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# **GENDER INEQUALITY IN THE INHERITANCE OF AGRICULTURAL PROPERTY BY HINDU WOMEN TENANTS IN NORTH-WEST INDIA**

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## **ABSTRACT**

This article critically examines the persistent gender inequality faced by Hindu women tenants regarding inheritance of agricultural property in North-West India. Although India's legal framework has evolved to promote gender equality—most notably through the 2005 amendment of the Hindu Succession Act—regional tenurial laws continue to privilege male lineage, systematically denying women equal rights to inherit agricultural land. Through a review of legislative history, constitutional doctrines, and judicial interpretations, the study highlights how state-specific statutes and customs override central reforms, perpetuating discrimination despite the removal of statutory barriers at the national level. Statistical evidence underscores the magnitude of this disparity, with women representing a significant proportion of the agricultural workforce yet holding a disproportionately small share of land ownership. The article concludes by advocating for harmonization of state tenancy laws with central legislation and urges judicial and legislative action to fully realize gender equality in land inheritance for Hindu women tenants.

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## Introduction

Social justice is rooted in the principle that all individuals within a community should enjoy equal rights.<sup>2</sup> While both gender equality and gender neutrality aim to advance fairness, they are not synonymous: gender equality requires providing the same opportunities to all genders, whereas gender neutrality insists that advantages should be allotted without regard to gender<sup>3</sup>. In practice, however, the inheritance of agricultural property undermines both concepts, as legal and customary systems often perpetuate gender-based disparities.

Land ownership remains the most critical form of property right in India, serving not only as a key source of livelihood but also as the primary asset for collateral<sup>4</sup>. Unlike assets such as livestock or Jewellery—which can theoretically be exchanged for land—land itself is rarely available for purchase, especially in rural markets where transactions are limited<sup>5</sup>. From a global perspective, bolstering women's rights to property is widely recognized as crucial for achieving a fair and just society. International agreements, such as the Convention on the Elimination of All Forms of Discrimination against Women, underscore the importance of gender equality in matters of property<sup>6</sup>, while the 1996 UN Conference on Human Settlements in Istanbul emphasized the need for women's land rights to secure sustainable development and social welfare<sup>7</sup>. The UN Commission on Sustainable Development has also highlighted how women's empowerment is advanced by improving their welfare, efficiency, and land tenure security. Research further demonstrates that when women have control over household income, families experience enhanced well-being, especially in areas like education and overall upliftment<sup>8</sup>

The concept of property has been defined in varying ways by legal scholars. Salmond describes property as a collection of all legal rights an individual possesses, covering both

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<sup>2</sup> Law Commission of India, 174th Report on Property Rights of Women: Proposed Reforms under the Hindu Law (May 2000).

<sup>3</sup> *Arshnoor Kaur v. Union of India*, 2025 LiveLaw (SC) 788.

<sup>4</sup> Bina Agarwal, *Are We Not Peasants Too? Land Rights and Women's Claims in India* Issue 21 of Seeds (Population Council, New York, No. 21, 2002).

<sup>5</sup> Bina Agarwal, "Gender and Command Over Property: A Critical Gap in Economic Analysis and Policy in South Asia", 22 *World Development* 1455 (1994).

<sup>6</sup> Convention on the Elimination of All Forms of Discrimination against Women, 1979, United Nations, Treaty Series, vol. 1249, p. 13, art. 16.

<sup>7</sup> U.N. General Assembly, Report of the United Nations Conference on Human Settlements (Habitat II), Istanbul, 3–14 June 1996, U.N. Doc. A/CONF.165/14 (7 Aug. 1996).

<sup>8</sup> *Supra note 4*.

tangible and intangible assets.<sup>9</sup>Bentham, however, limits property to tangible objects, while Austin's perspective encompasses both proprietary and personal rights, emphasizing full enjoyment of the object in question<sup>10</sup>Although the right to property is no longer a fundamental right but a constitutional one under Article 300-A of the Indian Constitution, it continues to be protected as an aspect of personal liberty under Article 21<sup>11</sup>. Accordingly, any legal measure that strips a person—especially a woman—of her property rights is inherently suspect from a constitutional perspective.

### **Agriculture and Women's Land Rights**

Agriculture forms a vital backbone of India's economy. As per the 2011 Census, nearly half (48.8%) of the country's workforce was engaged in agriculture, underscoring the sector's significance for livelihoods. While 45.3% of women participated in agricultural labor, only a small fraction—14%—held land ownership rights<sup>12</sup>. The same census revealed that 65.1% of women relied on agriculture for their livelihood, whereas the remaining 34.9% were involved in non-agricultural work. Government of India records from 2020 indicate that a mere 13% of rural women actually own land<sup>13</sup>. More recently, the 2023 Periodic Labor Force Survey reported that 60% of women involved in agricultural activities were not financially compensated for their labor.<sup>14</sup> These statistics highlight the glaring disparity: women, who constitute a substantial part of the agricultural workforce, remain largely excluded from land ownership.

### **Tenancy and Inheritance Laws**

Tenancy is a common arrangement in the context of agricultural property inheritance.<sup>15</sup> Under this system, individuals lease land for set periods, granting them temporary rights of use and occupation. Certain categories of tenants, such as Occupancy Tenants, are granted permanent, inheritable rights, effectively making them the practical owners of the land. These

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<sup>9</sup> N.V. Paranjape, *Studies in Jurisprudence and Legal Theory* 439 (Central Law Agency, Allahabad, 10th edn., 2023).

<sup>10</sup> *Ibid* at 438

<sup>11</sup> Shailza & Latika Sharma, "Feminism in Indian Agriculture", 64(3) *Economic Affairs* 615 (2019).

<sup>12</sup> *Ibid*.

<sup>13</sup> Rakesh Kumar Mahato, Arindam Das, Bheemeshwar Reddy A, "Gender Inequality in Land Ownership in India: Evidence from National Sample Survey," *SSRN Electronic Journal* (2023), Elsevier BV, available at: <https://doi.org/10.2139/ssrn.4644790>.

<sup>14</sup> Periodic Labour Force Survey (PLFS), 2022–23, National Statistical Office, Ministry of Statistics and Programme Implementation, Government of India.

<sup>15</sup> S.N. Shukla, *The Law of Tenancy in India*, 4th edn., Eastern Book Company, Lucknow, 2018, at 142.

tenants enjoy security of tenure, and if the land is improved, they can claim compensation from the landlord. Sub-tenants, who are placed by Occupancy Tenants, often possess similar rights to those enjoyed by the latter.<sup>16</sup>

However, the legislative framework governing the inheritance of tenanted agricultural land is deeply unequal. Women tenants are typically denied the right to inherit such land. Codified tenurial laws, especially in North-West India (the primary area of study here), have reinforced patriarchal Hindu customs by allocating inheritance rights exclusively to men. The justification often cited is the prevention of “fragmentation of land,” but in effect, these laws perpetuate gender-based exclusion.

### **Hindu Women’s Ownership of Agricultural Land in India**

In the context of North-West India, Hindu women’s rights to agricultural property have been governed by state-specific tenancy laws, such as the Punjab Tenancy Act of 1887, the Punjab Tenancy Agricultural Lands Act of 1955, the Uttar Pradesh Revenue Code, the Uttar Pradesh Zamindari Abolition and Land Reforms Act of 1950 (as amended up to 2016), and the Delhi Land Reforms Act of 1950. These statutes predominantly recognize agnatic succession, whereby land is inherited through the male lineage. This reflects the deep-rooted custom that only descendants through the male line—agnates—are entitled to inherit land from a common ancestor. As a result, women are systematically excluded from inheriting agricultural land in these regions, especially since the Hindu Succession Act of 1956 does not apply here, unlike in other Indian states.

### **Applicability of the Hindu Succession Amendment Act, 2005**

Inheritance is the primary means by which agricultural property changes hands in India, accounting for the transfer of the vast majority of privately held land<sup>17</sup>For Hindus, Jains, Sikhs, and Buddhists, the principal law governing inheritance is the Hindu Succession Act of 1956, as amended in 2005.

The 2005 amendment brought transformative changes for women’s inheritance rights. Previously, under Section 4(2) of the 1956 Act, agricultural property was exempt from the

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<sup>16</sup> *Ibid.*

<sup>17</sup> P. Ishwar Bhat, *Land Law in India*, 2nd edn., LexisNexis, Gurgaon, 2019, at 201.

Act's provisions<sup>18</sup> This exemption was removed in 2005, allowing daughters to inherit property as equal coparceners alongside sons. Under Section 6(2)<sup>19</sup>, daughters now have the same rights and obligations as sons in joint family property. The amendment also abolished the survivorship rule for male coparceners Section 6(3)<sup>20</sup> stipulating that women's shares are to be calculated through notional partition, making daughters coparceners in their own right. Despite these progressive reforms at the central level, state tenancy laws continue to control inheritance of agricultural land, often to the detriment of women.

### **Constitutional Doctrines and Legislative Competence**

Several constitutional doctrines underpin the case for applying the 2005 amendment to agricultural property in North-West India. The Doctrine of Predominance of Central Law holds that succession is a subject listed in the Concurrent List, enabling both the Centre and the States to legislate on it, but central law prevails in case of conflict. The Doctrine of Repugnancy, enshrined in Article 254(1) of the Constitution<sup>21</sup>, further reinforces this principle. The Doctrine of Pith and Substance asserts that the core issue is succession, which is addressed by the 2005 amendment. The Doctrine of Harmonious Construction calls for the alignment of state and central laws, ensuring they are not at odds with each other.

### **Roots of Confusion in Applicability of the 2005 Amendment in North-West India**

The division of legislative powers in India is outlined in the Seventh Schedule of the Constitution, which separates subjects into the Union List, State List, and Concurrent List. While agriculture and land fall under the State List, succession rights are part of the Concurrent List. This shared jurisdiction creates a grey area: although the transfer of agricultural land is a state matter, succession should be governed by central principles, particularly after Section 4(2) was deleted from the Hindu Succession Act in 2005<sup>22</sup> Some states, like Madhya Pradesh, Rajasthan, and Telangana, explicitly defer to personal law for succession of agricultural land. In many other states, the law is silent, and personal law is presumed to apply. However, North-West Indian states, including Punjab, Haryana, Himachal Pradesh, Uttar Pradesh, Uttarakhand, and Delhi, do not follow personal law for tenancy succession, instead favoring male heirs as

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<sup>18</sup> Section 4(2), Hindu Succession Act, 1956.

<sup>19</sup> *Ibid.*, Section 6(2).

<sup>20</sup> *Ibid.*, Section 6(3).

<sup>21</sup> Article 254(1), Constitution of India, 1950.

<sup>22</sup> Section 4(2), Hindu Succession Act, 1956 (deleted by the Hindu Succession (Amendment) Act, 2005).

per tenurial statutes<sup>23</sup>.

### Judicial Interpretations and Continuing Discrimination

Judicial decisions have perpetuated this confusion. In several notable cases, courts have upheld the primacy of custom and state law over the central Hindu Succession Act, even after its amendment. For instance, in *Mihan v. Inder*<sup>24</sup> and *Pritam Singh v. The Assistant Collector of Estate Duty Patiala*<sup>25</sup> the courts prioritized customary practices over statutory inheritance rights for women. In *Mangli Devi v. Jagmaa*<sup>26</sup> woman's claim to her father's property was denied based on the principle of male lineal descent. Other cases, such as *Roshan Lal v. Pritam Singh*<sup>27</sup> *Archna v. DoC, Amroha*<sup>28</sup> and *Babu Ram v. Santokh Singh*<sup>29</sup>, have further highlighted the judiciary's reluctance to enforce the amended central law in the face of conflicting state legislation.

Notwithstanding these setbacks, the Supreme Court's decisions in *Vineeta Sharma v. Rakesh Sharma and Danamma v. Amar* have affirmed that daughters are coparceners by birth and that the distinction between forms of coparcenary property should be eliminated, thereby strengthening the argument that the 2005 amendment must apply to agricultural land as well.

### Statistical Evidence of Ongoing Disparities

Data from the National Land Records Modernization Programme (NLRMP) in 2020 demonstrates the persistent gender gap in land ownership: out of 12,208 landholdings, 1,268 were predominantly male-held, while only 46 were predominantly female-held<sup>30</sup>. Similarly, single male owners accounted for 85.6% of all landholdings, compared to just 14.4% for single female owners. In joint ownership scenarios, 79.2% were predominantly male, while only 2.9% were female.<sup>31</sup>

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<sup>23</sup> B. Sivaramayya, *Women's Rights to Agricultural Land in India*, 1st edn., Sage Publications, New Delhi, 1999, at 48–52.

<sup>24</sup> R.S.A. No. 528 of 1977 (decided on 27 February 2008).

<sup>25</sup> *Pritam Singh v. The Assistant Collector of Estate Duty Patiala*, 1976 P.L.R. 342,

<sup>26</sup> *Mangli Devi @ Chemali through her legal heirs and Ors. v. Jagmal*, 2022 Latest Caselaw 4779 P&H.

<sup>27</sup> *Roshan Lal v. Pritam Singh*, RSA No.258 of 2012.

<sup>28</sup> *Archna v. DoC, Amroha*, Civil Misc. WP No. 64999 of 2014.

<sup>29</sup> *Babu Ram v. Santokh Singh*, Civil Appeal No. 2553 of 2019 (Arising out of Special Leave Petition (Civil) No.31039 of 2018).

<sup>30</sup> National Land Records Modernization Programme (NLRMP), 2020, Department of Land Resources, Ministry of Rural Development, Government of India.

<sup>31</sup> *Ibid.*

## **Conclusion and Recommendations**

The persistent gender gap in agricultural land inheritance can only be addressed through decisive judicial intervention and legislative reform. State tenancy laws in North-West India must be harmonized with the 2005 central amendment to the Hindu Succession Act. Drawing inspiration from other states, these tenurial laws should be amended to supplement, rather than contradict, the central legislation, thereby advancing the rights of women to own and inherit agricultural land.