

**TOGETHER WE STAND: DEVELOPING A COMMUNITY OF PRACTICE FOR LEGAL
EMPOWERMENT STRATEGIES TOWARDS SECURING WOMEN’S LAND RIGHTS**

Nupur

Titus James

Gatha G Namboothiri

Please cite as:

James, T., Namboothiri, G.G., Nupur. (2021) (Forthcoming) ‘Together We Stand: Developing A Community Of Practice For Legal Empowerment Strategies Towards Securing Women’s Land Rights’, in Patel, R. *Gender And Land Rights In Changing Global Contexts*, Thomson Reuters.

This paper is committed to be published with the Thomson Reuters. It is not for citation or circulation without the prior consent of the author(s). Please contact socjust@gmail.com

TOGETHER WE STAND: DEVELOPING A COMMUNITY OF PRACTICE FOR LEGAL EMPOWERMENT STRATEGIES TOWARDS SECURING WOMEN'S LAND RIGHTS

- Nupur, Titus James & Gatha G Namboothiri¹

A Community of Practice is characterised by a group of people whose identity is shaped by their interest or concern over a particular domain and are engaged in collective learning over this interest area. The Working Group on Women's Land Ownership is a network in the Gujarat state of India that operates through such a model. This paper brings together the cumulative processes and learnings generated from this network's engagements to set out the emergent Community of Practice in women's land ownership. In doing so, we aim to share the learnings of the network to work on this field and contribute to a broader praxis informed by reflexivity and openness.

INTRODUCTION

This paper is based on the experiences of the Working Group on Women's Land Ownership (WGWLO), a network working on land rights for women in the state of Gujarat in India.² The

¹ Nupur is the Managing Trustee and founding member of the Centre for Social Justice (centreforsocialjustice.net) and Indian Institute of Paralegal Studies. She graduated from the National Law School of India University, Bangalore in 1994. She has worked extensively on Dalit Rights, Tribal Rights, Women's Rights, and Minority Rights and has developed the concept and practice of Social Justice Lawyers and Community based Paralegals. Titus James and Gatha G Namboothiri are graduates of the West Bengal National University of Juridical Sciences (Batch of 2016 and 2020 respectively) and work in the Young Professionals Programme for Legal Empowerment (YPPE) anchored by the Centre for Social Justice. Centre for Social Justice, is a member organisation in the Working Group for Women and Land Ownership network (wgwlo.org). The authors would like to thank Reena Patel for her support, feedback and editorial assistance. Feedback from the readers is appreciated and the authors can be contacted at socjust@gmail.com.

network began with a focus on private land but has expanded to respond to issues of public land, collective commons and has diversified to include issues related to women's rights not just as landowners but also as farmers. The strength of the network is its democratic functioning, solidarity fora, and a balance between conceptual thought leadership and operational response by assisting in claim facilitation. Similar organisations have recognised the operational model of the network as unique and replicable. This paper attempts to capture the structure, systems and processes that develop the praxis that informs and guides the work of the network.³ It is expected that the learnings derived from over two decades of work will be helpful for similar organisations.

The paper is divided into five parts. The first part explores the importance of land rights for women along with a brief examination of the ground realities in India concerning the issue of land ownership of women. In the second part, we analyse the importance of legal empowerment for ensuring the same and various models being practised globally for legal empowerment. We

² The Working Group for women and land ownership (WGWLO - wgwlo.org) is a network of 41 NGOs, CBOs and individuals in Gujarat, working on the issue of agriculture land ownership from the vantage points of livelihood, security, rights and empowerment, for women. These are CBOs and NGOs spread in more than 15 districts of Gujarat, working at the rural grass roots level since 2003. The group works with the following objectives:

- To work to increase women's ownership of land by facilitating the proper implementation of the existing laws of the Government of Gujarat.
- To influence the government and the non-government agencies/persons, including the media, to help mainstream the issue of women & land ownership.
- To advocate for reforms in laws, policies and other regulation of the State of Gujarat that hinder women's right of owning land (in their own name).

In the last 18 years, it has gained credibility as an effective body that has made objectively measurable changes to the lives of individuals, and influenced systems and structures including laws and policies that have a bearing on women's ownership of land. Legal empowerment has been a crucial component of the WGWLO initiative. The practice of setting up a legal response mechanism through a cadre of paralegal workers trained to identify and respond to claims and engage in influencing state decisions has been an arena where the network has developed deep insights.

³ This paper is based on a Report by WGWLO. Please find the full report - <https://drive.google.com/file/d/0B8pT5LP1P00YM2Z4TEExzeEtkTG05U0NzTUIZOXdwWnBrb3RV/view?resourcekey=0-XyDKC7GETCdXijUwCnDisQ>.

explore the systems and processes involved in building a praxis around land rights for women by WGWLO in the third part of the chapter. The paper then draws heavily on the work by Etienne and Beverly Wenger-Trayner and the model of Community of Practice elaborated by them to show how the same can be applied in the context of WGWLO (2015). The fourth section deals with the spaces for legitimising the role of paralegals, the key actors in the entire initiative. In the fifth and final part of the paper, we examine the challenges faced in setting up a community of practice.

I. GENDER EQUALITY AND WOMEN'S LAND RIGHTS

The past two decades has seen the acceptance of the Rights-Based Approach as the norm in the development field (Uvin, 2007; Kindornay & Carpenter, 2012). Women's rights are seen as an intrinsic part of any development strategy for the self-evident reason of equality for all. The improvement in the living standards for the marginalised half of the population will improve the condition of all people. As an added benefit to this, numerous studies demonstrate a disproportionately large impact on the economy and society when even small investments are made on women and girls (Revenga & Shetty, 2012; International Monetary Fund, 2018; UN Secretary-General's High-Level Panel on Women's Economic Empowerment, 2016). Thus, the empowerment of women (and through women, families and communities) is necessary towards the goal of equality as both a means and an end. In this chapter, we will explore what this means for land rights.

State and non-State actors have made efforts towards women's empowerment for the past few decades, some more begrudgingly slow than others and not always in a linear way. The inclusion of women's empowerment as an essential component in the development plan for a country

while meaningfully including women's voices in this effort is not new. Awareness is the first step towards emancipation. However, awareness alone, without factors necessary for a person to claim her rights, is inadequate. It requires power (both socio-economic and civil-political), enabling laws and policies to avail of one's rights and reform in systems and structures committed to causing a shift in the balance of power in favour of women.

Batliwala (1994) provides a helpful definition of empowerment as a complex process of transforming power relations between individuals and social groups in three critical ways. *Firstly*, empowerment challenges the ideologies that justify inequality in a society, such as the caste system or fixed gender roles. *Secondly*, it changes the *status-quo* regarding access and control of natural, intellectual and economic resources. *Thirdly*, it transforms the structures and institutions in society such as family, market, and media, reinforcing, nurturing, and facilitating power relations and systems.

Empowerment is also defined as the process that reinforces and strengthens people's capacity "*to build their structures, systems, people and skills so that they are better able to define and achieve their objectives*". (Oliver & Pitt, 2013). The Ministry of Women and Child Development of the Government of India (WCD Ministry) consider the empowerment of women as a "*key factor in the development of families, communities and the country and aims at boosting their direct participation in the democratic processes of this nation, thereby enhancing their potential for self-realisation and addressing deep-seated historical prejudices*" (2011). The WCD Ministry also emphasises its mandate to promote gender equity as a constituent of development and an instrument of this process. It seeks to promote women's agency and their socio-economic and political empowerment by enhancing their capacities to make informed life choices (WCD Ministry, 2011).

The Commission on Legal Empowerment of the Poor identifies three empowerment domains and related rights essential to the livelihoods of the poor – Property rights, Labour rights and Rights to self-employment (2009). Land ownership forms an integral part of the property rights domain. The International Land Coalition (ILC) has recognised that land rights cannot be separated from the issues of empowerment (Pallas, 2011). There is a positive and symbiotic relationship between land rights with various other rights to which all human beings are entitled. It has clear interlinkages with food security, decreased intimate partner violence, right to life and livelihood, economic empowerment, self-confidence, and social inclusion (Holden & Ghebru, 2013; Amaral, 2014). Having land ownership increases women’s ability to break socio-cultural barriers and influence decisions impacting their lives (Valera et al, 2018; ICRW, 2006). It is noticed that the value attached by women property is very different to the value attached by men (Rajgor & Rajgor, 2008). For women, it is the long-term asset for securing a source of livelihood since food security and financial security is more important. Men look at the immediate value of land in terms of money and have a more transactional relationship with it.

Secure and recognised rights to land and land-related resources can also be a source of empowerment for marginalised and vulnerable communities (Valera et al, 2018). They can enable them to negotiate from position of strength in the domestic, political and economic spheres. However, more than this, the very concept of land rights that are real and effective in practice for poor women and men implies a process of empowerment. Exercising land rights means exercising power; it implies an enhanced degree of self-determination (Pallas, 2011). Such power is needed to claim, obtain and defend rights.

The Committee On The Elimination of Discrimination Against Women recognises women’s right to “*own, manage, enjoy and dispose of property*” as central to their right to enjoy financial

independence (1994). In the view of CEDAW, any laws that grant men a more significant share of property or inheritance severely limits a woman's ability to provide for herself or her dependents. In 2016, the Committee also recognised the right of rural women to land, natural resources (water, seeds, forests, fisheries) as fundamental human rights. Article 14 of the Convention on the Elimination of All Forms of Discrimination Against Women, 1979 (CEDAW) addresses the particular situation of rural women. It enshrines the duty of states to ensure women's rights concerning agricultural credit and loans and equal treatment in land and agrarian reform. CEDAW also espouses women's right to be treated equally with men before the law, and identical legal capacity, including the conclusion of contracts and property administration (Article 15, CEDAW). Furthermore, Article 16 of CEDAW requires states to put in place measure to ensure equality of rights of "*spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property*". It also asserts women's equal rights and obligations about choosing a spouse, personal rights, and command over property.

The monitoring framework for Sustainable Development Goals (SDG) 2015 includes the right to own and have tenure rights on land as an indicator of poverty alleviation (Goal 1), food security (Goal 2) and ending gender-based discrimination (Goal 5). It also seeks to measure and monitor land rights, including title, access, control and management of land and other natural resources.

To further emphasise rural women's right to land, the United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas recognised that women are denied access and own land, productive resources, and financial services (2018). Recognising that women are often victims of violence and discrimination of various forms, the Declaration required states to eliminate all forms of discrimination against women working in rural areas so that they can

“freely pursue, participate in and benefit from rural economic, social, political and cultural development” (Article 4). It also comes closest to the demands that women’s land rights groups have been demanding, i.e. recognition of not just the right to ownership or tenure but also of “equal access to, use of and management of land and natural resources, and to equal or priority treatment in land and agrarian reform and inland resettlement schemes” (Article 4.2 (h)).

Ground realities in India concerning women’s land rights

The Constitution of India recognises the equal rights of women as a fundamental right. Despite that, property rights continue to be discriminatory. In the absence of a Uniform Civil Code, personal laws (which varies for each religion) prescribe different rights for women on the property. Even when there is recognition of women’s rights in the law, they cannot access them or exercise meaningful control over their land.

The National Policy for the Empowerment of women, adopted in 2001, lays down specific goals of relevance to us here, i.e., the *de-jure* and *de-facto* enjoyment of all human rights on an equal basis with men and equal access to participation and decision making for women. Its policy prescriptions encourage changes in laws relating to ownership of property and inheritance. While this has led to changes in some personal laws, many laws do not treat women and men equally.

The personal law that has been amended, viz. the Hindu Succession Act, 1956 (HSA) to be more equitable, covers the majority of the Indian population. Succession in a majority of communities in India is patrilineal (FAO, n.d.). Among Hindus, *de facto*, women mostly inherit in the absence of male heirs. However, even then, women often do not inherit full ownership but only usufructory rights over their lifetime (FAO, n.d.). The property reverts to the original source from where it came or is inherited by a son after her death. While personal laws for Hindus and

Muslims vary greatly, the customary practice among Muslims is similar to those of the Hindus (FAO, n.d.).

Many women do not claim their land rights or give up their land rights in favour of brothers. This could happen due to fear of spoiling social relations as the brother is expected to perform certain important rituals and women don't want to disrupt the family relation by demanding their share (Agarwal, 2002; Daley, Flower, Miggiano & Pallas, 2013). Women tend to fall back on their maternal family in times of distress. It becomes important for them to maintain the relationships to feel secure. Often, social pressure acts as a deterrent for women demanding their property rights (Agarwal, 2002; Daley, Flower, Miggiano & Pallas, 2013). It has been observed that shares are not recorded formally in village records or recorded with her son's name, who would exercise control and manage the property. In cases where women do not relinquish their rights, male relatives often have been known to file court cases, forge wills, threaten, or even resort to physical violence (Agarwal, 2002).

In the experience of the WGWLO, the following factors deter women from being able to own and exercise control over their lands:

- Socio-cultural factors that affect women's mobility, access to information and ability to negotiate complicated procedures
- Lack of Redressal mechanisms would enable women to demand that their rights and entitlements be protected or to seek violations.
- Discriminatory laws and procedures that do not address specific and sometimes distinct needs of women

- Systems and structures for implementation that are unaccountable, unresponsive, insensitive and/or inadequate.

II. IMPORTANCE OF LEGAL EMPOWERMENT

In addition to other processes, the law becomes a critical tool for empowerment by navigating challenges faced in realising land rights. In this section, we examine the meaning and approaches of legal empowerment along with examining the structure and process of legal empowerment as carried out in and by WGWLO.

1.1. What Is Legal Empowerment?

The Commission on Legal Empowerment describes legal empowerment as a process through which the marginalised and vulnerable communities can use law and legal services to preserve and promote their rights, thereby inducing systemic change (2008). It also recognises legal empowerment to include due process and redressal mechanisms that individuals can access (United Nations General Assembly, 2009). A United Nations General Assembly (UNGA) Report noted that the process of legal empowerment “*promotes a participatory approach to development*” (2009).

The Asian Development Bank’s (ADB’s) definition for legal empowerment focuses on the ability of women and disadvantaged groups to use legal and administrative processes and structures to meaningfully access resources, services, and opportunities, and was closely linked to providing skills and confidence to project beneficiaries (ADB, 2001). In addition, the international development agenda has focused highly on legal empowerment, as can be seen through establishing an UN-hosted Commission on Legal Empowerment of the Poor.

1.2. Approaches to Legal Empowerment

Legal empowerment has been defined and conceptualised through different approaches. The approach consequently impacts the design of legal policies and programmes (Cotula & Mathieu, 2008). The approaches for legal empowerment have developed over the years. The 1960s saw the emergence of the Law And Development Model, which focused on law reforms as the key to change. While this played an essential role in setting a vision for the ideal, the results were poor due to inadequate implementation (Cotula & Mathieu, 2008). The Rule Of Law Model in the 1990s was a renewed form of the earlier model that focused on using a rights-based language with a combination of good governance approach. This was rooted in the reality of a close link between economic development and human rights and backed by international obligations about fundamental human rights. The critique of this model is that it is limited to focus on law reform and administrative and judicial mainstreaming (Cotula & Mathieu, 2008). It does not focus on strengthening the civil society movement around an issue.

There must be a simultaneous focus on legislative reforms and enforcement of these laws to ensure women's land rights. If protective laws exist, efforts must be made to ensure the spread of awareness and effective implementation measures (Cotula & Mathieu, 2008). This has to be complemented with building and ensuring access to justice systems. In case of conflicting laws, they need to be resolved and amended to correct the inconsistencies that work against gender equality.

While no one size fits all, a holistic response strategy for legal empowerment is likely to yield better results. Based on the cumulative experience of WGWLO, we propose that such a strategy should be a combination of the following components intertwined together:

- i) Efforts at the implementation of existing laws by raising awareness, claim facilitation and activating the concerned institutions,
- ii) Challenging laws that are hindering and streamlining them with acceptable human rights standards,
- iii) Strengthening a critical mass of actors needed for doing the above two, and
- iv) Reforming cultural practices and mindsets that act as a hindrance to legal empowerment.

1.3. Legal Empowerment at GWLO

The recognition for the need for legal empowerment was an organic process at GWLO. The member organisations were already involved in developmental activities or actions to combat domestic violence. Discussions on ground realities related to land rights for women showed the absence of knowledge about relevant laws and procedures. Once this understanding was built amidst member organisations, the need for a dedicated paralegal cadre constantly engaging with these processes at the ground emerged.

The work of GWLO in the arena of legal empowerment has been in the following areas:

- Raising awareness and breaking socio-cultural barriers in the community that hinders women's land ownership through strong messaging and engagements,
- Creating a cadre of paralegals who can respond to the needs of women interested in claiming their rights and entitlements,
- Identifying systemic issues that adversely impact women's ability to claim their land rights,
- Creating sustainable independent methods of sensitising government officials by influencing the training curriculum of revenue officials at varying levels, and

- Continuous engagement with government officials as a means of sensitising, follow up of individual claims, organised interventions like inheritance and succession camps.

While each of the above form important pillars in legal empowerment, **capacity building** is the most important of them all. Despite laws being in place, as long as enough people are not equipped with the skills of translating it into practice, the implementation of laws remains a challenge. Hence the efforts at creating the paralegal cadre are the most significant contribution of the network. In addition, the paralegals act as the vectors for change by dialoguing with the family, community and government officials. Through their efforts, the women have been able to access their claims and entitlements, leading to concrete, measurable positive impact on the lives of women and communities.

III. GWLO INITIATIVE TO SET UP A COMMUNITY OF PRACTICE FOR LEGAL EMPOWERMENT FOR LAND RIGHTS

Ensuring the economic empowerment of women by ensuring land rights is a very challenging endeavour. Given the complexity of the issue, no one organisation can contribute to significant changes in this arena. Therefore, organisations, workgroups, and individuals must all work together in innovative ways. Communities of practice can prove instrumental as a model to connect people for learning and knowledge sharing and provide a platform for collaboration to individuals, groups, and organisations (Cambridge & Suter, 2005).

In our experience, collaborative ventures require not just the vision and intent to work together but also the methodology that allows equal spaces for different world views, realising the full potential of multiple varied competencies, spaces for the expression of feelings and concerns, democratic decision-making and mutual learning and sharing. Consolidation and

conceptualisation of learning to strengthen existing theory and evolve new theory and process improvement for efficiency are two significant outcomes that a Community Of Practice Model offers.

3.1. What is Community of Practice and why are they important?

Community of Practice (CoP), a theory of situated learning⁴, was developed by two researchers- Jean Lave and Etienne Wenger, in the 1990s. This theory located learning as a process of engagement in a ‘community of practice’ (Smith, 2003). It is based on the principle that learning is social and comes mainly from our experiences of participating in daily life. It is not something that is delinked from the rest of the activities in which an individual engages. This theory was a marked departure from the assumption that learning and education are things that individuals do due to teaching.

Community of Practice is defined as a group of people who “*share a concern or a passion for something they do and learn how to do it better as they interact regularly*” (Wenger, 2007). These people come together through their mutual engagement in common and shared activities and their learnings (Wenger, 1998). CoPs often focus on sharing knowledge, best practices and information to advance a domain of professional practice. A community’s specific purpose and goals inform appropriate activities and technologies used to further said goals.

CoPs are vital because they help connect people who might not have the opportunity to meet or interact otherwise by providing a shared context of communication (Wenger, 1998). According to Wenger, they encourage people to enter into dialogues and introduce collaborative processes

⁴ Situated learning occurs in the context of the experience. Situational learning places great emphasis on relationships and interactions with others in order to build understanding. Students learn by making connections to their prior knowledge. Situational learning works to develop the role of the individual within the greater community. As a student gains more knowledge in one area, they are able to collaborate with others and play a more prominent role in the community. They are able to share their understanding in turn and the cycle begins again.

that facilitate communication and free ideas (1998). Such dialogue can help people be purposeful, solve challenges, and achieve tangible results. It can also enable an environment of building understanding, learning and self-reflection. Thus, the knowledge and learnings can be diffused as discourse to obtain suggestions on the work and help others improve their work. It also serves as a way to collate and establish knowledge documents and best practices.

3.2. *WGWLO as a Community of Practice: Key Elements*

WGWLO initially started as a platform for learning and sharing amongst organisations focusing on land rights issues for women. It had various types of organisations coming together. While some organisations had been working on violence against women and felt the need to integrate women's land rights in their strategy, others had been actively involved in addressing other issues at the community level. The initiation of the network was aimed at providing a space where a collective understanding of the issue could be built to develop a response strategy. The initial phase of the network focused more on understanding the issue better. The search led to different perspectives (livelihood enhancement, welfare improvement and women's empowerment) on why women needed to own land. The linkage between this issue and the legal framework soon became apparent, which further led to the conceptualisation of the paralegal training programme (CSJ, 2016). Complemented by strong research and capacity building efforts, this programme became the central force on which the entire intervention was based.

The formative phase of learning led to a differentiated understanding of issues around private land and public land. For example, the *Adivasi* women's issues were different, socio-culturally as well as procedurally. Similarly, land acquisition involved very different aspects, especially when it came to looking at acquisition from the perspective of women. The role of paralegals across thematics and geographical locations in developing this understanding has been critical. At the

same time, the new emerging understanding in different phases of the growth of the network led to tailored inputs for the paralegal capacity building programme. The capacity building of paralegals followed different approaches ranging from generic to targeted to concern-related such as land acquisition or context-specific like *Adivasi* women's rights.

According to Etienne Wenger (2015), three elements are crucial in distinguishing a community of practice from other groups and communities. The following section talks about these elements in the context of GWLO. It also addresses some additional aspects that we have found important with respect to a CoP.

a. GWLOs domain: Women's land ownership

A shared domain of practice shapes a CoP's identity. Members are committed to this domain and share a competence that distinguishes them from others Wenger-Trayner and Wenger-Trayner (2015). The domain that brings people together in the case of the GWLO is the passion and commitment to the issue of land ownership for women. While all the members drew upon their vast experience of working on other thematic area like right to food, domestic violence, etc, what distinguished this initiative was the focus on land rights for women. We built on the past work of the member organisations and shaped the community engagement to focus on this particular aspect. Delving deeper into this issue led to newer realities that existed but were never noticed. A sharper understanding of how patriarchy impacts the women's share, blocks that need to be addressed at various levels etc kept surfacing with every engagement. This led to sharpening of various activities and introducing, maintaining and deepening a land rights focus to the existing work of the organisations. Capacity building at all levels was recognized as a game changer in the unequal equation of women with their land. This happened at the level of community, the paralegal workers, the government officials and the member organisations.

The capacity building of paralegals was multi-pronged. It involved approaching issues from different perspectives. First, at the cognitive level, it involved imparting the necessary knowledge about laws and procedures, administrative structures, and different approaches to women's land ownership. Second, at the emotive or attitudinal level, we tried to address the preconceptions and conditioning (such as women cannot manage land or take their male counterparts share), leading to fights amongst families.

An attempt was made to identify specific messages for specific members of a family during individual and group interaction with and in awareness material generated. Initiating a change agenda requires a buy in of the community. This can happen if people see a direct advantage for themselves if they support the issue. From generic discussion on why land rights for women is important to shifting the discourse to why the women in their family must have land in their name has been very helpful in generating support . For example, the message for the husband was to ensure the well-being of the wife after his death so that the sons do not oust her. A message for the brother addressed the need for equal rights for the sister, and a message for the brother's wife focused on why she should not object to the sister-in-law being given her rights. The skill element consisted of awareness programmes, claim identification, and filing and following up on claims. Regular meetings were conducted where these three were simultaneously reviewed and strengthened over discussing real-life problems arising during the fieldwork. These meetings acted as a force multiplier and enhanced learning and application.

The capacity building process for paralegals happened in the backdrop of a series of workshops with organisations which contributed to building the acceptance for the persons trained and the issue. From our prior experiences, we have realised that if the readiness to invoke law as a response to an issue is absent, then paralegal workers are not effective. Such an understanding

set the frame for all future work of the network that organically grew from each new challenge identified, with the contribution of various member organisations and the changing externalities regarding land rights.

WGWLO's work has influenced women's land rights in individual, organisational agendas over the years. A greater understanding of the work over the years has led to the organically evolved understanding that action is categorised into four pillars of legal empowerment, namely:

- Creating awareness and consequently making claims,
- Creating a mechanism for claim response,
- Removing procedural and systemic issues/blocks, and
- Making the system more sensitive and responsive.

b. The community

Members of a CoP engage in activities, discussions, and other collaborative efforts for ideas and information sharing Wenger-Trayner and Wenger-Trayner (2015). This process enables them to learn through self-reflection and from each other. The collectivity of WGWLO was underpinned by and emerged from the structure and processes adopted. The cadre of the paralegal is a sub-set of a larger collective comprising the advisory body, the steering group and their organisational systems. Each of these bodies was informed by and influenced the capacity building process of the paralegals. All organisations were entrusted with the task of dialogue with the revenue official, a camp for claim facilitation, holding awareness programmes in the community and *lok sunvai* (public hearings) to increase the visibility of the systemic issues in accessing land rights. This led to enough practice that became the base for developing the praxis in meetings and reflection workshops held frequently. The review meeting also acted as the spaces where the

group learning about lapses in the government and procedural unclarity took place, leading to the modified and sharpened articulation in advocacy demands.

All these events acted as a method of building collective ownership at all levels, ensuring synchronicity between various components of the networks plans and information sharing. Information was shared and processed from multiple lenses. The challenges faced by a paralegal in facilitating a claim led to the identification of systemic issues involved in the process. The following example illustrates this point. Lack of standardized procedures in entering women's names in land records was identified as a major challenge. A right to information application was filed to the authorities of all the districts regarding the correct procedure for this. Tabulations were done of the discrepancies in the procedure and lack of uniformity and a directive was obtained from the higher officials standardizing the procedure. This involved people at different levels of the network to come together towards a common cause and contribute with varied skills required for the entire chain of action. Unlike other training which are input based and leave the application of the inputs to the participants, the WGWLO designs its capacity building around real-life problems and solutions.

c. The practice

Through sustained interactions over time, members of a CoP engage in knowledge creation using the shared information, experiences, strategies and solutions to address problems (Wenger-Trayner and Wenger-Trayner, 2015). In the case of legal empowerment of WGWLO, this shared practice has emerged through the implementation of specific opportunities for discussion and collaborative design. These include:

- Designing the reflection meetings focused on best practices, specific instances of tangible impact and obstacles faced, which were then analysed and synthesised to cull out broad learnings/insights that informed future planning and identification of systemic issues that required engagement with the State,
- Community awareness material and events developed and designed jointly with all stakeholders,
- A Monitoring and Information System (MIS) that collated information regarding work to identify patterns further and help in strategising internal and external processes, and
- Problem-solving meetings with experts to address challenges faced in the field that could not be resolved through mutual, cross-learning processes.

Apart from these three elements identified by Wenger-Trayner and Wenger-Trayner (2015), the following elements have also been identified characterising CoP at GWLO.

d. Integrating people

In a CoP, there can be newcomers and old-timers at the same time. Becoming a full participant in the practice results from learning and becomes a way to learn further. Therefore, it is crucial to enable the movement of newcomers to become full participants of the community while also ensuring space to discuss the relations between these two groups (Lave and Wenger, 1991).

In GWLO, this was achieved in two ways. First, there was a role allocated to more experienced team members to provide handholding support to newer teammates. This was done in selecting villages, outreach strategies, follow-up action required, and quality of drafting of applications. Second, the experienced members visited the paralegal in their work location, reviewed the work done and gave critical inputs for improvement. If required, visits to

government offices and officials were done jointly by the new and more experienced members. Additionally, experienced teammates were invited to address the new teammates during training and reflection meetings.

e. Creating an identity

Several efforts were made to ensure that the paralegal workers shift from identifying themselves as social workers to paralegals. Such efforts include exercises that helped them distinguish between the just-unjust and legal-illegal frames of work, spaces and restrictions in using law and what their role as a paralegal worker could involve. While awareness is a critical aspect of change, a strategy that is devoid of use of law is incomplete. It reduces the impact that one can have by implementing favourable laws. Mobilising, awareness raising, raising an issue in public can be strengthened by using favourable laws.

The fact that the nominated paralegals met other paralegals from different organisations in a distinct place that is not their organisations helped create a distinct identity as land rights paralegals. Some organisation had facilitated this process of identity building by setting aside specific days for land rights work. This led to the specific people involved in the process being recognised and becoming referral points for women needing support in claiming their land rights.

f. Efforts at knowledge-creation, and a developing a shared repertoire of ideas and information exchanged

The network had organised several *Lok Sunavnis* (public hearings) on the issue. These became an essential medium for capturing stories, both struggle and success that help make reference points for the community. Many processes in the network were well documented, allowing the use of past knowledge by new entrants. Easy access to past convenors and role-holders and their

involvement at different levels helped maintain continuity of the knowledge thread, supplementing documentation with personal engagement.

g. Develop various resources that carry the community's accumulated knowledge.

Awareness-raising was mainly done through the public meetings, radio and disseminating educational material. Methods like a game of snakes and ladders, quiz, ‘*prashn potli*’, or a process where the stall was set up to give solutions to legal issues in *melaas* (local fairs) were developed. The film ‘*Bhage Padti Bhoi*’ (My Share of Land) developed by the WGWLO is an interesting narrative of rearticulating the myth of *Ramayana*⁵, where *Sita* is consumed by earth after her *agni pariksha* (ordeal of fire to prove her chastity). The messaging in the film discusses how though the mythology says that *Sita* was consumed by the mother earth. The symbolic meaning of the mother earth consuming her actually means that she could fall back on land which gave her the shelter and food required for her. She did not need any one as her basic needs were fulfilled because she had land. It, therefore, establishes that women must have shares in the property. Awareness creation breaks the stereotypes that prevent women from claiming their share (due to their identity as a daughter, sister) and questions the mindset of men (as brother, relatives and *panchs* or village heads) that goes against women claiming their share. It also counters commonly made arguments of dowry or women’s inability to manage the property to prevent women from owning land, and uses positive role modelling to influence and give information on relevant laws.

There were specific tools developed for collecting information regarding basic details of land ownership. This helped strategise the response in terms of required messaging for different

⁵ *Ramayana* is a popular Indian mythological tale where King Ram asked queen *Sita* to prove her chastity by an ordeal of fire.

stakeholders and identifying claimants. MIS as a learning tool also helped build a sense of accountability in a large collective and helped the group track its growth and learning curve. It balanced the need for standard information and uniqueness of a specific context by well-structured formats with options for flexibility adaptable to varied contexts.

3.3. The pedagogy behind Community of Practice

There are specific pedagogical underpinnings that are involved in setting up a CoP. It requires the ability to design spaces such that co-construction and collaboration can take place. It is based on asking the right questions to each other and seeking solutions from within the learning community. This section deals with the fundamental principles related to the pedagogy and how it was applied in the context of GWLO.

- i) Educators work to ensure that people become participants and they engage and contribute effectively in CoP. Participants were placed as contributors to set the learning agenda. The learning sessions were based on the presumption that each participant is a resource. Therefore, the design of the learning sessions was participant-centric and took into account the learning needs of the members. Exhaustive use of real-life problems presents in the group, arising from their field experiences, acted as the base for solution finding discussions, also facilitated by the experience available in the group.
- ii) There is an intimate connection between knowledge and activity. Learning from experience is a central process that also helps educators recognise the need for self-reflection on their understanding of what constitutes knowledge and practice (Smith, 1999a; Smith, 1999b)

As an illustration of the above principle, the exercise given to the paralegals in a learning session included collecting and presenting the following information about the types of land in the village:

- Types of land in the village,
- The type of land rights that the organisation is addressing,
- The approach of the organisation (whether livelihood or rights-based),
- The availability of grazing land, fallow land, forest land and its usage,
- Whether these lands are controlled by the government, villagers, or *sarpanch*,
- Whether there has been a change in the usage pattern of land, and
- The impact of these changes on women.

IV. SPACES FOR LEGITIMISING PARALEGALS

While there is tremendous value in a solidarity network outside the state system working towards ensuring land rights for women, the outreach of such a mechanism will be limited by constraints related to geography, human and material resources and sustainability. Also, while the community recognises the paralegals as effective agents for change, their role will be limited unless the State creates the space for them in the mainstream.

In the Indian context, day-to-day rights violations and legal needs of people fall in administrative and quasi-judicial jurisdictions. Some of these include claims related to non-payment of wages under the Mahatma Gandhi National Rural Guarantee Scheme, the poor performance of schools under the Right To Education Act, issues with claiming benefits under Direct Benefit Transfer schemes. Claims related to land constitute a significant portion of this. Most concerns regarding land have remedies under administrative bodies. The Forest Rights Act 2006 sets up a separate

mechanism for the facilitation of claims under the Act. Issues of mutation, entry into land records are resolved by the revenue authorities. Despite the critical role played by paralegals in justice delivery, their formal role in the mainstream justice delivery and dispute resolution mechanisms remains a distant dream.

In a country like India, the paralegal movement struggles to gain legitimacy in the mainstream justice delivery system. There are several legislations where the presence of a lawyer is not required in a case. However, the emergence of paralegals as a recognised professional cadre is yet to see the dawn. The following unexplored spaces can be seen as potential spaces for legitimising paralegals in the context of land rights. However, each comes with its limitations and needs efforts at the ground and policy level for it to be effectively used to realise women's land rights.

- a. Legal Services Authority: The Legal Services Authority Act, 1987 sets up a three-tier system comprising of Taluka, District and State Legal Services Authority for providing legal services. The Paralegal Volunteer Scheme, 2009 talks of the empanelment of Paralegal Volunteers to provide these services. The paralegals trained by civil society organisation can easily be empanelled with these bodies. However, there are inherent flaws in this system that impact its functioning. The India Justice Report highlights some of them such as the inability of states to utilise the allocated bud, which reduces human resources every year (India Justice Report, 2021). Additionally, there is no specific scheme to address the issue of land rights for women.
- b. Lok Adalat: The focus on reducing arrears in the judiciary has led to popularising the Lok Adalats as a panacea to all problems. Section 19 of the Legal Services Authority Act talks of Lok Adalats as an Alternative Dispute Resolution mechanism. This is another space where

paralegals trained by Civil society organisations can play a critical role. The challenge here is two-fold. First, the issue of land rights for women has not gained momentum and only where organisations have played a role in awareness, women come forward to seek their land rights. Therefore, the chances that these issues will come for resolution in the ordinary course of time is minimal. Second, the informal systems set up by the women's organisations are found relatively effective. Hence, the need to resort to a body like Lok Adalat is not found meaningful.

- c. State legislations: The procedural aspects of revenue laws are covered by State legislation. Laws like the Bombay Land Revenue Code do not require the presence of a lawyer in revenue proceedings. Since a large part of work on land rights for women is around revenue procedures, this is another space that the paralegals can occupy.
- d. Sitting Space in government office: One of the initiatives of GWLO called *Swabhumikendra* (units set up to facilitate land rights claims for women) has negotiated a sitting space within the revenue department's office. This has proved very successful in increasing outreach as well as ease of claim facilitation.

V. CHALLENGES TO THE NETWORK AND LESSONS FOR WAY FORWARD

The GWLO CoP model aims to work towards the common and shared interest area of women's land rights. The efforts of GWLO are distinctive in their approach. The journey of the network also saw several internal and external challenges. Balancing multiple priorities and interests has been a stress area managed well through democratic decision-making processes. Each member organization also has its own obiter in which it operates and has commitments and strategic thrust that arise out of that. The tendency to weave it in the network's agenda may not be considered appropriate by other network members. This can cause temporary strain on the

level of participation of some members. However, in our experience, the allegiance to larger objective has ensured that these are temporary episodes.

The issue of visibility of individual organisation's name has also been contested several times. When does the identity of the network subsume the individual identity and when does a member organization retain their individual identity is another challenge and area of tension. This has been managed by developing guidelines for the same.

For decades, demands for the respect and recognition of rights and support for marginalised groups has come from Civil Society Organisations (CSOs). Non-Governmental Organisations, the formal umbrella term for CSOs, charity organisations, grantmakers, have also led the charge on empowering individuals, communities and helped increase accountability and transparency in state operations. In lower-income countries, most of the funding for the CSOs and Human Rights organisations come from outside the country as there is limited disposable income. Security also plays a role in the culture of giving in a society, informing the lower levels of giving in India.

The learnings from these challenges can help other networks to develop their capacities, systems and processes and can set an example for campaigning for advocacy policy efforts and reforms. The legal empowerment programme of WGWLO can also assist in providing insights and help other organisations, networks, and CoPs strategise their future endeavours.

Reference list

National legislations and international conventions:

The Legal Services Authorities Act, 1987.

United Nations General Assembly, (1979). Convention On The Elimination Of All Forms Of Discrimination Against Women.

Books/ Report/Blogs:

Agarwal, B. (2002). *Are We Not Peasants Too? Land Rights and Women's Claims in India*.

SEEDS (The Population Council, Inc.).

Amaral, S. (2014). Do Improved Property Rights Decrease Violence against Women in India?, *Department of Economics Discussion Paper* 15-10.

Asian Development Bank. (2009). Legal Empowerment for Women and Disadvantaged Groups: Final Report [Online]. Available at <https://www.adb.org/sites/default/files/publication/29170/legal-empowerment.pdf> (Accessed: 20 June 2021).

Baltiwala, S. (1994), *Empowerment of women in South Asia*, Asian South Pacific Bureau of Adult Education.

Behar, A. (2020). Behind the new rules for NGOs to get foreign funds, a clear political message – fall in line, *The Scroll* [online]. Available at <https://scroll.in/article/973909/behind-the-new-rules-for-ngos-to-get-foreign-funds-a-clear-political-message-fall-in-line> (Accessed: 20 June 2021).

Bhatnagar G.V. (2020). Leading NGOs Believe FCRA Changes Will 'Kill' Voluntary Sector, *The Wire* [online]. Available at <https://thewire.in/rights/fcra-amendment-ngo-sector-impact-grassroots-activism> (Accessed: 19 June 2021).

Cambridge, D. and Suter, V. (2005). Community of Practice design guide: A step-by-step guide for designing & cultivating communities of practice in Higher Education [Online]. Available at https://www.msfnr.org/sites/default/files/Community_of_practice_guide.pdf (Accessed: 21 June 2021).

Centre for Social Justice (2016). Legal Empowerment For Land Rights: The What And The How [online]. Available at <http://www.centreforsocialjustice.net/wp-content/uploads/2016/09/LEGAL-EMPOWERMENT-FOR-LAND-RIGHTS-csj-paperfinal.pdf> (Accessed: 19 June 2021).

Commission on Legal Empowerment of the Poor (2008). Making the Law Work for Everyone, Volume I: Report of the Commission on Legal Empowerment of the Poor [Online]. Available at http://der.oas.org/Institutional_relations/Final%20Report_English.pdf (Accessed: 0 June 2021).

Committee on the Elimination of Discrimination against Women (2016). General recommendation No. 34 on the rights of rural women, CEDAW/C/GC/34.

Cotula, L. and Mathieu, P. eds., (2008). *Legal empowerment in practice: Using legal tools to secure land rights in Africa*. IIED.

Daley, E., Flower, C., Miggianno, L. and Pallas, S., 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. *International Land Coalition Network, Rome*.

Food and Agriculture Organisation of the United Nations (n.d.). Gender and Land Rights Database, Country profile – India, Inheritance/succession de facto practices [online]. Available at http://www.fao.org/gender-landrights-database/country-profiles/countries-list/customary-law/inheritancesuccession-de-facto-practices/en/?country_iso3=IND (Accessed: 21 June 2021).

Gaventa, J., 2005. Reflections on the *uses* of the ‘power cube’ approach for analyzing the spaces, places and dynamics of civil society participation and engagement. *Prepared for Dutch CFA Evaluation ‘Assessing Civil Society Participation as Supported In-Country by Cordaid, Hivos, Novib and Plan Netherlands*.

Gouthami Rajgor and Meena Rajgor (2008). Women’s perception of land Ownership: A case study from Kutch District, Gujarat, India. *Gender and Development* Vol. 16, No. 1, Rural Livelihoods and Agriculture.

ICRW. (2006). Property ownership & inheritance rights of women for social protection—the South Asia experience. *International Centre for Research on Women*.

International Commission of Jurists. (2020). India’s Foreign Contribution Regulation Act: A Tool to Silence Indian Civil Society Organizations: A Briefing Paper [online]. Available at <https://www.icj.org/wp-content/uploads/2020/12/India-FCRA-Briefing-Paper-2020-ENG.pdf> (Accessed: 20 June 2021).

International Monetary Fund (2018). Pursuing Women's Economic Empowerment [online]. Available at <https://www.imf.org/en/Publications/Policy-Papers/Issues/2018/05/31/pp053118pursuing-womens-economic-empowerment> (Accessed: 20 June 2021).

Kindornay, S., Ron, J. and Carpenter, C., (2012). Rights-based approaches to development: Implications for NGOs. *Human Rights Quarterly*, pp.472-506.

Kurt, S. (2021). Situated Learning Theory, Educational Technology [online]. Available at <https://educationaltechnology.net/situated-learning-theory/> (Accessed 20 June 2021).

Lave, Jean, & Wenger, Etienne. (1991). *Situated Learning: Legitimate Peripheral Participation*. Cambridge: Cambridge University Press.

Maina Kiai, (2013), Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, UN Doc. A/HRC/23/29, Special Rapporteur on the rights to freedom of peaceful assembly and of association.

Ministry of Women and child development (2001). National Policy for The Empowerment of Women [Online]. Available at: <https://wcd.nic.in/womendevlopment/national-policy-women-empowermen> (Accessed: 20 June 2021).

Ministry of Women and Child Development, Five Year Strategic Plan (2011-2016) [online]. Available at https://wcd.nic.in/sites/default/files/MWCD_Strategic_Plan_10-02-2011.pdf (Accessed: 20 June 2021).

National Legal Services Authorities Act (n.d). Scheme For Para-Legal Volunteers (Revised) & Module For The Orientation - Induction - Refresher Courses For PLV Training [online]. Available at <https://nalsa.gov.in/acts-rules/preventive-strategic-legal-services-schemes/scheme-for-para-legal-volunteers> (Accessed 19 June 2021).

Oliver, B. and Pitt, B. (2013) *Engaging communities and service users: context, themes and methods*. Palgrave Macmillan, p.88.

Pallas, S. (2011), Women's land rights and women's empowerment: One and the same?.

Reventa, A. and Shetty, S., (2012). Empowering Women Is Smart Economics: Closing gender gaps benefits countries as a whole, not just women and girls. *Finance & Development*, 49(001).

Singh, N.C., 2009, March. Legal empowerment of the poor: Making the law work for everyone. In *Proceedings of the 103rd Annual Meeting* (Vol. 103, pp. 147-150). American Society for International Law.

Smith, M. K. (2003). 'Jean Lave, Etienne Wenger and communities of practice', The encyclopedia of pedagogy and informal education [online]. Available <https://infed.org/mobi/jean-lave-etienne-wenger-and-communities-of-practice/> (Accessed: 20 June 2021).

Smith, M. K. (1999a). 'Aristotle on knowledge', The encyclopedia of pedagogy and informal education [online]. Available at <https://infed.org/mobi/aristotle-on-knowledge/>. (Accessed: 22 June 2021).

Smith, M. K. (1999b, 2011). 'What is praxis?' in The encyclopedia of pedagogy and informal education [online]. Available at <https://infed.org/mobi/what-is-praxis/>. (Accessed: 22 June 2021).

Tata Trusts. (2021). India Justice Report: Ranking States on Police, Judiciary, Prisons and Legal Aid [online]. Available at <https://www.tatatrusters.org/Upload/pdf/ijr-2020-overall-report-january-26.pdf> (Accessed 20 June 2021).

The Committee on The Elimination of Discrimination Against Women (1994). General recommendation No. 21: Equality in marriage and family relations, General Recommendations

Adopted by The Committee on The Elimination of Discrimination Against Women Thirteenth session.

United Nations Entity for Gender Equality and the Empowerment of Women (UN Women) and the Office of the United Nations High Commissioner for Human Rights (OHCHR). (2020). Realizing Women's Rights to Land and Other Productive Resources, Second Edition [online]. Available at <https://www.unwomen.org/-/media/headquarters/attachments/sections/library/publications/2020/realizing-womens-rights-to-land-and-other-productive-resources-2nd-edition-en.pdf?la=en&vs=4149> (Accessed: 20 June 2021).

United Nations General Assembly (2009). Legal empowerment of poor and eradication of poverty. [Online]. Available at <http://www.un.org/esa/socdev/documents/reports/Legal%20empowerment%20of%20the%20poor.pdf> (Accessed: 20 June 2021).

United Nations Human Rights Council (2013). Protecting human rights defenders: Resolution adopted by the Human Rights Council, A/HRC/RES/22/6 [online]. Available at: <https://www.refworld.org/docid/53bfa8564.html> (Accessed: 21 June 2021).

United Nations Human Rights Council (2018). United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas, A/RES/73/165 [online]. Available at: <https://www.geneva-academy.ch/joomlatools-files/docman-files/UN%20Declaration%20on%20the%20rights%20of%20peasants.pdf> (Accessed: 20 June 2021).

United Nations Secretary-General's High-Level Panel. (2016). *Leave No One Behind - A Call to Action for Gender Equality and Women's Economic Empowerment*, Report Of The Un Secretary-General's High-Level Panel On Women's Economic Empowerment [online]. Available at <https://www.empowerwomen.org/-/media/files/un%20women/empowerwomen/resources/hlp%20briefs/unhlp%20full%20report.pdf?la=en> (Accessed: 20 June 2021).

Uvin, P., (2007). From the right to development to the rights-based approach: How 'human rights' entered development. *Development in practice*, 17(4-5), pp.597-606.

Valera, H.G.A., Yamano, T., Puskur, R., Veetil, P.C., Gupta, I., Ricarte, P. and Mohan, R.R., (2018). Women's land title ownership and empowerment: Evidence from India. *ADB Economics Working Paper Series (No. 559)*.

Wenger, E. (1998). *Communities of practice: Learning, meaning, and identity*. Cambridge University Press.

Wenger, Et. (2007). 'Communities of practice. A brief introduction'. *Communities of practice* [online]. Available at <http://www.ewenger.com/theory/>. (Accessed: June 22, 2021).

Wenger-Trayner, E. and Wenger-Trayner, B., (2015). Introduction to communities of practice: A brief overview of the concept and its uses.