

**A CRITICAL ANALYSIS ON LAND RIGHTS AND CLIMATE RESILIENCE IN INDIA  
FROM THE LENS OF WOMEN'S ACCESS TO CLIMATE ADAPTATION  
RESOURCES**

*by*

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**ABSTRACT**

In India, women are disproportionately affected by climate change. This is because the land which serves to them as means of livelihood and climate adaptation, they are excluded from owning it, controlling it and inheriting it due to presence of discriminatory land tenure system. Thus, undermining their climate resilience capacity and pushing them towards gender inequality.

It can be seen that; half of India's agricultural workforce comprises of women yet they own only 12–13% of land, making them vulnerable to climate change impacts. This vulnerability restricts their access to government schemes, credits and climate adaptation technology and hampers their decision-making power in resource management. The patriarchal land ownership pattern in India intersects with the climate change vulnerability. Subsequently, creating a crisis for women to adapt to change especially for those belonging to agricultural communities.

The scale of this disparity has intensified as agriculture has become increasingly feminised. The Periodic Labour Force Survey 2023–24 reveals that 76.95 per cent of rural women in India are now engaged in agriculture, marking an unprecedented level of female participation in the primary sector. Yet the Agriculture Census 2015–16 records that women operated only 13.9 per cent of agricultural landholdings, a proportion that rose by less than one percentage point over the preceding decade.<sup>1</sup> A 2024 comparative analysis published in the Economic and Political

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<sup>1</sup> Government of India, Periodic Labour Force Survey Annual Report 2023–24 (Ministry of Statistics and Programme Implementation 2024); Ministry of Agriculture and Farmers Welfare, All India Report on Agriculture Census 2015–16 (2021) 7.

Weekly, drawing on the All India Debt and Investment Survey, found that the actual share of women who individually own land may be as low as 5.5 per cent, far below the 31.7 per cent suggested by the National Family Health Survey-5 which relies on self-reporting. This methodological divergence reveals that headline statistics substantially overstate the reality of women's land ownership in India, a gap that has direct consequences for designing constitutionally adequate policy responses.<sup>2</sup>

The objective of the research paper is to evaluate the legal and institutional framework in India governing land rights from the perspective of climate justice and feminist jurisprudential notion. Further it will analyze the effectiveness of certain legislations dealing with land reforms in order to facilitate the land ownership rights of women. Moreover, the research paper will examine the nexus between women's land rights and climate adaptation policy within Indian legal framework. Apart from it, the research paper will throw light on the judicial interpretation of women's land rights while interpreting the climate policy.

The implications of this research are of profound importance as it contributes to climate justice while stating that sustainable adaptation is not possible without addressing the foundational gender inequalities which are sustaining in India. It puts forward the notion of reconceptualizing land rights as a prerequisite for climate resilience in India. Thus, recognizing women as an important element of climate action whose empowerment can be assured through legally enforceable ownership rights.

**Key Words:** Women Land Rights, Gender Justice, Environmental Law, Property Law

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### INTRODUCTION

The intersection of climate change and gender inequality constitutes to be one of the unauthorised problems in contemporary India. The concept of climate justice has grown over the years, especially the gender related dimension of land rights and its effects on women's ability to access climate adaptation resources. This dimension remains on the periphery of both legal reform and judicial development in India.

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<sup>2</sup> Hema Swaminathan and others, 'Status of Women's Landownership in India: A Comparison of Estimates from NFHS and AIDIS' (2024) 59(16) Economic & Political Weekly 32.

The climate adaptation resources encompass a broad spectrum of entitlements such as institutional credit for drought-resistant seeds, crop insurance schemes, watershed development programmes, and government subsidies for resilient agricultural infrastructure. In the Indian legal and administrative landscape all the above mentioned is predicated upon formal land ownership. Women without land titles are structurally invisible to the climate adaptation state. The consequence of the same is not merely economic marginalization but also a constitutional failure. This is because of the denial of the right to a dignified, climate-resilient livelihood guaranteed under Article 21 of the Constitution of India.

It can be seen that; half of India's agricultural workforce comprises of women yet they own only 12–13% of land, making them vulnerable to climate change impacts.<sup>3</sup> This vulnerability restricts their access to government schemes, credits and climate adaptation technology and hampers their decision-making power in resource management. The patriarchal land ownership pattern in India intersects with the climate change vulnerability. Subsequently, creating a crisis for women to adapt to change especially for those belonging to agricultural communities.

This paper flows through four analytical objectives. The first evaluates the constitutional and institutional framework from the perspectives of climate justice and feminist jurisprudence. The second assesses the effectiveness of key land reform legislations in advancing women's land ownership. The third examines the nexus between women's land rights and India's climate adaptation policy architecture. The fourth analyses judicial interpretation of women's land rights in the context of climate policy, and identifies pathways for progressive judicial intervention. It puts forward the notion of reconceptualizing land rights as a prerequisite for climate resilience in India. Thus, recognizing women as an important element of climate action whose empowerment can be assured through legally enforceable ownership rights.

### **Legal and Institutional Framework in India Governing Land Rights from the Perspective of Climate Justice and Feminist Jurisprudential Notion**

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<sup>3</sup> Food and Agriculture Organization of the United Nations, 'The Gender and Land Rights Database: India' (2023) <<https://www.fao.org/gender-landrights-database>> accessed 11 September 2026.

## • Constitutional Guarantees and their Structural Limits in Governing Land Rights in India

The Constitution of India guarantees gender equality. Such as Article 14, 15 and 16 of the Constitution of India prohibit discrimination collectively and make it a mandate for equality before law, equality of opportunity and equal access to the use of public resources.<sup>4</sup> When these articles are read together, they provide a strong foundation for women's land rights in India. Now, when it comes to Directive Principles of State Policy specially Article 39(a) and 39(b) mandate the state to ensure that the citizens have adequate means of livelihood and the resources of the community are distributed for the common good of the people.<sup>5</sup> But there exists substantive asymmetry in the operation of the above-mentioned articles of the Constitution of India. This is because such guarantees remain trapped at the aspirational level and when confronted by the realities of patriarchal land distribution system. There exists a stark difference between constitutional promise and social reality as women in India own less than 13% of agricultural land.<sup>6</sup>

According to Bina Agarwal in her work titled, *A Field of One's Own: Gender and Land Rights in South Asia* she has mentioned that such a disparity is a product of personal law inheritance that privilege male landholding and not a natural condition.<sup>7</sup> There is no data available at the national level with regards to gender disaggregated land ownership which further adds upon to the constitutional failure in the country. Therefore, making the women's dispossession of land rights an invisible issue to the institutions.

The magnitude of this data failure has been quantified in recent scholarship. A 2024 comparative study published in the *Economic and Political Weekly*, drawing on the All India Debt and Investment Survey, found that official National Family Health Survey data on women's land ownership overstates the position by a factor of nearly six: while the NFHS-5 reports that 31.7 per cent of women own land, the Debt and Investment Survey places the figure at approximately

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<sup>4</sup> INDIA CONST. arts. 14, 15, 16.

<sup>5</sup> INDIA CONST. arts. 39(a)–(b).

<sup>6</sup> Food and Agriculture Organization of the United Nations, 'The Gender and Land Rights Database: India' (2023) <[https://www.fao.org/gender-landrights-database/country-profiles/countries-list/generalintroduction/en/?country\\_iso3=IND](https://www.fao.org/gender-landrights-database/country-profiles/countries-list/generalintroduction/en/?country_iso3=IND)> accessed 11 September 2026.

<sup>7</sup> Bina Agarwal, *A Field of One's Own: Gender and Land Rights in South Asia* (Cambridge University Press 1994) 1–18.

5.5 per cent.<sup>8</sup> The divergence arises partly because the NFHS relies on self-reporting by women, while the Debt and Investment Survey typically records the household head's account, who is predominantly male. This evidentiary uncertainty is not peripheral: it means that the state is designing constitutional remedies against a baseline that dramatically overstates the scale of women's land access, rendering both legislative impact assessment and judicial scrutiny unreliable.

### ● Feminist Jurisprudential Analysis in Governing Land Rights in India

A critical framework is offered by feminist jurisprudence in order to diagnose the structural failures of land laws of India. So accordingly, land law in India is not a gender-neutral concept but it is a gender constitutive concept. This is because it produces patriarchal social arrangements by stating that the inheritance is a default legal expectation of the society.<sup>9</sup> There exist certain patriarchal notions when it comes to land rights in India. Such as;

- 1) Indian personal laws have always privileged male inheritance notion. Thus, confining women's entitlements to land as a matter of usufructuary rights, those kinds of rights which only allow use of land rather than ownership.
  - 2) Though ownership rights are granted, there exists a lack of social capacity for women to enforce such rights as cultural norms treat land to the line of patrilineage.
  - 3) The feminist critiques of land laws are not on the same lines with respect to feminist notion of climate governance. This is because of absence of women's land rights in climate adaptation framework.
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<sup>9</sup> Sandra Fredman, *Women and the Law* (Oxford University Press 1997) 35–60.

<sup>10</sup> Oxfam India, *Towards Land Equality: Critical Insights on Women and Land in India* (Oxfam India 2020) 12–15.

- 2) Though ownership rights are granted, there exists a lack of social capacity for women to enforce such rights as cultural norms treat land to the line of patrilineage.
- 3) The feminist critiques of land laws are not on the same lines with respect to feminist notion of climate governance. This is because of absence of women's land rights in climate adaptation framework.<sup>11</sup>

According to Catharine MacKinnon's work titled, *Towards a Feminist Theory of the State* states that law is a mechanism that institutionalizes male dominance and is a direct expression in the Indian land rights context.<sup>12</sup> The Hindu Succession Act speaks in gender-neutral terms of 'coparceners' and 'heirs' conceals the substantive male advantage built into the social conditions under which the law operates. Moreover, the work of Patricia Williams titled, *The Alchemy of Race and Rights* captures the experience of women farmers who cultivate land but cannot access climate adaptation resources just because the law does not recognize them as landowners.<sup>13</sup>

#### ● Climate Justice Analysis in Governing Land Rights in India

Climate justice demands equitable distribution of adaptation resources which are generated by climate change. As per the concept of climate justice, it states that the most vulnerable to climate change impacts, especially women who depend on natural resources for their livelihoods are disproportionately treated even though they must receive priority in the distribution in the adaptation resources.<sup>14</sup>

The Intergovernmental Panel on Climate Change has consistently stated that, women in developing countries bear a disproportionate burden of climate change impacts.<sup>15</sup> It has been seen that, women farmers in India depend heavily on agriculture which is fed by rain, minor produce of forest and all common property resources. All these mentioned are highly susceptible to climate variability. Moreover, without secure land tenure the institutional mechanisms such as

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<sup>11</sup> Nitya Rao, 'Good Women Do Not Inherit Land': Politics of Land, Gender and Livelihoods in India' (2011) 42(17) Economic & Political Weekly 1121.

<sup>12</sup> Catharine A MacKinnon, *Toward a Feminist Theory of the State* (Harvard University Press 1989) 162–84.

<sup>13</sup> Patricia Williams, *The Alchemy of Race and Rights* (Harvard University Press 1991) 148–65.

<sup>14</sup> UN Women, *Turning Promises into Action: Gender Equality in the 2030 Agenda for Sustainable Development* (UN Women 2018) 82–90.

<sup>15</sup> Intergovernmental Panel on Climate Change, *Climate Change 2022: Impacts, Adaptation and Vulnerability* (Cambridge University Press 2022) ch 8.

crop insurance, agricultural credit and governmental subsidies cannot be accessed by women in India which help in adaptation of climate change mechanisms. Therefore, climate justice demands not just formal equality in land but also substantive redistribution of land ownership which acts as a condition for equitable climate adaptation.

Empirical research provides concrete illustration of the gendered dimension of climate impacts in India. A 2023 study published in *Frontiers in Sustainable Food Systems*, which mapped climate–agriculture–gender inequality hotspots globally, found that in India twice as many women as men reported eating less in response to drought conditions, reflecting both women’s disproportionate agricultural exposure and their structural subordination within resource-constrained households.<sup>16</sup> Women farmers in India also lack access to credit, insurance, and extension services on account of their exclusion from formal land tenure, making them the least equipped to absorb climate-related agricultural losses. In the six years preceding 2021, India lost approximately 69 million hectares of crops to extreme weather events, and the weight of those losses fell disproportionately on women cultivators who had neither assets nor institutional recourse to cushion the impact.

#### ● Institutional Framework Gap in Governing Land Rights in India

The National Land Reforms Council, State Land Revenue Departments, and the Ministry of Rural Development neither collect gender related land ownership data on a systematic basis nor they design their interventions around gender responsive climate adaptation strategies. The National Action Plan on Climate Change (NAPCC) and the State Action Plans on Climate Change (SAPCCs) contains no provisions which links women’s land rights to climate resilience in India.<sup>17</sup>

India’s updated Nationally Determined Contribution, submitted to the UNFCCC in August 2022, marks a strengthening of the country’s climate commitments but continues this pattern of gender

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<sup>16</sup> Jemimah Njuki and others, ‘Where Women in Agri-Food Systems Are at Highest Climate Risk: A Methodology for Mapping Climate–Agriculture–Gender Inequality Hotspots’ (2023) 7 *Frontiers in Sustainable Food Systems* 1276390; International Food Policy Research Institute, ‘When Women Lead: Odisha’s Path to Climate-Resilient Agriculture’ (IFPRI South Asia, 12 November 2025) <<https://southasia.ifpri.info/2025/11/12/when-women-lead-odishas-path-to-climate-resilient-agriculture/>> accessed 11 September 2026.

<sup>17</sup> Government of India, National Action Plan on Climate Change (2008) <<https://moef.gov.in/wp-content/uploads/2018/04/Pg01-52.pdf>> accessed 11 September 2026.

silence at the sectoral level. Although the updated NDC references gender equality as a broader developmental commitment, a 2023 study on gender, agriculture, and climate-smart agriculture in India noted that India's NDC does not specify gender in relation to the agriculture sector, which employs the largest share of India's female workforce.<sup>18</sup> The result is that India's internationally binding climate commitments are formally gender-aware but operationally gender-blind at precisely the juncture where land-based livelihoods and women's economic survival intersect.

This institutional silence acts as a conceptual failure as the Indian states fail to recognize land tenure as a climate adaptation resource. The NAPCC's missions such as National Mission for Sustainable Agriculture and the National Water Mission are based on a gender-neutral beneficiary who possesses formal land rights. Until and unless women's land ownership is treated as an input of climate governance, the institutional framework in India will remain inadequate to the demands of both feminist jurisprudence and climate justice.

### **Effectiveness of Certain Legislations Dealing with Land Reforms in Order to Facilitate the Land Ownership Rights of Women**

#### **● Hindu Succession (Amendment) Act, 2005**

The Hindu Succession Act, 1956 which was amended in 2005 is the most significant legislative intervention in the domain of women's inheritance rights in India.<sup>19</sup> The amended act granted daughters equal coparcenary rights in ancestral Hindu undivided family property. Earlier these rights were reserved exclusively for sons. This Amendment gave daughters the rights of survivorship and the capacity to seek partition. But then the amendment is undermined by its implementation failures. This is because several states delayed notification and implementation of the provisions of the amended act. Subsequently, women continued to relinquish their legally

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<sup>18</sup> Government of India, 'India's Updated Nationally Determined Contribution' (2022) communicated to the UNFCCC; Vijesh V Krishna and others, 'Gender, Agriculture Policies, and Climate-Smart Agriculture in India' (2023) 217 *Agricultural Systems* 103648.

<sup>19</sup> Hindu Succession Act 1956 (No 30 of 1956), as amended by the Hindu Succession (Amendment) Act 2005 (No 39 of 2005).

recognised inheritance rights under acute family pressure, fearing breakdown of family relationships, and in some cases even violence became a reason for such relinquishment.<sup>20</sup>

It has been observed that there exists a gap between legal entitlement and actual land ownership. The interpretive uncertainties were resolved by the Supreme Court in the case of *Vineeta Sharma v Rakesh Sharma*,<sup>21</sup> which stated that daughters have coparcenary rights by birth regardless of whether the father was alive at the time the 2005 Amendment came into force. Also, in the case of *Danamma @ Suman Surpur v Amar*,<sup>22</sup> the Court held that married daughters cannot be deprived of their right to ancestral property. These judicial interpretations strengthened the legal standing of women's land rights in India. But then the structural problem still persisted such as the social transformation of actual ownership of land.

The practical distance between legal entitlement and actual land ownership remains considerable even after these judicial clarifications. A 2021 field study conducted by Landesa in Uttar Pradesh and Odisha found that only 13 per cent of women possessed legal documents confirming their ownership of agricultural land despite the majority performing farm work on the land in question.<sup>23</sup> A significant barrier to operationalising the 2005 Amendment is the continued social expectation that daughters will relinquish their inheritance claims to preserve family cohesion, a pattern documented across agrarian communities in both Hindu majority and tribal belt regions. Until state land revenue departments develop active outreach programmes to register women as co-owners under the Amendment, the jurisprudential advance secured in *Vineeta Sharma* will remain largely inaccessible to women without independent means to initiate partition proceedings.

From a climate adaptation perspective, it can be understood that if the provisions of the 2005 Amendment are fully enforced the number of women who hold formal land titles would increase exponentially. Thus, enabling them to access institutional credit, crop insurance under the

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<sup>20</sup> Nitya Rao (n 8) 1124.

<sup>21</sup> *Vineeta Sharma v Rakesh Sharma* (2020) 9 SCC 1.

<sup>22</sup> *Danamma @ Suman Surpur v Amar* (2018) 3 SCC 343.

<sup>23</sup> Landesa, 'Women's Land Rights in Uttar Pradesh and Odisha' (Landesa Rural Development Institute 2021), as cited in *The Telegraph India* (September 2025) <<https://www.landesa.org/what-we-do/india/>> accessed 11 September 2026.

Pradhan Mantri Fasal Bima Yojana, and government schemes for climate-resilient agriculture.<sup>24</sup> Therefore, the Amendment 2005 contains latent climate adaptation potential that still remains untapped due to poor enforcement capacity and deep-rooted patriarchal resistance.

### ● Forest Rights Act, 2006

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 has recognised the forest rights of forest-dwelling communities which includes individual rights to cultivate and reside in forest land and exercise community rights over community forest resources.<sup>25</sup> When it comes to women's land rights, the most important provision is Section 5 of the Act which states that it is mandatory for joint titling of forest rights in the names of both husband and wife. Thus, ensuring that women formally hold co-ownership of the forest land.

However, when it comes to implementation it reveals a sharp divergence from this progressive mandate. It can be seen that women receive less than 10% of individual forest rights titles in practice. This reflects both bureaucratic indifference as well as local power dynamics that systematically exclude women from forest governance processes.<sup>26</sup>

The overall implementation record of the Forest Rights Act amplifies this concern. In the first six years after its enactment, the government received approximately 3.5 million claims but granted land titles in respect of only 39.7 per cent of them, indicating that the procedural burden of proof has systematically frustrated the Act's remedial purpose.<sup>27</sup> The Forest (Conservation) Amendment Act, 2023, has further imperilled forest-dwelling communities by narrowing the definition of forests eligible for statutory protection, thereby exposing large areas of forest land to diversion for commercial and infrastructure purposes without requiring prior recognition of community forest rights. For women in forest-dependent communities, who depend on minor

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<sup>24</sup> Pradhan Mantri Fasal Bima Yojana, Ministry of Agriculture & Farmers' Welfare, Government of India (2016) <<https://pmfby.gov.in>> accessed 11 September 2026.

<sup>25</sup> Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 (No 2 of 2007).

<sup>26</sup> Ministry of Tribal Affairs, Government of India, Status Report on Implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2021).

<sup>27</sup> Oxfam India, 'Implementing the Forest Rights Act: Addressing a Historical Injustice' (Oxfam Policy and Practice 2014); India Development Review, 'IDR Explains: Forest Rights Act (FRA)' (May 2026)

<<https://idronline.org/features/rights/idr-explains-forest-rights-act-fra/>> accessed 11 September 2026.

forest produce as a primary source of livelihood during climate stress periods, this legislative regression compounds an already fragile tenure position.

The Forest Rights Act is substantial for climate adaptation as forest rights include rights to access and collect minor forest produce such as medicinal plants, edible roots, fruits. These all prove to be critical livelihood resources for women in forest-dependent communities at the time of climate stress periods. Subsequently, it can be understood that without secure forest tenure, women's climate resilience is compromised fundamentally.<sup>28</sup>

### ● Land Acquisition Act, 2013

The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 is a significant expansion of the rights of the land-affected communities.<sup>29</sup> It has recognised the principle of social impact assessment, has mandated the multi-crop land acquisition as a last resort and also provides for enhanced compensation and rehabilitation at the same time. But when this Act is looked upon from the gender perspective, this Act consists of various lacunas.

The definition of 'affected families' eligible for compensation is broad in principle but when it comes to practice it excludes women who hold land informally through customary rights or as agricultural labourers without title.<sup>30</sup> Moreover, this Act's rehabilitation provisions recognise female-headed households in a distinct category, but do not adequately address the loss of access to common property resources such as grazing lands, waterbodies, forests. This is because women disproportionately depend upon these and they are among the most significant climate adaptation resources for rural women in India. Their loss through acquisition exposes women's climate vulnerability in ways that the Act's compensation framework does not act upon.

### ● State-Level Land Reforms and Critical Gaps

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<sup>28</sup> Bina Agarwal, *Gender and Green Governance: The Political Economy of Women's Presence Within and Beyond Community Forestry* (Oxford University Press 2010) 48–72.

<sup>29</sup> Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013 (No 30 of 2013).

<sup>30</sup> Namita Wahi and others, 'Land Acquisition in India: A Review of Supreme Court Cases from 1950 to 2016' (Centre for Policy Research Working Paper 2017).

Several states have attempted to address the gap between legal entitlement and actual women's land ownership through mandatory joint titling provisions. For example, Karnataka's 2020 amendment to its land revenue laws mandated joint ownership in land pattas.<sup>31</sup> It has been seen that joint titling increases women's bargaining power within households and is also associated with greater investment in land improvements and climate resilient agricultural practices such as soil conservation and water harvesting structures.<sup>32</sup> But then there exists a critical gap between legislative and state-level reforms due to absence of any instrument which directly links land rights to climate adaptation changes.

### **The Nexus Between Women's Land Rights and Climate Adaptation Policy**

#### **● The Exclusionary Architecture of India's Climate Policy**

India's National Action Plan on Climate Change which was launched in 2008 sets out eight national missions which addresses various dimensions of climate mitigation and adaptation.<sup>33</sup> Out of these, the National Mission for Sustainable Agriculture (NMSA) is directly relevant to women farmers. This is because NMSA promotes climate-resilient agriculture in the form of integrated farming systems, use of water efficiently and soil health management. But when it comes to the eligibility criteria of the NMSA schemes it requires documentary proof of land ownership. The women farmers who are without land titles are excluded from soil health card schemes, crop insurance under the Pradhan Mantri Fasal Bima Yojana, institutional credit at concessional rates, and access to climate-resilient seed varieties and agricultural extension services.<sup>34</sup> This exclusion is not incidental in nature but a structured one.

#### **● National Adaptation Fund and Gender Blindness**

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<sup>31</sup> Karnataka Land Revenue (Amendment) Act 2020 (Karnataka).

<sup>32</sup> Agnes Quisumbing and John Maluccio, 'Intrahousehold Allocation and Gender Relations: New Empirical Evidence from Four Developing Countries' (International Food Policy Research Institute Discussion Paper No 84, 2000).

<sup>33</sup> Government of India, National Action Plan on Climate Change (n 13).

<sup>34</sup> Priya Sangameswaran, 'Climate Change, Agriculture and Women in India: Policy Issues' (2009) 44(44) Economic & Political Weekly 30.

The National Adaptation Fund on Climate Change (NAFCC) which was established in 2015 finances projects that enable communities to adapt to climate change.<sup>35</sup> The projects funded by NAFCC typically channel resources through gram panchayats and local bodies where the participation of women and voice are limited due to the patriarchal structures that deny them such land rights. The projects funded by NAFCC are community based and do not address the land tenure insecurity which is a structural root of women's climate vulnerability.

### ● Climate-Smart Agriculture and the Assumption of Ownership

There are several additional government schemes which promote climate smart agricultural practices, including the Paramparagat Krishi Vikas Yojana, the National Mission on Sustainable Agriculture, and Soil Health Management schemes.<sup>36</sup> All the above mentioned assume land ownership as a condition of participation. Women cultivators without ownership rights face various barriers in accessing these resources and are effectively being excluded from such an infrastructure of India's climate adaptation response. The UN Framework Convention on Climate Change's Gender Action Plan which was adopted at COP23 has explicitly recognised the gender responsive climate policies and have addressed the structural inequalities which includes discriminatory land tenure systems.<sup>37</sup>

### ● Critical Nexus Points and Positive Developments

- 1) Land ownership determines the access to institutional credit which is a primary financial mechanism for climate adaptation investment at the farm level.
- 2) Women's exclusion from land ownership perpetuates their vulnerability to climate shocks by denying them the resources to build resilience.
- 3) Climate policies act as a condition of access which reinforces existing gender inequalities rather than addressing them.

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<sup>35</sup> National Adaptation Fund for Climate Change, Ministry of Environment, Forest and Climate Change, Government of India (2015) <<https://moef.gov.in/climate-change-2/nafcc/>> accessed 11 September 2026.

<sup>36</sup> Paramparagat Krishi Vikas Yojana, Ministry of Agriculture & Farmers' Welfare, Government of India (2015) <<https://pgsindia-ncof.gov.in/pkvy/Index.aspx>> accessed 11 September 2026.

<sup>37</sup> UN Framework Convention on Climate Change, Gender Action Plan, Decision 3/CP.23 (2017).

4) Women cannot engage in the long-term land management practices such as tree planting, soil conservation, water harvesting infrastructure which are the pioneer for the foundation of sustainable climate adaptation.<sup>38</sup>

States such as Kerala and Himachal Pradesh have begun incorporating gender considerations into their climate planning frameworks. The National Gender and Climate Change Framework recognises women's vulnerability but it lacks meaningful enforcement mechanisms. Mission Shakti and allied women's empowerment programmes have shown potential for integration of land rights and climate adaptation frameworks if such is institutionally recognised.

### **Judicial Interpretation of Women's Land Rights and Climate Policy**

#### **• Judicial Advances on Women's Land Rights**

There have been significant advances in interpreting and enforcing women's land rights by Indian courts under the amended Hindu Succession Act. They have also developed an expansive environmental rights jurisprudence through a series of public interest litigations. In the case of *MC Mehta v Union of India*,<sup>39</sup> the Supreme Court stated that every person has the right to a wholesome environment which is an implicit component of the right to life under Article 21 of the Constitution of India. In the case of *Subhash Kumar v State of Bihar*,<sup>40</sup> the Court held that the right to life also includes the right to enjoyment of pollution free water and air. Therefore, such decisions established the constitutional basis for environmental rights in India.

In *Olga Tellis v Bombay Municipal Corporation*,<sup>41</sup> the Supreme Court recognised the livelihood rights of persons as a component of the right to life under Article 21 of the Constitution of India. This decision provided the constitutional foundation for women's land rights as the precondition for climate-resilient livelihoods which needs to be constitutionally protected. There is no logical extension of the *Olga Tellis* case to the climate adaptation context but there is jurisprudential

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<sup>38</sup> Naila Kabeer, *Reversed Realities: Gender Hierarchies in Development Thought* (Verso 1994) 221–42.

<sup>39</sup> *MC Mehta v Union of India* (1987) 1 SCC 395.

<sup>40</sup> *Subhash Kumar v State of Bihar* (1991) 1 SCC 598.

<sup>41</sup> *Olga Tellis v Bombay Municipal Corporation* (1985) 3 SCC 545.

imagination which can synthesize livelihood rights, environmental rights, and gender equality into a coherent constitutional command.

### ● The Critical Gap in Judicial Reasoning

Indian courts have not articulated an explicit nexus between women's land rights and climate adaptation. The Supreme Court has not applied feminist jurisprudential principles to climate policy interpretation, nor has it created precedents mandating gender-responsive climate adaptation policies that prioritize women's land tenure security. The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) requires elimination of discrimination against women in rural areas, including discrimination in land ownership and access to agricultural credit, loans, and technology.<sup>42</sup> The Paris Agreement's preamble has acknowledged the importance of gender equality in climate action.<sup>43</sup> Indian courts have deployed various international instruments as interpretive aids in national laws of the land.

### ● Promising Jurisdictional Trends and Pathways for Judicial Activism

It can be seen that various High Courts have shown willingness to engage with the intersection of environmental rights and social justice. For example, the Uttarakhand High Court's judgment in *Mohd Salim v State of Uttarakhand*, which declared the Ganga and Yamuna rivers to be legal persons, illustrates the judiciary's readiness to deploy inventive constitutional reasoning in environmental matters, even though that particular ruling was subsequently stayed by the Supreme Court in July 2017 and has not attained the status of settled precedent.<sup>44</sup> Apart from it, the Kerala High Court has recognised the rights of the environment in various public interest litigations.<sup>45</sup>

Indian courts can play a very significant role in the climate resilience system in India. They have the power to interpret Article 21 in order to include the right to a climate-resilient livelihood which will secure land tenure for women farmers in India. Moreover, they can invoke Article 14 in order to strike down climate policies that exclude women without land titles and discriminate

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<sup>42</sup> Convention on the Elimination of All Forms of Discrimination Against Women (adopted 18 December 1979, entered into force 3 September 1981) 1249 UNTS 13, art 14.

<sup>43</sup> Paris Agreement (adopted 12 December 2015, entered into force 4 November 2016) TIAS No 16-1104, preamble.

<sup>44</sup> *Mohd Salim v State of Uttarakhand* (2017) SCC Online Utt 367.

<sup>45</sup> *P Rajan v State of Kerala*, WP (C) No 30793 of 2019 (Kerala HC, 2021).

indirectly on the basis of gender. Additionally, they can deploy Articles 39(a) and (b) of directive principles of state policy in order to mandate the equitable distribution of climate adaptation resources. They can further mandate periodic gender audits of all NAPCC missions and state climate action plans, issue guidelines requiring proof of benefit-sharing with women landholders in all publicly-funded climate adaptation projects, and recognise customary women's land rights especially in tribal and forest areas.<sup>46</sup>

### SUGGESTIONS AND CONCLUSION

- 1) The parliament needs to enact a legislation called the Women's Land Rights (Protection and Entitlement) Act which will consolidate and reinforce women's land rights across personal law regimes while providing for automatic co-registration of land in the names of married couples, creating time-bound mechanisms for implementing the 2005 Hindu Succession Amendment, and establishing grievance redressal mechanisms for women whose inheritance rights are denied.
- 2) The Pradhan Mantri Fasal Bima Yojana and all NMSA sub-schemes should be amended to accept alternative documentary evidence such as tenancy records, self-declarations, gram panchayat certifications in lieu of formal land titles for scheme eligibility.
- 3) The Forest Rights Act should be amended in order to make it more gender segregated reporting of individuals and community forest rights titles and to create enforcement mechanisms for the joint-titling requirement under section 5 of the Act.
- 4) The NAPCC and all SAPCCs should be revised in order to recognise women's land tenure security as a structural determinant of climate vulnerability and to incorporate women's land rights objectives in every sectoral mission.<sup>47</sup>

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<sup>46</sup> World Bank, Gender in Climate Investment: Considerations for Practitioners (World Bank Group 2019) <<https://openknowledge.worldbank.org/handle/10986/31454>> accessed 11 September 2026.

<sup>47</sup> Commission on the Status of Women, Gender Equality and the Empowerment of Rural Women and Girls, Resolution 62/1 (2018).

5) The Supreme Court must recognise the right to a climate-resilient livelihood which includes secure land tenure for women.

6) The High Courts should be encouraged to exercise their writ jurisdiction to direct state governments to implement mandatory joint land titling across all categories of land ownership and to report on compliance annually. The comprehensive directions on the registration of women's customary land rights in tribal and forest areas for the purposes of climate programme eligibility needs to be issued by courts.<sup>48</sup>

This paper has argued that the exclusion of women from land ownership is not just limited to the question of property rights but a climate justice crisis in the country. In India's legal and administrative landscape, land tenure is considered as a gateway to climate adaptation resources. Women who till the land without owning it are dispossessed by the patriarchal structures of personal law and customary practice that deny them inheritance and also by climate governance architecture that uses land titles as the condition of entry into the infrastructure of adaptation. The constitution of India, especially Articles 14, 15, 21, and 39, provides for the doctrinal resources for a transformative response. The legislative instruments such as the Hindu Succession Amendment, the Forest Rights Act, the Land Acquisition Act contain the seeds of progressive reform, even though they have not germinated yet. The judicial imagination from MC Mehta to Vineeta Sharma, has the capacity to synthesize land rights and climate justice into a coherent constitutional command. The task for legal scholars, practitioners, and judges is to perform this synthesis, to make the constitutional argument that no woman in India can be denied her right to a climate-resilient livelihood because the state has failed to secure her right to the land she cultivates. Climate justice is, in the deepest sense, also land justice. And land justice, in India, is inseparable from gender justice.

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<sup>48</sup> UNDP, Human Development Report 2020: The Next Frontier — Human Development and the Anthropocene (UNDP 2020) 198–204.

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