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DALITS AND LAND

STATUS AND RELATED ISSUES

**Study to Understand Status of Land
for Dalits in Western Rajasthan**

Year 2012

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INTRODUCTION

Land is the basis of all economic activity. It is the most important asset in an agrarian economy like India where majority of the population in rural areas are dependent on agriculture, labour and animal husbandry. Land issues have thus attracted equal attention from policy makers and academicians. After independence, India engaged in a conscious process of nation building with stress on high productivity and equitable distribution of land. Land reforms with four important components - abolition of intermediaries, tenancy reforms, fixing ceiling on land holdings and consolidation of land holdings - were major policy interventions. It was a strategy of social change through the intervention of the state. However, reform implementation was radical and successful in some respects like abolition of intermediaries while ceiling on land holdings was imposed with a half-hearted approach leading to dismal failure in many states¹.

In rural societies, ownership of land is coterminous with social status. Its unequal distribution reflects prevailing social stratification and helps maintain the hierarchical structure of the society. While large landowners invariably belong to the upper castes and the cultivators to the middle castes, agricultural workers are largely dalits and tribals. The denial of access to land, functions as a means of exclusion and a mechanism of bondage. Landlessness is at the core of dalit dependence on caste Hindus.

The landless, whose only remaining asset is their labour remain dependent on large land holders for their survival. When Dalits seek protection of the law against caste Hindu atrocities, retaliation comes in the form of denial of wage work on the lands of caste Hindus. This is often coupled with social boycott, which includes the stoppage of water supply to Dalit lands, non-supply of necessities of life and so on.

Fair distribution of land strikes at the roots of an unequal social order and skewed power relations. It frees the marginalized from the clutches of perpetual bondage, for want of a sustainable livelihood. Laws and regulations in India prohibit the alienation of Dalit lands, set ceilings on a single landowner's holdings, and allocate surplus government lands to be re-distributed to Scheduled Castes (SCs) and Scheduled Tribes (STs). However, land

¹ Paramjit S. Judge, Social Change through Land Reforms

ownership patterns remain skewed. Land reforms resulted in the creation of middle level peasant who belonged to all castes except the scheduled caste².

The 1999-2000 National Statistical survey (NSS) data illustrated that around 10 percent of the SC households were landless as compared to 13.34 percent in 1992 and 19.10 percent in 1982. Though landlessness was decreasing, the rate of decrease was marginal. On the other hand, 6.15 percent of the non SC/ST households were found to be landless in 1999-2000, as compared to 10.53 in 1992. Landless and near-landless (households owning less than 0.40 hectares of land), the percentage was 79.20 for SCs, 52.90 for the non SC/STs in 1999-2000. As on September 30, 1996, of the 52.13 lakh acres distributed at all-India level, about 18.08 lakh acres were to SC, and 26.74 lakh acres were to non-SC/ST persons (according to report of National Commission for Scheduled Castes and Scheduled Tribes). 18.49 lakh of the beneficiaries were SC, and 25.53 lakh were non-SC/ST. The land distributed per beneficiary was 0.977 acre for SC/ ST which was less compared to 1.047 acres for non-SC/ST.

A substantial proportion of the land distributed to dalits is not in their possession, owing to encroachment by non-dalits. Land distribution is on paper. Actual possession of land, based on the measurement done at the site, is not given effect. In exceptional instances where Dalits do get to own land, they are dispossessed of it sooner or later.

There is a strong correlation between land and atrocities. Tajaram and Bhawari Devi were the only Dalit couple in village of Bhaniyana, Pokhran, Rajasthan who owned land. Wanting to usurp their land to extend the campus of a nearby private school, several dominant caste villagers intimidated the couple. On the night of December 7, 2006, they forcibly entered Tajarams house, molested and injured Bhawari Devi (failing in an attempt to rape her) and ransacked her home. The police registered a report, but took no measures to protect the family and did not apprehend the accused. There are numerous similar cases. Most dalit victims of violence and discrimination are landless agricultural laborers. Dalits' lack of access to land makes them economically vulnerable and the dependency is often exploited by the landlords. Since the dominant castes depend on the economic subjugation and exploitation of dalits, and since dalit land acquisition and ownership threatens this arrangement, land disputes often result in violence and abuse against the dalit community

² Paramjit S. Judge, Social Change through Land Reforms

especially the destruction of their homes and property. Typically, in such disputes Dalit women are made the targets of violence³.

The Western Rajasthan Context and Efforts of Unnati

70 percent of the population of Rajasthan is dependent on agriculture and allied activities. Rajasthan has had the jagirdari system since medieval period to before independence. Kings distributed lands to zamindars who further distributed it to farmers for farming. The farmers did not have any rights on the land they cultivated. The zamindars collected some percentage of the produce or cash as taxes from the farmers and sometimes it was as high as half the produce. After independence and subsequent land reforms, Jats emerged as middle level peasants. Western Rajasthan still maintains and perpetuates its feudal core. Land remains an issue of contention and the major cause of atrocities. Access to justice is delusional for marginalized dalits. Journalist P. Sainath informed in a Public Hearing in Chennai on April 18 and 19, 2000 that the rate of conviction in cases of atrocities against Dalits in Rajasthan was only 2.5 percent.

Migration is an imperative outcome of land alienation. In recent years, there has been increasing trend of migration by dalit and other poor people to neighboring states like Gujarat, Madhya Pradesh, Haryana and Punjab in search of livelihoods. Most of them are involved in occupations like agriculture labour, factory and construction work. At destination place there are issues of child labour, economic exploitation, harassment and inadequate support mechanisms.

Western Rajasthan has experienced some changes in the last few years that have affected the status of land. Land prices have risen owing to identification of new mineral sources and existence of coal and oil in Barmer district. Availability of water for irrigation through canal in Mohangarh and Ramgarh of Jaisalmer and Sanchor of Jalor has also contributed to increase in land prices.

Unnati recognizes the importance of ownership of land for reduction of insecurity and vulnerability and its impact on livelihood as well as dignity. Facilitating access to land has thus been an important aspect of work in the area of Dalit mobilizing and organizing for the last 10 years. Unnati has provided legal support to 218 households involved in cases of land encroachment and aided the release of 1172 bighas of Dalit land till June 2009.

³ Smita Narula, Broken People: Caste Violence against India's Untouchables (Human Rights Watch, 1999), p. 27-28.

Cases of Encroachment of Dalit Land

41 Bhil households from Bhilon ki Dhani Mangla in Sivana block of Barmer district realized in the year 2000 that the land which they had been cultivating for generations had been transferred to a Sahukar. They put up a collective resistance and have continued cultivating for the last 10 years while the case is in court.

Natharam Meghwal from Nagalwas village of Bhopalgarh block, Jodhpur district owned 55 bighas of fertile land. It was surrounded by the land of non-dalits. He decided to have tube well dug in his land but the surrounding land owners started creating problems when the digging commenced and machinery arrived. They prevented him from going into his fields by crossing through their land. He received relief in March 2011 when his right of way was established and a sensitive sub-division officer went on site with him to help him reclaim his land.

Vested interests in Nure ki Bhurj village of Phalodi block, Jodhpur district occupied houses constructed under Indira Awas Yojana for the Dalits when the latter went to their fields. When asked to leave they replied that they will do so when the Dalits returned. By and by they started removing stones from the houses until all trace of the houses was removed. Poor Dalits do not have the capacity to remove the powerful while the administration hides behind the garb of doing investigation. The victims first made the matter known to the village and then filed grievance with the police station. However, they began receiving death threats from the accused. Unnati made several representations to various government functionaries as a result of which the accused were given notice and legal action was taken.

60 bighas of land of Fakira Ram from Kalyanpur block of Barmer district was encroached upon and he had tried everything at his level. Legal guidance helped him fight his case for 4 years in court. He received decision in his favor six times but the process kept extending as the opposite party continuously made efforts for 'stay'. Finally the case was decided in favor of Fakira Ram and limits were set at the site. He is cultivating his land since the last two years.

Unnati has been able to have encroached land released in favor of the Dalit through organizing, mobilizing and legal guidance. The cases indicate how land is the lifeline of the poor and the sole means of their livelihood. They also highlight the various issues associated with Dalit ownership of land. The effort has been full of complexity and risks. This valuable experience needed to be taken to a broader level of strong legal and policy advocacy and the current study is placed in this context. Women in India have traditionally been deprived of property rights and any efforts still meet with strong social opposition. The concept of land as a commodity also comes into conflict with traditional concepts of common property in tribal societies that face widespread displacement in the process of development and modernization. These aspects of the land issue are beyond the scope of the study.

METHODOLOGY

Objective of the study was to understand the status, processes and impact of land alienation on dalits for a strong legal and policy advocacy. Two major aspects were studied: Status of encroachment on common land and Status of encroachment on land owned by dalits

Methodology

Sampling was purposive. The study was done in 70 villages that are currently the intensive intervention villages of Unnati in three districts of Western Rajasthan - Barmer, Jaisalmer and Jodhpur. These villages have substantial Dalit population and are representative of the habitation and social structure in the Thar desert. Also, the villages have already been part of mobilizing and organizing initiatives that provides for ease of information collection.

Methodology for the study is participatory. Information gathering and analysis use tools of Participatory Rural Appraisal (PRA). Guiding questions were developed for group discussions and field tested. Social and resource mapping served as the basis of discussions separately with men's and women's groups. Total participation in group discussions was around 2100 people (nearly equal number of men and women). Triangulation of information was done by accessing information from revenue functionaries like patwari and tahsildar. To study the nature of government records information was also accessed through use of Right to Information (RTI) from relevant government departments. The facilitators visited some sights and studied related documents in detail. This resulted in the development of 13 representative cases highlighting the status of dalits and land and related issues. Review was done regarding legal aspects of land ownership of dalits and recourses in case of encroachment.

Finalisation of aspects to be covered under the study was done through discussions with facilitators of Dalit Resource Centers (DRCs). The major aspects covered were:

1. Extent of land holding by dalits especially ownership of agricultural land
2. Extent of encroachment on common lands (grazing lands, traditionally protected lands called Oran, uncultivable land, catchments and shamshan), by whom and its impact on dalits
3. Status of legal action taken in case of encroachment on common land resources
4. Extent and impact of encroachment on dalit land by non-dalit households
5. Information about dalit households who have been distributed land but do not have possession of the holding
6. Analysis of problems being faced by the dalit households with respect to their land holdings

Limitations

Many times people did not have accurate information about common land and encroachments. Common land did not have limits marked and purpose identified. Encroachment on land is usually by powerful forces and people are afraid to talk about or identify them for fear of reprisals. These aspects posed difficulties in acquiring information. The focus of the study is on caste based discrimination and alienation. Gender issues and deprivation of property rights have remained beyond the scope of the study.

THE LEGAL CONTEXT

Relevant Acts and Provisions

It is necessary to understand the legal context for land issues. Hence the relevant enabling Acts and provisions have been presented in brief before the findings.

Rajasthan Tenancy Act 1955

This Act provides protection to tenants against exploitation by zamindars. According to Sec 31, a tenant, agricultural worker or artisan has the right to possess site for residential house free of charge in the abadi of the village.

According to Sec 42 (b), a member of scheduled caste or scheduled tribe cannot sell, gift or bequest his land to a non SC or ST person. This provision came into force on May 1, 1964. Sale between SC and ST is also void [Bhorilal v. Ramnivas, 1993 RRD 94 at p. 94]. This legislation recognizes that members of SC who were also socially down trodden were through coercion or intimidation made to sell land to more powerful upper caste. It is a form of 'distress sale'. Thus to protect the interests of weaker sections, even the element of collusion was removed. It is difficult to distinguish between forced sale and the sale of free will. Wherever it has been proved that the land was transferred willingly and without coercion, land was resumed by the state government and re-allotted to the members of SC. [Ramswaroop v. Gopichand & anr. 1995 RRD 396, at p. 399]. Refund of money paid in lieu of such transaction cannot be asked for [State v. Tejya, L.R. 1996 RRD 95]. Such land cannot even be transferred or gifted to an institution. As the act is ab initio void, the transferor is considered equally guilty and Sec 175 makes it mandatory for ejection of both [Govt. Middle School, Budhadewal v. Nanda & ors., 1993 RRD 593 at pp, 594-595, 595]. The court may conclude the enquiry in a summary manner after giving a reasonable opportunity to the parties of being heard and pass an order within 3 months. Limit is 30 years. A khatedar tenant of SC or ST cannot mortgage his land to non-SC or ST person. According to Sec 46-A, member of SC or ST cannot let or sub-let the whole or any part of his holding to a non-SC or ST. According to Sec 49A tenant of SC or ST cannot exchange his land with a non-SC or ST member. The provision holds even if there has been a change of religion by the SC or ST member.

According to Sec 183B, a trespasser who has taken or retained possession of any land held by a member of SC or ST, shall be liable of ejection on an application of person/s entitled to evict him or of a public servant authorized by the state government in this behalf (tehsildar) and the penalty may extend to 50 times the annual rent for each agricultural year. This also holds true for land allotted to a SC or ST member. Limit for submitting application is 12 years. Sec 183 (c) prescribes imprisonment of 1 month to 3 years and payment of fine of Rupees Twenty Thousand for encroachment of land belonging to SC and ST that is not removed after 15 days notice by tehsil. Onus of proof is on the encroacher.

Sec 251 concerns the right of way of a person to his farm and the tehsildar or gram panchayat can remove the obstruction created in response to application of the person tilling the land. It concerns only existing way and does not talk about opening new way. This provision applies only on agricultural land. If the gram panchayat is unable to take action within 45 days, the tahsildar is entitled to action within 30 days.

Application for consolidation of holding cannot be made in the case of land allotment without the consent of the allottee even if the person applying is already tilling the land. He can be removed through legal process.

Order dated 8-12-2000

It requires a campaign to be initiated at the district level for identification of encroachment of SC-ST land and action:

1. Identification of illegal transfer and encroachment

- i. Patwaris will visit sites of land belonging to SC and ST and note its status in a separate register;
- ii. Such identified cases of encroachment and illegal transfer should be presented for decision before relevant revenue officials within one month;
- iii. Such cases should also be identified during revenue campaigns and recorded in relevant revenue courts within a month;

2. Decision by relevant revenue courts

- i. Decision should be reached within 3 months. In case of delay, District collector will be appraised by the relevant functionary before the expiry of 3 months for guidance;
- ii. Starting from Dec 15, 2000 dates for decision on cases of illegal transfers should be given within 6 months.

3. Release of land: After decision, action for release of land should be taken within 7 days. District Collector is responsible for the same. Use of police can be made wherever necessary.

4. Regular monitoring: Revenue Officer will monitor the released land for at least 3 months and review cases of illegal transfers and encroachments every month.

Rajasthan Land Revenue Act, 1956

According to Sec 91 (6) (a) and (b), occupier of pasture land and land appurtenant to a public well, Nadi, Johad and Talab is given a notice of 15 days to remove occupation by the tahsildar. Otherwise, on conviction, he may be punished with simple imprisonment of one month to three years and fine upto Twenty Thousand Rupees. An employee entrusted specifically by an order of the Collector to stop or prevent such occupation, neglects or deliberately omits to stop, on conviction be punished with simple imprisonment upto a month and a fine upto Thousand Rupees.

According to Sec 136, sub-zonal officer has been given the authority to correct mistakes in records. Sections 129 and 138 relate to transparency and authorize anybody to look at, make pencil notes or get copies of any land records.

Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act

Sec 3 (1)(iv) provides for minimum imprisonment of six months that can be extended to five years with minimum fine of Rupees 25,000 if the land owned by or allotted to a SC and ST person is encroached upon by a non - SC and ST person. Sec 3 (1)(v) provides for similar punishment if a non SC/ ST person removes a SC or ST person from his land or house or deprives him of his right to land, house or water.

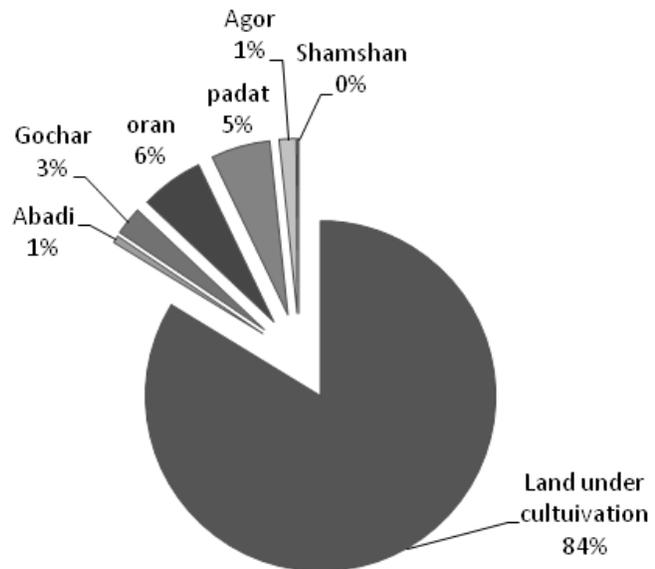
FINDINGS OF THE STUDY

74 percent of total land area in the desert districts of Barmer, Jaisalmer and Jodhpur is under agriculture. In Jaisalmer 67 percent of the area is under agriculture, in Barmer it is 80 percent while in Jodhpur district it is 90 percent.

Only 4 percent of land under cultivation is irrigated (Jaisalmer - 2 percent, Barmer 6 percent, Jodhpur - 3 percent).

78 percent of dalit households surveyed owned land. However, it constitutes only 12 percent of agricultural land. The percentage of land being owned by Dalits is least in Jodhpur (9 percent) and most in Barmer (16 percent).

Approximate Distribution of land



I. Status of common land

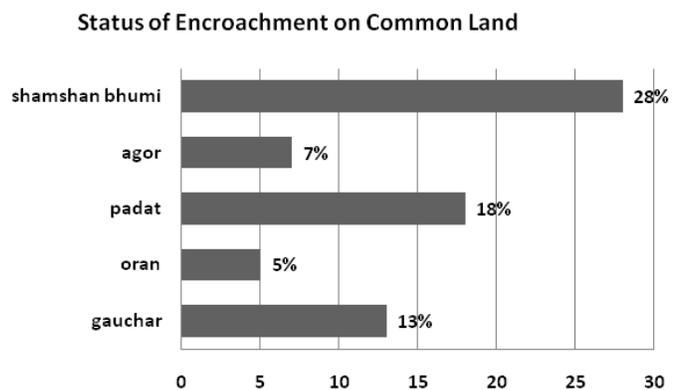
Gauchar (village grazing land) and Oran (forest land dedicated to a local deity) are the main sources of grazing for cattle, mainly sheep and goats. Considering that animal husbandry is a major source of livelihood in rural western Rajasthan and that the Dalits do not own other land, its importance cannot be underscored. Oran are important coping mechanisms developed by the people of the Thar and preserved through centuries in the ecology of the desert and the constant threat of drought. Land was dedicated to a deity and thus protected. There was rigorous management and punishments for misuse. Protected land thus developed as an important source of fodder that sustained the animals through long drought periods. Orans also served as the catchment for community rain water harvesting resources like nadis (ponds) and preserved these water structures.

Grazing land was found to be 7.5 percent of total area (gauchar - 2.3 percent, oran - 6 percent). There is not much difference in the extent of land under gauchar between the districts but Jaisalmer has the largest amount of oran land (7.3 percent). Jodhpur district has the least oran land at 0.7 percent.

8 percent of the total grazing area is encroached. 13 percent of the gauchar and 6 percent of the oran land is encroached. 50 percent of the gauchar in Barmer district is encroached. Encroachment on oran, though less, denotes a dangerous trend. It signifies the break-down of traditional management systems and structures.

Agor is another distinctive feature and very important in desert climes. It is the catchment area of surface rain water harvesting structures. Rain water is the most potable source of drinking water in the desert as sandy soil does not enable much percolation and the ground water is saline and hard. As such rain water harvesting mechanisms have been developed, maintained and managed religiously since centuries in the Thar. Management and maintenance mechanisms of agor have remained a study in community practices. The study reveals that 7 percent of agor is encroached and though comparatively less, like oran, this too signifies a disturbing trend of the break-down of traditional mechanisms and structures.

Padat is unused land under the governance of gram panchayat and it is 5 percent of total land area. 18 percent of padat land is encroached. 57 percent of the padat land in Jodhpur district is encroached while the encroachment is around 15 percent each in Barmer and Jaisalmer districts.



Graveyard land is another type of common land that has remained an issue of caste-based contention and basis of violence in rural Rajasthan. Traditionally and even today different castes staying in a village have different locations where they cremate or bury their dead. 28 percent of land demarcated for graveyards or shamshan bhumi is encroached. The encroachment on shamshan bhumi is highest in Barmer district (68 percent), followed by Jaisalmer (32 percent) and jodhpur (10 percent).

The study identified 209 cases of dalits against whom proceedings were underway for encroaching common land. This is 34 percent of the dalit households not owning land. 124 of these cases were from Barmer (Sivana), 75 from Jodhpur (Bhopalgarh) and 10 from Jaisalmer

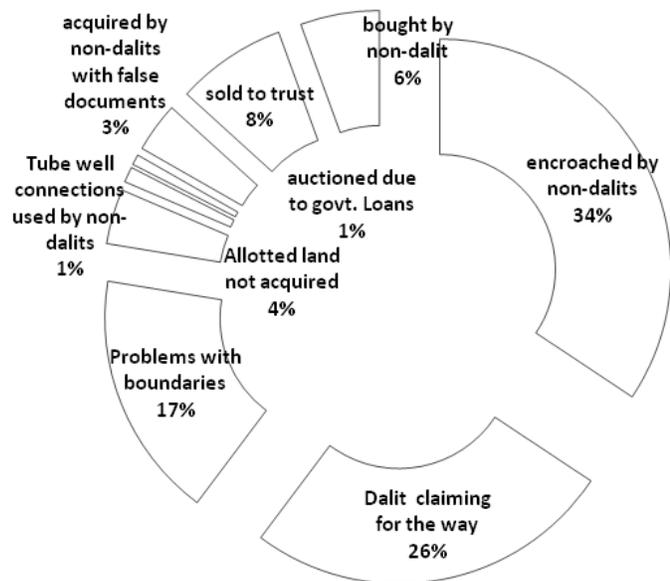
(Pokhran). According to Sec 91 (6) (a) and (b) of the Rajasthan Land Revenue Act 1956, occupier of pasture land and land appurtenant to a public well, Nadi, Johad and Talab is given a notice of 15 days to remove occupation by the tahsildar. Otherwise, on conviction, he may be punished with simple imprisonment of one month to three years and fine upto Twenty Thousand Rupees. An employee entrusted specifically by an order of the Collector to stop or prevent such occupation, neglects or deliberately omits to stop, on conviction be punished with simple imprisonment upto a month and a fine upto Thousand Rupees.

II. Status of land owned by dalits

78 percent of the Dalit households surveyed owned land. In 10 percent of these households, land was registered in the name of woman. A substantial proportion of the land distributed to Dalits is not actually in their possession, owing to encroachment by non-dalits. Land distribution is only on paper. Actual possession of land, based on the measurement done at the site, is not given effect. In exceptional instances where Dalits do get to own land, they are dispossessed of it sooner or later.

The study identified nine major issues related to land owned by dalits as mentioned in table 1. 830 cases were identified from 70 villages (an average of 12 cases per village). This is 15 percent of total dalit households covered under the study and 19 percent of dalits who owned land. This number is alarming and hints at the magnitude of the problem despite strict provisions regarding all these aspects.

Most cases (313) were from Sivana, Barmer, followed by Bhopalgarh, Jodhpur (298) and Pokhran, Jaisalmer (219). In Pokhran, only three types of issues could be identified - encroachment by non-dalits, claim for right of way and problems with boundaries.



Major Issues concerning Dalit Land

Most of the cases (285) concerned encroachment by non-dalits. This was around 7 percent of total Dalit households surveyed in 70 villages. This issue was closely followed by obstruction of way to the land (215 cases) and problems with boundaries (144 cases). Most number of encroachment were from Pokhran, most cases of obstruction of way were from Bhopalgarh, problems with boundaries in Sivana and sold to Trust and being used by non-dalits again in Sivana.

Major issues concerning Dalit land	Pokhran, Jaisalmer	Sivana, Barmer	Bhopalgarh, Jodhpur	Total cases
Dalit land encroached by non-dalits	150	60	75	285
Dalit claiming for the way	16	43	156	215
Problems with boundaries	47	78	19	144
Allotted land but not acquired it	6	18	8	32
Tube well connections for dalits being used by non-dalits	0	1	8	9
Land auctioned due to govt. Loans	0	4	2	6
Dalit land acquired by non-dalits by falsifying documents	0	28	1	29
Dalit land sold to trust and used by non-dalits	0	63	1	64
Dalit land bought by non-dalit using the name of another dalit	0	18	28	46
Total	219	313	298	830

Major Issues concerning Dalit Land

There is very little awareness about the various laws and legal provisions. Some examples of cases related to the issues of dalits and land ownership provide further insights.

1. 45 Bhil households of village Mangla in Sivana block, Barmer district realized around 10 years ago that 1325 bighas of the land that they had been tilling for generations had been transferred to a sahukar who was associated with them and lent them money in times of need. The case is still under consideration in court.
2. 12 bighas of land allotted to a dalit household (Pata Ram Meghwal of village Jinpur in Sivana block) bore the brunt of the malice of some non-dalits who got his land first transferred to government. The land was later allotted to a non-dalit.
3. Okaram Bhil of village Ratdi, Sivana had mortgaged 150 bighas of his land 30 years ago to a Rajput of his village for Rs. 300. The land is still with the Rajput and the victim works there as a laborer. Similar is the case of Ruparam Bhil of Ratdi who had mortgaged 18 bighas of his land to the Rajput for Rs.1400 ten years ago and is currently working on his land as a labourer.
4. 30 years ago, 30 families of the most marginalized amongst the dalit set up residence in a kuccha basti of Sivana. They got connections of electricity and water and had ration cards made with the address. The land has now been taken by a Jain Trust who is wanting to remove the dalits from their houses considering it an encroachment. Owing to a stay order by court, the Dalit families are still residing there.
5. Meghwal, Garg and Rav sub-castes of Dalits were allotted 15 bighas of land for the purpose of shamshan bhumi by the nagar palika outside Pokhran town. Process of allotment is not yet complete but the nagar palika has passed a resolution to that effect and put it for further processing. Thakurs of the village came to occupy some portion of the said land, saying that it was theirs.
6. Jogaram Meghwal of village Chacha, Pokhran block was allotted 75 bighas of land by the government. He is currently in actual possession of and tilling only 30 bighas. Remaining land is occupied by the Muslims in the village for the last 30 years. Similar is the case of Jagdish Meghwal of Phalodi block of Jodhpur district who was allotted

15 bighas of land by the government. Despite decision by the relevant court, his neighbor is not removing encroachment from the land.

7. Mangilal Nayak of village Devatada in Bhopalgarh block of Jodhpur is facing constant intimidation and atrocities at the hands of vested interests of the village who want to occupy the 7 bighas of land allotted to him in 1971. Every time he tills the land, they destroy the crop and evict him forcibly.
8. According to Bhiyaram Bhil of village Boyal in Bilada block of Jodhpur district, his father was allotted 23 bighas of land. The family also occupied and used this land for 35 years. In 2006, 8 bighas of land were removed from the allotment yielding to pressure from the village. Their houses were also removed in the name of encroachment.
9. According to Mangilal Meghwal, his father Chetanram of village Dhannari in Bhopalgarh block was allotted 20 bighas of land. 'Tarmim' was not done properly and currently his neighbor Rajuram Jat has occupied 10 bighas of land by doctoring the documents.
10. According to Sattaram Bhil of Bhilon ki Dhani Jhalaria of Pokhran block, his father had 53 bighas of land whose khatedari rights were provided to him after settlement. However, when he died after four years, his Charan neighbors got the land converted to their name.
11. Mularam Bhil was allotted 23 bighas of land in the canal area where the forest department undertook plantation five years ago. Mularam has been allotted khatedari rights and he has also paid all installments. However, he is unable to till his land.

RECOMMENDATIONS

Some recommendations are included here that emerged from this study and were articulated by the people during field discussions.

1. Study on the situation of dalits relating to land ownership is not easy. There are hurdles in acquiring accurate and timely information. Information on records is not always the reality on the ground. However, a comprehensive study on a larger scale is very necessary to appropriately arrive at a strategy to address the issue of land ownership of dalits and their unhindered access to common land as well as engagement in its management and maintenance. Appointment of a Special Experts Committee under SC Commission with necessary authority and recourse to official records as well as human and financial resources to undertake field checks would be very appropriate.
2. Another equally imperative need is of inclusion of further transparency and accountability mechanisms in the relevant Acts and Provisions. Pro-active disclosure of information especially in the form of wall writing would be very useful. Social audit in gramsabha about the status of common land and reading out aloud all cases of land transfers would also make a difference.
3. Encroachment on Oran and Agor is an alarming trend as they have been traditionally and religiously protected and managed. Their encroachment signifies dilution in social fabric and break-up of traditional management structures. Rituals and traditions associated with their maintenance have preserved the fragile ecology of the Thar desert and resilience of its dwellers for centuries. Serious implementation of Sec 91 (6) (a) and (b) of Rajasthan Land Revenue Act is required.
4. There is a need to re-invent and invest in the traditional maintenance mechanisms, though with due stress on principles of social justice and equity. Earlier mechanisms were dominated by non-dalits and Dalits were completely dependent on their goodwill for access. Mechanisms are required to ensure the share of Dalits in Common Properties of villages and a place in their management and maintenance. It was found that 'shamshan bhumi' allotted to or used by Dalits were mostly encroched upon. There is need to ensure Dalits have rights in the common burial ground.

5. An exercise can be undertaken to identify common land, appropriately mark its boundaries and clearly put up sign boards signifying control, responsibility of maintenance and purpose of use. This will not only help with transparent governance of the land but also deter encroachment.
6. There is a need to recognize Right to Land as a birth right for Dalits. The experience of tenants movements has shown that there is tremendous potential of the collective action for social change. Efforts are required for capacity enhancement so that Dalits also realize the exploitative nature of social structure and engage to negotiate from an equal footing.
7. As several of the cases used in the study suggest, land has been allotted to Dalits after the settlement but it is not usually in their occupation owing to various reasons. Physical occupation needs to be ensured and regularly monitored by officials designated for the purpose.
8. Dalits as a caste group have been traditionally and intentionally excluded from ownership of land. When the landless and homeless Dalits settle on occupied land, it then becomes necessary that their ownership is regularized on an expedient basis so that they are able to engage in and benefit from mainstream development processes legitimately. At the same time, it is required to ensure that Dalits are not evicted from occupied lands in the name of development projects. Ensuring that Dalits enjoy Tenancy Rights in all Government Land will be a great help for landless households. It will also be very relevant if there are efforts to ensure that Dalit households get house sites for free.
9. Implementation of Land Reform Acts and distribution of the surplus lands to Dalits still needs to be undertaken with zeal. Efforts might be made to ensure that all Dalit households get some minimum wet land that ensures their sustenance.
10. There is a need for special mechanisms to protect the lands of Dalits from encroachment by others. These mechanisms could be in the form of appointment of Special Courts to deal with the land issues relating to Dalits.

11. There has never been adequate implementation of Order dated 8-12-2000, that required a campaign to be initiated at the district level for identification of encroachment of SC-ST land and action. It provided a time bound mechanism for identification of illegal transfers, decision and action for release as well as regular monitoring and review of cases of illegal transfers and encroachments every month. Efforts are still required for strict implementation of the Order as well as the other relevant Acts and Provisions. There is need to initiate stringent action under section 4 of SC/ST (POA) Act 1989, against the officials who act against the Land Rights of Dalits.
12. Efforts are required of awareness generation amongst the marginalized population about the various Acts and Provisions, issues and the mechanisms of redress. This should be an important component of legal awareness camps organized by Legal Service Authorities and civil society organizations.

Though the study is limited in its scope and does not touch upon many pertinent aspects, especially related to impact of landlessness and land alienation as well as the linkage between atrocities and dalit ownership of land, it throws light on the nature of issues faced by dalits both in ownership of land and access to common land. It establishes that apart from the social realities many of the problems persist because of issues of governance, lack of transparency and accountability as well as loopholes in implementation of the Acts and Provisions. Thus good governance and stringent implementation of existing Acts and provisions could and would definitely make a difference. Importance of legal awareness of the marginalized and their capacity enhancement cannot be underscored.

About Us

UNNATI - Organisation for Development Education, is a voluntary non-profit organisation registered under the Societies Registration Act (1860) in 1990. It is our aim to promote social inclusion and democratic governance so that the vulnerable sections of society are empowered to effectively and decisively participate in mainstream development and decision making processes.

It is an issue based, strategic educational support organisation, working in Western India with people's collectives, NGOs, elected representatives in local governance and the government. Collaborative research, public education, advocacy, direct field level mobilisation and implementation with multiple stakeholders are the key instruments of our work. The interventions span from the grassroots level to policy level environment in ensuring basic rights of citizens. In this, inspiration is drawn from the struggles of the vulnerable and strength from our partners. Presently, all the activities are organised around the following programmes :

- **Social Inclusion and Empowerment**
- **Civic Leadership, Social Accountability and Governance**
- **Social Determinants of Disaster Risk Reduction**

The learning derived from our field experiences are consolidated and disseminated in print and electronic forms for wider sharing through a Knowledge Resource Centre. It is our endeavour to build an academy for community leaders, especially dalits and women, so that they can effectively address local issues.



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