

Disintegration of the Hindu joint family system in the 20th century

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ABSTRACT

The core of the Hindu Indian society is based upon the system of Joint Hindu Family. The rights, responsibilities and liabilities being joint within the kinship for all the members of the family. However, urban development, industrialization and the quest for better opportunities has had a severe impact on the system of joint Hindu families in India. These forces have weakened the ties of kinship within the family as parents influence over their children has reduced and younger generations are also isolated from their distant relatives. In the 1941 Hindu law committee's report, Hon. Srinivasa Sastri made an important comment on the Hindu joint family and stated that "the joint family is already crumbling... the modern spirit does not favor its continuance any longer". Based upon the recommendation of this committee, which was formed to codify Hindu Laws, Kerala abolished Hindu joint family system by enacting by enacting the Kerala Hindu Joint Family (Abolition) Act, 1975.

This paper analyses the Hindu joint family system origins, its present situation, and the reasons of its dwindling with time.

Keywords: Responsibilities, Opportunities, Traditional, Disintegration

Paper Received : 20/1/2022

Paper Acceptance : 10/2/2022

Introduction

A Hindu Joint family (further referred as HJF) is a conglomeration of male members branching lineally from the same male ancestor along with their mothers, spouses, widows and unwedded daughters.¹ These members reside in the same house, eat from the same kitchen, own common property, and are tied with each other owing to marriage, adoption, or birth.² The essence of this definition is that members of the family are mutually obligated to each other and enjoy significant life events together. The head of the HJF is known as Karta (the senior most member), which is defined by the court in the case of 'Suraj Bansi Koer v Sheo Prasad,' as the 'manager of the joint family'. This position is sue generis and requires the karta to manage finances, weddings and make decisions for the welfare of the family.³

The members of the family are joint in the food, property and place of worship. However, even if a family member is not living together with the rest of the family, there is a presumption of jointness till the

time there is a partition. And in case a partition occurs it changes the rights and liabilities of the new generations to be born.⁴ In common language a joint family can be understood as "Ek hi Chuley ka paka ke khaatein hain (we eat food cooked in the same kitchen).⁵

To further understand the classical concept of a Hindu Joint Family, it is imperative to understand the distribution and control of the family Funds. Traditionally, the funds were managed and handled by Karta who is the eldest male member of the joint family. Women did not have any absolute right in the joint family property till 1956.

Many a time, those who live away from home, send a portion of their income to the family pool as their contribution to what is called 'common stock'. This is known as the doctrine of blending where male members intentionally contribute their self-acquired property in common joint family stock⁶ and by doing this, they lose exclusive control over their own property.

Origin:

It is significant to understand how the family system in Hindu Society originated. Even though there is limited data to trace back the origins, the economic growth history and social developments of the country can help in understanding the origins. Many years ago, when India was less populated and had plentiful resources, land could be owned by merely asking for it or by occupying and utilizing it. At that time, Land was the most important resource and the primary unit of wealth. However, the value of the land could be enhanced through labour and workforce. Therefore, it was important to have large families who would work together to till and plough the land to make it fruitful and fertile. "It is no wonder that, with plenty of rich and fertile land, with good and abundant yield, and in the absence of an oppressive government, the people clustered together and pursued their almost sole occupation of agriculture in peace and contentment. This large family led to no economic friction, for there was enough for all; Since there was no pressure on the soil, people were few, and no scarcity of food was in sight, it led to no fragmentation or subdivision of the holdings".⁷

With the increase in the population and lack of resources the aforementioned situation has changed drastically. The traditional norm was that the son never abandoned the older parents in any situation, even if he was making a miniscule amount from his livelihood. Even the frequent intervals when the country faced political turmoil: from shifts in power such as colonialism or natural calamities like famine, the joint family provided the much-needed atmosphere of love and concern with financial stability⁸. This Hindu joint family, which was marked by love, affection and providing for one another has gradually seen its fall in the modern times. It is, therefore, important to understand the causes that led to the disintegration of the HJF. There has been a slow and gradual decline of the HJF system because it finds its base in the religious philosophies that constantly strive to keep the system alive. In spite of this, there has been, first, attitudinal changes and second, economic changes in the HJF system.

Attitudinal change

One of the grounds for the change in the

behaviour of the new generation finds its roots in the strict rules of endogamy. Many new generation individuals find themselves at the crossroad between 'self-choice' marriages and 'arranged marriages', and people have started to take the risky road of self-choice and rebellion. Endogamy is one of the most crucial aspects of religion that stems out of a belief in the purity of community and family.

Families usually prefer that the union of marriage to be held amongst their own religion or caste and are intolerant towards outsiders. When this doesn't happen and someone marries outside of these boundaries, it often results into acute repercussions⁹ as was in the case of *Lata Singh v state of UP*¹⁰ where in the court said that the atrocities conducted under the name of caste divides, families, and ultimately the nation. Marrying outside of caste translates to alienation, being outcasted and severed from family. Section 19 of the Special Marriage act 1954 has made it clear that the marriage of a Hindu to a non-Hindu leads to an automatic severance of status from the Hindu Joint Family.¹¹ The social stigma attached with such marriages often result into crimes like honor killings.¹²⁻¹³

"The joint family system had its inherent weakness. It implies an absolute regimentation of roles and a regular pattern of beliefs and traditions. Members of the family have their roles cut out for them based on gender and personal experience of life. Moreover, the word of the Karta is often the law"¹⁴. This rigidity of the system often results into friction between the elders and the younger ones which are influenced by the theory of individualism that focuses on self-reliance and values self-independence over the social group as defined by Ellen Meiksins Wood¹⁵.¹⁹ That, when collaborated with financial independence leaves them with no reason to be a part of the system where they cannot maximize their full potential due to a joint business or a conservative familial mentality.¹⁶ Another reason which has contributed to the decline in the system of Joint Family is the Status of Women within these families.

An examination of Versus 147-149 of the fifth Chapter of the Laws of Manu prescribes that women shall never engage themselves in autonomous acts, unexamined by any male members of the family.

Therefore, a woman attempting to support herself without the permission of the male members would thereby imply disobedience. Her status in the family changes only when the woman becomes the senior-most women in the family¹⁸.

The position of Women in the society has changed drastically with the prowess of education and various feminist movements. Women have proved their metal in different job roles and has gained financial control over their lives as opposed to the dominant role of men in the family. The unstated rule of most families in India is that the husband is the breadwinner and wives stay back home to look after the family. This can be explained by the Power Domination theory interpreted by the Radical Feminist, Catherine McKinnon which says that gender difference branches out from Domination or as she calls it “difference is the velvet glove on the iron fist of domination” which results into women being subordinates to their husbands, as in the case of Indian families¹⁹.

Economic changes

The most important and significant reason that has caused this change in the HJF system is Urbanization and Industrialization. The forces of modernity, urbanization, and industrialization wreaked havoc upon the family structure in places like Europe and the US¹⁹. As countries became more developed, families became smaller as newer generations sought opportunities away from their homes. This weakened ties of kinship within the family, since parents’ influence over their children reduced and younger generations were isolated from their extended families in villages. The rural way of life was fast eclipsed by a more atomized and individualized existence, rendering the family structure a relic of their religious past.

To further elucidate these arguments, the paper uses the Census approach to decipher the ground reality of outward migration from rural to urban areas and the dynamics of caste that play a role in the system.

It is common knowledge that individuals strive for better opportunities therefore people migrate from rural areas to urban areas in search of better lifestyle, education, and livelihood. The place of migration still act as the source of origin for the new household established in the urban area. and are often just offshoots of a HJF in a legal sense²¹.

Table- 1

Number of Used Members in a house	Percentage	
	Rural	Urban
1 to 3	21.9	24.0
3 to 6	50.8	54.4
7 to 8	16.3	12.8
9+	11.0	8.8
	100	100
Number of House hold	65,953	25,243

Source : Based on Census of India 1951

The census data from the year 1952 is a testimony to the above-mentioned fact. It shows that nearly 80 per cent of the households in towns consist of 1-6 persons on average. Only 16 per cent of the households have 7-9 members. A household having 7-9 persons can rarely make a joint family. Probably most of these households can be either nuclear or stem families. Large households consisting of 10 or more persons constituted merely 5 per cent of total households in towns (Table 1). Even though measuring the size of a household is not a thoroughly watertight way to define a family type, this is evidence to the fact that HJF forms only a small chunk of households in the nation.

Table- 2

Type of Household	Number of Members	Percentage of Household	
		Village	Town
Small	1 to 3	33	38
Medium	4 to 6	44	41
Large	7 to 9	17	16
Very Large	10+	6	5
Total	-	100	100

Source: NFHS 1988-89

The data provided by the NFHS (National Family Health Survey) from the year 1989 strengthens census data because it shows that 12.8% of households consist of 7-8 persons whereas, nine or more are only a mild 8.8%, thus putting forward that 1-6 persons in one house are around 79% implying that this is a byproduct of urbanization. It is also noted that Karta, who

historically was the eldest male of the family, in today's time are relatively younger people (three-fifth of total households heads are under 50, census 1971) that migrated with their spouse and offspring and formed a stem family (Table 2).

Social hierarchy also plays an important role in determining the type of family that one lives in. Anthropologist Kolenda, "had tried to ascertain whether joint families were more characteristic of higher castes or lower castes. Based on the empirical investigations, she concluded, that Joint families are least characteristic of untouchables and more characteristic of Sanskritised castes".

The lower castes had been less accepting of the traditional forms of families even before the influence of urbanisation³¹ and education played its role. This is probably because "relatively deprived" are more willing to abandon a system that relatively deprives them."³² It basically means that the system which was found on the very purpose of agriculture and commonly owned property was not advantageous to the lower castes in India. They have been systemically discriminated since time immemorial because of poverty and material inequality; thus, they choose to live in smaller families to make ends meet.

The HJF is easily one of the most anachronistic institutions in the modern world. It's deep running inequalities and rigidly conservative way of life seem out of place in an era that has enshrined freedom and equality. Yet, the HJF has proved to be a remarkably resilient institution that has withstood and adapted to the normative horizons of our age. Thus, to conclude, the forces of patrilineal and patriarchal values that are established by Hindu law to put men on a pedestal, freezing their role as the decision maker, coupled with the modern influences of individualism and urbanization are creating a drift between traditional and non-traditional mode of family.

Gone are the days when multiple number of children were considered the asset of a family, people now grow their DNA network according to the size of their pocket, among other factors. Also, further dilution of classical law by implementing even more

gender-equal laws in the future will only have the same effect in the future on HJF. Thus, this paper has attempted to shed light on an often-neglected factor that has and will continue to ensure that the HJF remains a debatable entity in Indian society.

References:

1. 1976 AIR 109, 1976 SCR (2) 164
2. Shah VP, "Attitudinal Change and Traditionalism In The Hindu Family" (1965) 14 Sociological Bulletin 72
3. PP Saxena, Family Law 2 (4th edn, Lexis Nexis 2019) 53-74
4. Chandrasekhar S, "The Hindu Joint Family" (1943) 21 Social Forces 327
5. Ibid.
6. YS rao , 'Joint family property – Presumptions with special reference to 'Doctrine of Blending'" (Articles On Law, 18 October 2017)
7. Chandrasekhar S, "The Hindu Joint Family" (1943) 21 Social Forces 327
8. Supra notes 10
9. Arya D, "The Couples on the Run for Love in India" (BBC News April 14, 2019)
10. The petitioner had married outside of her caste and her family was harassing the husband and his family and put them behind bars. The court held that the petitioner is a major and can make her own decisions: (2006) 5 SCC 475
12. Special Marriage act 1954 section 19
13. Ashok Kumar Todi vs Kishwar Jahan & ors 2011 INSC 0285
14. Shakti Vahini v UOI AIR 2018 SC 1601
15. Singh J, "Nuclearisation of Household and Family in Urban India" (2003) 52 Sociological Bulletin 53
16. AlanP Grimes , 'Reviewed Work(s): Mind and Politics: An Approach to the Meaning of Liberal and Socialist Individ- ualism by Ellen Meiksins Woo' [1973] 34(4) The University of Chicago press journal

17. Supra note 18

18. Hrodriques, "The Laws Od Manu on Women" (Mahavidya June 22, 2008) <<http://www.mahavidya.ca/2008/06/22/the-laws-of-manu-on-women>

19 Stanford university, 'Feminist Perspectives on Power' (Stanford encyclopaedia of philosophy, 19 October)

20. Bina Gupta, 'Modernity and The Hindu Joint Family System: A Problematic Interaction' (1994) 11 International Journal on World Peace.

21 Singh, J.P. "Marital Status and migration in Bihar West Bengal and Kerela : A Comparative analysis Sociological Bulletin, vol.34, no.1/2, 1985, pp 69-87.

Online Websites:

1. Arya D, "The Couples on the Run for Love in India" (BBC News April 14, 2019)

2. Hrodriques, "The Laws Od Manu on Women" (Mahavidya June 22, 2008)

3. News 18, 'What Does the Law, Vedas and Legend Say About Gotra?' (*News 18 India*, 28 November 2018)

4. Rao YS, 'Joint family property – Presumptions with special reference to 'Doctrine of Blending''

(*Articles On Law*, 18 October 2017)

5. World health organisation, 'Family planning/ Contraception' (*WHO*, 8 February 2018)

Case laws:

1. Ashok Kumar Todi vs Kishwar Jahan & ors 2011 INSC 0285

2. Jivendra Kumar vs Jaidrath Singh & Ors [1998 (2) AWC 1373, (1997) 3 UPLBEC 1607

3. K V Narayanan vs K V Ranganandhan & Ors. 1976 AIR 1715, 1976 SCR (3) 637

4. Lata Singh vs State Of U.P. & Another on 7 July, 2006 (2006) 5 SCC 475

5. Surjit Lal Chhabda vs Commissioner Of Income Tax 1976 AIR 109, 1976 SCR (2) 164

6. Shakti Vahini vs. Union of India AIR 2018 SC 1601

7. Smt. Paniben vs State Of Gujarat 992 AIR 1817, 1992 SCR (2) 197

Books:

1. PP Saxena, Family Law 2 (4th edn, Lexis Nexis 2019) 53-74

