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DAUGHTERS AS COPARCENERS: A SOCIO-LEGAL ASSESSMENT OF GENDER EQUALITY IN HINDU SUCCESSION

~ Rudrali Deshpande

ABSTARCT

This article studies how daughters have been involved in the Mitakshara Hindu joint family system as coparceners. The writer examines whether recognition of daughters' statutory right has led to their being coparceners in light of past developments. The writer traces the exclusion of women from coparcenery beginning with the classical texts of the doctrine and the provisions of the Hindu Succession Act, discusses Section 6, which was modified in 2005 and follows the decisions of the Supreme Court dealing with the question from *Prakash v. Phulavati* and *Danamma v. Amar* to *Vineeta Sharma v. Rakesh Sharma*. The paper analyses the amendments in light of the Constitution of India, the agrarian census, the principles of devolution, and its own findings based on econometric analysis. The author concludes that the judgment in the case of *Vineeta Sharma* fulfils the requirement of development of the meaning of equal rights at birth but identifies some serious shortfalls in terms of exclusion of Scheduled Tribes, relinquishment of share informally by daughters, the state of land records, and the residual discriminatory provisions in Section 15.

Keywords: *Hindu Succession Act; coparcenary; Mitakshara; Section 6; Vineeta Sharma; gender equality; property rights*

I. INTRODUCTION:

Property ownership in India is one of the dynamic concept and isn't merely treated as an economic matter. Within a Hindu Joint Family, a share in the joint family is determined by who can demand partition, who has the right to alienate, who is responsible for managing the family estate, etc. The Mitakshara school of Hindu law, which governs most of India except Bengal and Assam, has long limited inheritance rights to a small circle of men called coparceners¹. Girls were considered family members but not co-owners of family property because they could claim only maintenance and marriage expenses, not inherit property. However, the Hindu Succession (Amendment) Act, 2005 (the "2005 Amendment") changed everything. The daughters of coparceners became coparceners themselves "by birth in the same way as sons," with the Parliament adding a clause to Section 6 of the Hindu Succession Act, 1956 (the "HSA")². However, this clause led to some ambiguities regarding the meaning of the term "birthright" regarding timing and status as well, which the Supreme Court had to resolve over the course of 15 years. In 2020, the Supreme Court finally settled these issues by ruling in the case of *Vineeta Sharma v. Rakesh Sharma*³.

The paper provides a socio-legal evaluation of the sequence of events. Three important questions are addressed. The initial one is: how was Hindu law successful in excluding the daughters and how was the exclusion subsequently cracked open? The second question is related to how the judiciary has interpreted the newly amended Section 6 and whether its current interpretation is stable enough from legal standpoint. Finally, the last question is whether the legal principle of equality can make any significant contribution to the equitable distribution of property rights and wealth.

II. DOCTRINAL FOUNDATIONS: THE MITAKSHARA COPARCENARY AND THE LOGIC OF EXCLUSION

The concept of the Hindu joint family is a large institution consisting of all direct descendants of a common ancestor, including their wives and unmarried daughters. In

¹Vijnaneshwara, MITAKSHARA ch. I, § I (commenting on the Yajnavalkya Smriti); see also J. Duncan M. Derrett, INTRODUCTION TO MODERN HINDU LAW (1963).

²Hindu Succession Act, 1956, No. 30, Acts of Parliament, 1956, § 6(1)(a) (India), amended by Hindu Succession (Amendment) Act, 2005, No. 39, Acts of Parliament, 2005 (India)

³*Vineeta Sharma v. Rakesh Sharma*, (2020) 9 S.C.C. 1 (India).

comparison, the coparcenary is significantly smaller. In accordance with Mitakshara law, male owners of inherited property form a coparcenary club including themselves and their son, grandson, or great-grandson, who automatically inherit a piece of property.⁴ The characteristics of this specific institution include the birthright, the survivorship right, share fluctuations that occur as a result of births or deaths, and the right of partition. At the same time, the share of a coparcener in the event of death does not go to his heirs, as it will go to his fellow coparceners only. The reason for the exclusion of women is that membership is passed through the father.

The Dayabhaga school, which is prevalent in Bengal and Assam, functions differently. In Dayabhaga, sons are not coparceners at birth and acquire inheritance only by the death of the father. Thus, a coparcenary would not emerge under Dayabhaga while the father is alive. The 2005 Amendment therefore applies to the Mitakshara coparcenary, thus being the limitation that the Hon'ble Supreme Court has understood to be the key factor in relation to Section 6.⁵

Aside from being recognised in classical texts, the status of women under the law was curtailed. The daughters would be endowed with *stridhana*, that is, property given to them during or after marriage, which could entitle them to claim maintenance as well as marriage expenses from the family estate. The widows, on the other hand, were entitled to a limited estate only. These women would have a right to enjoy the benefits of a husband's property received from inheritance, but not sell or transfer the same except for use in emergencies. Despite amendments made to the colonial law, matters did not improve much. The Hindu Law of Inheritance (Amendment) Act, 1929, only recognised the right of certain female relatives to be within the lines of heirs. The Hindu Women's Rights to Property Act, 1937, provided widows with limited rights only in the husband's property, including the rights during partition.⁶ Neither measure discussed about the rights of daughters as coparceners. It may be said that the widow's expanded estate remained limited until the enactment of Section 14 of the HSA, which had the effect of changing the character of the estate to one of absolute ownership, a situation that the Supreme Court interpreted broadly in the case of *Vaddeboyina Tulasamma v. Vaddeboyina Sesha Reddy*⁷.

⁴See Vijñaneshwara, MITAKSHARA ch. I, § I; Derrett, *supra* note 1.

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⁶Hindu Women's Rights to Property Act, 1937, No. 18, Acts of the Imperial Legislative Council, 1937 (India).

⁷*Vaddeboyina Tulasamma v. Vaddeboyina Sesha Reddy*, (1977) 3 S.C.C. 99 (India).

III. STATUTORY EVOLUTION: FROM EXCLUSION TO BIRTHRIGHT

A. *The Hindu Succession Act, 1956 and the Original Section 6*

The journey of codification was as much political as it was legal. The Hindu Code Bill, which was first mooted in the late forties, suggested giving daughters and sons equal shares and restructuring joint families. It faced a massive backlash in the Constituent Assembly and the Parliament, with Dr B.R. Ambedkar resigning as the law minister in 1951 due to the bill stalling.⁸ By the time the law was finally passed in 1955-56, it came piecemeal, with coparcenary being the price for the compromise. One of the provisions that went through changes before the final enactment included the provisions on the equal shares of daughters in ancestral property.

The Hindu Code was implemented in four phases from 1955 to 1956, thereby establishing intestate succession laws for the Hindus, Sikhs, Jains and Buddhists. The HSA made sure that the daughter and the widow's estate were equal to that of the son by including them in Class I heirs.⁹ The Act has deliberately kept the Mitakshara coparcenary intact. Section 6 specifically states that in case of the death of a male coparcener, his share will pass on to his coparceners who are alive. However, this rule will be changed if he has a female heir in Class I or a male heir with inherited claims through a female heir, since then the process of succession comes into play. The share of the coparcener will be calculated based on the fiction that there was a partition immediately before death.

The Supreme Court ruled on the case of *Gurupad Khandappa Magdum v. Hirabai Khandappa Magdum*, stating that fiction must run its full course and the female heir must be given the portion she would have gotten on a hypothetical partition as well as that of the deceased's share.¹⁰ Although this ruling made the rule softer, it did not bring about any change in its basic premise. The daughter was still just a mere heir of her father's fractional interest and never a coparcener with her own share in the inheritance. As illustrated in Part VI, this resulted in an extensive disparity between the sons and daughters of the same father.

B. *The State Amendments*

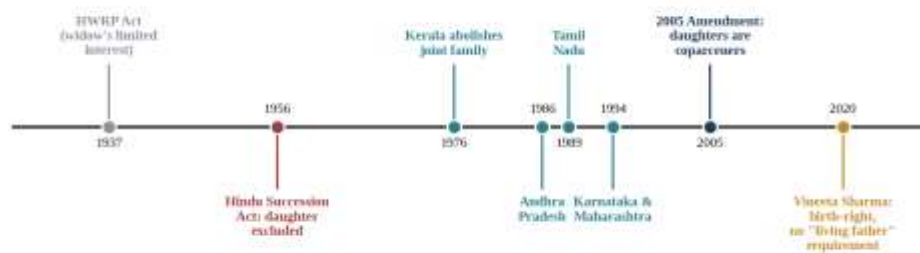
⁸Ramachandra Guha, *INDIA AFTER GANDHI: THE HISTORY OF THE WORLD'S LARGEST DEMOCRACY* (2007).

⁹Hindu Succession Act, 1956, No. 30, Acts of Parliament, 1956, § 8 & sched. (India).

¹⁰*Gurupad Khandappa Magdum v. Hirabai Khandappa Magdum*, (1978) 3 S.C.C. 383 (India).

A number of States were ahead of the Parliament in this regard. Thus, in 1976 Kerala abolished the Hindu joint family system altogether through legislation and thereby brought an end to coparcenary rights and made all the members tenants in common.¹¹ Andhra Pradesh followed Kerala's example in 1986; Tamil Nadu in 1989, and Karnataka and Maharashtra in 1994 when they amended Section 6 to convert daughters into coparceners. Nonetheless, these State reforms differed in scope, with some restricting benefits to only those daughters who were not married at the time when the reforms came into operation. The result was a patchwork and it was possible to say that the rights of daughters depended on their residence and marital status.¹² Figure 1 places these reforms on a common timeline and Figure 2 shows how far each preceded the central law.

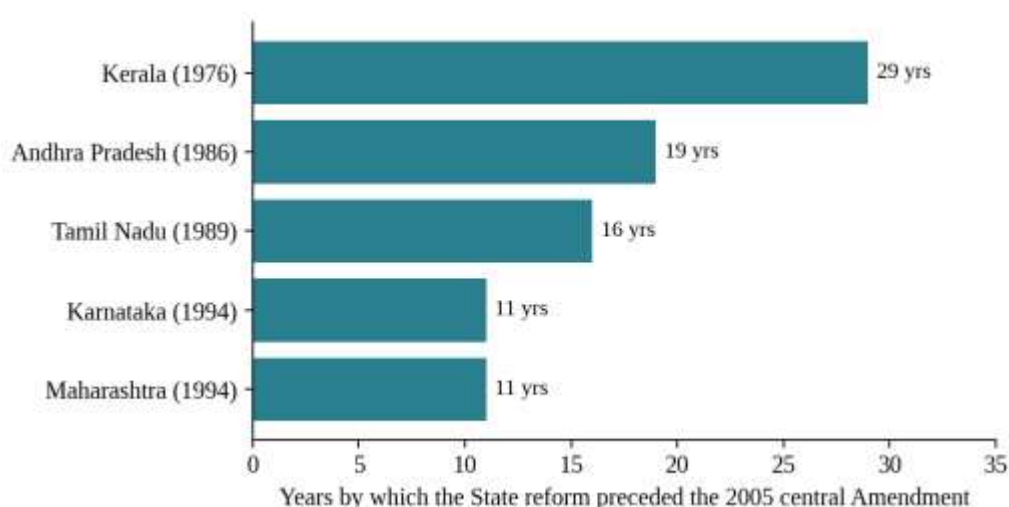
Figure 1. Milestones in the recognition of daughters' coparcenary rights, 1937-2020



Source: compiled by the author from the statutes and decisions cited in Parts II–IV.

¹¹Kerala Joint Hindu Family System (Abolition) Act, 1975 (in force Dec. 1, 1976) (India).

¹²Hindu Succession (Andhra Pradesh Amendment) Act, 1986 (India); Hindu Succession (Tamil Nadu Amendment) Act, 1989 (India); Hindu Succession (Karnataka Amendment) Act, 1994 (India); Hindu Succession (Maharashtra Amendment) Act, 1994 (India). The precise commencement dates and the treatment of daughters married before commencement differ among these enactments and should be consulted individually.

Figure 2. Lead time of State reforms over the 2005 Amendment (years)

Source: author's computation from enactment or commencement years of the State reforms cited in note 12.

C. The Law Commission and the 2005 Amendment

The 174th Report of the Law Commission of India states that the issue is simple. The report highlighted that because the daughters were excluded, the Mitakshara coparcenary is discriminatory. This is in violation of the Constitution as it denies equality, but the Commission's report nevertheless shows that it is possible for the State to make a transition.¹³ It has been explicitly stated in the report that daughters should be given equal standing with regard to their admission into coparcenary along with sons, further recommending the repeal of Section 23, which currently prevents a daughter from claiming partition in the family residence. The bill based on this report was tabled on December 20, 2004 and was enacted in the year 2005, coming into force on September 9, 2005.

D. The Architecture of Amended Section 6

The revised Section 6 can be interpreted as five connected propositions summarised in Table 1. Firstly, since the commencement of the Act, a daughter of a coparcener is a coparcener at birth with identical rights and duties as a son, and any reference to a coparcener according to the Mitakshara school will be inclusive of her.¹⁴ A proviso allows any transaction, gift, partition, or will to stand if done before December 20, 2004.

¹³Law Comm'n of India, Rep. No. 174, PROPERTY RIGHTS OF WOMEN: PROPOSED REFORMS UNDER THE HINDU LAW (2000).

¹⁴Hindu Succession Act § 6(1)(a)-(c).

¹⁵Secondly, property acquired by a female Hindu under Section 6(1) is owned like property owned in a coparcenary mode and can be bequeathed.¹⁶ Thirdly, on the death of a Hindu after the commencement of the Act, all coparcenary rights of the deceased will devolve by will or intestate succession, not by survivorship, and a fictitious partition will take place, giving the daughter a share equal to her brother's share.¹⁷ Fourth, the duty of a son, grandson or great-grandson to clear the debts of the father after him.¹⁸ The fifth point defines "partition" in relation to this section only to mean partition under the Registration Act, 1908 and by a court order.¹⁹ The Amendment has also done away with Section 4(2), Section 23 and Section 24 of the Act, which excluded the preservation for agri-tenancy laws, restriction on the claim of a daughter in the dwelling house of the family and disqualification of certain remarried widows.²⁰

Table 1. Devolution of a Mitakshara coparcener's interest under successive regimes

Feature	Classical Mitakshara	HSA 1956 (original § 6)	HSA as amended, 2005 (§ 6)
Daughter's status	Family member; no birth-right in ancestral property	Class I heir only; not a coparcener	Coparcener by birth, same as son
Mode of devolution	Survivorship	Survivorship, unless a female Class I heir survives; then succession	Testamentary or intestate succession; notional partition
Daughter's share	None (maintenance and marriage expenses)	Share only in the father's notional portion	Equal to a son's share throughout
Right to demand partition	Male coparceners only	Male coparceners only	All coparceners, including daughters

¹⁵*Id.* § 6(1) proviso.

¹⁶*Id.* § 6(2).

¹⁷*Id.* § 6(3).

¹⁸*Id.* § 6(4).

¹⁹*Id.* § 6(5) explanation.

²⁰Hindu Succession (Amendment) Act, 2005, No. 39, Acts of Parliament, 2005, § 3 (India).

Feature	Classical Mitakshara	HSA 1956 (original § 6)	HSA as amended, 2005 (§ 6)
Definition of partition	Any mode, including oral	Any mode, including oral	Registered deed or court decree (§ 6(5))

IV. JUDICIAL EVOLUTION

A. *Early Decisions and the Question of Pending Proceedings*

The initial judgments adopted a cautious approach towards the new law. In *Sheela Devi v. Lal Chand*, the Supreme Court ruled that once the succession process has started before the new law came into being, the new provisions cannot change rights that already exist.²¹ But in *Ganduri Koteswaramma v. Chakiri Yanadi*, the Court ruled that the partition suit is regarded as pending until the final decision is passed and that adult daughters can claim relief under the new provisions even if the preliminary order has just been passed, and instructed the trial court to amend the decree.²² The case established that the law is compassionate and procedures cannot deny the benefit granted by the law to the parties.

B. *Prakash v. Phulavati and the Requirement of a Living Coparcener*

In the case of *Prakash v. Phulavati*, the restrictive nature of the law was introduced. The father had lost his life in 1988, the daughter claimed partition in 1992, and the law was enforced.²³ The judgment came from the two-bench judges, whereby it was stated that the change in law under section 6 was not retroactive in nature. The defence could only rely on the point that those daughters who were alive at the time of commencement of the law would benefit from the law. The court stated that the wording of the law clearly indicates the prospective application of the law after the date of its application. The issue here is that the law doesn't apply to the daughters whose father died prior to the application of the law. Therefore, the parents' death date became the reason for the effectiveness of the rights under the chapter.

C. *Danamma and Mangammal: A Divided Court*

²¹Sheela Devi v. Lal Chand, (2006) 8 S.C.C. 581 (India).

²²Ganduri Koteswaramma v. Chakiri Yanadi, (2011) 9 S.C.C. 788 (India).

²³Prakash v. Phulavati, (2016) 2 S.C.C. 36 (India).

The Court reached contradictory decisions in just under two years. For instance, in the case of *Danamma v. Amar*, the father died in 2001, but a different bench ruled that the daughters must have equal portions like the sons on the ground that the amendment granted rights of birth, irrespective of the father's existence.²⁴ Shortly thereafter, the Prakash ruling was followed in the case of *Mangammal v. T.B. Raju*, but the bench dismissed the daughter's claim on the basis of the death of her father in 1989, which was much before the amendment.²⁵ This bestowed on the lower courts and High Courts two contradictory authorities of equal preeminence in terms of legal compliance and conflicting judgments had to be rendered in equal cases.

D. Vineeta Sharma v. Rakesh Sharma: The Authoritative Resolution

This case was sent to a bench of three judges in the Vineeta Sharma decision, which is authoritative today. The judges ruled that a daughter acquires coparcenary rights at birth irrespective of the fact that her father might not have been alive on September 9, 2005. The provision is retroactive in that it produces new effects from an event that took place much earlier, like the daughter's birth, and therefore it applies to cases of daughters born before 2005, too.²⁶ Prakash and Mangammal were overruled to the extent that they spoke of sole survivorship of a father and the reasoning of Danamma was accepted.²⁷ The judgment stated that a daughter holds the same rights and obligations as a son and that the scope of her coparcenary status is not influenced by the fact of her marriage.

Equally significant is the Court's stance on the prior partitions. As the exception to section 6(1) and the explanation to section 6(5) allow only registered partitions and partitions made by a decree of the court, the cautioning words of the Supreme Court regarding the fact that nothing but a mere oral partition can take away the rights of the daughter come into play. Only in rare situations may the claim about the oral partition be accepted, if proven by certain public documents and so acted on by the authorities.²⁸ The Supreme Court has ordered the courts to dispose of all partition claims pending in the courts at the earliest since delay might defeat the claim. In *Arunachala Gounder v Ponnusamy*, the Supreme Court extended a similar interpretation to the self-acquired property of a Hindu male who died

²⁴Danamma v. Amar, (2018) 3 S.C.C. 343 (India).

²⁵Mangammal v. T.B. Raju, (2018) 15 S.C.C. 662 (India).

²⁶Vineeta Sharma, (2020) 9 S.C.C. 1.

²⁷*Id.*

²⁸*Id.*

intestate before the year 1956 saying that the daughter inherits the property in absence of male heirs.²⁹

Two aspects of the ruling need to be highlighted. The first is that equality entails both liabilities and advantages. Due to the fact that section 6(1)(b) imposes the same obligations on the daughter, she is now liable for family liabilities to the same degree as a male coparcener, despite the fact that section 6(4) has eliminated the obligations of the son in the future. The second is the reason given by the Court when it comes to the idea of vested rights. The Court did not consider the amendment to be disturbing concluded transactions since the provision protects the transactions carried out prior to December 20, 2004.

Table 2. Principal decisions on daughters as coparceners

Case	Year	Principal holding
Gurupad Khandappa Magdum v. Hirabai Khandappa Magdum	1978	Notional partition must be carried through so female heirs receive their own share; the daughter remains a mere heir.
Sheela Devi v. Lal Chand	2006	Amendment does not disturb succession that had already opened.
Ganduri Koteshwaramma v. Chakiri Yanadi	2011	Preliminary decree can be amended while the suit is pending; daughters benefit.
Prakash v. Phulavati	2016	Amendment prospective; only living daughters of living coparceners on Sept. 9, 2005 qualify.
Danamma v. Amar	2018	Daughters granted equal shares though father died in 2001.
Mangammal v. T.B. Raju	2018	Followed Prakash; daughter denied because father died in 1989.
Vineeta Sharma v. Rakesh Sharma	2020	Birth-right; living father not required; oral partition rejected unless supported by public documents.

²⁹Arunachala Gounder v. Ponnusamy, (2022) 11 S.C.C. 520 (India).

Case	Year	Principal holding
Arunachala Gounder v. Ponnusamy	2022	Daughter inherits the self-acquired property of a man dying intestate before 1956.

V. THE CONSTITUTIONAL DIMENSION

Despite the fact that *Vineeta Sharma* is an example of legal interpretation, the reform has a constitutional basis. Article 14 ensures equality to all before the law, while Article 15(1) prohibits any discrimination on grounds only of gender.³⁰ Article 15(3) allows for special provisions regarding women, whereas Articles 39(a) and (b) state that the State has to provide adequate means of subsistence for both men and women equally and allocate material resources for the common welfare of society.³¹ Article 51A(e) states that one of the fundamental duties of every citizen is to abandon customs that violate the dignity of women.³² Moreover, India is a party to the Convention on the Elimination of All Forms of Discrimination Against Women, and Article 16(1)(h) gives equal rights to spouses concerning ownership and use of property.³³

The Supreme Court's wider thinking on equality lends support to Vineeta Sharma's interpretation. In *Anuj Garg v. Hotel Association of India*, the Supreme Court held that even benevolent laws, which rest on women being weak, violate Article 15.³⁴ In *Joseph Shine v. Union of India*, the Court struck down the provision for adultery because it treated the wife like the husband's property and took away her freedom.³⁵ The male coparcener concept is based on the same stereotype that the two courts have rejected; namely, that a daughter goes to another family and it is the son who carries the family lineage, which is precisely what the 2005 Amendment does; from being a legal provision, it removes a classification that cannot be justified within the constitutional framework.

Moreover, the constitutional case shows that the reforms are governed by certain limitations. Section 2(2) of the HSA states that Scheduled Tribes cannot take the benefit of the Act unless otherwise directed by the Central Government. The court in *Madhu Kishwar*

³⁰India Const. arts. 14, 15(1).

³¹*Id.* arts. 15(3), 39(a)-(b).

³²*Id.* art. 51A(e).

³³Convention on the Elimination of All Forms of Discrimination Against Women art. 16(1)(h), Dec. 18, 1979, 1249 U.N.T.S. 13.

³⁴*Anuj Garg v. Hotel Ass'n of India*, (2008) 3 S.C.C. 1 (India).

³⁵*Joseph Shine v. Union of India*, (2019) 3 S.C.C. 39 (India).

v. State of Bihar did not expand the provisions of the Act to tribal women and recognised the constitutional questions involved but did not wish to overturn tribal inheritance customs.³⁶ However, even today, tribal women, who are the most land-dependent in society, continue to be excluded from the 2005 Amendment without any justification.

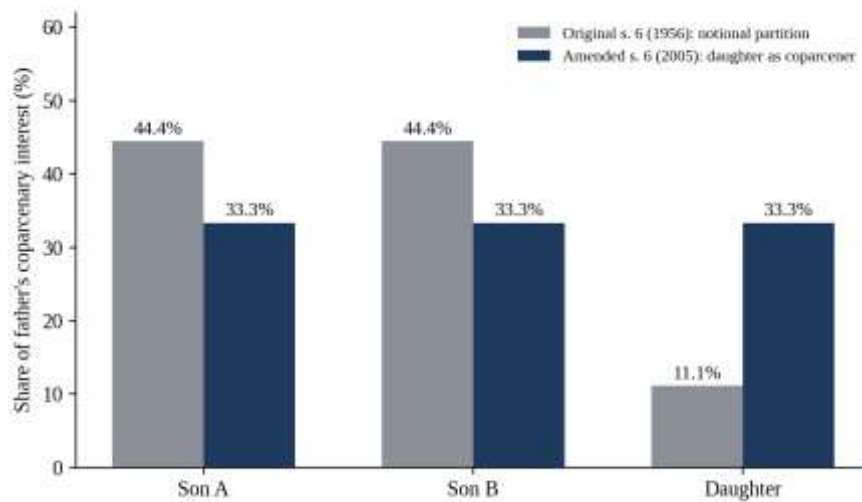
VI. A SOCIO-LEGAL ASSESSMENT: HAS LEGAL EQUALITY PRODUCED SUBSTANTIVE EQUALITY?

A. The Arithmetic of Inequality

Computation can demonstrate the practical implications of this reform in law. Suppose a Hindu male dies leaving behind a wife who died earlier, two sons, and a daughter with only his own share of the ancestral coparcenary property. As per the previous Section 6, it can be assumed that a notional partition performed immediately before death will divide the property between him and his two sons, each receiving one-third. His daughter receives no share under partition but is entitled to inherit one-third of her father's share. Thus, his sons will receive a four-ninths ($\frac{4}{9}$ th) share in the property, whereas the daughter will receive only one-ninth ($\frac{1}{9}$ th). Under the amended Section 6 of the Act, the daughter has become a coparcener. Consequently, the property would be divided into four coparceners at the time of notional partition of the property, one-fourth each. Moreover, the share of the father will also be divided among his three children equally. Thus, each child will receive one-third of the entire property. The above point has been discussed as shown in Figure 3.

³⁶*Madhu Kishwar v. State of Bihar*, (1996) 5 S.C.C. 125 (India); Hindu Succession Act, 1956, No. 30, Acts of Parliament, 1956, § 2(2) (India).

Figure 3. Illustrative devolution of a father's coparcenary interest (two sons and one daughter; mother predeceased)

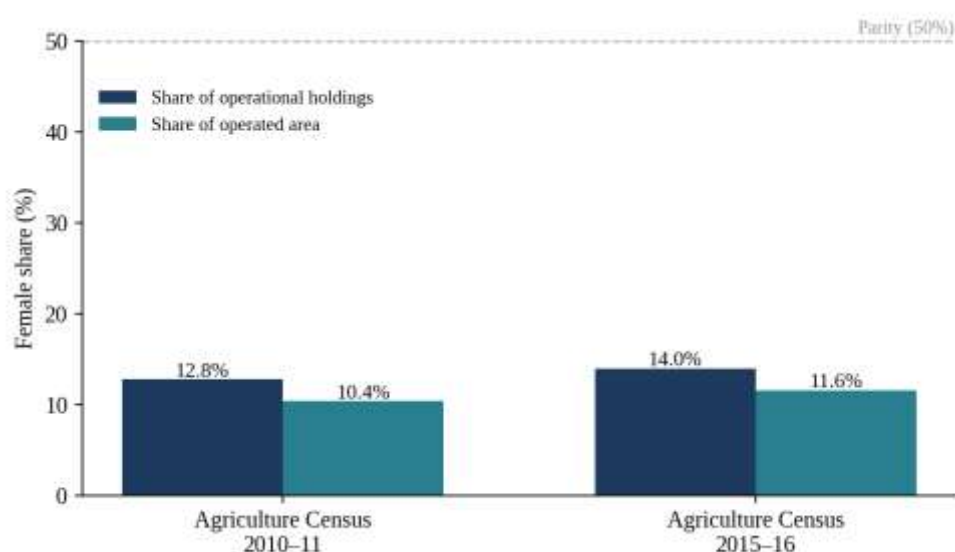


Source: author's computation applying original and amended § 6 of the Hindu Succession Act, 1956. The example is illustrative and assumes no will and no other heirs.

B. . What the Empirical Evidence Shows

Evaluating inheritance reforms proves challenging, however, because succession typically occurs in private and is frequently unrecorded. The most significant indicator is the Agriculture Census, which shows women's operational holdings. This data needs to be interpreted carefully, however, as operational holding data refers to the person who actually operates the land and not to the owner, who is frequently male in rural India. According to the Census, the percentage of agricultural land holdings operated by women increased from 12.8 percent in 2010-11 to 14.0 percent in 2015-16, while the area operated from 10.4 percent to 11.6 percent.³⁷ Also, the average holding of women was around 0.90 hectares compared to male holdings, which were around 1.10 hectares. All this data is released before the landmark decision in the Vineeta Sharma case, and it refers to a period in which the 2005 law was under review in the courts.

³⁷Dep't of Agric., Coop. & Farmers Welfare, Ministry of Agric. & Farmers Welfare, Gov't of India, AGRICULTURE CENSUS 2015–16: ALL INDIA REPORT ON NUMBER AND AREA OF OPERATIONAL HOLDINGS (2019). The figures in Figure 4 are rounded from the reported percentages, and provisional figures published in 2018 differed marginally from the final report.

Figure 4. Female share of operational holdings and operated area, India

Source: Agriculture Census 2010-11 and 2015-16 (rounded). Operational holdings measure land operated, not legal title.

The trend is optimistic but small, and women are still not at parity. More convincing proof comes from econometric studies of earlier reforms. Deininger, Goyal and Nagarajan discovered that, when exposed to land reform, the chances of inheriting land are greater for women and that this is also positively correlated with education outcomes in subsequent generations of women.³⁸ However, findings show that such legal reforms may work slowly, making the impact not the same in all regions.

C. Why the Gap Persists

The study conducted by Bina Agarwal describes the rationale as to why a legal entitlement does not have to become property. Agarwal claims that owning land gives women economic stability, welfare and negotiation skills, and explains that there are impediment to women having ownership at the family, community, market and State levels³⁹. In her subsequent analysis of laws, she claims that family institutions are the least prone to changing among these levels because inheritance is determined in families under social pressure. Flavia Agnes likewise warns that personal law changes do not necessarily disturb

³⁸Klaus Deininger, Aparajita Goyal & Hari Nagarajan, *Women's Inheritance Rights and Intergenerational Transmission of Resources in India*, 48 J. Hum. Resources 114 (2013).

³⁹Bina Agarwal, *A FIELD OF ONE'S OWN: GENDER AND LAND RIGHTS IN SOUTH ASIA* (1994).

the distribution of power within the household. Four mechanisms in this respect should be specially taken into account.

An additional structural inconsistency is found in Section 15 of the HSA, pertaining to the property of a Hindu woman who dies intestate. Where the property is inherited from her husband or her father-in-law, it is first transferred to her own children and then to the heirs of her husband; and where the property has been inherited from her parents, the property goes to the heirs of her father in case of absence of children. This provision has been criticised by scholars and law-reformers for treating property acquired by the woman as if it is the property of her marital or natal family. The provisions of the 2005 Amendment to the 1956 Act have remained unchanged.

VII. CONCLUSION

Although Hindu law was based on the practice of not letting daughters enter coparcenary accounts owing to reasons having to do with patrilineal descent, lawmakers have made sure that such exclusion is eliminated step by step, starting with the amendments adopted in 1976 and finishing with the one adopted in 2005, which gave a birthright to every daughter. However, the courts were slower in taking action. Following the narrow understanding of the law in the *Prakash* case and the conflict of *Danamma* and *Mangammal* cases, Vineeta Sharma interpreted the purpose of the law correctly by stating that it gives the right of inheritance by birth, rather than depending on the death of the father or his existence. This decision is consistent with the principles laid down in the Indian Constitution - Articles 14, 15, and 39.

Yet the right established by the court's decision is not the right that is exercised in the family. Statistical surveys show that women compose a minority of landholders, while scientific works indicate the prevalence of cultural norms of family heritage and dowry, as well as weak land legislation in this matter. The reasons lie in tribal land laws and Section 15 of the Act. The next step of the reforms does not lie in the law itself, but in its application at all levels, be it land registration, land archives, legal support, or social norms. The real equality in succession will be achieved when a daughter gets a share of the family property the same way it happens with the son.