005
Secondary legislation	Notification on OGLS (Amendment) Rules, 2014. Odisha Land Reforms (General) Amendment Rules, 2015 Odisha Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Rules, 2015 etc.
Rules and procedures	Conducting a special drive for settlement of agricultural land on landless families under OGLS/OPLA Act/Rules80. Enhancing the limit of distribution of Government Land under the Scheme Vasundhara 81. 2002 circular of Odisha Bhoodan and Gramdan Act, 1970 and ceiling surplus Act. Joint title in the name of both husband and wife, while settling government wasteland, house sites and ceiling surplus lands with landless persons through a series of administrative circulars commencing with letter no 48425 dated 19 Aug 1987.

80

http://www.odisha.gov.in/revenue//Communications/Circulars/Allotment_homestead_agriculture/25715_13_6_11.pdf

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http://www.odisha.gov.in/revenue//Communications/Circulars/Allotment_homestead_agriculture/28733_3_7_08.pdf

APPENDIX D: VGGT PROVISIONS COMPARED WITH STATUS OF ODISHA

APPENDIX D.1: POLICY MAKING

<<Insert table Relevant VGGT Paragraphs about here>>

Relevant VGGT Paragraphs	Status of Land Policy Making in the State
A) Provisions on land policy making with reference to gender issues	
<p>3.B.6 Consultation and participation: engaging with and seeking the support of those who, having legitimate tenure rights, could be affected by decisions, prior to decisions being taken, and responding to their contributions; taking into consideration existing power imbalances between different parties and ensuring active, free, effective, meaningful and informed participation of individuals and groups in associated decision-making processes.</p>	<p>A wide range of stakeholders including women were involved in the formulation of the State R & R Policy, 2006 and Odisha State Policy for Girls and Women, 2014(section 1.2.1), both of which address women’s issues and rights. However, to date, the informed participation of directly affected individuals and groups in the formulation of these and other land related policies, has not been ensured.</p>
<p>5.5 States should develop relevant policies, laws and procedures through participatory processes involving all affected parties, ensuring that both men and women are included from the outset. Policies, laws and procedures should take into account the capacity to implement them. They should incorporate gender-sensitive approaches, be clearly expressed in applicable languages, and widely publicized.</p>	<p>State policy formulation largely involves land bureaucracy along with invited experts, when required (1.2.1). Of late, attempts toward participatory processes have begun by seeking public opinion and carrying out stakeholder consultations on some specific policies (Box 2.3.1). Most of the state land policies remain gender neutral, lacking gender-sensitive provisions. Gender considerations have largely focused on ‘married women’ with no prescriptions for single women, except in the case of some new policies⁸². The policies are largely drafted and expressed in English. While efforts have begun to translate them into Odia, there has been no attempt as yet to translate them into other local languages or dialects, including tribal languages. These policies are mainly publicized on the Internet.</p>
<p>9.10 State and non-state actors should strive, where necessary, together with representative institutions of affected communities and in cooperation with affected communities, to provide technical and legal assistance to affected communities to participate in the development of tenure policies, laws and projects in non-discriminatory and gender-sensitive ways.</p>	<p>The state has made no provisions to encourage the participation of affected families in the formulation and development of tenure policies, laws and projects. However, post-FRA, the affected communities, including women, have influenced important tenure decisions (not exactly policy) through the Gram Sabha (local self-governance institutions at habitat/ hamlet level) for example in the famous Vedanta case.</p>

⁸² Namely Orissa State Resettlement and Rehabilitation Policy, 2006 and Odisha State Policy for Girls and Women, 2014.

B) Provisions regarding the contents of land policies with reference to gender issues		
5.3	<p>States should ensure that policy, legal and organizational frameworks for tenure governance recognize and respect, in accordance with national laws, legitimate tenure rights including legitimate customary tenure rights that are not currently protected by law; and facilitate, promote and protect the exercise of tenure rights. ...</p> <p>States should provide frameworks that are non-discriminatory and promote social equity and gender equality.</p>	<p>The Indian legal system recognizes custom as a major source of law only if the custom is ancient or immemorial in origin, reasonable in nature and continuous in use, and certain⁸³. While customary tenures are respected in NE India, Odisha has no mechanism for the legal recognition of tribal customary tenures, except the recognition of forest rights under the FRA. More than one fourth of the state population are tribal people, who occupy two fifths of its geographical area, declared as Schedule V (of constitution) area. With about 62 tribes, 13 of which belong to Particularly Vulnerable Tribal Groups, the state is yet to formally record customary tenures.</p> <p>The State provides legal frameworks that are non-discriminatory and promotes social equity and gender equality. However, the state is required to make the policy framework single women friendly.</p>
10.1	<p>Where informal tenure to land, fisheries and forests exists, States should acknowledge it in a manner that respects existing formal rights under national law and in ways that recognize the reality of the situation and promote social, economic and environmental well-being. States should promote policies and laws to provide recognition to such informal tenure.</p> <p>The process of establishing these policies and laws should be participatory, gender sensitive and strive to make provision for technical and legal support to affected communities and individuals.</p>	<p>The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 recognizes the individual and community tenure rights of all forest dwelling Scheduled Tribes and Other Traditional Forest Dwellers (OTFD) on all forestlands. The state has provided a vast number of individual titles to tribal communities under this act. However OTFP forest rights as well as informal tenures of non-forest common lands, including community rights, are not legally acknowledged.</p> <p>Under the IFAD funded Orissa Tribal Development Project (OTDP) in the nineties, customary rights to lands on hill slopes (above 10 degree slope) were settled in favor of tribal households in the form of joint titles.</p> <p>Customary use rights to fishing areas are also ill defined in the state⁸⁴.</p>

⁸³ The Constitution defines “law” to include “custom or usage having in the territory of India the force of law. The Courts of India have recognized custom as law only if the custom is (1) “ancient or immemorial” in origin, (2) “reasonable in nature and continuous in use,” and (3) “certain.” The Courts have interpreted “ancient or immemorial” to mean that for a custom to be binding it “must derive its force from the fact that by long usage it has obtained the force of law.” A custom also “derives its validity from being reasonable at inception and present exercise.” Lastly, a “certain” custom is one that is “certain in its extent and mode of operation” and invariable.

⁸⁴ <http://www.fao.org/3/a-a0692e.pdf>

APPENDIX D.2: LEGAL FRAMEWORK

<<Insert table VGGT Provisions Status in Odisha about here>>

	VGGT Provisions	Status in Odisha
	Law making	
3.B.7	Rule of Law: adopting a rule-based approach through laws that are widely publicized in applicable languages, applicable to all, equally enforced and independently adjudicated, and that are consistent with their existing obligations under national and international law, and with due regard to voluntary commitments under applicable regional and international instruments.	Land laws in the state are available in English. The state does not usually publish them in applicable local languages, although this is done for certain policies. Some NGOs working in the areas of land or forest rights (namely Vasundhara, Pragati, Landesa etc.) translate relevant laws into the local language and distribute them in the villages. Adjudication of legal instruments occurs mainly through the Revenue Department that also implements or executes these policies. Most of the land laws are consistent with existing obligations under national and international land governance instruments, though provision for and the intensity of positive discrimination in favor of women and indigenous communities varies.
3.B.9	Accountability: holding individuals, public agencies and non-state actors responsible for their actions and decisions according to the principles of the rule of law.	Laws have mechanisms to establish the accountability of state actors for actions and decisions. For example, under section 7 of the FRA, 2006 (Chapter V) any authority or officer contravening the provisions of the said act is liable to punishment with fine ⁸⁵ .
	Gender-related content of laws and procedures	
4.4	Based on an examination of tenure rights in line with national law, States should provide legal recognition for legitimate tenure rights not currently protected by law. Policies and laws that ensure tenure rights should be non-discriminatory and gender sensitive. ... All forms of tenure should provide all persons with a degree of tenure security which guarantees legal protection against forced evictions that are inconsistent with States' existing obligations under national and international law, and against harassment and other threats.	Odisha has number of progressive land reform laws, with gender-sensitive provisions with an aim to achieve social justice in land tenure governance (Table 2.1.1 and 2.2.1)). However, most of the provisions in the existing laws, acts and circulars (joint <i>patta</i> etc.) seem to be 'married' women friendly and not 'women' friendly. They exclude single women, except for the recent Odisha State Policy for Girls and Women, 2014. The State has provisions for ensuring tenure security for homestead lands allotted or leased under different programs, through a special campaign Mo Jami Mo Diha. It also provides protection of land rights for tribal and Dalit communities, against illegal transfers through OLR and OSATIP Regulation, 1956(Amendment 2001) (Box 2.2.1).
4.6	States should remove and prohibit all forms of discrimination related to tenure rights, including those resulting	Odisha Legal Services Authority Rules, 1996, has provisions for free legal services (legal aid) for women. Religious (Table 2.2.2) or customary laws governing the inheritance of land (Table 2.2.3)) often discriminate against women.

⁸⁵ <http://tribal.nic.in/WriteReadData/CMS/Documents/201211290332077861328File1033.pdf>

	<p>from change of marital status, lack of legal capacity, and lack of access to economic resources.</p> <p>In particular, States should ensure equal tenure rights for women and men, including the right to inherit and bequeath these rights.</p>	<p>However, the Hindu Succession Act (2005 amendment) has made daughters coparcenary of their parental property. Though the new state policy on girls and women, mentions single women, their tenurial rights are not clearly defined, and the policy contains riders related to age that affect the status of women's rights (Box 2.3.1).</p>
5.3	<p>States should ensure that policy, legal and organizational frameworks for tenure governance recognize and respect, in accordance with national laws, legitimate tenure rights including legitimate customary tenure rights that are not currently protected by law; and facilitate, promote and protect the exercise of tenure rights. ...</p> <p>States should provide frameworks that are non-discriminatory and promote social equity and gender equality.</p>	<p>The customary rights of indigenous communities (26 percent of the State population; 62 tribes including 13 PVTG) are not documented. There are no provisions to recognize and respect these rights. The Hindu Succession Act (2005 amendment) is not applicable to tribal (Schedule V) areas.</p> <p>The Indian Constitution provides equal rights to men and women and special provisions for tribal communities. Odisha is trying to provide a framework to promote gender equality through the recently announced Odisha State Policy for Girls and Women, 2014.</p>
9.2	<p>Indigenous peoples and other communities with customary tenure systems that exercise self-governance of land, fisheries and forests should promote and provide equitable, secure and sustainable rights to those resources, with special attention to the provision of equitable access for women. Effective participation of all members, men, women and youth, in decisions regarding their tenure systems should be promoted through their local or traditional institutions, including in the case of collective tenure systems. Where necessary, communities should be assisted to increase the capacity of their members to participate fully in decision-making and governance of their tenure systems.</p>	<p>Self-governance of land, fisheries and forests in the Schedule areas are prescribed in the PESA (Panchayat Extension to Schedule Area Act) Act, 1996 enacted by the Government of India, however, Odisha has not yet framed PESA rules to make it applicable. But the Odisha Gram Panchayat Act 1964 was amended in 1997 to safeguard and manage the village commons or community resources authorized under PESA. Odisha has undertaken a pioneering initiative to devolve trade and control of 69 minor forest produce to Gram Panchayats, which has helped thousands of women MFP collectors and their collectives to enhance their income.</p> <p>The rights of indigenous people, including community tenure, are recognized under the Forest Rights Act, 2006. This act requires the presence of at least one woman on the State level, District level and Subdivision level committees and at least one-third membership of women on Village level Forest Rights Committees. As per the Odisha Joint Forest Management Resolution, 2011, a minimum of 50 percent of the members of the executive committee has to be women and either the Chairperson or Vice-chairperson has to be a woman.</p> <p>In addition, the state government has introduced 50 percent reservation for women in the Panchayati Raj institutions (PRIs). The PRIs or Gram Sabhas are empowered under this act to initiate the rights recognition process.</p> <p>The state has no mechanism to recognize community rights over fishery and non-forest commons.</p>

10.1	<p>Where informal tenure to land, fisheries and forests exists, States should acknowledge it in a manner that respects existing formal rights under national law and in ways that recognize the reality of the situation and promote social, economic and environmental well-being.</p> <p>States should promote policies and laws to provide recognition to such informal tenure. The process of establishing these policies and laws should be participatory, gender sensitive and strive to make provision for technical and legal support to affected communities and individuals.</p>	<p>The Forest Rights Act, 2006 is considered a path breaking legislation in India that recognizes informal tenure to land and forests including Community Forest Management.</p> <p>The state laws prohibit the practice of tenancy in any forms. However, informal tenancy is practiced in most parts of the state. There are cases of Women SHG tenure, but no policies for its recognition.</p> <p>While the process of establishing the Forest Rights Act was participatory, as it was spearheaded by civil society and it has enabling provisions to ensure technical and legal support to affected communities and individuals, other state acts have not followed this process nor do they adopt a gender-sensitive approach.</p>
Dispute resolution from a gender perspective		
21.1	<p>Dispute resolution services should be accessible to all women and men, in terms of location, language and procedures</p>	<p>The state has made provisions to ensure fair and equal access of both men and women to Dispute Resolution Mechanisms. Besides revenue and civil courts, the state also provides free legal services (legal aid) to vulnerable groups, including women, for their equal access to legal institutions. However, language and location still remain barriers to accessing dispute resolution mechanisms in tribal areas.</p>
25.3	<p>When appropriate, States may consider using customary and other local mechanisms that provide fair, reliable, gender sensitive, accessible and non-discriminatory ways of promptly resolving disputes over tenure rights to land, fisheries and forests.</p>	<p>Customary and local mechanisms for dispute resolutions are encouraged through Alternate Dispute Redressal systems.</p> <p>The State Legal Service Authority constituted under the Odisha Legal Services Authority Rules, 1996, organize Lok Adalats (People’s Courts) to expedite the dispute resolution process while reducing the expenses of court fees or advocate’s fees There is no specific focus on gender in the dispute resolution process through Lok Adalats.</p> <p>There is a provision under the Gram Nyalaya Act 2008, for establishing Gram Nyayalayas (Formal rural courts) at the Panchayat level to pursue cases in which the value of the subject matter of the property does not exceed Rs. 10,000 (155 USD). These courts are bound to resort to alternative methods of dispute resolution such as mediation, conciliation etc., in civil cases as per Section 16 of the Gram Nyayalaya Act. An amendment to the Orissa Gram Panchayat Act, 1964, in 1997 in compliance with the PESA Act, provisions the Gram Sasan as competent to safeguard and preserve customary modes of dispute resolution consistent with laws and in harmony with the basic tenets of the Constitution and human rights, in Scheduled Areas.</p>

APPENDIX D.3: INSTITUTIONAL FRAMEWORK

<<Insert table VGGT Provisions Odisha Status about here>>

	VGGT Provisions	Odisha Status
3.B.6	<p>Consultation and participation: engaging with and seeking the support of those who, having legitimate tenure rights, could be affected by decisions, prior to decisions being taken, and responding to their contributions; taking into consideration existing power imbalances between different parties and ensuring active, free, effective, meaningful and informed participation of individuals and groups in associated decision-making processes.</p>	<p>The Forest Rights Act, 2006 empowers Gram Sabhas to initiate the rights recognition process in consultation with local people and other groups.</p> <p>The Supreme Court of India, in a specific order issued in 2013, had ruled that the Vedanta Group's bauxite mining project in the Niyamgiri Hills of Odisha would have to obtain clearance from the Gram Sabha, which would consider the cultural and religious rights of the tribal and forest dwellers living in Rayagada and Kalahandi districts. Environmental Impact Assessment notification, 2006 of Gol, provides for public hearings to address the concerns of those communities who have plausible stakes in the environmental effect of the project.</p> <p>Land use decisions in watershed and JFM areas are made on the basis of micro plans prepared through participatory and consultative processes.</p>
5.3	<p>States should ensure that policy, legal and organizational frameworks for tenure governance recognize and respect, in accordance with national laws, legitimate tenure rights including legitimate customary tenure rights that are not currently protected by law... . States should provide frameworks that are non-discriminatory and promote social equity and gender equality.</p>	<p>The organizational framework relative to land tenure governance recognizes and respects the Constitution and state land laws. The state has taken certain measures (50 percent reservation for women in PRIs and Executive Committees under JFM; one-third reservation in the Forest Rights Committee as well as one-third reservation in government jobs etc.) to make land administration gender sensitive</p>
5.6	<p>States should place responsibilities at levels of government that can most effectively deliver services to the people. ... States should ensure coordination between implementing agencies, as well as with local governments, and indigenous peoples and other communities with customary tenure systems.</p>	<p>The RDM department has employees at the village level (Amins and RIs), who provide land related services to the people. Though their service delivery is constrained by an increasing work load, recent initiatives to recruit women have reportedly improved services.</p> <p>The GOO, in collaboration with civil society (Landesa and Action Aid) has established WSCs in 4 districts. In the World Bank funded Phalin Rehabilitation scheme in Ganjam, the district administration has involved Panchayati Raj Institutions. Vasundhara, another NGO, launched a campaign called Sambhavana in Phulbani district to enhance women's land rights under the FRA. However, offices at the field level (tehsil and Revenue circle) lack gender sensitivity as can be seen from the lack of toilet facilities.</p>
6.1	<p>To the extent that resources permit, States should ensure that implementing agencies and judicial authorities have the human, physical, financial and</p>	<p>The Government of Odisha has established 33 percent reservations for women at all organizational levels. Additional resources are required for the RDM department to increase its staff strength, creation or</p>

<p>other forms of capacity to implement policies and laws in a timely, effective and gender-sensitive manner. Staff at all organizational levels should receive continual training, and be recruited with due regard to ensuring gender and social equality.</p>	<p>augmentation of gender-enabling infrastructure at field offices and in land record updating services.</p>
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APPENDIX D.4: TECHNICAL ISSUES

<<Insert table relevant VGGT Paragraphs Odisha status about here>>

	Relevant VGGT Paragraphs	Odisha Status
7.4	States should ensure that women and men enjoy the same rights in the newly recognized tenure rights, and that those rights are reflected in records. ... Locally appropriate approaches should be used to increase transparency when records of tenure rights are initially created, including in the mapping of tenure rights.	Odisha introduced joint titling of land records uniformly across the state in 1987, following which all newly allotted rights to government lands are recorded in the name of both spouses. Digitization of all the State's map sheets maintaining spatial data (Cadastral Maps) has been completed and the same has been uploaded to the Bhunaksha (http://164.100.140.80:8080/bhunakshaweb/) website along with the textual data (at the Bhulekh site; http://Bhulekh.ori.nic.in/RoRView.aspx) to increase transparency. However, the gender parameter is not available in the land records. Following a recent order ⁸⁶ issued by the Department of Land Resources, Government of India, Odisha has started working on including 'gender' in land records.
10.3	Whenever States provide legal recognition to informal tenure, this should be done through participatory, gender-sensitive processes, having particular regard to tenants.	Sharecropping continues to be a dominant tenure practice in Odisha, though tenancy in any form is banned. The field study shows that some Women's Self Help Groups (SHGs) practice sharecropping, either individually or in groups. They have no tenure security and are often liable to eviction at the landlord's will. The recently approved Odisha State Policy for Girls & Women 2014 has made provisions for extending land leasing at nominal rates in favor of women groups. Community Forest Management practices in Odisha, which have been recognized globally, are an informal form of tenure, which was never legally recognized until the FRA provided an opportunity for recognition through CFR rights.
11.6	States should establish safeguards to protect the legitimate tenure rights of spouses, family members and others who are not shown as holders of tenure rights in recording systems, such as land registries.	The GOO has made it compulsory to complete the mutation and correction of records in favor of the legal heir within 90 days of the death of the recorded tenants. As per Section 19 of the OLR and Section 34 (c) of the S & S Act, records should be in the names of both sons and daughters after the death of the father Urgent registration of joint holdings can be carried out if all the legal heirs come to an agreement.
7.1	When States recognize or allocate tenure rights to land, fisheries and forests, they should establish, in accordance with national laws, safeguards to avoid infringing on or	When areas are declared reserve forests under the Orissa Forest Act, 1972 and when an area is declared a protected area under the Wildlife Protection Act, 1972, the existing and bonafide rights of the communities are settled or protected through an elaborate process, while extinguishing or realigning tenure rights. Subsidiary rights like women and

⁸⁶ In April 2015, the Department of Land Resources, Government of India, advised the states to introduce a "gender" field for landowners in their property records, as part of NLRMP. West Bengal (already notified), Andhra Pradesh (started following the practice) and Odisha (NIC is creating the attribute for prospective recording) are the three states that have started the process of complying with the directive. However, the updating of records with gender attributes would occur prospectively. http://articles.economictimes.indiatimes.com/2015-04-18/news/61278888_1_land-ownership-women-workforce-property-records

	extinguishing tenure rights of others, including legitimate tenure rights that are not currently protected by law. In particular, safeguards should protect women and the vulnerable who hold subsidiary tenure rights, such as gathering rights.	men's rights to collect and trade Non-timber Forest Products are safeguarded in the state through Orissa Grama Panchayats (Minor Forest Produce Administration) Rules, 2002, and also recently through CFR rights under FR,
	Land rights registration	
17.3	States should strive to ensure that everyone is able to record their rights and obtain information without discrimination on any basis.	The Government of Odisha has launched e-dhaRani to facilitate the e-registration of land records. It has also made provisions for e-payment of stamp duty and easy access to information about land valuation and applicable stamp duty.
	Regulated spatial planning	
20.2	States should develop through consultation and participation, and publicize, gender-sensitive policies and laws on regulated spatial planning.	In the absence of a State Land Use Policy, spatial planning is limited to Urban development (Cities/Towns and areas notified under Orissa Development Authority Act, 1982), industrial development (SEZ, Industrial parks/zones, mining etc.), conservation areas (Wildlife Sanctuaries, National Parks etc.). While urban plans are sometime available through websites, other spatial planning is not adequately publicized. Consultation is largely absent in the process of spatial planning,
20.3	States should ensure that regulated spatial planning is conducted in a manner that recognizes the interconnected relationships between land, fisheries and forests and their uses, including the gendered aspects of their uses.	Spatial planning is regulated by the existing legal framework (Forest Conservation Act, Wildlife Act, Environmental Protection Act, Orissa Development Authority Act etc.), which largely regulates land from environmental, cultural and strategic perspectives. Ecological and gender perspectives have not really been built into the process of spatial planning.
	Land restitution	
14.4	States should develop gender-sensitive policies and laws that provide for clear, transparent processes for restitution. Information on restitution procedures should be widely disseminated in applicable languages. Claimants should be provided with adequate assistance, including through legal and paralegal aid, throughout the process.	OSATIP regulations and amendment 2002, provide for the restitution of tribal lands illegally transferred to non-tribal people (Box 2.2.1). However as indicated in Box 2.6.1, there are potential issues regarding its implementation due to a lack of necessary legal assistance. However, provisions for restitution of land acquired for cancelled or stalled projects are unclear, not adequately publicized and adequate assistance is not provided.
	Redistributive reforms	
15.5	Where States choose to implement redistributive reforms, they should clearly	The state's land redistributive reforms focus on the implementation of the Ceiling Surplus Act, Bhoodan Act, OGLS, OPLE and FRA. Under Odisha Bhoodan and the

<p>define the objectives of reform programs and indicate land exempted from such redistribution. The intended beneficiaries, such as families including those seeking home gardens, women, informal settlement residents, pastoralists, historically disadvantaged groups, marginalized groups, youth, indigenous peoples, gatherers and small-scale food producers, should be clearly defined.</p>	<p>Gramdan Act, 1970 and the Ceiling surplus Act (2002 circular), the state has made provisions for earmarking 40 percent of ceiling surplus land for distribution among women and of this, at least 40 percent for women belonging to the STs & SCs and disadvantaged groups (Box 2.1.1). The OGLS and OPLE stipulate the types of government land that can be settled or regularized in favor of landless people or possessors, along with the applicable eligibility criteria. The FRA also clearly indicates the type of forestland under Government ownership where rights can be recognized, as well as the eligible individuals and communities.</p>
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APPENDIX D.5: COMMUNICATION STRATEGIES

<<Insert table VGGT provisions Status in Odisha about here>>

	VGGT provisions	Status in Odisha
3.B.8	<p>Transparency: clearly defining and widely publicizing policies, laws and procedures in applicable languages, and widely publicizing decisions in applicable languages and in formats accessible to all.</p>	<p>Land policies, laws or procedures are rarely publicized in Odia except in a few cases, when there is a compulsory provision for this as in the case of the Rehabilitation & Resettlement policy. They are never publicized in tribal languages.</p> <p>The State has established an elaborate institutional mechanism for spreading legal awareness at the tehsil, district and state levels, with special focus on ‘women’ through the Legal Services Authority. However, these provisions are not widely publicized in the relevant languages and in formats accessible to all. A cadre of paralegals (about 6 per tehsil) with a fair percentage women, has been engaged at the subtehsil level, to promote awareness about legal issues and rights in rural areas, as per an UNDP study carried out in 2012 (Box 2.4.2).</p>
8.9	<p>States should allocate tenure rights and delegate tenure governance in transparent, participatory ways, using simple procedures that are clear, accessible and understandable to all, especially to indigenous peoples and other communities with customary tenure systems. Information in applicable languages should be provided to all potential participants, including through gender-sensitive messages.</p>	<p>Information about the delegation of tenure governance to local self-governance units of tribal communities, under the Forest Rights Act, has been made available in local languages and in different accessible formats. This has been done largely by NGOs promoting the FRA, along with the Tribal Development Department.</p> <p>The legal provisions regarding the role of Gram Sabhas or GPs in relation to tenure governance with respect to tribal land transfer under Regulation 2, 1956 and the management of community resources vide Amendment to the Orissa Gram Panchayat Act, 1964 u/s 5(6) in 1997, have not however, been adequately publicized.</p> <p>Similarly the devolution of control over trade of minor forest products to PRIs, has not been widely communicated to the target institutions and communities.</p>
15.9	<p>States should implement redistributive reforms through transparent, participatory and accountable approaches and procedures. ...</p> <p>All affected parties, including disadvantaged groups, should receive full and clear information on the reforms, including through gender-targeted messages</p>	<p>There is a clear gap in sharing correct information about distributive land reforms with the affected parties, including disadvantaged groups. As the RDM department is a law enforcement and revenue collecting department, the staff lack the necessary expertise and resources to communicate appropriately.</p>

APPENDIX E: RECOMMENDATIONS & ACTION POINTS SUBMITTED TO GOO

<<Insert table Recommendations and Action Points about here>>

Recommendations & Action Points for Establishing a More Gender Equitable Land Governance in Odisha

Background

The importance of 'Equal land rights for Women' was acknowledged in the final draft of the Sustainable Development Goals⁸⁷ and underlined in the FAO's Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security Guidelines. (FAO, 2012).

The homestead land grants program in Odisha, along with the settling of government wasteland, and ceiling surplus lands upon landless persons through joint *patta*, are regarded as best practices in enabling secure land tenure for women. The state has also pioneered innovative partnerships with NGOs to identify and allot homestead land to single women through Women's Support Centers.

However, the percentage of women beneficiaries and the size of the plots of land allotted to them are found to be lower than for only-male and joint-*patta* allottees. It is observed that gaining possession of the land is difficult, particularly for single women, a group that consists essentially of divorcees, widowed and unmarried women. Women own only 3.3 percent of operational holdings in the state⁸⁸, although they constitute about 49.5 percent of the population. There are about 9 percent of land records in four districts of the state in the name of women, while another 17 percent are jointly titled.⁸⁹ Out of 10600000 (10.6 lakh) women headed rural households (12 percent of total households) in the state, 40 percent are landless.

These findings of the study conducted by NR Management Consultants, with support from the World Bank, were presented and discussed at a State Level Workshop inaugurated by the Chief Secretary, Government of Odisha, on 4th August 2015. While raising concerns about this gender inequitable situation, he advised the study team and the participants to deliberate upon and suggest clear 'Action Points' based on the recommendations, for further action by the Government of Odisha.

Further to intense deliberation at the workshop a draft was prepared which was further refined through core group meetings and e-mail feedback.

There are **6 broad recommendations** to improve gender equitable land governance in Odisha, which are far wider in scope than just establishing land records in the name of women. Each recommendation is substantiated by a rationale and translated into action points, and the potential implementer is suggested each time (as many action points envisage the role of other departments and not only the RDM Department) along with priorities, ease of action and a time frame for implementation.

The need of the hour is to launch a collaborative pilot project at the district or sub district level to implement and showcase the reforms and restructuring required to create equitable land governance.

⁸⁷ https://sustainabledevelopment.un.org/content/documents/7891TRANSFORMING_percent20OUR_percent20WORLD.pdf

⁸⁸ As per Agriculture Census data (2010-11) of Government of India

⁸⁹ Based on an analysis of Government Land Portal, Bhulekh (<http://Bhulekh.ori.nic.in>) data from Feb 2012, in the four study districts of Jagatsinghpur, Bargarh, Sambalpur and Koraput.

This is highlighted in many of the recommendations below.

<<text box>>RECOMMENDATIONS

1. Ensure the inclusive identification of single women and women headed households in the surveys⁹⁰ undertaken to identify the landless and homesteadless
2. Enhance Land Literacy among Women and increase their access to the land services⁹¹ they are entitled to, as well as access to information about schemes and applicable laws
3. Strengthen the RDM department and Build the Capacity of the Staff to make it gender sensitive; ensure that the office environment and service delivery process are gender accessible and equitable
4. Monitor and Report the status of Women's Land Rights annually, in line with the indicators established under the United Nation's Sustainable Development Goals⁹²
5. Undertake a review of the existing legal framework relative to land in the state and carry out refinements or amendments to ensure gender-equitable land governance
6. Arrange a convergence of land allotment programs with other public services entitlements for women in order to improve holistic livelihoods <<end text box>>

<<text box>>VOLUNTARY ACTION POINTS

The Informal Land Think Tank (LTT) in Odisha, consisting of members of the LGAF (Land Governance

⁹⁰ Namely the recently implemented Survey as per circular no Ag-1/2015/17959/R&DM, 19 June 2015, following enhancement of income limit to Rs. 40,000 per year

⁹¹ Including those defined under Odisha Right to Public Services Act 2012

⁹² percentage of women, men, indigenous peoples, and local communities with secure rights to land, property, and natural resources, measured by (i) percentage with documented or recognized evidence of tenure, and (ii) percentage who perceive their rights are recognized and protected.

Assessment Framework) panels and individuals and organizations involved in Women Land Rights issues in the state are willing and available to assist the GOO in implementing these action points by:

- Developing guidelines and manuals in coordination with the concerned line departments
- Preparing training modules and donning the role of resource person or trainers
- Designing, and implementing the required pilot projects and mobilizing the supporting resources

The LTT also volunteers to help the GOO revive **the Land Commission**⁹³ and is willing to support the GOO as a Technical Advisory Group, until the Land Commission is functional again, through formal periodic meetings with the RDM Department to assist in working toward Gender Equitable Land Governance.<<end text box>>

<<Insert table Recommendation 1 about here>>

Recommendation 1
Ensure Inclusive identification of single women and women headed households in the surveys undertaken to identify the landless and homesteadless

Logic/Rationale:

- Government statistics and resurveys carried out by the Government have indicated substantial ‘exclusion’ of women and weaker sections of society, both individuals and households in the identification and *patta* distribution process.
- The experiences of Women Support Centers as well as rights recognition programs carried out through the FRA, have demonstrated the benefits of involving Community Institutions/PRI (as in the case of FRA implementation) and Civil Society Organizations (as in the case of the OTELP, that involved CRPs and Women Support Centers) in making enumeration inclusive, effective and transparent through a participatory process
- The absence of land surveys and the fact that textual and spatial records have not been updated to reflect the actual field status, have led to limited possession, defeating the objectives of land allotment.

Action Points		
Action	Potential Implementing Stakeholders	Priority Ease of Implementation (Time Frame)
1. Include ‘women ‘and ‘single women’ in the definition of homesteadless and landless persons in the OGLS Act/Rule and the OLR and OPLE Rule. The definition needs to respect the Constitutional mandate and should not discriminate against women on the basis of age. The definition of ‘family’ in the R&R Policy, 2006, can serve as a model.	RDM Department, Law Department, Land Think Tank	High Medium (Medium Term)

⁹³ Which is a state level statutory body (as per OLR Act Section 53) ,that reviews the progress of land reforms from time to time, publishes a report at least once a year and shall advise Government on all matters relating to Land Reforms. The Commission shall consist of seven members, of whom three shall be officials and four non-officials, to be nominated by the government. They shall, unless the Commission is sooner reconstituted, hold office for a period of three years from the date of appointment

Action	Potential Implementing Stakeholders	Priority Ease of Implementation (Time Frame)
2. Develop Guidelines (based on the FRA, OTELP and WSC experiences) to ensure an inclusive, uniform, unambiguous and transparent enumeration of the homesteadless along with an identification of plots. (Prescriptive processes and steps in Appendix I).	RDM Department, Panchayati Raj Department, DRDA supported by NGOs and/or CRPs	High <i>High</i> (Short term)
3. Update land records (textual & spatial) to ensure an appropriate enumeration of persons & identification of plots: <ul style="list-style-type: none"> a. Record women’s land rights during the ongoing Resurvey (High-Tech Survey & Settlement); b. Include the names of the wife and daughters in all new records created through online mutation, following the Hindu Succession Act, 2005(Amendments). 	RDM Department, NIC, Registration Portal (Edharni) Service Provider	High <i>Medium</i> (Medium term)
4. Start introducing Community-based GIS-IT to make the survey effective and community-friendly by integrating mapping and plot identification with enumeration. Tablets with user-friendly applications can be used to integrate the information with the Bhulekh and Bhunaxa records, along with satellite imagery such as Google earth, to enable visual triangulation and allow seamless integration with existing online portals.	RDM Department, NIC, Service Provider <i>Can be conducted in a Pilot mode</i>	Medium <i>Medium</i> (Long Term)

<<Insert table Recommendation 2 about here>>

Recommendation 2

Enhance Land Literacy among women and increase their access to the land services they are entitled to, as well as access to information about schemes and the applicable laws

Logic/Rationale:

- There is a low level of community awareness and hence the demand for land allotment schemes is limited and not coherent with the situation on the ground, particularly in comparison to the awareness about and demand for other development entitlements.
- Land literacy or legal awareness about land rights, is very limited and this is often cited as the reason for landlessness, especially landlessness among women and tribal people.
- Awareness about the enabling provisions in the religious succession acts is extremely poor, even among educated and urban women.
- The Legal Service Authority Act has provisions for free legal aid for women but very few people make use of this service.
- The GOO is not currently involved in any kind of proactive or reactive initiatives to make women aware of their land and legal rights, although it is evident that enhanced rights for women and their

access to land has a significantly better influence on their lives and their livelihoods than other development entitlements, related, for example to health and nutrition.

- Accessibility to information and services related to land schemes, laws and policy and legal access schemes are crucial, however rural women find it extremely difficult to access this type of information as a result of very low awareness and the paucity of information available in remote areas.

Action Points

Action	Potential Implementing Stakeholders	Priority Ease of Implementation (Time Frame)
<p>1. Launch mass awareness programs in mission mode to make the community in general and women in particular, well informed about their rights and entitlements regarding land. The awareness programs should cover communications about:</p> <ol style="list-style-type: none"> The relevant provisions of applicable Laws & Policies such as the OLR, OGLS, OPLE, OSATIP; R&R Policy, Women and Girls Policy etc.; The relevant government Schemes: Vasundhara, Mo Jami Mo Diha, Gramkantha Paramboke, Women's Support Centers etc.; Provisions by the Legal Service Authority (LSA) for Free Legal Aid and Alternate Dispute Resolution Mechanisms, namely Lok Adalats; The Hindu Succession Act, 2005 (Amendments). <p>Mediums that can be used include Radio, TV, Newspaper and other IEC (Information, Education and Communication) mediums like video, posters, brochures, pamphlets in Odia and tribal languages; Land stalls in Districts, Block exhibitions or Melas.</p>	<p>Women's Department, Department of Information and Public Relations, RDM Department, Livelihoods Projects like NLRM, OTELP, PVTG project, NGOs</p> <p>For awareness about the LSA the state, district and taluk level LSA should coordinate with the Civil and Revenue Court</p>	<p>High High (Medium term)</p>
<p>2. Make available IEC materials and relevant application forms related to programs dealing with land for the landless or the homesteadless and information about mutation. Make it mandatory to provide the addresses of the RI or dar at the Gram Panchayat Office as well as in villages (CBOs, Youth clubs, Community halls etc.).</p>	<p>Women's Department, RDM Department, Panchayati Raj Department, DRDA, Livelihood Projects</p>	<p>Medium High (Short term)</p>
<p>3. Organize orientation camps and training programs for PRIs or CBOs on gender and land rights (SHGs, Watershed Committee, Forest Right Committee etc.).</p>		<p>Medium High (Medium term)</p>
<p>4. Create a cadre of trainers or resource persons and facilitators among local NGOs, CBOs, PRI members, to improve awareness and access to land.</p>		<p>Medium High (Long term)</p>

Action	Potential Implementing Stakeholders	Priority Ease of Implementation (Time Frame)
5. Establish a system of post-training monitoring in partnership with CSOs, to monitor the change in the level of awareness among women about land rights.		Medium <i>Medium</i> (Long term)
6. Upload all information including all reports, acts, laws and rules, scheme or project documents, case studies, news bulletins related to land etc. to one website.	RDM Department, NIC	Medium <i>High</i> (Short term)
7. Revise the fees of legal practitioners providing free legal aid to motivate them to provide better services under the Legal Services Authority Act on women.	Law Department	Low <i>Medium</i> (Medium term)
8. Set up a help desk at tehsil Offices to provide all relevant information, application forms and guidance for land transactions and demands and to facilitate delivery of land related public services as per Odisha Right to Public Services Act 2012.	RDM Department, Women's Department	Low <i>Medium</i> (Short term)

<<Insert table Recommendation 3 about here>>

Recommendation 3

Strengthen RDM department and Build Capacity of Staff to make it gender sensitive; ensure that the office environment and service delivery process are gender accessible and equitable

Logic/Rationale:

- Unlike development departments dealing with health, education etc., the RDM department is a law enforcement agency. The staff often have built in attitudinal barriers and perception barriers toward the communities they deal with and this reduces access and limits service delivery.
- Women constitute less than 10 percent of the staff in the RDM department, despite the one-third reservation for women at various levels in this department.
- Service delivery and gender accessibility are restricted as many posts remain vacant for long periods, the workload is constantly increasing and land records are not gender aggregated and are out of date.
- Low gender sensitivity is influenced by patriarchal inertia and social biases.
- Revenue field offices lack basic facilities for the public, like toilets.

Action Points

Action	Potential Implementing Stakeholders	Priority Ease of Implementation (Time Frame)
1. Fill all vacant posts at tehsil and RI or ARI offices with 50 percent reservation for women (<i>until there are 1/3 of women staff in those positions, in compliance with government policy. Once the recommended proportion of women has been attained, the 1/3rd reservation can be reintroduced</i>).	RDM department	High Low Long term
2. Introduce a course on gender and land rights in the pre-service (entry stage) and refresher training programs for OAS, ORS, RIs, ARIs and Amin.; a) Develop modules and a roster of resource persons ; b) Training topics would include the Importance and need for GELG, Government Gender policy (Odisha State Women and Girls Policy, 2014, R&R Policy), Gender in land laws and circulars. A change in the staff's attitude and behavior is required to create a more gender accessible administration.	RDM department, (Training Institute at Gothpatna) Women's Department, Land Think Tank	High High Short term
3. Start building partnerships with civil society organizations, PRIs and community institutions to address the gaps in resources and skills and also to make land governance more accountable, accessible and inclusive.	RDM department	High Medium Medium term
4. Make additional resources available to the RDM department through reallocation, reintroduction of land rent, charging service fees and external fund mobilization to ensure: a) Recruitment of more staff, especially more women staff; b) Creation or augmentation of a gender-enabling infrastructure at field offices; c) Updating of land records; d) Inclusive land governance with the participation of PRIs, CSOs and CBOs.	Finance department, General Administration Department, RDM Department, Law Department	High Medium Long term

<<Insert table Recommendation 4 about here>>

Recommendation 4		
Monitor and Report the status of women's land rights annually, in line with the indicators finalized under the United Nation's Sustainable Development Goals		
Logic/Rationale:		
<ul style="list-style-type: none"> It is necessary to increase the percentage of land in the name of women, in line with the principles of gender equity set out in the Constitution and as envisaged in the UN's Sustainable Development Goals. The existing land record systems, including Bhulekh do not record and maintain gender-disaggregated data. Without this data, it is not possible to report on or monitor progress in this area. Land distribution schemes do not report gender-disaggregated information. Field evidence suggests issues related to the smaller size of parcels being allotted to women along with limited possession, which defeats the objective of gender equity. This needs to be monitored to aid decision making. 		
Action Points		
Action	Potential Implementing Stakeholders	Priority Ease of Implementation (Time Frame)
<p>1. Add the 'gender' attribute to the existing 14 million (1.4 crore) land records in the Bhulekh database, while introducing 'gender' recording provisions for prospective recording, in compliance with the instructions issued by the Department of Land Resources, Government of India.</p> <p>a) Organize a pilot project in a single district to add the 'gender' attribute to existing records using tailor-made software and manual support. Based on the results, the project could be extended to other districts.</p> <p>b) Introduce options for adding the 'third' gender 'gender' attribute.</p>	<p>RDM Department, NIC, Service Provider</p> <p>The Land think Tank can assist in the pilot project</p>	<p>High Low Medium term</p>
<p>2. Make the land registration database gender disaggregated. The online registration platform e-dhaRani must ensure the maintenance and periodic reporting of gender-disaggregated data on land registration.</p>	<p>RDM Department, Service Provider</p>	<p>High High Short term</p>
<p>3. Establish a Regular Monitoring System to periodically track the progress of land distribution schemes.</p> <p>a) Collect, maintain and report gender-disaggregated data.</p> <p>b) Monitor the number of plots allotted, size of parcel, time of possession and end-use.</p>	<p>RDM Department, NIC</p>	<p>High Medium Medium term</p>
<p>4. Gender-disaggregated data must be reported in the RDM department annual and other reports, presenting achievements under different land grant schemes and the status of the survey, namely, Joint, Only men and Only</p>	<p>RDM Department, NIC</p>	<p>High Medium Medium term</p>

women land titles.		
5. Encourage community monitoring of land allocation and the post land rights process, ensuring discussions about and an audit of the same during Gram Sabha Meetings. Develop an institutionalized feedback loop through PRIs.	RDM Department, PR Department, Women's Dept.	High Medium Medium term

<<insert table Recommendation 5 about here>>

Recommendation 5

Undertake a review of the existing legal framework dealing with land in the state and carry out refinements/ or amendments to ensure gender-equitable land governance

Logic/Rationale:

- The legal framework related to land, has been quite reformist. It has ensured land redistribution and reform, the protection of indigenous land rights, participation of PRIs (to some extent), and the updating of land records.
- There has never been a conscious and/or proactive attempt to make the possession of land gender equitable. Almost all land acts and rules, assume a 'person' to have a family and a 'man'. All women who reside as family members of the person living in common mess are treated as a 'person' and therefore extended a 'single' land right.
- Most of the provisions available in laws and acts or made through circulars (joint *patta* etc.) are generally 'married' women friendly and not 'women' friendly (they exclude single women).
- As the state gears up to fulfill the constitutional mandate and growing global concerns about gender equity, there is an urgent need to review and create a legal framework related to land. The state also has the obligation to ensure the implementation of the HSA, 2005 (Amendment).

Action Points

Action	Potential Implementing Stakeholders	Priority Ease of Implementation (Time Frame)
1. Execute a notification to take <i>suo moto</i> mutation action with respect to all holdings, to include the names of the daughters along with sons, within a fixed time frame, to implement the spirit of the Hindu Succession Act, 2005 (Amendment). <i>Cross-reference: Action point 3b of Recommendation 1.</i>	RDM Department, Law Department	Medium Medium Long term
2. Include 'single women' in existing land laws a. Include provision for and a definition of 'single women' under the OLR Act, 1960. b. Insert a priority clause for single women in the OGLS Act and Rule. <i>Cross reference: Action point 1 of Recommendation 1.</i>	RDM Department, Law Department	High High Medium term
3. Create provisions for land leasing to women, individually and	RDM	High

as groups (lease to Women SHGs as prescribed in Odisha State Policy for Girls and Women, 2014) and legalize private land leasing to women's groups (group tenure) by suitably amending Section 3 of the OGLS Act and Section 51(2) of the OLR Act.	Department, Law Department	High Medium term
4. Make more land available for distribution to women by amending the 1966 GOO circular (by BK Mishra). The ratio of land available can be changed from 20:23 to 21: 23 after adding the capable arable land categorized under <i>Abad Ajogya Anabadi</i> , as a result of survey limitations pertaining to land with a slope above 10 degrees.	RDM Department, Law Department	Medium <i>Medium</i> Medium term
5. Increase the period of transfer of settled land for agricultural purposes to privileged raiyats (which include single women) from 10 to 30 years by amending Section 6-A(1) of the OLR Act.	RDM Department, Law Department	Medium <i>Medium</i> Medium term
6. Document customary laws and practices among different tribal communities related to women's land rights to develop mechanisms for gender equity, as enshrined in the Constitution, as the Hindu Succession Act is not applicable to them.	SC ST Development Department (SCSTRI), Law Department	High <i>Medium</i> Medium term
7. Execute a notification for the implementation of the provision for reduced stamp duty for registration of land in the name of women, in compliance with the provisions set out in the Odisha State Policy for Girls and Women, 2014	RDM Department, Law Department	High <i>High</i> Short term
8. Restore dispossessed land to women, in line with the provisions for land restoration under the OSATIP regulation and the OLR Act.	RDM Department, Law Department	Medium <i>Medium</i> Medium term
9. Revive the Land Commission at the state level, along with a District Executive Committee and a Local Committee as per Chapter V (Section 53-54) of the OLR Act; include a minimum 30 percent reservation for women members.	RDM Department, Law Department	High <i>High</i> Short term

<<Insert table Recommendation 6 about here>>

Recommendation 6

Ensure the convergence of land allotment programs with other public services entitlements for women for a holistic improvement of livelihoods

Logic/Rationale:

- Access to land for a woman is a very important entry point toward her accessing other entitlements that lead to an improvement in livelihood.

- To enable a better and expeditious translation of land rights allocations into livelihood outcomes, it is desirable and also evident (from the Phailin rehabilitation and WSC experiments) that other public service entitlements should be integrated, (IAY, MGNREGS, Horticultural and Agricultural support).

Action Points		
Action	Potential Implementing Stakeholders	Priority Ease of Implementation (Time Frame)
1. Prioritize the delivery of other social security support schemes related to livelihoods, housing, agriculture and pension with homestead land allotments to single women. This will be easier to implement, as all the required information can be collected at the same time if the applications are made simultaneously, during the enumeration for eligibility for homestead land.	DRDA, RDM Department	High High Short term
2. Ensure that the existing institutional mechanism for 'Women's' development, (<i>scope of work under the newly created Women Department</i>) also takes 'women's land rights' into account.	Women's Department, RDM Department	High High Short term
3. Ensure the safety of the single woman who is allotted land, as she often becomes a vulnerable target for vested interests and criminal elements in society.	Women's Department, Home Department, RDM Department	High High Short term
4. Integrate the monitoring of convergence related to single women into the existing DRDA monitoring mechanism and also organize information sharing with the House Committee for women.	Women Department, RDM Department	High Medium Medium term

APPENDIX E.1: GUIDELINES FOR THE IDENTIFICATION OF HOMESTEADLESS PERSONS AND PLOTS

Developing Guidelines (based on the FRA, OTELP and WSC experience) to ensure a uniform, unambiguous and transparent process, delineating:

- Steps, roles and responsibilities for the participation of PRIs and CSOs in the survey, along with the RDM department.
- The procedure for selection of a NGO partner to facilitate the process in districts.
- A transparent and decentralized process for PRI's to calculate income (as a factor of eligibility)
- Preparatory Works before field enumeration:
 - Establish a procedure for data collection on single women and the homesteadless from secondary sources such as government surveys (SECC, 2011, Agriculture Census, 2010-11, Census, 2011 etc.) and the preparation of village micro plans by Projects or NGOs (if available). Compare micro plans with the Rights of Records in the village to prepare a draft list of eligible persons or households;
 - Identify potential land on the cadastral map and mark it;
 - Send out notices to hold Gram Sabha or Palli Sabha⁹⁴ meetings to identify the landless and homesteadless with a clear emphasis on identifying single women households.
- During enumeration, hold Gram Sabha or Palli Sabha meetings, facilitated by CSOs and the RDM department. Cadastral and Google Maps of the village should be shared during Gram Sabha meetings, they will also serve to identify the location of plots through a participatory transect walk. Ensure the participation of all the landless, homesteadless, including all such single women, in the meeting and transect walk, for appropriate plot selection and to ensure possession.
- Provide a format to collect gender disaggregated data along with the option of recording 'single woman' and type of single woman: widow, deserted, divorcee, unmarried etc.

⁹⁴ Orissa Grama Panchayat Act, 1964 provides for the constitution of Palli Sabhas where the area constitutes a Ward of the Grama i.e. when multiple contiguous villages constitute one Grama, the neighboring villages will have Palli Sabhas. Each Palli Sabha shall consist of all persons registered in the electoral roll for Assembly Constituency for the time being in force as it relates to the area in respect of the Palli Sabha.