
Coparcenary Rewritten: Gender, Justice and the Constitution

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Abstract

This paper critically examines the evolution of gender justice within Hindu coparcenary law through the lens of the Supreme Court's judgment in ***Vineeta Sharma v. Rakesh Sharma (2020)***. It argues that the Court's interpretation of Section 6 of the Hindu Succession Act, 1956—read alongside its 2005 Amendment—constitutes a landmark in transformative constitutionalism. The judgment not only harmonizes statutory interpretation with the constitutional guarantees of equality, liberty, and dignity under Articles 14, 19, and 21 but also reinforces the doctrine of constitutional morality as a counter to entrenched patriarchy. The analysis situates Vineeta Sharma within the broader constitutional jurisprudence of gender equality and property rights, tracing its doctrinal roots from earlier precedents and law commission reports. By emphasizing substantive equality and economic independence for women, the judgment transcends textual interpretation and advances the Constitution's transformative mission. The paper also offers a critical reflection on the implementation challenges, socio-legal implications, and the comparative dimensions of inheritance reform in India.

"Vineeta Sharma v. Rakesh Sharma"¹: Constitutional Equality and the Reinvention of Hindu Coparcenary"

The judgment of the Supreme Court of India rendered in *Vineeta Sharma v. Rakesh Sharma*, (2020), marks a turning point for the development of the constitutional jurisprudence of India for gender equality and the right to property. The judgment not only clarified the meaning of Section 6 of the Hindu Succession Act, 1956, as it stood prior to the amendment of 2005, but also vindicated the constitutional necessity that the principle of equality cannot be defeated by chauvinistic customs. In essence, this ruling shows how constitutional values beat rigid legal reading, underlining the courts' role in aligning personal rules with broader constitutional principles. It also reveals why the "golden triangle" matters - a mix of Articles 14, 19, and 21 that forms the bedrock of India's basic rights law. Holding that the coparcenary right accrued to the daughter by birth even without the condition of the father's coparcenary status at the time of the amendment of 2005, the Court decisively rejected time-tested gender-based exclusions embedded in the Hindu tradition.

Concept of *coparcenary*—a more defined body for the purposes of the Hindu joint family—has its origins in the Mitakshara school of Hindu law. Traditionally, a coparcenary consisted solely of male persons who were lineal ancestors of a common forebear, up to three generations. One became a member of a coparcenary by birth, but only as a limited class of sons, grandchildren, and great-grandchildren. Daughters, although blood relations, did not fall into this category and their membership of the joint family depended upon their marital state. At the time of her marriage, a daughter became a member of her husband's joint family and thereby lost her connection with her coparcenary of the father. This exclusion, which goes deep into religious and customary sources, excluded women from equal rights as coparceners in ancestral property and perpetuated economic dependence upon their male relatives².

¹ *Vineeta Sharma v. Rakesh Sharma*, (2020) 9 SCC 1

² Derrett, *Introduction to Modern Hindu Law*, 1963

Colonial courts, codifying elements of Hindu law as they did, predominantly had an exclusionary framework. British jurists viewed Hindu law as an unchanging set of customs, which had little potential for change, and placed great emphasis on authoritative treatises such as the Mitakshara and Dayabhaga commentaries³. This meant this maintained a gender order which oppressed women within the Hindu joint family systems. Although women had the potential for inheriting property under limited situations, for example through the estate of a widow, this inheritance was not complete or equitable. Widows frequently had only a right of sustenance over the property, which would revert to male heirs upon their death⁴.

The people who wrote India's Constitution clearly saw how unfair personal laws were when it came to gender. Not only did Article 14 promise fairness under the law, but Article 15 also blocked bias based on sex. Then there's Article 21, which made sure everyone could live with dignity by protecting their right to life. When you look at the Directive Principles - especially Article 39 - they pushed for fair access to livelihoods along with pay that matches effort, no matter who does the job. Still, even with all these rules in place, rewriting Hindu law during the 1900s moved slowly, held back by hesitation and marked more by small steps than bold moves. The Hindu Succession Act of 1956, even as it remained progressive in many respects, did not abolish the coparcenary system nor did it provide for equal rights for daughters as coparceners. Section 6 maintained the traditional framework by which the estate of a deceased coparcener devolved by survivorship, though with certain exceptions favoring the women heirs. In practice, the daughters remained subject to the limitation in gaining access to ancestral property, thus perpetuating their subservience in the joint family system⁵.

Over the decades, the states had undertaken incremental reforms. In 1975, Kerala abolished the joint family system entirely. Andhra Pradesh, Karnataka, Maharashtra, and Tamil Nadu made some amendments providing coparcenary rights to daughters. However, these reforms applied only to a few particular states and did not introduce consistency all over the country. The Law Commission of India, by virtue of the 174th Report (2000), pointed out the imperative need for

³ Menski, *Hindu Law: Beyond Tradition and Modernity*, 2003

⁴ V. Tulasamma v. Sesha Reddy, (1977) 3 SCC 99

⁵ Ruma Pal, "Gender and the Law," *Indian Journal of Constitutional Law*, 2005

a thoroughgoing reform, emphasizing the fact that the exclusion of daughters from coparcenary ownership was a discrimination and breach of constitutional assurances. The Commission recommended the conferment of equal rights from birth as coparceners for the daughters, which immediately impacted the Hindu Succession (Amendment) Act, 2005.

The Amendment of 2005 marked an important change. Section 6 was amended to provide that "on and from the commencement of the Amendment Act, 2005, the daughter of a coparcener shall by birth become a coparcener in her own right in the same manner as the son." The amendment also ensured that daughters would share equal rights and obligations as sons for coparcenary property. However, it came with a saving clause providing for the case of disposition/partition operative before the date of 20 December 2004. The spirit of the legislature was clear—to eliminate gender discrimination and align personal law with the constitutional ethos of equality. Yet, confusion remained with regard to its spatial applicability. Would the daughters of those fathers who had died before 2005 continue to get the benefit? Or would the amendment be retrospective, which would come into play only if the daughter as well as the father were alive when the date of commencement became operative? This confusion resulted in the emergence of disparate judicial views.

In *Prakash v. Phulavati*,⁶ the Apex court said the 2005 change would only work going forward. It explained that a daughter could claim shared inheritance rights only if she and her dad were alive when it took effect. Because of this view, many women lost out - those whose fathers died earlier than 2005 - which limited how fairly the update actually worked. In comparison, when it came to *Danamma v. Amar*,⁷ the judges appeared to expand entitlements - covering daughters whose dads passed away prior to 2005 - which ended up creating uncertainty. These inconsistencies prompted the need for a referral to a larger bench, which ultimately led to the definitive ruling in *Vineeta Sharma* in 2020.

The constitutional significance of *Vineeta Sharma* lies in the dismissal of textual and time-based limitations which derogated from the intent of the amendment. A daughter gains

⁶ *Prakash v. Phulavati*, (2016) 2 SCC 36

⁷ *Danamma v. Amar*, (2018) 3 SCC 343

coparcenary rights when she's born - just like a son - not by outliving her dad, the court made clear. With this view, the law lines up better with equality between genders under the Constitution. What stands out here is how the golden triangle check plays out in real cases. Article 14 mandates equality before the law; Article 19 provides for freedom and autonomy in the realm of property and profession; and Article 21 ensures dignity. Denial of coparcenary rights to daughters purely by reason of the pre-2005 demise of the father would deny these constitutional assurances. Since Justice Chandrachud pointed out in *Navtej Singh Johar v. Union of India*,⁸ basic rights shouldn't bow down to what most people think is moral or get shaped by old-fashioned biases. Instead, Vineeta Sharma takes up that way of reading laws - breaking apart the grip of male-dominated family rules using similar reasoning.

The choice draws support from constitutional morality, as seen in *Government of NCT of Delhi v. Union of India*,⁹ - urging adherence to liberty, equality, and brotherhood regardless of long-standing traditions. Blocking daughters' share in joint property reflects precisely the kind of injustice the Constitution meant to fix. Since daughters gain rights by being born, the ruling brings constitutional ideals into family laws, so private household setups now fall under broader legal promises.

Hindu joint family rules changed slowly, shaped by constant tension between old customs and fairness. Over hundreds of years, females got left out of inheriting land or wealth, stuck in lesser positions under male-led households. A shift came in 2005 when new laws emerged - backed later by Vineeta Sharma's court ruling - that broke away from past patterns. These legal updates aren't merely paperwork fixes; they stand as proof the Constitution won't accept limits on equal rights based on sex. The legal setup ought to honor each person's choice and worth, no matter their gender. Vineeta Sharma's situation marks a key shift - important not only for property rights, yet opening doors toward real fairness across India.

⁸ *Navtej Singh Johar v. Union of India*, (2018) 10 SCC 1

⁹ *Government of NCT of Delhi v. Union of India*, (2018) 8 SCC 501

The Amendment of 2005, Judicial Discrepancies, and the Path Leading to Vineeta Sharma

Hindu Succession (Amendment) Act, 2005 marks a seminal legislative change aiming at abolishing discrimination based on sex inherent in the Mitakshara coparcenary regime. Prior to the introduction of this amendment, Section 6 of the Hindu Succession Act of 1956 continued the principle of survivorship, wherein a male coparcener's property devolved upon the survivorship of male coparceners with few exceptions. Women were excluded from the coparcenary, and their right remained limited to receiving an hypothetical share upon the demise of a coparcener, calculated as if a division took place the moment before his death. Section 6 got amended by the amendment of 2005 so as to provide explicitly that "on and from the commencement" of the Act, the daughter of a coparcener shall by birth become a coparcener "in her own right in the same manner as the son," and thus shall fall equally into the same rights, obligations. This change aimed at providing for equal treatment of the daughter as compared with the son, not only with reference to the right of inheritance but also with reference to the management and administration of the joint family property.

The substitution of Section 6 was not merely a gesture but had profound consequences for the structure of the Hindu joint family. When a daughter is born, she's now seen as having equal claim to family property - no extra steps needed. Under old Hindu legal views, being born into the family meant certain rights kicked in right away. Right when a boy arrives, he gets a share in shared assets - one that shifts over time - and can later ask to split those holdings. By extending this rule to daughters, the Parliament expressed a wish to disturb the patriarchal customs treating girls as outsiders. The Statement of Objects and Reasons accompanying the 2005 Bill openly recognized the exclusion of girls as constituting discrimination and running counter not merely to the moral spirit of the Constitution but also opposed to the egalitarian spirit inscribed into the Constitution¹⁰. In addition, the saving provision of the amendment, which preserved partitions or disposal effected before the 20th of December, 2004, operated with a view to harmonize equality with legal security, thus not subjecting established property regimes to reassessment.

¹⁰ Lok Sabha Debates, Aug. 2005

Nevertheless, the amendment also did not clarify key matters of interpretation. Did the phrase "on and from the commencement" suggest the rights were only prospective? If so, would the daughters whose fathers had passed away prior to the commencement date of September 9, 2005, be denied? Otherwise, did the word "by birth" suggest the rights were intrinsic and thereby retrospective, including even the cases of succession which had commenced prior but remained unresolved? The interplay of these time factors caused huge judicial confusion. Courts everywhere in India struggled with the matter of whether the amended Section 6 had to be used retrospectively, prospectively, or not at all.

The first significant judgment came in the case of *Prakash v. Phulavati*, (2016) 2 SCC 36. In this case, the Court held that the amendment would have a prospective operation. The rationale behind the same was the fact that a daughter would acquire coparcener status only if the coparcener (the father) and the daughter happened to coexist when the amendment came into force. If the father had expired prior to September 9, 2005, the daughter would not be claiming coparcenary rights. This approach purported to harmonize the legislated words with established principles of succession; however, the result also ushered in an artificial limitation which was not inherent in the statute. The Court emphasized the fact that the expression "on and from the commencement" indicated a prospective operation by arguing that the retrospective operation would cause disruption to earlier successions. Though the decision aimed at avoiding anarchy in relationship of possession over property, the result was instead the limitation of equal rights for hundreds of thousands of women whose fathers had expired prior to the year 2005, thus negating the egalitarian spirit behind the amendment.

In *Danamma v. Amar*, (2018) 3 SCC 343, decided in 2018, another panel of the Supreme Court appeared to take a broader view. The father had died in the year 2001, prior to the amendment of the legislations. The Court, however, held the daughters were entitled to share equally the estate with the sons. The court stressed equal rights as essential, while pointing out the change meant to remove gender bias. That ruling brought a bolder stance yet failed to align *Prakash's* take with *Danamma's*, making the existing mix-up even deeper. The incongruity between *Prakash* and *Danamma* highlighted the need for an authoritative pronouncement by a larger bench.

The discord between the two judicial determinations transcended mere statutory interpretation; it brought forth significant constitutional dilemmas. Was it possible for the egalitarian intent of the amendment to be undermined by a restrictive temporal interpretation? Do the rules about fairness in Articles 14 or 15 mean daughters automatically get full inheritance rights, no matter what? Or does it make more sense to stick with clear laws that don't apply backward in time? These questions sat right where court rulings meet constitutional ideas. They embodied the judiciary's ongoing challenge to harmonize personal law with constitutional mandates, a recurrent theme in cases spanning from *Shah Bano v. Union of India*,¹¹ to *Shayara Bano v. Union of India*¹².

In the arguments for Section 6, the constitutional dimension could not be avoided. The denial of rights to daughters whose fathers had died before 2005 amounted to a sort of discrimination against them which was inconsistent with the guarantee of equality under Article 14. The arbitrary discrimination between the girls with living fathers as of 2005 and those with deceased fathers before that date had no reasonable connection with the objective of the amendment, which was the abolition of discrimination by sex. The denial also infringed Article 15(1), which prohibits discrimination by sex. Finally, although the right of property does not fall into the category of the fundamental right anymore due to the Forty-Fourth Amendment, it nevertheless enjoys protection as a part of property under Article 300A, and the denial of it to the girls raises questions of substantive due process as consistent with Article 21. The Court uniformly held the view that Article 21 involves more than the right to survive¹³. The denial of equal right by the girls over ancestral property denied them economic independence and thereby undermined their dignity and liberty.

The interpretive puzzle also engaged the doctrine of constitutional morality. As described in *Navtej Singh Johar v. Union of India*,¹⁴ constitutional morality requires compliance with the Constitution's transformative ends even when the latter come into conflict with traditional social or religious customary practice. The continued prevalence of patriarchy in the Hindu

¹¹ *Shah Bano v. Union of India*, (1985) 2 SCC 556

¹² *Shayara Bano v. Union of India*, (2017) 9 SCC 1

¹³ *Francis Coralie Mullin v. Administrator, Union Territory of Delhi*, (1981) 1 SCC 608

¹⁴ *Navtej Singh Johar v. Union of India*, (2018) 10 SCC 1

joint family system exemplified the sort of discrimination against women which constitutional morality had to eradicate. The interpretation of Section 6 as limiting the rights of the daughters depending on the date of the demise of the father would be a judicial approbation of the patriarchy. In contrast, an interpretation upholding the right of the daughters despite such necessities would correspond with the constitutional values of equality, liberty, and dignity.

The 174th Report of the Law Commission, as well as the debates of the Parliamentary Standing Committee, supports this constitutional perspective further. The Commission openly censured the discrimination inherent in the traditional coparcenary and highlighted the need for change in order for personal law to conform to Articles 14 and 15. Similarly, parliamentary debates revealed a conscious acknowledgment of the constitutional imperative for the removal of gender discrimination in property matters. Any such interpretation of the amendment as one which limited the rights of daughters would thus not only go against the intent of the legislator but would actually defeat the Constitution.

In this multifaceted scenario, the Supreme Court dealt with the dispute in the case of *Vineeta Sharma*. The main issue was if changed Section 6 gave daughters shared inheritance rights when they're born, no matter what happened to their dad when the law updated. This wasn't just about reading rules literally - instead, it tapped into broader ideas from the Constitution, like fairness and respect. The Court's finding of this case would significantly impact not only the scope of property entitlement which would be extended by hundreds of women but also the extent of compliance of Indian personal law with constitutional morality.

The situation of *Vineeta Sharma* illustrates the internal tension between continuity and change inherent in the jurisprudence of India. There was a desire to maintain continuity of property relations and prevent any posterior disruption. At the same time, an equally compelling constitutional impulse for substantive equality arose. The interpretive question the Court had before it presented a binary choice between a conservative, textual approach to the statute and a more purposive, constitutional interpretation. By choosing the latter, as Section III shall elaborate, the Court not only renewed the Constitution's transformative potential but also underscored the Constitution's role as a guardian of gender justice.

The Decision in *Vineeta Sharma v. Rakesh Sharma* — Constitutional Reasoning and the Golden Triangle

The Supreme Court judgment rendered in *Vineeta Sharma*, passed by a three-judge bench consisting of Justices Arun Mishra, S. Abdul Nazeer, and M.R. Shah, authoritatively clarified the meaning of Section 6 of the Hindu Succession Act, 1956, as amended in 2005. The Court indisputably held that a daughter, like a son, becomes a coparcener by birth and insisted that this right does not hinge on the existence of the father at the time of the amendment. In arriving at this finding, the Court balanced legislative expression against constitutional sentiment, restated the Constitution's transformative mission, and eliminated one of the longest-running patriarchy hurdles of Hindu personal law.

The Court commenced its deliberation by situating the case against the backdrop of contradictory judicial precedents, mentioning *Prakash v. Phulavati*, and *Danamma v. Amar*. In the case of *Prakash*, it had been laid down that the father and daughter had to survive as of 9 September 2005 for the daughter to claim coparcenary rights; whereas, the *Danamma* case extended such rights to daughters whether the father had or had not died before. This doctrinal incongruity bred immense ambiguity, which necessitated a referral to a larger bench. The bench by Justice Arun Mishra emphasized the fact that the interpretative exercise went beyond mere formality and lay essentially in the realm of constitutional axioms of equality and justice.

The Court's rationale was rooted essentially in the meaning of the phrase "on and from the commencement of the Amendment Act, 2005, the daughter of a coparcener shall by birth become a coparcener in her own right." The Court rejected the restrictive interpretation advanced in *Prakash* and held instead that the amendment of Section 6 by the 2005 Act created a birthright not subject to the continued existence of the father. The event of birth, not the living state of the father, thus became the determining factor for the granting of legal rights. This interpretation necessarily brought the status of women closer to the pre-existing one of sons, who have classically acquired coparcenary rights by birth without concern for the survival of the father. To hold otherwise, the Court opined, would once more embed gender discrimination

by a new guise, which would not harmonize with the intent of the legislator nor with core constitutional values¹⁵.

The Court elaborated that the amendment of 2005 functioned retroactively, although it was not categorically retrospective. Retroactive rules meant girls born before 2005 could claim benefits since those rights started at birth. But deals made earlier - like dividing property before December 20, 2004 - stayed unchanged. Because of this careful take, the court weighed fair treatment against stable laws, so old asset splits weren't undone yet surviving daughters still got what they're owed. This meticulous equilibrium reflected the Court's attentiveness to both constitutional principles and the pragmatic aspects of property law.

Aside from the interpretation of the provisions of a statute, the judgment was also solidly based upon constitutional precepts. The Court invoked Article 14 of the Constitution, which provides for equality before the law and equal protection of the laws. The Court held that the exclusion of the daughters by virtue of the date of the demise of the father would amount to an arbitrary classification without a rational nexus with the Amendment's object. Such a classification would perpetuate the very gender discrimination the amendment would seek to eliminate. By abolishing this extrinsic distinction, the Court held that not only does Article 14 prohibit overt discrimination but also indirect and structural discrimination¹⁶.

The ruling also addressed Article 15(1), which clearly forbids discrimination based on sex. The historical exclusion of daughters from coparcenary rights serves as a prime illustration of gender-based discrimination entrenched in patriarchal societal norms. By interpreting Section 6 to confer equal rights at birth to daughters, the Court fully implemented Article 15(1), thereby preventing statutory law from perpetuating patriarchal exclusions. The rationale provided by the Court resonated with prior cases, such as *C.B. Muthamma v. Union of India*, (1979)¹⁷, in which sex-based exclusion within civil services was invalidated.

The greatest characteristic of the judgment, however, was the implied invocation of the test of the "golden triangle" of Articles 14, 19, and 21—that the Court had all along maintained as the

¹⁵ Vineeta Sharma, (2020) 9 SCC 1 at ¶ 55

¹⁶ State of West Bengal v. Anwar Ali Sarkar, AIR 1952 SC 75

¹⁷ C.B. Muthamma v. Union of India, (1979) 4 SCC 260

core of the Constitution¹⁸. Article 14 had established the principle of equality; Article 19 had safeguarded freedoms which were dependent upon economic independence; and Article 21 had guaranteed dignity. These provisions put together give a complete assurance of substantive equality. In holding the daughters as coparceners, the Court had vindicated their economic rights and thereby reinforced their autonomy (Article 19), safeguarded their dignity (Article 21), and ensured both formal and substantive equality (Article 14). Denial of equal rights to the daughters would not only come down to discrimination but would also deny them the right of exercising liberty and living with dignity. The judgment, thus, reveals the Court's commitment towards transformative constitutionalism.

The Court also relied on the theory of constitutional morality, which has been the core emphasis of Indian constitutional law. Constitutional morality mandates adherence to constitutional values even in the face of opposition from society. The views of Justice Mishra were that the denial of equal rights to daughters, which has been a byproduct of historical patriarchy, would breach the very constitutional values. Through the adoption of the interpretation of Section 6 with the test of constitutional morality for constitutionality, the Court further entrenched its character as a protector of transformative equality. This form of interpretation aligns with the ruling of *Navtej Singh Johar*, whereby the Court invalidated Section 377 IPC by a principle holding that majority morality cannot determine constitutional rights.

The judgement also emphasized the importance of the element of dignity embedded in Article 21. Rights over property go beyond economic factors; they are deeply embedded with the dignity of the individual and societal standing. Down the ages, the exclusion of daughter from coparcenary right continued to perpetuate her economic dependence and societal subservience. The granting of equal rights by the Court to daughters recognized the fact that dignity requires material support. As the Court held in *Francis Coralie Mullin*, the right to life as envisaged by Article 21 includes the right to live with a sense of human dignity. The judgement by the Court in *Vineeta Sharma* extended this principle into the private realm of family law for the preservation of women's dignity.

¹⁸ *Minerva Mills v. Union of India*, (1980) 3 SCC 625

Additionally, the Court rejected arguments that unregistered family agreements or oral partitions would provide the basis for denying the entitlements of daughters. Section 6(5) required partitions to be proven from registered documents or decrees of the court, and the Court followed this prescription strictly. Admitting the likelihood of genuine family agreements, the Court insisted that such agreements had to be proven by irrefutable evidence. This strict scrutiny the Court felt compelled to undertake for the purposes of guarding against spurious transactions for the exclusion of daughters. By providing for the necessity of evidentiary exactness, the Court intended to prevent the exploitations by the patriarchy against daughters at the family level.

The judgment also highlighted the continuing importance of the Constitution for the making of personal law. Though the personal laws draw from religious usage, the Court emphatically held that they cannot contravene constitutional guarantees of equality and dignity. In this regard, *Vineeta Sharma* aligns with the reasoning held in *Shayara Bano*, which struck down the practice of triple talaq as unconstitutional. Taken together, these cases demonstrate a broader pattern: the emphasis on the superiority of the Constitution over personal law.

Essentially, the judgment took a purposive view of the meaning of the 2005 amendment, placing emphasis upon the aim of achieving gender equality. The Court recognized that interpretation of statutes must be commensurately related to constitutional ideals. A narrow take that ignores fairness wouldn't match what lawmakers meant - or what the Constitution promises. Choosing meaning over strict wording, judges highlighted how courts can push progress forward. This approach to interpretation aligns with what Justice Krishna Iyer propounded in *V.R. Krishna Iyer v. State of Kerala*,¹⁹ when he stated the law must be guided by the "brooding spirit of the law, the conscience of the Constitution."

In a nutshell, the judgment in *Vineeta Sharma* marks a paradigm shift in the property laws of India and constitutional interpretation. The Court unambiguously rejected patriarchal exclusion, harmonised the provisions of statutes with the constitutional guarantees, and reinforced the progressive mandate of the Constitution. The Court used connected parts - Article 14, plus Article 19, along with Article 21 - to show clearly that daughters' rights don't

¹⁹ V.R. Krishna Iyer v. State of Kerala, AIR 1977 SC 265

come from outdated traditions; instead, they grow out of lasting principles like equal treatment, freedom, and respect. This ruling stands as a turning point in how India's Constitution evolved, revealing how judges can break down deep-rooted bias while supporting fair outcomes between genders.

Critical Reflections, Social Impact, and Comparative Perspectives

The decision in *Vineeta Sharma*, stands out as a key move by India's Apex court shaping family rules and constitutional fairness. Still, even major rulings draw debate. Looking closer means weighing not only what seems good on the surface but also how tough it's been to put into action, what real-world effects it triggered in society and law, along with how much it matters when comparing inheritance rights across legal systems. At a basic legal level, the Court's decision gets credit for clearing up confusion caused by two past rulings - *Prakash v. Phulavati*, along with *Danamma v. Amar*. Since daughters now count as coparceners right from birth - no matter if their father is living - the ruling fixed a legal mismatch that once muddled property deals while unfairly affecting women. What stands out is how the Court made clear that verbal splits or casual family deals don't override daughters' legal rights - this hits hard given how often male-dominated setups manipulate property matters. The rule demanding official records or court orders helps keep women from being left out by hidden family deals. By focusing on paperwork like this strengthens daughters' claims, so the promise of equal rights doesn't end up empty. However, a significant criticism concerns the Court's reluctance to explicitly recognize the retrospective character of the amendment. Putting the amendment into the category of "retroactive" created a conceptual invocation that is not entirely clear. Rights which are retroactive accumulate from the moment of birth but become exercisable only from the date of the amendment. In contrast, looking back at rights could reshape old inheritance cases. Since the Court didn't rule out applying changes retrospectively, it aimed to protect past deals, though this might weaken fairness over time. Take women whose claims were blocked by divisions or decisions made before December 20, 2004 - they still get left out, even though those splits were clearly unfair. The Court's hesitation makes sense on one hand, yet keeps certain injustices alive. In preferring legal certainty over substantive equality, the Court preferred stability, which may not always correspond with the transformative goals set out by the Constitution.

Another barrier lies in the implementation of the judgment. Legal recognition of rights is only the first step; the effective realization of this right in the context of patriarchal family relations proves a tough challenge. In reality, women may be pressured into surrendering their rights, either due to family obligation or societal pressures. The taboo of claiming property rights from brothers or other male relatives persists widely, especially in rural India, as conflicts over property frequently turn violent. Current mechanisms of legal aid prove wanting, and the litigative processes prove expensive as well as lengthy. So, though *Vineeta Sharma* establishes a strong jurisprudence, realizing its potential requires systemic change, including awareness programs for the public, support for the concept of legal aid, as well as the sensitization of lower court staff.

The ruling further prompts an examination of the judiciary's function in the reform of personal law. Some critics argue courts might overstep when using constitutional ideas to shape personal laws. Yet they're cautious when judges step in, especially if lawmakers' goals are already clear. Still, as *Vineeta Sharma* shows, laws can get undermined by narrow court rulings - like in *Prakash*. In such cases, courts upholding constitutional values aren't overreaching - they're just following what the Constitution demands. Actually, judicial action here means personal law must answer to constitutional scrutiny too. In *Shayara Bano*, it's made clear the Constitution stands above all, meaning personal laws must follow its rules on fairness and respect.

The court's decision carries real weight in how society sees gender roles. By backing daughters' equal rights, this ruling might shake up family dynamics over time. In India, owning property isn't just wealth - it shapes status and influence, yet women were long left out of inheriting it, keeping them tied to male family members. The *Vineeta Sharma* judgment shifts that balance, giving daughters equal claim and opening doors to more financial control and stronger standing at home. That shift could mean greater independence for women, more say in who they marry, and better shielding from abuse behind closed doors. Studies of gender and property rights have shown repeatedly that women holding property demonstrate lower vulnerability to violence and the capability of taking independent choices²⁰. The verdict thus creates ripples affecting

²⁰ Agarwal, A Field of One's Own: Gender and Land Rights in South Asia, 1994

more than mere questions of inheritance, taking up larger questions around the question of gender justice.

Nonetheless, the intricacies of social realities are evident. In spite of advancements in legal frameworks, the proportion of inherited property actually received by women remains notably low. Cultural norms often stop daughters from claiming what's rightfully theirs - people think it might upset family peace. Many give up their share without a fight, handing it over to brothers, sometimes because they've been taught to or pushed into it. Just having laws on paper doesn't mean they work in real life. What's written in lawbooks and what actually happens are often worlds apart. Fixing this gap means more than court decisions - it calls for shifting mindsets, better schooling, and giving women real power. Accordingly, the ruling should be regarded as a preliminary milestone rather than a final destination in the quest for gender equality.

Personal Opinions and Conclusion

From a comparative perspective, *Vineeta Sharma* situates India as part of a broader global movement for the promotion of equal inheritance rights. Several legal regimes eliminated gender-based discrimination in succession laws long ago. For example, English law used to follow the practice of primogeniture, but the Legislative Amendments such as the Law of Property Act of 1925 brought equality between the heirs without any consideration of gender. Similarly, Islamic law, although often held as discriminatory, ensures a specified share of inheritance for the daughters which cannot be challenged. The exclusion of the daughters from the coparcenary rights under the Hindu law manifested all the more starkly, evidencing the deeply ingrained patriarchal societal structures. The removal of this exclusion makes India one step closer to compliance with the international standards of gender equality, as consonant with the obligations under the treaties like the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which India acceded to.

The judgment also aligns with comparative constitutional law. In many jurisdictions, constitutional equality has been used by the courts to eliminate discriminatory inheritance laws. The South African Constitutional Court, for instance, held the rule of male primogeniture as a customary rule unlawful in the case of *Bhe v. Magistrate, Khayelitsha*, 2005²¹. The Court held that the customs violated the right to equality and dignity conferred by the Constitution of South Africa. Similarly, the Kenyan Constitution of 2010 explicitly prohibits discrimination with respect to property rights, and the court has enforced the directive against customary exclusion. These examples reflect a global recognition that gender equality in inheritance holds the key for substantive equality. *Vineeta Sharma* thus aligns Indian law with progressive global constitutional jurisprudence.

At a deeper level, the ruling shows the transformative potential inherent in the Indian Constitution. The architects of the Constitution envisioned the Constitution as a template for a social revolution intended to upset entrenched hierarchies and forge ahead with equality. The continued persistence of the patriarchal exclusion from Hindu law was a contradiction of this aim. Interpreting the 2005 amendment purposively and considering constitutional values, the Supreme Court ratified the transformative potential of the Constitution once again. This aligns with the theory of transformative constitutionalism, as formulated by *Navtej Singh Johar*, which reveals the Constitution's own role in brokering fundamental social transformation. *Vineeta Sharma* illustrates this theory by showing how constitutional values can alter even entrenched social institutions such as the Hindu joint family.

However, obstacles persist. One issue is the possible rise in legal disputes subsequent to the ruling. Families that had formerly accepted the exclusion of daughters may now encounter conflicts regarding property rights. Even though this shows women gaining stronger rights, it also risks piling pressure on courts that are already stretched thin. On top of that, there's still pushback from deep-rooted male-dominated norms. In some areas, giving daughters equal rights might spark opposition, which could mess up family relationships. These hurdles highlight the need for smarter moves - like using mediation, boosting community education, and fine-tuning laws with clearer steps.

²¹ *Bhe v. Magistrate, Khayelitsha*, 2005 (1) SA 580 (CC)

Even with these issues, the ruling should still be seen as an important step forward for fairness between genders in India. It shows a way of thinking that goes beyond strict legal ideas - focusing more on equal treatment, personal worth, and freedom. Using connected rights from Articles 14, 19, and 21 together, the Court made clear that women's claim to property ties directly into their independence and self-respect. As a result, this decision not merely redrafts the relations of property but also reconceptualizes the very core concept of equality for Indian society.

Overall, the case *Vineeta Sharma v. Rakesh Sharma* marks an important milestone not just for Hindu succession law but also for the larger constitutional history of India. It shows how courts aim to line up old customs with today's rights, shifting away from long-standing male-dominated norms toward real fairness. Despite ongoing problems putting rulings into action, this decision clearly matters both in meaning and effect. This ruling stands out as proof that constitutions can drive deep societal shifts when applied boldly. By confirming daughters have the same claim to family property as sons, judges didn't just back a legal right - they helped weaken deep-rooted gender imbalances that shaped India for generations.