Introduction

Within the broad framework of understanding the linkage between gender inequality and command over property this thesis focuses on the property rights of women as the pivot of power relations in society. Effective rights in property are one of the crucial determinants of women’s economic, social and political empowerment in India. This is largely because ownership and control over property signifies command over productive resources, which enables individuals to make choice regarding livelihood, provides security against poverty and promotes autonomy. However, one of the most intractable issues in the debates on gender equality has remained the unequal access and control that women as compared to men have over productive resources, particularly land. This argument is put forward to interrogate the situation of Hindu women.

Property is ubiquitous. Property rights lies at the intersection of law, economy, the state and culture. Ownership involves socially recognized economic rights. In addition to the dyadic relationship it connotes between individuals and resources, it also has ideological, social and political dimensions. The right to control, govern and exploit resources entails the power to influence, govern and exploit people. Property involves a bundle of rights including the rights of usufruct, exclusivity and alienability. Property rights confer power. They are rules that constrain and enable bargaining power and they locate decision-making over assets.

Property rights are undoubtedly shaped by both gender and legal considerations. Gender has been and remains a historically variable and internally differentiated relation of domination. It connotes and reflects the persistence of asymmetrical power relations. Gender relations operate at the individual, interactional and institutional levels. Gender inequality is reproduced through two inter-related processes- the forces of institutionalization and legitimation. Institutionalization refers to the processes through which social relationships take on the qualities of an institution. Legitimation is defined as the processes through which inequalities are justified- that is, they are understood in the ways that make them 'fair' and 'reasonable'. As gender inequality gets institutionalized, it is built into social structures and everyday routines to sustain them.
Gender inequality is legitimated through ideological accounts that emphasise women’s and men’s differences, but downplay the ways those differences generate inequalities.

The proliferation of democracy in the last decades has led to a critical understanding of the ways gender relations undercut political and social processes. The way in which the state contributes towards institutionalizing gender practices, particularly those which have an impact on property rights of Hindu women is important for this study. The state is a key player in this process of contestation and mediation, both through its legal justice system and its development policies. These two important aspects of state power in negotiating political processes are examined here. However, gender equality as an outcome is contingent on the nature of the state. As Dreze and Sen observes, “much depends on what issues are politicized and which deprivations become widely discussed and electorally momentous”.¹

Law has indeed evolved as an important institution in most contemporary societies as it regulates controls and in other ways pervades almost all aspects of our lives. It has dual purpose and significance for women. It may modify and mitigate the discrimination or it may facilitate the forces of discrimination. The complex and multi-layered subject produced in and through justice seeking projects engenders the way state bargains in legislative processes. The critical role of law can be understood in its interaction with cultural spaces of social inequalities based on gender inequalities. The influence of law, particularly family law, has direct relevance for women. This is largely because majority of Indian women have no meaningful alternative for family. The diverse processes that politicize legal institutions in the context of gender politics include the functions of cultural imaginary created through state legislation, the cultural mechanism that inhibits legal reform and the ambivalence of turning to law for women’s empowerment. In the context of property rights of Hindu women, it is equally significant to look at the multiple ways legal processes negotiate with customary practices to perpetuate patriarchies in system of inheritance.

The development policies of the state, particularly, related to redistribution are a much debated issue. Women’s struggle to find a place in the redistributive measures,  

particularly land reform and convergence policies on land is of critical importance for the question of women’s access and control of land. In the agrarian context, land is a valued resource which is connected to women’s agency and social change. Although the land issue is no longer a priority in political agendas, it has not exited the agenda on agrarian reform. Land legislation and redistribution measures are important institutional processes through which women can challenge structural domination of patriarchy in the production processes. Land reforms continue to leave gender gaps in actual ownership and effective control of land especially for women. The ability of women to benefit from such 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 and authority relations that define institutional processes and structures.

To analyze the value of land rights for women, it is important to understand the social character of land and property relations, the legal ideologies and practices associated with it. It is often located within kinship and family structure. The meaning of ‘land’ is implicated in social, cultural and economic terms. Land ownership is the central issue in India where agriculture forms the mainstay of the economy and engages approximately sixty per cent of the total population. Apart from being one of the most durable assets that can be used as collateral security in rural areas, land hold a ‘broader social value’ by installing a sense of identity and belonging within the village setting and providing political power. While agriculture is the foundation of the rural economy, the tasks involved in land cultivation differ significantly for women and men. The division of labour can be sex-segregated, in which all production tasks related to the cultivation of a single crop are undertaken by one sex, or sex-sequential, in which the labour of both sexes is required at different stages of production to yield output. In India women’s labour is largely sex-sequential and under the control of the male household head, which limits women’s ability to exercise control over the time and intensity of their workload and over the distribution of intra-household resources.

In this context, it becomes evident that land rights for women in terms of ownership and control can be the most crucial instrument for women’s empowerment. It is therefore urgent to study the modes of acquisition of landed property for women, namely state’s role in land reform distribution, inheritance of family land and market
propelled ownership. Broadly these three sources of property ownership are investigated in the context of West Bengal and Bihar. Both these states have experienced different trajectories of development and have divergent levels of growth which are marked by crucial differences in their rural economies. Substantial gender disparity in property rights over land is found in both the states.\(^2\) Yet, the interlinkages between women’s property rights and empowerment is crucial for reframing the gender and property debate.

Property rights of women and especially, land rights of women are restricted in the Indian context. Normative ideologies of patriarchal control, cultural myths about idealized womanhood, brother sister relationships, women’s self perception of interest, contribution to work are some factors that operate in determining women’s property rights. The paradox is that the legal framework on one hand legitimizes legal entitlement of Hindu women to property and on the other hand, strengthens patriarchal values that perpetuate women’s inability to own property, particularly land. Various judicial decisions have institutionalized engendered meanings into the structure of law. Law has therefore, become a crucial site for negotiation of identities and rights, particularly of women.

The relationship of property rights and empowerment of women is explored in both intra-household and extra-household sites of contestation. The main contribution of this thesis is to explore the myriad ways through which property rights are constituted and the processes that create gender regimes. It examines the ways law, state, family are intercepted by externalities like social movements in constructing and deconstructing property rights of women. The need for social support and strengthening a range of entitlements is increasingly emphasized.

This thesis begins with the constitutional understanding of property rights of women. Property relations are understood to be a site of contestation between established systems of privilege and the principles of individual rights and liberties. The attempt of the post-colonial state to reinvent institutions that integrate modern and pre-modern

\(^2\) There has been much debate about the distinction between access and control of property, particularly land. In this thesis, the difference between the two is not spelled out but is understood and debated in various normative contexts of discussion. The main assumption in the study of property rights in West Bengal and Bihar is that access and control over property may be different stages of empowerment of women. Ownership can entail varying degrees of access as well as control over property. Since the term ‘property’ includes a wide range of things, for the purpose of this study, property is limited to agricultural land.
values and 'rules of social transaction' elucidated the diverse and divergent meanings associated with property rights. In many ways, the engendered meanings and ideologies which found prominence in the constitutional debates were institutionalized into the structure of law in the form of Hindu Succession Act, 1956. It was a substantial move forward as it gave equal rights to males and females to succeed intestate property. The notion of a 'woman' - as a daughter, sister, widow and mother - was introduced for the first time in the legal discourse. The Hindu Succession Act becomes a site for contestation of gendered rights and identities in various judicial decisions. The interrelationship between politics and construction of gendered identities is a theme found in all chapters. Since property is ubiquitous. This research is foregrounded in looking at 'land as property'. The contextually specific ways in which land rights have become increasingly important for women to gain agency can be seen in the light of growing feminization of agriculture and the diverse impact of globalization on women's rights. West Bengal and Bihar are the two states which are studied through field research to demonstrate how gender relations are constituted by relations of power through bargaining at the rural intra-household and extra-household levels. While complex nature of bargaining between institutional sites, namely, state, market, community and household is examined, it also explores the possibilities of externalities involved in constituting gender rights in property.

CONCEPTUAL CATEGORIES

Feminist academics, writers and activists have long recognized the need for an appropriate vocabulary for the analysis of the ways in which structures in societies universally oppress women and for equipping women with the means to respond to and challenge the existing hierarchies. This has meant defining some concepts in very specific ways and inventing categories, which are more suitable to describe and examine women's experiences. Some key conceptual categories that are used throughout this research therefore deserve to be spelt out here.

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1 P. Chowdhyr in a discussion with the researcher as a part of a Seminar on Honour Killings in Women’s Development Centre, University of Delhi, April 2010.

4 This research study has limited property to 'land', particularly agricultural land. Since 'property' could mean many things like common property resources, house and agricultural land.
‘Gender’ is a powerful principle of social life. It is a multilevel system of social practices that produces distinctions between women and men and organizes inequality on the basis of those distinctions. Three features of this definition are important. First, gender is being continually produced and reproduced. Understanding the mechanisms through which these occur is important. Second, gender is not simply a characteristic of individuals but a multi-level phenomenon occurring at all levels of the social structures. Third, this definition of gender refers to its importance in organizing relations of inequality. Whether gender differentiation must necessarily lead to gender inequality is however a subject of debate. As a principle of social organization, gender is indeed a critical dimension upon which social resources are distributed. The examination of the genesis of the term ‘gender’ exposes the cultural context of the concept and also highlight the distinctiveness of its Indian formulation. Oakley defines gender as the cultural expressions of sexual difference. Any given society at any given time prescribes a set of behaviour for each sex, which both women and men must follow. If sex is the algebraic sum of chromosomes, external and internal genitilia, gonads, hormonal states and secondary sexual characteristics, gender was socially and culturally produced. However, many dissenting voices have been raised to challenge such distinction between gender and sex, that is, sex as the body and gender as the consciousness. The body is not a substratum on which gender is overlaid; rather both body and gender are socially produced. The very concept of gender can produce certain kinds of bodies. One cannot therefore, treat the body as a passive given. Nonetheless, the distinction may be valid at a conceptual level. As Plumwood says, it may not be possible to de-gender, that is, get rid of gender all together but re-gendering can be an instrument of liberation from the system that insist not only on the construction of one as the complement of the other but it excludes it from the cultural values attached to the other. The meaning, scope and significance of ‘gender’ have enlarged over the years. Gender can be recognized as involving three elements, which are not autonomous but interacting. There is the aspect

8 C.Delphy, ‘Rethinking Gender’, *Women’s Studies International Forum*, Vol.16, No.1, 1993. She argues that the link between sex and gender and sexuality and procreation should be questioned by feminism because gender precedes sex. It is the social dimension of labour and associated hierarchical relations which lead to psychological sex being used to distinguish those who are assigned to be dominant from those who belong to subordinate gender and class.
of meaning and signification; there is the organization of men and women in social relations and there is also the component of personal identity. Correspondingly, there are three levels of experience—social, psychic and symbolic.

‘Patriarchy’ is a much contested concept in the social science literature. The term was originally used to refer to the rule of the father or the eldest male holding authority and power over women and junior males in an extended family in pre-capitalistic systems such as feudal Europe. This form is still present in many agrarian societies. The more widely accepted view defines patriarchy as a systematic arrangement of social, economic and political power in ways that benefits male members of society and ensures the subordinate status of women. These gender relations are integrated at multiple levels of society and with many different structures of society. Central to these patriarchal arrangements are kinship systems that determine the ways women are related to the whole system of production and social reproduction within and outside the family in particularly subordinate ways. Patriarchy has therefore, been a convenient tool of analysis to explain gender inequality, to explore how its constituent elements intersect with other axes along which power is distributed in society, like culture, class, caste and ethnicity and to capture the depth, pervasiveness and interconnectedness of women’s subordination. The plurality, which is embedded under the patriarchal modes of social organization, has led to the notion of patriarchies. Patriarchy is thus, an ideology and instrument for the subordination of female labour or production and reproduction. Yet by no means is the success of patriarchy to be attributed only to dominance. In fact, patriarchy achieved hegemony through seeking and obtaining consent, and not just obedience, especially by rewarding certain form of complicity or by deploying women themselves in enforcing essentially patriarchal norms.

‘Feminism’ is a generalized, wide-ranging system of ideas about social life and human experience developed from a woman-centred perspective. It is woman-centred in three ways. First, its major object for investigation, the starting point of all its investigation is the situation and experiences of women in society. Second, it treats women as the central subjects in the investigative process; it seeks to see the world from

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the distinctive vantage point of women. Third, feminist theory is critical and activist on behalf of women, seeking to produce a better world for women- and thus, it argues, for humankind. As a perspective it asserts that every aspect of human society is “gendered”, conferring very specific benefits or disadvantages to either of the social categories, men and women. It is an analytical tool as well as a liberating political perspective, which envisages and effects a through dismantling of patriarchal structures in ways that will give women greater power and control of their lives.

‘Property’ is defined in terms of rights in the context of Hindu women. Hindu women in India have independent right of ownership to property under the law of succession. However, besides its legal ramifications, property governs access and control of resources and consequently, undergrid social inequalities. Patriarchy and property are closely connected and the relationship is multi-layered. Here, the mode of acquisition of property is important determinant of inequality. Clearly, there are two broad modes of acquisition of property- private and the public; the first involves politics of the family and the second, politics of the state; though an intersection between the two is possible and complex. In this thesis, land as property has been studied. The focus is not only on private ownership but also state distribution of land from a gendered perspective.

**Theoretical Framework: The Bargaining Approach**

The multi-locality of women within the structures of the family, communities, households and economy defines the politics of her traditional and continued exclusion from property. The bargaining framework of analysis was developed by Amartya Sen, and Bina Agarwal can be used to conceptualize the gendered analysis of Hindu women’s right to access and control property. The access of land as a property is dependent on the negotiation capabilities of the members of the family. The outcome of such negotiation is determined by their fall back position, where the outcome would be favourable if failing a cooperative solution, a person would be in no worse off position than before.

To begin, the bargaining approach conceptualizes the household as one of the primary sites for negotiation of interests of the members. In Agarwal’s words, the household /family is a “complex matrix of relationships in which there is on-going (often implicit) negotiations, subject to the constraints set by gender, age, type of relationship
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(kinship association) and what could be termed undisputed tradition”. The nature of the intra-household interaction contains both cooperation and conflict and often it is also the space for simultaneous interaction between the two elements. Cooperation is contingent upon the fact that a cooperative arrangement emerges as a better alternative than non-cooperative at least in terms of outcomes. Sen’s understanding of gender discrimination is premised on ‘intra-household distribution’. His model of gender and cooperative conflict seeks to understand problems between men and women and discrimination within the household in terms of negotiation. Here, cooperative conflict is a way of capturing the bargaining aspects of relationships within the household. Individual persons often engage in intra-household negotiation from the unequal bargaining positions. In terms of the model of gender relations as cooperative conflict, the agency of women determines the bargaining position vis-à-vis men. Increased agency of women strengthens their bargaining position vis-à-vis men.

Sen further elaborates that many outcomes are possible in the relation when we consider who does what, who gets what goods and services and how each household member is treated. The emergence of the outcome depends on the relative bargaining power of the household members. A member’s bargaining power would be defined by a number of factors, in particular the strength of the persons’ fall back position and the degree to which his claim is seen as socially and legally legitimate. The outcome will be favourable when the fall back position is stronger and there is greater legitimacy. He introduces the concepts of ‘perceived interest response’ and ‘perceived contribution response’ as key determinants of any bargaining position. The outcome will be less favourable to a person: (1) the less value he attaches to his own well being relative to the well being of the others (perceived interest response); (2) the smaller his contribution to the household is perceived to be (perceived contribution response). Discussing the role of perceptions and disputing the identification of well being with the fulfilment of perceived interests, Sen argues that ideas of propriety and legitimacy of different institutional arrangements affect well beings of men and women. In the context of traditional societies

such as India, family-centred perceptions are so strong that, ‘...if a typical Indian
woman were asked about her personal ‘welfare’ she would find the question
unintelligible, and if she is able to reply, she may answer the question in terms of her
reading of the welfare of her family....’\(^\text{14}\)

Sen and Kynch note that various patterns of systemic discrimination may be built
into the sense of propriety as to who should get what.\(^\text{15}\) Rural family members in India
may not have a clear perception of individual welfare, having instead some unsplittable
notion of family well-being. The notion of family well-being may not be neutral,
individualist type and may incorporate systemic biases in prioritizing the needs of some
family members, particularly the males. Such an approach indeed challenges and
contrasts the simplistic unitary household model that has typified economic analysis.

Bina Agarwal’s departure from Sen’s model is that she extends it to determine a
person’s fall back position to several other additional factors. She argues that there are
multiple levels of bargaining and some variables such as land rights etc are determinants
of bargaining at one level but outcomes at other level. She uses the conceptualization of
perceived interest response in determining the outcome of bargaining within the family in
terms of women’s welfare. She includes the effect of gender differentials on bargaining
power not only on outcomes in relation to specific issues but also on what is bargained
about. Her engagement is to create a bargaining approach that can analyze gender
relations even outside the household.

Feminist critiques of the bargaining approach have sharpened the arguments
proposed in the bargaining approach. The concepts of Folbre’s ‘gender coalitions’,
Knadiyoti’s ‘partiarchal bargain’ and Papanek’s ‘material, social and cultural
entitlements’ have redefined the theoretical contours of the bargaining approach to
provide a nuanced understanding of gender relations, both in intra-household and extra-
household sites of power relations.

\(^{14}\) A. Sen, ‘Gender and Cooperative Conflicts’, \textit{WIDER Working Papers}, WP 18July, UN University, UN.
pp.363-380.
APPLICATION OF THE BARGAINING APPROACH

The bargaining approach as enunciated by Sen and Agarwal has been used to explore the gender-biased outcome in relation to access to property and land. The perceived interests of women, characterized in terms of maximizing ‘family welfare’ for their own well-being are sought to be explained in terms of existing gender ideologies that exclude and marginalize women’s individual rights as distinct from family. This exclusion is derived from the ideology explicit in traditional customary practices as well as the nationalist discourse. Chapter VI of the thesis uses the bargaining approach to explore the relationship between gender relations, land rights and empowerment. Here, empowerment is defined as effective bargaining.

The family emerges as an important site for contestation of rights and reproduction of patriarchal values. The Hindu understanding of the position of women as a daughter who is never considered as a permanent member of her natal family; as a wife who has her duty to perform well in the matrimonial home repressing her own interests and as a widow who looses her identity with the death of her husband reflects her constant dependence for support within the family during her life course. Such idealizations define the perception of women’s well-being.

The role of law in sustaining and reinforcing such ideas is brought about by reference to the debates in the nationalist discourse on Hindu law reform as also the judicial decisions on property rights of women. However, the law does not take cognizance or respond to the material reality of the role that women play in agriculture. The persistent undervaluation of women’s pivotal role in agriculture is explored through the concept of perceived contribution. The link between gender ideology and the material context of Hindu women is analyzed to bring about the difference in perception of others’ and their own perceptions. The cultural perceptions that legitimize various customary practices that disinherit women are also inquired into to bring about the notion of fall-back position in this study. Finally, the study goes beyond the intra-household dimension of the bargaining approach to include various other externalities like political structures, democratization processes, social movements to demonstrate how gender and politics interact with each other and also constitute each other to determine property rights of women.
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The strength of this approach lies in its explanatory potential. It provides a framework that is culturally embedded, generating the means to evaluate the actual interactions between people in a relational context. It helps to critically analyze the ways in which interactions are possible with a structure and locate the precise ways in which each may impact the other by taking into account the individual's internalized conception of self-interest as well as conceptions of 'contribution' and 'desert' in order to establish legitimacy of a claim. It presents a comprehensive mode of bringing issues of women's ownership of land within the realm of what may be contested. It also can be used to explore a more nuanced understanding of gender politics underlying the discourse on property rights of Hindu women.

STATEMENT OF THE PROBLEM

In this background, it becomes evident that women in India and worldwide are rarely property owners, particularly land owners. This is despite their high level of involvement in agricultural production and dependence on agriculture for livelihood. However, there are multiple benefits which can be achieved by granting women secure rights to land. These benefits include enhanced security, increased and dependable income, ability to access credit and government programmes and more leverage and respect within the household.

Eighty six percent of women are dependent on land for agriculture. This is truly an indication of feminization of agriculture. Yet there are considerable social, political and institutional challenges to be faced. What is interesting to note here is the disjunctures between state land laws and customary practices on one hand and on the other hand the ruptures between legal rights of women in property and customary norms. This study is contextualized in the property rights framework of two adjacent states- West Bengal and Bihar. Two districts of each state namely, Bardhaman and 24 North Parganas (from West Bengal) and Patna and Nalanda districts (from Bihar) have been selected for the research. Within the broad framework of understanding the differentially gendered property rights particularly in landed property (in agriculture), this study focuses on the relationship between effective rights in property and women's empowerment in terms of bargaining. Bargaining is qualitatively indicated through variables like decision making, mobility, economic security, marital relations and social status.
AREA OF STUDY: RATIONALE FOR SELECTION OF SITES

The sites are chosen to get a mix of the different customary practices and state laws by which women have access to and own property, particularly land. Meaningful similarities and contrasts are drawn to understand variations in women’s status in relation to property rights. (Appendix I)

Bihar- Select Blocks of Nalanda district and Patna district were chosen to conduct survey for the study. Nalanda District is primarily agricultural there is high level of male migration to cities making women even more important for agricultural activities. Here women have been granted land on batai, a sharecropper tenancy arrangement. Patna district is one where land transactions have been high.

West Bengal- Select blocks of Bardhaman district and North 24 Parganas were chosen for the study. Bardhaman district is the primarily agriculture based. North 24 Parganas has been historically important as the fulcrum of the Tebhaga Movement in realizing occupancy and tenurial rights of the peasantry.

OBJECTIVES OF THE STUDY

The central concern governing the enquiry is:

(1) To critically evaluate the historical specificities that led to the formulation of the Hindu Succession Act which govern the inheritance rights of Hindu women and also identify the lacunae within the Act per se, which enable the dilution of women’s rights to inheritance.

(2) To analyze the ideological construction of gendered identities within the legal-juridical framework and their implications for women’s access to inheritance rights in both movable and immovable property.

(3) To understand the ways in which gendered identities are constructed in law, state led development interventions (eg. land reforms and convergence policy on land) and family. Consequently, to also inquire into the different subject position of women (daughter, wife, widow) which have actualized them to claim land.

(3) To conduct qualitative research through focus group discussion and narratives about-
   - Community norms and attitudes towards women’s property ownership in land
   - Current practice regarding transfer of property, particularly, land.
Impact of property ownership on empowerment and agency in terms of domestic violence, financial decision making, mobility, political participation, reproductive decision, and socio-economic status in society.

HYPOTHESES

Property rights of women are determined by the law (through inheritance), State development interventions (land reform and land policy) and Market purchase. Ownership and control over property, particularly land enables individuals to effectively bargain for empowerment. There is a linkage between property rights of women and economic, political and social empowerment of women. Both intra-household and extra-household arenas are important sites for negotiation of property rights and gender relations.

RESEARCH METHODOLOGY

The research is grounded within the contemporary women's movement. The study is indeed inter-disciplinary in nature as the entire discourse is located and contextualized within historical developments, anthropological insights and contemporary political events. The analysis of legal texts is undertaken within the framework of feminist jurisprudence. The research depends on both primary as well secondary sources for information. The primary sources include survey and interviews of the sample that was selected, legal texts, Constituent Assembly and Parliamentary debates, official documents, drafts and bills prepared by the Law Commission of India and the official government documents. The secondary source consists of the law journals, media reportage, papers presented during conferences and seminars, informal discussions with non-governmental organizations like International Council for Research on Women (ICRW), Lawyers' Collective and others. The study entailed extensive survey in the two districts of both West Bengal and Bihar. The aim of the survey is to describe the status of Hindu women vis-à-vis their property rights, particularly in and from a gender perspective to analyze social inequality and disadvantage. There are several overlapping elements in the survey to address the
complexities involved in determining the relation between women's empowerment and property rights of women. Questions related to socialization, customs and perceptual conceptions were an integral part of the survey design as the social embeddedness of gendered distribution of property rights needed to be re-understood. Similarly, questions related to dowry, domestic violence, health, political participation, economic decision making, customary rights were also dealt with.

Universe of the Study

Hindu female population in the two districts each in West Bengal and Bihar is the primary universe of the study.

Sample Size

A sample of 250 households each was selected for the study of four districts in two states. A total of 500 households were interviewed.

Sample Design

A multistage purposive sampling technique was used for conducting the study, both for selecting the sample villages and the sample population for gathering data. In the first stage districts were selected followed by selection of the Mouzas and households.

Selection of the districts

The districts were stratified according to criteria that support the hypothesis. The first criteria was involvement of women in agriculture and high agricultural production; second was to include both rural and urban districts and the third was locating districts with ownership titles in the name of women through state distributive mechanisms and private sources.

Selection of villages and households

Selection of villages was undertaken by studying land records first. The aim was to include both villages that benefited from land distribution schemes and those that had not benefited much. In each selected village voters' list was obtained and systematic random
sampling procedure was used. Special attempt was made to interview women property owners as found in the official land records.

Selection of respondents
Unlike other survey researches where relevant household data are gathered from the male head of the household, this study has collected data interviewing both male and female household members. This change was introduced to reduce the risk of non-sampling error due to gender bias of the respondent affecting the quality of data. The idea was also to compare the pattern of female response to male response.

Questionnaire and Interview Schedule
A structured questionnaire schedule (both open ended and close ended) to interview the respondent was prepared (Appendix II). A stratified selected sample was interviewed in each case analysis. A total of 250 respondents were selected from each state. In the present study the blocks are the first stage units. Data is collected from the District and Block Level Land Reform Department about the land reform statistics. The second stage units consists the revenue villages within the selected block. Here, the record-of -rights is examined to explore the number of women landowners. The mode of acquisition of property is sought to be identified. Last, the third stage units are the households in the sample villages/ Mouzas. Extensive interviews and focused group discussion are conducted at each selected village to record narratives and also the understanding and reconstruction of the property rights discourse. The interview schedule was open ended and designed to elicit women’s oral historical narrative of their experience of property ownership. Each interview was tape recorded. The transcriptions were reviewed for recurring patterns as well as unique themes. The interest in commonalities as well as unique experiences –both offered important illustrations of gaps between property ownership and property non-ownership effects on women’s lives. Focus group meetings were held to provide the context to further explore key issues identified in individual interviews; the focus groups were analyzed using content analytic techniques. A similar process was utilized to analyze notes taken following the informal conversations.
CHAPTER 1

The first chapter, ‘Constitutional Debates on Hindu Property Rights’ presents a penetrating discussion on the pre-colonial, colonial and post-independence engagements in reforming Hindu laws, particularly the inheritance laws pertaining to women’s rights. It explores in details the legislative historical trajectory of Hindu Law Reform proposals particularly the Hindu Code Bill debates. It describes how the first wave of Indian feminism forced the review of the unequal entitleents within the religious family laws and facilitated the introduction of more egalitarian statutes like, The Hindu Women’s Right to Property, 1937. It examines the so-called progressive Hindu Code Bill to show how in effect it proved to be quite regressive to the interests of women. It argues that traditional patriarchy in conjunction with the emphasis on individual property rights impoverishes women further in the way Hindu law works in practice. It demonstrates the way the enactments like the Hindu Succession Act of 1956 failed to live up to its promise of gender equality and how the larger politics of communities and nations postponed the question of gender justice. This chapter builds a linkage with the next chapter to understand the dynamics of the processes and the consequent negotiations through which Hindu laws were codified and finally, led to the formulation of various family laws, particularly the Hindu Succession Act, 1956.

The second chapter, ‘Hindu Succession Act of 1956’ begins with the simple but elaborate elucidation of the property laws governing the inheritance rights of Hindus today. All the prominent clauses of the Act supported with examples of judgments of the High Court and the Supreme Court are dealt critically, along with explaining its repercussions for women’s rights. The Hindu Succession Act of 1956 has been hailed as one of the most gender equal laws, which marked a shift from gross inequality to substantial equality. Under the Hindu Succession Act of 1956, Hindu women theoretically acquired equal rights to the “self-acquired” property of their parents in intestate succession only. They could be disinherited through wills and got at best a minimal share in property and usually nothing of the ancestral family land under Mitakshara succession. In addition the Act gave Hindu widows absolute rights over affinal property they had received in lieu of maintenance- that is, the power to sell or gift property- whereas family property remain largely inalienable for male heirs. In this
context, it examines the way law becomes an important instrument of legitimation of the state apparatus to control and regulate gender relations at multiple levels in society. The judicial interpretations of the legal cases dealing with property entitlement cases pertaining to the question of inheritance rights of women elucidate how the judicial approaches to gender equality oscillates between the protectionist and the corrective approaches in the disposition of gender justice. It identifies a few judgments of the Supreme Court and the High Court to illustrate how the legal system contributes to the gap between formal equality and the substantive inequalities that plagues women’s lives.

It also analyzes the cases dealing with succession in the light of their construction of gendered identities as well as the underlying cultural and ideological understanding of the judges about the “essential characteristics” of “womanhood”, stereotyped gender roles, ideas about social construction of vulnerability and “Indianness” that inform and consequently, determine legislative outcomes. On the whole, this thesis attempts to interweave numerous perspectives on Hindu women and their access to property rights, within systems of succession laws and their judicial avatars into a meaningful whole.

The next chapter, ‘Gender Politics and Land Rights of Women: Critical Issues’ reflects on the broad set of issues that have been raised in both the academic literature as well as in policy debates between gender and land. Different aspects of gender and land question are explored by taking into account the contextual specificities as well as conceptual and methodological variations. The systematic exclusion of women from ownership and control of land and other productive resources and the gendered nature of the distribution of power is the main theme. It becomes evident from the study that a contradictory situation emerges, where acceptance of women’s entitlement is on one hand recognized in the inheritance laws affecting private land, while the issue is generally ignored in development policies governing the distribution of public land. It further investigates on the problematic relationship between land and women at the micro-level and within the context of land reforms and land distribution measures in India.

The fourth chapter, ‘Land Rights in West Bengal’ is based on field research in two districts of West Bengal, namely North 24 Parganas and Bardhaman. This study is contextualized in the historical trajectories in development and political mobilization in the state. The main aim of this chapter is to interrogate public and private sources of land
acquisition and distribution. At one level, it explores the land legislation and its implementation. There is a substantive gap between relatively gender-progressive land legislation and land reforms implementation. It examines the specific issue of discrimination against and exclusion of women in development interventions, particularly land reforms. At the second level, this chapter delineates the patterns of land ownership among women through inheritance and market purchase. It investigates the marginality of women in ownership and access to land despite their active participation in agricultural activities. The variation in the functioning of policies is an important marker of politics in the state that neutralizes women’s demands.

The fifth chapter, ‘Land Rights in Bihar’ is also based on field research. It focuses on the situation of land rights of women in select blocks of Nalanda and Patna districts. At one level, it interrogates state land legislation through a gendered lens. It also examines convergence policies on land distribution – Bhoomi Bandobasti and Mahadalit Vikas Yojna- to argue the ways in which women have found place in policy frameworks but have not been able to actualize their rights in land. The second level of the study looks at the record of rights for a period of ten years to locate the sources of land ownership among women. It demonstrates the systematic marginalization of women in land ownership either as daughters or as widows. Here, intra household politics is an important determinant as also extra-household parameters. The political and social processes that have defined the contours of effectiveness of existing strategies and policies to include women in development practices in Bihar is analyzed.

Finally, the chapter on ‘Gender Relations, Land Rights and Empowerment’ is based on the bargaining theory framework. It analyses the complex nature of gender relations is sought to be understood by analyzing the way property rights affect bargaining power and the relationship between the two. It explores the role of social norms and social perceptions in bargaining power. In this case, what are the social controls that affect the access and control property rights. Here, it also looks at changes in the actual and perceived contributions of women within households. It problematizes the link between intra-household and extra-household bargaining. In the context of West Bengal and Bihar, it explores the myriad ways in which patriarchies operate to deny
women right to property. The way politics shapes gender relations is an important issue of discussion.

On the whole, a critical aspect of this exploration, which is a central theme of this thesis is the question of property rights of Hindu women in the context of legal reform, development interventions and interplay of gender ideologies that institutionalize gender relations. Subsequently, strategies for re-examining the framework of affirmative action to accommodate substantive gender equality is argued