Conclusion

The forgoing chapters have tried to provide an account of the property rights of Hindu women in the context of interface of gender politics and law, policies and institutions. Gender legitimizes and constructs social relationships and there exists a reciprocal nature of gender and society. There are particular and contextually specific ways in which politics constructs gender and gender constructs politics.\(^1\) Political institutions produce, reproduce and subvert gender. Each political institution has a distinctively gendered culture and intersect with larger issues of gender being negotiated and renegotiated in larger society. Law, development policies, political parties, social movements are various arenas that constitute gender relations in meaningful ways.

To have property in land is to have a right to some use or benefit of land. Such a right is necessarily relational, being held against others. In other words, property rights "regulate relations among people by distributing powers to control valued resources".\(^2\) Property's bundle of rights includes the power to exclude others to use and to transfer. Such rights are enforceable whether by custom or the law. Defined thus, such rights can include both a share in common resource and an individual right.\(^3\) Its importance can be summed up as: "If the core of property as a social institution lies in a complex system of recognized rights and duties with reference to the control of valuable objects, and if the roles of the participating individuals are linked by these means with basic economic processes, and if, besides, all these processes of social interaction are validated by traditional beliefs, attitudes, and values and sanctioned in custom and law, it is apparent that we are dealing with an institution extremely fundamental to the structure of human societies as going concerns".

Prevailing arrangements of property in land have important implications for social ordering. "The balance of power in a society," noted John Adams, "accompanies the

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balance of property and land". Access to property, including land, is an important predictor of one's position within a social hierarchy, affecting class, caste and gender relations. Property is social in other important ways as well. Property relations are social relations, embedded in hierarchies of power and knowledge that reflect membership in a group as well as gender rights and obligations. Property discourse offers a dense set of social symbols, stories, and meanings. The formation of national identity is, in part, a meditation on the meanings and significance of land as proper.

Equal property rights have been granted to Hindu women in the Hindu Succession Act in 1956 and its amendment in 2005. The legal rights guaranteed to Hindu women to independent ownership in a share in family property have by and large not exercised by them. Similarly, despite, gender progressive land legislations, women have not benefited from land reforms and other such state led land distribution policies. This study is an attempt to understand the politics of the family, state and law in controlling women’s right to property. At one level these three are the principal sites in which patriarchies are reproduced and sustained and at another level, they constitute the arena where women bargain for empowerment.

Property rights of Hindu women are a highly contested issue. Struggles over property are as much about the scope and constitution of authority as about access to resources. It is essentially a struggle over power relations. In this context this thesis explores the dynamics of property rights of Hindu women in West Bengal and Bihar. West Bengal and Bihar provide two comparative studies about property rights of women. Both the states have experienced different trajectories of development and are marked by crucial differences in their rural economies. The commonality is the varying degree of substantial gender disparity in property rights over land. The impact of the Hindu Succession Act and state led development interventions has been significantly different in both the states. In West Bengal, the highly institutionalized structure of the CPI(M) and the mass mobilization had led to successful land reforms when compared to other states. In Bihar, the ruling power which has differed from time to time has not been able to capitalize on the social mobilization of the masses for land reforms. In fact the

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redistributive intervention of the state has brought stability to West Bengal and also largely politicized the society. The penetration of the rural hinterland by the CPI(M) has enabled it to build an effective power bloc among the middle and lower classes. Such has not been the case in Bihar. In Bihar, bureaucratic feudalism has constricted the development capability of the state. Inspite of social mobilization of the middle castes, OBCs, Bihar has been lagging behind in terms of development. The nexus between the ruling class and the landed elites is not yet fragmented.

However, on the question of women’s issues both the states have shown some similarities and some dissimilarities. In West Bengal, the women’s movement has found its base in the party based women’s organizations though there are many autonomous women’s groups also. Largely, the party affiliated women’s groups operate effectively in the rural areas. Their substantive presence was witnessed in all the blocks visited during the research. However, there was a schism between the party agenda and women’s demands. The neutralization of women’s demands by the party was apparent in the Gram Shalishi meetings. The CPI(M) filtered the demands of the groups to marginalize many issues that related to women’s rights. The contradictory approach to women’s rights was found when the women’s groups were reluctant to challenge dominant customary regimes that inhibited women’s right to property but were more open to address the issues of violence against women. Gender discriminatory practices within the party was another contested issue. Women were marginalized in leadership rungs in the party and therefore, many argued that women’s issues were not treated as priority. In Bihar, though many parties had their women’s wings, they were negligible in their presence in rural areas. Peasant organizations were prominent in rural areas but they did not address women’s issues. Their agenda was defined in terms of wage policy, subsidies, agricultural policy of the government, technological development etc. The civil society groups played an important role in democratizing the society in Bihar. This is of course a recent development where non-government organizations have actively engaged themselves to address gender inequalities. For instance, the Adithi Vigyan Kendra’s efforts to provide women access and control over resource through land rights is a well known grass roots intervention by a non-state actor. This could also create feminist
consciousness for a vibrant democratic space for an autonomous women’s movement in Bihar.

Development interventions of the state through redistributive measures like land reforms and other convergence policies on land have been different in both the states. While West Bengal has been appreciated for having successfully implemented land reforms, Bihar has not fared well in land reforms implementation. However, whether gender issues were addressed in the land reforms is another issue. In the context of this study, research was conducted in select blocks of North 24 Parganas and Burdwan districts in West Bengal and Nalanda and Patna districts in Bihar. In both the states, the predicament of women is caught in oppressive structures along class and gender relations. West Bengal having a gender progressive land legislation framework to implement land reforms has not been able to sufficiently include women as beneficiaries. There is a gap between gender related policy and actual policy outcome. Institutional deadlock and executive priorities explain this deadlock. In Bihar, women have been relatively more marginalized as gender concerns in the land legislation has been largely subverted. Women’s role as political agents has been downplayed in Bihar. There is a need for explicit state policy and strict implementation of gender progressive laws. This can be a strategy to empower women economically and also strengthen their position to challenge other social and political inequalities.

On the count of women’s access and control of land, both Bihar and West Bengal have portrayed similar trends. Gender relations as constituted by state, family and market have denied women right to land. Therefore, it is important to problematise gender relations within the family and the state and the way it reshapes their social, political and cultural spaces. Dominant assumptions of womanhood, sister-brother ties, chastity, dowry practices have reproduced and reinforced patriarchal controls that subordinate women. Daughters have rarely claimed their inheritance rights. The implications of patrilineal-patrilocal complex have totally appropriated women’s labour and render their work contribution as invisible. Widows have been allowed property rights in times of distress or vulnerability. However widows’ claims are legitimized more than daughters’ claims. In the recent years, many women have husbands who have bought land in their names for economic reasons. Though their control on such property may be

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restricted yet it has created a space for empowerment of women. From the research study it becomes clear that the women's access and control of property rights is contingent upon the nature of social and political structures. The state-society intersection is evident from the ideologies that are constructed to address women's rights to property. Though the institutional role of state, law and family are significant in shaping gender relations, one cannot deny the importance of extra-institutional actors like social movements, civil society groups etc in legitimizing women's claims to property rights.

From this comparative study of property rights there emerges broader questions of concern. Development practices in both the states reveal that material needs are superseded by institutional norms, legitimizing ideologies based on notions of gender and dependence. Development is a highly political struggle for renegotiating power relations between genders and different social groups. In the development discourse, the notions of 'need' and 'rights' are primarily accepted as the basis of resource allocation and distribution. The very definition of these notions is argued to be tied to the issue of gender. Gender identities, as they constitute and are constituted by gender relations, determine how the rights and needs of particular individuals are established. This often involves a process of contestation over how a need becomes established as a right, where not only the satisfaction of needs is contested, but also its definition and interpretation. Such contestations are political in nature and are critical for securing one's material needs and social identities. It is often manifested in the demands of social movements, women's groups and political parties. In relation to women and land, this contestation is at three levels: to establish the need for women's right to land, to define the parameters of that need, and to translate that need into actual rights in practice. Therefore, in order to understand women's access to land as a resource, it is essential to conceptualize it within the framework of the socio-political relations that determine gender relations and which in turn affect property relations.

On the whole, the socially embedded nature of property (inheritance) with kinship and marriage systems, its strong association with cultural identities and symbolism that makes it different from other aspects of gender inequality as violence, sexual harassment or health status. The arena of property rights becomes more ambiguous and yet more significant. Contests over property reflects and shapes competing claims and struggles
over institutions, status, identities, roles, rules and practices not just between men and women but between different social groups. Women’s struggle over land claims is not just a struggle over a physical asset but also a struggle over identities, notions of masculinity and femininity, poverty and marginality, authority and prestige. The empowerment potential of property rights can hardly be underestimated. Property rights not only strengthen women’s fall back position and perceived interest response but also enable them to strategize in situations of patriarchal bargains. Recognizing that the ‘personal is political’ can point out solutions to land problems that may lie well beyond land redistribution alone. The effective agency on the part of women can be realized only when women have greater ability to question, analyze and act on the structures of patriarchal constraints in their lives.

Strategies to assert women’s land claims can range from the ‘macro-political to the micro-individual’. The first is the need to revisit the ‘gender and land’ debate so that a more inclusive perspective is framed that recognizes the importance of intra-household as well as extra-household dimensions of gendered access to resources. Women’s bargaining power within the household is critically dependent on ‘extra-household environmental parameters’ such as the state, law, community, market etc. While acknowledging that personal struggles are political it also needs to concede that politics shapes gender ideologies in various sites of contestation like social movements, civic engagements, political party agendas etc. All such sites should challenge the depoliticisation of the causes of gender equality in policy frameworks and laws.

Institutional mechanisms to support women in their struggle to gain property rights have to be considered for women’s empowerment. Law such as the Hindu Succession Act (Amendment) 2005 or the gender progressive land legislations provide a non-discriminatory framework for rights of women. Law cannot be seen as a reform mechanism alone but also as a body of knowledge which can be explored and subjected to critical scrutiny. While the state should not be seen as the prime “protector”, it should not be demonized. It represents itself as at once the protector of religious freedom and the reformer of injustices based on religion. Women can in fact use these paradoxes in the rhetoric of the state purposively as well as subversively. This is because the state is the guarantor of rights and moreover, the history of state intervention is itself partly a history of struggles against patriarchal struggles institutionalized by the state. The potential of law to liberate
and emancipate women from oppressive social structures has to be explored relentlessly despite impediments imposed by the limitations of the legal system. There is a need to define and explore the feminist identity and strategies of feminism in the legal context in India at the current juncture. A feminist jurisprudence needs to be evolved through a reinterpretation of the concept of equality, protection and status. An independent mechanism to ensure accountability has to be evolved to check inadequacies in the letter of the law as well as in the delivery of justice. The context of law must take into account the material aspects of women's lives as well as the ideological dimensions.

The ability of women to benefit from legal changes is circumscribed by a complex set of interlinked factors influenced by socio-cultural institutions. Any effort towards empowerment of women must address these power authority relations that define institutional processes and structures. There is a growing need that women's groups and other social movements use a multi-pronged strategy to bridge the gap between law and practice. Feminist consciousness on such issues can transcend local contexts and place them in the arena of public debates. Women's oppression has to be fought in diverse and sometimes, disparate locations of domination.

The effectiveness of woman-centredness as a political strategy can be useful if the multiplicity of women's lives is conceded. Universalising and exclusionary tendencies have to recognize diversity of women. An important test of democracy is the extent to which it succeeds in representing a diversity of groups and redressing discrimination of a variety of disadvantaged groups through equality of opportunity and access. Keeping in mind the changing class-caste configurations and social changes, affirmative action needs to expand in India to address gender inequalities.