

PROPERTY RIGHTS OF WOMEN IN TAMIL NADU

Research conducted

by



CENTRE FOR WOMEN'S STUDIES (UGC Sponsored)

JUSTICE BASHEER AHMED SAYEED COLLEGE FOR WOMEN (Autonomous)

Re-accredited with A PLUS Status by the NAAC

Teynampet, Chennai-600018

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THE NATIONAL COMMISSION FOR WOMEN

NEW DELHI

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FOREWORD

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FOREWORD

It is indeed a matter of great satisfaction for me to contribute a foreword for the Research Study on **Property Rights of Women in Tamil Nadu** conducted by the UGC sponsored Centre for Women's Studies, Justice Basheer Ahmed Sayeed College for Women, (Autonomous), Chennai. The Centre has the distinction of being the first Centre sponsored by the University Grants Commission, New Delhi among the Colleges in Chennai city established in September 2005 under the X Plan Scheme. The Vice Chancellor of the University of Madras had recognised the services rendered by the Centre and nominated it twice to conduct the UGC Refresher Course in Women's Studies during 2011 and 2012.

Women for long have been subjugated in property inheritance and Women's right to property inheritance are frequently violated. The multiplicity of succession laws in India, diverse in their nature, owing to their varied origin makes the situation even more complex. The present study is the very first of its kind conducted in South India. The study deals in detail about the property rights of women under the Hindu Succession Act 1956, Muslim Shariat Act 1937, Sections 31 to 49 of the Indian Succession Act which deals with Christian Succession and Sections 50 to 59 of Indian Succession Act which deals with the Parsi religious groups in India and the property rights of Tribal women in the Nilgiris district of Tamil Nadu. A special reference to The Hindu Succession (Tamil Nadu Amendment) Act, 1989 has been emphasised to highlight the importance of the Act which provides women equal right to inheritance of property. The Hindu Succession (Amendment) Act, 2005 which has come into effect has also been dealt in the present study which is a landmark, where the Government of India after 50 years has finally addressed some persisting gender inequalities in the 1956 Hindu Succession Act, which itself was path-breaking.

This study will provide a distinctive, innovative and holistic approach and methodology to help solve women's issues in the inheritance of property. The study provides specific suggestions to the Central, State and the Local Governments of Tamil Nadu for effective implementation of the laws. The present research study will be an excellent material for reference for the Students, Teachers, Researchers, Lawyers and Women in particular to know about their rights in the inheritance of property.

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I take this opportunity to thank the **National Commission for Women, New Delhi** for funding the research study. I request the NCW to publish this work very soon in order to bring the findings of the study to the society at large for its use.

I would like to congratulate **Dr.B.Madhana Rekha**, Director of the Centre and the Project Director for the effort taken to identify the topic which deals with the vital aspect in the present scenario. She has worked hard to give final shape to this excellent work.

I would like to appreciate the efforts taken by **Ms.Waseema Yaseen**, Project Co-ordinator and the research team, for collecting data from eight districts in Tamil Nadu and being instrumental in completing the research study.

I have no doubt that this research study on different facets will prove to be of immense use and values to the policy-makers, planners and decision-makers not only in India but also in other countries.



MOOSA RAZA, I.A.S (R)

Chairman, S.I.E.Trust, Chennai

PREFACE

INDIA is a country of diverse cultures, religions, race and traditions. Every religious community is governed by its respective personal law. In fact even within the different religious groups, there are sub-groups and local customs and norms with their respective property rights.

Hindus, Sikhs, Buddhists and Jains are governed by one code of property rights codified as the **Hindu Succession Act 1956**, while **Christians** are governed by **Indian Succession Act, 1925. Sections 31 to 49** deal with Christian Succession. **Muslims** broadly belong to two schools of thought : the Sunnite and the Shiite. The usual practice in this sub-continent is to use the terms ‘Sunni’ Law or ‘Shia’ Law. After the **Shariat Act of 1937**, Muslims in India came to be governed in their personal matters, including property rights, by Muslims Personal Law. The laws of succession for Parsis are laid down in the **Indian succession Act, 1925 (ISA). Sections 50 to 56** deal with succession for **Parsis**. The **Tribal women** of various religions and States continue to be governed for their property by the customs and norms of their respective Tribes.

Further, under the Indian Constitution, both the Central and the State Governments are competent to enact laws on matters of succession and hence some States have enacted their own variations of property laws within each personal law.

- The Joint Hindu Family System (Abolition) Act, 1975, Kerala.
- The Hindu Succession (Andhra Pradesh Amendment) Act, 1986.
- **The Hindu Succession (Tamil Nadu Amendment) Act, 1989.**
- The Hindu Succession (Karnataka Amendment) Act, 1994.
- The Hindu Succession (Maharashtra Amendment) Act, 1994.

The Hindu Succession (Amendment) Act, 2005 is a landmark. After 50 years, the Government finally addressed some persisting gender inequalities in the 1956 Hindu Succession Act, which itself was a path-breaking.

The present study on **Property Rights of Women in Tamil Nadu** covers the property rights of women belonging to various religious groups – Hindus, Muslims, Christians, Parsis, and in particular Tribal women of Nilgiris district in Tamil Nadu. In this light, the current study is an attempt to comprehend the inheritance pattern of intestate property with a descriptive succession.

Efforts have been made by the research team of the **Centre for Women's Studies**, (UGC sponsored), **Justice Basheer Ahmed Sayeed College for Women**, Teynampet, Chennai, to collect authentic samples through field work on awareness of women's right to inheritance of property from the women in urban and rural areas of Tamil Nadu. The study also presents views from Government Officials, Advocates, General Public Women and Tribal Women of Nilgiris district in Tamil Nadu. The study provides suggestions about the revisions and recommendations that could be made with regard to the effective implementation of laws on property rights of women.

The Southern India Education Trust, Chennai (S.I.E.T) and the Centre for Women's Studies, (UGC Sponsored), Justice Basheer Ahmed Sayeed (J.B.A.S) College for Women, Teynampet, Chennai are deeply grateful to the **National Commission for Women, New Delhi** for funding the present research project and for giving an opportunity to conduct the present study.

The S.I.E.T, Chennai and the Centre for Women's Studies, J.B.A.S College for Women, Teynampet, Chennai would like to wholeheartedly thank Ms. Zohra Chatterji, I.A.S, Former Member Secretary, National Commission for Women (NCW), New Delhi for the support and help rendered to the Centre for Women's Studies, Chennai, to undertake the present study.

Dr. B. Madhana Rekha, Director of the Centre for Women's Studies, J.B.A.S College for Women and the Project Director for the present research study would like to sincerely thank MOOSA RAZA PADMA BHUSHAN awardee CHAIRMAN, S.I.E.T. & Former Chief Secretary, J & K, and Secretary to Govt. of India, for his constant guidance and support given to the Centre to reach academic excellence.

The Research Team consisting of Dr. B. Madhana Rekha, Project Director; Ms. Waseema Yaseen, Project Co-ordinator, Ms. S. Veeralakshmi, Research Assistant, Field Investigators: Mrs. K. Shabana Parveen, Ms. S. Jayanthi, Ms. E. Kalaivani, and Mrs. S. Sridevi, Data Entry Operator of the project are deeply grateful and thankful to MOOSA RAZA PADMA BHUSHAN awardee CHAIRMAN, S.I.E.T. & Former Chief Secretary, J & K, and Secretary to Govt. of India, Mr. Syed Munir Hoda, I.A.S, (Retd.) Secretary, S.I.E.T, Mr. Faizur Rahman Sayeed LL.B (Canada), Correspondent, J.B.A.S College for Women, Chennai, Dr. (Mrs) Nausheen Dawood, Principal, J.B.A.S College for Women, Chennai, the Office Staff of the S.I.E.Trust and J.B.A.S College for Women, Chennai, for their consistent encouragement and valuable support provided during the project.

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CHAPTER I

INTRODUCTION

Women's right to property has been recognized as an important development issue. Property rights for women can have an impact on decision making, income pooling, acquisition, and women's overall role and position in the community. Moreover, land is a critical resource for a woman when the household breaks down; for example, in the event of desertion by husband, abandonment, divorce, polygamous relationships, illness or death.

There is a critical relationship in the role that women play and the sustenance provided for families, communities, and nations (Kevane, Michael and Leslie Gray, 1999). Globally, an estimated 41% of women headed households live below the defined poverty line, with one-third of the women in the world are either homeless or living in inadequate housing facilities. The additional exclusion of women from access to land pushes them towards cities, where they often join the ranks of increasing number of women-headed households in slum areas (Benschop, and Marjolein. 2004). Through the processes of Globalization and Industrialization, there has been a noted increase in the numbers of women entering in the waged labor sectors (United Nations Statistics Division, *The World's Women*, 2000).

While observing the property rights of women in society, the question of class differentiation among women also needs to be raised. As majority of women do not belong to the working class, and there are sharp differences across women from different backgrounds. This particularly is evident in the present day context when education and changing values are empowering women of a certain class.

Agarwal (1994) noted that, a woman's class position is usually defined through that of men particularly in marriage. A husband's property would raise it, while widowhood or divorce would lower it. He states that there are significant commonalities between women which cut across deprived classes specially, the vulnerability to violence, the responsibility for all domestic work and childcare, gender inequalities in legal rights, and the risks of marital breakdown due to which even women of rich peasant households can be left destitute and forced to seek wage work, reflecting their property less state and economic vulnerability as women.

The inheritance system in Indian society has been to preserve property, especially land property, intact for male heirs. In actual practice, intra-family allocations are really located in a culture of patriarchy rooted in patrilineal, patrilocal (or virilocal) practices, which define the role of women in economic and non-economic spheres. Rights for women are mediated through family relationships and deeply inculcated perceptions that women have about themselves, their interests and what constitutes their well-being within their families (Sen, 1990).

Women's right, to access and control over property, is determined through women's overall living conditions, economic security, and physical safety. Gender discrimination is related to lower per capita income, life expectancy, and literacy. The problem of gender inequity is due to the deep cultural bias against women.

Women during the Vedic times were held in great regard and enjoyed various rights and privileges. Women shared equal rights and obligations with her husband. However, the only discrimination they were subjected to was in matters of inheritance but they were never excluded completely from inheriting.

Succession is a branch of property law with some links to land law, trusts, and personal property, as well as to family law. Currently, the presence of fewer rights of women than men in Indian Personal laws is generally attributed to the sanctity of

religious law. Several changes effected over the decades indicate the selective application of sanctity argument.

The perpetuation of female property and inheritance rights helps to mitigate negative economic consequences experienced by women and their households, whilst also helping to promote women's economic security and empowerment, thereby reducing their vulnerability to domestic violence, unsafe sex and other health hazard factors.

Women for long have been subjugated in property inheritance. This has become a major concern in creating a right balance in gender equality. The Government of India has provided specific institutions like the National Commission for Women, Department of Women and Child Development etc. In addition to this, India follows the guidelines recognized in a variety of International Legal Instruments such as:

- ✦ International Covenants on Economic, Social, and Cultural Rights and on Civil and Political Rights.
- ✦ United Nations Commission on Human Rights Resolution 2002/49.
- ✦ International Conventions like the Convention on Elimination of All Forms of Racial Discrimination (CERD) 1965,
- ✦ The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) 1979, is often described as an International Bill of Rights for Women.

The Convention highlights in Article 16 that: "State parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women.

PROPERTY RIGHTS OF WOMEN IN INDIA – AN OVERVIEW

The Indian Constitution, both the Central and the State governments are competent to enact laws on matters of succession. Some of the states have enacted their own variations of property laws within each personal law. Hence, there are no single uniform laws to govern the property rights of Indian women. Each religious community is governed by its respective personal laws. Among each religious group, there are sub-groups and local customs and norms with their respective property rights. Property rights are often viewed in the narrow sense of ownership the right to completely and exclusively control a resource.

Meinzen-Dick et al (2005) explain, property rights are better understood as overlapping ‘bundles’ of rights, which can be grouped simply as use rights and control or decision making rights.

Hindus, Sikhs, Buddhists and Jains are governed by one code of property rights codified as the **Hindu Succession Act, 1956** for Hindus, while, **Christians** are governed by **Indian Succession Act, 1925** and the **Muslims** have not codified their property rights, neither the Shias nor the Sunnis. **Tribal women** of various religions and states continue to be governed by the customs and norms of their tribes. There are a few restrictions on their mobility but Women have considerably freedom of choice in the selection of marriage partners. Tribal cultures have liberal norms related to divorce and remarriage by women. **Among most Tribes, property, particularly land, passes through the male lineage and under customary laws. Women do not have inheritance rights to land** (Swati Sharma, 2007).

As women’s right to property inheritance are limited and frequently violated, in the mid-1950’s the Hindu Personal laws were overhauled, banning polygamy and giving them right to inheritance, adoption and divorce. Under Hindu law, sons have an independent share in the ancestral property. However, daughter’s shares are based on the

share received by their fathers. Hence, a father can effectively disinherit a daughter by renouncing his share of the ancestral property. But the son will continue to have a share in his own right. Additionally, married daughters, even those facing marital harassment, have no residential rights in the ancestral home.

The problem began where inheritance rights were concerned since this had to do with immovable property, especially land. Women could not inherit such property mainly because the patriarchal society wanted to keep properties intact within their own families. While the Mitakshara is generally considered to be more liberal in acknowledging that when women inherited property this could also be stridhan (Banerjee, 1915). This had tremendous relevance even in contemporary society, since it denies women access to the most important productive resource in the Indian economy which is land. Widows normally had the right to maintenance by the heirs of the husbands, and virtually no share in the family property, except in cases where the husband had already separated from the joint family.

The Muslim Personal laws differ considerably from that of the Hindus, and permit polygamy. Despite various laws protecting women's rights, traditional patriarchal attitudes still prevail.

ROLE OF RELIGION IN THE SUCCESSION OF PROPERTY IN INDIA

Religion plays a major role in the succession of property in India. The personal laws of religious communities are mostly dominated by the scriptures of the religions. During the earlier period, the law of succession was mostly un-codified and followed according to the traditions of the communities. As the society moved towards civilization, the Governments started to codify the laws of succession. The codification mostly depended on the existing traditional practices. Hence, there is no uniformity in the succession laws. But, Religion plays a very important role in the formation of succession laws. The succession laws which are codified separately to different religions, neglected women and gave an unequal status to them.

During the British rule, certain enactments were made such as the Married Women's Property Act, 1874, The Hindu Disposition of Property Act, 1916, The Hindu Inheritance (Removal of Disabilities) Act, 1928, The Transfer of Property Act, 1882, The Indian Succession Act 1925, The Cochin Christian Succession Act, 1902, The Hindu Women's Rights to Property Act, 1937, The Muslim Personal Law (Shariat) Application Act 1937, the Mussalman Wakf Validating Act, 1913 Act etc to uplift the position of women. Even after independence, the Indian Government has retained most of the laws. Hence, the citizens of India are governed by the religious laws they practice.

PROPERTY RIGHTS OF HINDU WOMEN

Property Rights of Hindu women in India varies depending upon the marital status, whether the woman is a daughter, married or unmarried, deserted wife or widow or mother. It also depends on the kind of property, whether the property is hereditary/ancestral or self-acquired, land or dwelling house or matrimonial property. Prior to the Act of 1956, Shastric and Customary laws, varied from region to region governed Hindus and sometimes it varied in the same region on a caste basis. As the country is vast and communications and social interactions in the past were difficult, it led to diversity in the law. Consequently in matters of succession also, there were different schools, like **Dayabhaga** in Bengal and the adjoining areas; **Mayukha** in Bombay, **Konkan** and Gujarat and **Marumakkattayam** or **Nambudri** in Kerala and **Mitakshara** in other parts of India with slight variations.

The multiplicity of succession laws in India, diverse in their nature, owing to their varied origin made the property laws even more complex. But, the social reform movement during the pre-independence period raised the issue of gender discrimination and a number of steps were initiated. The principal reform was that in succession, there should be equitable distribution between male and female heirs and the Hindu women's limited estate should be enlarged into full ownership. However, that never happened. The

only property over which she had an absolute ownership was the Stridhan meaning women's property.

Meaning of Mitakshara Coparcenary:

Under the Mitakshara law, on birth, the son acquires a right and interest in the family property. According to this school, a son, grandson and a great grandson constitute a class of coparceners, based on birth in the family. No female is a member of the coparcenary in Mitakshara law. **Coparcenary** literally means **Joint inheritance** or heirship of property. Coparcenary is a narrower body of persons within a joint family, and consists of father, son, son's son, son's son's son. Under the Mitakshara system, joint family property devolves by survivorship within the coparcenary. This means that with every birth or death of a male in the family, the share of every other surviving male either gets diminished or enlarged. If a coparcenary consists of a father and his two sons, each would own one third of the property. If another son is born in the family, automatically the share of each male is reduced to one fourth. **The Mitakshara law also recognizes inheritance by succession but only to the property separately owned by an individual male or female. Females are included as heirs to this kind of property.**

The Bengal, Benares and Mithila sub schools of Mitakshara recognized only five female relations as being entitled to inherit namely - widow, daughter, mother paternal grandmother, and paternal great-grand mother . The Madras sub-school recognized the heritable capacity of a larger number of female's heirs that is of the son's daughter, daughter's daughter and the sister, as heirs who are expressly named as heirs in Hindu Law of Inheritance Act, 1929. The son's daughter and the daughter's daughter ranked as **bandhus** in Bombay and Madras. The Bombay school which is most liberal to women, recognized a number of other female heirs including a half- sister, father's sister and women married into the family such as stepmother, son's widow, brother's widow and also many other females classified as bandhus.

Hindu Law of Inheritance Act, 1929:

This was the earliest piece of legislation, bringing woman into the scheme of inheritance. This Act conferred inheritance rights on three female heirs i.e. son's daughter, daughter's daughter and sister.

Hindu Women's Right to Property Act (XVIII of), 1937:

This was the landmark legislation which conferred ownership rights on women. This Act brought about revolutionary changes in the Hindu Law of all schools, and brought changes not only in the law of coparcenary but also in the law of partition, alienation of property, inheritance and adoption. The Act of 1937 enabled the widow to succeed along with the son and to take a share equal to that of the son. But, the widow did not become a coparcener even though she possessed a right akin to a coparcenary interest in the property and was a member of the joint family. The widow was entitled only to a limited estate in the property of the deceased with a right to claim partition. A daughter had virtually no inheritance rights. Despite these enactments having brought important changes in the law of succession by conferring new rights of succession on certain females, these were still found to be incoherent and defective in many respects and gave rise to a number of anomalies and left untouched the basic features of discrimination against women.

Hindu Succession Act, (HSA) 1956:

The Hindu Succession Act enacted in 1956 was the first law to provide a comprehensive and uniform system of inheritance among Hindus and to address gender inequalities in the area of inheritance. It was therefore a process of codification as well as a reform at the same time. HSA was the first post-independence enactment of property rights among Hindus. The HSA, 1956 was made to codify the law relating to intestate succession among Hindus. It extends to the whole of India except the state of Jammu and Kashmir. This Act is applicable to all the Hindus, Buddhists, Jains and Sikhs by religion.

It applies to both the Mitakshara and the Dayabhaga systems. The retention of the Mitakshara coparcenary without including females in it meant that females couldn't inherit ancestral property as males do. If a joint family gets divided, each male coparcener takes his share and females get nothing. Only when one of the coparceners dies, a female gets a share of his share as an heir to the deceased. Thus the law by **excluding the daughters from participating in coparcenary ownership merely by reason of their sex not only contributed to an inequity against females** but has led to oppression and negation of their right to equality and appears to be a mockery of the fundamental rights guaranteed by the Constitution. Hence, this very fact necessitated a further change in regards to the property rights of women, and which was done by the **Hindu Succession (Amendment) Bill, 2004.**

The State Amendments:

The concept of the Mitakshara co-parcenary property retained under section 6 of the HSA of 1956 has not been amended ever since its enactment. Though, **it is a matter of some satisfaction that five states in India namely, Kerala, Andhra Pradesh, Tamil Nadu, Maharashtra and Karnataka** have taken cognizance of the fact that a woman needs to be treated equally both in the economic and the social spheres. As per the law of four of these states, (Kerala excluded), in a joint Hindu family governed by Mitakshara law, the daughter of a coparcener shall by birth become a coparcener in her own right in the same manner as the son. Kerala, however, has gone one step further and abolished the right to claim any interest in any property of an ancestor during his or her lifetime founded on the mere fact that he or she was born in the family. In fact, it has abolished the Joint Hindu family system altogether including the Mitakshara, Marumakkattayam, Aliyasantana and Nambudri systems. Thus enacting that joint tenants be replaced by tenants in common.

Legislations passed by the five states are given below:

- ➡ The Joint Hindu Family System (Abolition) Act, 1975, Kerala.
- ➡ The Hindu Succession (Andhra Pradesh Amendment) Act, 1986.
- ➡ The Hindu Succession (Tamil Nadu Amendment) Act, 1989.

- ➡ The Hindu Succession (Karnataka Amendment) Act, 1994.
- ➡ The Hindu Succession (Maharashtra Amendment) Act, 1994.

The Hindu Succession (Amendment) Act, 2005:

The Hindu Succession (Amendment) Act, 2005 seeks to make two major amendments in the Hindu Succession Act, 1956. First, it is proposed to remove the gender discrimination in **section 6** of the original Act. Second, it proposes to **omit section 23** of the original Act, which disentitles a female heir to ask for partition in respect of a dwelling house, wholly occupied by a joint family, until the male heirs choose to divide their respective shares therein.

Section 6 of the Hindu Succession Act, 1956 has been restated for convenience- Devolution of interest in coparcenary property. When a male Hindu dies after the commencement of this Act, having at the time of his death an interest in a Mitakshara coparcenary property, his interest in the property shall devolve by survivorship upon the surviving members of the coparcenary and not in accordance with the Act.

The Act provides that if the deceased had left him surviving a female relative specified in class I of the Schedule or a male relative specified in that class who claims through such female relative, the interest of the deceased in the Mitakshara coparcenary property shall devolve by testamentary or intestate succession, as the case may be and not by survivorship.

The Hindu Succession (Amendment) Act, 2005 is a landmark. After 50 years, the Government finally addressed some persisting gender inequalities in the 1956 Hindu Succession Act (1956 HSA), which itself was path-breaking. The 2005 Act covers inequalities on several fronts: agricultural land; Mitakshara joint family property; parental dwelling house; and certain widow's. The amendment has come into operation from 2005.

The Hindu Succession (Amendment) Act, 2005:

6 (1) Devolution of interest in coparcenary property-

(1) On and from the commencement of the Hindu Succession (Amendment) Act, 2005, in a Joint Hindu family governed by the Mitakshara law, the daughter of a coparcener shall,-
(a) by birth become a coparcener in her own right the same manner as the son;
(b) have the same rights in the coparcenary property as she would have had if she had been a son; (c) be subject to the same liabilities in respect of the said coparcenary property as that of a son, and any reference to a Hindu Mitakshara coparcener shall be deemed to include a reference to a daughter of a coparcener: Provided that nothing contained in this sub-section shall affect or invalidate any disposition or alienation including any partition or testamentary disposition of property which had taken place **before the 20th day of December, 2004.**

(2) Any property to which a female Hindu becomes entitled by virtue of subsection shall be held by her with the incidents of coparcenary ownership and shall be regarded, notwithstanding anything contained in this Act or any other law for the time being in force in, as property capable of being disposed of by her by testamentary disposition.

(3) Where a Hindu dies after the commencement of the Hindu Succession (Amendment) Act, 2005, his interest in the property of a Joint Hindu family governed by the Mitakshara law, shall devolve by testamentary or intestate succession, as the case may be, under this

Act and not by survivorship, and the coparcenary property shall be deemed to have been divided as if a partition had taken place and,

(a) the daughter is allotted the same share as is allotted to a son;
(b) the share of the pre-deceased son or a pre-deceased daughter, as they would have got had they been alive at the time of partition, shall be allotted to the surviving child of such pre-deceased son or of such pre-deceased daughter; and

(c) the share of the pre-deceased child of a pre-deceased son or of a predeceased daughter, as such child would have got had he or she been alive at the time of the partition, shall be allotted to the child of such pre-deceased child of the pre-deceased son or a pre-deceased daughter, as the case may be.

Succession to the Property of a Hindu Female:

Although Hindu woman's limited estate has been abolished and, so long as the woman is alive, she has absolute power over all types of property (she is also free to dispose it of by will), yet for the purpose of intestate succession, the source of property is still material. For the purpose of succession, the property of a Hindu female falls under the following three heads:

1. Property inherited by a female **from her father or mother**.
2. Property inherited by a female **from her husband** or father-in-law, and
3. Property **obtained by her** from any other source, by inheritance or otherwise.

PROPERTY RIGHTS OF MUSLIM WOMEN

The property rights of Muslim women differ from other religions as it is based on the Islamic Law of Succession on the tenets of Holy Quran. Muslims broadly belong to **two schools of thought** : the **Sunnite** and the **Shiite**. Under the Sunnite school, there are four sub categories; Hanafis, Shafis, Malikis and Hanbalis. The usual

practice in this sub-continent is to use the terms '**Sunni**' Law or '**Shia**' Law. After the **Shariat Act of 1937**, Muslims in India came to be governed in their personal matters, including property rights, by Muslims Personal Law as it "restored" Personal Law in preference to custom.

Broadly, the Islamic scheme of inheritance discloses three features, which are markedly different from the Hindu Law of Inheritance: (i) the Koran gives **specific shares to certain individuals** (ii) the residue goes to the **agnatic heirs** and failing them to uterine heirs and (iii) bequests are limited to **one-third of the estate**, i.e., maximum one-third share in the property can be willed away by the owner.

(Paras diwan, 2001) The Muslim Law of Succession is un-codified, **there is no partition of inherited property. Succession opens only on the death of the ancestor**, and then alone the property vests in the heirs. The Islamic Law of succession is based on the tenets of the Holy Quran. No woman was excluded from inheritance only on the basis of sex. **Women have equal right to share the property of the deceased.**

Islamic Principles of Succession According to Prophet

The Principles are:

1. Husband and wife being equal are entitled to inherit to each other.
2. Some near females and cognates are also recognized and enumerated as heirs.
3. Parents and certain other ascendants are made heirs even when there are descendants.
4. The newly created heirs are given specified shares along with customary heirs, who are reliquaries.

Inheritance According to Hanafi Law

According to Hanafi Law of inheritance, there are 3 classes of heir namely: (1) Sharers (2) Residuary, (3) Distant kindred.

1. Sharers:

They are persons whose shares have been **specified by the Koran**. They are entitled to receive a fixed share allotted to them in a certain order of preference and mode of succession.

2. Residuary:

They are persons who take **no prescribed share but succeed to the residue** after the claims of the sharers are satisfied. After the payment to the sharers the residue is to be distributed among the residuaries.

3. Distant Kindred:

They are those **relations by blood** who are neither sharers no residuaries. This class includes the cognates of the deceased i.e. those who are related through a female. They are not entitled to succeed so long as there are shares or residuaries.

Inheritance According to Shia Law

According to Shia Law the heirs are divided into two groups, namely - Heirs by consanguinity or asaba i.e. by blood relations. They consist of;

- I. (i) Parents.
(ii) Children and other lineal descendants how low so ever.
- II. (i) Grandparents how high so ever (true and false).
(ii) Brother and sisters and their descendants how low so ever.
- III. (i) Paternal uncles and aunts of the deceased, and of his Parents and grandparents how high so ever and their descendants how low so ever.
(ii) Maternal uncles and aunts of the deceased and his parents and grandparents how high so ever and their descendants, how low so ever.

Of these three groups of heirs, the first excludes the second from inheritance and the second excludes the third. Among the Shias, there is no separate class of heirs corresponding to the Distant Kindred of Sunni Law.

The shares according to Shia Law are nine in number-1) Husband 2) Wife 3) Father 4) Mother 5) Daughter 6) Full sister 7) Consanguine sister 8) Uterine brother, and 9) Uterine sister. The descendants how so ever of shares are also sharers. Residuaries are all heirs other than sharers. The descendants how so ever low of residuaries are also residuaries. Sons, brother, uncles and aunts are all residuaries. Their descendants, therefore, are also residuaries.

PROPERTY RIGHTS OF CHRISTIAN WOMEN

The laws of succession for Christians are laid down in the **Indian Succession Act, 1925 (ISA). Sections 31 to 49 deal with Christian Succession.** The **Indian Christian widow's right is not an exclusive right.** It gets curtailed as the other heirs step in. Only if the intestate has left none who are of kindred to him, the whole of his property would belong to his widow. Where the intestate has left a widow and any lineal descendants, **one third** of his property devolves to his widow and the remaining two thirds go to his lineal descendants. If he has left no lineal descendants but has left persons who are kindred to him, **one half** of his property devolves to his widow and the remaining half goes to those who are of kindred to him.

Another anomaly is a peculiar feature that the widow of a pre-deceased son gets no share, but the children whether born or in the womb at the time of the death would be entitled to equal shares. Where there are no lineal descendants, after having deducted the widow's share, the remaining property devolves to the father of the intestate in the first instance. Only in case the father of the intestate is dead but mother and brothers and sisters are alive, they all would share equally. If the intestate's father has

died, but his mother is living and there are no surviving brothers, sisters, nieces, or nephews, then, the entire property would belong to the mother.

Christian Women's Rights to Succession:

The Indian Succession Act, 1925 provides that succession to immovable property in India of a person deceased who is not a Hindu, Mohammedan, Buddhist, Sikh or Jain, shall be regulated by the law of India. Section 27 of The Indian Succession Act, 1925 states that there is no distinction for the purpose of the succession—

- a) Between those who are related to a person deceased through his father, and those who are related to him through his mother; or
- b) Between those who are related to a person deceased by the full blood, and those who are related to him by the half- blood; or
- c) Between those who were actually born and those who were only conceived in the womb; but who have been subsequently born alive.

Intestate Succession to Christians:

According to section 32 of The Indian Succession Act, 1925, the property of an intestate devolves upon the wife or husband, or upon those who are of the kindred of the deceased, in the order and according to the rules hereinafter contained. A widow will not be entitled to the provision hereby made for her if, by a valid contract made before the marriage she had been excluded from her distributive share of her husband's estate.

PROPERTY RIGHTS OF PARSI WOMEN

The laws of succession for Parsis are laid down in the **Indian succession Act, 1925 (ISA). Sections 50 to 56 deal with succession for Parsis.** The property rights of the Parsis are quite gender just. Basically, a Parsi widow and all her children, both **sons and daughters, irrespective of their marital status, get equal shares in the property** of the intestate while each parent, both father and mother, get half of the share of each child.

Parsi Women's Right to Succession:

According to section 50 of The Indian Succession Act, 1925 for the purpose of intestate succession among Parsis-

- a) There is no distinction between those who were born and those who were conceived in the womb.
- b) If an intestate dies without leaving a widow or widower or any lineal descendant the property shall be divided.
- c) Where a widow of intestate has married again she shall not be entitled to receive any share of the property.

PROPERTY RIGHTS OF TRIBAL WOMEN

As far as property rights of the Tribal women are concerned, they continue to be ruled by even more Archaic system of customary law under which they totally lack rights of succession or partition. In fact, the **Tribal women do not even have any rights in agricultural lands**. It is ironical that property rights of gender have been resisted in the name of preservation of Tribal culture.

The property right of a Tribal woman also depends upon the type of family and marriage. In monogamous family, the property rights enjoyed by a woman are different from polygamous and polyandrous type of family. Again, the property right of a widow is different from the property right enjoyed by a woman whose husband is alive, the property rights of a barren woman who is blessed by children.

The Supreme Court of India has laid down some important principles to uphold the rights of inheritance of the tribal women, based on the broad philosophy of the Indian Constitution and said, "The Constitutional philosophy envisaged under Articles 38, 39, 46 and 15(1) & (3) and 14 is to accord social and economic democracy to women as assured in the preamble of the Constitution. They constitute core foundation for economic empowerment and social justice to women for stability of political democracy.

In other words, they frown upon gender discrimination and aim at elimination of obstacles to enjoy social, economic, political and cultural rights on equal footing.”

PROPERTY RIGHTS OF WOMEN IN TAMIL NADU

According to provisional Census of India 2011 the female population in Tamil Nadu is **3,59,80,087**. The property rights of women in Tamil Nadu get determined depending on which religion and religious school she follows, if she is married or unmarried, which part of the country she comes from, if she is a tribal or non-tribal and so on.

Earlier studies have been focused on the historical evolution of religious property rights and how interventions from the state and other agencies have redefined these at several points of time. The issues raised in this study relates to customary rights that is the property rights allowed to women in different districts of Tamil Nadu under their customary practices, as compared to the rights allowed under the traditional legal systems.

The historical evidence from South India, especially Tamil Nadu region, suggests that women had considerably stronger rights to property than indicated in the legal texts, and the jurists themselves were aware of the variance between the prescribed rights and customary rights. Women clearly owned property and had the authority to alienate their property either money or land through gifts or sales. Two tenth century inscriptions which refer to land gifted to women to form their property or stridhanam which proves that women’s rights to own land were well-recognized. (KanakalathaMukund, 1999).

Stridhanam and Dowry – Reality

Women were given jewels and cash in marriage as gifts. This was usually given to the bride groom. In Indian society ‘varadakshina’ (or groom fee) was part of the ‘kanyadanam’ (or giving the girl away), the girl was also given land and jewellery and other items as stridhanam or her own property.

Srinivas (1996) distinguished between modern dowry, which often becomes a payment of cash to the husband, from traditional dowry, which remained the bride's property. This transition from a property right as enjoined even in the sastras, to give cash gift to the husband is noted in many disparate communities.

There is also a popular perception that escalating dowry demands put immense pressure on the families of girls, and in many cases the parents sacrifice their own security in old age in order to have an advantageous marriage for their daughters. In spite of the Hindu Succession Act of 1956, in many families, it is felt that the dowry constitutes the share of the woman in the family property. In fact, women themselves give legitimacy to dowry by accepting this as their share of their patrimony (Chowdhry, 1997). Variations in the size of the gift depend on the wealth of the families concerned, on the beauty of the woman and on many other factors (de Bruijn, 1997).

The practice of giving stridhanam to a daughter also extends to castes that are not land-based. Nishimura states that the part of the dowry which is the 'sirdanam' (or stridhanam) is kept in the name of the woman and remains her property until her death, and is often saved, along with whatever she can save through her frugal management of the housekeeping and other incomes to constitute, in turn the dowry of her daughters (Nishimura 1994). Nishimura's study, however, clearly shows that women never really controlled this stridhanam, which was managed and invested by their fathers (Nishimura 1998).

In all communities of Tamil Nadu women continue to have a close relationship with their natal households even after they get married. In addition to stridhanam, they continue to receive gifts from their families, especially in the first year of marriage on various occasions, and during the first pregnancy and childbirth. These continue even until the marriage/s of their daughter/s. It is argued that while all these gifts may not be

very significant in terms of value (though some undoubtedly are), they do constitute a recognized right to call their family property. (Kanakalatha Mukund, 1992).

The State Government too has made many provisions to facilitate easy access to property for women. This can be seen from the amendments made in the **Hindu Sucession Act, Tamil Nadu Amendment, 1989**. It has provided 568 Registrars and Joint Registrar offices in the State in view of the number of registrations taking place in the state. This is the highest number in India. Opening an office would cost Rs. 13 lakh initially and involve a recurring expenditure of Rs 15 lakh per annum to the State (The HINDU; April 12, 2012)

The values of family and society in turn are upheld by women. There is also evidence of women rulers, scholars, scientists and so on in history. The pathetic state of women in recent times is a clear indication of degradation in the status of women in our society. Women are dependent and are considered subordinate to men. Women's rights are given least importance. The continuous struggle by feminists groups has turned the spotlight on women's rights. Yet there are so many areas which the society is yet to turn its attention on. One such area is women's right in inheritance of property.

Inheritance is ruled by various religious and social norms. There are various factors that influence women's right in property inheritance. The factors have turned into barriers against women's property rights which grow out of a complex interplay of individual, relational, communal and societal dynamics. Even though laws providing equal rights in inheritance of property for women are already in existence women are hardly aware of it. The very purpose of such laws is negated due to societal factors. Women feel more confident and independent when they hold property in their name. Yet, they forgo their rights for the sake of safeguarding the support of their maternal family. Main factor which every married woman faces in claiming her inheritance right is the marriage expenditure. Due to this, the male members deny property inheritance to women. **Women too, willingly lose their right in inheriting property.** Thus it is all the

more important to study such a complex issue which has been given least importance from a very long time.

NEED FOR THE STUDY

This study helps to reveal the dynamics of the problems related to women's property right in order to move towards developing better programs, where women's property rights are respected, and social equity is enhanced. The purpose of the work is to document and share the complex interplay of factors and rationale at individual, communal and societal levels that violate women's entitlement to land and communal property rights.

REVIEW OF LITERATURE

According to Rutherford (1996), Women's rights to inherit, own and control property are determined primarily by the values and norms which are socially acceptable, as well as the mechanisms of intra-household decision-making and distribution.

Agarwal, and Bina (2002) stated that the persistence of traditional divisions of labor, in which women hold intensive tasks such as gather water and fuel, contributes to the large percentage of women informally working in rural areas (Doss & Cheryl, 2011).

Agarwal, and Bina (2002) highlights that in addition to increasing vulnerability and reducing status, exclusion of women from the control and transfer of land and decision making processes has also led to a decrease in sustainable development.

Moock (1976); Meinzen-Dick (1997) and others, said that in development planning, women's rights must be explicitly taken into account and women must be made to participate in the design and implementation of a policy, equity is increased. In many cases, increased gender equality can also lead to increased economic equality.

Holden and Tewodros (2008) affirmed that it has been shown that low-cost land reform including land registration has contributed to increased perceptions of tenure security for both women and men. The women's names on land certificates increased the perception that the women would be able to keep the land after the divorce or death of their husband. Further women's involvement in decision making over land has increased

Papanek (1990) stated the notions that women are entitled to, and only deserve, an unequal share of resources, as well as other forms of discrimination are learnt from childhood, and perpetuated as women themselves accept this valuation of themselves and their contribution to a family and their position in the family. While both Papanek and Sen are concerned with explaining the division of property resources between men and women.

Agarwal extends Sen's analysis to women's rights to land, though she disagrees with Sen's conceptualization of "perceived interest" response. She argues that women's compliance with practices which disadvantage them does not arise out of an acceptance of such discrimination, and there are many covert ways in which they resist this (Agarwal 1994).

As the prerequisites are also decided and defined through social cultural perceptions. Agarwal (1994) argues that land is the most important productive resource for women in India, and study dealt with women's rights to land focusing on six issues: "gender relations and a household's property status; gender relations and women's property status; the distinction between ownership and control of property; the distinctiveness of land as property; what is meant by rights in land; and prospects of non-land-based livelihoods". The study reveals that of these, the question of ownership and control over property is crucial for understanding the unequal relationship between men and women.

Krishnaji (1992) has pointed out that “... whatever be the spirit of law and custom, women fail in general to obtain rights to ownership of (or control over) land”, and has stated that adding that even if women were the formal legal owners, management of the land was taken over by men, “depriving women not only of headship in a formal sense, but of much else”.

Sen (1990) said that the primary objective in inheritance systems in Indian society has been to preserve property, especially landed property, intact for male heirs. In actual practice, intra-family allocations are really located in a culture of patriarchy rooted in patrilineal, patrilocal (or virilocal) practices, which define the roles of women and men in economic and non-economic spheres. Rights for women are mediated through family relationships and deeply inculcated perceptions that women have to sacrifice themselves, their interests and what constitutes their well-being within their families.

Chowdhry (1997) observed that there is also a popular perception that escalating dowry puts immense pressure on the families of girls, and in many cases the parents sacrifice their own security in old age in order to have an advantageous marriage for their daughters. In spite of the Hindu Succession Act of 1956, in many families, it is felt that the dowry constitutes the share of the woman in the family property. In fact, women themselves give legitimacy to dowry by accepting this as their share of their patrimony.

At this juncture, it is also useful to review the present legal status of women with respect to inheritance rights. In the absence of a common civil code, provisions regarding to inheritance rights vary for different religions and communities. **Under the Hindu Succession Act of 1956, daughters were given equal rights as sons in their father’s self-earned property, if the father died intestate. They, however, had no rights to ancestral property.** More progressive legislation was passed in Andhra Pradesh, **Tamil Nadu – the Hindu Succession (Tamil Nadu Amendment) Act, 1989 – which gives equal rights to women as men in ancestral property.** Daughters can also force a partition of ancestral property, if the share is denied or delayed. While such legislation

certainly enhances the rights of women to inherit property, what this has actually achieved needs to be explored. How many women, even educated women, know their legal rights or demand them? Has this legislation resulted in any significant shift in attitudes to women's rights to inherit property, or has it merely led to men making wills excluding daughters from inheritance.

In the final analysis, it is a sad reflection of our times that women's status in South India in some ways has actually regressed in the past one thousand years. For a society which proudly claims to be marching towards socio-economic development and modernity, the value of women in the family and in broader social perception has been steadily eroded as stridhanam has degenerated into dowry and legal disagreements in sharing of property.

CHAPTER II

TAMIL NADU AMENDMENT ACT

(Tamil Nadu Act 1 of 1990, sec 2 with effect from 25-3-1989)

29 a. Equal rights to daughter in co-parcenary property:

Notwithstanding anything contained in section 6 of this Act,

- (i) In a joint Hindu family governed by Mitakshara law, the daughter of a co-parcenor shall by birth become a co-parcenor in her own right in the same manner as the son and have the same rights in the co-parcenary property as she would have had if she had been a son, inclusive of the right to claim by survivorship and shall be subject to the same liabilities and disabilities in respect thereto as the son.
- (ii) At a partition such a Joint Hindu Family the co-parcenary property shall be so divided as to allot to a daughter the same share as is allottable to a son.

Provided further at the share which a predeceased son or a predeceased daughter would have got at the partition if he or she had been alive at the time of partition shall be allotted to the surviving child of such predeceased son or predeceased daughter.

Provided that the allottable share to the predeceased child of a predeceased son or of a predeceased daughter, if the child had been alive at the time of partition, shall be allotted to the child of such predeceased child of the predeceased son or the predeceased daughter as the case may be.

- (iii) Any property to which a female Hindu becomes entitled by virtue of the provisions of cl (i) shall be held by her with the incidents of co-parcenary ownership and shall be regarded notwithstanding anything contained in this act

or any other law for the time being in force, as property capable of being disposed of by her will or other testamentary disposition:

- (iv) **Nothing in this chapter shall apply to a daughter married before the date of commencement** of the Hindu Succession (Tamil Nadu Amendment) Act 1989.
- (v) **Nothing in cl (ii) shall apply to a partition which had been effected before the date of the commencement** of the Hindu Succession (Tamil Nadu Amendment) Act 1989.

It has been held that the section confers upon the unmarried daughter, the status of a co-parcener from her birth, and not after the insertion of the section.⁹⁸

29 b. Interest to Devolve by Survivorship on Death:

When a female Hindu dies after the commencement of the Hindu Succession (Tamil Nadu Amendment) Act 1989 having at the time of her death an interest in a Mitakshara co-parcenary property by virtue of the provisions of s29-A, her interest in the property shall devolve by survivorship upon the surviving members of the co-parcenary and not in accordance with this Act.

Provided that if the deceased had left any child or child of a predeceased child, the interest of the deceased in the Mitakshara co-parcenary property shall devolve by the testamentary or intestate succession, as the case may be, under this Act and not by survivorship.

For the purpose of this section, the interest of a female Hindu Mitakshara co-parcener shall be deemed to be the share in the property that would have been allotted to her if a partition had taken place immediately before her death, irrespective of whether she was entitled to claim partition or not.

Nothing contained in the proviso to this section shall be construed as enabling a person who, before the death of the deceased, had separated himself from the co-parcenary or any of her heirs to claim on intestacy a share in the interest referred to therein.

29c. Preferential Right to Acquire Property in Certain Cases:

- (1) Where, after the commencement of the Hindu Succession (Tamil Nadu Amendment) Act 1989, an interest in any immovable property of an intestate or in any business carried on by him or her, whether solely or in conjunction with others, devolves under **s 29A or s 29B** upon two or more heirs and any one of such heirs proposes to transfer his or her interest in the property or business, the other heirs shall have a preferential right to acquire the interest proposed to be transferred.
- (2) The consideration for which any interest in the property of the deceased may be transferred under this section shall, on the absence of any agreement between the parties, be determined by the court on application being made to it in this behalf, and if any person proposing to acquire the interest is not willing to acquire it for the consideration so determined, such person shall be liable to pay all costs incidental to the application.
- (3) If there are two or more heirs proposing to acquire any interest under this section, that heir who offers the highest consideration for the transfer shall be preferred.

In this section “COURT” means the Court within the limits of whose jurisdiction the immovable property is situated or the business is carried on, and includes any other Court which the State government may, by notification in the Tamil Nadu Government Gazette, specify in this behalf.

Property of a Female to be her Absolute Property:

This section explicitly declares the law that a female holds all property in her possession whether acquired by her before or after the commencement of the Act, as an absolute owner. The rule applies to all property movable and immovable howsoever and whenever acquire by her, but subject to the qualification mentioned in sub-s (2).

Widow as Sole Heir:

When a male Hindu dies possessed of property after the coming into force of the Act, leaving his widow as his sole heir, she inherits the property as a class 1 heir. In the circumstances, the question of applicability of s 14 does not arise on succession after the Act came into force. The widow inherits an absolute estate, even without calling in aid this section.

CHAPTER III

AIM AND OBJECTIVES

The aim of the study is to understand the awareness of women about their property rights and to identify the extent of use of legal acts on property rights of women under various religious groups in Tamil Nadu. This study is an attempt to highlight the legal status of Tribal women in Nilgiris district. Keeping in mind the background of this research, the following objectives were formulated:

1. To study the property rights of women in Tamil Nadu.
2. To highlight the discrimination of property rights of women belonging to various religious groups in Tamil Nadu.
3. To interview the Government Officials in the various districts of Tamil Nadu.
 - i. To find out the measures taken by them to eradicate the discrimination against women and its implementation process.
 - ii. To know the institutional mechanism which monitors and evaluates the implementation of laws related to inheritance of property of women.
4. To interview Lawyers in order to know their opinion on the laws related to the property rights of women.
5. To find the awareness of general Public Women with regard to the legislations on property rights of women in the selected districts chosen for the study.
6. To interact with the Tribal Women of the Nilgiris district of Tamil Nadu in order to find out their awareness on the legal status of Tribal women.
7. To identify the types of barriers related to women's economic and property rights in relations to National and Regional policies and laws.

8. To identify issues for advocacy towards the promotion of community-based grass root level efforts for women's property right entitlement.
9. To suggest for amendments of Acts wherever necessary to eradicate gender bias in the inheritance of property rights by women.
10. To provide recommendations for effective policy formulations and implementation in order to bring gender equality.

CHAPTER IV

METHODOLOGY

The methodology used in the present study is discussed in this chapter. It deals with the Research design, sample size, sampling method, data collection and the limitations of the study.

RESEARCH DESIGN

The study on **Property Rights of Women in Tamil Nadu** is descriptive in nature. The work is focused on analyzing the opinion of the Government Officials on property rights of women and the measures taken to revise the existing laws and policies in order to eradicate discrimination of women in the inheritance of property.

The study provides suggestions and opinion of the Lawyers on laws relating to women's property rights. The study helps to understand the awareness of women about Property rights in inherited property. Finally, the project maps the level of awareness of Tribal women in Tamil Nadu of Nilgiris district in particular.

AREA CHOSEN FOR THE STUDY

The State of Tamil Nadu is the focal area of the present study. Women have always felt the need for equal inheritance in property. Women of South India especially Tamil Nadu have been in a stronger position in the ancient times. Evidences of women as scholars, administrators etc. are available those who have also owned property.

This State has been toppled in recent times by the male dominance in the society. So, women have started to assert their rights in property inheritance. This is evident from the cases registered on property in the Court of Law.

For the purpose of conducting the present study, the districts of Tamil Nadu were divided into 4 regions namely NORTH, SOUTH, EAST and WEST. Two districts were chosen in each region for the study considering certain criteria like population, literacy, urban and rural areas. The districts selected for field study are presented in Table 1.

Table 1

Districts chosen for the study

Region	District	
	Urban	Rural
North	Chennai	Dharmapuri
South	Kanyakumari	Theni
East	Tiruchirappali	Ariyalur
West	Coimbatore	Nilgiris , Salem

SAMPLES SELECTED FOR THE STUDY

The study focused on gathering information and opinion from Government Officials, Lawyers, General women and Tribal Women in Tamil Nadu.

Government Officials:

In Tamil Nadu, Class I officers of the registration department are the authorized person to complete the formalities of property registration. Therefore class I officers namely, Registrars and Additional Inspector General's from the various Sub-Registrar offices in Chennai were interviewed. Purposive sampling and Voluntary Response Sampling techniques were used to select the officials.

Due to the busy schedule of the officers, though 30 Government Officials were contacted only 10 officials agreed to participate in the study. Officials were interviewed to provide insight into the implementation mechanism of the Government policies on women.

Lawyers:

The Lawyers were chosen for the study to provide suitable recommendations and revision of existing laws and strict amendments. The technique of purposive sampling was used for selection of lawyers. Lawyers with 10 to 15 years of experience in dealing civil cases were included for the study. Nearly 120 Lawyers were requested in person to participate in the study. But only 69 Lawyers consented to respond to the questionnaire.

General Women:

For general women probability sampling techniques like stratified sampling and simple random samplings were used. Women were differentiated into strata like religion, educated or uneducated women. Then the samples were chosen through simple random sampling. Multistage sampling and stratified sampling were used to select the districts for study. The sample size of women from the selected districts is presented in Table 2.

Table 2
Sample size – Women from the general population

General women	Sample size
Ariyalur	108
Chennai	228
Coimbatore	86
Dharmapuri	99
Kanyakumari	182
Salem	290
Theni	207
Trichy	98
TOTAL	1298

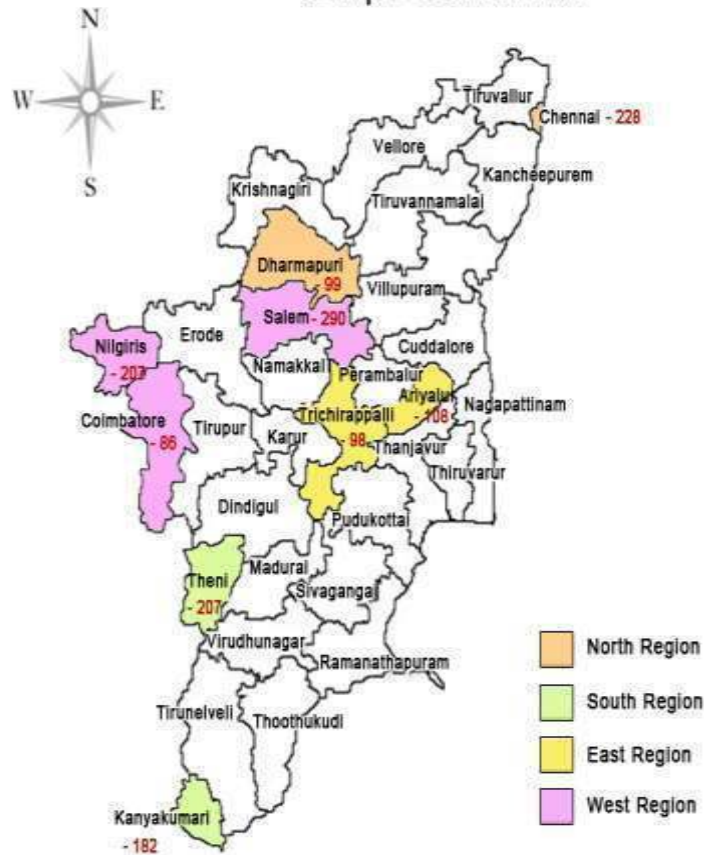
Tribal women:

According to Census of India (2001), tribal population in Tamil Nadu is **6,51,321**. There are around 38 tribes and sub-tribes in Tamil Nadu. The tribes of Tamil Nadu are concentrated mainly in the district of Nilgiris. The total tribal population of Nilgiris is 28,000. So the Nilgiris District was deliberately taken into account for the concentrated tribal women.

Systematic sampling was used to select samples from tribal women. Every fourth household was taken into consideration as sample for the study. The sample size of tribal women was 207.

Figure 1

Map of Tamilnadu showing the area selection and sample distribution



DEVELOPMENT OF THE TOOLS

Questionnaire and interview methods were used to collect the data from Government Officials, Lawyers, Women from the general population and Tribal women in Nilgiris district.

The description of the interview schedule and questionnaire are given as follows:

I. Government Officials:

Interview schedule was developed to collect data from the Government Officials with regard to changes in the legislations for women, addressing women's concern with CEDAW in particular and to know the special mechanism that addresses laws that discriminate against women in property rights.

II. Lawyers:

Questionnaire was designed to gather information from the lawyers with regard to revision of Property Rights of women and how the existing laws and policies guarantee equality between men and women regarding property rights.

III. Women from the General Population:

Interview schedule was developed to collect data from the women of the general population. The personal details of respondents such as age, years of marital life, number of children, educational qualification, property details, awareness of property rights, general issues and opinion on current Act were gathered from this section. Details regarding the problems faced by the women in relation to dowry were collected from this section.

IV. Tribal women:

The personal details of respondents such as age, years of marital life, number of children, educational qualification, dowry system, property details, community status etc. were gathered from this section. Interview method was adopted to gather information from the tribal women.

DATA COLLECTION

The details of the Class I officers working in the Registration Department were gathered to select the Government Officials for the study. Permission was sought from

the Inspector General of Registration to interview by the research officer to get the assistant from the officials for the study. Later the field investigators personally met and interviewed the officials individually.

The questionnaires were distributed to the Lawyers in High Court of Madras, Women Lawyers Association and Madras High Court Advocates Association to get collective response.

Women were interviewed in their households, workplaces-including fields and common meeting places. Educational institutions like schools and colleges also provided much needed assistance. As the tribal women are located in an undisclosed locality it was difficult to trace them. But, with the help of the NGOs' the research team were able identify the tribal people.

LIMITATIONS AND PROBLEMS FACED DURING THE STUDY

1. Women feared to express their views as patriarchal society imposes a lot of restrictions on women.
2. It was difficult to extract information from the women in tribal areas as they speak and understand only their traditional tribal language.
3. Due to time constraint, the researchers could not achieve the appropriate target.
4. Women hesitated to reveal their property details.
5. It was very difficult to explain the subject matter of the project to the public as women lacked awareness about their Property Rights.

The results obtained using the above mentioned questionnaires are presented in the chapters.

CHAPTER V

CONSTITUTIONAL PROVISIONS FOR WOMEN IN INDIA

Civil and political rights are crucial for achieving gender equality in any society. The Indian Constitution provides equality to all the citizens before the law. In coherence with the objectives of the study the various Constitutional provisions for the protection of women and the social legislations passed for women with regard to property inheritance are presented in a table for easy reference in this chapter. Religion wise laws related to property inheritance for women are also presented.

Constitutional Provisions

The Indian Constitutional provisions for the citizens of the country are presented in Table 3.

Table 3

Constitutional Provisions in India

S. No	Act	Year	Provisions
1	Article 14	1950	Ensures equality before law
2	Article 15	1950	Prohibits discrimination on grounds of religion, race, caste, sex or place of birth
3	Article 15 (3)	1950	Empowers the State to make any special provision for women & children

4	Article 16	1950	Guarantees equality of opportunity for all citizens in matters relating to employment or to any office under the State
5	Article 23	1950	Prohibits trafficking in human beings & forced labour
6	Article 39	1950	Right to an adequate means of livelihood for men & women
7	Article 44	1950	Ensures uniform civil code for all citizens

Social Legislations passed for women

Several social legislations have been passed to safe guard the rights of women. From time to time amendments have been made to meet the needs of the people according to the changing times. The legislations pertaining to women of all religions are presented in table 4.

Table 4

Legislations for women in India

S. No	Act	Year	Amendment	Provisions
1	Indian Divorce Act	1869	1956, 2001	Empowers a wife to give petition for dissolution of marriage
2	Indian Succession Act	1925		Laws governing testamentary and intestate succession

3	Married Women's Property Act	1874		Stridhan and women's estate are women's property
4	The Special Marriage Act	1954	1976	Right to repudiate before attaining maturity
5	Dowry Prohibition Act	1961		Taking and giving dowry was declared a crime inviting imprisonment
6	Foreign Marriage Act	1969		
7	Marriage Laws Amendment Act	1976		
8	Equal Remuneration Act	1976		Unequal wages based on sex was abolished.
9	Family Court Act	1984		Women could approach these courts with regard to their marriage related problems.
10	Domestic Violence Act	2005		All physical and mental violence on woman within the household comes under the purview of this Act. Enables a victim to get redressed.

HINDU WOMEN

Hinduism is the religion followed by majority of women in India. To suit Hindus various laws have been enacted. These laws are tabulated in the table 5.

Table 5

Legislations for Hindu women in India

S. No	Act	Year	Provisions
1	Hindu Widow Remarriage Act	1856	Legalizes marriage of Hindu widows
2	Hindu Women's Right to Property Act	1937	Hindu woman could hold property.
3	Hindu Marriage Act	1955	Registration of marriage is made compulsory, Minimum age for marriage of girls is 18years and for boys 21years, Monogamy made as a rule.
4	Hindu Minority & Guardianship Act	1956	Consent of wife is required for adoption
5	Hindu Succession Act	1956	Equal share of women in inherited property
6	Hindu Adoptions and Maintenance Act	1956	Hindu women can adopt

MUSLIM WOMEN

Muslims are considered as a minority group. The laws governing the people of Islam are presented in Table 6.

Table 6
Legislations for Muslims in India

S. No	Act	Year	Provisions
1	Shariat Act/Muslim Personal Law	1937	Muslims in India came to be governed by their personal laws
2	Dissolution of Muslim Marriage Act	1939	Regulates the triple talaq, and lays down provisions for getting divorce.
3	The Muslim Women Act (Protection of Rights on Divorce)	1986	Maintenance in case of divorce to Muslim women

CHRISTIAN WOMEN

Christianity is followed by a minority group of people. Laws pertaining to Christians are presented in Table 7.

Table 7
Legislations for Christian in India

S. No	Act	Year	Provisions
1	Christian Marriage Act	1872	Child marriage is prohibited & bigamy punishable
2	Indian Succession Act, (ISA)	1925	No distinction for the purpose of the succession

PARSI WOMEN

Parsi population is very small minority group in India. Yet, laws for Parsis were enacted in the pre-independence times. Suitable amendments were made after independence which is presented in Table-8.

Table 8

Legislations for Parsi Women in India

S. No	Act	Year	Amendment	Provisions
1	The Parsi Marriage and Divorce Act	1936	1988	Bigamy & Child Marriage is strictly forbidden

CHAPTER VI

OPINION OF GOVERNMENT OFFICIALS ON PROPERTY RIGHTS OF WOMEN

Views of Government Officials with regard to property rights of women were collected to fulfill the objectives of the study.

Officers belonging to the Class I grade in the Registration Department in Chennai were taken as the core group for consideration. As Additional Inspector Generals and Sub-registrars are the authorized persons for completing the formalities of property registration and responsible for collecting revenue to the Government with regard to all matters pertaining to property transactions like fixing of land guideline value, stamp paper values for land registration with regard to selling, buying, mortgaging, power of Attorney agents etc. They were specifically chosen as the respondents of the study.

General details of the Government Officials:

The interviewed officials belonged to the age group of 35-50 years, out of which six were males and four were females. Out of the ten Officials interviewed, six were Sub-registrars and four were Additional Inspector Generals. Among the interviewed Government Officials seven of them were postgraduates and three were graduates who had been elevated to the present position with an average experience of 10-15 years.

Status of Constitutional and legal rights for women:

The Constitution guarantees equality and no discrimination can be made based on sex, religion, race, creed etc. Before the Independence, and after the time of

Independence, the Government of India and various State Governments have enacted various laws for the welfare of women. This is a safeguard against all sorts of discrimination.

The Hindu Succession Tamil Nadu Amendment Act, 1989 provides equal share of property for women in inheritance. Yet, women are ignorant about their rights in inheritance of ancestral property. Though, literacy in the urban areas has increased to some extent, still, women are not aware of their rights, the uneducated rural women are hardly aware of their rights. In addition to literacy programmes, media plays a major role in creating awareness.

All the Official respondents of the study have pointed to the lack of awareness of women about the legislations available for them. They felt that among the general public the unwillingness of the male members to treat women equally was the reasons for women not enjoying equal rights in property. Seven Officials felt that the Constitutional provisions are moderate in today's scenario.

Gender discrimination:

Women play a pivotal role in the development of the society. Many officials expressed that development in the status of women is essential for the full-fledged development of the society.

Seven Officials expressed that gender discrimination in our society has been controlled to a very large extent. They said that in the first place the Governments' educational policies have imbibed equality in the younger generation. Government policies and programs for women's development are being initiated based on periodical evaluation on the status of women. Six officials opined that recommendations made by women's groups/NGOs and reports from the media play a major role on initiating such development policies for women.

Suggestions given by Government Officials:

The Officials expressed that advocacy and literacy programs, capacity building training programs, free counseling and legal aid were the programs which focused on women's development effectively.

The Officials claimed that media should play a major role in creating awareness on legal rights of women.

The Officials said that changes like uniform civil law for all religious groups, to ensure equality of men and women and gender sensitization of judicial officials, police officials and men in particular is essential for better implementation of the laws pertaining to women.

Many officials felt that the view of working in collaboration with local authorities and other Government bodies like Protection Officers and Commissioners, Counselors and Legal Consultants and Non-governmental Organizations have helped them a lot on protection of women against violence. They also opined that Governments should encourage such activities as this could give way for the sensitization of the Officials to women's issues and initiate welfare activities. Some of the Officials have opined that existing mechanism for implementation of women's rights has room for improvement.

One Official expressed that knowledge about Convention for Elimination of All Forms of Discrimination Against Women, (CEDAW) 1979 and its guidelines is very poor among the Government servants. Government Officials need to be oriented about the CEDAW and other regulating agencies. Though, CEDAW has been successful at many instances, more stringent measures are needed to deal with the discrimination of women and other related women's issues.

Another Official expressed that the Constitutional rights given to women should be enforced not only through legal forums but the public should also recognize and practice them. They said that right to property for women should be given with **retrospective effect** so that even **women married before 1989** could also be included in the inheritance of property.

Conclusion:

On the whole, Government Officials expressed that any initiative from the Government side can be successful through effective implementation and public co-operation. And with regard to property rights of women there is an urgent need for awareness among public and women in particular. Laws of equal inheritance for women have been in existence for a very long time. The study clearly presents that the Officials feel it is high time that discrimination of women in property inheritance is viewed strictly to end such disparities.

CHAPTER VII

OPINION OF THE LAWYERS ON PROPERTY RIGHTS OF WOMEN

Opinion of Lawyers was collected to present the current status of women in property rights. Property disputes come to notice when they are registered in Police Stations and Courts of law. Inputs from Lawyers, with their legal knowledge and experience in dealing such property disputes have provided more light on the prevailing situation of women's right in inheritance of property. Views on discrimination of women, kinds of discrimination, gender equality awareness of property rights among women, possible revisions of laws and improvement in grey areas and suggestions given by Lawyers are presented in this Chapter.

Table 9

General details of the Lawyers

General details	N	%
Sex		
Male	32	46.4
Female	37	53.6
Specialization		
Civil	38	55.1
Criminal	7	10.1
Civil & Criminal	24	34.8

N denotes number of Lawyers

Table 9 shows the general details of the Lawyer respondents in Tamil Nadu. About 53 percent of the Lawyers who filled in the questionnaires were females and the rest were male Lawyers. Fifty five percent of the Lawyers specialized in civil law and about 35 percent took both civil and criminal law as their specialization.

Table 10

Opinion of the Lawyers about the property rights of women

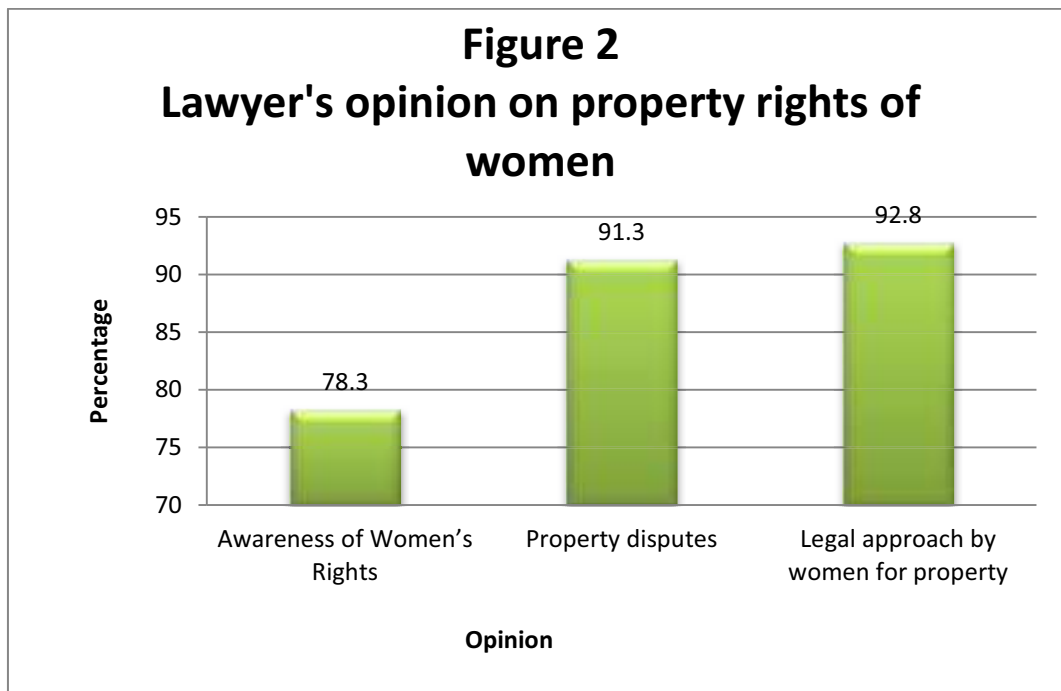
VIEWS ON PROPERTY RIGHTS	N	%
Awareness of Women's Rights		
Yes	54	78.3
No	15	21.7
Property disputes		
Yes	63	91.3
No	6	8.7
Legal approach by women for property		
Yes	64	92.8
No	5	7.2
Discrimination women face in property cases**		
Discrimination by parents	14	20.1
Discrimination by male siblings	20	28.6
Discrimination by husband	11	15.7
Discrimination by sons	5	7
All the above	37	53.5
Discrimination regarding property		
Yes	60	86.9
No	9	13.1
Kinds of discrimination **		
Between married & unmarried daughters	31	44.8

Between a daughter & a wife in the same family	12	17.3
Between natural & adopted daughters	3	4.3
All the above	27	39.1
Women awareness of property rights		
Yes	34	49.4
No	35	50.6
Revision of women's property rights		
Yes	32	46.4
No	37	53.7

**Percentage exceeds 100 due to multiple responses

N denotes number of Lawyers

Table 10 shows that a large number of Lawyers were aware of the property rights of women. Almost all the Lawyers (91%) have attended on cases related to Property disputes and all of them agree that women do approach them for cases regarding property matters. It was found that around 86 percent of the women were discriminated with regard to property rights and 50 percent of the Lawyers agreed that women were discriminated by Parents, Male siblings, Husband and Sons. About 45 percent of them felt that the majority of discrimination was between married and unmarried daughters and 17 percent of them said that the discrimination was between daughter and wife in the same family.



Lawyers are of the opinion that women are not fully aware of their property rights and 46 percent of them believed that there needs to be a revision in the Property Rights Act. The Lawyers have expressed different views on the revision of the existing laws, which are as follows:

- Equal share for a wife in husband's property.
- Channels to approach the courts of law should be simplified enabling women to get speedy justice.
- Specific and exclusive enactments should be made to provide equal property rights for women.
- Strict punishments should be implied for those denying women equal rights in inheritance.

Table 11

Opinion of the Lawyers on discrimination against women

Discrimination against women	N	%
Direct discrimination	28	40.6
Indirect discrimination	38	55.1
Direct & indirect discrimination	3	4.3
Discrimination in religious groups**		
Hindu	24	34.6
Muslim	37	53.4
Christians	2	2.8
Parsi	-	
Tribal	7	10.1
All the above	15	21.7

**Percentage exceeds 100 due to multiple responses

N denotes number of Lawyers

Table 11 shows that fifty five percent of the Lawyers felt that women are discriminated indirectly and 40 percent of them felt that the discrimination is done directly. Nearly 53 percent of the Lawyers are of the opinion that Muslim religion discriminates women in the rights to property and 34 percent of them felt that Hindu religion discriminated women. About 21 percent of the Lawyers felt that all the religions discriminated against women. A small percentage of the respondents felt that Christianity discriminated women and 10 percent of them said that Tribal women were also discriminated.

Table 12

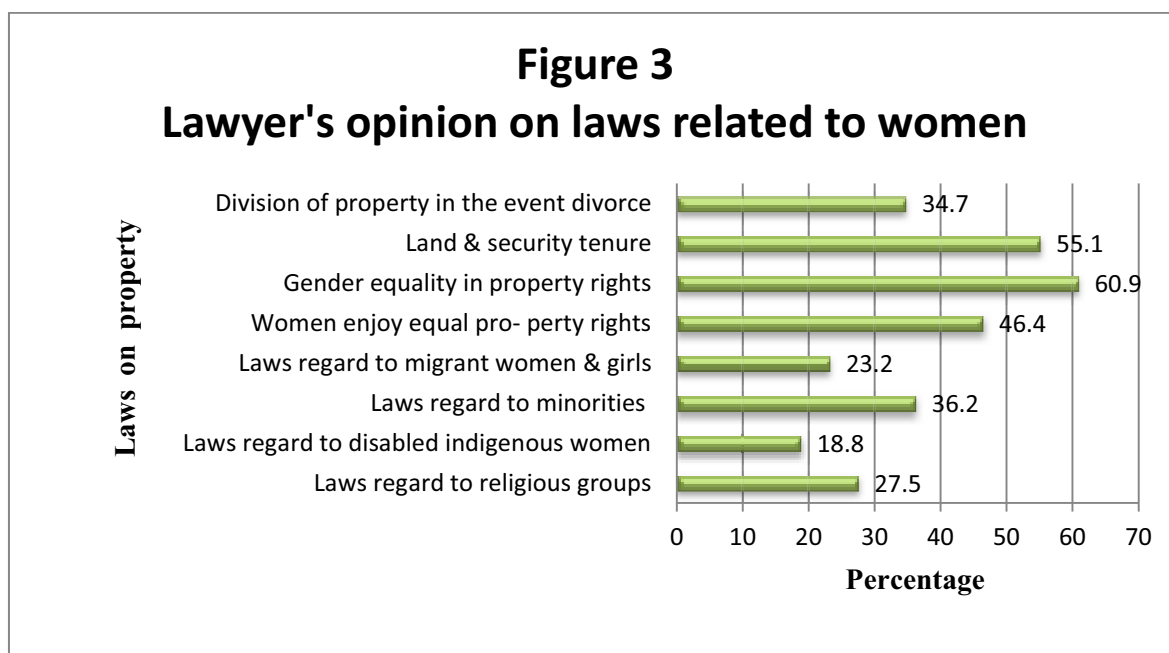
Opinion of the Lawyers on laws regarding women

Laws on Property**	N	%
Laws regard to religious groups	19	27.5
Laws regard to disabled indigenous women	13	18.8
Laws regard to minorities	25	36.2
Laws regard to migrant women & girls	16	23.1
Women enjoy equal property rights	32	46.4
Gender equality in property rights	42	60.9
Land & security tenure	38	55.0
Division of property in the event of divorce	24	34.7

**Percentage exceeds 100 due to multiple responses

N denotes number of Lawyers

In Table 12, and figure 3 shows that 27 percent of the respondents felt that there were no laws to check with regard to religious groups, 18 percent felt that there was no law to check on discrimination against disabled indigenous women. About 36 percent of them said that there were no sufficient laws for Minorities. About 23 percent of the respondents favoured laws regarding Migrant women and girls.



Lawyers were of the opinion that women did not enjoy equal property rights (46%) while some women did enjoy equal property rights (46%). Sixty percent of the Lawyers said that the existing Laws and Policies guarantee equality between men and women regarding Property Rights, and 55 percent of Lawyers felt that the existing gender laws guarantee women access to land and security of tenure. Sixty five percent of the Lawyers opined that there are no legal provisions to protect women and men equally on division of property in the event of Divorce.

Table 13

Opinion of the Lawyers on legal issues of Tribal women

Opinion	N	%
Tribal women approach legal help	16	23.2
Tribal women successful in getting justice	16	23.2

N denotes number of Lawyers

The approach of Tribal women to the Courts of Law is shown in Table 13. About 23 percent of the respondents felt that Tribal women approached the Courts to solve their property disputes and were successful in getting justice. Others did not comment. This proves that most of the respondents were either ignorant or were disinterested in matters with regard to Tribal women.

Table 14

Suggestions given by the selected Lawyers on the property rights of women

Suggestions	N	%
Changes in inheritance property rights of women **		
Effective policies	13	18.8
Effective implementation	12	17.4
Effective judiciary	9	13
Public co operation	7	10.1
All the above	42	60.8
Opinion towards laws and policies		
Conflict of traditional & religious land laws with modern land laws	48	69.6
Exclusion of women in land allocation	46	66.7
Government policies on land allocation to women	35	50.7
Emphasis on gender equality	24	34.8

**Percentage exceeds 100 due to multiple responses

N denotes number of Lawyers

In Table 14, it is clear that about 69 percent of the Lawyers felt that the Modern land laws conflict with traditional and religious land laws and 66 percent of them felt that the cultural norms and practices, exclude women in land allocation. Only 50 percent of

the Lawyers thought that the Government policies on land allocation compliment women’s Rights. Nearly 34 percent of Lawyers expressed that the existing laws, policies and measures adopted are not adequate to ensure equitable distribution of land with emphasis on the gender equality. With regard to the inheritance of property rights of women majority of the Lawyers suggested changes in making effective policies and their implementation, effective judiciary and public co-operation.

Table 15
Opinion of the selected Lawyers to create awareness on
women’s right to property

Creating awareness	N	%
Tools to create awareness on women’s property rights**		
Public awareness programme	30	57.8
Media advertisements	19	39
NGO’s	17	24.6
Women’s groups	16	23.2
Women’s education	44	63.7
Acts protect the women rights		
Yes	50	72.5
No	19	27.5
Sensitization of men on property rights of women		
Yes	53	76.8
No	16	23.2
Legal provisions for women are adequate		
Yes	37	53.6
No	32	46.4
Challenged the existing laws		

Yes	37	53.6
No	32	46.4
Changing Laws or ignoring Courts		
Yes	23	33.3
No	46	66.7

**Percentage exceeds 100 due to multiple responses

N denotes number of Lawyers

In Table 15 it is depicted that almost all the Lawyers suggest that women need to be made aware on women rights to property by Public Awareness Program (57%), educating the women (63%), through Media Advertisements (39%) and NGO's and Women's Groups (24%). A large number of Lawyers (72%) think that the existing women's Acts adequately protect the women's rights and if men are sensitized to women rights to property it may reduce discrimination against women, surprisingly only half of the respondents thought that the existing legal provisions in India pertaining to Property Rights of women are adequate and have faced court cases that challenged the existing laws and only 33 percent felt that Governments responded by changing the law or ignoring courts.

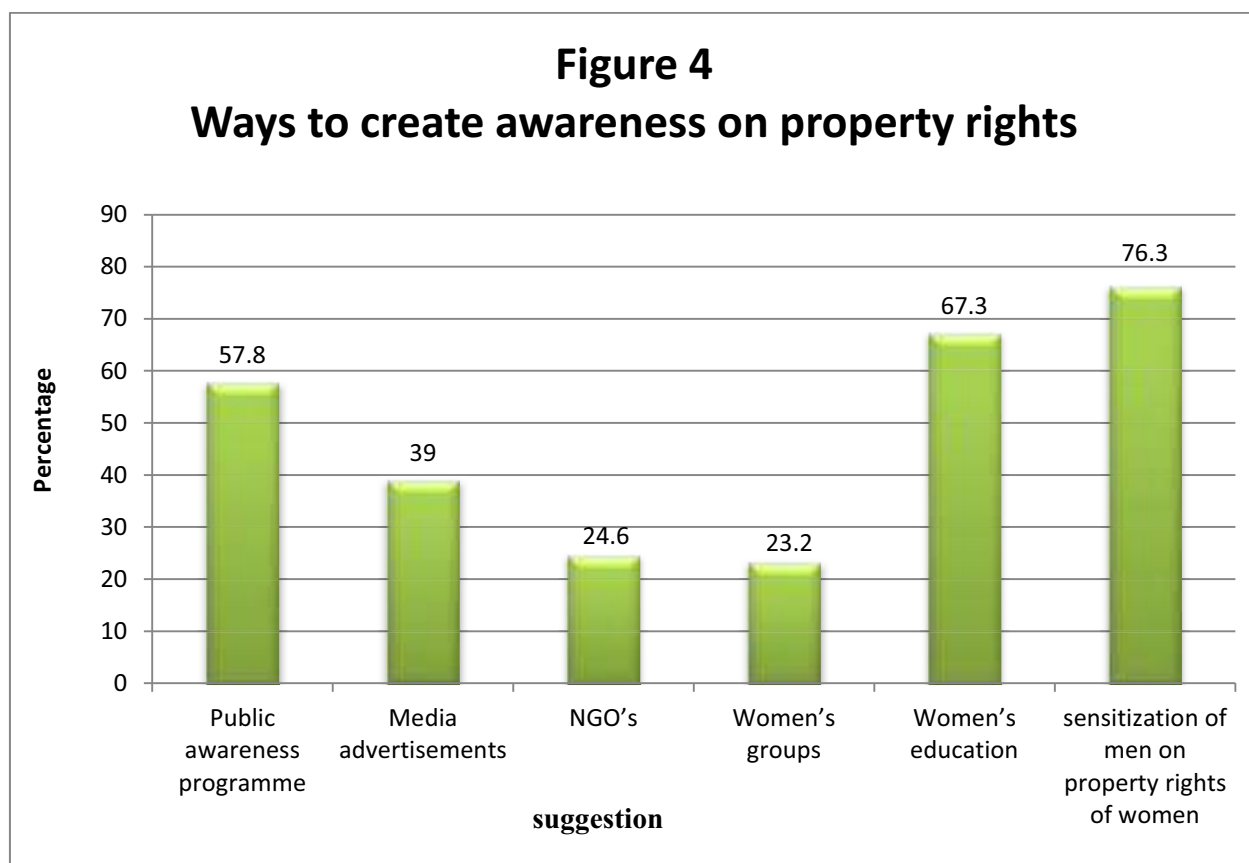


Figure 4 Highlights the ways to create awareness on property rights, lawyers suggested that women need to be made aware on women rights to property by Public Awareness Program (57%), educating the women (63%), through Media Advertisements (39%) and NGO's and Women's Groups (24%). A large number of Lawyers (76%) think that if men are sensitized to women rights to property it may reduce discrimination against women.

Conclusion

The Lawyers expressed that the Hindu Succession Act Tamil Nadu Amendment, 1989 and the Prevention of Domestic Violence Act, 2005 is more effective. Lawyers were of the opinion that women did not enjoy equal property rights while some felt that women did enjoy equal property rights. Nearly, sixty percent of the Lawyers think that

the existing laws and Policies guarantee equality between men and women regarding Property Rights, and of Lawyers felt that the existing gender laws guarantee women access to land and security of tenure. The Lawyers opined that there are no legal provisions to protect women and men equally on division of property in the event of Divorce. It was found that of the Lawyers are of the opinion that Muslim religion discriminate women in the rights with property like the Hindu religion. It was felt that only few of the Tribal women approached the courts to solve their property disputes and were successful. As the Hindu Succession Tamil Nadu Amendment Act, 1989 guarantees equal rights, this law should be properly enforced.

CHAPTER VIII

ANALYSIS OF THE DATA COLLECTED FROM GENERAL WOMEN ON PROPERTY RIGHTS

The practice of inheritance in our society has been patriarchal and gender discriminatory in nature. Cultural and traditional practices continue to perpetuate the patrilineal mode of inheritance that excludes women from the inheritance right. Theoretical exploration has unraveled how male dominance through marriage and family systems has overthrown the property rights of women and established the patrilineal mode of inheritance.

Feminists have perceived disinheritance of women as a problem of culture. Laws of inheritance governing different religious communities, namely, Hindu, Muslim, Christian and Parsi, have been framed in such a way which gives more privileges to men, bypassing women, barring a few matrilineal communities, where women could inherit property.

Table 16

General details of public women

General details	N	%
Age		
Below 18 Yrs	8	0.6
18-30 Yrs	453	34.9
31-45 Yrs	529	40.8
46-60 Yrs	224	17.3
Above 60 Yrs	84	6.4

Religion		
Hindu	772	59.4
Muslim	116	8.9
Christian	294	22.6
Parsi	116	8.9
Community		
ST/SC	449	34.6
FC/OC	51	3.9
BC	476	36.7
MBC	322	24.8
Marital Status		
Married	1158	89.2
Unmarried	69	5.3
Widow	63	4.8
Divorcee	5	0.4
Separated	2	0.2
Other	1	0.1
Educational Qualification		
Uneducated	243	18.7
Educated	314	24.2
School	487	37.5
College	42	3.2
Post Graduate	145	11.2
Professional	54	4.2
Technical/Vocational	13	1

N denotes number of general women

Table 16 exhibits the general detail of the women in the public who were chosen as the sample for the present study. It is noticed that the majority women participated in the survey study (99%). Majority of these women were from the age group of 31-45 years

(40.8%) and 34 percent were of the age group of 18-30 years. Less than 7 percent of the samples were below 18 years and above sixty years, almost half of the women followed Hindu religion and one fourth of the women belonged to Christianity about 9 percent of the women followed Muslim and Parsi religion. The women belonged to SC/ST (34%), BC (36.7%) and MBC (24%) community.

As far as the marital status of the respondents is concerned almost all the women were married (89%), and only 5 percent of them were unmarried or widows. Less than one percent of the women were separated or divorced. The women respondents in the study had gone to school (37%) and only 11.2 percent had post graduate qualification.

Table 17

Family details of the general women

Occupation	N	%
Unemployed	129	9.9
Student	9	0.7
Salaried Employee	360	27.7
Business	88	6.8
Self Employed	178	13.7
Farmer	359	27.7
Labourer	175	13.5
Monthly Income		
Below Rs 1,000	137	10.6
Rs 1,001- Rs 3,000	555	42.8
Rs 3,001- Rs 5,000	323	24.8
Rs5,001- Rs10,000	78	6.0
Above Rs 10,000	205	15.8
Family Type		

Join Family	736	56.7
Nuclear family	562	43.3
Spouse Occupation		
Unemployed	83	6.4
Salaried Employee	218	16.8
Business	18	1.4
Self Employed	58	4.5
Farmer	388	29.9
Labourer	533	41
Spouse Monthly Income		
Below Rs 1,000	137	10.6
Rs 1,001- Rs 3,000	450	34.7
Rs 3,001- Rs 5,000	315	24.2
Rs5,001- Rs10,000	148	11.4
Above Rs 10,000	248	19

N denotes number of general women

Table 17 shows that almost 50% of the women lived in joint families and the other half of the respondents lived in nuclear families. The spouses of the women were salaried (16%) or were involved in farming (29%). Around 41 percent of their spouses were working as laborers.

One fourth of the women respondents were either salaried or were doing farming (27%) while thirteen percent of women were self-employed or laborers. The monthly income of the women respondents was varied. Forty two percent of them earned Rs.1000- Rs.3000/-, 24 percent of them earned Rs.3001 – Rs.5000/- , 10 percent of them earned salary less than Rs.1000/- and around 15 percent of the women earned more than Rs. 10,000 per month. Their spouses also earned almost similar amount as salary.

Table 18
Social status of the general women

Type of house Owned	N	%
Own	1125	86.6
Rented	173	13.4
Children Education		
Private School	365	28.1
Government School	933	71.9
Marriage Involve Dowry/Gift		
Yes	773	59.5
No	525	40.5
Promised Amount/Gifts fully given		
Yes	1217	93.8
No	73	5.6
Partly Given	8	0.6
Take Decision in their family		
Husband	647	49.8
Wife	263	20.3
Both	344	26.5
Other Specify	44	3.4

N denotes number of general women

Table 18 provides the social status of the selected women. A large number of women (87%) lived in their own houses and their children were studying in Government schools (72%).

Almost 50 percent of the women respondents reported of having involved in either giving or receiving dowry or gift in their marriages and half of them denied the same.

Most of the women (93.8%) reported that their parents had given gifts and dowry as promised at the time of marriage. Nearly 50% of the respondents said that decisions in the family were taken by the husbands and only 20 percent of the women said they made the decisions in their families. About 26 percent of the respondents said that both the partners consulted with each other while taking decisions.



Photo 1 - Research Assistant (in the centre) is seen interviewing Women in Ariyalur District

Table 19

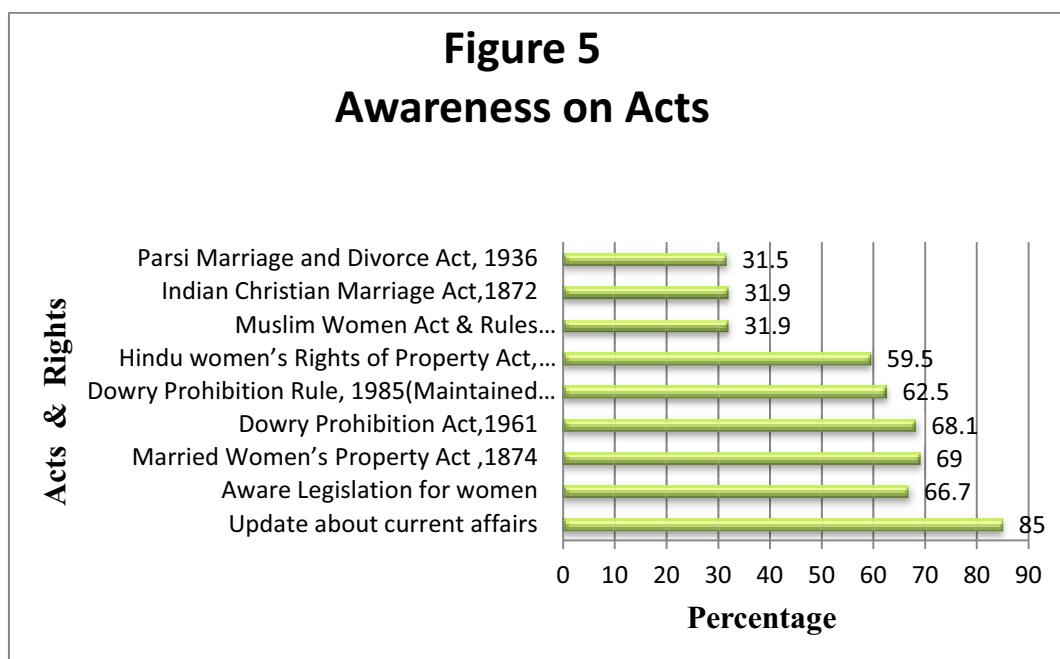
Awareness on Acts and rights of Women

Current Affairs	N	%
Update about current affairs	1104	85.0
Awareness on Legislations for women	866	66.7
Acts and Rights		

Married Women's Property Act ,1874	896	69.0
Dowry Prohibition Act,1961	884	68.1
Dowry Prohibition Rule, 1985(Maintained of list of gift given at the time of marriage)	811	62.5
Hindu women's Rights of Property Act, 1937	772	59.5
Muslim Women Act & Rules 1986(Protection of Rights on Divorce)	413	31.9
Indian Christian Marriage Act,1872	414	31.9
Parsi Marriage and Divorce Act, 1936	409	31.5

N denotes number of general women

Table 19 and figure 5 presents the awareness level of the women on Property Rights Acts. Eighty five percent of the women were updated with current affairs and 66 percent of them were aware of legislations for women. Women were aware of Married Women's Property Act, 1874 (69%), Dowry Prohibition Act, 1961(68%), Dowry Prohibition Rule, 1985 (Maintenance of List of Gift given at the time of marriage) (62%), and Hindu women's Rights of property Act, 1937(59%).



Majority of women were not aware of Muslim women Act & Rules 1986 (Protection of Rights on Divorce) (68%), Indian Christian Marriage Act, 1872 (68%), Parsi Marriage and Divorce Act, 1936 (68%).

Table 20
Property details of the general women

Property Details	N	%
Hold any Assets		
Yes	705	54.4
No	593	45.6
If Yes		
Earned Self	171	13.2
Earned Husband	1018	78.4
Given Parents	109	8.4
Inherited Property		
Yes	263	20.4

No	1035	79.6
If Yes, Equal share		
Yes	197	15.2
No	1101	84.8
If Yes, Willingness from Maternal family		
Yes	1286	99.1
No	12	1
If Yes, Type of Property**		
Land	393	30.3
Building	854	65.8
Jewelry	23	1.8
Utensils	2	0.2
Cash	10	0.8
All the Above	16	1.3
They Inherited from**		
Father	881	67.9
Grandfather	318	24.5
Father-in-Law	87	6.7
Others	12	0.9
Property owned by whom		
Own Name	164	12.6
Husband Name	1080	83.3
Other Male member in the family	54	4.1

N denotes number of general women

Data in Table 20 highlights the property details of the selected women in Tamil Nadu. It was noticed that an equal number of women reported to have property while the others said that they had no assets. About 78 percent of the women said that their

property was earned by their husbands. While 79 percent of the women who had property said it was not an inherited property. In the case of all the women who owned property said that it was willingly given to them by their maternal families.

Around 65 percent of the women had buildings as their assets and 30 percent of the women had land as assets. Less than 2 percent of them had cash, jewelry and utensils as assets. Majority of them had inherited property from father or grandfather. It is surprising to note that almost 83 percent of the women reported that the property was in the name of their husbands.

Table 21
Social Awareness and issues faced by the general women

Social Awareness	N	%
Involved in SHGs/Organizations	581	44.8
Scarcity of safe drinking water	627	48.3
Insufficient basic infrastructure facilities	497	38.3
Unequal wages for the same work	315	24.3
Drop outs from school	223	17.2
Atrocities against women	215	16.5
Eve teasing	156	12.1
Child abuse	132	10.2
Child labour	139	10.7
Drug addiction	214	16.5
Domestic Violence	220	17.0
Approach when they face problem in their area	927	71.5

N denotes number of general women

Table 21 and the figure 6 depicts the social awareness and the issues handled by the women respondents. Only 50 percent of the women were involved with Self Help Groups (SHGs), or some organizations. It was found that less only 10-20 percent of the women reported issues with regard to Unequal wages for the same work, Drop outs from school, Atrocities against women, Eve teasing, Child abuse, Child labor, Drug addiction, Domestic violence. Major issues faced by the women were Scarcity of safe drinking water (48%) and insufficient basic infrastructure facilities (38%).

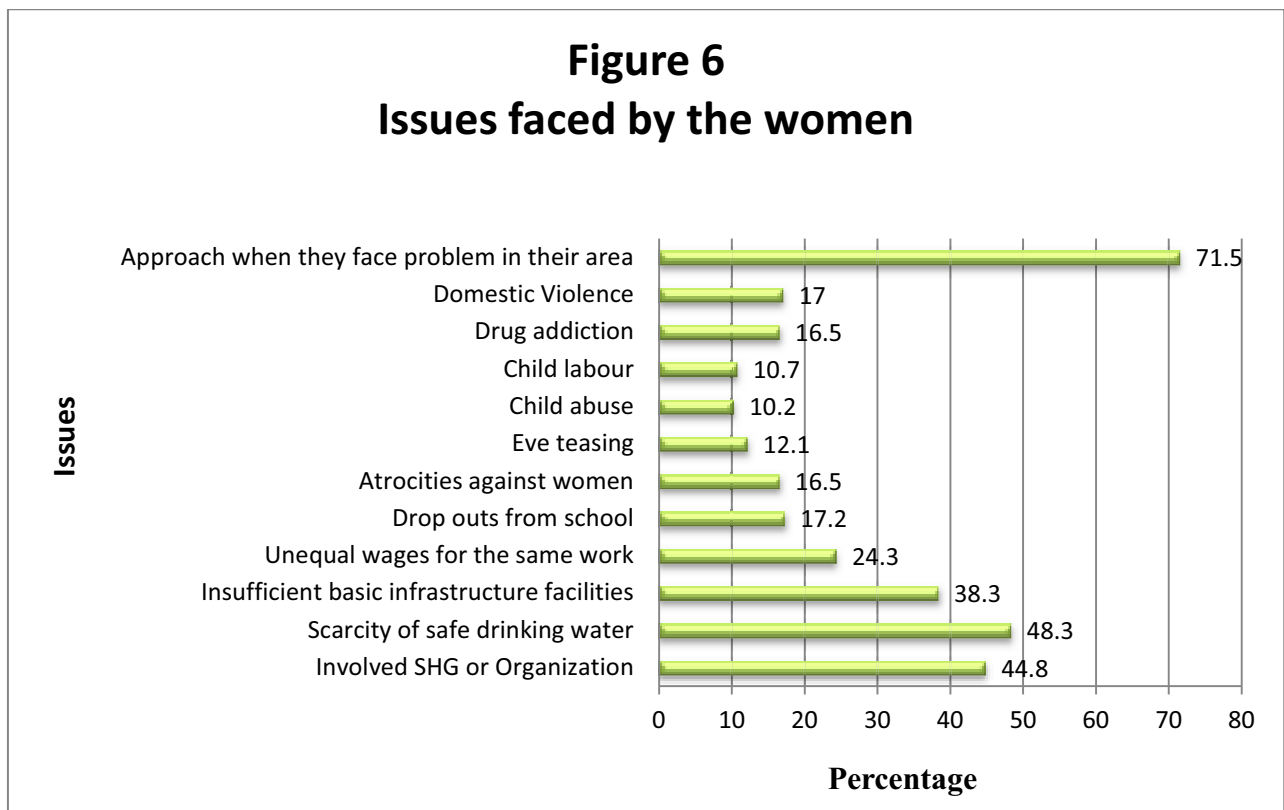


Table 22

Help sought by the women respondents during dowry harassment

Dowry harassment incident in past 6 months	N	%
Yes	1216	93.8
No	82	6.3
If Yes, reported		
Yes	835	64.3
No	463	35.7
They report to whom		
Protection Officer	405	31.3
Police	870	67.0
Women Organization	16	1.2
Others	7	0.5
Steps taken by them were		
Satisfactory	845	65.1
Unsatisfactory	253	19.5
Very Helpful	200	15.4

N denotes number of general women

Table 22 shows the kind of help that the women respondents took when they faced Dowry harassment in their locality in the past six months. About 67 percent of the women approached the police and 30 percent of them approached protection officers. Majority of the women felt that the steps taken by them were satisfactory (65%), while only 19.5 percent of the women were not satisfied with the help. While 15.4 percent of them felt the help received was very much helpful. Women did not openly discuss about dowry harassment. These details were detected from the respondents through probe.

Women irrespective of their caste differences wanted to shed the culturally defined gender inequality. An overwhelming proportion vehemently expressed their views for equal division of property between both husband and wife. Respondents felt the need to level the gender gap in the employment sectors as gender division of labor has been quite blatant across many sectors, mainly in the areas of decision making. Realizing the importance of this, majority of respondents believed in having gender parity in employment sectors in terms of property rights and inheritance of property.



Photo 2 - Field Investigator (from left is seen) interviewing women in Theni district

Table 23

Awareness on legal information among the women

Knowledge**	N	%
Dowry giving/accepting is prohibited	972	74.9
Widows and divorced women are entitled to remarry	1025	79
Women also have rights to divorce on same grounds as admissible for men	962	74.1

Rights to education is a right for the child	1004	77.3
Provision for getting Alimony/Maintenance	997	76.8
Financial assistance for the marriage of the widow's daughter	983	75.7
Old age pensions	1076	82.9
Pension for widows/handicapped	965	74.3

**Percentage exceeds 100 due to multiple responses

N denotes number of general women

Table 23 and figure 7 exhibits the knowledge on the legal information among the women in Tamil Nadu. It was found that most of the women had knowledge on marriageable age for girl and for boy, that both giving and receiving dowry are prohibited, widows and divorced women are entitled to remarry, women also have the Right to divorce on same grounds as admissible for men, right to education is a Right for the child, provision for getting Alimony / Maintenance, Financial assistance for the marriage of the widow's daughters, Old age pensions, Pension for widows/handicapped.

Figure 7
Legal information among the women

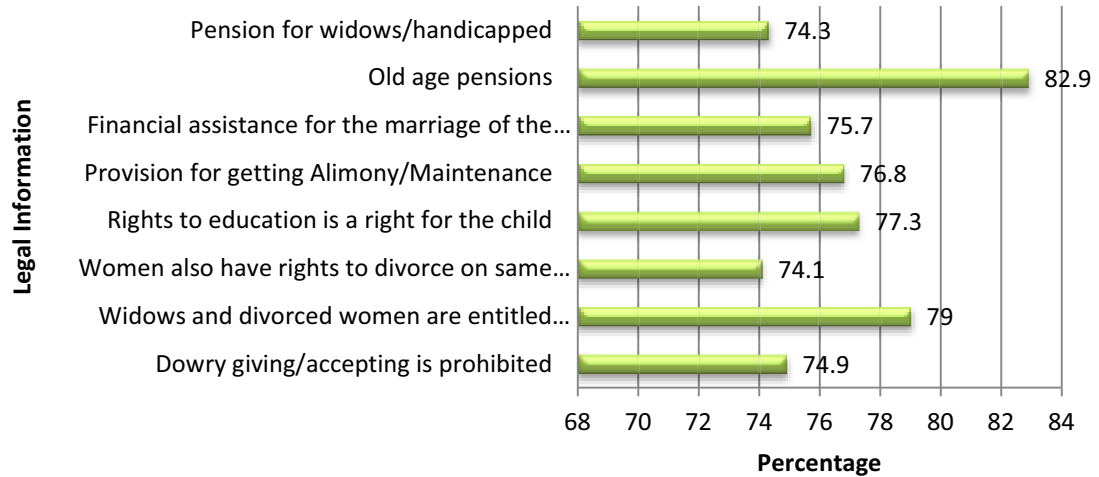


Table 24
Changes preferred by the selected women

Marriageable age for girls, agree	N	%
Yes	46	3.5
No	1252	96.5
Age they prefer		
Girls 21 Boys 24	515	39.7
Girls 23 Boys 26	464	35.8
Girls 25 Boys 28	319	24.5
Government facilities are adequate		
Adequate	473	36.5
Inadequate	483	37.1
Need Changes	342	26.4
Knowledge about Property Rights		

Yes	796	61.4
No	215	16.6
Knowledge do not use it to the fullest	287	22.0
Aware of their Rights		
Media Awareness	463	35.7
Awareness through SHG	57	4.3
Awareness through Literacy	23	1.8
All the above	755	58.2
They expect changes from the Government		
Yes	907	69.9
No	391	30.1
If No,		
Time Delay	769	59.2
Policy Changes	443	34.2
Cumbersome Procedures	86	6.6

N denotes number of general women

In Table 24, it is surprising to know that almost all the women (96%) disagree with the marriageable age fixed for girls. Most of them suggested that the marriageable age should be increased from 21-25 for girls and for boys 24-28 years of age.

Equal number of women felt that the government facilities were inadequate and needs to be changed. While 36 percent of the women felt they are adequate. About 61 percent of the women had knowledge on their property rights and 22 percent of them do not exercise these rights to the fullest.

Fifty eight percent of the women suggested that creating awareness through media, SHGs and Literacy was correct. Many of them (59%) felt that they did not expect

changes from the government because it was always delayed and (34%) felt that even before one government policy was implemented there was change in the policy.



Photo 3 - Research Team interviewing women in Salem district

Conclusion

A majority of women who had their right over their earnings stated quite emphatically that their spending was oriented towards family welfare. Responses to a query whether women should have control over their earnings were found to be commendable, and supported the idea of women's control over their earnings, irrespective of the socio-economic differences. A similar gender positive approach was displayed by tribal women too, with regard to their understanding of married women, career and family life.

CHAPTER IX

ANALYSIS OF THE DATA COLLECTED FROM TRIBAL WOMEN ON PROPERTY RIGHTS

India has the largest concentration of tribal people. The areas inhabited by the tribal's in India constitute a significant part of the underdeveloped areas of the country. The tribal's live mostly in isolated villages or hamlets. A smaller portion of their population has now settled in permanent villages as well as in towns and cities.

The characteristics of the tribes are as follows:

- a. Primitive traits;
- b. Distinctive culture;
- c. Shyness of contact with public at large;
- d. Geographical isolation; and
- e. Social and economic backwardness.

The above characteristics are responsible for the miserable condition of the tribal's as they are extremely shy to express their own problems before the government functionaries.

In Tamil Nadu state, according to the 2001 census, the total Scheduled Tribes population is 651,321 which constitute 1.04% of the total population of Tamil Nadu. In the entire State of Tamil Nadu, 36 Scheduled Tribes are identified by the Government of India. They are spread over into different districts of the State. According to 2001 census, the total general population in the Nilgiris district, is 7.64 lakhs out of which the total Scheduled tribes population is 28,373, constituting 4.32% of the total general population.

Though the Government of India has taken various measures for the overall development of the Tribal people of Scheduled areas, the benefits could not reach them.

The reasons are as follows:

A. Tribal people are generally peaceful by nature and they are satisfied with the available resources or assets with them and do not make complaints about any discrimination;

B. Most of the Tribal people are not aware of the schemes or programmes under implementation for their own benefits and generally do not approach the administration for their own requirements;

C. Tribal community settle their issues within their own Panchayats and abide by the decisions taken by their Panchayats even if they feel discrimination or injustice done. They avoid lodging complaints with the administration or police;

D. They prefer to move within their own community and whatever they get from the Government, accept it as gift and try to avail the given facilities.

The challenges at various levels are listed as follows:

A. Multiplicity of Schemes: There are innumerable schemes under execution for development of Scheduled Tribes in scheduled area and there is no proper system to differentiate between these schemes.

B. Lack of Property Control: The top bureaucrats are quite reluctant to work in the remote areas and field visits for assessing the problems of the people and mode of execution of schemes is rare which result in malpractices.

C. Sensitivity in Administration: The people of Tribal community must be encouraged to meet the administration. This process can be started by field visits of the Officers and their commitment to help the Tribal community.

Tribes belonging to the six groups namely **TODAS, KOTAS, IRULAS, KATTUNAYAKKANS, PANAIYANS and KURUMBAS** listed in the Schedule were considered for the study. The Tribal women of various religions and States continue to be governed for their property rights by the customs and norms of their tribes. Analysis of the Tribal data is presented in this chapter.

Table 25
General details of the selected Tribal women

General Details	N	%
Age		
Below 18	-	-
18-30 Yrs	95	46.0
31-45 Yrs	72	34.6
46-60 Yrs	32	15.5
Above 60 Yrs	8	3.9
Marital status		
Married	165	79.7
Unmarried	7	3.4
Widow	29	14.0
Divorcee	-	-
Separated	6	2.9
Educational qualification		
Illiterate	47	22.7
School	138	66.7
College	22	10.6

N denotes number of tribal women

Table 25 presents the general details of the Tribal women in Tamil Nadu. The respondents taken for the study were women belonging to various age groups. About 46 percent of the respondents belonged to the age group between 18-30 years and 34 percent belonged to the age bracket of 31-45 years, while 15 percent belonged to 46-60 age bracket and only three percent of the women were above 60 years age.

Around 79 percent of the tribal women were married and 14 percent were widows. A large number of tribal women (66%) were school educated and only 23 percent of them were uneducated. Ten percent had done their College studies.

Table 26
Family details of the selected Tribal women

Occupation	N	%
Salaried Employee	138	66.7
Business	23	12.1
Farmer	46	21.2
Monthly income		
Rs 1001- Rs 3000	4	1.9
Rs 3001- Rs 5000	65	31.4
Above Rs 10,000	138	66.7
Family type		
Joint Family	50	24.2
Nuclear Family	157	75.8
Spouse occupation		
Salaried Employee	138	66.7
Business	4	1.9
Farmer	65	31.4
Spouse income		

Rs 1001-Rs 3000	65	33.3
Rs 3001-Rs 5000	138	66.7
Tribe Belonging to		
Todas	62	29.8
Kotas	4	1.9
Kattunayakkans	13	6.3
Irulas	5	2.4
Paniyan	61	29.8
Kurumbas	62	29.8

N denotes number of Tribal women

In Table 26, the occupation details of the Tribal women are presented. Sixty six percent of the women were salaried and only 21 percent took to farming. A large number of women earned more than Rs.10,000/- per month and about 31 percent of them earned monthly salary between Rs.3001-5000/-. More than 75 percent of the women lived in nuclear families and only less than a quarter of them preferred to live in joint families. It is interesting to know that all the spouses of the tribal women were employed. Nearly 66 percent of them earn Rs.3001/--Rs 5000/- per month and 33 percent of them earn Rs.1001/--Rs.3000/- per month.

It was found that around 30 percent of the women belonged to Todas, Paniyan and Kurumbas tribe while, only 6 percent of them were from Kattunayakkans.



Photo 4 - Field Investigator (Second from right) interviewing women in Nilgiris district

Table 27

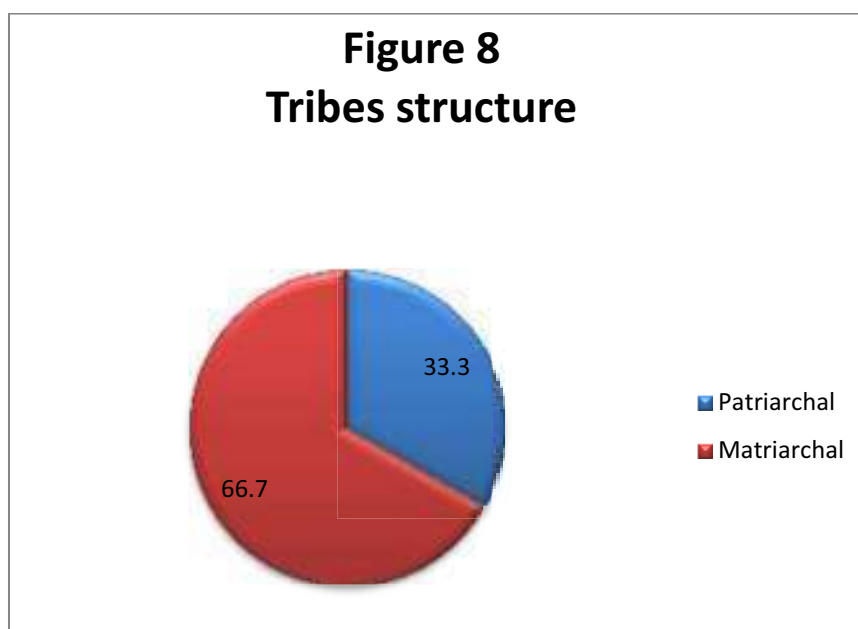
Social status of Tribal women in Tamil Nadu

Type Of House	N	%
Owned	159	76.8
Rented	48	23.2
Children Attending School Regularly		
Yes	138	66.7
No	69	33.3
Belong to which Tribe		
Patriarchal	69	33.3
Matriarchal	138	66.7
Benefits get above structure		
Traditional Way	46	22.2
Property Benefits	138	66.7
Not Responds	23	11.1

Practice the Tradition of Polyandry/Polygamy		
Yes	23	11.1
No	184	88.9

N denotes number of Tribal women

In Table 27, the social status of the selected tribal women in Tamil Nadu is presented. From figure 8 it is found from the study that about 78 percent of the women live in their own houses with 66 percent of their children going to school regularly.



It was interesting to note that 66 percent of the tribal women belonged to Matriarchal structure and all of them reported being benefited from the above structure. Majority of them had enjoyed property benefits (66%). Almost 89 percent of the tribal women do not practice Polyandry/Polygamy. This proves that the general notion that all Tribes follow Polyandry or Polygamy is incorrect.

Table 28**Property details of the selected Tribal women**

Property Details	N	%
Awareness of Legislations for Women	69	33.3
Dowry details		
Involve Dowry/Gifts	23	11.1
Promised Amount/Gifted Full Given	69	33.3
Have ancestral property		
Yes	182	87.9
No	25	12.1
Inherited From		
Father	182	100.0
Others	-	-
Possess Any Assets		
Yes	69	33.3
No	138	66.7
If Yes		
Purchased	23	11.1
Gifted	46	22.2
Earned by Husband	138	66.7
Earned by Self	-	-
Types Of Assets Owned		
Land	199	96.1
Building	-	-
Jewelry	-	-
Cattle	8	3.9
Shops	-	-
Name in above said Assets		
Self	180	87.0

Spouse	27	13.0
Others	-	-

N denotes number of Tribal women

Table 28 shows that only 33 percent of them were aware of the legislations for women. Almost 88 percent of the women said that their marriages did not involve giving or receiving Dowry/ Gifts. Only about 11 percent reported that they involved in giving and taking dowry and gifts and only 3 percent of them reported of having fulfilled the promised amount or gifts. About 88 percent of the tribal women had ancestral property. All of them inherited property from their fathers. Only 33 percent of the women possessed Assets, and 66 percent of them said it was earned by their husband. Almost all 99 percent of their assets were in the form of land and only 1 percent of them were having cattle as an asset. About 89 percent of the women were aware about Property Rights of Women and had the property in their name. All the women felt polyandry affects a women's Property Rights and are positive about women to possess Property.

Table 29

Awareness of property rights of the selected Tribal women

Awareness about the Property Rights	N	%
Yes	184	88.9
No	23	11.1
Women knew about Property Rights through		
Family	184	88.9
Literacy	-	-
Awareness	-	-

Media	23	11.1
Feel about Polyandry affects a women's Property Rights		
Yes	15	7.2
No	192	92.8
View for women to possess property		
Yes	192	92.8
No	15	7.2

N denotes number of tribal women

As seen in Table 29, about 89 percent of the women were aware about the Property Rights of Women and had the property in their name. All the women felt polyandry affects a women's Property Rights and are positive about women to possess property.

Table 30

Tribal Women's Opinion on the status of girl child

Birth of Girl child in family	N	%
Blessings	161	77.8
Curse	46	22.2
Burden	-	-
Education of Child		
Necessary	161	77.8
Waste of time	-	-
Family Restriction	-	-
Not Interested	46	22.2
Not Required	-	-
Practice of female infanticide		

Yes	18	8.7
No	189	91.3
Support given by the government with regard to the education of girl child		
Sufficient	46	22.2
Not Sufficient	161	77.8
Not Useful	-	-
Changes Needed		
Free and compulsory education up to Higher Secondary	46	22.2
College and Higher Education	161	77.8
Placement	-	-

N denotes number of tribal women

Table 30 depicts the opinion of the respondents on the status of women. It was found that 77 percent of the tribal women consider the birth of a girl child in their family as a blessing and believed that the education of the girl child is necessary and 91 percent of women reported that they did not practice female infanticide in their tribes. About 77 percent of the tribal women felt that the support given by the government with regard to the education of a girl child is not sufficient and suggested that it would be helpful if the Government supported their children in College and Higher Education.



Photo 5 - Research members (From left are seen) interacting with the Tribal People

Table 31

Opinion of the Tribal women on emancipation of women

Opinion on equal freedom with males in tribes	N	%
Yes	69	33.3
No	138	66.7
Feel about existing system of Inheritance in tribal community		
Satisfactory	69	33.3
Not Satisfactory	138	66.7
Issues affect women's development in tribe community		
Domestic Violence	25	12.07
Dowry Death	54	26.08

Sexual Abuse	20	9.66
Illiteracy	85	41.09
Poverty	23	11.1
Unemployment	-	-

N denotes number of Tribal women

Table 31 shows that 66 percent of the Tribal women felt that the women in their society did not have freedom as male members in the family and the same percentages of Tribal women were not satisfied with the existing system of inheritance in their Tribal Community. Figure 9 shows that nearly 41 percent of them felt that the issues that affect women's development in their community were illiteracy, 26 percent felt dowry death as one of the reasons that affected women's development and about 10 percent to 12 percent of them felt domestic violence 12 percent, poverty (11%) and sexual abuse (10%) as the reasons which affected women's development.

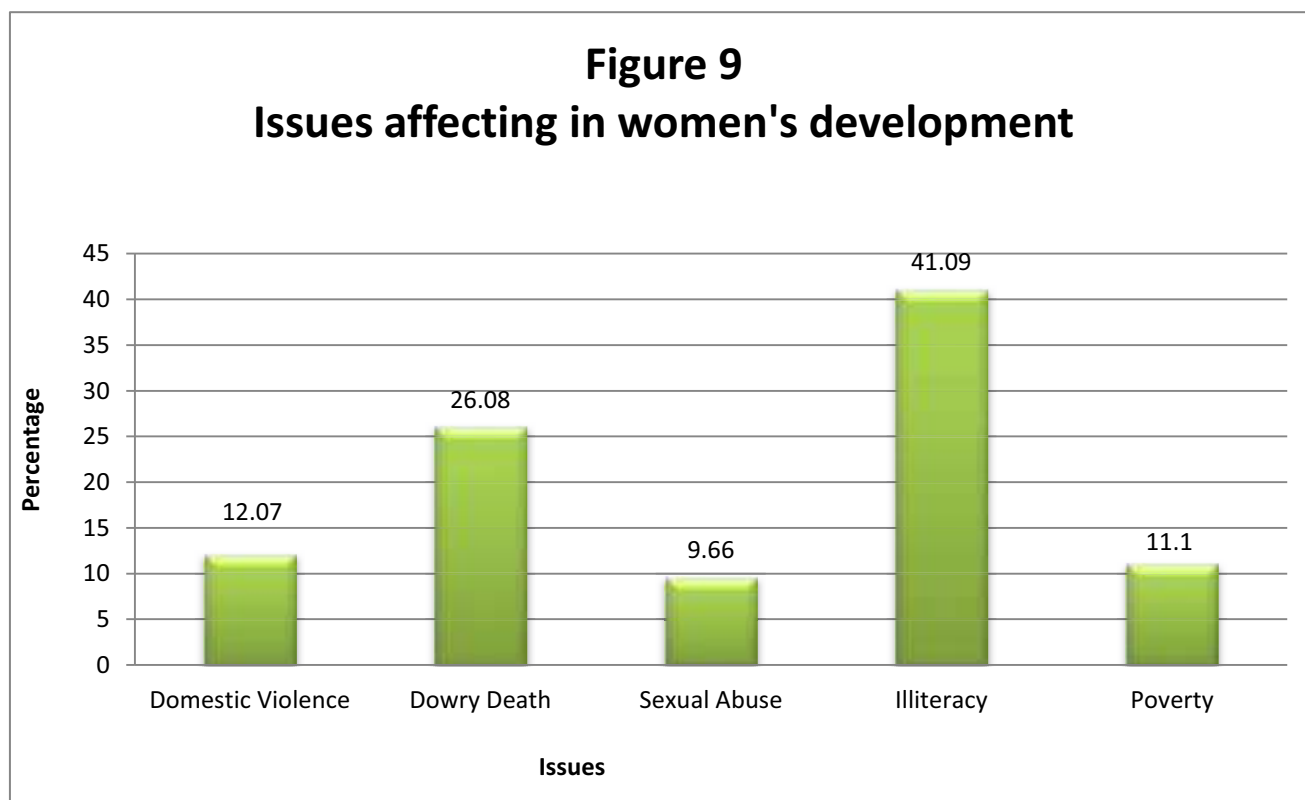


Table 32

Awareness on the program and policies on property rights

Feel women should become equal heirs in Inheritance	N	%
Yes	207	100.0
No	-	-
Heard of Government programs and policies		
Yes	207	100.0
No	-	-
If yes, How did they know		
Community Leader	23	11.1
Elected Representatives	184	88.9
Educational Institution	-	-
Government Department	-	-
Media	-	-

N denotes number of Tribal women

From Table 32, it can be inferred that Tribal women strongly felt that they should be made as equal heirs in Inheritance of property. Surprisingly, all the Tribal women are aware of government programs and policies. This awareness has been gathered from the elected representatives 88 percent and community leader 11 percent.



Photo 6 - Research team along with the Tribal women in Nilgiris district

Table 33

Awareness on specific government schemes on property rights

Government Schemes	N	%
NREGA		
Yes	23	11.1
No	184	88.9
SGSY		
Yes	-	-
No	207	100
IAY		
Yes	184	88.9
No	23	11.1

NSAP		
Yes	184	88.9
No	23	11.1
RSVY		
Yes	174	84.1
No	33	15.9
BRGF		
Yes	23	11.1
No	184	88.9

N denotes number of Tribal women

In Table 33, the awareness level of the women on the specific government schemes like, National Rural Employment Guarantee Act (NREGA), National Social Assistance Programme(NSAP), Indira Awas Yojana (IAY), Swarna Jayanti Gram Swarozgar Yojana (SGSY), Rashtriya Shram Vikas Yojana (RSVY)and Backward Region Grant Fund (BRGF) is tabulated. It is found that there was a huge awareness on the following schemes, IAY, NSAP and RSVY, and only 11 percent of the women were aware of the schemes like, NREGA, SGSY and BRGF.

Table 34
Awareness and involvement in Self Help Groups

Self Help Groups	N	%
SHG in their area		
Yes	84	40.57
No	123	59.43
Involved SHG		

Yes	53	36.72
No	131	63.28
Received any Assistance from SHG		
Yes	184	88.9
No	23	11.1
Activities of SHG Satisfactory		
Yes	23	11.1
No	104	50.25
Need to Improve	80	38.65
Received any financial assistance from government		
Yes	184	88.9
No	23	11.1
Modernization affected the traditions of community		
Yes	164	79.22
No	43	20.78

N denotes number of Tribal women

From the Table 34, it was evident that around 40 percent of women were aware of the Self Help Groups (SHGs) in their area and only 25 percent of them involved themselves in the SHGs. A large number of the women about 89 percent have received assistance from the SHGs in the form of financial assistance. It was surprising to see that 50 percent of the Tribal women in Nilgiris were not satisfied with the activities of the SHGs and 38 percent suggested that it has to be improved. Further 79 percent also felt that modernization has affected the traditions of the community.

Conclusion

An overwhelming proportion of Tribal women had a very strong gender favorable approach and they emphasized that girls were as good as boys. Respondents were found to be quite aware of the legal change in inheritance rights. However, the respondents were not aware of the Government schemes. A sizeable proportion of respondents also had a fair knowledge that the equal inheritance right was applicable.

CHAPTER X

CONCLUSION, RECOMMENDATIONS AND SCOPE FOR FURTHER RESEARCH

The present study on **Property Rights of Women in Tamil Nadu** points out the need for the reform of the land ownership and inheritance entitlements for women. This includes the need to bring about changes in customs, perception, laws and structures for administering and adjudicating ownership and inheritance matters, as well as policies and programs related to livelihoods derived from land.

The main findings of the study are that there are gaps and lags in the Constitution with regard to women's property and inheritance rights. These loopholes raise a hideous specter of gender inequality in matters of property ownership and inheritance by women. In both Matrilineal and Patrilineal systems of marriage, women have few or no independent rights to property due to the mixture of traditional customs and norms in the process of inheritance.

The Government Officials expressed that any initiative from the Government side can be successful through effective implementation and public co-operation. With regard to the property rights of women there is an urgent need to create awareness among public and women in particular. Officials expressed that laws of equal inheritance of property for women have been in existence for a very long time but it is high time that discrimination of women in property inheritance was viewed strictly to end such disparities.

Lawyers have recommended for revision of existing property laws to make it more effective. Lawyers also expressed the view that women are not adequately protected on

division of property in the event of divorce. Such laws should be given special attention for revision.

It is evident from the study that women have revealed an apparent indication towards not exercising their rights in inheriting property. The study reveals that there has been unequal distribution of property by all religious groups. Though property was given willingly by their parents yet, most of the women have accepted with a disappointment because they were given unequal share and majority of women expressed that property was deliberately registered in their spouse's name so that they would keep them happy.

Knowledge about the legal provisions for women, through this study, is found to be in a poor state. But awareness on government facilities was notably high among women. Surprisingly, the Tribal women were more knowledgeable about property rights. But they are governed by their customary laws which do not provide equal rights in inheritance. Inheritance for women was only from their fathers. The property they had was earned by their husbands.

It is very evident from the study that apart from the ongoing struggle for a uniform civil code in accordance with the Constitutional framework, today the Indian women are fighting for rights in marital property, denied uniformly to them across all religious boundaries. There is also a significant movement in some of the hill states, towards community ownership of land by women by creating group titles and promoting group production and management of land and natural resources by landless women for joint cultivation or related farm activity. Land rights would be linked directly to residence and working on land under this approach being lobbied for under the Beijing Platform for Action. However, the challenges are many, social acceptance of women's rights in property leads them. In a country where women continue to be property themselves the road ahead in women's property rights promises to be long and bumpy.

RECOMMENDATIONS

The present report outlines the recommendations in key areas in relation to the implementation of women's security of possession, which could offer Policy makers fresh insights and ideas. Certain recommendations in this aspect are put forth based on the inference of the study. It is suggested that actions at four key levels would help increase the legal support services for women seeking to resolve property and inheritance disputes.

FOR CENTRAL GOVERNMENT:

1. All religious laws which discriminate against women with respect to property rights must be repealed, struck down or immediately amended.
2. Customary laws which discriminates women in the inheritance of property in the context of land and housing matters must be banned.
3. New laws related to property must include specific provisions which recognize and protect independent rights of property for women belonging to all religious groups.
4. Ensure gender equity for women of all communities and effective implementation of all existing laws governing women's legal rights.
5. All sectors of society like Women, Men, Governmental Officials, Legislators, Judges, Lawyers, grassroots community based Non-Governmental Organizations and Educators must be educated on the International Human Rights with a focus on women's rights and on economic, social and cultural rights including women's right to property.
6. An Expert Group consisting of Women Activists, Legal Experts, Academicians, should be formulated to draft "Basic Principles for Women's Rights to Property" so as to promote, protect and enforce women's rights to property at the Local, Regional and National level.

7. Provisions mandating joint titling of marital property should be provided which would be the best protection for women.
8. Schemes that explore creative ways to ensure women's sustained access to productive land should be created by paying attention to factors governing its purchase, access and control over the production process.
9. Legal provisions that restrict the freedom to will away property should be made which would protect women's right to reside in the natal home.
10. Fast Track Courts to be set up to settle property related cases immediately.
11. To create a network of people who could monitor the key policy-implementing agencies with regard to women's property and inheritance rights.
12. Effective steps should be taken to ensure that the State Government Schemes and facilities are benefitted by the Tribals in order to develop their socio- economic conditions.

FOR STATE GOVERNMENT:

13. Tamil Nadu Government Amendment Act 1989 should be amended to help women to inherit property with retrospective effect to enable women to enjoy equal benefits like male members of the family.
14. The Government should make a provision for Women including married women who could easily approach the Courts to get the share that is due to them from their families.
15. Tamil Nadu Government must concentrate on the creation of easy accessible and independent enforcement agencies to mediate with the help of a non-partisan, third party to resolve land /inherited property disputes among families and to help women to get their share of property.
16. The Tamil Nadu Government should establish local Tribunals with quasi-judicial powers to help women of the economically weaker sections by providing free legal aid.

17. Free legal awareness programmes for women must be included in the educational Institutions like Schools and Colleges.
18. Research should be undertaken to know how to create gender-sensitive mechanisms and the findings must be utilized by the enforcement agencies.
19. Encourage financial institutions to design schemes and provide credit and loans towards better, affordable and accessible asset building for women, specially housing.
20. Undertake harmonization of all laws, policies and acts that impinge on different aspects of women's property rights.
21. The Government should appoint the Anthropologists as Field Officers /Welfare Officers to evaluate and to monitor the implementation of the schemes in the Tribal villages. This will ensure that the program remains effective and culturally sensitive.
22. To bring the Tribal children to the mainstream, the school curriculum should be designed according to their culture, dialect and local environment and also in respect to teachers inputs like teaching and training should be modified related to Tribal culture.
23. To create awareness on women rights in the rural areas.
24. To extend co-operation for the Central government initiatives on women issues.
25. To initiate more number of women specific policies at the State level.
26. To provide periodical orientation to Officers and other legal Personnel involved in the sphere of women's protection.
27. To create network to establish a common understanding of policy change goals among relevant civil society organizations.
28. To increase the exposure of local representatives to successful mediation systems through internships and exchange visits.

FOR LOCAL GOVERNMENT:

29. To train paralegals and community leaders as mediators.
30. To create a network of people who could monitor the key policy-implementing agencies with regard to women's property and inheritance rights.
31. To develop effective systems to disseminate timely, up-to-date information on women's property and inheritance rights.
32. To involve and form community-based women's groups.
33. To develop strategies to convince traditional leaders to act as custodians of values and norms and to address socio-cultural barriers to women's status.
34. To conduct education campaigns on gender equality and women's rights in schools, community centers, and other local venues using information, education, and communication materials. These efforts should include men.
35. To develop grassroots-level mediation networks for both men and women.

OTHER AGENCIES:

36. Non-Governmental Organizations (NGOs) should be involved in the process of creating awareness.
37. NGO's should involve men in their awareness campaigns enabling them to sensitize on women's issues.
38. Posters, pamphlets, public contacts programs can be used to create awareness.

SCOPE FOR FURTHER RESEARCH

- ➡ Similar studies can be replicated in other states of India to gain a comprehensive understanding of the extent, nature and impact of women's ownership of property and inheritance rights.

- ➡ Studies can be conducted among different communities and socio-economic groups to enrich understanding of how differing contexts impinge upon women's ownership and control over property, and the effect they have upon women's lives.
- ➡ In-depth exploration could be done through micro- studies to gain more insights in specific factors that aid and constraint women's access, control and effective ownership over different forms of assets, including property.

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APPENDIX –I

INTERVIEW SCHEDULE FOR GOVERNMENT OFFICIALS

1. Name :
2. Age : a) 25-35 Yrs b) 35-45 Yrs c) 45-50 Yrs d) Above 50Yrs
3. Sex : a) Male b) Female
4. Educational Qualification:
5. Designation / Post held:
6. Years of Experience
(In this Designation) :

Rights of women

7. Do you think there is adequate awareness of Constitutional rights among women?
a) Adequate b) Moderate c) Inadequate
8. Do you think there is adequate awareness of property rights among women in Tamil Nadu?
a) Yes b) No
9. Do you think women in Tamil Nadu enjoy equal rights with men in the inheritance of property?
a) Yes b) No
10. If no, why?
 - a) Lack of awareness of the public on the legislations for women
 - b) Unwillingness of the male members to treat women equally
 - c) Inefficient machinery to implement
 - d) Loopholes in policies
11. Do you consider that strict legislative reforms would enable women to enjoy equal rights in property and inheritance?
a) Yes b) No

12. What according to you hinders the process of implementation of the legislations for women?

- a) Weak enforcement machinery
- b) Lack of awareness among women
- c) Political influence
- d) Non-Cooperation of the public
- e) All the above

13. Do you feel that the legislations on property rights need to be improved?

- a) Yes
- b) No

14. If yes, mention the area that needs concentration?

- a) Legislative reforms
- b) Speedy and effective implementation
- c) Bigger and stronger administrative machinery to effectively deal with complaints
- d) All the above
- e) Any other – Please Specify

15. How successful are the steps taken with respect to property rights of tribal people in general and women in particular?

- a) Successful
- b) Un-successful
- c) Satisfactory
- d) Failure

GENDER

16. What is your view on Gender based discrimination in our society?

- a) Increased
- b) Decreased
- c) Has been controlled
- d) Has to be controlled

17. How far the Government has been successful in addressing women's concern with CEDAW (Convention on the Elimination of All Forms of Discrimination Against Women) in particular?

- a) Successful
- b) Unsuccessful
- c) Need more strict measures

18. How are gender concerns and perspectives on policies and programs for women development being initiated?

- a) Periodical evaluation on the status of women
- b) Based on recommendations made by women's groups/ NGO's
- c) Reports received from media
- d) To fulfill the constitutional provisions for women

19. Please mention the programmes that focus on women's development more effectively?

- a) Advocacy/Literacy programmes
- b) Capacity-building Training programmes
- c) Free Counseling and Legal aid
- d) Shelter / refuge homes
- e) Any other, please specify.

20. In your service, have you worked in collaboration with local authorities or other government structures on women's safety and violence prevention?

- a) Yes
- b) No

21. If yes, please mention the agencies you have worked with

- a) Government Officials (Commissioners, Revenue Officers, Registrars, etc.)
- b) Police stations
- c) Judiciary
- d) NGO's
- e) Advocates
- f) Counselors
- g) Any other, please mention.

22. What changes would you suggest for better implementation of the laws pertaining to women?

- a) To bring uniform civil law for all religious groups
- b) To ensure equality of men and women
- c) To gender sensitize judicial officials and Police officials
- d) Please mention the other changes.

23. Do you think that there is a need for the creation of a special mechanism to address laws that discriminate women?

- a) Yes b) No

24. Are the existing mechanisms sufficient?

- a) Adequate b) Inadequate c) Has room for Improvement

25. Please give your suggestions to

APPENDIX –II

QUESTIONNAIRE FOR LAWYERS

GENERAL DETAILS:

1. Name :
2. Age :
3. Sex : a) Male b) Female
4. Educational Qualification :
5. Specialization : a) Civil b) Criminal

VIEWS ON PROPERTY RIGHTS OF WOMEN:

6. Do the existing Acts pertaining to women adequately protect women's Rights?
a) Yes b) No
7. Have you attended cases related to Property disputes?
a) Yes b) No
8. Have women approached cases regarding property?
a) Yes b) No
9. What sort of problems do women face in these cases?
a) Discrimination by Parents b) Discrimination by male siblings
c) Discrimination by Husband d) Discrimination by Sons\
e) All the above
10. Do you feel women are discriminated with regard to property rights?
a) Yes b) No

11. If yes, what kinds of discriminations are made?

- a) Discrimination – between Married Daughters & Unmarried Daughters
- b) Discrimination – between a Daughter & a wife in the same family
- c) Discrimination – between Natural Daughter & Adopted Daughter
- d) All the above

12. Do you feel Women who have approached courts with regard to property disputes were aware of their Property Rights?

- a) Yes
- b) No

13. Do you feel that Property Rights of women can further be revised?

- a) Yes
- b) No

14. If yes what kind of revision can be made?

Please specify? _____

LAWS DISCRIMINATING AGAINST WOMEN:

15. In what ways do the laws discriminate against women?

- a) Direct Discrimination
- b) Indirect Discrimination

16. Are there any laws to check discrimination either directly or indirectly with regard to the following:

- | | | |
|------------------------------|--------|-------|
| a) Religious Groups | a) Yes | b) No |
| b) Disabled indigenous women | a) Yes | b) No |
| c) Minorities | a) Yes | b) No |
| d) Migrant women and girls | a) Yes | b) No |
| e) If yes Specify _____ | | |

17. Do you think women and men enjoy equal Property Rights?

- a) Yes
- b) No

18. Does the existing laws and Policies guarantee equality between men and women regarding Property Rights?

- a) Yes
- b) No

19. Do you think the existing gender laws guarantee women access to land and security of tenure?

- a) Yes b) No

20. Do you think the Legal provisions protect women and men equally on division of property in the event of Divorce?

- a) Yes b) No

21. Which religious groups of women are discriminated with regard to property Rights?

- a) Hindu b) Muslim c) Christian d) Parsi e) Tribal f) All the above

22. Have Tribal women approached the courts to solve their property disputes?

- a) Yes b) No

23. If yes, have they been successful in getting justice?

- a) Yes b) No

SUGGESSTIONS:

24. With regard to the inheritance of property rights of women what changes should be made?

- a) Effective Policies b) Effective Implementation c) Effective Judiciary
d) Public Co-operation e) All the above

25. Do you feel that the Modern land laws conflict with traditional and religious land laws?

- a) Yes b) No

26. Do you feel that the cultural norms and practices, exclude women in land allocation?

- a) Yes b) No

27. Do you think that the Government policies on land allocation compliment women's Rights?

- a) Yes b) No

28. Do you think that the existing laws, policies and measures adopted are adequate to ensure equitable distribution of land with emphasis on the gender equality?

- a) Yes b) No c) Need changes to equalize

29. If yes, which law or policy is more effective?

Please specify _____

30. How do you think women can gain knowledge about the existing laws on women rights to property?

- a) Public Awareness Programme
- b) Media Advertisements
- c) NGO's
- d) Women's Groups
- e) Women's Education

31. Do you think that the existing women's Acts adequately protect the women's rights?

- a) Yes
- b) Amendments must be made
- c) No

32. Do you feel that if men are sensitized to women rights to property it may reduce discrimination against women?

- a) Yes
- b) No

33. Do you think that the existing legal provisions in India pertaining to property rights of women are adequate?

- a) Yes they are adequate
- b) No
- c) No, they need to deal with the changed items

34. Have court cases challenged the existing laws?

- a) Yes
- b) No

35. Have governments responded by changing the law or ignoring courts?

- a) Yes
- b) No

36. Any other information: _____

12. Spouse Monthly Income : a) Below 1,000 b) 1,001-3,000 c) 3,001 -5,000
(In Rupees) d) 5,001-10,000 e) Above 10,000
13. Native Place : a) Tamil Nadu b) Other State
14. If Tamil Nadu Which District : _____
15. The Period of staying in the Present Residence
a) Less than 5 yrs b) More than 5 yrs
16. Type of house owned
a) Own b) Rented
17. Your children are studying in
a) Private school b) Government school
18. Are your children attending school regularly?
a) Yes b) No
19. Did your Marriage involve giving or receiving Dowry/ Gifts?
a) Yes b) No
20. Has the promised amount or gifts been fully given?
a) Yes b) No c) Partly Given
21. Who takes decisions in your house?
a) Husband b) Wife c) Both d) Other Specify
22. Do you keep yourself updated about the current affairs?
a) Yes b) No

AWARENESS ABOUT PROPERTY RIGHTS:

23. Are you aware of the legislations for Women?

- a) Yes b) No

If yes,

ACT & RIGHTS	YES	NO
Married Women's Property Act,1874		
Dowry Prohibition Act, 1961		
Dowry Prohibition Rule, 1985 (Maintenance of List of Gift given at the time of marriage)		
Hindu women's Rights of property Act, 1937		
Muslim women Act & Rules 1986 (Protection of Rights on Divorce)		
Indian Christian Marriage Act,1872		
Parsi Marriage and Divorce Act,1936		

24. Do you hold any asset?

- a) Yes b) No

If Yes

- a) Earned by Self b) Earned by Husband c) Given by Parents

25. Have you inherited any property?

- a) Yes b) No

If Yes, Equal share of Property?

- a) Yes b) No

If yes, was it given with willingness from your maternal family?

- a) Yes b) No

If yes, what type of Property?

- a) Land b) Building c) Jewellery d) Utensils e) Cash

26. From whom have you inherited?

- a) Father b) Grandfather c) Father-in-law d) Any other specify

27. In whose name is the above said property?

- a) Your name b) Husband name c) Any other male member in the family

SOCIAL AWARENESS:

28. Do you attend any group or Organizations? Eg. Self Help Groups

- a) Yes b) No

29. Have you faced any of the following problems in your community?

ISSUES	YES	NO
a) Scarcity of safe drinking water		
b) Insufficient basic infrastructure facilities		
c) Unequal wages for the same work		
d) Drop outs from school		
e) Atrocities against women		
f) Eve teasing		
g) Child abuse		
h) Child labour		
i) Drug addiction		
j) Domestic violence		

30. Whom do you approach when you face any problem in your area?

- a) President of your welfare association b) Councilor c) Go individually

31. Have you witnessed any dowry harassment incidence in the past 6 months?

- a) Yes b) No

32. If yes was it reported?

- a) Yes b) No

33. To whom was it reported?

- a) Protection Officer b) Police c) Women organization d) Any other

34. Were the steps taken by them were

- a) Satisfactory b) Unsatisfactory c) Very Helpful

35. Do you know about the following legal Information's?

LEGAL INFORMATIONS	YES	NO
a) Dowry giving / accepting is prohibited		
b) Widows and divorced women are entitled to remarry		
c) Women also have the Right to divorce on same grounds as admissible for men		
d) Right to education is a Right for the child		
e) Provision for getting Alimony / Maintenance		
f) Financial assistance for the marriage of the widow's daughters		
g) Old age pensions		
h) Pension for widows/handicapped		

36. Marriageable age for girls is 18 and for boys is 21. Do you agree?

- a) Yes b) No

37. If no what age do you prefer?

- a) Girls 21 boys 24 b) Girls 23 boys 26 c) Girls 25 boys 28

38. Do you think the facilities provided by the government are adequate?

- a) Adequate b) Inadequate c) Need Changes

39. Are women knowledgeable about Property Rights?

- a) Yes b) No c) Knowledgeable but do not use it to the fullest

40. How should women be made aware of their Rights?

- a) Media Awareness b) Awareness through SHG
c) Awareness through Literacy d) All the above

41. Do you expect any changes from the Government?

- a) Yes b) No

42. If yes, what changes would you prefer?

- a) Time delay b) Policy changes c) Cumbersome procedures

11. Household Details:

Serial No	Name	Relationship	Age	Sex	Marital Status	Educational Status	Main Occupation	Current Position held	Others

12. Spouse Monthly Income (In Rupees):

- a) Below 1000 b) 1001-3000 c) 3001 -5000 d) 5001-10,000 e) Above 10,000

13. Which tribe do you belong to?

- a) Todas b) Kotas c) Kattunayakan d) Irulas e) Paniyan f) Kurumbas

14. Are your children attending school regularly?

- a) Yes b) No

15. Do you belong to?

- a) Patriarchal b) Matriarchal

16. What benefits do you get by following the above mentioned structure?

17. Do you practice the tradition of Polyandry / Polygamy?

- a) Yes b) No

If Yes, Why _____

PROPERTY DETAILS:

18. Are you aware of the legislations for Women?

- a) Yes b) No

19. Did your marriage involve Dowry/Gifts?

- a) Yes b) No

20. Are all been fulfilled or anything pending to be given / gifted?
a) Yes b) No
21. Do you have any ancestral property?
a) Yes b) No
22. From whom did you inherit?
a) Father b) Grandfather c) Father-in-law d) Any other specify
23. Do you possess any Assets?
a) Yes b) No
24. If Yes
a) Purchased b) Gifted c) Earned by Husband d) Earned by Self
25. What type of Asset do you own?
a) Land b) Building c) Jewellery d) Cattle e) Shops
26. In whose name is the above said Asset?
a)Self b) Spouse c) Others
27. Are you aware that you can own Property in your Name?
a) Yes b) No
28. How did you know about Property Rights of Women?
a) Family b) Literacy c) Awareness d) Media
29. Do you feel polyandry affects a women's Property Rights in anyway?
a) Yes b) No
30. What is your view for women to posses Property?
a) Yes b) No

OPINION ON STATUS OF WOMEN:

31. Do you consider birth of a girl child in your family?

- a) Blessings b) Curse c) Burden

32. What is your opinion to the education of a girl child?

- a) Necessary b) Waste of Time c) Family Restriction
d) Not Interested e) Not required f) Any other specify_____

33. Do you practice female infanticide in your tribe? a) Yes b) No

34. Do you think that the support given by the government with regard to the education of a girl child?

- a) Sufficient b) Not Sufficient c) Not Useful

35. What changes do you need?

- a) Free and compulsory education upto school Education
b) College and Higher Education
c) Placement

36. Do you think women in your society have freedom as male members in the family?

- a) Yes b) No

37. How do you feel about the existing system of inheritance in your Tribal Community?

- a) Satisfactory b) Not Satisfactory

38. What are the issues that affect women's development in your community?

- a) Domestic Violence b) Dowry Death c) Sexual Abuse
d) Illiteracy e) Poverty f) Unemployment

AWARENESS:

39. Do you feel Women should be equal heirs in Inheritance? a) Yes b) No

40. Have you heard of the government Programmes and Policies?

- a) Yes b) No

41. If yes, how did you know?

- a) Community Leader b) Elected Representatives c) Educational Institutions
d) Government Departments e) Media

42. Have you heard of the following schemes?

GOVT SCHEMES	YES	NO	If Yes How it benefit you? Satisfactory / Not Satisfactory
NREGA*			
SGSY*			
IAY*			
NSAP*			
RSVY*			
BRGF*			
Any Other Specify			

*NREGA-National Rural Employment Guarantee Act *IAY-Indira Awas Yojana
*SGSY-Swarnajayanti Gram Swarajgar Yojana *RSVY-Rashtriya Sum Vikas
Yojana *BRGF-Backward Region Grant Fund

43. Are there any Self Help Groups (SHG) in your Area?

- a) Yes b) No

44. Do you attend any group or Organizations? Eg. Self Help Groups?

- a) Yes b) No

45. If yes, have you received any assistance from the Self Help Groups (SHG)?

- a) Yes b) No

46. Do you feel that the activities of Self Help Group (SHG) are satisfactory?

- a) Yes b) No c) Need to Improve

47. Has your family received any financial assistance / Aid from the government?

- a) Yes b) No

48. Do you think modernization has not affected the traditions of your Community?

- a) Yes b) No c) Other Specify_____

49. Do you expect any changes from the Government?

- Studies can be conducted among different communities and socio-economic groups to enrich understanding of how differing contexts impinge upon women's ownership and control over property, and the effect they have upon women's lives.
- In-depth exploration could be done through micro- studies to gain more insights in specific factors that aid and constraint women's access, control and effective ownership over different forms of assets, including property.

Photo -7 Group photo of the Research Team



From center: **Dr. (Mrs) B. Madhana Rekha** Project Director, Director for Centre for Women's Studies JBAS College for Women Chennai.

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