
ANALYSING THE LEGAL NEEDS DURING THE DAWN OF NEW FAMILY STRUCTURES IN INDIAN SOCIETY

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Arunima Bali, Law Student, National University of Study and Research in Law, Ranchi

ABSTRACT

Man is a social being, and man needs another man for emotional and physical upbringing. Families' nurture individuals to fulfil psychological and sociological aspirations and goals. Society is an organic development, and families, being a part of society, are subjected to flaws, modifications, amendments, breakthroughs, and advances. The 21st century is marked by progressive and new ideologies. There have been incalculable upheavals, changing the dimensions and set structures of family norms. We need to have a deeper insight into the shifting values and beliefs of families. No man is an island, and thus family has been a constant throughout history.

The research article provides a glimpse into the various facets of the family structure of our society. There are possible loopholes and drawbacks in our present-day legal framework. Contemporary social issues regarding family structures are not given due space in the minutiae of our black-and-white laws. While analysing the root causes of societal change, we need to map the plausible deductions of our legal decisions. With the evolution of technology, a continuous bombardment of information, and the principles of equity, a new chapter is being written in the societal context. The importance of families is a no-brainer. Blood is a vital component of a human's body. Blood provides enrichment and warmth. Similarly, external warmth is imbibed through families and ensuing human interactions. The human mind is a seat of questions. Through questioning, we are approaching the end of human existence. The words are the same, but the essences are moving their aromas.

Keywords: *Families, Society, Sociological goals, Upbringing and Values.*

1. INTRODUCTION

The fabric of our Indian society is intricately woven using the threads of our families. A family is a close domestic group of individuals who are linked to one another via blood, sexual mating, or legal relationships. It is the smallest and most fundamental social unit and the most essential main group in any civilization. It is the most basic and fundamental group found in any culture.

The heart of family lies in the emotional, social, psychological, and physical bonds that each member of society shares. The rudimentary characteristics of a family are:

- Presence of emotional dependency
- Close and frequent interaction
- A greater degree of intimacy than other secondary social groups
- Constant feeling of belongingness
- A specific and defined relationship among the members
- Mental proximity
- Non-transferable and irreplaceable relationships
- Emotional and physical interactions
- The enduring nature of relationships

A stable and emotionally available family is a basic necessity for any individual. People face multiple societal lashes when they are not committed to their families. The psychology and mindset set of an individual are severely scratched if there is the absence of a wholesome family or a family altogether. Orphans are more likely to adopt criminal attitudes and demeanours.

“If you have a child with no psychological parents, essentially adrift in the world, you are headed towards all sorts of bad outcomes,” said Stevie Ray Hansen¹. “And we as a society are going to pay and pay and pay for it.” The importance of family is reflected in the vivid explanation of the familial hierarchical system in our Vedas. Human relations are built on connections, and thus no man is an island. Cohabitation in families provides people with a safer place to grow and express themselves spontaneously. A family forms the roots of one’s sociological surroundings and environment. Family forms the primary group of society through which people represent themselves. The family acts as a unit of social participation. The warmth, association, and unity the family provides are crucial for one’s sociological development.

2. OBJECTIVES AND SCOPE

The objective and scope of the research article are to study the vagaries of family structures in modern times. Family is an organic model, and thus its roles, values, and essence keep altering with the needs and present desires of society. Family is the broadest yet most intricate matter in Indian society. Any ramifications of our present-day family structure need thorough scrutiny for us to circumvent them. The scope of the topic spread to the widest range of human existence. Families are an indispensable part of people’s well-being, and thus the overall health of familial relationships is of prime concern.

3. RESEARCH QUESTION

The research question pertains to the structural apprehensions faced by society in the 20th century. Some of the probable and possible questions include:

- Are we adequately equipped to deal with newer concepts of family structures?
- What possible changes would be caused in our lifestyles when we differed from our age-old concept of families?

¹ M.J. ENGLAND & L.J. SIM, DEPRESSION IN PARENTS, PARENTING AND CHILDREN: OPPORTUNITIES TO IMPROVE IDENTIFICATION, TREATMENT AND PREVENTION (National Academies Press 2009)

- What are the reasons behind the causation of these fluctuations in family structures?
- If we keep stuck on the vicissitudes, what would the future look like?
- Are our personal and consequential laws negatively or positively contributing to set notions?
- What were the loopholes and deficits in our old systems that led to the present evolution of family structures?

4. HYPOTHESIS

The major hypothesis is, namely, the assumption that the recent changes that occurred in family structures are going to have an impactful influence in the future. The hypothesis is regarding the benefits and disadvantages of the structural changes. The analytical framework of the article provides a greater degree of ambit for the functionality of different hypotheses. There are hypotheses regarding two varied sets of cultural and structurally distinct societal and family structures. What would be the consequence of the suspense of an old and traditionalist family structure? is another form of hypothesis. The conventional practices are generalised throughout the research article, which gives an overall idea rather than a specified study. Hypotheses greatly help in reaching a specified conclusion regarding a subject matter and are thus appreciated during such research work.

5. RESEARCH METHODOLOGY

The data collected for the research work is through secondary data resources. Secondary data resources are second-hand resources and thus are not raw data. Before understanding the details of the primary data—collected from the source—we need to first familiarise ourselves with the secondary data collection methodology. The approach of the research article is entirely analytical. The different theories of the past are given due importance and are dissected by analytical methods of perusal. Analysis of the data and theories allows the breakage of complex topics into smaller components so that each micro-component can be studied individually and

further connected to the major issue at hand. The analytical methodology involves simplification of complicated pieces of information to enable efficient, cost-effective, and efficient study.

6. LITERATURE REVIEW

- According to an article written by Dan A. Chekki in 1996, contemporary family concerns are social upheaval or revolution. The quality of life and children are degrading as a result of the shallow consequences of family decline. Feminists and gay liberation activists are working for a redefinition of family structures. We can see a resounding modulation in the gender division of labour. The possible gap in Chekki's study is a failure to account for the rise of the ideation of equality and the representation of equity. Post-modern society has more liberal and comprehensive perspectives, allowing for the varying moderations of ideas².

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- An article by Lee and McLanahan written in 2015 accounts for the instability in population heterogeneity. Racial and ethnic minority groups face myriad socioeconomic disadvantages, owing to which the children do not face a lot of trouble while moving out of the set structures. Minorities are more inclined towards extending the values of kinship than whites. However, the possible gap in the research is that the dearth of basic essential resources coerces the children of such backgrounds to adopt various malpractices of society. This makes the branches of the family tree rotten and weak³.
- An article written by Keera Allendorf in 2013 stated that urbanisation, educational expansion, and industrialization led to the evolution of nuclear families in the world. There is a positive correlation between health and the position of the married woman in the family. The patriarchy of Indian society promotes extreme hardship and deprivation

² Dan A. Chekki, *Changing Families in Contemporary Societies: An Overview*, 27 J. COMPARATIVE FAMILY STUDIES (1996)

³ Dahoon Lee & Sara McLanahan, *Family Structure Transitions and Child Development: Instability, Selection, and Population Heterogeneity*, 80 AM. SOCIOLOGICAL REV. 738, 756-760 (2015)

for married ladies. The research fails to acknowledge the indifferent nature of women towards their health, even before their marriages. Marriages are made accountable for the major inconveniences of life. The bias of women that in-laws' homes are hazardous is a cause of some of the failures of marriage. This preconceived bias needs to be eliminated for the proper functioning of health and marriage⁴.

- Patricia Voydanoff, in an article written in 1988, discusses the work-family conflict that arises due to extended hours of work and the non-availability of spouses. Control over the work is attributed to having fewer conflicts between the partners. However, the vice versa also holds. The article fails to account for the extra burden that is imposed on females to have a better and more nuanced work-family balance⁵. It elucidates that mothers tend to think of their daughters as their continuous selves and therefore have stronger connections towards their daughters, whereas boys, from an early age, get distant from their mothers and hence grow more emphatic individualism and ego boundaries as 'not female'. However, the research does not take into consideration the presence of the Electra and Oedipus complexes. According to the former, because of an opposite-sex attraction, the daughters compete with their mothers for the love of the fathers. As per the Oedipus complex, or penis envy, boys compete with their fathers to get the love and warmth of their mothers and hence establish a better and closer bond⁶.

7. ANALYSIS

Engagement in familial activities keeps one engaged, thereby helping one to remain participative in a healthy environment. However, the other side of the coin remains dark and dim. A scattered family makes a person equally bitter and harsh. Insensitivity prevails in a person with a shifting family background. Our family acquainted us with our ancestral cultures and helped us remain

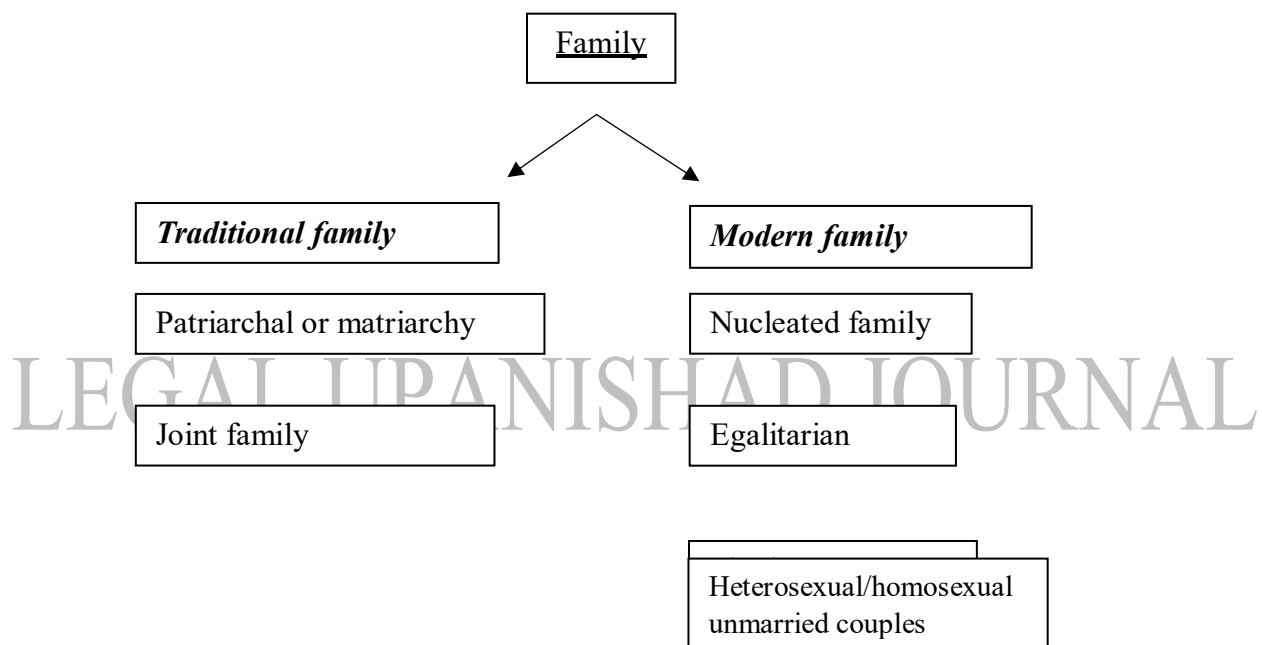
⁴ Keera Allendorf, *Going Nuclear? Family Structure and Young Women's Health in India*, 50 DEMOGRAPHY (2013)

⁵ Patricia Voydanoff, *Work Role Characteristics, Family Structure Demands, and Work/Family Conflict*, 50 J. MARRIAGE & FAMILY (1988)

⁶ Denise A. Segura & Jennifer L. Pierce, *Chicana/o Family Structure and Gender Personality: Chodorow, Familism, and Psychoanalytic Sociology Revisited*, 19 SIGNS (1993)

grounded and humble. The value of true family can be understood by introspecting that, for the majority of us, smaller components of ourselves are reflective of our familial structure. We follow the trial-and-error method. There can be two possible scenarios:

1. A's (say), family is very arrogant and selfish. Therefore, it is deviance, and A would not carry those attributes in A's
2. Correspondingly, because A's family has the said characteristics, A would also adapt and share similar features.



Due to the advancement of society, there has been a fair and equitable shift in the familial structures of India. A whiff of globalisation and resulting westernisation has created significant changes in mentalities and traditionalistic thought processes. Our Indian family structure has been rigid and centred on the male members of the family. However, a subtle flow of Western thinking into the Indian lands made us shuffle and rearrange our old beliefs.

Participation of women in various fields led to their education. Women started admitting and acquiring their rights. They started evolving and coming out of their roofed cages. Women entered into-

- ✓ The social sphere
- ✓ The economic sphere
- ✓ The educational sphere
- ✓ The professional sphere

The male's designation as the sole breadwinner of the family has been changed by women's grand appearance into financial gains. Commercialization and the opening of free markets led to the upliftment of women. The needs and desires of a family are no longer the responsibility of the male member. Due to this patrilineage, the male members have been under constant compulsion and pressure to outperform and satisfy their families' hunger. High suicide mortality in India has become a growing concern. In 2021, the suicidal death rate (SDR) among men stood at 34.6%, compared to women's 13.1%.

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Unemployment, family problems, and health issues cause a 33.5 percentage point change in suicide death rates among men. Nowadays, men of our generation need freedom from the constant turmoil that they go through. Responsibility does not need to have a negative connotation, and thus, a home should be a residence of four equally strong and capable shoulders rather than an unnecessarily burdened and fragile pair of shoulders. Now is the time to create a change and be the change. The dynamics of society are changing, and we should contribute our parts to future developments.

Our rural areas are still devoid of the necessary changes. They reject the changing norms, and therefore, a report by "The Centre for Monitoring Indian Economy" shows the labour participation rate of rural women was only 9.92% in March 2022 as compared to 67.24% for men. A report discovered that living in a joint or traditionalist family decreases women's engagement in nonfarm work by more than ten percentage points, owing to restrictions on

women's decision-making authority and mobility inside and outside the home⁷. The findings contrast with research from China and Japan, where a combined family works as a support structure for childcare and home task sharing, allowing younger women to enter formal jobs. Due to congestion, relocation to other regions for employment, the death of the patriarch, friction due to the sharing of resources and obligations, and so on, the joint family tends to transition into several nuclear families over time. However, when the woman ages and her son(s) marry, she may return to a joint family as the mother-in-law of the home. Thus, the likelihood of a married woman living in a joint household declines with age and consequently reaches a minimum of around 30–40 years and then increases.

The non-dependence of women on their husbands and families has led to serious changes in the gender roles of society; however, while the majority of Indians believe that men and women should share certain household chores, many continue to believe in traditional, patriarchal ideals. For example, a narrow majority of Indians (54%) believe that both men and women in a household should be financially responsible. However, 43% believe that men should be the major earners. Furthermore, nearly two-thirds of Indians (64%)—including 61% of women—feel that a wife is always expected to follow her husband⁸. These entries of data are enough for us to draw causal reasoning as to why we still follow a patriarchal theme of family structure. Even after nucleated families, a predominance of males is prevalent. The power is often trickled down through the males. The last word often comes from the mouth of a male member of the family.

The age-old practices of dowry and education have led to an increase in the age of marriage for girls. During the olden times, a girl needed to be of pre-puberty age to get married. However, it has been changing with time. The family structure of urban and rural regions remains fairly distinct. In rural regions, we can still get a glimpse of traditionalist practices, and thus, in rural

⁷ Sowmya Dhanaraj & Vidya Mahambare, Family structure, education and women's employment in rural India, UNITED NATIONS UNIVERSITY (Nov. 7, 2023, 5:00 PM), https://www.researchgate.net/publication/337689073_Family_structure_education_and_women's_employment_in_rural_India

⁸ Jonathan Evans, Neha Sahgal, Ariana Monique Salazar, Kelsey Jo Starr and Manolo Corichi, Gender roles in the family, PEW RESEARCH CENTRE (Nov. 5, 2023, 7:00 PM), <https://www.pewresearch.org/religion/2022/03/02/gender-roles-in-the-family/>

regions, families include younger brides. Earlier ages of marriage stipulate the comparatively premature ages of childrearing. Education has led to the evolution of certain malpractices. The higher the education of the groom, the higher the dowry demanded.

Due to the division of labour, our society has evolved from being primitive to modern. We nowadays have a weaker collective consciousness, and thus families are growing wider and more specific. Joint families are unable to withhold because of inner differences of opinion. Freedom and independence are the end-term goals. Unity among the members is diminishing. People are relying more on their own benefits and aspirations than on the good of the group. The change in structure is predominantly because of changing economic patterns. The differences in the relationships are arising due to the physical distancing among the family members.

Fluctuations in lifestyles have induced lower fertility. There have been great changes made to our eating patterns. We focus our eating habits on wholesome fruits, whole grains, and vegetables, and thus our health is continuously deteriorating. Moreover, an office-based sedentary life has added more to the trouble. Our body is more dynamic. All of these things promote reduced fertility among urbanites. Damage is done to the core. Even after medical development, the infant mortality rate is decreasing with time.

Lower fertility rates+ decreasing infant mortality —————> changes in family structures

A smaller number of babies survived, resulting in smaller families. The families are growing compact due to the non-survivorship of multiple babies. During the olden times, the average number of babies born was higher.

The most prominent change in family structures is the inclusion of live-in relationships into the legal framework. Live-in relationships result from the changing values, mindsets, and priorities of the present generation. However, our laws do not recognise such a manner of cohabitation. In June 2022, the Supreme Court in the *Kattukandi Edathil Krishnan & Another vs. Kattukandi*

Edathil Valsan & Others⁹ case decided some of the essential points regarding live-in relationships. Such points include:

- Children born to partners in live-in relationships are legally recognized. This is conditional in the sense that the relationship must be long-term and not of the 'walk in, walk out' variety.
- A long period of living together between a man and a woman raises the possibility of marriage, and the children produced from such a connection are regarded as legitimate offspring.
- Such rights extend to property rights as well. According to the Supreme Court, the law presumes in favour of marriage and against concubinage. If a man and woman have lived together for a long time and have a child, the child cannot be denied participation in the ancestral estates. Furthermore, they have coparcenary rights to their ancestral holdings.
- However, so far, the court has ruled that the above-mentioned points on live-in partnerships have not extended to Muslim personal law, and children of Muslim live-in partners are regarded as illegitimate under current law.

The inclusion of the Uniform Civil Code would solve many of these problems if it accommodated live-in relationships into our legal tapestry. Due importance and credibility need to be given to such relationships that are seen with squinted eyes in our society.

8. CONCLUSION AND SUGGESTIONS

Laws need to be framed for the assistance of our elderly population. Back then, the importance of old parents was supreme; however, in modern times, the condition and status of old-age parents have been diluted. Parents are often outcast by their children when they reach a particular age or prove to be a burden on their parents. According to the statistics, 34% of old people suffer from economic difficulties. When elderly people are unable to support themselves financially, an economic crisis occurs. As a result of increased competition from the younger generation, they lose their financial independence. It is common for the majority of elderly people to lack the

⁹ Kattukandi Edathil Krishnan & Anr vs. Kattukandi Edathil Valsan & Ors, Civil Appeal Nos. 6406-6407/2010

ability to be productive or enjoy opportunities as they once did. Often, old parents are removed from their homes like dead bugs. They are not given the respect that they deserve. Nowadays, children are raised without the motherly hands of grandparents above their heads¹⁰.

Times are changing, and so are we. Our legal balance sheets should be updated with new dates and accounts. Old age rights should be given a place in legal books. Moreover, the rigidity of the texts should be avoided while framing new laws for the public. The virtuous values of all personal laws should be extracted and enclosed in a new chapter of modernity. We cannot achieve an ideal scenario; however, through relevant amendments, we can bring about a change that is progressive and rooted in values. Norms and values are for our betterment and upbringing. Human rationality may come in consonance with norms if dealt with with patience.

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¹⁰ Mohammad Amiri, Problems Faced by Old Age People, 6(3) INT'L J. INDIAN PSYCHOLOGY (2018)