

Customary Laws over land & land rights of women in Haryana

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Abstract: *This paper looks into the influence of institutional changes in changing the influence of customary laws over land rights in Haryana, India. The issue of land rights here mainly focuses on the rights of women over agricultural land as an absolute owner. Despite changes in the succession acts, especially Hindu Succession Act, 1956 and Hindu Succession (Amendment) Act, 2005 the state laws of Haryana remained impermeable to these changes. It was the state land laws and policies that continued to have an overarching impact on the land rights of women. This contradiction gave rise to two different societies being forcibly merged without any harmony for a sustainable growth. In order to delve into the issue of impact of land rights on women the analysis was based on case laws of the High Court of Haryana and Supreme Court. The cases analysed were cases of land reforms, inheritance rights, land acquisition etc. And to find out whether these changes influenced the social set-up at the micro-level, a census survey was conducted in a village, close to Gurgaon in Haryana. Through my analysis of land laws in Haryana, this work concludes that legislative changes have not been able to secure ownership rights of women over land.*

Keywords: *land; customary laws; gender; inheritance; hindu law*

I. Introduction

The process of evolution of society from primitive to modern was shaped by the continuous dominance of customs which gave rise to gender divide and inequality. Despite changes in economic demands of the society and statutory laws confirming this change, rules of customs/customary laws, both implicitly and explicitly, tried to shape the 'social' strictly on the basis of customs. Thus, private ordering of rules within society carried the burden of the past. And customary rules/laws attributed to this ordering by providing a framework for human conduct on the one hand, and giving rise to the gender divide on the other. This order could be/has been imposed through land relations. India struggled to reach a consensus over removing the gender divide imposed by customs and supported by the political class as an act of balancing different power centres within society. From pre-colonial to colonial and post-colonial times, legal shifts and non-religious interference met orthodox resistance. As a result, the selective changes in law- family law- ended up protecting the interest of certain sections of the society over others. This selective practice of changing laws dates back to the pre-colonial period, where dominance of *Dharmashastras*ⁱ in influencing the social structure based on caste and gender prejudices supported the growth of customary laws within different enclaves.

Unlike other regions, individuals in Haryana were first determined by the identity of their agricultural tribe over the religion they followed. Embedded in an agricultural economy, determined by customs to suit the political economy of the region, Hindu law could not shape the society and community here. Through the codification of the customary laws of Punjab and Haryana the colonial state ensured unhindered political control. Codification of customs in the colonial period led to traditions taking the shape of law, later referred to as the customary laws of the region. Codification of customary laws then became the basis of governing the region which remained impermeable to gender equality legislated under Hindu law. This protected the land relations, supported the dominant castes and became the basis of political mobilisation in the state. Where men were allowed to have absolute control over land, women were only given limited ownership rights over it. Based on their age, marital status, class and experiences; ownership over land differed for women. Despite several changes in the Hindu Law over time, customs were not completely overridden in Haryana.

In the post-colonial period leaders continued the tradition of following customary laws without any modification. Customs shaped the society showing an explicit unwillingness to accept changes in the land laws made under the land reforms to bequeathing equal rights to women under Hindu Succession Act 1956 and its further changes in 2005. However, an interesting paradox continued to prevail in the region which while protecting its age old tradition was open to changes of urbanisation that guaranteed huge investments in land. Customary perspectives dominated the social and political scene while the economic changes were allowed to transform the economy from agro-based to an industrial one equipped with development plans for model townships.

This contradiction gave rise to two different societies being forcibly merged without any harmony for a sustainable growth. Issues of land and land rights emerged in the changing political economy of the region,

encompassing a wide space, starting from the rise of post-colonial state in India. When land acquisition was allowed leading to escalation of economic status of land-owning agriculturists, women of these families could not gain considerably with the presence of laws like the pre-emption laws over land which took away or questioned their rights to sell their shares to strangers. Efficient utilisation of land would only be achievable through a combined impact of reforms and titling programme. Entrenched in customary laws, state intervention for the purpose of governance over land could not bring a complete change over land relations. However, land related legislations were continued to be passed with the intent of bringing change and to tackle the unsettled issue. How far the 2005 (Hindu Succession Amendment Act) law was successful in Haryana depends on the trajectory covered by various cases over land: whether land continued to be influenced by the notion of joint ownership of land holding over individual holdings or was there some visible changes, dimensions of asserting individual rights over land within family in the form of questioning the devolution. Post-independence, settlement of land reforms programme was being achieved only partially and the changing requirements of land led to rise of forceful acquisition of land; a case for why should there be property rights. If women have titles then the sole responsibility of males protecting the interest over land diminishes and they can also shift to other occupations when the need arises. Dependence of women over men leads to increase in overall poverty and alleviation of assets of the household. Only when men will not be considered as the gate-keepers of their ancestral property; and women will be guaranteed rights to property over land as well as, title over it, the disadvantages in the sphere of educational opportunities, access to health care, representation faced by them will also be removed.

II. Customary laws under Colonial rule in Haryana

Haryanaⁱⁱ was non-receptive to those changes which tried to alter the land ownership and could become a potential threat to the kinship structure. Colonial rulers in order to control this part of the country did not take much time to realiseⁱⁱⁱ it; and political rule in this region was shaped as per the customary laws of the place. Protecting community control over land remained pivotal and rulers across ages in order to ensure a stable political rule distanced themselves from the land laws of the region. Successive rulers, in order to protect their political interest in the region, as well as, to contain any form of resistance from the people, guarded this system of land ownership. However, the interest of the colonial rulers were not prosperity of the area, rather it was to make use of the available resources to ensure the continuance of Britain's trade policy and expansion in different parts of the world. This region formed an essential base for the military strength of the British army. And the mutiny of 1857, thus posed an additional challenge for the British rule in this region. As political control was closely tied to the military strength of the army, aggressive political control was not the solution for the rulers. Colonial rulers had to control the dissenting voices from the community as antagonising powerful sections would have led to breakdown of not just the colonial rule in India, but it would have jeopardised their larger imperial interests of controlling other parts of the world through the military strength provided by the supply of men for the British army from this region.

Land laws during the colonial rule were influenced by the land revenue system of the region. In order to extract unhindered revenue generation, the public laws of the state were changed in accordance with the private laws of the communities in Punjab and Haryana. This led to changing land laws to suit the interest of the communities, overlooking differences (if any) within the institution of the private legal institution. The universal acceptance of custom was a result of acceptance of norms and customs of the society across different sections preventing the rise of any differences from within the community. Supporting the system of *bhaichara* or village brotherhood over ownership of property in land, the aspects of inequalities across gender were overridden. Thus, the land revenue system gave rise to the agnatic structure in Haryana, upholding community control and transfer of land ownership along male lines of succession. While the support for agnatic structure extended by the colonial rulers had a different purpose, it gave rise to a system of adjudication which continues to pass parallel judgments even in the present time based on customs "institutionalised in the authority of panchayats, lineage leaders, caste..."^{iv} Enclosure movement which started in Britain in the eighteenth-century was a move against the basic principles that governed agriculture: common property resources. And republican opposition against parliamentary enclosure^v in Britain could not succeed in reversing the course of change that was to follow; however, the colonial administrators were cautious with regard to implementing land enclosure, especially in case of Punjab and Haryana. As a result what was feared was the rise of class structure through the creation of property rights. According to another perspective, as per Richard Saumarez Smith^{vi} the objective behind introducing the land registration in colonial Punjab at the end of 1840's was to maintain the land as held by the coparcenaries^{vii} In his study on the district of Ludhiana, Smith found that the administrative papers or *Wajib-ul-arz* (village statement on custom) was written in the form of a contract between the entire village and the British government. It had set down rights and responsibilities of shareholders. And the shareholdings based on '*bhai-chara* (village brotherhood)' with major portion of the land kept undivided and was held in common. The individual shares were decided on the basis of ploughs: which meant measurement of an area of land was

dependent on a team of oxen ploughing in a given period of time.^{viii} Amount of land a man was given “corresponded with the number of oxen he possessed and the amount of labour he could command”^{ix} This also showed the meaninglessness of individual shareholding to the colonial administrators. Colonial rulers recognised customs and laws as an ex-ante framework for the working of the social systems. While the apprehension in Britain was the creation of classes as a result of creation of private property rights, in case of Punjab, the fear was political upheaval to follow as a result of enclosures destroying the agnatic control over land ownership. Overarching impact of agnatic control could not be rejected by the colonial state. Colonial state in order to balance their interest vis-à-vis that of the landed proprietors passed legislations such as, the Punjab Land Alienation Act, 1900^x. While this Act ensured the agnatic interest of the landed proprietors, it was against the interest of other classes especially; the moneylending class^{xi} of Punjab. However, this obstacle in the rise of market in land for protection of the agnatic interest ended up giving rise to *benami* (transaction in the name of another person) transactions and showing of erroneous prices shown in transaction to the colonial state authorities^{xii}. Colonial phase gave rise to a unique politics over land. With industrialisation not being an alternative source of revenue generation in comparison to land revenue, the division of land into areas under canal colony and those outside it gave rise to differential sources of revenue. Thus, reduction in land revenues in certain areas was compensated through increase of revenue in other areas. Apart from revenue, the administration of these colonies gave rise to new forms of land rights to the inhabitants; along with turning of a wasteland of central Punjab into fertile land was seen as another source of land revenue.

In all this, the gender divide within the same class was suppressed by not acknowledging the presence of women peasants from the family of landlords- protected through the notion of village brotherhood-owning large tracts of lands in Haryana. Focus was being given only on the presence of customary laws governing the agriculturalist of the region. Thus, the presence of women, tenants and other dependents were somewhere lost in the land assessment undertaken by the colonial administrators. Customary laws for the agricultural tribes were followed by other castes/class, as well, through their conformity with the rules laid down by the customs. The context created as a result of the practice of customary laws transgressing classes led to abeyance of the class differences existing in the society. This was furthered through the land settlement^{xiii} policy practiced by the colonial state in Punjab. The procedures of land settlement programme created hierarchies in some areas and removed it from other areas; and settlement plan undertaken led to predominance of one class over the others. Instruction given to the authorities to settle the land disputes, if any, and also to demarcate boundaries in accordance with the local customs and not against it, elevated the position of the landed proprietors to a dominant class.

Infrastructural development undertaken by the colonial state could not have been possible without engaging the economic factors of production: land, labour, capital and entrepreneur. Among other things, the changes upon land remained one of the contentious issues, as it was directly linked to the social stability of the area. While development was considered as a means to guard the colonial interests, “land” as a resource was a point of clash between existing communities and the colonial state. Despite a slow change in the use of land and other associated changes attached to it, landed proprietors demanded the state to favour common village ownership, emphasising agnatic control and opposing individual ownership. In other words, the development led ownership transformation over land gave rise to contradictions between public and private spheres. The shift in the power structure in the public sphere resulted in an additional identity for males as that of patriarchs of a household and members of their community, who were also the subjects of the colonial state. Interestingly, this shift in the role of males in the public sphere increased their control in the private sphere: society, community and family. And, all these had a profound impact upon the land laws in the region. The legal construction of land laws concerning the public domain allowed the shift from community control to individual male control. However, changes in the individual control of property directly impacted the females in the private sphere with regard to inheritance rights over land. Interestingly, the political historiography of the region upheld social orderliness, which became the ground for unspoken narratives of gender history.

III. Post-Colonial Political Economy of Haryana

Post-colonial forging of a new identity could not take away the past beliefs from the new emerging nation state attributing to a rise of a sharper distinction between the public and private discourses of defining an individual’s life. While the Constitutional aim was to remove inequalities based on primordial identities and feudal dominance from the public domain, the private domain viz., family and community, continued to be shaped by institutional inequalities based on caste and gender of a person. In order to bring into reality the principles of the Constitution and minimise the public/private divide, path-breaking legislative and policy changes were made in the 1950s. Among others that had an effect on the Harayanvi society, were the land reforms policy and changes made in the Hindu Succession Act, 1956.^{xiv} After independence, Haryana—eastern Punjab—became one of the regions for resettlement of refugees coming from the other side of the border. Rights over land had to be balanced between political partition of land and policy changes demanding land reforms. Land remaining fixed, government had to

utilise it efficiently. The process of resettlement coincided with the policy of land reforms being implemented across India. And the control over land ownership by male lineal descendants led to contradictions over demands of utilisation of land as part of land reforms programme. Land became a cause of debate to resolve issues of displacement, redistribution and ownership. Interference of the state to fulfil objectives of land reforms and allocation of land to the displaced families of partition and tenants had to be balanced with protecting the socio-economic structure of kinship in the region. The solution for attaining stability could not be based on a trade-off between economic prosperity and social justice. Customs, surviving on village homogeneity, ancestral control over land and restrictions over ownership of land by a stranger; were considered by agriculturists to be the basis of increased agricultural production. In order to attain “equilibrium” of the social and economic structure of the society, the state had to balance between several forces. In all this balancing, gender differences were pushed to the fringes to be addressed through legislations and judicial interventions. However, the legal changes and judicial intervention could not change the situation of landlessness among women. Interestingly, while legislations aimed at abolition of landlordism, what continued was intra-household landlordism where women of the household worked as labourers and were denied rights over land. This led to a situation where both landlord and landless resided in the same household. Inhibition on part of the state to interfere with the functioning of the communities and families led to the rise of the unfinished task of land reforms. Silenced by their families on the ground that the maintenance given to the daughters—unmarried, widowed or deserted by their husbands—was enough to sustain them, property as a ‘right’ for women has often remained outside the context of discussion despite continuous attempts through legislations and policy reforms towards gender equal control over property. Intra class inequality between men and women which could not find much reference in the policy making during land reforms era became the entry point for judicial intervention. These cases were either resolved amicably or led to continued legal strife over a period of time. Violation of property rights also led to focus on legislations under the Hindu Succession Act, 1956 and rights as per Constitution of the country.

In the midst of land reforms in the 1960s, there were major political changes in the eastern part of Punjab with Haryana’s demands for separate statehood. On the one hand, the political milieu of Haryana always remained different with non-participation or rather passive role played by the political class, represented largely by rural landowners and on the other hand, with emergence of post-colonial times, there was a deep-seated identity crisis among the political representatives from the region of present Haryana, with Congress in power and having won three subsequent general elections and the dominant role of the Akali Dal in Punjab. Jat (land-owning community) identity of Haryana only became a prominent one with leaders like Chaudhuri Charan Singh becoming a force against the Congress dominance in the post-independence period. Despite belonging to the neighbouring state of Uttar Pradesh (UP), the rise of a Jat leader Chaudhuri Charan Singh representing the issues specific to the Jats became a foray for the community into the politics of northern India. In case of Haryana, linking the larger issue of separate identity meant clinging to a change of this nature as the state lacked a separate and distinct culture being a ‘sub-region’ of Punjab, without any socio-cultural development and a language common to the Hindi heartland.^{xv} The landlord Jats in Haryana opposed the ceiling rules which were violated by not disclosing actual lands possessed by a family through transferring of lands within the family. Among a conglomeration of parties in the region of Haryana and Western UP, upholding the identity of the agricultural community, BKU (Bhartiya Kisan Union) also remained an important force. The politics taken by BKU reflected the interests of the landowning community cutting across the religious identity of the peasant community and focusing on the primordial ties of caste and clan. The politics of this kind, further gave rise to the informal institutions such as the *Khap Panchayats* (caste based groups for dispute resolution) entering the public foray.^{xvi} However, there was also rivalry between Charan Singh and Mahender Singh Tikait, with the politics of latter openly supporting the *Khaps*. Among others, he proposed that the *Khaps* would be the building block of BKU. This tacit political support for *Khaps* led to giving them an agency to turn the political outcomes of the regions especially, in Haryana and western UP. In addition to the customary laws, the support for *Khaps* attributed to the increasing gender divide in the region from political participation to economic empowerment. Both these aspects influenced the social standing of women.

Tikait’s stand in the later years became increasingly controversial as his support was divided between the identity politics of the Jats and call for his support for the *Ram Rajya*—a call given by the BJP.^{xvii} Peasant politics of the region based on the dominant castes structure of the Jats, not just upheld practices of customary laws, it also supported the growth of *Khap Panchayats*. Presence of such informal organisations has often been growing in these areas. However, the continuance of such structures led to cutting off the economic growth from political and social spheres. While the economic changes accepted the changing needs of a global economy, the social was determined by traditions supported by politics of the region. The cases of customary rights of tribal communities in Haryana, overtaken by the state’s economic policy, were different from other tribal communities of India. The landed peasantry with their representatives in the state allowed land use based changes as well as, followed the customary control in the private domains. The conflict was only raised in cases of ensuring rights for women as tenants and agricultural labourers, be it in the form of proving an adverse possession over land or in cases of

claiming absolute rights over land as per the changes in the succession laws. Influenced by the changing politics of the late 1980s and early 1990s, rural economy over land was undergoing a massive change in the purpose of its use. Agriculture and rights of peasants ended up influencing the electoral politics with politicians decrying the situation of resentful farmers, and showing the economic burden faced by all peasantry to be the same without focusing on the nuanced differences.

Along with these changes a move towards urban development was already initiated in Haryana by setting up of the Haryana Urban Development Authority (HUDA), which was an extension of the Urban Estates Department established in 1962. In January 1977, the Haryana Urban Development Authority was set up as an individual government department under the Haryana Urban Development Authority Act, 1977.^{xviii} HUDA vested the powers of acquiring lands for urban development, dealt with legal issues emerging out of the acquisition of land and had legal cell which acts like an extra-judicial body. Compensation decided by the courts is paid up by HUDA out of its own funds which are generated out of sale of residential, industrial, commercial and institutional plots. However, the present need of the post-colonial state from the region is large acres of land. State supported firms like DLF (real estate developers) have gained control over the land in exchange of a promise of development for people. Instead of development being democratic where the process of development is initiated for the people, the process itself became an impediment to development. In this exchange, there has been a rise of lop-sided growth in infrastructure and absence of any change in the social indicators. The reasons for low social indicators could also be linked to pre-colonial method of non-interference with social practices and not setting up of modern institutions. The requirement from the region was restricted to the recruitment of men to support their imperialistic ambitions. At present this cross-road of urban and rural confronting each other on a daily basis, there has been rise of endless contractions.

After 1991 Haryana came under the influence of open market introduced in India. With the opening of market to the global economy and entry of foreign firms there was a rise in the demand of land resources for setting up of industries. This ascendancy of land market already started under colonial state with new class of interest over land. Agricultural economy, debt, demands for irrigation, rise of canal colonies led to land being seen as a commodity to be sold for protecting the interests of groups primarily dependent on land. However, in contrast to the present, the landed proprietors in the colonial phase ensured that the land remain within the control of the agricultural tribes and resisted the rise of any other class in the region. In the process, the colonial government was forced to implement laws which would impede the process of sale of land to strangers. Sale of land was perceived to be a threat to the community control by agricultural tribe over land. Despite rise of market in land, the landed community through its overarching influence tried to reinstate the aspect of 'inalienability over land'. However, the rise in demand of land prices post-liberalisation and resource constraints in availability of land, led to increase in land prices and land acquisition. This gap between availability of land and rising demand for it forced the state government to start the process of conversion of agricultural land to be used for setting up of industries. As a result there was a demand for housing and availability of other infrastructure in place. Housing, roads and other amenities of urban living became a necessity. And in order to sustain this economic growth, government started focusing on investments by foreign firms and housing for the emerging middle class. In other words, the two-pronged policy of the state government gave emphasis to industries and real estate. Conversion of land started taking place under different state laws. Land acquisition was continued under Entry 42 of List III (of the Constitution) by the central government, when the states were asked to follow the land reforms programme after independence. With the overpowering role of the Parliament over state legislatures, the laws for acquisition of land continued along with land reforms in the post-independence period. It was the rise in acquisition of land by the state for private companies under the clause of 'public purpose' that led to resistance across states. This resistance was a result of non-utilisation of land by the state after its acquisition. When the state, without consultation with the land owners, enters into contract with the private companies to fulfil all the demands, it often used state forces to acquire lands from the land owners. The rise in industrial development in Haryana especially, in Gurgaon and Faridabad is linked to this type of policy of the state government.

Resistance by land owners against acquisition of land by the state brought this issue within the enclaves of policy making and led to a renewed focus on issues of land: as a resource, commodity, source of livelihood etc. Interestingly, while land reform is a state subject and it is only the states which spearhead the process of implementation of land reforms programme; acquisition of land comes under both the state and central governments. As a result land acquisition is under the statutory law as well as the constitutional law of the country. This overlapping impact of the use of law to acquire land gave rise to regulatory arbitrage^{xix}. Acquiring land on the pretext of public purpose ended up becoming an intermediary between individuals and the industries engaged in acquiring land. This led to two outcomes (1) land markets did not emerge where individuals could enter willingly to sell their land at a price determined by the competitive market; (2) the state became a broker instead to acquire land on behalf of the industry. The irony of the situation was rise of capitalism and opening of markets on one hand and prevention of the same on the other hand. In all this, the state allowed certain industries to attain dominant positions in the land market and imposed barriers on the entry of others.

State governments could acquire land only under public purpose, which in case of private industries became difficult. And state, despite its focus on economic growth and employment could not take away private individual land on behalf of the industries. The dire need for land led to the state government of Haryana bring in systematic changes in the laws to ensure that lands could be acquired without issues of hold-up problems. For instance, when land acquisition itself became a major debate across India in 2011, Haryana government came with the policy of “Revision of minimum floor rates and the Policy for Rehabilitation and Resettlement of Land owners-Land Acquisition Oustees”^{xx} which introduced a ‘*No Litigation Incentive*’ for those landowners who accepted the compensation paid by the state. This incentive led to easier transfer of land to the industries and removing of all the claimants, especially women heir to take up cases of acquisition by the state. Compensation process also did not bring into contexts any other interest over land. Irony of the situation in Haryana showed the rise of two contradictory forces—continuance of Pre-Emption Act and introduction of No Litigation Incentive— yet related process gave rise to agnatic control, ownership and removed any scope for claims by female heirs. However, the government in support of this policy stated that disputes usually arose over compensation because of lack of knowledge of utilisation and investment of compensation amount by the landowners. This policy explicitly stated that: “*Acknowledging the need for reducing litigation on this account, at least in matters pertaining to the amount of compensation, the Government has decided to introduce an incentive for ‘No Litigation’ so as to move towards the domain of ‘consent acquisition’ qua the ‘compensation amount’.*” By introducing ‘No Litigation Incentive’ it took away the scope of women claiming their land rights. In case of women claiming shares and taking their cases to institutions outside family and community to courts in itself meant breaking the divide between home and outside. It is not just a step to ensure justice for oneself but demanding what on the first place is thought to be denied to her. Denial of right that is due has often been dismissed within a family through the consent of majority, by some as a result of conforming to norms, and by the rest who are forced to abide by the decisions taken within a family. Cases that went to the courts over a period of time also questioned the authority of the family as an institution. The decisions of the courts may not be favourable to women always, the filing of a plaint by a women was tantamount to damaging the ‘honour’ of her family and her claiming rights led to her isolation within the social structure. Whether the decisions of the courts enhanced the socio-economic situation of a woman was also linked to other aspects of her life like employability, education, training and her overall situation determining the course of her life, but it at least accepted legislative changes being introduced in property rights over land.

Along with introduction to ‘No Litigation Incentive’ clause in the land acquisition programme of the state government, the ‘**Land Pooling Scheme**’ was also put in place. This showed an increased emphasis of the state government to ensure that the availability of land does not become a problem for setting up of industries. As per Haryana state government’s mandate from 2012 to 2014, the focus has been given to ‘Land Pooling Scheme’, which would make farmers become partners in the developmental processes^{xxi}. The policy changes towards faster industrial growth coincided with the social changes made in the Hindu Succession Amendment Act, 2005. In order to ensure that the former takes place without any impediment, policies were framed that foreclosed scope for taking up cases of land dispute to the court of law. As a result, issues of land related dispute in the court of law decreased as those were resolved through policy intervention which removed all forms of encumbrances over land. Policies such as the ‘Industrial and Investment Policy 2011’ and ‘Estate Management Procedure (EMP-2011)’ of HUDA are among them. Unlike the previous industrial policies focusing on incentive-centric approach, those formulated in 2005 and later emphasised on promoting scope for investment for the industries. Economic growth in Haryana was especially high because it ensured that among other things, availability of land should not become difficult for the investors. To that end, Haryana government in its Industrial and Investment Policy 2011 mentioned the role of HSIIDC (Haryana State Industrial and Infrastructure Development Corporation Limited)^{xxii}, in providing industrial space for private sector investment. This policy, time and again, showed how the acquiring land for the private industries would be difficult. In order to ensure the availability of land, HSIIDC by acting on behalf of the private industries acquires land, transfer of which is done stating the condition of ‘**prescribed permissible use**’ for any transfer of land. Regularisation of land has been made a part of the policy option. Overarching role of state legislature tried to set a trend where central level changes influencing land laws had minimal role.

In the midst of all this, there was gender and class divide over land with powers only with some landed proprietors in a position to demand adequate compensation over dispossession of land by the state. In this situation with the simultaneous presence of agricultural society and investments in industries, land was at the centre of conflict. Acquiring land was not based on a sequential following of procedures as per the statutory law, such as, (a) publication of notification stating the area of land to be acquired along with the name of the land owners under section 4 of 1894 Act; (b) payment of damages under section 5; (c) to address the objections raised by the affected parties under section 5A; (d) eliciting the public purpose for which land is acquired under section 6; (e) matters considered for acceptance under section 23 and rejection under section 24 of the Act.^{xxiii} With the basic sections in place a land is acquired from the owners, however the recent cases in many states have shown the passing of statutory laws by the state to acquire land for the industries. For instance the Singur Act^{xxiv} (against

sections 4,5 of 1894, there was no right to object under the Singur Act) which was passed in West Bengal under the Left Front Government in which there was absence of these sections. And the state through Singur Act, acquired land, however, the Singur Act was replaced by Singur Land Development and Rehabilitation Act, 2011 as a political move by the successive government to gain a political mileage. In the context of Haryana similar acquisitions were in place and while industrial investments continued landowners had to take up cases^{xxv} in the courts over procedural discrepancies. The major aspect of land acquisition in Haryana was collusion among the real estate developers in acquiring land. The purpose of the real estate industry unlike the manufacturing one was to seize maximum land for business purpose.

Land, unlike availability of labour, with its supply constraints and absence of land market, leads to rise of certain firms acquiring dominant position^{xxvi} in certain areas. As a consequence with the rising demand of land for industrial purposes, the state government of Haryana violated its own statutory provisions under the land reforms programme. The state moved from changes made in the aspect of inalienability over land under the land reforms programme to neglecting the same provisions for allowing companies to acquire agricultural land for industrial purposes. This led to rise of litigations over disputes arising over land acquisitions by the companies assisted by the state. For instance, in the case of Aaliyah Real Estate Pvt. Ltd and Ors vs. State of Haryana and Ors^{xxvii} 2011 petitions were filed on grounds of misuse of the provisions under the Land Holdings Act, 1972. In case of Singur, the government passed a new law for acquisition of land whereas, the Haryana government instead of bringing a new law allowed the companies to surpass the provisions of the existing laws, by taking permission from Department of Town and Country Planning^{xxviii}. In order to remove the imposed restrictions over permissible land under possession, the Department of Town and Country Planning surveys the holdings of agricultural land with the companies and permissible limit is decided by the revenue department. Agricultural land and the policies of reforms over it were not only violated but the petitioner companies demanded relief under the writs—certiorari^{xxix} and mandamus^{xxx}, when notice was sent to them for returning lands. While the decision was referred to the Chief justice, the writs filed were treated as public interest litigation and further investments by an independent authority in the case was demanded. However, as per the social construct, interest in land is not just an individual one; it also has interest of the coparceners in it. Revisionary interest and possession over it could be achieved through adverse possession. These processes of land administration implemented by the state instead of subverting the land relations based on power institutionalised it. This subsequently attributed to gender division of society beginning with inequality over land ownership. In this regard, individual right as a negotiable and bargaining right cannot exist on its own, it also depends on how it is distributed. This distributional aspect of rights demands the presence of impartial judiciary for delivering justice. In delivery of justice over land in Haryana, the presence of pluralistic structures—stronghold of *khaps*—over that of a singular institution of delivering justice resulted in overlapping norms. This led to the question whether there could be change in these norms and its impact on rights through initiation of the process of land-titling over land and whether titling also would become a solution for locked lands in capitalist economies.

IV. Methodology

The research is based on both quantitative and qualitative research tools. The methodology adopted has been interdisciplinary with legal, political and economic approaches. Research consists of both primary and secondary resources. Land laws guaranteeing property rights for women was deciphered by looking into both macro as well as, micro-level changes towards the stated mandate. While policy and legislative changes were only a macro-level initiative for providing a legal support to women by removing hurdles based on gender, changes at the micro-level demand looking into the family arrangements in devolution of property. In order to look into these layered changes at different levels, I tried to look into the land titling data of National Land Records Modernization Programme to get an overview. However, collecting the data on titles given to women was difficult as the revenue office was hesitant to share the information. The data made available by the National Informatics Centre on the Haryana Government website was not useful for analysis. Then in order to get an overview of the situation of inheritance rights for the state of Haryana, I focused on 100 case laws which emerged over the years from post-colonial times in the High Court of Punjab and Haryana and the Supreme Court of India. These cases covered issues of land reforms, inheritance rights arising out of devolution of property within family or through adverse possession over land, conflict between right of tenants and women, impact of land acquisition over equal division of agricultural land etc. After looking into the trajectory of legal cases, I have tried to compare these with the micro-level sex-disaggregated data. This data was collected through a village census survey in Bandhwari village to check whether the judicial decision could shift the rigid structures based on gender. In this survey the variables mainly used were improved educational levels, age at marriage, sex ratio and gender division of labour as outcomes of gender equal distribution of land.

Comparison between socio-economic status of women in Bandhwari village of Haryana and judicial pronouncements guaranteeing land rights for women

While growth and investment in Haryana remains high, in the context of this work, where is women placed under the state-market regime has been analysed. In order to delve into the nuances of this paper I looked into the socio-economic status of women in Bandhwari village. In order to corroborate evidence to observe the changes in gender ownership over land, analysis of land related cases of the High Court of Punjab and Haryana and Supreme Court was done, along with a census survey of a village. The situation of women in the village was reflective of the cases which were filed in the courts. Women continue to remain subordinate to their male counterparts, especially in case of land rights. Guaranteeing property rights might not remove other kinds of inequality from society. However, the assumption remains that once the inequality at birth over land ownership is removed it will impact the status of woman in all other aspects of their lives. To that end, I look into the socio-economic statistics of a village close to Gurgaon city, in Haryana, India. Land administration led to digitisation of land records, and clearing of any dispute emerging out of claims over land etc. However, governance over land continued to remain a matter of urban areas, with the rural areas being devoid of any chronological changes except for male land owners receiving money in exchange of land sold to corporates, with state as the mediator. Entry of money against sale of land could not transform much. Areas within the village was demarcated based on caste of the person, this divide is present especially in the case of Dalits (outcaste) and the rest—Jats, Gujjar, Ahirs and Brahmins. The dominant caste of villages in Haryana was determined by their agricultural tribe, with religious division based on four fold *varna* (class) system having a negligible influence. This caste identity is equally strong among women, for whom being a part of a particular caste—even if dominant one—has not led to alleviation of their status. Caste identity formed the basis of their understanding themselves. Majority of the population of Bandhwari village belongs to the Gujjar community (71.79 per cent) which falls under Other Backward Castes^{xxxi} (, followed by the scheduled castes—consisting of Dalits (groups outside the fourfold *varna* (classes) system under Hindu religion) (21.65)—and people from the general category comprising people mainly from the Brahmin (priests) and Baniya (traders) castes.

Paradox of the situation remained, Haryana government focused on efficient land administration with inefficient recording of life/deaths of individuals of the village. Interestingly, with state having been relegated a secondary status, social categories formed an important part of the village life, and a causal factor behind inequality over education, land holding, income. Social status of women remains unchanged with differences in caste/class categories. Position of women continued to remain abysmally low, starting with skewed sex-ratio 42.43 per cent females compared to 57.57 per cent males within the age category 0-5 years. This trend continues for the segment of population till 40 years of age. There is a drop in percentage of male population compared to female population between 40 to 55 years. Gender based differences at the social level is established when both men and women with similar age at marriage and men with lower education status continue to have an overarching status in the society. Mean age at marriage of the population is 18.3; the variation of mean age at marriage is 14. The minimum age at marriage is 2 years (at present the ages of persons married at 2 are 29 and 27 years) and the maximum age at marriage is 45 years. Mean age at marriage for males is 19.9 years and that of females is 16.8 years. In both the cases, the mean ages at marriage are below the legal age at marriage in India—18 years for females and 21 years for males. Out of a total of 702 household, 619 households are headed by males and 83 are headed by females. Women could only become the head of the households as a default, i.e. only as widows, out of 83 female headed households 80 females were widowed. Marriage forms an essential aspect of the social life in the village with identity being determined by their marital status. This status has often led to changing life situations for women in the households. Property rights in agricultural land through Hindu Succession (Amendment) Act 2005, proposed changes towards greater autonomy being granted to daughters in particular, by removing the marital status of the daughter in determining her succession rights. In my interaction with women of the village, there was only mention of sons and unmarried daughters, when asked about the number of children from women, as if the married daughters did not exist. In a situation like this, those married daughters demanding shares in the ancestral property of their father seemed impossible. Out of 702 households around 33 per cent of the household heads are illiterate and only 2.14 per cent are graduates. At the disaggregated level, we find that the illiteracy among female household head is more compared to their male counterparts. Compared to 26.13 per cent illiteracy among male head of the households, 90.24 per cent of female household heads are illiterates. The overall literacy rate of females is 10.98 per cent and that of males is 13.93 per cent; the ratio of young literate females to males is 78.81 per cent. Social customs have not just restricted access to education for women but made non-attainment of education an accepted practice in the village community. In addition to the data, following case studies would give a glimpse of the lived experience of women.

Case study: Manju and Minu

Prevalent gender inequalities are an unchanging reality with which girls and women knowingly, as well as, unknowingly fight every day in village Bandhwari in Haryana. In an attempt to create role models for the

villagers—especially for girls—to follow, a local NGO (Non-Governmental Organisation) had arranged for the training of two girls—selection based on individual volunteering—in beautician course. This course aimed at enabling these girls to have an independent source of livelihood in future. After one and a half months of their training in the course they were interviewed in Gurgaon. Manju and Minu (girls taking the course) were initially hesitant to interact; however, through informal interaction, they finally opened up. Both of them who are from the same village and studied in the same school had different live experiences to share. Minu comes from a farmer's family belonging to the Brahmin caste whose father works on a tenanted land taken on lease for agricultural purposes and her mother works at home whereas her elder brother is a driver with a monthly income of (INR) 5000/. Minu initially told me about her three brothers and later on, when questioned again admitted to having two more married sisters. As sisters are not the part of her household anymore, she refrains from mentioning their names in her conversations. In several interactions, it has been observed in village Bandhwari that after marriage people do not mention the names of their daughters or sisters as they are not considered to be part of the family anymore. At the time her elder sister was getting married, Minu was also married off to a boy who was of her age and was studying in a school in old Faridabad in Haryana. Minu wanted to do this course with an aim to work in a parlour in future. The decision was taken by her beforehand and she conveyed this to her mother, who later convinced her father for allowing her to take this course. Minu's interaction with her father is through her mother. Apart from doing this course, she also dreams of finishing her college education. At present she has to clear her 12th school leaving exams. Most of the time being confined to household activities, Minu thinks this course would also enable her to go out of her house and also give her access to wide range of information. Although Minu remains at home, her mother does not make her do household work and wants her to study as she herself studied till fifth grade. Her mother's influence is evident from the fact that one of her sisters finished graduation and at present is working in a call centre. However Minu chose to spend much of her time watching TV over studying. Only reason for her to go out except for going to school is for buying goods from the neighbourhood shop. While going out she has to take permission from her mother and is not allowed to stay out beyond 5:00 p.m. Minu has never come to Gurgaon earlier for any work. On asking, from where she buys her clothes and cosmetics, she told us that her sister buys clothes for her and she does not use cosmetics. Now that she is travelling to Gurgaon for work, I wanted to know whether she carried her mobile to which she answered that she prefers not to carry it as she does not want anyone to call her from home. I also wanted to know whether she was comfortable talking to males outside her family to which she said that as such there was no problem in interacting. Now, she feels that after joining the course she has become confident and can interact better. Minu told me that she handles all the money at home for household expenses but she does not get any pocket money. Despite being in charge of keeping money at home, she does not have a bank account like her brother and has never been to a bank either. As such she does not have any command over financial decisions. Minu's friend Manju studied in the same school in the village and has a family salon. Her father is a barber who has studied till class VIII. She is little disappointed with her outcome in exams in class XII, as she has to reappear for two papers: mathematics and physics. She was encouraged to take up science stream by her cousin from the same stream. Manju also has two younger brothers studying in school at present. The reason for her joining this course was to be able to go out as there are restrictions imposed on village girls over their mobility. Along with this course, she also showed her keenness in pursuing computer course. If she had not taken up this course she would have done a course in stitching. As far as taking up this course is concerned it was her choice. She still feels that there is a need for her to continue her studies to be able to get a good job. When she is at home she has to follow a strict routine unlike her friend. Manju has to get up at 6:30 a.m. and before leaving for her class at 9:30 a.m. she has to clean up her house. After coming back at 2:30 p.m. from her class, she helps her mother in the kitchen. Unlike her younger brothers, she is not allowed to go out and spends most of the time at home. When she has to go out, she is asked to come back home by 6:00 p.m. in the evening. Whenever she has to buy things for herself, she is accompanied by her mother. She cannot go out with friends of her age as all of them are married. Manju usually uses her brother's mobile. There are also restrictions over interaction with strangers and she feels uncomfortable to talk to them in presence of her family members. Both Minu and Manju have not visited a beauty parlour. Manju does not get any pocket money from her parents, however, she is given money whenever she requires. Earlier a bank account was opened in her name when she was studying which has been closed. At present, only her grandmother has a bank account in her name in which pension money is deposited. Important family decisions are taken by her mother, such as, decisions over buying clothes, education of children and their marriage. Despite several restrictions, she feels that this course has brought some change in her life as she has made new friends and has found confidence in herself. She is hopeful to do something in her life. Restrictions over mobility, speaking to strangers outside immediate family, social customs of early marriage and being forced to follow the defined roles have led to continuance of customary laws in the region. And in this situation of a strong control of customs, legislative changes could not remove the social impediments leading to further gender inequality. In the prevalence of such inequalities, to fight for individual ownership rights over land by women becomes difficult. The following paragraph shares the results

of the case laws that came up in the court of law which reflects the lower status of women in society in general and institutional inequality impeding their rights.

Diagram 1, shows the kinds of land disputes that emerged in the High Court of Punjab and Haryana, which showed that majority of the land disputes about 49 per cent were a result of disputes over inheritance of land. And, this further confirms that while the state government of Haryana took initiatives in changing the land policies for industrialisation, the changes towards streamlining the gender ownership over land did not take place at the same pace. Unresolved issue of inheritance, faster acquisition of land for industrialisation also led to 26 per cent cases of dispute over land acquisition. Unlike other parts where acquisition of land could clearly show a separation of interests between the land owners and landless, in Haryana the unity forged by dominant communities like Jats followed by Gujars has an overarching impact of removing the demands of landless agricultural labourers from the scene. However, at the aggregated level, across cases the profile of the plaintiff and appellants show that men continue take up more cases to the courts. This is also a paradox, showing that while women, who are socially deprived from several privileges, are not the ones who take up social dispute to the court. The obverse situation would have been, since women faces social barriers they would be the ones taking up more of these cases to the courts. Diagram 2, also shows that between 1966 and 1986 there has been a rise in the number of disputes taken to the courts, this was also the period of land reforms, a phase where the state laws—willingly or otherwise—had to confirm to the land reforms policy. When the land under possession of a particular household came under question it also impacted the inheritance rights of the owners. In diagram 2, one could see the number of cases taken up on the basis of gender. And there have been changes in the trend over the years. However, this decrease in the number of plaintiff and appellant taking up the cases to the courts were also due to the changing relationship between the disputing parties. In this changing relationship where disputes were over land was within family among kins, the space has been taken over by the entry of state, the rise in cases of land acquisition. And, in this changing dynamics, the gap along gender is also increasing; women are still devoid of titles over land to settle issues of inheritance. With titles in the name of male owners, their representation as citizens in front of the state is higher. As shown in the following diagram 3, in comparison to 26 cases taken to the courts by males (out of 100 case laws), only 11 cases were taken by women in a state-citizen relationship; out of 10 cases filed by men against vendor/vendees in a market relation, 4 were filed by women. Along with the changes in the relationship, there is no overlooking of the fact that in case of intra-household disputes, the number of cases taken up by women continue to remain low in comparison to their male counterparts, for instance, when 12 cases were filed by men against their father's collaterals 7 were filed by women. The statistics of these 100 case laws showed that the gap between the number of cases been taken up by men have been more than women. In addition to this, the following diagram 4, show a case of bias present even within the judiciary, where majority of the cases 67.92 per cent were decided in favour of men belonging to the land owning families. Tenants mostly landless could only get favourable judgment in 4 per cent of such cases. Women could get judgments in the favour only in 28.3 per cent of the cases. This showing that the decision of the lowest court reflects the social divisions, based on class as well as, gender. On the one hand, while there is a bias towards men of a particular class, on the other hand, as shown in the next diagram (Diagram 5), courts have always taken more time in resolving cases of inheritance rights. The reason behind this has also been the kinds of industrial policies that have come up in the state of Haryana. With policies like 'no litigation incentives', the cases over inheritance rights have been pushed aside (Diagram 6), government has been able to free the lands to be acquired from encumbrances, if any. Those cases that were at all taken up to the courts—before such policies were implemented—find secondary status in its comparison to land acquisition cases, changes in land use, license to be given away to applicants in colonies—areas demarcated by the states to give rise to urban areas. When industries are established, townships develop around it, however, in case of Haryana this was an obverse process, where the government tried to industrialise the state by first changing its land policies. As a result, changes in succession rights to ensure gender parity were overshadowed. With the emphasis on streamlining land records through land titling, focus on barring cases of litigation coinciding with the changes in the Hindu Succession Amendment Act 2005, the number of cases filed by women started decreasing. In the land related issues emerging in the courts of law, in more than 60 per cent of the cases the issue of disinheritance rights were not pointed out by the judges. In cases where it was at all raised, reasons were provided to support disinheritance of women, reiterating the customary laws. Customary laws pointing out that: (a) daughters as per customary laws could not inherit; (b) limited ownership of women as per customs; (c) daughters were not coparcenaries. Women across classes—woman belonging to landed proprietors and those belonging to small land holding families—continued to face the brunt of the faster changes in the state policies over land. Land acquisition policies only impacted the updating of land records for faster conversion of land overlooking claims of women dependents of land. Reforms over land with its myopic agenda of passage of land from one section to the other and land titling with brazen updating of records by the state authorities, land dispute along gender lines continued with only difference being rights over land having been to incorporate: issues of land grab such as fraud of taking away of land by collaterals in the midst of rising safeguard provided by law, intra-household conflict

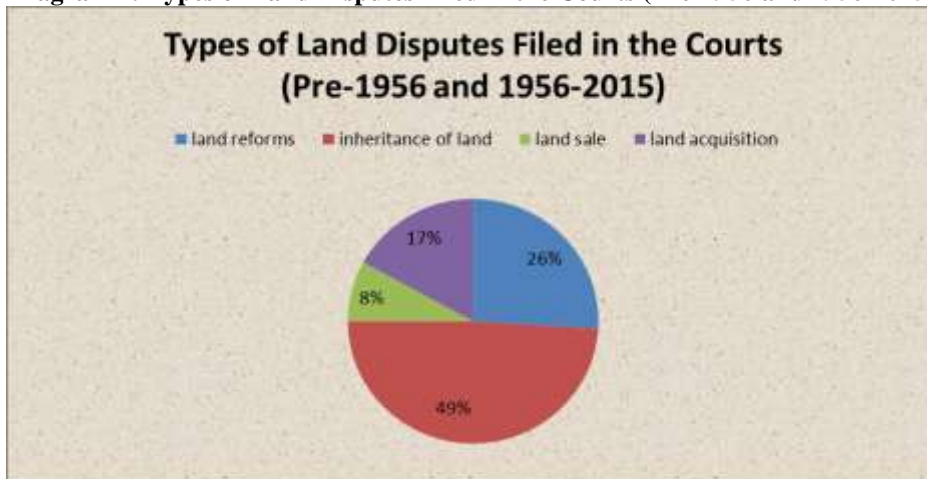
among women claimants; inadequate compensation after land acquisition; dispute over land conveyance and sale of land.

V. Conclusion

After almost five decades of the codification of Hindu Succession Act, 1956, change was brought in daughter's rights over agricultural land. Through the amendment in 2005, women as daughters could claim rights in their father's ancestral property with no distinction being placed on her marital status. Despite land laws being under the state government as per the division of federal power structure, it was expected that the outcome of the changed legislations would differ from one state to the other. With this in the backdrop, this research on institutional changes in land rights was undertaken. In order to corroborate evidence to observe the changes in gender ownership over land, analysis of land related cases of the High Court of Punjab and Haryana and Supreme Court was done along with a census survey of a village. The situation of women in the village was reflective of the cases which were filed in the courts. Women continue to remain subordinate to their male counterparts especially, in case of land rights. With the emphasis on streamlining land records through land titling, focus on reducing cases of litigation coinciding with the changes in the Hindu Succession Amendment Act 2005, the number of cases filed by women started decreasing.

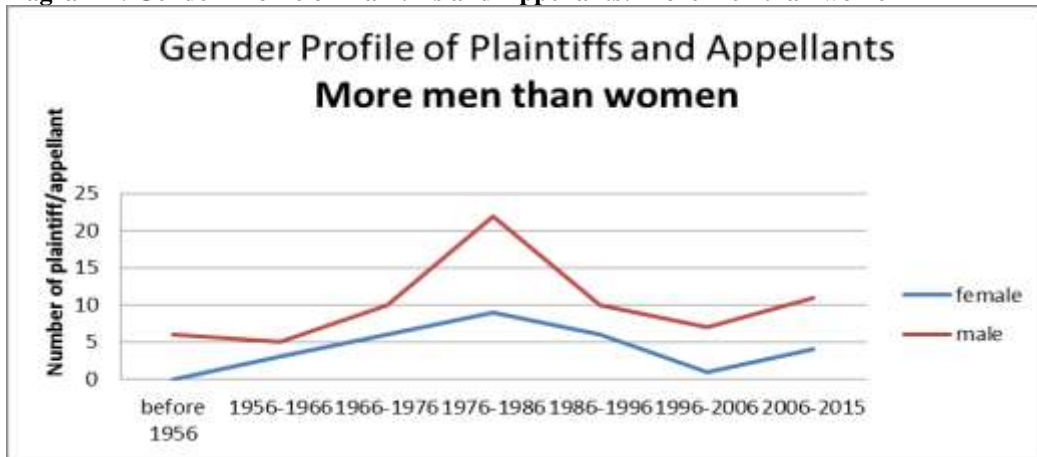
This further shows that with innumerable land laws in place, overhauling the system would require a change in other laws. At present, the changes in the state land laws and framing of policies that obstruct the right to litigate and dissent over land acquisition reinforce the customary control over land. Hence, it is only through morality of law and not its customary control in the state of Haryana will there be rise in social indicators along with equal ownership of land rights for women in Haryana. Through my analysis of land laws in Haryana and survey, this work concludes that legislative changes have not been able to secure ownership rights for women over the land. Shifting the increasing focus on land acquisition and conversion of land for non-agricultural purposes the hold of customary laws over land has become weak. But this, in turn, has not ensured increasing land ownership for women. Low social status, literacy rate and restrictions over mobility have continued to be hurdles for women in accessing land rights through judicial intervention, all these social practices further reinforces customs. And, finally the devolution of property continues to be a right of the male heir.

Diagram 1: Types of Land Disputes Filed in the Courts (Pre-1956 and 1956-2015)



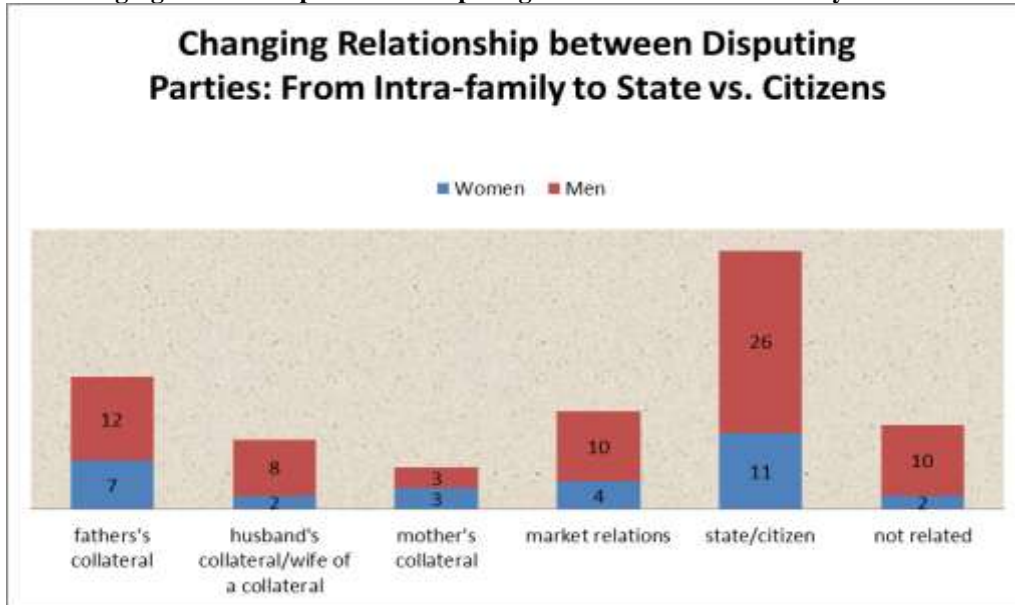
(Source: Data collected and analysed by the researcher)

Diagram 2: Gender Profile of Plaintiffs and Appellants: More men than women



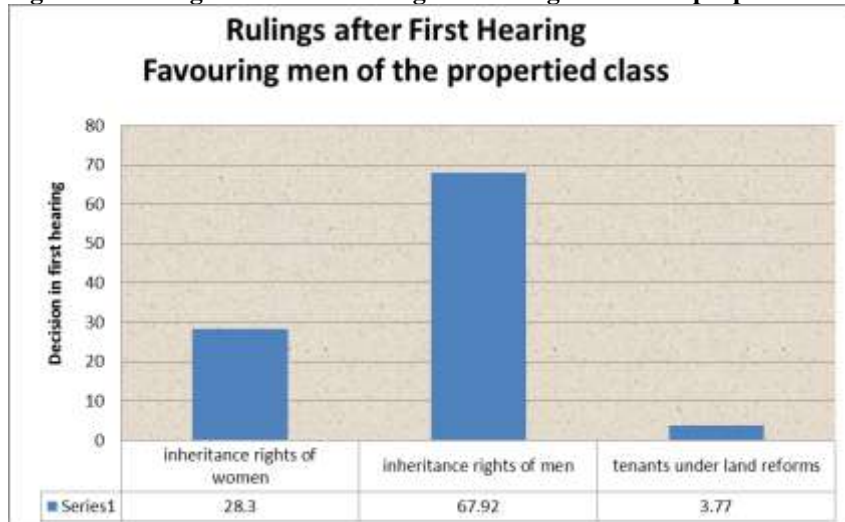
(Source: Data collected and analysed by the researcher)

Diagram 3: Changing Relationship between Disputing Parties: From Intra-family to State vs. Citizens



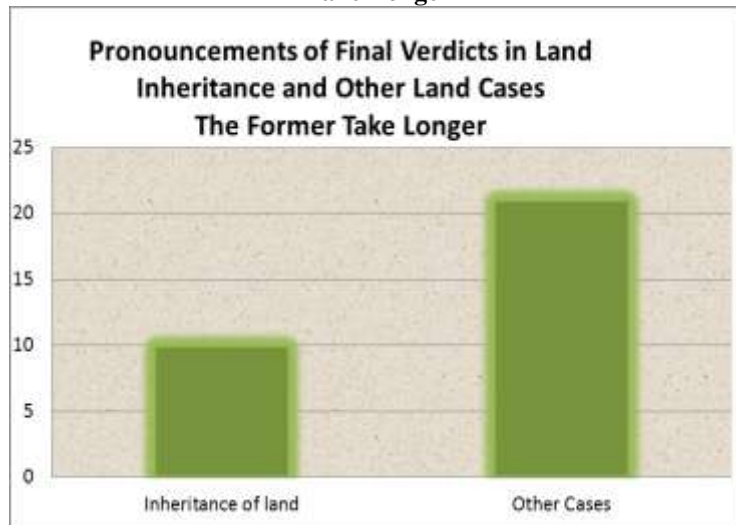
(Source: Data collected and analysed by the researcher)

Diagram 4: Ruling after First Hearing: Favouring men of the propertied class



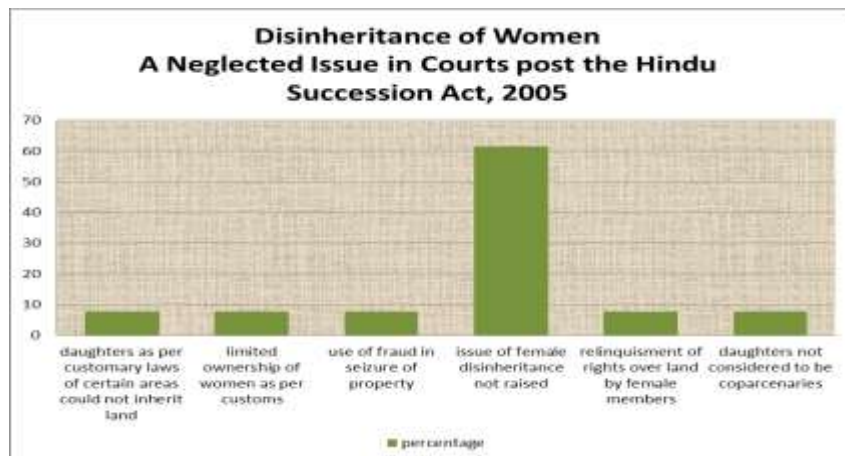
(Source: Data collected and analysed by the researcher)

Diagram 5: Pronouncements of Final Verdicts in Land Inheritance and Other Land Cases: The Former Take Longer



(Source: Data collected and analysed by the researcher)

Diagram 6: Disinheritance of Women A Neglected Issue in Courts post the Hindu Succession Act, 2005



(Source: Data collected and analysed by the researcher)

ⁱ Dharmashastras: a text passed from one generation to the other without being scrutinized. See Patrick Olivelle's translation of Manava Dharmashastras states that "according to the manavadharmashastras, the creator of the world taught this to his son Manu, he in turn taught it to his pupils, including Bhrgu. It is Bhrgu who becomes the spokesman and recites the treatise to the gathered seers. The view that the creator should have produced a text for governance of his creatures is found also in other texts." See, Patrick Olivelle, Manu's Code of Law (New Delhi: Oxford University Press, 2005).

ⁱⁱ Haryana attained statehood in 1966 it was earlier part of Punjab. In this piece, Punjab and Haryana would be used interchangeably to refer to the period before 1966.

ⁱⁱⁱ See, Mc Kim Marriott, 'Village Structure and the Punjab Government: A Restatement' American Anthropologist, New Series, Vol.55, No.1, January-March 1953, pp.137-143 "By the time the British reached Punjab however, the debate on local recognition was turning in favour of those who with Munro and Elphinstone, believed that the great administrative efficiency would be obtained through a maximal efficiency of the indigenous rural structure of power. The settlement officers of Punjab began a program of systematic ethnography. They collected volumes of information on native law and usage." In this process of ethnographic recording there were also systemic exclusion of some class through settlement of land holdings, the purpose of it could be linked to gain support from landed agricultural tribe. For instance, it is stated that: "British village Record of Rights do not contain names of non-cultivators, nor any inclusive census, nor do they contain information on difficult a religious question as sapinda exogamy..."

^{iv} D.A. Washbrook, 'Law, State and Agrarian Society in Colonial India', Modern Asian Histories, Vol.15, No.3, (1981), pp.649-721.

^v S.J Thompson, 'Parliamentary Enclosure, Property, Population, and the Decline of Classical Republicanism in Eighteenth-Century Britain', The Historical Journal, Vol.51, No.3 (Sep., 2008), pp.621-642.

^{vi} Richard Saumarez Smith, Rule by records: Land Registration and village custom in early British Panjab (Delhi: Oxford University Press, 1996).

^{vii} Coparcenaries is a concept where two or more persons inherit a title to land equally.

^{viii} Ibid., p.20

^{ix} Ibid.,p.21

^x See, M. Mufakharul Islam, 'The Punjab Land Alienation Act and the Professional Moneylenders' *Modern Asian Studies* 29, 2 (1995), pp.271-291: The Act divided the Punjab population into two groups: those who were members of the agricultural tribes and those who were not (i.e. were non-agriculturalists). The non-agriculturalists were at liberty permanently to alienate land through sales, exchange, gifts and wills. Members of the agricultural tribes would enjoy the same liberty but only if the alienee was a member of the same tribe in the same district. Permanent alienation by them to anyone belonging to this tribe (including the non-agriculturalists) would require the sanction of the Deputy Commissioner. Rules framed by the government under this Act provided that sanction should be given by the Deputy Commissioner when (a) the object of the purchase was to obtain (I) site for workshop or factory (ii) a building site close to a town or village site; (b) land was alienated by (I) a wealthy zamindar (landowner) for commercial reasons or to improve or consolidate his property (ii) an indebted zamindar owning mortgaged land and desiring to sell a part of the land in order to raise money to redeem the whole or part of the mortgaged land and (c) the sale was in favour of (I) zamindars who were originally classed as members of agricultural tribes or (iv) bonafide artisans who were not moneylenders or traders. In the case of several classes of sale under (b) the Deputy Commissioner had to be satisfied that no vendee of the agricultural tribe belonging to the same tribe as the vendor had offered or was ready to offer 'a fair price' for the land.

^{xi} Customary laws formed the binding force between the agricultural and non-agricultural communities; failed to suppress the rise of the non-agricultural moneylending class. The non-agricultural moneylending class converted land from being a resource held in common by members of a particular clan to a commodity for transaction in the land market. This led to the inception of market forces within a closed agricultural land holding communities across Punjab in the colonial phase. Intimidated by the rise of market and that of a non-agricultural tribe, landed proprietors impelled the colonial state to bring legislative changes through Punjab Limitation Act, 1904, the Transfer of Property Act, 1904, and the Punjab Pre-emption Act, 1905 in order to destabilise the moneylending class.

^{xii} Ibid.,pp.278-279.

^{xiii} According to the Punjab Settlement Manual compiled under J.M. Douie, the approach adopted in land settlement was a half-way process between changing the old system of control over land and introduction of new settlement. It was preferred to avoid revisions over records of rights during the land settlement process. The aim of the framers of Act XVII of 1887 was "to avoid elaborate periodical revisions of village records of rights by the expensive agency of a settlement establishment..." Interestingly, the duties of the settlement officers given by the colonial state was to avoid creating new rights, measures were taken to avoid initiating any judicial process over land; the Settlement Officer should rather behave as one among the villagers. See J.M. Douie., Punjab Land Settlement, p.124.

^{xiv} Hindu Succession Act, 1956 made women the absolute owners of the property.

^{xv} Pradeep Kumar, 'Sub-Nationalism in Indian Politics: Formation of A Harayanvi Identity', *The Indian Journal of Political Science*, Vol.52, No.1 (Jan-March 1991), pp.109-124.

^{xvi} Gaurang R. Sahay, 'Traditional Institutions and Cultural Practices vis-à-vis Agrarian Mobilisation: The Case of Bhartiya Kisan Union', *Sociological Bulletin*, Vol.53, No.3 (September-December 2004), pp.396-418.

^{xvii} Dipankar Gupta, *Rivalry and Brotherhood: Politics in the Life of Farmers in Northern India* (New Delhi: OUP, 1997).

^{xviii} <<https://www.huda.gov.in/Pages/IntroductionofHUDA.aspx>>

^{xix} Regulatory Abitrage: A practice where firms capitalise on loopholes in regulatory systems in order to circumvent unfavourable regulation.

^{xx} This policy include: (a) payment of market value as compensation of land to the landowners with the revision and fine-tuning of minimum floor rates in respect of land situated in different parts of the state; (b) introduction of a special incentive for reducing litigation qua the compensation amount; (c) revision of the rates of Annuity payable for a period of 33 years as a social security benefit for the landowners; and (d) review and introduction of certain additional benefits over and above the one-time compensation paid in accordance with the law so as to provide for alternate means of sustenance for the landowners and other landless persons/artisans who are dependent on agricultural land being acquired for non-agricultural purposes.(accessed on 8.6.2015) <<http://agriharyana.nic.in/R&R%20Policy.pdf>>

^{xxi} The industrial infrastructure in the State is being strengthened through development of new Industrial Model Townships and Industrial Estates and expansion of the existing estates. Industrial Model Townships (IMTs) are being developed at Rohtak, Faridabad, and Rojka-Meo in Mewat.

^{xxii} It was set up in 1967 to transform Haryana from an agricultural economy to an industrial one. HSIIDC has already developed a number of industrial model townships/industrial estates at strategic location in the state and plans to develop such projects at new sites besides expansion of existing ones.

^{xxiii} The Land Acquisition Act, 1894 (New Delhi: Universal Law Publishing, 2011).

^{xxiv} See *Tata Motors Limited and Anr vs. The State of West Bengal and Ors*, A.S.T. No. 1862 of 2011, A.S.T.A. No. 469 of 2011, A.S.T. No. 1863 of 2011 and C.O.T. 29 of 2011, (2012)3CALLT1(HC): The public purpose stated by the Left parties during their rule in West Bengal was that the state government in order to generate employment and for ensuring socio-economic development will be setting up of a small car project by Tata Motors. State by acquiring land from the land owners transferred 997.17 acres of land to West Bengal Industrial Development Corporation Limited (WBIDC) for facilitating the setting up of Tata Motors Limited and for setting up of factories or industries ancillary for social and economic development. The WBIDC without charging any premium granted a lease of 647 acres of land at an annual rent in favour of TML for the sole purpose of small car production so that the object and purpose of the State could be achieved and hereafter issued letters of allotment to several ancillary industries as recommended by the TML (for short vendor) by charging premium and at nominal annual rent.

^{xxv} See, *Chhellu and Ors vs. Haryana through Land Acquisition Collector*, (2009)155PLR427 and *Raghubir and Others vs. Haryana and others*, CM Nos. 480-482/CI of 2012 and RFA No. 249 of 2012 (O&M) Dr. Vijay Khosla and Anr vs. Haryana and Ors (2007) 147PLR592.

^{xxvi} Dominant Position: Dominant positions of certain developers are also based on geographical location, for instance, in a certain geographical location a certain developer is capturing the entire real estate market giving an impression of not capturing the entire market as a whole thereby proving that they do not hold a dominant position.

^{xxvii} CWP Nos. 826 and 1468 of 2011.

^{xxviii} The Department of Town and Country Planning, Haryana is the nodal department to enable regulated urban development in the State of Haryana. The policies of the department aim to encourage a healthy competition amongst various private developers and public sector entities for integrated planned urban development. The department also renders advisory services to various Departments/Corporations/Boards such as HUDA, Housing Board, HSIIDC, Marketing Board. The Department of Town and Country

Planning, Haryana is responsible to regulate the development and also to check the haphazard development in and around towns in accordance with the provisions of following statutes:- (a) The Punjab Scheduled Roads and Controlled Areas Restrictions of Unregulated Development Act, 1963;(b) The Haryana Development and Regulation of Urban Areas Act, 1975;(c) The Punjab New (Capital) Periphery Control Act, 1952. Haryana government has also set up a statutory body for execution of urban development projects. This department is also granting licenses to the private colonizers to develop residential and commercial colonies in urban areas under the provisions of the Haryana Development and Regulations of Urban Areas Act, 1975. Apart from HUDA, other agencies involved in the urban development of the state are Housing Board, Marketing Board and HSIDC. See, <<http://tcparyana.gov.in/>>

^{xxxix} Certiorari: the decision violates the law or is without jurisdiction.

^{xxx} Mandamus: ordering a government agency to perform an act which it has refused to perform.

^{xxxi} Other Backward Classes is a government categorisation of a group of castes based on their social and economic backwardness. The castes falling under this group differs from one state to the other in India. Despite inclusion of certain castes under this category they occupy a position of power and dominance in their villages. There is a huge politics of inclusion and exclusion surrounding this categorisation of OBC in India.

References

- [1]. Bayly, C.A. 1985. "State and Economy in India in Seven Hundred Years." *The Economic History Review* 38 (4): 583-596.
- [2]. Chowdhry, Prem. 2011. *Political Economy of Production and Reproduction: Caste, Custom and Community in Northern India*. New Delhi: Oxford University Press.
- [3]. Diwan, Paras. 2010. *Muslim Law in Modern India*. Faridabad: Allahabad Law Agency.
- [4]. Diwan, Paras. 2006. *Customary Law of Punjab and Haryana*. Chandigarh: Panjab University Publications.
- [5]. Douie, J.M. 1985. *Punjab Settlement Manual 1899*. New Delhi: Daya Publishing House.
- [6]. Dushka, Saiyid H. 1999. "The Impact of Customary Law on Punjabi Muslim Women." *International Journal of Punjab Studies* 16 (1).
- [7]. George, Rankin. 1939. "Custom and the Muslim Law in British India." *Transactions of the Grotius Society Problems of Peace and War* 25:89-118.
- [8]. Habib, Irfan. 2011. *Essays in Indian History: Towards a Marxist Perspective*. New Delhi: Tulika Books.
- [9]. Roy, Sripati. 1986. *Customs and Customary Laws in British India*. Delhi: Mittal Publications.
- [10]. Shadle, Brett L. 1999. "Changing Traditions To Meet Current Altering Conditions: Customary Law, African Courts and The Rejection of Codification in Kenya, 1930-60." *Journal of African History* 40:411-431.
- [11]. Washbrook, D.A. 1981. "Law, State and Agrarian Society in Colonial India." *Modern Asian Histories* 15 (3):649-721.
- [12]. Wilson, Jon.E. 2005. "A Thousand Countries To Go To: Peasants and Rulers in Late Eighteenth-Century Bengal." *Past and Present* 189: pp.81-109.