

The Agricultural Remnant of Patriarchy: Analysis of the State-Level Non-Uniformity in Women's Rights Over Agricultural Land in India

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Abstract:

A significant contribution of the 2005 Amendment lay in the deletion of Section 4(2) of the Hindu Succession Act, 1956, which restricted the Act from making laws related to succession upon the proponents of agricultural land. With the deletion of this provision, agricultural land became subject to this Act. However, this durational gap paved way for various state-level patriarchal laws related to emerge, which promulgated a blanket ban on the succession rights of women over agricultural land. Such laws are still upheld, regardless of the deletion of Section 4(2) of the Hindu Succession Act, 1956, since the main contention often brought up by the pleaders in defence is the constitutional overlap of agricultural land under the State list and succession under Concurrent list. Hence, rather than framing the rightful succession of a woman over agricultural land on the basis of her personal right, this subjugation becomes a contravention under the Constitutional matter. Such a lacuna is still persistent, since some states such as Himachal Pradesh, Uttar Pradesh and Punjab still uphold their state laws, while others have paved the way for the central Act to heed. This has become a heated discourse for judiciary with no plausible definitive direction. Hence, there lies a need to discern such state-level ambiguities and characterise women's inheritance over agricultural land in a uniform manner.

Keywords: *Women's Agricultural Land Rights, Hindu Succession Act 1956, State-Tenurial Law Inconsistency, Judicial Instability, Gender Inequality*

Introduction

The Hindu Succession Act, 1956 (hereinafter referred to as 'Act'), though at its initially stage was introduced with the intent of progressivity, it was deeply flawed in practice. At the outset, the Act explicitly excluded agricultural land and coparcenary rights to daughters from its purview through Section 4(2), which reinforced patriarchal inheritance practice which were prevalent in state-level tenurial laws. Due to such restrictions being imposed from a centrally-applicable law,² state-specific land reform acts and customary laws capitalised on this opportunity, continuing to marginalise women by upholding male-preference in inheritance regimes, majorly in states such as Punjab, Haryana, Uttar Pradesh and Himachal Pradesh.³

The focal contention behind the amendment to the Act which took place in 2005 was two-fold: first, it led to the deletion of Section 4(2) which excluded agricultural land from the Act's application; second, it conferred coparcenary rights to be passed down to the female lineage, thereby leading to the recognition of daughters towards such a right by birth

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² Archana Mishra, *Hindu Women's Inheritance Right in Agricultural Property: Myth or Reality*, SSRN 3382304, at 2–3 (2019).

³ Dr. Neeraj Kumar Gupta & Swati Kumari Mawandiya, *Inheritance Rights of Hindu women in Agricultural Property: A Critical Analysis*, 2 Jus Corpus L.J., no. 3 (2022).

allowing them to seek partition and assume the role of Karta in a joint family property.⁴ Though in its theoretical basis, the amendment was revolutionary, it has not translated to equitable access in practice. This is partly due to constitutional federalism which is followed in India, which creates a conflicting principle of state subjects, considering 'agriculture' is a State List subject, provided as Entry 18.⁵ This allows state legislatures to retain discretion over tenurial land. Consequently, many states, as mentioned prior, have ignored the existence of such an amendment and follow their state laws which have been established in accordance to ignore the rights of female joint family members over agricultural land. There are dual ended implications of the amendment, either the states have blindly ignored or they have ambiguously integrated it into existing frameworks, either way leading to non-uniform application and legal uncertainty.⁶

This mixed trend in state-application is also witnessed through various judicial interpretations which took place post-2005. A 2024 study by Agarwal and Naik examined 505 High Court judgements and found that although 77% of claims by women received favourable verdicts, when it came to the actual grant of the coparcenary shares, only 52% accomplished the goal.⁷ The ones on periphery of justice were resolved through other provisions which would often involve compromise or alternate claims. Furthermore, brothers were the most frequent opposing parties in such cases and the agricultural land emerged as the most contest form of property before the Courts. When studying the language employed by these judgements, many revealed uses of gendered stereotypes and judicial reluctance to disturb familial harmony, which would undermine the women's entitlements under the ambiguous garb of "status quo."

This paper will analyse the general basis for the inheritance rights of women over agricultural land and compare the same with those states which do not provide the same. However, the comparison is not the main contention of this paper, the primary focus lies in understanding why these states are reluctant in adoption of a widely-applicable law and on what basis it contends such exclusion. At present, the literature which often conducts studies over this matter, provide the provisional basis as the reason for the non-uniform application, however, there are often socio-political-economic factors which are essential to be laid out since they were one of the vital bases for the 2005 amendment itself. Considering the growing importance of agricultural land in the present age, especially when evaluating the growth of urban migration at a national level, the exclusion of a gender over inheritance of agricultural land based on state-centric law seems rather arbitrary.

Legislative Recognition of Women's Agricultural Land rights at State Level

In India, women's rights to inherit agricultural land are governed by the complex interplay of both central and state legislations. The amended Act, marked a significant step towards attainment of gender equality, which granted Hindu women coparcenary rights over ancestral land. It led to deletion of the discriminatory Section 4(2) of the Act, which previously subjected agricultural land to state-level tenurial laws, which were discriminatory. This amendment aimed for all land being on par with other properties and the overriding of those state laws that were inconsistent in granting women inheritance rights.

⁴ Bina Agarwal & Shruthi Naik, *Do Courts Grant Women Their Inheritance Shares? An Analysis of Case Law in India*, 182 World Dev. 106688, 3–4 (2024).

⁵ Shipra Deo & Akansha Dubey, *Gender Inequality in Inheritance Laws: The Case of Agricultural Land in India* 3 (Landesa, 2019)

⁶ Ibid.

⁷ Supra note2.

The Supreme Court provided clarification, by stating, both the Central and the State Governments have the authority to legislate over matters regarding succession of agricultural land.⁸ The Indian Succession Act, 1925, which governs the inheritance of Christians and Parsis, outlines the shares to be provided to widows and lineal descendants. The Forest Rights Act, 2006, acknowledges women have equal rights over forest lands through joint titles and grants individual rights them to unmarried, deserted, or widowed women. The Land Acquisition (Right to Fair Rehabilitation and Resettlement) Act, 2013, recognises the rights of widows, divorcees, and abandoned women by identifying them as separate families.

Furthermore, to narrow down the analysis of agricultural land inheritance for women, various state-specific provisions have provided this equal inheritance right to women. Some states have explicitly stated their application of personal laws when delving into matters of agricultural land inheritance. Madhya Pradesh, through its tenurial law, i.e., Madhya Pradesh Land Revenue Code, 1959, Section 164, explicitly provides the application of personal laws for inheritance over agricultural lands.⁹ The Rajasthan Tenancy Act, 1955, Section 40, explicitly addresses this matter and directs the devolution of tenancy “in accordance with personal law.”¹⁰ The Andhra Pradesh (Telangana area) Tenancy Act, 1950, Section 40, specifies that personal law will be used to govern the inheritance of agricultural land for Hindus.¹¹

There are some states which are silent over this matter, i.e., regarding which law is applicable in the devolution of agricultural land for women. Hence, it is implied that these states default to the personal laws, unless other circumstances deem the application contrary. Andhra Pradesh, alongside Karnataka, Maharashtra, and Tamil Nadu had previously amendment the Act, to include daughters as coparceners.¹² The legislative interpretation of the same would allow them to inherit agricultural land as well. The tenancy legislation of Andhra Pradesh is silent on the devolution rules, which implies the application of the Act.¹³

Bihar has tenancy laws which allow customary practices to override personal laws. The Bihar Tenancy Act, 1885, specifies that the devolution of occupancy rights for agricultural land will occur “subject to any custom to the contrary,”¹⁴ similar to tenancy laws in Jharkhand.¹⁵ The provisions of 2005 Act,¹⁶ was adopted in Bihar after 2005.¹⁷ The Chhattisgarh state law is generally silent on the matters related to agricultural land rights to women.¹⁸ In Goa as well, the state law is silent on this matter. Data taken from 2015-16 indicates that the percentage of land ownership between men and women is equal.¹⁹ Similarly, in Gujarat the state laws

⁸ Laxmi Debi v. Surendra Kumar Panda & others, AIR 1957.

⁹ Madhya Pradesh Land Revenue Code, No. 20 of 1959, § 164 (India).

¹⁰ Rajasthan Tenancy Act, No. 3 of 1955, § 40 (India).

¹¹ Andhra Pradesh (Telangana Area) Tenancy and Agricultural Lands Act, No. 21 of 1950, § 40 (India).

¹² Supra note 4.

¹³ Ariba Khan, *Workers or Owners? The Case of Women Farmers in India*, SPRF (Apr. 17, 2025), <https://sprf.in/workers-or-owners-the-case-of-women-farmers-in-india/>

¹⁴ Bihar Tenancy Act, No. 8 of 1885, § 26 (India).

¹⁵ Bina Agarwal, *Gender and Legal Rights in Agricultural Land in India*, 30 Econ. & Pol. Wkly. A39, A39–A56 (1995).

¹⁶ Panda, S. K., Bhatt, A., & Satapathy, A. (2024). ChatGPT and Its Role in Academic Libraries: A Discussion. *New Review of Academic Librarianship*, 1–15. <https://doi.org/10.1080/13614533.2024.2381510>

¹⁷ Dr. Govind Kelkar, *The Fog of Entitlement: Women and Land in India*, Paper Presented at the Annual World Bank Conference on Land and Poverty, Washington D.C., Apr. 8-11, 2013, at 1.

¹⁸ Supra note 4.

¹⁹ Population Council & UN Women, *Asset Ownership Among Women in India: Insights from NFHS Data*, Analytical Paper Series No. 6 (Dec. 2023), <https://landportal.org/debates/2017/womens-land-rights-india-and-sustainable-development-goals-sdgs>.

are silent. When the state laws are silent on the matter, it is presumed that the agricultural land rights are based on central provision.²⁰

Karnataka previously amended the Act, to include daughters as coparceners, which allowed them to inherit agricultural land.²¹ Although the tenorial laws are silent on the rules of devolution regarding agricultural land, it is assumed that personal laws will apply. Kerala enacted the Joint Hindu Family System (Abolition) Act, 1976, which eliminates the advantage given to sons in joint family property.²² It also amended the Act, to include women as coparceners and granted them inheritance over agricultural land. Kerala does not have any specific rules for devolution; hence, it is assumed the personal laws are followed.²³

The Act was amended in 1994 in Maharashtra, to include unmarried daughters as coparceners and allowing them the right to inherit agricultural land.²⁴ In Odisha the tenancy laws may allow the customs to override personal laws, however, the Government has introduced various active policies in this regard to control the extent of such tenorial practices.²⁵ Such schemes being Vasundara Scheme (2005-06)²⁶ and “Mo Jami, Mo Diha”²⁷ which allots agricultural and homestead land, particularly to single women.²⁸ Tamil Nadu has amended the Act in 1989 to include unmarried daughters as coparceners,²⁹ which enables them to inherit agricultural land.³⁰ In West Bengal, the laws are silent on devolution thereby implying the application of personal laws, although, historically, land reforms in West Bengal, such as Operation Barga, have been male-dominated.³¹

Restrictive Legislative Frameworks on Women’s Agricultural Land Rights at State Level

Some states have specific tenorial laws which are historically discriminatory towards the women. Delhi, through the Delhi Land Reforms Act, 1950, from Sections 50 to 54, has strongly favoured the male lineal descendants, which often leads to the exclusion of daughters.³² However, the Delhi High Court has clarified that Section 50 of the DLR Act was repealed by the omission of Section 4(2) of the Act.³³ This made the amended Act applicable, thereby granting the female members the right to inherit agricultural land.³⁴ In Haryana,

²⁰ Supra note 4.

²¹ Bina Agarwal, *Gender and Land Rights Revisited: Exploring New Prospects via the State, Family and Market*, 3 J. Agrarian Change 184, 184–224 (2003).

²² Joint Hindu Family System (Abolition) Act, No. 30 of 1976 (India).

²³ Supra note 18.

²⁴ Bina Agarwal & Shruthi Naik, *Do Courts Grant Women Their Inheritance Shares? An Analysis of Case Law in India*, 182 World Dev. 106688 (2024).

²⁵ Orissa Tenancy Act, No. 2 of 1913, § 30 (India).

²⁶ Bina Agarwal & Shruthi Naik, *Do Courts Grant Women Their Inheritance Shares? An Analysis of Case Law in India*, 182 World Dev. 106688 (2024).

²⁷ Ibid.

²⁸ Ibid.

²⁹ Trivedi, D., Majumder, N., Pandya, M., Bhatt, A., & Chaudhari, S. P. (2022). *Evaluating the global research productivity on domestic violence: a bibliometric visualisation analysis*. *Collection and Curation*. <https://doi.org/10.1108/cc-12-2021-0040>

³⁰ Supra note 4.

³¹ Bina Agarwal, *Gender and Legal Rights in Agricultural Land in India*, 30 Econ. & Pol. Wkly. A39, A39–A56 (1995).

³² Delhi Land Reforms Act, No. 8 of 1954, §§ 50–54 (India).

³³ *Nirmala v. Gov’t of NCT of Delhi*, 2010 SCC OnLine Del 2590

³⁴ Archana Mishra, *Hindu Women’s Inheritance Right in Agricultural Property: Myth or Reality*, SSRN Electronic Journal (2019).

the Punjab Tenancy Act, 1887, Section 59, prioritises the male lineal descendants thereby ignoring the plight of female members regarding land rights.³⁵

The Himachal Pradesh Tenancy and Land Reforms Act, 1972, Section 45, also favours the male descendants.³⁶ However, the Himachal Pradesh High Court has ruled that the Act, will apply to agricultural properties. Critically, it also ruled that Adivasi women belonging to Himachal Pradesh shall inherit property, which includes agricultural land, under the amended Act of 2005, which overrides the customary practices.³⁷ The Jammu and Kashmir Tenancy Act, 1980, although, provides preference to male descendants in matters of inheritance over agricultural lands.³⁸

The Punjab Tenancy Act, 1887, Section 59, restricts the right to inherit to the male descent alone, and provides the right to widows in their absence.³⁹ The Pepsu Tenancy Agricultural Lands Act, 1955, has granted rights mainly to the male descendants as well. The Uttar Pradesh Revenue Code, 2016, from Section 108-110 provides the general order of succession to a male member⁴⁰ and the interest of female members⁴¹. The UP-Zamindari Abolition and Land Reforms Act, 1950, as amended in 2008, now grants unmarried daughters the primary inheritance alongside the widow and the male descents. However, the discrimination against the married daughter still persists. While the amendment in 2005 aimed to override state laws, Uttar Pradesh maintains the provisions related to agriculture as state subject and continues to follow the tenurial law.

The Allahabad High Court has held that when there lies a state legislature, the same will have exclusive jurisdiction as provided under Entry-18 of List II, i.e., the state list. Therefore, the Act does not automatically apply after the deletion of Section 4(2).⁴² In Uttarakhand, the Uttaranchal (The Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950) (Adaptation and Modification Order, 2001) (Amendment) Act, 2003, from Section 169-173⁴³, recognises a widow as a primary heir, and unmarried daughters as the secondary heirs. There does lie some discrepancies on superior rights being granted to the unmarried daughter over the married daughter. Although women's rights have been recognised, they do not have absolute right in property, and the same devolves to the heirs of the last male bhumidhar after her death.⁴⁴

Judicial discrepancies Over Women's Agricultural Land Rights

Various judicial decisions have played a critical role in the interpretation and enforcement of women's inheritance over agricultural land. In **Babu Ram v. Santokh Singh**, the Supreme Court reasoned that the changes which took place post-amendment allow for the application of Section 22 of the Act, to agricultural lands, as succession comes within the

³⁵ Punjab Tenancy Act, No. 16 of 1887, § 59 (India).

³⁶ Himachal Pradesh Tenancy and Land Reforms Act, No. 8 of 1974, § 45 (India).

³⁷ Dr. Ashok Sircar et al., *Women's Right to Agricultural Land in India* (Oxfam India, 2016), at 1.

³⁸ Jammu & Kashmir Tenancy Act, No. 25 of 1980 (India).

³⁹ Punjab Tenancy Act, No. 16 of 1887, § 59 (India).

⁴⁰ Pepsu Tenancy and Agricultural Lands Act, No. 13 of 1955, § 108 (India).

⁴¹ Pepsu Tenancy and Agricultural Lands Act, No. 13 of 1955, § 109 (India).

⁴² Archana v. Deputy Director of Consolidation, 2015 SCC OnLine All 9307.

⁴³ Uttaranchal (U.P. Zamindari Abolition & Land Reforms Act, 1950) (Adaptation & Modification Order, 2001) (Amendment) Act, No. 3 of 2003, §§ 169–73 (India).

⁴⁴ Supra note 34.

ambit of Concurrent List without the prior exclusion of agricultural land.⁴⁵ The Court ruled that preferential rights will be applicable under Section 22, and to agricultural land.⁴⁶

Similarly, in **Sm. Laxmi Debi**, the Court deliberated on whether agricultural land would fall under the wider ambit of personal laws. It stated that now under the present concurrent list, which is List 3, in Schedule 7, as item No. 5, there lies wills, intestacy, and succession that are all matters which are subject to personal laws.⁴⁷ However, a division bench from the same High Court in **Jaswant and Ors. v. Smt. Basanti Devi**, took a different approach while considering the implications of Section 22 of the Act, regarding agricultural land.⁴⁸

In **Amar Singh**, the issue raised was whether a Hindu female would get inheritance under Section 14 of the Act. It was held *inter alia* that section 14 of the Act was “within the legislative field spanned in Entry 5 of List III, the concurrent list.”⁴⁹ Furthermore, in **Smt. Prema Devi**, stated that this Act does not extend to agricultural land, and every personal law can become applicable on land tenures if the same has been provided in the State law itself, however, it cannot override State legislations.⁵⁰

Furthermore, in **Vaijanath and Ors. v. Guramma and Ors.**, the Court contemplated over whether a widow would receive joint family agricultural land under the Hindu Women’s Property Act, 1937, as applied in Hyderabad. The Court held that the words ‘property’ and ‘interest in Joint Family Property’ are wide enough to cover agricultural land.⁵¹ In **Roshan Lal v. Pritam Singh**, the Court held that succession falls within the scope of entry No.5 of List III since a myopic view of interpretation is adopted, the same will fall within the scope of “rights in and over land,” thereby providing agricultural land rights to women.⁵² In **Nirmala v. Government of NCT of Delhi**, the Court opined that parliament intentionally omitted section 4(2) which took away the protection given to DLR Act, 1954 or other similar laws⁵³, the decision of the Court being followed in **Bimla Devi v. Zile Singh**⁵⁴. In **Archna v. Dy. Director of Consolidation**, held its judgement in contradiction wherein it stated that state legislature alone has the exclusive jurisdiction to make laws in respect of right over land or land tenure.⁵⁵ Thus, the deletion of Section 4(2) would not lead to *suo moto* application of the Act to agricultural land.

Structural and Procedural Gaps in Implementation

The varying women’s rights over agricultural land based on state-tenurial laws leads to many gaps in implementation and collisions between the state laws and personal laws.⁵⁶ The amended Act of 2005 explicitly aimed to grant Hindu women legal equality in inheritance over property, including their coparcenary rights and right over agricultural land. However, considering agricultural land falls primarily under the State list, as Entry 18, there have been discourses leading to varied outcomes. There has been discourses over constitutional intent,

⁴⁵ Babu Ram v. Santokh Singh, AIR 1965 SC 1553

⁴⁶ Bhagirathi Chhatoi v. Advikanda Chattoi, AIR 1974 Ori 70.

⁴⁷ Sm. Laxmi Debi v. Surendra Kumar Panda, AIR 1982 Ori 71 (India).

⁴⁸ Jaswant v. Basanti Devi, AIR 1997 SC 3572.

⁴⁹ Amar Singh v. Baldev Singh, AIR 1998 SC 1737.

⁵⁰ Prema Devi v. Joint Dir. of Consolidation, AIR 1970 All 238

⁵¹ Vaijanath v. Guramma, (1999) 1 SCC 292

⁵² Roshan Lal v. Pritam Singh, AIR 1988 SC 1055

⁵³ Nirmala v. Gov’t of NCT of Delhi, 2010 SCC OnLine Del 2590

⁵⁴ Bimla Devi v. Zile Singh, (2018) 11 SCC 105

⁵⁵ Supra note, 39.

⁵⁶ Bina Agarwal & Shruthi Naik, *Do Courts Grant Women Their Inheritance Shares? An Analysis of Case Law in India*, 182 World Dev. 106688 (2024).

since the Constitution places “land,” which includes transfer and alienation of agricultural land, under the State List, while, “intestacy and succession” is on the Concurrent List.⁵⁷ This overlap provides states the control and power to create state-specific tenurial laws.

Such control to create state-specific laws has given rise to discriminatory provisions. States in the North-western region, such as Punjab, Haryana, Himachal Pradesh, Uttar Pradesh, and Delhi, have historically framed their laws in a manner to favour the male descent.⁵⁸ Further, this is substantiated through the continued discrimination against the married daughter under the UPZALR Act, 1950 and the Uttar Pradesh Revenue Code, 2006. The authorities maintain their reasoning based on agricultural land falling under the domain of State List thereby having overriding authority.

However, such gaps do not end with the states which have explicit discriminatory provisions. Many states have ambiguous laws regarding this matter, such as Bihar, Jharkhand, and Odisha, wherein the tenancy laws specify rights of agricultural land shall devolve subject to any custom to the contrary.⁵⁹ This provision allows for gender discriminatory customary practices to prevail over codified personal laws, especially when considering tribal communities. Delving on the latter contention, the Act, does not apply to Scheduled Tribes, hence, these communities are often governed by uncoded customary laws which generally deny women their land rights.⁶⁰

The concerning implementation of women’s agricultural land rights goes beyond the legislative frameworks and impacts deep-seated social barriers. Although legal frameworks are put forth, a wide gender gap persists in the actual ownership of land by women due to strong familial resistance in endowing property to daughters. A study conducted by Agarwal in 1994; Shil & Jangir in 2021, show that many women gave up their claims in favour of their brothers, when persuaded by their family members, administrative officers, or out of their own will.⁶¹ As provided earlier, there still lies discrimination based on marital status towards women.

A major issue lies in many women lacking awareness regarding their rights. According to a study by Landesa and UN Women in 2012, approximately 40% of the surveyed women are unaware that the law grants them the right to own land.⁶² Religious leaders play a crucial role in this, since around half of the Hindu and Muslim women who were surveyed believed that their religious leaders did not recognise the woman’s right to inherit from her husband. Furthermore, there are judicial discrepancies, since some Courts disregard personal laws, whereas some Courts, such as those in Delhi and Himachal Pradesh held that State laws can be overridden.⁶³

⁵⁷ The Centre for Social Justice, *Women’s Land Rights in India: What’s Missing From Our Land Laws?*, India Dev. Rev. (June 5, 2023), <https://www.indiatimes.com/india/women-s-land-rights-in-india-what-s-missing-from-our-land-laws-601977.html>.

⁵⁸ Neeraj Kumar Gupta et al., *Inheritance Rights of Hindu Women in Agricultural Property: A Critical Analysis*, 2 Jus Corpus L. J., Mar.–May 2022, at 86.

⁵⁹ Supra note 4.

⁶⁰ Pranay Agarwal, *A Tryst with Succession Rights: An Impact Assessment of the Hindu Succession Amendment Act 2005 on Women Landholders*, V Shimla L. Rev. 123, 123–43 (2022).

⁶¹ Bina Agarwal & Shruthi Naik, *Do Courts Grant Women Their Inheritance Shares? An Analysis of Case Law in India*, 182 World Dev. 106688 (2024).

⁶² *Workers or Owners? The Case of Women Farmers in India*, Soc. & Pol. Rsch. Found. (n.d.), <https://sprf.in/workers-or-owners-the-case-of-women-farmers-in-india/>.

⁶³ Archana Mishra, *Hindu Women’s Inheritance Right in Agricultural Property: Myth or Reality*, SSRN Electronic Journal (2019).

Lastly, many state land reforms are included within the Ninth Schedule of the Indian Constitution. Through the protection it seeks under this status, it has historically been placed beyond the purview of judicial review although it violates fundamental rights since it perpetuates the existing gender inequalities.⁶⁴ This is crucial, since the focal issue concerning the application of state-specific tenurial laws is its contravention of the principles of Article 14 and 15. However, due to constitutional protection through the Ninth Schedule, the defence is negated.

Towards Statutory Harmonization: Advantages of Uniform Legal Application

By implementing a uniform application of personal laws, gender equality can be achieved, as these laws align with constitutional principles. It will ensure that women are not discriminated against when accessing their crucial economic resource.⁶⁵ Historically, Section 4(2) of the Act made women's right to agricultural land a subjective matter that the respective states can determine through their tenurial laws. However, this provision of the act was deleted through the 2005 Act, thereby, a uniform application of the amended law should apply to override those state laws which are inconsistent in nature, which would lead to the removal of gender-biased provisions thereby ensuring women's equal rights across all states.⁶⁶

Due to the deletion of Section 4(2) from the Act, many contradictory judgements have prevailed.⁶⁷ Such discrepancies lead to lesser efficiency in dealing with matters that pertain to the inheritance rights of women over agricultural land. The Supreme Court clarified this position in **Babu Ram**, wherein it stated that both the Central and the State Governments have the authority to legislate on the succession of agricultural land.⁶⁸ This judgement came in light of succession being present in the Concurrent List. Therefore, such decisions fall within the extent of repugnancy which goes against various judgements of the Supreme Court, such as **Zaverbhai Amaldas v. State of Bombay**⁶⁹ and **State of Orissa v. M.A. Tulloch & Co.**⁷⁰

By providing women rights over agricultural land, there will be a critical increase in the determinant of their economic and social status, which would ensure their physical security and that of their family members.⁷¹ Land can be utilised for varying sources, either for economic or health-related matters. It is the base for food production and income generation, and it can serve as collateral for credit.⁷² Therefore, stripping them of such basic resources will make them disadvantageous in society.

⁶⁴ Supra note 58.

⁶⁵ Rajneeta Bhati & Dr. Namita Singh Malik, *A Critical Analysis of Hindu Women's Right in Agricultural Property Under U.P Revenue Code, 2006 in the Backdrop of Gender Justice*, 5 ShodhKosh J. Visual & Performing Arts 1286, 1286–92 (2024).

⁶⁶ Dr. Ashok Sircar et al., *Women's Right to Agricultural Land in India* (Oxfam India, 2016), at 1.

⁶⁷ Santosh Sati & Prof. (Dr.) Mohd Imran, *Unraveling the Paradox of Inequality: Exploring Hindu Women's Inheritance Rights in Agricultural Land and Ownership in India*, 44 Library Progress Int'l 12880, 12880–91 (2024).

⁶⁸ Supra note 42.

⁶⁹ *Zaverbhai Amaldas v. State of Bombay*, AIR 1954 SC 752

⁷⁰ *State of Orissa v. M.A. Tulloch & Co.*, AIR 1964 SC 1284

⁷¹ "Women's Land Rights in India and the Sustainable Development Goals (SDGs)," Land Portal (Oct. 26, 2017), <https://landportal.org/debates/2017/womens-land-rights-india-and-sustainable-development-goals-sdgs>

⁷² Dr. Govind Kelkar, *The Fog of Entitlement: Women and Land in India*, Paper Presented at the Annual World Bank Conference on Land and Poverty, Washington D.C., Apr. 8-11, 2013, at 1.

Conclusion

The genesis of the discourse is traceable to the inclusion of Section 4(2) in the Act, which led to States having the power to codify State-specific tenurial laws. Some of these tenurial laws base its provisions on the patriarchal norms of society under the guise of “agricultural land falling within the scope of State List under the Seventh Schedule of the Constitution.” The aim of the 2005 amendment of the Act was to ensure such patriarchal norms could be erased by including the daughter as a coparcener in ancestral property and excluding Section 4(2) which would ensure agricultural land would fall under the domain of the Act, leading to State laws having no effect thereon. However, such changes did not occur. The guise of constitutional protection became the sole apparatus for such state-laws to continue, which marked the origin of the judicial discrepancies regarding state-laws against personal laws.

The uniform application, meant to be a fast-tracker to justice, slowed down the judiciary even more. This solely arose due to the delay in the deletion of Section 4(2) of the Act, since by the time the amendment took place in 2005, all states had established their own provisions which would govern tenurial related activities. The amendment which is a parliamentary reformation, still held a softer presumptive value in comparison to the constitutional protection agricultural lands held, due to their presence in the State List. However, this constitutional shield has been diluted ever since the issue reached the judiciary. There have been various judicial pronouncements, such as *Vaijanath and Ors. v. Guramma and Ors.*⁷³, *Roshan Lal v. Pritam Singh*⁷⁴, and *Nirmala v. Government of NCT of Delhi*⁷⁵, which have stated that women are entitled to inheritance over agricultural land since “succession” falls under the scope of Concurrent List, which makes the discourse dependent on both State laws and Central laws.⁷⁶

Therefore, the Constitution could no longer be a guise for discriminatory provisions of law, but rather became the means of objection considering the discriminatory provisions went against the fundamental rights to equality and protection from discrimination which is provided respectively under Article 14 and the 15 of the Constitution. At present, due to the differing perspectives of states, and the lack of substantive and fool-proof mechanisms to ensure uniform application of personal laws, the state-wise tenurial laws have become a complication which is dealt separately by each state through their High Courts. Considering the lack of infallible defence to both sides of the arguments, the discourse often arises on moral and ethical grounds, which leads to subjective judgements being delivered. Therefore, by adopting a uniform application of the consistent legal framework, i.e., the 2005 amended act, the objective of the amendment will be achieved, constitutional equality maintained, and the delivery of justice expediated.

⁷³ Supra note 48.

⁷⁴ Supra note 49.

⁷⁵ Supra note 50.

⁷⁶ Supra note 42.