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A SYSTEMS APPROACH FOR PROVIDING LEGAL AID FOR LAND

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Abstract:

Access over and rights to land are of critical significance for the vast majority of Indians. The national and state government of India have taken up several land reform measures and passed several progressive and pro-poor land laws since independence to secure land to all the landless poor in the country. In spite of these efforts, a significant percentage of the poor are still either landless or have insecure rights to land. Landlessness or having insecure land right is devastating for the rural families, especially for the poor and tribals who are doubly vulnerable. The poor are unable to get their land problem resolved due to lack of legal awareness, absence of legal aid and inaccessible adjudicating systems. The Legal Services Authorities Act (1987), which came into force from 1995, provides for free legal aid to the poor. However, in revenue courts it is absolutely non-functional. Fortunately, existing models of legal education and assistance in the states of Andhra Pradesh and Odisha offer practical solutions for resolving land problems and securing land right for the rural poor across India. This paper explains these models and suggests a systems approach for resolving the land problems of the poor in India.

Key Words:

Access to Justice, India, Land Rights, Legal Aid, Paralegals

Access to land continues to be of critical significance in large parts of India, and the entire economic, social and political networks revolve around it... land provides not only economic sustenance but also plays a key role in enhancing the prospects of asserting citizenship in much of rural India.

- Report of the Committee on State Agrarian Relations and the Unfinished Task in Land Reforms (2008)

Presently the Revenue Courts are choked. Thousands of cases pertaining to land issues are pending in revenue courts... The number of land disputes is on the rise due to increasing pressure on land... For the poor the effect of having their lands in a court is especially devastating.

- Report of the Land Committee constituted by Government of Andhra Pradesh (2006)

Paralegal Centers with a steady stream of young men and women who will take up this as a mission can definitely help in resolving the land problems of the poor and tribal. We have shown in Andhra Pradesh that a vigorous five year plan with a committed civil administration and a sensitive judiciary, these paralegals can make a huge difference on the ground.

- Jairam Ramesh, Minister for Rural Development, Government of India (2011)

I. Insecure Land Rights and Unavailable Legal Services

Access over and rights to land are of critical significance for the vast majority of Indians. As observed by the Committee on State Agrarian Relations and the Unfinished Task in Land Reforms constituted by Government of India, “Agriculture and primary sector activities based on land and other natural resources are the prime source of livelihood for the vast majority of the economically vulnerable rural population” (2008, para. 1.1). India has a primarily agriculture-based economy, and rural poverty and well-being remain closely tied to question of land ownership and control.

The Government of India and state governments have taken up several land reform measures since independence to secure land to all the landless poor in the country. Land and land reforms are under the exclusive legislative and administrative jurisdiction of the states, as provided by the Constitution of India (1949). However, the central government has played an advisory and coordinating role in the field of land reforms. Several progressive and pro-poor land laws were enacted in last six decades. In fact, the largest body of land reform legislation ever to have been passed in so short a period in any country was in post-independence India. These laws include the following measures: (1) land ceiling laws that put restrictions on family land holdings and redistributed surplus land; (2) abolition of intermediaries and

conferring ownership on actual cultivators; (3) protection of the rights of tenants; (4) allocation of government waste land and bhoodan land donated by individuals for distribution to the poor; and (5) prohibition on alienating land allotted to the poor and the land belonging to tribals (Prosterman, Mitchell & Hanstad, 2009). Recently, a historic piece of legislation, the Scheduled Tribes and Other Traditional Dwellers (Recognition of Forest Rights) Act (2006), was enacted by the Government of India to recognize land and other forest rights of the tribal and other traditional forest dwellers.

In spite of these efforts by both central and state governments, a significant percentage of the poor are still either landless or have insecure rights to land. It is estimated that at least 15 million rural households in the country are functionally landless and another estimated 28 million rural families who “own” land hold it insecurely because they lack one of the three essential ingredients of legally secure land rights: possession of land, a title document and entry in the Record of Rights (Mitchell et al. 2011).

In the state of Andhra Pradesh alone 2.16 million land problems of 1.46 million Scheduled Caste (SC) and Scheduled Tribe (ST) families were identified involving 2.41 million acres of land (Society for the Elimination of Rural Poverty [SERP], 2013). These problems were identified during 2010-2012 by the Society of Elimination of Rural Poverty (SERP), part of state Rural Development Department, through an inventory of land belonging to SC and ST households. The 3.07 million SC and ST households in Andhra Pradesh constitute about 23% of total households in the state. These figures indicate that about 40% of households have some land problem, and that there are between 100 and 200 land problems in each village.

It is estimated that in India about 2% of land in rural areas, 5% in urban and 28% in peri-urban areas are affected by land disputes. People engaged in litigation end up spending about Rs. 750 crores (Rs. 7.5 billion, or USD 137 million) per annum (without accounting for the amount spent by Government machinery or cost of time of courts) (Centre for Innovations in Public Systems, n.d.; Government of Andhra Pradesh, n.d.). And the McKinsey Global Institute (2001) estimated that India’s GDP growth rate could increase by 1.3% if clear land titles could be established.

The poor are suffering from either landlessness or insecure rights to land. Since Independence, about 43 million acres of government waste land, ceiling surplus land and bhoodan land has been distributed to the landless poor in India (Department of Land Resources, 2001). However, there are two significant problems with these lands. First, in many cases, the state allots land to the poor on paper, but the state does not show the allottees where the land is. Second, the poor have alienated much of the land distributed to them. Further, the poor have encroached onto government land and have either cultivated it

or built a house on it, but their possession is not legalized, even though law provides a process for legalizing their possession.

In Scheduled Areas, which the state has designated as territories in which only ST ("tribal") families may own land, in spite of laws prohibiting alienation of tribal land, the corpus of tribal land is in serious danger of being lost through alienation (Committee on State Agrarian Relations and Unfinished Task in Land Reform [CSARUTLR], 2008). As per the reports, 375,000 cases of tribal land alienation have been registered so far, covering 855,000 acres of land, of which 154,000 cases covering an area of 363,000 acres have been rejected by the courts on various grounds (CSARUTLR, 2008).

The Scheduled Tribes and Other Traditional Dwellers (Recognition of Forest Rights) Act (2006) for the first time provided for recognition of rights of tribals and other traditional forest dwellers on forest, forest land and forest produce. This Act was enacted to undo the historical injustice done to tribals and others in denying their customary rights over forests. As of 31 December 2012, 1.27 million tribals and other traditional forest dwellers have received titles to forest land under the Act (Ministry of Tribal Affairs, 2003). However, there are many more who have either not been able to apply or whose claims have been rejected.

Rural families that are landless or that lack secure land rights experience great hardship. This is more so for the poor and tribals who are doubly vulnerable. Landless and insecure land rights are the root causes for people's movements and spread of extremism. Land occupies the core of the Naxalite/Maoist agenda, and even those who know very little about the Naxalite/Maoist movement know that its central slogan has been "land to the tiller" (Expert Group on Developmental Challenges in Extremist Affected Areas, 2008). Unresolved land disputes are the one of the three causative factors for the violence against Scheduled Castes and Scheduled Tribes (National Commission on Scheduled Castes and Scheduled Tribes, 1988).

The poor are unable to get their land problems resolved because they lack of legal awareness, cannot obtain legal aid services and cannot access adjudicating systems (Land Committee, 2006). Other reasons that affect the resolution of land problems are: (1) inadequate time given to dispute resolution by the revenue officials; (2) inadequate training given to the revenue officials; (3) excessive reliance on documents and oral evidence administered under oath with little credence given to field visits; (4) a lack of clarity regarding the role of revenue officers; (5) a demolished traditional dispute resolution mechanism; and (6) a lack of access to land records (CSARUTLR, 2008; Land Committee, 2006).

The Legal Services Authorities Act (1987), a national law which came into force in 1995, provides for free legal aid to the poor. However, in revenue courts the law is absolutely non-functional. "The poor get little or no help as they go from one court to another, as the existing legal aid framework is weak. By the

time a case reaches the apex courts the average age of a case is 15-20 years. . . . Through all this time, the poor are forced to engage lawyers, which costs them thousands of rupees, forcing them in to debt trap” (Land Committee, 2006: 80).

Fortunately, existing models of legal education and assistance in the states of Andhra Pradesh and Odisha offer practical solutions for resolving land problems and securing land rights for the rural poor across India. The following sections of this paper explain these models and suggest a systems approach for resolving the land problems of the poor in India.

II. Systems Involved in Securing Land Rights for the Poor

State governments, which have the legislative competency to enact laws governing land in India, play a critical role in securing land rights for the poor. Pro-poor laws and policies are the first step in providing land to the poor. Land administration in each state has the crucial role of implementing these laws enacted by the state. Land administrative officers and civil courts have the authority to decide the cases in case of land conflicts. Awareness of the land laws and policies enables the poor to effectively use them. Paralegal and other legal aid systems support the poor in their efforts to get secured land rights.

Pro-poor land laws and policies, governments sensitive to the needs of the poor, competent and pro-poor land administration departments, accessible and affordable adjudicating mechanisms, and support systems to help the poor must all be in place for the poor to get access to land and secure rights over land. A systems approach is needed to create these integrated mechanisms.

Unfortunately, not all the systems involved in securing land rights are sufficient. It is observed by the Land Committee constituted by Government of Andhra Pradesh that “the land administration over the last decade has gradually weakened to a virtual state of paralysis today In the history of revenue administration, no separate training programs to revenue officials on land laws with pro-poor perspective were organized” (Land Committee, 2006: 83). The Committee on State Agrarian Relations and Unfinished Task of Land Reforms also observed that “the training given to the revenue officials is inadequate. They are trained better in court procedures than in resolution of disputes with the result that there is greater emphasis on form rather than content” (CSARUTLR, 2008: 177). The discussion in Section I highlights the plight of various stakeholders involved in securing land rights for the poor.

III. Experiences in Providing Access to Justice

Pro-poor land laws are only the first big step in providing secure land rights to them. Unless the poor are able to make use of the law, having secure land rights will remain only a dream. The poor have difficulty in making use of law due to several reasons, including lack of legal awareness and lack of legal aid

services. Lack of training of the adjudicating authorities adds to the difficulties of the poor. The experiences in the state of Andhra Pradesh proved that facilitating support to the poor, coupled with building capacity of adjudicating officers, can help the poor gain secure rights to land with minimum cost.

A. SERP Land Access Program, Andhra Pradesh

The author of this paper played a key role in design and implementation of SERP's Land Access Program and managed the program as State Legal Coordinator since its inception in 2004 to until 2008. This analysis of the SERP land access program is based on the author's experience as well as analysis set forth in Kumar (2006), Patnaik and Kumar (2012), Mitchell et al. (2011), Ledger, Kumar and Mitchell (2011), Mitchell and Hanstad (2008), Nielsen and Hanstad (2005), Nielsen and Vhugen (2008), Society for the Elimination of Rural Poverty [SERP] (2008) and SERP (2002).

In 2004, to help rural poor families who are landless or lack secure legal rights, the government of Andhra Pradesh launched a legal assistance program for land (initially called the Non-Land Purchase Program and now called the Land Access Program) to provide free legal assistance in resolving land problems. The program was launched with World Bank support and with technical assistance from Landesa.

The Land Access Program is part of a large state rural livelihoods program called Indira Kranthi Patham (IKP), implemented by the Society of Elimination of Rural Poverty (SERP), which is part of the state government's Rural Development Department. SERP operates through 975,362 women's self-help groups comprised of 10.9 million rural poor women across the state.

SERP's Land Access Program is built on a community-based paralegal model. Community-based paralegals have emerged globally as a cost-effective solution to the problem of access to justice for rural communities. Community-based paralegals are less expensive and more accessible than lawyers, and can often resolve problems faster than existing formal legal structures or administrative bodies. Community-based paralegals are more likely to empower their clients through education and legal literacy. They are drawn from the community, usually from the most disadvantaged, marginalized and backward sections of society. This gives them greater insight into and understanding of what makes people tick, what their concerns could be and how these could be resolved better. This places the community paralegals in a unique position in which they can liaise and network with the local authorities and service delivery agencies on behalf of community members. Ideally, a community-based paralegal should be a person who has the following skills and attributes:

- Has basic knowledge of the law, the legal system and its procedures, as well as basic legal skills;

- Is a member of the community (or part of an organization that works in the community) and has basic knowledge of the ways community members access justice services, including traditional or informal justice mechanisms;
- Has skills and knowledge on alternative dispute resolution mechanisms, including mediation, conflict resolution and negotiation;
- Is able to communicate ideas and information to community members using interactive teaching methods;
- Is able to form effective working relationships with local authorities and service delivery agencies;
- Has community organizing skills that can be used to empower communities to address systematic problems on their own in the future.

The SERP paralegals provide legal education and aid services to households that need assistance securing their land rights, whether that entails correcting or updating Revenue records, obtaining *pattadar* passbooks (land cultivators passbooks) and title deeds, obtaining *pattas* (land titles) or addressing other land issues.

To provide this kind of legal assistance on a large scale at low cost, SERP trained local youth as paralegals and community surveyors to work with women in self-help groups (SHGs). SERP piloted the paralegal assistance activities in 2004, expanded to an entire district in 2005 and then rolled out to all 22 districts of the state in 2006. The SERP land activities are currently implemented in 852 *mandals* (sub-districts) in all districts of the state.

Paralegals

Community paralegals were initially tasked with securing land rights of the rural poor by: (1) identifying the land issues of the poor at the village level; and (2) facilitating the resolution of those issues through legal analysis, case investigation, land surveys and coordination with the Revenue Department (responsible for land administration in Andhra Pradesh).

SERP has recruited 379 rural youth from poor households, especially from Scheduled Castes and Scheduled Tribe families, as paralegals by way of notification, a written test and an interview. They were given a one-month initial training, which was conducted in the districts and included a village stay. Later, they were given a five-day training at the Andhra Pradesh Academy of Rural Development in Hyderabad. NALSAR University of Law, a premier law school in the country, conducted a ten-day paralegal

certification course. Continuous capacity building for paralegals is done at the district level through fortnight meetings. Trainings given to paralegals include the basics of land records, land enactments, procedures, identification and resolution process of land issues. SERP appoints one paralegal per mandal (sub-district) to work with the *Mandal Samakya* (a federation of poor SHG women at the *mandal* level) under the guidance and supervision of the Land Centre at the district level (discussed below).

The principal activities of the paralegals are identifying and listing land issues in villages (including, but not limited to, cases pending in Revenue Court of a given *mandal*), gathering the required factual information and documentation from case files and from speaking with the involved parties, preparing reports for Revenue Department functionaries and petitions for the administrative courts, assisting claimants and administrative court officials in resolving the issues and tracking the cases until they are resolved. Revenue Department functionaries, with the assistance of paralegals and other SERP staff, hold Village Courts to hear cases, resolving as many as possible on the spot.

Community Surveyors

In response to the chronic shortage of trained surveyors in rural areas, SERP hired 473 rural youth having technical qualifications as Community Surveyors by way of notification, a written test and an interview. They were trained for two months in cadastral survey at the Andhra Pradesh Survey Training Academy, completed a one-year apprenticeship with departmental *mandal* surveyors, and received a license from the Department of Survey. Community surveyors work with paralegals to help settle survey-related issues of the poor. Recently, community surveyors were also given training on the basics of land records, land enactments, procedures, identification and various processes for resolving land issues. After training, they were deputed to separate *mandals* to help the poor resolve their land problems.

Typically, SERP paralegals and community surveyors are from families of the most exploited and vulnerable, and are therefore able to identify the issues affecting the rural poor and bring them onto the agenda of government administrators.

Land Centers

A Land Center (also called Land Rights and Legal Assistance Center) was established at each district headquarters. An additional Center is established in each of seven districts where there is a Scheduled Area. These Centers are managed by young law graduates who are appointed as Legal Coordinators and retired revenue officers who are appointed as Land Managers. The Center handles all the activities relating to ensuring secure land access to the poor, including creating awareness, providing access to information and land records, facilitating resolution of survey related issues and providing legal aid.

These Centers are working for the *Zilla Samakyas* (federations of poor SHG women at the district level). Land Centers hire the services of lawyers whenever required to represent the poor in civil courts on land matters. These Centers also have institutional arrangements with law colleges to use the services of the law students in educating the poor on land rights and to work on land problems of the poor. See Diagram 1.

Results of the Land Access Program

A focus on women has been a key feature of SERP's land work. This focus has received widespread support from both rural women and their husbands. Importantly, the work of the paralegals was accomplished through women's SHGs, and before the paralegals were hired by the state in 2010, they were initially employees of the SHG federation. Paralegals have focused their awareness and education activities through SHG mechanisms, so naturally many of the requests for assistance come from women, although most requests do not involve issues that are unique to women. By focusing on women and working through SHGs, the IKP program strengthens the ability of rural women to understand and defend their interests and those of their family.

Between 2006 (when the SERP Land Access Program was scaled up to all districts) and 2010, paralegals and community surveyors identified land problems of 610,000 rural poor involving 1.18 million acres of land, out of which, the paralegals and community surveyors helped to resolve land problems of 430,000 rural poor involving 870,000 acres of land (SERP, 2013).

Two-thirds of land cases identified by SERP during 2006-2010 involve claims by members of SC and ST families. SC and ST land holdings are gradually decreasing (Land Committee, 2006). Understanding the gravity of land problems of the poor, SERP has undertaken the inventory of land holdings and land problems of SC and ST families during 2010-2012. The inventory identified 2.16 million land problems among 1.46 million SC and ST families, involving 2.41 million acres of land. Out of this, 980,000 land problems were resolved by organizing village courts during January to March 2012 (SERP, 2013).

Various committees appreciated SERP's Land Access Program and have recommended its expansion to remaining *mandals* in the state and also across the country. For example, the Committee on State Agrarian Relations and Unfinished Task of Land Reforms recommended the program's adoption in other states with any modifications as may be deemed proper to suit the local environment (CSARUTLR, 2008). The Land Committee of Andhra Pradesh also recommended for the program's expansion to the entire state to encourage alternative dispute resolution and to support the community in fighting cases and the system in gathering authentic information on the cases.

Landesa conducted several rounds of research from 2005 to 2012 that found SERP paralegals effective in helping poor families and women obtain secure legal rights to land at a low cost. The following are the key lessons from SERP's Land Access Program:

- ✓ Paralegals from the community of the poor, if trained well, can competently support both the poor and the adjudicating authorities in settling land disputes.
- ✓ This program is a low cost and high impact solution for securing land rights for the poor. The annual cost per SERP paralegal is approximately Rs. 100,000 (USD 2,200), which includes salary, travel, training and management costs.
- ✓ Apart from pro-poor land legislation, the poor require knowledge of those laws and legal support to get their land issues resolved. The SERP program did not do much about increasing land legal literacy among the poor.
- ✓ Even though it was planned by SERP to undertake trainings for revenue officers, nothing has moved in that direction.
- ✓ The reach of SERP paralegals is only to the one-third of the state. Out of 1,134 *mandals*, SERP paralegals work only in 379.

B. Paralegal Volunteers Program of the Legal Services Authority in Andhra Pradesh

Article 39A of the Constitution of India (1949) provides that “the State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.” Further, the Supreme Court of India on several occasions held that legal aid is a fundamental right, and it is a *sine qua non* for justice. In fulfillment of the constitutional mandates, the Government of India enacted the Legal Services Authorities Act of 1987, which came in to force in 1995. Legal Services Authorities were constituted at the *mandal*, district, state and national levels to provide free legal services to the poor and needy (National Legal Services Authority, 2010; Andhra Pradesh State Legal Services Authority, 2010).

Seeking to provide legal aid to the rural poor in Andhra Pradesh, the State Legal Services Authority introduced the Paralegal Volunteers Program in 2006. This scheme was subsequently scaled across the country by the National Legal Services Authority. The Paralegal Volunteers Program aimed to impart legal awareness to volunteers selected from certain target groups. The trained volunteers, in turn, act as harbingers of legal awareness and legal aid to all sections of people. The volunteers are expected to act as

intermediaries between the common people and legal services institutions and thereby removing barriers of access to justice.

In early March 2013, Landesa, in collaboration with NALSAR University of Law and with support from Legal Service Authority, established the first Land Rights Legal Aid Clinic at a district level office dedicated to providing free legal services to the poor on land matters. This Clinic, which is housed at the office of the District Legal Services Authority in Warangal District of Andhra Pradesh, is intended to increase land-related legal awareness among the poor and tribals to promote their legal empowerment; to provide free legal services to the poor and tribals in securing rights over land; and to develop and promote alternate dispute resolution mechanisms to settle the land-related problems of the poor and tribals. This Clinic is the first of its kind established in Legal Services Authority's office and can be a model for all the Legal Services Authorities across the country.

C. Land Rights Initiative of the APMSS

The Andhra Pradesh Mahila Samatha Society (APMSS) is a part of *Mahila Samakya*, a national-level project that has taken up the cause of women's empowerment and is supported by the Ministry of Human Resource Development. The main focus of APMSS is empowering women through education and facilitating a process of learning to strengthen the self-image and confidence of women, enabling them to take charge of their lives. The rationale behind the project was the conviction that women at the grassroots level are still ignorant of their rights.

Presently, APMSS is working in 4,385 villages in 104 *mandals* across 14 districts of Andhra Pradesh. About 200,000 poor rural women are in the *Sanghams* (groups) of APMSS. The past 17 years of APMSS experience suggests that majority of the women in the *Sanghams* either have no land or have land problems.

During 2011, APMSS, with the support of Landesa, trained all the *Sangham* leaders and staff on basic land records, major land problems and the process to resolve land problems. Landesa conducted ten days of training in three phases for two District Resource Persons from each of the 14 districts where APMSS is working. The training included understanding basic land records and the process to resolve selected land issues (getting name entered in Record of Rights and getting title documents, getting title for land purchased through unregistered sale documents, getting title for *Inam* (gift) lands and getting title for forest land in occupation of tribals). These District Resource Persons in turn, with the help of Landesa, provided training to all their staff in the district and *mandal sangham* leaders. About 500 members of *samakhyas* and staff got trained on land matters, and all of them are women. *Mandal sangham* leaders and the staff educated all the women in *Sanghams* on land issues. Although the APMSS staff do not

appear to be addressing land issues in the active style used by the SERP paralegals, reports from APMSS suggest that these trainings helped the staff to resolve a number of land problems for APMSS members and enabled the staff to provide advice to villagers on land matters. The experiences of APMSS highlighted the need and the importance of training women on land issues. The SERP land access program, even though worked with women federation, could not do much in training them.

D. Land Legal Literacy and Capacity Building Efforts of Landesa in Andhra Pradesh

Landesa has made many efforts since 2003 to persuade SERP, APMSS, LSA and other government and non-government organizations to launch paralegal initiatives to resolve the land problems of the poor. Landesa also played a significant role in the design and implementation of paralegal programs in SERP, APMSS and LSA. These initiatives have been successful in resolving thousands of land problems of the poor. Landesa's evaluations of these initiatives highlighted the need to educate the rural poor on land matters and the need to provide training to paralegals and adjudicating authorities. To address this need, Landesa has undertaken several initiatives to spread land legal literacy and build the capacities of adjudicating authorities (revenue officers and civil courts judges) and paralegals.

As one example, Landesa partnered with a HMTV, a broadcaster airing programs in Telugu (the state language), to launch a live phone-in land legal literacy television program called *Bhoomi Kosam*. This is India's first television weekly programme which provided information on land laws, land records and the process to get land problems resolved. *Bhoomi Kosam*, literally meaning "for the land," was born in the context of a need for legal information. This program was broadcast every Sunday morning for 45 minutes for 56 weeks during January 2011 to March 2012. The programme responded to an average of a dozen callers per episode, and each episode was divided into four segments. In the first segment, a generic land issue was discussed with experts providing detailed information, along with accompanying visuals, graphics and video clippings on the subject. This five minute-long package was researched by Landesa and produced by HMTV and usually highlights a real person's problem pertaining to land. The land experts on the show explained how the situation could be resolved and provided information on relevant laws, rules and regulations. In the second segment, viewers were encouraged to call in with their queries. Third segment explained revenue terminology, and the fourth showcased solutions and best practices.

The episodes of *Bhoomi Kosam* have been compiled on a CD and distributed to revenue officials, NGOs, paralegals and others throughout the state. These are being used in training programmes. In areas with high rates of illiteracy, explaining technical and complicated land issues and land laws with the help of visual media proves to be more effective than any other means (Landesa and HDTV, 2012).

In collaboration with NALSAR University of Law, Landesa also established a Land Rights Center at NALSAR to undertake research studies in the areas of land rights, legal aid and paralegal services; design courses on land laws and impart training to paralegals and other stakeholders working on land issues; promote legal awareness among the poor and tribals on land-related issues; and disseminate knowledge on land laws, findings of the studies and the experiences of working on land issues (NALSAR University of Law and Landesa, 2013). NALSAR also launched a course on land rights, believed to be the first such course in an Indian law school. About 40 students took the course in the 2012-2013 winter semester. These students will be working for the Land Rights Center and also will work in the Land Rights Legal Aid Clinic established in Warangal. Landesa and NALSAR are also discussing the possibility of creating a training course for revenue officers, which would build on similar courses Landesa helped introduce for judges in the Andhra Pradesh Judicial Academy.

E. Community Resource Persons Program in Odisha

In 2006, the Government of Odisha developed the Vasundhara program with the goal of providing homestead plots to the 300,000 landless families in the state. By 2008, the government reported that they had achieved the goal. In 2009, Landesa's field research uncovered several gaps in the project design and implementation of the program. In fact a very small percentage of the families interviewed in the study had actually been allocated land or had title to the land where they were residing (Patnaik and Kumar, 2012).

Together with the government staff responsible for executing the program, Landesa identified some of the challenges in achieving the desired results. The study found that the staff were not properly oriented, did not understand the needs of the absolutely landless families and did not value including women's names on land titles. There were no program guidelines in place, and the program suffered from poor design, lack of attention to program administration and lack of staff orientation and training. The program provided almost no help to the landless poor.

Landesa shared its findings with the Government of Odisha and offered suggestions and assistance for improving implementation of the Vasundhara program. Landesa proposed a solution based on a program implemented in Nalgonda District of Andhra Pradesh that involved hiring and training village youth to help implement pro-poor land solutions in a campaign mode. In the adapted model, Landesa hired and trained village-based Community Resource Persons (CRPs) to identify the absolutely landless households in the village and work with land administration officials to identify available government land that could be allocated as homesteads.

One of the important features from the Andhra Pradesh program was that the CRPs came from the communities that qualified for the government program. In addition to identifying the eligible families, each CRP also assisted with boundary measurement, helped the families to file land claims and helped the land officials process the claims and issue land titles to the families. Through January 2013, Landesa has helped the Government of Odisha provide homestead plots to more than 56,000 families.

The CRPs provide an important link between the landless poor families, who need land and want the government to provide titles to the lands they occupy. In the systems' approach, the families represented the demand for services and the government was responsible for providing (supplying) specific services to which the families were entitled. The role of the CRP was to bridge the gap between these two groups. The CRPs provided needed information to the families regarding their rights and also provided support to the Revenue Department to extend its services to the poor. Ultimately, both benefited.

Following this initial experience with CRPs, different government offices have engaged the CRPs for other projects and specific tasks. They have found that for specific needs, they are an ideal resource because they know the community well, are accepted and can be easily trained.

Regarding other land issues it was clear that CRPs could identify other land issues in the communities but were unable to provide the needed service due to lack of technical training. This is one of the limitations of CRPs, they are very effective for time-bound specific campaigns or tasks. However, given their limited training, they are unable to provide the type of additional legal services that trained paralegals can provide.

IV. Establishing Paralegal Centers for Securing Land Rights for the Poor

The experiences in Andhra Pradesh and Odisha offer valuable learning for designing a legal aid system that resolves land issues for the poor across the country. Based on experiences discussed above, the followings prove to be essential ingredients of an ideal legal aid system:

1. Land legal literacy for the poor and tribals
2. Youth from the poor families trained on land laws and land survey methods to help the poor and tribals
3. Law graduates and retired revenue officials to guide these youth and a panel of lawyers to take up cases of the poor in courts
4. Paralegal Centers at the block level for the poor to access the services of legal aid program

5. Land Rights Centers in law schools to train paralegals and other stakeholders and to conduct research
6. Regular and periodic training for land administration officials and judges
7. Accessible land records
8. Print and electronic materials on land laws in local languages and in simple and easy-to-understand forms
9. A transparent and accountable land administration

The Government of India, as part of the World Bank-funded National Rural Livelihood Mission (NRLM), has the potential to implement a legal aid program across the country to help the poor get secured rights to land, thus enhancing their livelihood security. A Paralegal Center should be established at every block/sub-district headquarters under the control of the district NRLM office. Ideally, the center should be established in the premises of the District Legal Services Authority as was done recently in Warangal district of Andhra Pradesh. A Land Rights Center, like the one established in NALSAR University of Law, should be established in a law school in each state to provide training and other technical support to paralegals and lawyers. The center should conduct research and policy advocacy and preparation of awareness raising materials on land laws.

The Paralegal Center should consist of paralegals, community surveyors and lawyers. In each block/sub-district, between three and five rural youth or women from the community should be identified, trained in land and legal matters and positioned as paralegals. Similarly, three to five youth or women from the community should be identified, trained in land survey and positioned as community surveyors. At each Center, a coordinator with a law background should be appointed to provide functional support to the paralegals. A retired revenue officer should be appointed to provide support to the coordinator. A panel of lawyers should be constituted in each Center to fight the land cases pertaining to the poor in both revenue and civil courts. The support of law schools should be taken to train the paralegals and also to utilize the services of law students in providing legal assistance to the poor. See diagram 2.

A local youth should be selected and appointed as a Community Resource Person in each village for identifying the land problems of the poor and tribals in lines with the CRP program in Odisha. They will conduct an inventory of all the land in the village and prepare a list of land problems of the poor and tribals. Subsequent to the inventory, CRPs will assist the paralegals in resolving the identified problems. The service of the CRPs will be required only in the first year of the legal aid program. Based on the

inventory of the land problems identified by the CRPs, paralegals should conduct local enquiry and collect necessary information required for filing petitions/cases before the appropriate authorities. Paralegals should also assist the poor in filing the petitions/cases in venues such as the revenue and civil courts. Wherever intervention of lawyers is required, the lawyers panel should take up the cases. Wherever survey-related issues are reported, services of the community surveyors should be utilised. All the land cases, identified and filed before revenue authorities by the paralegals, should be settled on a priority basis and in a time bound manner, preferably by holding the courts or hearings in the villages. Paralegals should take steps to spread land legal literacy among the poor.

State governments should constitute Convergence Committees at the state, district and sub-district/*taluka* levels to provide necessary support and guidance to the Paralegal Centers. The Committee should consist of officers from revenue, rural development, *panchayatraj*, forest, tribal welfare and social welfare departments as well as representatives from civil society.

An intensive, continuous and comprehensive training should be given to all the revenue officers at various levels to reinforce their pro-poor perspective and to expand their understanding of the pro-poor land laws, rules, government orders and judicial decisions. Periodic refresher courses shall be arranged to boost their morale and to keep up their enthusiasm levels high.

Based on the experience in Andhra Pradesh and Odisha, the higher-end estimation is that the cost per Paralegal Center including the cost of hiring Community Resource Persons is about US \$100,000 for the first year, and in subsequent years, it will be about USD 50,000 (as Community Resource Persons are required only for the initial year). Even if only 1,000 families gets secure land rights every year, starting from second year of the project, the average cost per family is only USD 50. As a first step, the Government of India can establish these Paralegal Centers in all of the 1,108 the backward blocks/sub-districts in India.

Land is life for poor families. In India, there are thousands of poor and tribals who are suffering with land problems, and for them, deprivation of land is deprivation of life. Paralegals Centers, with low cost, can help restore their land to them, and thus, can bring back life to them.

“Nothing rankles more in the human heart than the feeling of injustice. Those who suffer and can’t get justice because they are priced out of legal system, lose faith in the legal process . . . [A] feeling begins to overtake them that democracy and rule of law are merely slogans or myths intended to perpetuate the dominance of the rich and powerful and to protect the establishment and vested interests.”

– Justice P.N. Bhagavathi

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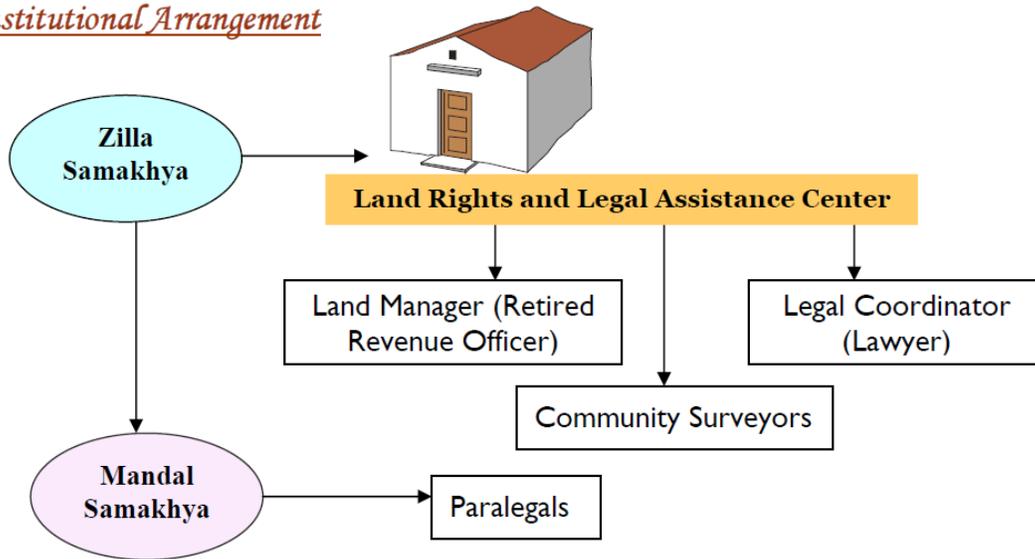
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Tables and Figures:

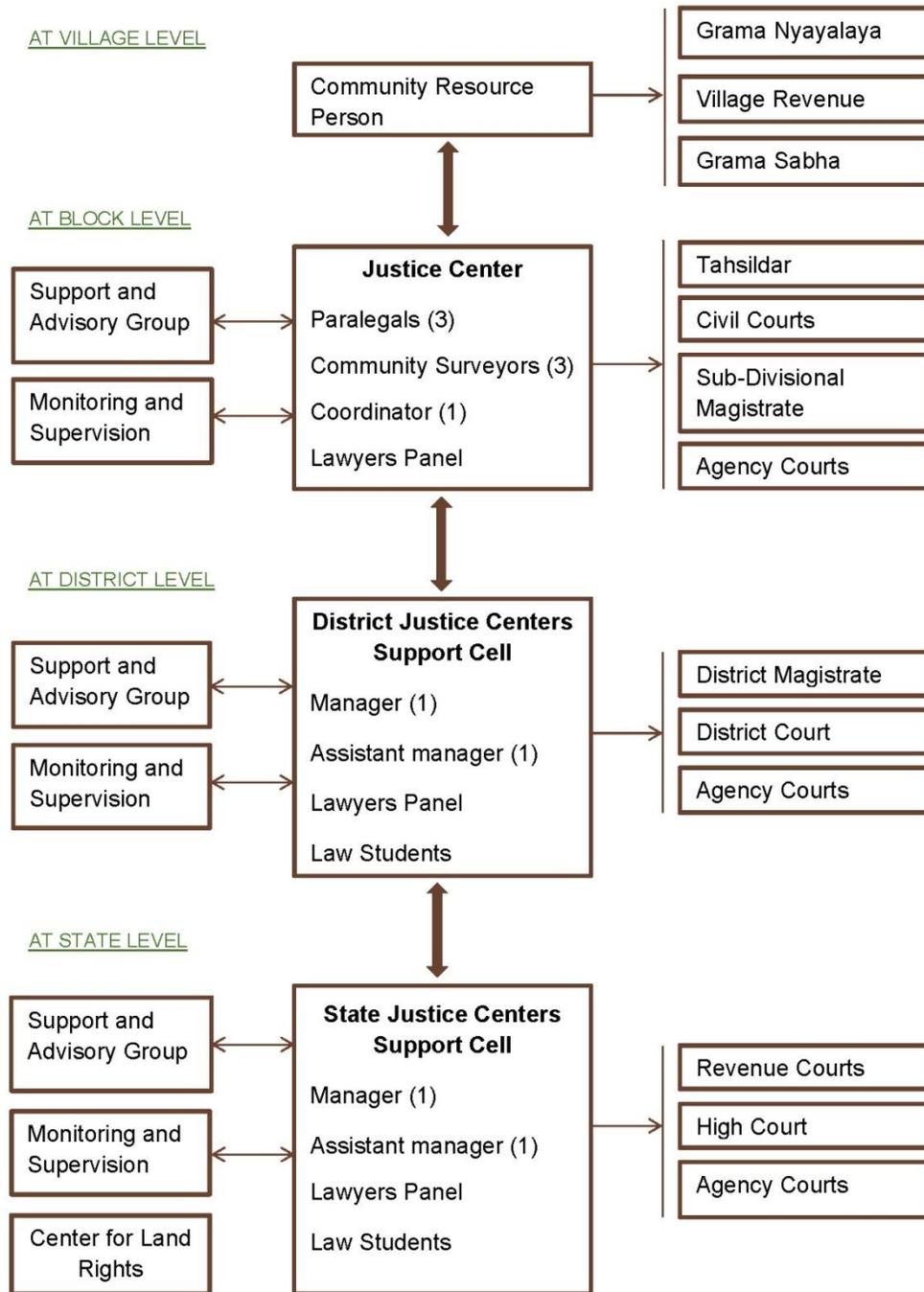
Diagram 1. SERP Land Rights and Legal Assistance Center

Institutional Arrangement



Source: Author.

Diagram 2. Possible schematic for Justice Centers



Source: Author.