

ILDC 2019



PARTNERSHIP FOR ENHANCED INCLUSION & IMPACT
CONFERENCE RECOMMENDATIONS
3rd India Land and Development Conference

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Theme 1: Women Land Rights

While women constitutes about half of the Indian population with equal constitutional rights, the status of women land rights as well as their space in land records remain matters of grave concern. Women's contribution as a farmer is significant; however their share on the outputs and role in decision making are heavily curtailed for lack of land rights. FRA stipulates recording of Individual Forest Rights with spouse name coming first, while practice differs. Realities widely differ vis-à-vis the inheritance rights legally enshrined. Initiatives to enhance WLR are expanding with research, action and advocacy by some land actors, but a lot more is expected from policy and practice including a societal attitude of patriarchy.

Three sessions in ILDC 2019 focused on Women Inheriting Land: 1) Rights and Realities (Organizers: Landesa and GWLO); 2) Women, Land and Farming (Organizers: HLRN, Ekta Parishad, ILC-NES) and 3) Status of Women Food Producer and Policy Recommendation for Recognition of their Identity (Organizers: ILC-NES)

The summery recommendations are:

1. Review of one and all land laws from a gender perspective.
2. Establish accountability mechanism for effective implementation of existing laws.
3. Ensure secure land rights for women through ensuring women's name in land registration process; allocating redistributed land in women's names and by ensuring women's access to common property.
4. Pass the National Right to Homestead Law, and ensure homestead land allocation in women name
5. Ensure the passage of the Women Farmers' Entitlements Act and implement recommendations of the Swaminathan Committee
6. Recognize women as farmers, irrespective of whether they own land or not; additionally recognize the tenants, agricultural workers, and forest workers as farmers.
7. Allow women's names to be included in Kisan Credit Card and enable them to set up individual accounts for their enhanced access to credit.
8. Increase number of women in land governance institutions viz. in Revenue and Forest Departments in line with FAO's VGGT recommendations, through reservation
9. Operationalize more gender-friendly tools, machinery for farm operations; Promote training of women farmers and make such technology accessible to them.
10. Promote local seeds and varieties and a mechanism to prioritize locally grown and relished crops in local area/ Public Distribution System.
11. Assert for adequate budgetary allocation for addressing pastoral women's issues to promote women's traditional livelihoods and pastoralism.
12. Implement FRA from the perspective of Pastorals and Fisher folks with necessary gender-sensitivity
13. Collect and maintain gender disaggregated data of land ownership at all levels, for farmers and other issues related to farming

Theme 2: Forest Rights, Indigenous Land Rights and Landscape restoration

Forest rights is critical the life and livelihoods of forest dwellers, tribals, pastoralists esp. for the women in these communities. While FRA promises yet to be reflected in performance, there are grave concerns vis-à-vis forest rights these constituencies. Attention to post-rights recognition has been minimal. Role of technology and innovations have found a mixed response from the grounds and actors, with contextual-adaptation, ethical-implications and local-embedding calling attention.

There were four sessions around this theme 1) Enhancing Impact of Forest Rights and Governance (Organizer: TISS); 2) Up scaling community forest resource rights (CFR): Role of Technology (Organizer: ISB); 3) Rights of pastoral communities in Forest Rights Act: Initiatives and challenges (Organizer: Centre for Pastoralism); 4) Modalities for building a community led restoration movement at scale (Organizer: WRI-India). The key recommendations are

1. Remove the fundamental flaws in recognising forest rights using the empirical evidences.
2. Smoothen the institutional bottlenecks around FRA implementation through better coordination by the nodal agencies.
3. Recognize that forest tenure security can incentivise people's participation in climate change mitigation programs
4. Integrate the recognized IFRs in the State's Digital Registry of Record of Rights (RoR) ensuring updating and correcting of the area and location of IFRs
5. Facilitate and monitor post-forest rights recognition impacts on the livelihood, governance and sustainability of forest resources, through appropriate institutional mechanism
6. Organize consistent orientation at multiple levels on the process and intervention in the post-recognition to ensure desired convergence of line department schemes
7. Address and avoid conflict of compensatory afforestation programs with FRA implementation at the grassroots level; without Gram Sabha's consent the process is a clear violation of FRA
8. Recognise pastoralist mobility as a fundamental right.
9. Recognise the essential role of pastoralists in global environmental sustainability, including the conservation of biodiversity, mitigation of climate change and combating desertification.
10. Recognize rights of pastoral communities especially for those who migrate seasonally, as per section 31D of FRA; bring this under customary rights for the vulnerable community.
11. Focus on rights of pastoralists in non-tribal areas; a lot of older pastoral areas are now de-notified and are being developed by various development authorities.
12. Organize focus group (Researchers, CFR practitioners, NGOs, CSO, etc.) deliberations on the use of technology including web platform, satellite images, GPS, etc. for improving FRA implementation
13. Train key stakeholders on an understanding of satellite images, GPS, and other advanced potential technologies for FRA
14. Develop case studies on technology adoption and empowerment by the academic research group
15. Build a robust monitoring system using satellite imagery to showcase the positive impact of rights recognition on forest and tree cover.
16. Engage for policy level changes to catalyze adoption of technology around FRA implementation
17. Build a network of community led restoration in India to document examples to help scaling up; GO, CSO and communities involved in restoration can showcase their efforts in India's Restoration Opportunities Atlas and help list of best practices to scale community led restoration.
18. Provide government officials and communities' access and opportunities to learn from successful models of community based resource management post CFR claim recognition; success stories from Maharashtra, central India groups and Soligas (BR Hills) could spur community led action
19. Promote adaptive learning to replicate and scale on how Institutions play a critical role in building community led restoration viz. Maharashtra government efforts in addressing gaps and bottle necks in community management of resources
20. Build the capacities of farmers and local population in sustainably managing lands and building value chains for their products.

Theme 3. Technology and land Governance

Technology is increasingly being looked at as a silver bullet for swiftly addressing many chronic and complex problems that land administration face. With technology, particularly IT and GIS, becoming increasingly affordable and universally accessible, evidences and arguments around the use of mobile, drone/UAV, high-resolution satellite imageries, block chain, machine learning and AI, to improve land governance is fast growing. While most technology uses are envisaged at land records, other applications around open data and land-information management, improving tax administration and also better connecting to land use management options are fast opening up. Whether, technology is next silver bullet in land administration, is also being contested, with potential threats around data use and privacy, perceived change in power relations, over-simplified codification of customary tenures as well as implications of digital-divide. The session on Technology Options to Improve Land Administration, jointly organized by Welthungerhilfe, NRMCC-CLG and Ekta Parishad made the following recommendations:

1. Complete the digitization and updating of land records as early as possible
2. Take extra precautions while collecting and storing land rights data to prevent misuse.
3. Involve communities at all stages of land-data collection and verification process.
4. Explore using innovative technologies like drone mapping, geospatial, and mobile apps to validate the data.

Theme 4: Urban Land Tenure

There has been an increasing challenge and concern over urban land tenure particularly addressing the slum dwellers rights and also combating the risk of tenure insecurity in the real estate market. The growing urbanization has also put forth challenges in managing the urban commons and also providing affordable housing solutions to the urban communities.

Three panels deliberated on different aspects of urban tenure:, 1) Land Rights of the Urban Poor in the Context of Forced Evictions and 'Smart City' Development (Organizer: HLRN) 2) Transferring Slums to Liveable Habitat: Odisha Model (Organizer: GOO & Tata Trusts) and 3) The Future of Urban Commons: Notes to both Fears and Possibilities? (Organizer: Azim Premji University)

The summary recommendation for the theme are follows:

1. Adopt a human rights approach – implying the recognition of the rights to land and housing as human rights in policy and practice.
2. Provision legal security of tenure to the urban poor – where they live – not in remote settlements outside cities.
3. Make adequate spatial reservation for the urban poor based on their population in urban areas.
4. Control real estate speculation and privatization of public land.
5. Observe a moratorium on evictions and displacement; Implementation of UN Guidelines on Evictions in case people have to be relocated in “exceptional circumstances.”
6. Provision different tenure forms - rental, cooperative, collective, since the current ones are not able to solve the problem of housing for all.
7. Implement the 74th Constitutional Amendment Act – ensuring increased participation of people in urban planning and devolution of powers to urban local bodies.
8. Make the law welfare-oriented and simple, when bringing it for providing land rights to slum dwellers
9. Give slum dwellers their land rights without taking their habitat away from them; empower them to take their decision and make their own house construction
10. Discuss with the community to understand their requirements and vision of their slum and together with NGOs and government officials work with them to realize the vision to provide basic amenities in the slums, making it livable habitats
11. Use latest technology for mapping of slums with all information: spatial, personal in one platform for easy decision making and ensure transparency in making all data is accessible to every person
12. Ensure the benefits at the door step of the slum-dwellers; avoid making them to visit government offices to avoid the harassment for the marginalized.
13. Involve land revenue department in land ownership transfer process as they are the keepers of Record of Rights and to help in accessing the tenability and untenability status of land to be settled in the name of slum-dwellers
14. Create space for opportunities for civil society, academia and private sectors and build partnership with them interfacing slum-community for expeditiously mobilizing best solution
15. View the urban community through a nuanced layered lens for a better understanding of their relationships to the urban-commons land.
16. Promote community led formal land trusts, that may strengthen their relationship to urban-commons land and increase their collective bargaining power.
17. Consider including reflexive law, iterative decision-making, legally binding authority and responsibility, and tangible state support to the legal framework for urban places with specific social-political-historical relations between actors

Theme 5: People Centred Land Governance

Land and people compliment each other with a higher degree of as well as symbiotic inter-dependency. However, the institutions that govern land, market and societies have not been able to appropriately address the land and property issues of poor rural women and men, Tribal, and Dalits. The intricacies and overlapping nature of laws and policies don't necessarily ensure access, control and ownership of the people and communities over land and natural resources they depend on for their livelihoods, neither the policy makers see any incentive in facilitating this. The need of analyzing and orienting land governance policies from these people's perspective remains less engaged, calling for efforts towards People Centered Land Governance. Similarly, while the importance of land tenure security, food security and gender rights for development is well known facts of governance and policy, their nexus remains under-investigated and less-nuanced. Global frameworks like VGGT and SDGs provide opportunities to align administrative and structural cultures, implementation and monitoring (data collection) initiatives towards streamlining of these linkages, with required initiatives still awaiting triggers and not mainstreamed.

This theme was discussed through these two lenses with different policy and practice examples in two sessions: 1) Closing the loop: From local to international frameworks in food security and land rights' (Organizer: University of Hertfordshire, UK & NRMCC-CLG) and 2) How far Land Policies ensure People centred land governance in India – Experiences from grassroots in intersections with policies and practices (Organizer :ILC-NES).

The summary recommendation of the panels are below:

1. Take up appropriate amendments in the existing Tenancy Acts along with ownership rights to the women operational land holders .
2. Diversify livelihoods in a sustainable manner to ensure sustainability and resilience for women, tribal as well as rural population. (Examples offered from West Bengal, Gujarat and NE)
3. Organize VGGT (UN/FAO's Voluntary Guideline on Governance of Tenure) reporting from ground up; GoI should submit VGGT report.
4. Pass the pending Draft National Land Reform Policy, spearheaded by Ekta Parishad
5. Enable legal framework for local communities to claim and assert collective rights on Commons
6. Involve communities in planning, regeneration and management of common lands, including distribution of benefits.
7. Recognize the forest rights of OTFD with due emphasis levied on them under FRA

Theme 6: Promises of Commons

Considering that the strength of the commons depends on the community, the language of commons has treated the community perhaps rather naively, and narrowly, as one that eternally represents egalitarian values. Lack of shared understanding on definition, use and management of commons remains a challenge both in rural and urban context. Ambiguous legal and institutional mechanisms governing commons along with weak policy framework makes unclear community ownership over commons. The theme included one panel organized by FES, which conducted a policy dialogue to achieve the promises of commons. The summary recommendation under this theme is as below:

1. Organize Legal and institutional reforms around commons
 - a. Restrict diversion of Commons through stringent legal procedures
 - b. Enable legal clarity to decentralise management of Common
 - c. Develop a model Commons Policy at the national level and facilitate state policies on Commons
2. Integrate Commons in rural livelihoods and development programmes to ensure doubling of farm income and ecological balance
3. Strengthen institutional framework for restorations and reclamation existing and lost village commons
4. Streamline a major chunk of public expenditure budgeted for gram panchayat development towards soil and water conservation works
5. Double the budgetary provisions for livestock rearing
6. Centre stage potentials of Commons to create 'one hundred thousand' smart villages in the next five years

Theme 7: Customary Tenure in NE India

NE India exemplifies and boasts unique and rich diversity in land governance regimes in formal and customary space, which are witnessing a rapid transformation vis-à-vis contemporary development paradigms, generating opportunities, challenges and risks for local community and other land actors. Customary tenure in Nagaland now faces increasing insecurity over land tenure, while the matrilineal land tenure system in Meghalaya do not necessarily ensure tenure security. Unabated infrastructure development in Sikkim is negatively impacting rural communities with loss of land and improper compensation. There was one session under this theme titled 'Contexts, Issues and Challenges around Customary Tenure Regimes and Community Land Governance practice in NE India'. Jointly organized by RNBA, HLRN and NRMCC-CLG, the session deliberated on the issues and challenges in customary tenure practices in North East India. The summary recommendations are:

1. Build village level land registry by community-mapping of land holding categories / land tenure systems across the tribes; Skill the community youth, ensure informed consent while building capacity of the traditional village council/authority.
2. Work with each individual tribal village for codification of the oral land laws and make rooms to support the existing traditional laws that are positive toward women and land in general as also recommended by Nagaland State Women Commission.
3. Conduct Feminist Participatory Action Research to enable equitable land rights to women particularly among the patriarchal/patrilineal/patrilocal tribal societies, while also promoting comprehensive research around customary land tenure.
4. Build partnerships among academia-CSO-traditional community institutions in developing robust land rights framework within the customary/traditional land tenure system that will have recognition/endorsement of the community leaders/institutions and the Government.

Theme 8: Small farm tenure & land leasing reforms

Smallholder farmers make up the majority of the poor in the country and belong to the most vulnerable and marginalized people. Along with other vulnerabilities, smallholder farmers are perennially trapped with highly unsecure land tenure, which curtails their access to entitlements, credit and market leading to low production and income. About 25 million hectares of land is left fallow in India – a huge chunk of land that could be used productively, largely due to a sense of insecurity of landlords towards tenants. Governments promise and effort towards doubling the farmers income will be difficult to achieve in most farms due to lack of tenure security. Under this theme, a session on 'Land Policy Reforms to Double Small Farmers I come and achieve SDG' was organized by SAFBIN-Caritas, ICRISAT and Centre for Agriculture Policy as a panel discussion, which deliberated largely on how the model land leasing act would ensure tenure security and farm investment and recommended the followings:

1. Ensure long term access and control over land by smallholder farmers to ensure sustainable production
2. Make smallholders the primary stakeholders at all levels including the policy discussions and decisions
3. Encourage and establish multi-actor partnerships around small holder farmers
4. Enable land tenure security for productively using arable land lying fallow for food production
5. Legalise Land Leasing
6. Update and digitalize land records, followed by land titling
7. Give high priority for the immediate implementation of Haque Committee Report across the country.

Theme 9: Legal reform

Land reform in India has remained an unfinished agenda in India. While there are more than a thousand land laws, the major legal disputes in Indian courts continue to be around to land. While “land” is a state subject in India, subjects relating to “land revenue” fall within the state list, but others, including “acquisition and requisitioning of property” and “registration”, and “trusts” remain in the Concurrent List. A majority of land laws were enacted during the 1950s and 1960s, following a steady decline, with a paek coming up again post 2000s. Most of the laws pertain to rural land reforms, land acquisition, land use, and urban tenancy and development. The engagements by land rights researchers and practitioners around the changes related to legal, policy and institutional reforms as well as technical innovations by state and non-state actors, demonstrate that the desired impacts of these changes are disproportionately distributed. Certain marginalized communities particularly women face immense challenge to secure their land tenure underlining the need and role of enablers and partnerships for assisting in enhanced access and control land resources and earn sustained livelihoods with dignity.

The theme witnessed two sessions: 1) One Thousand Land Laws: Mapping the Maze of Land Regulation in India (Organizer: CPR land Rights Initiative) and 2) Land, Investment and Conflicts (Organizer: UNDP-India and NRMCC-CLG), former a panel discussion and later a selected paper presentation. The summary recommendations are:

1. Review land laws pertaining to tribal issues around the central question of role of land in poverty alleviation and balancing power nexus
2. Need to revisit the principal vision and purpose of urban land laws vis-à-vis theoretical and functional view of urban development
3. Mobilize political will for better implementation of land laws proper institutional mechanisms, removing shortcomings and improving the monitoring and implementation
4. Strengthen the justice systems have to reduce alienation of tribal communities in terms of land rights
5. Develop all-encompassing resettlement policy which can look at the specific problems of SC and ST population
6. Raise awareness amongst key policy makers on the importance of information sharing, knowledge management and, more specifically the power of an information ecosystem around land
7. Ensure livelihoods and housing for poor, especially women before they are displaced for development.

Theme 10: Land Records and titling

As India aims conclusive titling, achieving one of its underlying principles: mirroring i.e. a state of sync of textual and spatial records with actual situation on ground, poses enormous challenge. Strategic technology-led initiatives around computerization of land records, digitization of cadastral maps, high-tech resurvey as well as linking encumbrances launched by flagship Digital India Land Records Modernization Program (DILRMP; earlier NLRMP) remain incomplete. Un-updated land records are cited as *raison d'être* for high prevalence of disputes in Indian civil courts (~66%) and reasons for denial of access to housing and farming entitlements by a majority of households. About 1.5 billion parcels either remain un-updated or un-surveyed, with a minimum of 10% needing updating every year, due to transactional and inheritance changes which is very difficult to achieve through conventional survey with the existing capacity of land departments in terms of ground force, skills and resources. Urban and periurban areas have a high demand, but a very poor state of land and property records, owing to historical focus of revenue-driven land records administration for agricultural areas. Post-independence, the coverage of urban land records has remained incomplete, even as high levels of transactions, high rate of urban spatial expansion and overlapping and expanding jurisdictional boundaries of multiple urban authorities have compounded the problem. Failure to ensure better urban property records and administration, has been considered as the prime reason for India's low ranking in the Ease of Doing Business, growth and expansion of the 'black' (underground) economy in real estate, poor progress of affordable housing and expansion of slums, with limited property rights or security of tenure. State and non-state actors, through various institutional and technological innovations, are trying to address these challenges and improve rural and urban land records and forest rights implementation. This theme had two sessions 1) Inclusive Land Tenure Mapping by Skilling Rural Youth (Organizer: NRMCC-CLG and Centurion University) and 2) Creating Urban Property Records, for Improved Security of Tenure (Organizer: IHS-CLG). The key recommendations are:

1. Create opportunities for establishing partnership ecosystems around community surveyors among legal, technical and institutions
2. Establish flexible digital survey platforms like Uber, OLA, Urban Clap for Licenses/community
3. Explore leveraging Skill mission opportunities to train local youth as community surveyor in coordination with land revenue department of states
4. Enable/enroll/link appropriate government/private institutions for skilling youth in land survey and mapping and build necessary capacity and infrastructure
5. Create quality packs/ training modules and certify the youth taking trainings as land surveyors.
6. Explore training the farmers through RPL- Recognition for Prior Learning, as another way to get land and mapping skill funded.
7. De-link issues of lack of tenure clarity, from the concept of affordable housing; de-link clarity in land titles, or efforts to have clear marketable land titles, from affordable housing.
8. Ensure regulatory mechanisms around clear land titles to prevent gentrification in cities, and marginalization of urban poor.
9. Delimit the overlapping and conflicting jurisdictions of multiple institutions in maintaining the property record needs by using technologically linked database.
10. Adopt a tenure continuum approach to settle the informal settlements with ownership or use right
11. Invest in systems to create and maintain a better quality urban property record getting updated on a real time basis.

Theme 11: Land Rights and Governance

Institutional failure in land administration has been a major area of concern, while one attempts to improve land governance and ensure inclusive tenure security. The dichotomy that seems to influence land governance remains the same two broad groups of development- pro business and pro socialist. While unregulated real estate development in urban areas finally leads to huge debts, the ignorance to address land rights of women and forest dwellers often imposes huge cost on the economy. Reorientation of the policy focus is required along with efforts to strengthen land institutions to correct for the rigidities. This theme had one session titled 'Land Rights and Governance: policy and practice reflections' coordinated by NCAER, which consisted of selected paper presentations. The broad recommendations are:

1. Strengthen the land institution to correct rigidities towards land rights to women and forest dwellers which imposes huge cost on the economy as well as to ensure desired urban land supply for experiments like SEZs, IT parks, integrated townships etc.
2. Develop mechanisms to address the institutional paralysis in land administration viz. technical issues, fast rotation of the officials etc.; poor governance results in substantial gap between targeted and actual titling.
3. Bring in regulations around the real estate land market to avoid artificial price bubbles and unaffordable urban land prices
4. Ensure land rights to women farmers to address their exclusion from agricultural markets while increasing feminization of agriculture is happening with more male out-migration

Theme 12: Global perspectives, Land Data and SDG

Efforts to address land tenure security got a shot in the arm with SDG land indicators demanding monitoring of land rights, while digital technology fast expanding options to create and update land records. However increasingly digitization of land records and information and their fast globalization and opening up, also pose new threats and externalities while creating vast opportunities and innovation platforms. Concerns for data privacy, ethics and informed consent are rising along with demand and examples around community-based data creation and management and crowd sourcing. While Community-led data collection brings transparency, clarity and knowledge, empowerment, it requires enormous effort towards capacity building and setting up of systems to ensure timely data collection with reasonable accuracy. The theme included two panels; 1) Meeting SDG Targets around Land Indicators: Global initiatives & experiences (Organizer: NRMC-CLG) and 2) How to tackle the divergent needs for openness and protection in land data governance in India? (Organizer: University of Twente, Netherlands and NRMC-CLG). The summary recommendations are below:

1. Build clarity and transparency the way governments are collecting and reporting SDG land data
2. Support and ensure appropriate reflection of vulnerable communities and community-level data in national SDG reporting
3. Find alternative solutions (i.e. occupancy certificates) aside from Government issued documentation around land records both for tenure security and as an evidence
4. Create more flexibility around alternative forms of advancing tenure security
5. Make land data open (esp. availability, accessibility, standards, inter-operability) to add transparency, efficiency, participation in land administration and to promote land tenure security
6. Consider land Data regulation as more and more land becomes open and visible. In this context converge NSDAP with Draft Data Privacy bill
7. Inform adequately local landholders before taking their consent for their land-data collection and empower them to influence the processing and uses of their data
8. Distribute responsibilities over data management and sharing between civil society organizations, data platforms, technology providers, and governments

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SECRETARIAT- ILDC 2019

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