
Equal Rights of Children regardless of Birth Status: Constitutional and Human Rights Perspectives

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ABSTRACT

The legal category of ‘illegitimacy’ — the disqualification, in whole or in part, of a child’s civil status and inheritance rights by reference to the marital status of that child’s parents at the time of birth — survives in Indian personal law more than four decades after the Constitution’s equality guarantees were extended, by statute, to children of void and voidable marriages. This paper examines the constitutional and human rights foundations of the continuing legal disability that attaches to children born outside a legally recognised marriage in India, with particular reference to the coparcenary exception preserved by Section 16(3) of the Hindu Marriage Act, 1955 and recently reaffirmed by a three-judge Bench of the Supreme Court in *Revanasiddappa v Mallikarjun* (2023). Drawing on Articles 14, 15, 21 and 39(f) of the Constitution of India, the jurisprudence on dignity and non-discrimination developed since *Maneka Gandhi v Union of India*, the international human rights framework established by the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child, and comparative reforms in the United Kingdom, the United States, South Africa and the jurisprudence of the European Court of Human Rights, the paper argues that a residual, birth-status-based exclusion from ancestral coparcenary property is constitutionally infirm and inconsistent with India’s international obligations. The paper situates this doctrinal inquiry within the broader trajectory of Indian family law reform — guardianship, maintenance and the presumption of marriage from prolonged cohabitation — and concludes by proposing a calibrated legislative reform model that would extend equal inheritance rights to all children irrespective of the marital status of their parents, while preserving legitimate, narrowly tailored protections for third-party coparceners.

Keywords: legitimacy; illegitimacy; children born out of wedlock; Hindu Marriage Act 1955; coparcenary; Article 14; Article 21; equal protection; Convention on the Rights of the Child; comparative family law

I. Introduction

The proposition that a child should not be made to bear the legal consequences of the circumstances of her birth is, in the abstract, uncontroversial. It has been affirmed in the Universal Declaration of Human Rights, which provides that¹ all children, born in or out of wedlock, are entitled to the same social protection, and it underlies Article 2 of the Convention on the Rights of the Child, which requires States Parties to guarantee the rights recognised in the Convention without discrimination on the basis of the status of a child's parents.² Yet Indian personal law, notwithstanding a formal legislative disavowal of the category of 'illegitimacy', continues to attach a graduated set of civil disabilities to children born outside a legally valid marriage — disabilities that persist most acutely in the law of inheritance and, more diffusely, in matters of guardianship, surname, and social recognition.

The Hindu Marriage Act, 1955, as amended in 1976, confers legal legitimacy on children born of marriages that are void or voidable.³ Yet Section 16(3) of the Act, in the same breath, confines the inheritance rights of such children to the property of their own parents, excluding them from any share in ancestral or coparcenary property that would otherwise devolve upon them as members of a Hindu joint family.⁴ The Supreme Court, most recently in a three-judge Bench decision delivered on 1 September 2023 in *Revanasiddappa v Mallikarjun*⁵, has confirmed that this distinction survives constitutional scrutiny: legitimacy conferred under Section 16 does not, without more, make a child a coparcener by birth, and such a child's rights remain confined to a notional share of the parent's own interest rather than a birthright in the joint family estate.⁶ Children of unmarried parents, or of relationships not recognised as marriages under any personal law at all, fare still less favourably outside the narrow protective scope of Section 16.

This paper interrogates whether this residual, birth-status-based exclusion can be reconciled with the equality guarantees of the Constitution of India and with India's obligations under international human rights law. It does not ask whether some differentiation between categories of heirs is permissible as a matter of property law generally — plainly it is — but whether a differentiation keyed specifically to the marital status of a child's parents at the time of conception or birth, applied against a child who had, self-evidently, no agency in that circumstance, survives the scrutiny that Indian constitutional doctrine now applies to classifications bearing on personal status and dignity.

¹ Universal Declaration of Human Rights, GA Res 217A (III), UN Doc A/810 (10 December 1948), art 25(2), providing that '[a]ll children, whether born in or out of wedlock, shall enjoy the same social protection.'

² Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3, art 2(2).

³ Hindu Marriage Act 1955, s 16, as substituted by the Marriage Laws (Amendment) Act 1976 (Act No. 68 of 1976).

⁴ Hindu Marriage Act 1955, s 16(3).

⁵ *Revanasiddappa v Mallikarjun*, 2023 SCC OnLine SC 1087 (Chandrachud CJI, Pardiwala and Manoj Misra JJ, 1 September 2023).

⁶ *ibid*, holding that children of void and voidable marriages are entitled to inherit their parents' share, including a share attributable to ancestral property held by the parent, through notional partition, but do not themselves acquire coparcenary status.

The argument proceeds in ten parts. Part II sets out the statutory architecture governing legitimacy across India's principal personal law systems. Part III maps the constitutional foundations in Articles 14, 15, 21 and 39(f). Part IV situates the debate within international human rights law. Part V traces the judicial trajectory from the early inheritance cases through to Revanasiddappa (2023). Part VI draws comparative lessons from the United Kingdom, the United States, South Africa and the European Court of Human Rights. Part VII critically examines the coparcenary exception that survives Indian reform to date. Part VIII subjects that exception to the equality and proportionality standard. Part IX proposes a reform model, and Part X concludes.

II. The Statutory Architecture Governing Legitimacy in India

India's personal law systems approach the status of children born outside marriage in markedly different ways, producing an inconsistency that is itself difficult to justify on any principled basis. Under Hindu law, Section 16 of the Hindu Marriage Act, 1955 confers legitimacy on children born of marriages subsequently declared void under Section 11, and on children of voidable marriages annulled under Section 12, provided that, in the latter case, conception occurred before the decree of nullity.⁷ Section 16(3), however, provides that such a child 'shall not be entitled to any rights in or to the property of any person other than the parents', a formulation the Supreme Court has consistently read as excluding rights in ancestral coparcenary property held by the wider joint family.⁸ Children born of relationships that do not qualify even as void or voidable marriages — for instance, of parents who never underwent any marriage ceremony — fall outside Section 16 altogether and depend for legitimacy on the judicially developed presumption that prolonged and continuous cohabitation as husband and wife raises a presumption of marriage, a presumption of considerable practical importance given the absence of any direct legislative provision covering such children.⁹

The Hindu Succession Act, 1956, which governs intestate succession, does not itself use the language of legitimacy, but its scheme of coparcenary and survivorship — preserved, with modification, even after the 2005 amendment conferring equal coparcenary status on daughters¹⁰ — operates to entrench the Section 16(3) exclusion, since coparcenary interest arises by birth within a recognised joint family unit from which a child born of a void or voidable marriage remains structurally excluded.

Christian personal law, governed by the Indian Succession Act, 1925, draws a still sharper line: Section 21 of that Act, read with the Indian Divorce Act, 1869, confers legitimacy on children of marriages annulled on limited grounds only, leaving children of other void or voidable unions, and children of unmarried parents, without any statutory claim to legitimacy or

⁷ Hindu Marriage Act 1955, ss 11, 12 and 16(1)–(2).

⁸ *Jinia Keotin v Kumar Sitaram Manjhi* (2003) 1 SCC 730 [10]–[12]; *Bharatha Matha v R Vijaya Renganathan* (2010) 11 SCC 483 [15].

⁹ *Tulsa v Durgathiya* (2008) 4 SCC 520 [15]–[18]; *SPS Balasubramanyam v Suruttayan* (1994) 1 SCC 460 [4].

¹⁰ Hindu Succession (Amendment) Act 2005 (Act No. 39 of 2005), substituting s 6 of the Hindu Succession Act 1956 to confer coparcenary status on daughters equally with sons.

inheritance.¹¹ Muslim personal law, uncodified and derived from classical fiqh, generally denies legitimacy to a child conceived outside a valid or irregular (fasid) marriage, and correspondingly denies such a child any right of inheritance from the putative father, though maintenance obligations exist independently under the general criminal law. No comparable legitimating provision exists for Parsis or for couples married under the Special Marriage Act, 1954 whose marriage is later annulled, leaving further gaps that Parliament has not addressed despite repeated judicial and academic comment.

This fragmented, personal-law-dependent architecture means that a child's legal status turns not on any characteristic of the child, nor even on any wrongdoing by the child's parents, but on the accident of the religious community into which the child happens to be born — a feature of the law that sits uneasily with the general constitutional commitment to equal citizenship irrespective of religion under Article 15(1) of the Constitution.

III. Constitutional Foundations: Articles 14, 15, 21 and 39

The constitutional vulnerability of birth-status classifications arises principally at the intersection of four provisions. Article 14 guarantees equality before the law and equal protection of the laws, and permits classification only where it rests on an intelligible differentia bearing a rational nexus to the object sought to be achieved by the impugned provision.¹² A classification that distinguishes between siblings born of the same parents, differentiated only by the marital status of those parents at the time of birth, is difficult to justify by reference to any purpose other than the perpetuation of a moral judgment about the parents' conduct — a judgment visited, definitionally, upon a person who took no part in that conduct.

Article 21's guarantee of the right to life and personal liberty has, since *Maneka Gandhi v Union of India*¹³, been read to encompass a right to live with dignity, and the Supreme Court has repeatedly held that dignity is not a value external to Article 21 but its organising principle.¹⁴ A legal regime that permits a child, for the whole of that child's minority and often well beyond it, to be publicly identifiable in law as 'illegitimate' — a term retained in judicial and statutory usage notwithstanding its evident stigmatising character — sits uneasily with this dignitarian reading of Article 21, particularly where, as with coparcenary exclusion, the disability is not merely nominal but has direct proprietary consequences that can determine a child's economic security into adulthood.

Article 15(1) prohibits discrimination by the State on grounds including religion, and Article 15(3) empowers the State to make special provision for children — a power this paper argues, consistently with the reasoning developed in Part I of the companion literature on child protection legislation, must itself be exercised in a manner that advances rather than undermines the substantive interests of the children it purports to protect. Article 39(f), inserted

¹¹ Indian Succession Act 1925, s 21, read with the Indian Divorce Act 1869, s 19.

¹² Constitution of India 1950, art 14; *State of West Bengal v Anwar Ali Sarkar* AIR 1952 SC 75.

¹³ *Maneka Gandhi v Union of India* (1978) 1 SCC 248, holding that any procedure depriving a person of life or personal liberty under art 21 must be fair, just and reasonable, and not arbitrary.

¹⁴ *Francis Coralie Mullin v Administrator, Union Territory of Delhi* (1981) 1 SCC 608 [8]; *Justice K.S. Puttaswamy (Retd) v Union of India* (2017) 10 SCC 1 [107] (Chandrachud J).

into the Directive Principles by the Forty-Second Amendment in 1976 — the same year Parliament amended Section 16 of the Hindu Marriage Act — directs the State to ensure that children are given opportunities and facilities to develop in a healthy manner and are protected against exploitation and against moral and material abandonment.¹⁵ Although Directive Principles are not directly enforceable, the Supreme Court has consistently used Article 39 and the other Directive Principles as an interpretive aid in construing the content of Article 21, and Article 39(f)'s explicit, contemporaneous concern with children's welfare irrespective of the circumstances of their birth lends interpretive weight to the argument that the 1976 legislative compromise — legitimacy without full inheritance parity — achieved only a partial and constitutionally incomplete implementation of the value the Amendment itself proclaimed.

IV. The International Human Rights Framework

India's obligations under international human rights instruments reinforce, and in several respects go beyond, the domestic constitutional analysis. Article 25(2) of the Universal Declaration of Human Rights, cited above, was among the earliest post-war international statements to reject the legal category of illegitimacy in express terms. The International Covenant on Civil and Political Rights, ratified by India in 1979, requires in Article 24 that every child, without discrimination as to birth, has the right to such measures of protection as are required by his status as a minor, and Article 26 guarantees equal protection of the law without discrimination on any ground.¹⁶ The Human Rights Committee has interpreted Article 24 to prohibit differential treatment of children based on the marital status of their parents, treating such treatment as a form of discrimination the Covenant was specifically designed to eliminate.

The Convention on the Rights of the Child, ratified by India in 1992, is more direct still: Article 2(2) obliges States Parties to take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status of the child's parents.¹⁷ A domestic inheritance rule that reduces a child's entitlement specifically and solely because of the parents' marital status at the time of the child's birth is difficult to characterise as anything other than the discrimination Article 2(2) was drafted to prohibit — a point of some interpretive significance given the Supreme Court's own practice of construing domestic legislation, wherever the text permits, in harmony with India's international treaty obligations.¹⁸

V. Judicial Trajectory: From *Jinia Keotin* to *Revanasiddappa* (2023)

Indian courts have approached the coparcenary question with notable inconsistency over the past two decades, oscillating between a textually literal reading of Section 16(3) and a more purposive reading informed by the section's legitimating object. In *Jinia Keotin v Kumar*

¹⁵ Constitution of India 1950, art 39(f), inserted by the Constitution (Forty-Second Amendment) Act 1976.

¹⁶ International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171, arts 24, 26.

¹⁷ Convention on the Rights of the Child (n 2) art 2(2).

¹⁸ *Vishaka v State of Rajasthan* (1997) 6 SCC 241 [14]–[16], on the use of international conventions to fill gaps in domestic law consistently with India's treaty obligations.

Sitaram Manjhi¹⁹, a two-judge Bench held that children protected under Section 16 could not be placed on par with children of a lawful marriage for purposes of inheriting ancestral property, reasoning that the legislature's express confinement of their rights to 'the property of the parents' in sub-section (3) precluded any wider construction. This restrictive approach was followed in *Neelamma v Sarojamma*²⁰ and again in *Bharatha Matha v R Vijaya Renganathan*²¹, which confirmed that such children could inherit only the self-acquired, and not the ancestral coparcenary, property of their parents.

A doctrinal fracture emerged in 2011 when a different two-judge Bench, in *Revanasiddappa v Mallikarjun*²², took a markedly more expansive view, holding that Section 16(3), properly construed, entitled such children to a share of whatever property — self-acquired or ancestral vested in their parents, on the reasoning that a constitutionally sensitive reading of a legitimating provision ought not to be undercut by a narrow, technical construction of its proviso. This conflict between coordinate Benches necessitated a reference to a larger Bench, which was answered on 1 September 2023 by a three-judge Bench led by the then Chief Justice, Dr D.Y. Chandrachud.²³

The 2023 judgment charted what might be described as a middle path. The Court held that a child of a void or voidable marriage is entitled, on notional partition, to a share equivalent to the parent's own interest in ancestral coparcenary property — meaning the child's inheritance is no longer confined to property the parent held in a purely individual, non-coparcenary capacity — but declined to hold that Section 16 makes such a child a coparcener in her own right, by birth, within the wider joint Hindu family.²⁴ The Court reasoned that coparcenary status is a creature of birth within an unbroken male or, since 2005, female line of descent recognised by Mitakshara law, and that Section 16, whatever its legitimating purpose, could not be read to rewrite this structural feature of Hindu joint family law absent clearer legislative language.²⁵ The practical consequence is that such a child now inherits a larger share than under the pre-2023 position, but remains excluded from the status — and the survivorship rights that status confers — that a child born of a valid marriage acquires automatically at birth.

Parallel to this inheritance jurisprudence, the Supreme Court has progressively dismantled the maintenance and guardianship disabilities historically attached to birth outside marriage. In *Tulsa v Durghatiya*, the Court held that a child born to parents who had cohabited for a long, unbroken period as husband and wife would be presumed legitimate, entitling that child to inherit self-acquired property under the general presumption of marriage even absent a formal wedding.²⁶ In *ABC v State (NCT of Delhi)*²⁷, the Court held that an unwed mother could be recognised as the sole legal guardian of her child without disclosing the father's identity,

¹⁹ *Jinia Keotin v Kumar Sitaram Manjhi* (2003) 1 SCC 730.

²⁰ *Neelamma v Sarojamma* (2006) 9 SCC 612.

²¹ *Bharatha Matha v R Vijaya Renganathan* (2010) 11 SCC 483.

²² *Revanasiddappa v Mallikarjun* (2011) 11 SCC 1.

²³ *Revanasiddappa v Mallikarjun*, 2023 SCC OnLine SC 1087 [2]–[6].

²⁴ *ibid* [78]–[85].

²⁵ *ibid* [90]–[93].

²⁶ *Tulsa v Durghatiya* (2008) 4 SCC 520 [16]–[18].

²⁷ *ABC v State (NCT of Delhi)* (2015) 10 SCC 1.

reasoning that the child's best interests, and the mother's dignity, outweighed any procedural entitlement of a father who had played no role in the child's life. Read together, this line of authority reflects a judiciary increasingly prepared to treat the marital status of a child's parents as legally irrelevant across most incidents of family life — guardianship, maintenance, custody — while stopping short, in Revanasiddappa (2023), of extending that logic to the one area, coparcenary succession, where doing so would disturb the settled property expectations of third-party coparceners.

VI. Comparative Perspectives

India's continuing, if narrowed, birth-status exclusion places it at odds with the general direction of reform across comparable common law and civil law jurisdictions over the past half-century. The United Kingdom's Family Law Reform Act, 1969 first equalised intestate succession rights as between children of married and unmarried parents, and the Family Law Reform Act, 1987 went considerably further, providing that all statutory and common law references to family relationships are to be construed without regard to whether a child's parents were, at any time, married to one another — a reform that effectively abolished the legal category of illegitimacy for almost all purposes in English law.²⁸

The United States Supreme Court reached a comparable, though more incremental, result through constitutional adjudication rather than legislation. In *Levy v Louisiana*²⁹, the Court held that a Louisiana statute denying illegitimate children the right to sue for the wrongful death of their mother violated the Equal Protection Clause, reasoning that it was invidious to discriminate against a child in this way when the illegitimacy of the child is not the child's own fault. In *Trimble v Gordon*³⁰, the Court struck down an Illinois inheritance statute that denied illegitimate children any right to inherit from their fathers by intestate succession, and in *Clark v Jeter*³¹, the Court confirmed that classifications based on illegitimacy are subject to a heightened, 'intermediate' level of constitutional scrutiny — substantially more exacting than the ordinary rational-basis review applied to most economic and social legislation — precisely because such classifications penalise the child for conduct in which the child had no part.

South African law underwent the most complete legislative transformation. The Children's Status Act 82 of 1987 abolished the common law status of illegitimacy in its entirety, and the position was consolidated after the constitutional transition by the Children's Act 38 of 2005, read together with the Constitution's guarantee of equality in section 9 and its explicit protection of children's best interests in section 28, so that a child's parentage, rather than the parents' marital status, now governs questions of guardianship, care and inheritance under South African law.

The European Court of Human Rights supplied an influential, and still-cited, doctrinal

²⁸ Family Law Reform Act 1987 (UK), s 1.

²⁹ *Levy v Louisiana*, 391 US 68 (1968).

³⁰ *Trimble v Gordon*, 430 US 762 (1977).

³¹ *Clark v Jeter*, 486 US 456 (1988) [8]–[10].

foundation for this trajectory in *Marckx v Belgium*³², holding that Belgian legislation restricting the inheritance rights of a child born outside marriage, and requiring the mother to undertake a formal act of legal recognition before according the child family-law status, violated Article 8 (the right to respect for family life) taken together with Article 14 (the prohibition of discrimination) of the European Convention on Human Rights. The Court reasoned that the distinction bore on the very existence of a family tie recognised by law and could not be justified merely by reference to the protection of the traditional family, since that aim could be achieved by means less restrictive of an 'illegitimate' child's Convention rights — a reasoning subsequently absorbed into the domestic law reforms of Belgium, Germany and several other Council of Europe States.

What unites these otherwise disparate reform trajectories — legislative abolition in England, constitutional adjudication in the United States, comprehensive statutory reform in South Africa, and supranational human-rights adjudication in Europe — is a shared premise that the marital status of a child's parents, being a fact entirely outside the child's control, cannot legitimately determine that child's legal entitlements. India's Section 16(3), and its judicial reaffirmation in *Revanasiddappa* (2023), represents a comparatively conservative outlier against this backdrop, preserving — for the specific and economically consequential purpose of coparcenary succession — precisely the kind of birth-status classification that comparable jurisdictions have, over the past several decades, progressively dismantled.

VII. The Persisting Coparcenary Exception: A Critical Analysis

The principal justification offered for retaining the coparcenary exception, both in the pre-2023 case law and in the Union's submissions before the Supreme Court, is the protection of the settled property expectations of other coparceners — siblings, cousins and other members of the joint family who did not choose, and could not have anticipated, that a child born of a marriage later declared void would share in property they regard as their birthright.³³ This is not a wholly illegitimate concern: unlike self-acquired property, which a parent could in principle dispose of freely by will or gift, coparcenary interest arises automatically by birth and is shared, often across several generations, among persons who had no part in the marriage whose validity is later impugned.

Yet the justification, on closer examination, proves considerably narrower than the rule it is invoked to support. The interest that other coparceners might legitimately claim is an interest in not having their existing shares retrospectively diminished by the sudden addition of a new coparcener whose birth they had no reason to anticipate. That interest is fully protected by the 2023 judgment's holding that such a child inherits only a share equivalent to the parent's own notional interest — a rule that leaves the aggregate size of the coparcenary estate, and the shares of other coparceners, entirely undisturbed. What the continued denial of coparcenary status achieves beyond this is something different and considerably harder to justify: the denial of

³² *Marckx v Belgium* (1979) 2 EHRR 330.

³³ *Revanasiddappa v Mallikarjun* (n 15) [70]–[74], recording the submissions advanced against extending coparcenary status.

survivorship rights, and of the capacity to demand partition, that a child born of a valid marriage acquires automatically — entitlements that do not reduce any other coparcener's existing share but instead determine only how the excluded child's own, already-quantified interest is held and enforced.

The distinction the Court draws, in other words, protects other coparceners against a harm that a more limited rule could equally well prevent, while imposing on the excluded child a disability — exclusion from coparcenary status as such — that serves no corresponding protective function for anyone else. This is precisely the structure of an over-inclusive classification: a rule justified by reference to a narrow, legitimate concern is drawn more broadly than that concern requires, sweeping within its scope a category of harm to the excluded child that the stated justification does nothing to explain.

VIII. Testing the Framework Against the Equality Standard

Indian constitutional doctrine subjects classifications alleged to offend Article 14 to a two-limbed test: the classification must rest on an intelligible differentia, and that differentia must bear a rational nexus to the object of the statute.³⁴ More recent decisions of the Supreme Court, particularly in cases concerning personal liberty and dignity, have supplemented this with a proportionality-inflected inquiry into whether a classification, even if rationally connected to a legitimate object, is nonetheless manifestly arbitrary in its effect on the persons it burdens.³⁵

Applying this framework, the object of Section 16(3) — protecting the settled expectations of third-party coparceners — is legitimate, and the 2023 judgment's holding that an excluded child nonetheless inherits a full notional share of the parent's own interest is a rational and proportionate means of serving that object without unduly burdening the child. What survives is more difficult to defend: the residual denial of coparcenary status itself, considered independently of the property-share question the 2023 judgment resolved, bears no rational relationship to the protection of other coparceners' shares, since — as demonstrated in Part VII — that protection is already fully achieved by the notional-partition rule. What the residual denial does achieve is the perpetuation, in law, of a graded hierarchy of family membership keyed to the marital status of a child's parents — an object that Article 15(1)'s prohibition on status-based discrimination, and Article 21's dignitarian jurisprudence, cast into serious constitutional doubt once the property-protection rationale has been exhausted by a narrower rule.

The persisting cross-personal-law inconsistency identified in Part II compounds this difficulty. A rule that denies a Hindu child coparcenary status while affording a Christian or Muslim child of comparable circumstances an entirely different, and in several respects less favourable, bundle of rights cannot be defended by reference to any coherent state interest common to all communities; it survives, if at all, only as an artefact of India's uncoded and community-specific approach to family law — a justification that Article 14 jurisprudence has consistently

³⁴ *State of West Bengal v Anwar Ali Sarkar* (n 12).

³⁵ *Shayara Bano v Union of India* (2017) 9 SCC 1 [101]–[105] (Nariman J), applying the manifest arbitrariness standard to strike down instant triple talaq.

treated as insufficient once a challenger demonstrates that the differential treatment tracks no policy rationale beyond historical accident.

IX. Toward a Reform Model

A. Full Coparcenary Parity, Subject to a Notional-Partition Floor

Parliament should amend Section 16(3) of the Hindu Marriage Act, 1955 to confer coparcenary status by birth on children of void and voidable marriages on the same footing as children of valid marriages, while preserving — as a floor, not a ceiling — the 2023 judgment's guarantee that such a child's share can never fall below the parent's own notional interest. This removes the residual, unjustified disability identified in Part VIII while addressing the legitimate third-party protection concern through the existing notional-partition mechanism rather than through blanket exclusion.

B. Harmonisation Across Personal Laws

The disparities catalogued in Part II between Hindu, Christian, Muslim and Parsi law should be addressed through a secular, cross-community statute — building on the existing, religion-neutral maintenance provisions of the Bharatiya Nagarik Suraksha Sanhita, 2023³⁶ — that confers uniform legitimacy and inheritance rights on all children irrespective of their parents' religion or marital status, leaving intact only those community-specific rules of succession that do not turn on the child's birth status as such.

C. Codifying the Cohabitation Presumption

The judge-made presumption of marriage from prolonged cohabitation, developed in *Tulsa v Durghatiya* and its predecessors, should be placed on a statutory footing, with clear evidentiary criteria, so that children of such relationships are not left dependent on the vagaries of case-by-case litigation to establish a status that ought to follow automatically from the fact of their birth.

D. A Secular Guardianship and Surname Reform

Building on *ABC v State (NCT of Delhi)* and *Githa Hariharan v Reserve Bank of India*³⁷, statutory guardianship law should be amended to remove any residual reference to a child's 'legitimacy' as a precondition for either parent's guardianship rights, aligning documentary practice — birth certificates, school records, passports — with the constitutional and human-rights principles this paper has traced.

³⁶ Bharatiya Nagarik Suraksha Sanhita 2023, s 144, providing a religion-neutral maintenance obligation extending to children irrespective of legitimacy.

³⁷ *Githa Hariharan v Reserve Bank of India* (1999) 2 SCC 228, holding that a mother may act as a natural guardian of a minor child even where the father is alive, where doing so serves the child's welfare.

X. Conclusion

The trajectory of Indian law on the status of children born outside marriage has been one of genuine, if incomplete, progress: from a common law and personal law tradition that once denied such children any legal existence at all, to a statutory regime that confers legitimacy but withholds full inheritance parity, to a 2023 judicial intervention that narrows, without eliminating, the remaining disability. What persists after *Revanasiddappa v Mallikarjun* is not the wholesale denial of rights that once characterised this area of law, but a residual, birth-status-keyed exclusion from coparcenary status whose sole surviving justification — protection of other coparceners' settled expectations — is already fully served by the notional-partition rule the Court itself has laid down. The Constitution's equality guarantees, its dignitarian reading of Article 21, and India's international human rights obligations under the Convention on the Rights of the Child and the International Covenant on Civil and Political Rights converge on a single, modest conclusion: a child's legal entitlements should be a function of that child's parentage, not of the legal status of the relationship between the child's parents. Comparative experience — legislative abolition in England, heightened constitutional scrutiny in the United States, comprehensive reform in South Africa, and supranational adjudication in Europe — demonstrates that this conclusion is neither radical nor administratively unworkable. What remains is the more modest, but no less necessary, task of legislative completion: carrying the logic Parliament itself endorsed in 1976, and the Supreme Court reaffirmed in narrowed form in 2023, to its full and constitutionally required conclusion.

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