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**A TRYST WITH SUCCESSION RIGHTS:
An Impact Assessment of the Hindu Succession Amendment Act
2005 on Women Landholders**

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Contents

Volume V	ISSN: 2582-1903	April 2022 - March 2023
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<i>Excerpts from the V. R. Krishna Iyer Annual Law Lecture Series</i>	Page
1. HINDU PHILOSOPHY AND MODERN JURISPRUDENCE <i>Justice V. Ramasubramanian</i>	1

Special Article

2. THE UNIFORM CIVIL CODE DEBATE IN INDIA: Conceptual Predicaments, Historical Legitimacy, and Challenges to Pluralism <i>Chanchal Kumar Singh & Mritunjay Kumar</i>	12
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Articles

3. THE UNDERSTANDING OF ANIMAL RIGHTS: Advancing a New Approach <i>Sanchit Sharma</i>	63
4. GIG WORKERS AND EMPLOYMENT LAWS: An Indian Perspective <i>Anand Pawar & Ankit Srivastava</i>	88
5. INSIDER TRADING: Contours of Liability and Judicial Approach <i>Girjesh Shukla & Adity Dehal</i>	103
6. A TRYST WITH SUCCESSION RIGHTS: An Impact Assessment of the Hindu Succession Amendment Act 2005 on Women Landholders <i>Pranay Agarwal</i>	123
7. CENSORSHIP: A Moral Dilemma or an Immoral Siege on Freedom of Speech? <i>Dhawal Shankar Srivastava & Zubair Ahmed Khan</i>	144
8. THE LEGAL IMPLICATIONS OF THE CRIMINAL PROCEDURE (IDENTIFICATION) ACT, 2022: A Comprehensive Analysis of Constitutional, Criminal, and Forensic Dimensions <i>Shaifali Dixit & Chandrika</i>	166

Notes and Comments

9. DISSENT IN THE AADHAAR JUDGEMENT: Exploring Dimensions of the future of Privacy Jurisprudence in India
Varin Sharma 190
10. HARMONIZING DIVERSITY: Challenges in Unifying Marriage and Divorce Laws in India
Alok Kumar & Namita Vashishtha 213
11. DIVIDING EQUALITY DESTROYING AFFIRMATIVE JUSTICE: Assessing Economically Weaker Sections (EWS) Reservation in India
Mohammad Hussian, Showkat Ahmad Wani & Dhriti Bole 236
12. HUMAN RIGHTS PROTECTION AT STATE LEVEL: A Critique of the Functioning of SHRCs in India
Nehru & Hitesh Manglani 253
13. *SUBHASH DESAI v. PRINCIPAL SECRETARY*: Interpreting the Issues of the Role of the Speaker Under the Tenth Schedule, and the Symbols Order
Abhinav Yadav 272
14. LEGAL CHALLENGES POSED BY ARTIFICIAL INTELLIGENCE IN CONSUMER ONLINE DISPUTE RESOLUTION
Vibhuti Jaswal & Shiekhar Panwar 289
15. DAM SAFETY ACT, 2021: A Critical Appraisal
Narayan Chandra Sarangi 300

A TRYST WITH SUCCESSION RIGHTS: An Impact Assessment of the Hindu Succession Amendment Act 2005 on Women Landholders

*Pranay Agarwal**

[Abstract: *Hindu women have been kept deprived of their right to succeed in their father's ancestral property for a long time. Like women of other countries and religions, equal rights to women were opposed by the dominant patriarchal factions of the society. Nonetheless, the situation changed post-independence after the enactment of the Hindu Succession Act of 1956 and its reformed version in the form of the Amendment Act of 2005 which grants equal rights to women in matters of inheritance, making daughters equal coparceners or joint legal heirs to their ancestral property. While the step is widely considered a move towards women empowerment and gender equality, the reforms are effective until women are being benefited through increased landholdings. After more than one and a half decades of its implementation, several research studies have been initiated to assess the efficiency of reforms. With scholars having begun to ponder on the impact of the landmark amendment on the rights of women, it is equally pertinent to assess the impact on the property of women in quantum terms.*

This paper is an attempt to empirically assess the impact of the 2005 amendment on the number of women landholders across the nation. Using the past four reports of the Agriculture Census from 2000-2016 and relevant statistical techniques, important questions on the non-uniform application of the law on different social classes and regions and its adverse impact on women landholders have been highlighted and answered in this paper. Furthermore, the paper through a statistical impact assessment seeks to analyse the unfortunate situation of the tribal women who are excluded from reaping the benefits of the reforms and the adverse effect that has been accrued on them in the past 15 years.]

I

Introduction

Property is one of the most essential sources of living and survival since the birth of humans. While the importance of land has gradually shifted to its other uses as an investment commodity, in an agricultural country like India, property ownership is

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still widely recognised as a fundamental source of livelihood. This holds particularly true for the millions of women who depend on agriculture for survival with the empowerment prospects intricately linked by their legal rights in land.¹ For years, the landscape of property inheritance and succession in India reflected a stark gender disparity, perpetuating an unequal treatment of women. The concept of gender parity and justice seemed like a distant dream, obscured by the shadows of age-old practices and customs. It wasn't until the 2005 amendment in the succession laws for Hindu women, a paradigm shift took place in the family laws of India. By removing the unreasonable obstacles imposed by ancient customs, the 2005 Act is considered to be a milestone in promoting women empowerment in the country, providing equal status to daughters as sons in property inheritance and succession and empowering them with newfound rights and opportunities.² There have been studies which have shown the positive impact created by the 2005 amendment on women's status and overall rights.³

Furthermore, it has been observed that the newly granted property rights have been trickled down to the other aspects of women empowerment.⁴ The literature on the impact of inheritance reform on women shows that the legal reform of such kind enables women to gain in multiple dimensions viz, education, health, labour force participation, female mortality, and decision-making power.⁵ In this regard, the official data collected in the National Family Health Survey, herein called 'NFHS' shows that post-2005, the participation of women in household decision-making has significantly risen.⁶ However, at the same time, the survey shows that the proportion of women inheriting their father's ancestral property is negligible.⁷

¹ Bina Agarwal, *Women's inheritance: Next steps*, THE INDIAN EXPRESS (Oct. 17, 2005), available at:

https://www.binaagarwal.com/popular%20writings/Women's%20Inheritance_%20Next%20Steps%20IndianExpress_17Oct05.pdf

² LAW COMMISSION OF INDIA, PROPOSAL TO AMEND HINDU SUCCESSION ACT, 1959 AS AMENDED BY ACT 39 OF 2005, REPORT NO. 204 (Ministry of Law and Justice, Feb 2008).

³ Narayana Bose and Shreyashree Das, *Women's inheritance rights, household allocation, and gender bias*, 107(5) AMER. ECON. REV. 150-53 (2017). See also, Sanchari Roy, *Female Empowerment through Inheritance Rights: Evidence from India* (unpublished), Sep. 6, 2008, available at: <https://www.dagliano.unimi.it/media/roy.pdf>

⁴ Agarwal, *supra* note 1.

⁵ Khushbu Mishra and Abdoul G. Sam, *Does women's land ownership promote their empowerment? Empirical evidence from Nepal*, 78 WORLD DEVELOPMENT 360, 368 (2016).

⁶ T. Lakshmansamy, *Property Inheritance and Empowerment: An Econometric Analysis of the Effect of the Hindu Succession Law Reform on Married Women Decision Making*, 4(2) J. HUM. RIGHTS L. PRAC. 20 (2021) at 30.

⁷ INTERNATIONAL INSTITUTE FOR POPULATION SCIENCES (IIPS), NATIONAL FAMILY HEALTH SURVEY 2015-16 (Ministry of Health and Family Welfare, 2017).

A major criticism faced by the amendment is the disparity caused among women of different castes and religions. In this respect, it is important to understand that while the amendment strengthens the claim of daughters on the father's ancestral and self-acquired property, the rights have been conferred only to Hindu non-tribal women.⁸ The tribal women who are still governed by the patriarchal customs and practices outrun the purpose of the law to bring justice to daughters.⁹

Though the amendment is often seen in a positive light, the impact on women of different social groups is imperative to understand. This paper attempts to examine the impact of the 2005 reforms on the property rights of women belonging to different social classes. The objective of this paper therefore can be considered to be two-fold. The first objective is to identify and estimate the extent to which the 2005 amendment has empowered women concerning landholding. The second objective is to highlight the disparity created by the amendment through the non-application of the law on tribal women. For that purpose, a statistical analysis has been conducted using the data from the Agriculture Census to study the change in the difference in land holding by women of different social classes caused after the implementation of the reforms in 2005.

The paper in the first section, focuses on the positive changes brought or intended to be brought by the 2005 amendment and provides a legal analysis of the impact on women. The second section of the paper provides a literature review of the studies conducted prior to understanding the impact of the amendment on women with respect to property rights. The third section is devoted to explaining the methodology and statistical tools adopted by the author to analyse the data while the fourth section deals with the factual showcase and explanation of the analysis. The fifth section provides the interpretation of the statistical analysis and therefore applies the results from the previous section to explain the questions and contemporary issues raised in the paper. The penultimate section gives the summation of the takeaways from the empirical study conducted in the paper with the insightful policy recommendations while the final section deals with the

⁸ The Hindu Succession Act 1956 which is the major governing law in the country is applicable to the Hindus exclusive of the Scheduled Tribes under Section 2(2) of the Act.

⁹ Tribal societies, characterized by tightly-knit social structures and adherence to age-old customs, frequently prioritize male inheritance patterns, relegating women to subordinate roles in matters of property ownership and succession. Patriarchal norms dictate that land and other assets are passed down predominantly through male lineage, perpetuating a cycle of gender inequality and marginalization among tribal women. Furthermore, the isolation of many tribal regions from mainstream society often exacerbates the enforcement gap between legal provisions and ground-level realities. See Ashim Shil and Hemraj P. Jehangir, *Exclusion of Tribal Women from Property Inheritance Rights*, 2(2) CASTE: GLOBAL J. SOC. EXCLUSION 327, 331 (2021).

limitations of the paper, thus providing scope for future research on the research questions.

II

Property Rights to Women: Towards Achieving Gender Parity

The restrictions imposed on the inheritance rights of women can be traced back to ancient times when the existence of women was considered to be joint with the male guardians (father or husband) and not independent.¹⁰ The same has also been indicated in the Manusmriti, which serves as one of the sources of ancient Hindu law.¹¹ However, the women were not always restricted to inheriting the property from their marital or ancestral family though the share given to them was far less than that of their male counterparts. In this respect, the concept of *stridhan* is regarded as one of the important independent property rights of women in Hindu society, thus providing some respite to the women.¹²

While many attempts were made to increase the property rights of females, the breakthrough came post-independence with the enactment of the Hindu Succession Act of 1956.¹³ Nonetheless, the law uses the same technique as its predecessors of broadening the meaning of *stridhan* to enhance the property rights of women. This is evident by the interpretation given to Section 14 by Justice Hedge to include two pre-conditions of the application of the broadened version of the law: 1) ownership of the property must vest in her, and it is not limited ownership, and 2) she must be

¹⁰ The rule of the ancient Hindu society was “*Na striswatantramarhati-’Swatrantam Na KachitStriyah*” which means that the women were unfit for any independent existence. A. M. BHATTACHARJEE, HINDU LAW AND THE CONSTITUTION (2nd ed., 1994).

¹¹ Manu writes: “Her father protects her in childhood, her husband protects her in youth and her sons protect her in old age; a woman is never fit for independence.” *The Laws of Manu IX*, SACRED TEXTS (n.d.), <https://www.sacred-texts.com/hin/manu/manu09.html> (last accessed Mar. 18, 2023).

¹² *Stridhan* which literally means property of a woman was first used in Manusmriti to denote portions of property that can be owned by women alone. Women are regarded as a means of bringing more property to in-laws' families by way of dowry. The language of the Dowry Prohibition Act (1961), gives enough scope to convert *stridhan* into dowry in camouflaged ways.

¹³ Based on the Hindu Code Bill, a uniform succession law, the Hindu Succession Act (1956), was adopted for Hindus in free India and finally gave a death blow to the ancient practice of preventing women from inheriting landed property from male heirs. Nonetheless through this Act, the concept of women's estate was finally discarded and the meaning of *stridhan* expanded by including landed property along with other movable and immovable properties.

in possession of the estate when the Act came into force.¹⁴ However, when it comes to inheritance rights, the law falls short, which makes little change in their status.¹⁵

Moreover, a glaring oversight lies in the unequal treatment of unmarried daughters concerning property and inheritance rights. While the amendments aimed to secure the rights of married women, unmarried daughters continue to be marginalized, deprived of a rightful share in their father's ancestral property. In this regard, from a feminist critique, the exclusion of unmarried daughters from property inheritance reflects a systemic bias that prioritizes certain roles and relationships over others within patriarchal structures. By focusing solely on married women, the law perpetuates traditional notions of womanhood tied to marriage and family, while neglecting the autonomy and rights of unmarried women.

The 174th report of the Law Commission of India which was responsible for the subsequent enactment of the 2005 amendment, had also noted the patriarchal nature imbibed in the property laws and customs and suggested reforms to remove gender disparity in the social and economic spheres.¹⁶ The Act gave Hindu women the right to become coparceners in the ancestral property from birth as per Section 6, which provides equal treatment to the daughters and sons. With the new succession law, women finally got equal rights as men with respect to the inheritance and succession of ancestral property, thereby making the age-old patriarchal customs come to an end.¹⁷ The amendment also filled the gaps left in the original law by introducing the concept of notional partition.¹⁸ The judicial activism in this regard also lent a helping

¹⁴ *Deenadayal v. Raju Ram*, 1970 S.C.R. 1019 (1970).

¹⁵ Under the Mitakshara school of Hindu succession law, the right in the ancestral property for the male members arises from their birth. However, as per Section 15(b) of the Hindu Succession Act, 1956, the right in the share of the husband in the ancestral property is conditional to the husband's death. Furthermore, the women heirs are clearly discriminated against under Section 23 of the Act where it is provided that the women heirs cannot ask for the partition and have to depend on the male heirs who only have the right to claim partition of the ancestral property. In this respect, it is pertinent to mention that under the system of Joint Hindu Family, though the right in property may arise from birth, the ownership of the property remains joint until the partition when the ownership of every member becomes absolute and independent.

¹⁶ LAW COMMISSION OF INDIA, PROPERTY RIGHTS OF WOMEN: PROPOSED REFORMS UNDER THE HINDU LAW, REPORT NO. 174 (Ministry of Law and Justice, May 2005).

¹⁷ Debarati Halder and K. Jaishankar, *Property rights of Hindu women: A feminist review of succession laws of ancient, medieval, and modern India*, 24(2) J. L. & RELIGION 663, 678 (2008).

¹⁸ Section 6 of the Hindu Succession Act of 1959 (original law) provided for the partition of the ancestral property of the father died intestate among the male heirs. However, the amendment of 2005 changed the position by providing an equal distribution of the property between the male and female heirs. However, the women who could not affect the partition were still dependent on the male heirs. Therefore, the concept of notional

hand in the effective enforcement of the underlying objective of the law by applying the law even in cases where a father died¹⁹ or a daughter is born before the amendment,²⁰ thus broadening its application and promoting the property rights of women.

III

Impact of the Amendment on Women and Society: A Review

The positive impact of the 2005 reforms has been showcased in various studies and reports. In this aspect, the reports can be subdivided into government and non-government. The most significant under the government category is the NFHS report which focuses on various aspects of family welfare, women empowerment, and child welfare. As per the latest NFHS report, land ownership of women has increased from 38.4% in 2015-16 to 43.3% in 2020-21.²¹ However, the report severely lacks to provide a comprehensive explanation of the numbers reached and the components considered while calculating the land ownership.

As per the India Human Development Survey herein referred to as 'IHDS' which was published by Oxford University in 2010,²² 16.3% of the women were owners of their residences in 2011-12 as compared to 15% in 2004-05. However as per the same report, out of 85% of household land acquired through inheritance, inheritance to women is 1.8% as compared to men's 82.9% across the country.²³ This shows that the land gains of the women are probably not due to the 2005 reforms but some other family reasons.

partition was introduced where the partition is deemed to have effected by the father on the date of his death, thus nullifying the need for effecting partition after the death of father to inherit the property.

¹⁹ A restriction was earlier imposed by the *Supreme Court in Prakash v. Phulwati* (2016) 2 SCC 36, where the apex court held that the father should be alive after the 2005 amendment. However, the Apex court rectified its position in *Vineeta Sharma v. Rakesh Sharma*, (2020) 9 SCC 1, interpreting that the amendment has made the daughters coparceners by birth, a right not affected by the time of death of the father.

²⁰ *Danamma @Suman Surpur v. Amar*, Civil Appeal Nos. 188-189 of 2018 (Supreme Court).

²¹ INTERNATIONAL INSTITUTE FOR POPULATION SCIENCES (IIPS), NATIONAL FAMILY HEALTH SURVEY 2019-21 (Ministry of Health and Family Welfare, 2022).

²² IHDS is not a state representative survey, but sample sizes for major states are sufficient to make broad inferences and interstate comparisons.

²³ *Rahul Lahoti et. al, Not in Her Name: Women's Property Ownership in India*, 51(5) ECON. & POL. WEEKLY 17 (2016) at 18.

Nonetheless, it is pertinent to note that higher inheritance to the male counterparts can be attributed to the prospective application of the reforms.²⁴ In this regard, the revelation is highly doubtful with the survey not providing any comparison with the land acquired by the women through inheritance pre-2005 reforms period. Furthermore, the results are collected from rural households and therefore do not show the complete picture of the impact on women's landholdings post-2005 reforms.

Property rights of women are a matter of concern in many nations of the world which includes developing areas of Latin America²⁵ and Sub-Saharan Africa²⁶ and developed nations like China²⁷ where the traditional position was changed during the communist regime. However, the property rights of women in India and their impact on women's empowerment have been an area of fascination for many scholars. In this respect, social scientists have engaged in a study in the rural areas of West Bengal and Odisha to conclude more effective enforcement of the legal rights to uphold them over discriminatory customary practices.²⁸ A similar conclusion was also drawn by another team of researchers who conducted a similar study for Tamils in South India.²⁹

However, these studies lacked two important aspects. The studies conducted were before the reforms of 2005 and accounted for the status of rights in only rural backgrounds. Therefore, they depicted an incomplete image of the impact of the laws on the property rights of women. The problem was, however, partially addressed by some scientists who conducted a study on the women from the urban area of Chandigarh, reiterating the trickling down effect of property rights.³⁰

²⁴ Shital Kharat, *Effect of the Hindu Succession (Amendment) Act 2005—Judicial Response* (unpublished), (Feb. 6, 2017), available at <https://ssrn.com/abstract=2912662>.

²⁵ CARMEN DIANA DEERE AND MANGDALENA LEÓN, *EMPOWERING WOMEN: LAND AND PROPERTY RIGHTS IN LATIN AMERICA* (2001).

²⁶ S.F. Joireman, *The mystery of capital formation in Sub-Saharan Africa: women, property rights and customary law*, 36(7) *WORLD DEVELOPMENT* 1233 (2008) at 1233-46.

²⁷ KATHRYN BERNHARDT, *WOMEN AND PROPERTY IN CHINA*, 960 (1999).

²⁸ K.C. Roy and C.A. Tisdell, *Property rights in women's empowerment in rural India: a review*, 29(4) *INT. J. SOC. ECON.* 315, 327 (2002).

²⁹ Kanakalatha Mukund, *Women's property rights in South India: A Review*, 34(22) *ECON. & POL. WEEKLY* 1352 (1999) at 1358.

³⁰ Namita Datta, *Joint Titling—A Win-Win Policy? Gender and property rights in urban informal settlements in Chandigarh, India*, 12(1-2) *FEMINIST ECON.* 271 (2008) at 275-297.

Doctrinal and empirical studies have also been conducted to study the impact of the reforms of 2005 on education,³¹ domestic violence,³² suicides³³ and decision-making.³⁴ Also, the importance of agricultural lands for rural women has been highlighted in earlier instances where emphasis was given to the impact of property rights on the food security of women.³⁵ However, these studies did not provide any analysis of the impact of the reforms on property rights and the difference created by the 2005 amendment on the landholdings by women, thus making it pertinent to study.

Further, there is a serious dearth of large-scale studies measuring tribal women and the impact of property rights conferred by the 2005 amendment on their lives. In this regard, Chitra and Bhuvan³⁶ have conducted a small-scale study on the Kattunayak tribe living in Coimbatore, Tamil Nadu to conclude favourable property rights available to them. However, it should be noted that different tribes follow different customs and therefore, a favourable position in a southern city does not guarantee a similar result in the case of tribal populations of Rajasthan, Madhya Pradesh, and Chhattisgarh where patriarchy is more prevalent.³⁷

Studies with respect to the impact on the status of women considering the social groups to which they belong are scarce. In that sense, doctrinal researches on the difference caused to the tribal women of Himachal Pradesh³⁸ and the semi-arid areas of Rajasthan³⁹ have been conducted. However, with the rights of tribal women

³¹ Sanchari Roy, *Empowering women? Inheritance rights, female education and dowry payments in India*, 114 J. DEV. ECON. 233 (2015) at 237-251.

³² Sofia Amaral, *Do improved property rights decrease violence against women in India?* (unpublished) (Oct. 2014), available at <https://www.birmingham.ac.uk/Documents/college-social-sciences/business/economics/phd-job-market-cvs/sofia-amaral-job-market-paper.pdf>

³³ Siwan Anderson and Garance Genicot, *Suicide and property rights in India*, 114 J. DEV. ECON. 64 (2015) 64-78.

³⁴ Lakshamanasamy, *supra* note 6 at 29.

³⁵ Nitya Rao, *Land rights, gender equality and household food security: Exploring the conceptual links in the case of India*, 31(2) FOOD POLICY 180, 184-191 (2006).

³⁶ S. Chitra and Esther Bhuvan, *Awareness on Property Rights of Tribal Women in Kattunayaks*, 11(5) IJRCT (2003) available at: <https://ijcrt.org/papers/IJCRT2305177.pdf> (last accessed Mar 20, 2024).

³⁷ M. Parwez, *Women on the Margin: Customary Laws and Practices of Tribe*, 73 PROCEEDINGS OF THE INDIAN HISTORY CONGRESS 1366 (2012) at 1368.

³⁸ Smriti Parsheera, *Half the Land with Half the Sky: Seeking Inheritance Rights for Lahaul's Tribal Women* (unpublished), (Feb. 22, 2022), available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4040434

³⁹ P. Bose, *Forest tenure reform: exclusion of tribal women's rights in semi-arid Rajasthan, India*, 13(2) FORESTS & GENDER 220 (2011) at 220-232.

equally important,⁴⁰ empirical analysis in this regard is pertinent to highlight the non-uniformity caused by the amendment.

IV

Data and Methods

The data were collected using the secondary source of the All India Report on Agriculture Census which forms part of a broader system of collection of Agricultural statistics in India. The census is conducted in three phases.⁴¹ The first phase involves collecting basic information on the number and area of operational holdings. The data is collected through a door-to-door survey using a questionnaire developed for this purpose. The survey is carried out by trained enumerators who visit each operational holding and collect information on the size of the holding, the crops grown, the land-use pattern, the irrigation facilities available, and the status of the tenancy.⁴²

The second phase involves collecting detailed data on the characteristics of the holdings. The data is collected through a sample survey, which covers a representative sample of operational holdings. The sample i.e. 20 villages in each tehsil, is selected using a scientific sampling method, and the data is collected through a detailed questionnaire, which covers a wide range of variables related to the agricultural holdings, including the demographic profile of the farmers, the level of technology adoption, the use of inputs, and the marketing of agricultural produce.

The third phase is conducted as a follow-up survey to the Agriculture Census to collect data on input use patterns of operational holdings in the country. However, the current study has restricted itself to the variables related to the number of women landholders in the country. While the data collected is believed to be secondary and can be politicized,⁴³ some estimates used are independent of the

⁴⁰ Veena Bhasin, *Status of tribal women in India*, 1(1) STUD. HOME & COMM. SERVICE 1 (2007) at 14.

⁴¹ U.C. Sud, *Agriculture Census in India in Techniques of Estimation and forecasting of crop production in India* 162-168, http://apps.iasri.res.in/ebook/TEFCPI_sampling/AGRICULTURE%20CENSUS%20IN%20INDIA.pdf

⁴² *Agriculture Census*, MINISTRY OF AGRICULTURE AND FARMERS WELFARE (n.d.), <https://agcensus.nic.in/acindiamethod.html> (last accessed Apr. 18, 2023).

⁴³ Morten Jerven, *The Political Economy of Agricultural Statistics and Input Subsidies: Evidence from India, Nigeria and Malawi*, 14(1) J. AGRARIAN CHANGE 129 (2014) at 140.

government records which indicates their reliability.⁴⁴ Furthermore, the variables have been put to use and justified to study various aspects of agrarian society.⁴⁵

The data that has been used is collected from four agricultural censuses (2000-01, 2005-06, 2010-11, 2015-16) in terms of thousand landowners for the purpose of comparative analysis between pre and post-2005 reforms. The census has divided the social groups into three – scheduled castes, scheduled tribes, and all social groups which is the remaining proportion of the population. In this respect, the study has assumed the remaining social groups to be Hindus of the general category with the group holding a mammoth 85% of the land in rural households.⁴⁶ Note that there are potential endogeneity concerns with the social group composition variable because it is not exogenously determined. However no appropriate instrumental variable is available, and therefore the relationships between property rights and social composition should be seen as correlations and not causality.⁴⁷

While such an assumption can have large ramifications on the data collection and final results, it is in line with the prior studies for the purpose of simplification.⁴⁸ The analysis has been conducted on the female respondents of the census and the impact of the 2005 reforms has been assessed by applying statistical methods to data from both the pre and post-2005 census. For that purpose, the impact assessment has been conducted through the inferential tools of skewed distribution, t-test and Analysis of Variance (ANOVA). While the former two are applied to conduct a comparative analysis of the data of women on which the law was applicable (SC + General) between the pre and post-reform period, the latter was used to study the difference made to the landholding of tribal (ST) women post 2005 reforms.

⁴⁴ GEORGE BLYN, *AGRICULTURAL TRENDS IN INDIA, 1891-1947: OUTPUT, AVAILABILITY, AND PRODUCTIVITY* 126 (2016).

⁴⁵ See e.g. Itishree Pattnaik et. al, *The feminization of agriculture or the feminization of agrarian distress? Tracking the trajectory of women in agriculture in India*, 23(1) J. ASIA PACIFIC ECON. 138, 141-150 (2018); G.S Bhalla and Gurmail Singh, *Recent developments in Indian agriculture: A state level analysis*, 32(13) ECON. & POL. WEEKLY A2, A2-A18 (1997); Raymond Guiteras, *The impact of climate change on Indian agriculture*, (unpublished) (Sep. 2009), available at: http://econdse.org/wp-content/uploads/2014/04/guiteras_climate_change_indian_agriculture_sep_2009.pdf

⁴⁶ Ruhi Tewari, 85% of rural landowners are Hindus; Muslims account for just over 11%: Report, THE INDIAN EXPRESS (Sept. 23, 2015), <https://indianexpress.com/article/india/india-others/muslims-account-for-just-over-11-report-says-85-of-rural-landowners-are-hindus/>

⁴⁷ Y. Sun et. al, *Is gender an important factor influencing user groups' property rights and forestry governance? Empirical analysis from East Africa and Latin America*, 13(2) FORESTS & GENDER 205 (2011) at 213.

⁴⁸ Datta, *supra* note 30 at 279.

V

Results

Descriptive Analysis

The results of the analysis can be subdivided into descriptive and empirical. While the descriptive analysis focuses on the factual treatment data collected by using the descriptive methods of statistics, the empirical analysis is more about the inferential treatment to make inferences in the larger collection of the population.⁴⁹ For the purpose of descriptive analysis, the study has made use of the tools of central tendency i.e. mean and standard deviation, and has considered the data from the census of 2005 and 2011 to make the comparative analysis. Further, a separate analysis has been made for the women of general castes and scheduled castes (SC).

When it comes to the scheduled caste women, the situation is quite positive and shows significant improvement in the increase in the number of women with landholding. The central tendency or mean of the data collected in this regard highlights an improvement in the landholding. The mean for the 2010-11 data shows that 583 women on average ($\bar{x} = 583$) were holding land during that period as compared to 514 women in 2005-06 ($\bar{x} = 513.529 \approx 514$), showing an increase of 13.4% in five years.

In the case of the general caste women too, the improvement in the landholding can be seen where 491 women on average were holding agricultural land in 2010-11 ($\bar{x} = 491.19 \approx 491$) as compared to 445 women in 2005-06 ($\bar{x} = 444.56 \approx 445$). However, the increase is slightly lesser than that of the SC women at 10.34% in the five years. While the deduction can be in both directions, either towards a more favourable outcome for the SC women or the same outcome for women of both social groups, it is pertinent to note that the difference between the increments is a mere 3% in the five years. Further, the situation can be attributed to various reasons that were unaccounted for due to the lack of variables in the census on this aspect. Looking from the angle of standard deviation which is the square root of variance ($SD = \sqrt{\sigma}$), the analysis again shows a positive picture of the impact of the 2005 reforms on women's landholding. The standard deviation in this respect, has reduced from 720 in 2005-06 ($s = 719.499 \approx 720$) to 713 in 2010-11 ($s = 712.913 \approx 713$). However, the data relating to SC women shows a concerning story where the standard deviation has increased from 852 in 2005-06 ($s = 851.295 \approx 852$) to 888 in 2010-11 ($s = 887.514 \approx 888$). Therefore, it can be concluded that though the landholding of SC women has

⁴⁹ Zulfiqar Ali & S. BalaBhaskar, *Basic statistical tools in research and data analysis*, 60(9) IND. J. ANAESTH. 662 (2016) at 662-669.

increased in recent years, the regional differences with respect to the landholding of SC women have rather increased post-2005.

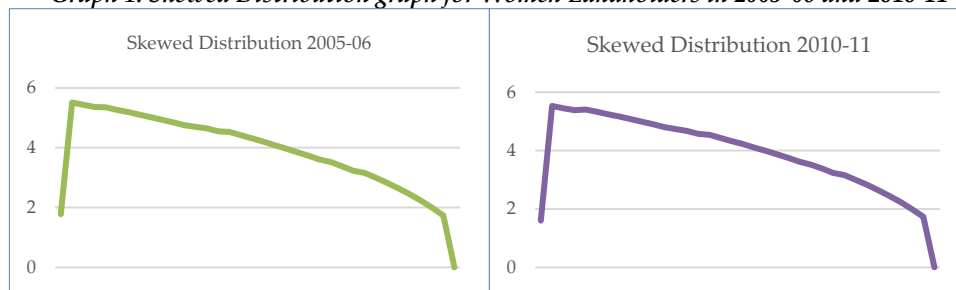
Empirical Analysis

While the descriptive analysis largely points towards a positive through the non-uniform distribution of landholding among different social classes of women, the empirical analysis further allows us to probe into the magnitude of impact on the women of different social classes and the disparity caused by the 2005 reforms in this regard. The variables used in this study remain the number of women with landholdings in different states in India along with the central tendency of the women of general and scheduled castes and skewed distribution.

Skewed Distribution Graph

The skewness or skewed distribution is the distribution with an asymmetry of its variable about its mean. Both the graphs have their mass of distribution concentrated on the left of the curve leading to a longer tail, thus indicating a positively skewed distribution. A factual meaning can be generally interpreted that the risk factor, though is frequent, it is outnumbered by the gain expectancy. However, it is pertinent to note that 2005 data is more skewed than 2010 data due to the longer tail. Therefore, a more specific meaning can be derived that the women during 2005-06 though are less prone to get more property, the gain expectancy is instead high. While this can be considered a confusing discovery, the reasons for the gain could be factors other than land ownership which may include movable property (*Stridhan*) and customary gifts.⁵⁰ However, the change is negligible enough to be excluded from the comparison.

Graph 1: Skewed Distribution graph for Women Landholders in 2005-06 and 2010-11



Source: Based on Author's own calculations.

Nevertheless, the comparison of both graphs holds that the reforms have not resulted in major changes in the status of women where the expectancy has remained the same even after the reforms. The high gain expectancy in this sense can therefore not be attributed to the 2005 amendment but to other factors of

⁵⁰ Sejal Dave, *Women's Land Ownership in Gujarat: What has Worked and What Needs to be Looked At!* In *WOMEN, LAND AND POWER IN ASIA* 247 (2013).

consideration like social customs and practices and the unchanged portions of the 1956 law which remains to be good law in substance.⁵¹

Hypothesis Test (T-Test and ANOVA)

Another view to look at the change brought in the landholding of the women post-2005 is through formulating a hypothesis. The hypothesis therefore can be divided into two categories – null and alternative. In this respect, the null hypothesis (H_0) in the present study is the uniformity in the number of landholdings with women irrespective of their social class, thus indicating that the mean of both the data sets of 2005-06 and 2010-11 is equal ($\mu_1 = \mu_2$).⁵² On the other hand, the alternative hypothesis (H_1) is the non-uniformity in the landholdings of different social classes. Applying the student's t-test, the hypothesis test can be completed by either rejecting or accepting the null hypothesis.

In this regard, the formula of a paired t-test (population estimated by two dependent samples differ significantly) can be derived as follows:

$$t = d/SE_d \quad (1)$$

where, d is the difference and SE_d denotes the standard error of this difference.

$$d = \sum D/N \quad (2)$$

where, D is the difference between data sets X (2005-06 data) and Y (2010-11 data) and N is the number of states

$$(SE_d)^2 = \sum D^2 - (\sum D^2/N)N(N-1) \quad (3)$$

Substituting (1) with (2) and (3),

$$t = \frac{\sum D/N}{\sqrt{\sum D^2 - (\sum D^2/N)N(N-1)}}$$

Putting the values, we therefore get

$$t = \frac{-607.92}{\sqrt{(72694439 - (\frac{2019289.97}{1260})N(N-1))}}$$

$$t = -2.567$$

At this stage, assuming the α -level to be at 5% or 0.05, the p-value (probability value) can be calculated through the probability table to be at 0.007 (Annex II). Thus, with

⁵¹ Govind Kelkar, The fog of entitlement: Women's inheritance and land rights, 49(33) ECON. & POL. WEEKLY 51, 56 (2014).

⁵² The formula is provided as per the test for the population means estimated by two dependent samples differ significantly (the paired t-test). A usual setting for paired t-test is when measurements are made on the same subjects before and after a treatment.

the p-value significantly lesser than the α -level of 0.05, the conclusion arrived after conducting the test rejects the null hypothesis (H_0). The results of the test can be interpreted in the present study to determine the quantum of difference between the mean of the property holding of the women before and after the amendment. The test in this regard, holds that a significant difference can be seen in the means of both the data sets, thus highlighting the impact made in the landholdings of the women post-2005.⁵³

This showcases that the amendment had a great impact on women and that post-amendment, the number of women who are holding property increased considerably in the country. However, the test does not show differences in the impact on women of different social groups. For that purpose, it is pertinent to shift the attention from the t-test, which is rather a simple statistical tool to analyse only two data sets to a more complex mechanism of F-test and ANOVA, which uses two or more groups to provide a more efficient analysis, to test the null hypothesis. Therefore, to analyse and answer the research question of the difference created between the social groups, women of all three social groups (General, SC and ST) are studied. For that purpose, the author has conducted the F- test for both pre-2005 (Census of 2000-01, 2005-06) and post-2005 (Census of 2010-11, 2015-16) to give a comparison between the pre and post-reformation period.

The formula for the F-Test can be derived as follows:

$$F = MS_B / MS_w$$

where MS_B is the mean squares between the groups and MS_w is the mean squares within groups.

$$MS_B = SS_B / DoF_B$$

$$MS_w = SS_w / DoF_w$$

where, SS_B is the sum of squares between groups. This is the summation of the squared difference between each group's mean and the overall mean times the number of elements per group. SS_w is the sum of squares within groups which is the summation of the squared difference between the group mean and each value in the group. DoF is the degree of freedom between and within groups.

Therefore, for the pre-amendment period from 2000-2006,

$$F = \frac{3620224.772/2}{48348749.68/99}$$

$$F = 3.706$$

At this stage, assuming that the alpha level remains to be same at 0.05 and calculating the p-value to be at 0.028 (Annex II), it can be seen that the p-value is

⁵³ The data for the pre and post 2005 reforms have been compiled through the mean values of every state of the two data sets of agriculture census of pre (2000-01, 20005-06) and post (2010-11, 2015-16) reformation each.

significantly lesser than the α -level. Therefore, the results of the ANOVA can be said to be the rejection of the null hypothesis. Also, for the post-amendment period of 2010-2016,

$$F = \frac{81537334.88/2}{243452855.6/99}$$

$$F = 16.579$$

Assuming the alpha level at 0.05, p-value = 0, which is itself a rare scenario. While the null hypothesis will be rejected in this case as well ($p < \alpha$), such a high difference reflects that there was no probability of the means of both the data sets of pre and post-2005 to be equal. If compared with the pre-amendment results, the difference between the landholdings of women of different social groups has increased significantly. While there can be several unaccounted factors for the same, a major reason is the non-applicability of the Hindu Succession Act and the subsequent reforms of 2005 on the tribal women.⁵⁴

There can be contentions on the reliability of the test, which analysed not only the tribal women but also women of other social groups. Therefore, a certain faction of society cannot be made evidently contributing to growing differences in the means of the number of landholdings. However, a careful analysis of the central tendencies can resolve the presumptions. In this respect, it is pertinent to note that the mean of women with landholdings went up from 439 women to 530 women in the general category (an increase of 21%) and 505 women to 614 women in the SC category (an increase of 21.5%) in the post-2005 period. On the other hand, the mean for the ST (tribal) women instead went down from 425 to 413 (a decrease of 2%), which reaffirms the interpretation drawn from the ANOVA analysis conducted.

VI

Discussion

Impact on Women of General and SC Category

Tables 1 and 2 show the descriptive statistics of the data, indicating through the tools of central tendencies that the number of women of social groups on which the Hindu Succession Act is applicable i.e. women of General and SC categories, have seen some increase in terms of landholding. However, while the mean represents a positive picture of the impact of the amendment on the women, the standard deviation of the data sets shows that the difference in the number of SC women

⁵⁴ Bina Agarwal et. al, *How many and which women own land in India? Inter-gender and intra-gender gaps*, 57(11) J. DEV. STUD. 1807, 1819 (2021).

landholders among the states has increased considerably post-2005. In this respect, it is important to understand that every social group and subgroup is governed by its own customs and practices in spite of a proper legal framework being present.⁵⁵

The SC women, as has been indicated in the studies, have been deprived of various rights even post-independence.⁵⁶ While the government has been taking significant steps to improve the situation, the glaring inter-state non-uniformity in the implementation of welfare programmes proves to be a major obstacle.⁵⁷ Moreover, the status of women in every subgroup in the SC category differs subject to the social norms followed by the groups which further deprecates the situation. However, the inferential statistical tools depict a different story, thus making the interpretation ambiguous.

The skewed distribution of the data shows that there has not been any significant impact on women post the 2005 reforms and the gain expectancy has remained the same. The ambiguity can be resolved by giving meaning after combining the results from both analyses. In this regard, the skewness of the data does not show a change in the landholders but instead compares the risk with the gain expectancy, thus showing the impact of the amendment on the risk bargain of the women. Nonetheless, no change in the gain expectancy is still a concern which can be a result of various factors like social acceptance and prevailing customs and practices that still favours the concept of *stridhan* than the coparcenary rights of women.⁵⁸

The ambiguity created by skewed distribution is further clarified by the t-test analysis which highlights a significant difference being created post the 2005 amendment. The difference in the mean values and the significant negation of the null hypothesis further shows that the change in the values of two dependent data sets is a significant one, thereby addressing the issue of change due to the presence of other factors apart from inheritance and the 2005 amendment. Further, the change has to be construed in a positive light, with the mean values increasing post-2005.

Both the descriptive and inferential analysis therefore highlight that there has been a significant improvement in the status of women after the enactment of the 2005 amendment, which is showcased through the increased number of women as

⁵⁵ Agarwal, *supra* note 1.

⁵⁶ BHARATI RAY, WOMEN OF INDIA: COLONIAL AND POST-COLONIAL PERIODS 27 (2005).

⁵⁷ Gaurav Nayyar, *Growth and poverty in rural India: An analysis of inter-state differences*, 40(16) ECON. & POL. WEEKLY 1631 (2005) at 1635. See also, Shiladitya Chatterjee, *Assessing India's progress in achieving the millennium development goals: key drivers of inter-state variations*, (Sept. 2015) SOUTH & SOUTH WEST ASIA DEV. PAPERS, available at: <https://repository.unescap.org/handle/20.500.12870/928>

⁵⁸ Duman Bahrami-Rad, *Keeping it in the family: Female inheritance, in marriage, and the status of women*, 153 J. DEV. ECON. 102714 (2021). See also, Klaus Deininger et. al, *Women's inheritance rights and intergenerational transmission of resources in India*, 48(1) J. HUM. RES. 114 (2013) at 117.

landholders. However, at the same time, the data presents the non-uniformity of the positive situation across the country. This is more pertinent for the SC women, who are more likely to be governed by their own customs.⁵⁹ Though the non-uniformity does not transcend to cause major differences between the two social groups in terms of landholding, the injustice caused to women in some parts of the country cannot be overlooked behind the bright light of the success of the reforms.

Impact on Tribal Women

An interesting discovery in the paper is the difference created by the reforms between the women of different social groups. In this respect, tribal women have often been considered to be at a disadvantage with the succession laws not applicable to them.⁶⁰ The ANOVA analysis and F-Test show that there has been a considerable rise in the difference in the women landholders among the social groups ($p < \alpha$; $p\text{-value} = 0$). In this respect, as has been indicated through the means of all the social groups, the tribal women prove to be the sole exception in the rising number of women landholders.

The tribal women are still governed by highly non-uniform customs and practices, which may, though, provide for limited succession rights after the death of the father, the male heirs are given priority.⁶¹ Moreover, it is important to highlight that other social groups, as indicated by studies, are also majorly governed by their local customs in cases of succession and inheritance.⁶² However, the reforms brought by the 2005 amendment also serve as a domino effect towards the patriarchal practices

⁵⁹ See e.g., Shoba Arun, *Does land ownership make a difference? Women's roles in agriculture in Kerala, India*, 7(3) GENDER & DEV. 19, 26 (1999); Nitya Rao, *Custom and the courts: Ensuring women's rights to land, Jharkhand, India*, 38(2) DEV. & CHANGE 299, 305 (1999); and K. Saradmoni, *Education, Employment and Land-Ownership: Role of Caste and Economic Factors*, 16(36) ECON. & POL. WEEKLY 1466 (1987) at 1469.

⁶⁰ Aparna Mitra, *The status of women among the scheduled tribes in India*, 37(3) J. SOCIO-ECON. 1202 (2008) at 1216.

⁶¹ See e.g., Gitanjali Ghosh, *De-Constructing Inheritance Rights of Women Under Santhal Customary Laws vis-a-vis Hindu Succession Act, 1956*, 3(1), INT. J. LEGAL STUD. RES. 4 (2014); Nutan Kumar and Rohit Sharma, "Should customary laws prevail over fundamental rights": A critical analysis of property rights of tribal women of Lahaul region of Himachal Pradesh, 12(12) ASIAN J. RES. SOC. SCI. HUMAN. 21 (2022) at 21-26; and Kundan Kumar et. al, A socio-economic and legal study of scheduled tribes' land in Orissa, (unpublished), (World Bank, 2005), available at: https://www.researchgate.net/publication/232062518_A_socioeconomic_and_legal_study_of_scheduled_tribes'_land_in_Orissa

⁶² Poonam P. Saxena, *Succession Laws and Gender Justice* in REDEFINING FAMILY LAW IN INDIA 282-305 (Routledge, 2020). Also see, Yash Vala, *Women's Equality under Hindu Succession Law Still under Construction in India*, 2 JUS CORPUS L.J. 518 (2021) at 519.

which have become more active towards female rights, thus securing their property rights with other means like wills, gifts and *stridhan*.⁶³

The depravity faced by the tribal women has been a long contention of various feminist thinkers and jurists who see it as a blatant violation of constitutional principles of equality and justice under Article 14.⁶⁴ This has also been recently highlighted by the Apex Court, where Justice MR Shah quoted,

“To deny the equal right to the daughter belonging to the tribal even after a period of 70 years of the Constitution of India under which right to equality is guaranteed, it is high time for the Central Government to look into the matter and if required, to amend the provisions of the Hindu Succession Act by which the Hindu Succession Act is not made applicable to the members of the Scheduled Tribe.”⁶⁵

The non-applicability of the personal laws was pertinent for the tribes to preserve their customary practices and in accordance with the non-intervention policy of the government towards the tribal communities.⁶⁶ However, with the changing dimensions and social strata, actions in this direction are imperative to positively impact the tribal women as well and remove the disparity between the social groups.

VII

Conclusion and Way Forward

The analysis presented in this paper employs multiple methods to explore the impact of the 2005 amendment and the reforms brought on the number of women landholders of different social classes. Through robust empirical as well as descriptive research, the author has found that the amendment of 2005 did impact the property ownership patterns of women in India with more women landholders emerging post-2005. Furthermore, it was found that non-uniformity exists within and among the social groups in terms of impact assessment of landholding.

⁶³ For reference, see Gakul Kasturi, *Hindu Women's Property Rights under Hindu Succession Law: Past and present*, 2(2) CLARION-INT'L MULTIDISC. J. 149 (2013) at 151; and Klaus Deininger et. al, *Inheritance law reform, empowerment, and human capital accumulation: Second-generation effects from India*, 55(12) J. DEV. STUD. 2549 (2019) at 2550.

⁶⁴ For a comprehensive debate, see Abhishek Bhardwaj, *A Treatise on Hindu Female Succession Rights in Modern India*, 5(2) INT. J. L. MGMT. & HUMAN. 2045, 2056 (2022); Halder, *supra* note 17 at 667-679; Rajshree, *Gender Equality under the Hindu Succession Act*, 4(4) INT. J. L. MGMT. & HUMAN. 2360 (2021).

⁶⁵ *Kamala Neti v. The Special Land Acquisition Officer*, Civil Appeal No. 6901 of 2022 (Supreme Court).

⁶⁶ *See generally*, Govind S. Ghurye, *THE SCHEDULED TRIBES OF INDIA* (1980).

While a significant level of standard deviation has been seen within the SC women landholders of different states, the difference in the women landholders between the tribal women and women of other classes post-2005 has increased drastically. Though the fact that the difference has rose can be due to various factors,⁶⁷ the high magnitude of the change in the difference can be accounted only to the amendment of 2005 which, though improvised the status of women of social classes, left the tribal women behind.

Considering the results of the study, some major policy recommendations are suggested to improve the situation and bring legal effectiveness to the reforms. First, the results imply that the amendment has played an instrumental role in giving women property rights, thereby creating more women landholders. However, uniformity is lacking within the social groups. As evident in various studies, the reason for non-uniformity can be attributed to the prevalence of social customs and practices over the law in some parts of the country.⁶⁸ Therefore, it is needed that the policies be framed to effectively enforce the law even in the remotest part of the nation. For that purpose, active campaigns targeting women and women's rights activists have to be initiated in parts where customs prevail over the law to increase awareness among the women litigants.

Second, the results also show a considerable difference in the women landholders in the tribal groups as compared to other social classes. Therefore, legal reforms have to be introduced specifically for the protection of tribal women and similar succession rights should be extended to the tribal women as well to remove the socio-economic disparity. However, the policy has to be carefully drafted while balancing the rights of the women with the socio-cultural freedom of the tribal groups to ensure cooperation and effective enforcement.⁶⁹

Third, the official data collection policy has to be improved. At present, there have been wide variations in the data sets on women's land ownership in India depending on which agency made the estimate, frustrating efforts to design and

⁶⁷ Ashwini Deshpande, *Does caste still define disparity? A look at inequality in Kerala, India*, 90(2) AMER. ECON. REV. 322, 323-325 (2000).

⁶⁸ See Debjyoti Das, *Book review: Erik De Maaker and Meenal Tula. 2020. Unequal Land Relations in Northeast India: Custom, Gender and Market*, 17(1) J. SOUTH ASIAN DEV. 141, 141-143 (2022); Srinivas Goli & Ladumai Maikho Apollo Pou, "Landholding-patriarchy hypothesis" and women's autonomy in rural India: An exploration of linkage, 41(3) INT. J. SOC. ECON. 213, 231 (2014); and Ashwini Deshpande, *Caste at birth? Redefining disparity in India*, 5(1) REV. DEV. ECON. 130, 141 (2001).

⁶⁹ Virginius Xaxa, *Women and Gender in the Study of Tribes in India*, 11(3) INT. J. GENDER STUD. 345 (2004) at 363; Ayelet Sachar, *Group identity and women's rights in family law: The perils of multicultural accommodation*, 6(3) J. POL PHIL. 285 (1989) at 302; and Robin Perry, *Balancing rights or building rights-reconciling the right to use customary systems of law with competing human rights in pursuit of indigenous sovereignty*, 24 HARV. HUM. RTS. J. 71 (2011).

implement gender-balanced policies.⁷⁰ Furthermore, the estimates reached by the official surveys may provide a different picture of women's rights due to different factors taken into account by different surveys depending on their objective. While NFHS has lately introduced an additional criterion of landownership in evaluating the status of women, a detailed and comprehensive data collection policy should be enacted on both state and national levels. In this respect, it is cautioned that significant gains cannot be generated without required institutional changes such as setting up a separate committee or department at the state level or mandating data collection during the registering process of deeds.⁷¹

The Hindu Succession Amendment Act of 2005 was enacted with the objective of bringing females at par with their male counterparts. After more than a decade and a half, the impact of the property rights conferred on women can be seen in the increase in the number of women landholders. However, the non-uniformity in the implementation of the law resulting in disparity among the social groups and regions cannot be hidden in the bright light of success. With female rights getting more attention in recent years across the globe, it is pertinent to remove the distortions from the otherwise positive image.

This paper has attempted to provide an empirical understanding of the increase in the number of women landholders, particularly post-2005, as an impact of the reforms introduced in 2005 in relation to the succession and co-parcenary rights. The results which are derived therein are important to understand the positive impact created by the reforms along with the non-uniformity and disparity created within and among the social groups. The study, however lacks certainty in several aspects.

First, the study is based on secondary data collected under the Agriculture Census. The objective of the census is to study the landholding and cropping patterns, thus focusing on agricultural lands and neglecting the lands used for other purposes like residences and pastures. While India is an agriculture-based nation, agricultural lands constitute the highest category of land, a proper analysis requires considering lands of all types to reach a certain conclusion.

Second, as has been shown in IHDS-II, the land ownership acquired by rural women through inheritance is significantly low. This is a serious concern with respect to the present study, where the agriculture census does not imply the source of the landholding. Further, the census is silent on various aspects of landholding apart

⁷⁰ Pranab R. Choudhary, *How much land does women own in India? Nobody really knows*, SCROLL.IN (Mar. 11, 2021), <https://scroll.in/article/989157/how-much-land-do-women-own-in-india-its-still-not-known>.

⁷¹ Bina Agarwal et. al, *Which Women Own Land in India?: Between Divergent Data Sets, Measures and Laws*, Working Paper No. 043, (Global Dev. Inst. Univ. of Manchester, 2020).

from the sources like the nature of landholding (mortgages, leases, conditional ownership, etc.) and additions of new landholders.

Third, the data provided in the census was restricted to a duration. However, a proper empirical study requires a year basis analysis. Lastly, the social groups identified are not homogenous which results in distortions in the data, adversely impacting the analysis and the results. Therefore, primary research on a small scale but with a considerate sample size can be conducted. In this regard, a sample survey method through personal interviews and questionnaire survey will result in new findings and discoveries leading to confirmation of the hypothesis raised and further explanation of the questions addressed in the paper.