The *Hindu Undivided Family* in Independent India's Capital Accumulation Regime: An Anachronism?[1]

Chirashree Das Gupta

The Hazari report in 1967 *officially* identified the 'business group' as the basic institutional unit of organisation of Indian monopoly capital as opposed to the dominant macroeconomic construction of 'firms' and 'households' as disparate and mutually exclusive units of analysis. The group in this identification consisted of a number of related and unrelated activities controlled by a single central decision-making authority and thereby functioning as a co-ordinated organisation (Hazari 1967). Besides a high degree of product concentration, monopoly capital in India consisted of the predominance of a few representative units of organisation of capital in most areas of industry and trade. The key houses of business, both old and new, found ways to maintain control over decision making through the institutional structure of the *family run business house* (Das Gupta 2010).

While the entity of the 'business group' has found its place in the institutional economics and the larger social science literature, the familial basis of ownership and control remains an understudied area. While the organisation of the 'business house' was legally sanctioned through multiple legislations spanning corporate and tax laws and forms the object of studies in 'corporate governance', the institution of the 'family' has fallen in the ambit of codification of 'personal laws' (Das Gupta 2013). The first aspect is significant in the organising of the institutional basis of concentration of capital combining the modalities of ownership and control. The second has implications for accumulation, investment and concentration. The relationship between the two and the regimes of accumulation in independent India has been largely unexplored in the otherwise growing corpus of literature on the relation between the family owned business group and 'corporate governance' and public policy in not only India, but also in USA, Canada, Europe, Hong Kong, Taiwan, Japan, South Korea, China and Pakistan (Mehta 2006; Gulzar and Wang 2010). The peculiar form of the HUF as a distinct form of property holding for the purpose of taxation has only recently been recognised in the literature (Dewan 2009).

[1] This is a first draft. Not to be cited without author's permission.

There were two ways in which the family control over the organizational structure of business groups and the ownership of wealth generated through these structures were maintained. The first had to do with the legal provisions of 'corporate governance' structures which facilitated the optimum mix of various forms of registered companies like partnerships, private limited companies, unregistered and registered public limited companies under the umbrella group through interlocking share-holdings. These were done within the enabling legal provisions of the Indian Partnerships Act of 1932 and the Companies Act of 1956. Apart from risk spreading, this also ensured avenue to escape the minimal restrictions on expansion under Monopolies and Restrictive Trade Practices after 1973 till it was repealed in 1991. It was also important for labour deployment and control with employers often making sure that each company only had less than seven employees and pre-empting any possibility of trade union formation under the stipulations of the Trade Union Act of 1926 (Das Gupta 2015). The second was through the legal sanctity given to the category of the *Hindu Undivided Family* (HUF) by interweaving it into corporate governance structures, family laws and the tax codes.

The HUF found legal recognition since the late 19th century, but it was the first Income Tax Act under colonial rule in 1913 that gave it the status of a separate and distinct tax entity based on the codification of the claims of Hindu 'traditional' family structure based on personal laws. However, it was in the first decade after independence that it was sanctified and integrated into the Indian legal system. Social science has largely not engaged with this socio-legal entity. In corporate law and personal law – the two spaces it inhabits, it has been largely regarded as a 'loophole' or an 'anachronism' that is incongruent with 'modern' corporate governance and taxation structures. It is often referred to as a remnant from the archaic which does not serve any purpose in contemporary modes of capital accumulation. The women's movement in India that has had the closest engagement with this structure has often associated it with feudal structures of land and property holdings. Its implications on capital accumulation in the 'modern' sectors have not been studied at all. This paper is an attempt to interrogate such propositions and to arrive at a comprehensive delineation of the role of the HUF in the capital accumulation regime in independent India.

Installation of the HUF

The singular political action in the first decade after independence was the codification of Hindu Personal laws as the starting point in 'nation-building' – a political process that continued for more than nine years from 1947 to 1956. The political polarisation around the bills for codification led to compromises in which the bill was never passed in its original form as had been proposed by Dr B R Ambedkar (who resigned from the Union Cabinet in protest after agreeing to many of the changes that were inserted at various stages of the debate) and was subsequently broken down into four separate acts on marriage, guardianship, succession and adoption passed between 1955 and 1956. The key figures behind the strategic dilution of the bill and separation of the various had been Jawaharlal Nehru, N G Ranga, and Pattabhi Sitaramaiyya. The Select Committee which proposed amendments on marriage rules consisted of Giani Gurmukh Singh Musafir, Sardar Hukum Singh, M. Ananthasayanam Ayyangar, Deshbandhu Gupta, G. Durgabai, Renuka Ray, Ramnath Goenka, Bakshi Tek Chand, Lala Achint Ram, Ch. Ranbir Singh, Mahabir Tyagi, and Thakur Das Bhargava[2]. Thus big capitalists played a major part in the formulation of the bill. All of these together had very significant implications for the subsequent institutionalisation of the Hindu Undivided Family as the institutional basis of organisation of the business group.

This was done through a two-step process. First, a Hindu was defined as anyone who was not a Muslim, Christian, Parsi or Jew and thus by default included followers of other institutionalised religions like Buddhism, Jainism and Sikhism as Hindu, not to mention theistic practices outside the domain of organised religion like those of *adivasis*. Thus the onus was on the individual to prove if necessary that she/he is not a Hindu. According to Dr Ambedkar,

> *...The result is that if a tribal individual chooses to say that he is not a Hindu it would be perfectly open to him under this Code to give evidence in support of his contention that he is not a Hindu and if that conclusion is accepted by the Court he certainly would not be obliged by anything contained in this Bill...*
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> (Constituent Assembly. (Leg.) D.L Vol. I, 17th November 1947, p. 41.)

[2] Thakur Das Bhargava also played a key role in including the ban on cow slaughter in the directive principles in the constitution (Akshay Mukul 2015). He wrote a book called Cow in Agony published in 1958. He represented the Congress from Hissar and was an income tax lawyer by profession.

Second, it institutionalised monogamy and made polygamy illegal for Hindus; but it also instituted recognition of both Dayabhaga and Mitakshara property holdings (a compromise over the original draft which had proposed to do away with custom laws in defining hereditary rights on property) and marriage only between two Hindus into the ambit of the code. Adoption and succession was to be defined in jurisprudence by 'custom laws' institutionalising male lineage of descent as the 'natural' inheritors of property and the expropriation of any right to property of children born outside marriage. Third, it created the legal space for any Hindu male to break away from the 'joint family' and start a new 'Hindu Undivided Family' as long as he was married. Even as families went nuclear, the 'HUF' could be perpetuated as a legal entity as each nuclear family marked the beginning of a new 'HUF' (Das Gupta 2013).

Thus, for all citizens who were not Muslim, Christian, Parsi or Jain, Hindu personal law became state law and the patriarchal basis of the property rights structure was institutionalised in the organisation of wealth and property in India. Women were denied equal share in all property. Specifically, they were denied any property right on land on the feeble plea to prevent 'fragmentation of land'. Thus with the aid of two definitions, that of a Hindu and that of the HUF, religion, caste and patriarchy were installed as the institutional basis of determining property rights. The modification of the right to property as a universal statutory right guaranteed by the Constitution, in favour of Hindus through the creation of the legal entity of the HUF, was the most significant intervention of the first post-independence decade.

Implications of the HUF

This intervention preserved the patriarchal rules of limiting inheritance rights of women to property and assigned the 'Karta' as the eldest patriarch of the family with legal powers to represent and structure the holding of property (Sachdeva 1987). The Hindu Succession Act before the 2005 amendment made provision for a Hindu Undivided Family to ensure that property remains with the male line of descent. A son got a share equal to that of his father; a daughter got only a share in her father's share. She could not reside in the family home unless she was single or divorced, and could not claim her share of property as long as the men of the family continued to live in it. Further, a woman's right to agricultural property was still denied to "prevent fragmentation of landholdings". Contrary to assertions that the 2005 amendment 'established a gender-equal basis of land and agricultural property' (Kelkar 2014), it only gave daughters the right to be co-parcenaries in HUF under Mitakshara rules, but excluded wives and daughters-in-law (Singh 2005). Moreover, the status of the 'Karta' and the HUF as a form of property holding in a body incorporate were not affected by this amendment. The status of the karta was preserved in its implication for inheritance rights as well as the HUF as a tax entity.

The second of the two-steps entailed the recognition of Hindu Undivided Family as a legal tax entity separate and distinct from individuals and corporates (which were firms defined under the Companies Act and the Partnership Act). While all other body corporate recognised in corporate and individual income tax laws are defined on the basis of company law, the HUF as a legal entity in Indian tax law is defined on the basis of Hindu personal law. After defining the HUF through the codification of personal laws in 1955-56, the state then took the next step to perpetuate the 'Hindu Undivided Family' (HUF) as an entity recognised by Section 2 of the Income Tax Act 1961 by preserving its status in continuation from the colonial income tax laws of 1876 and 1922. This was done on the recommendations of direct tax committees formed after independence. Some of these committees justified the preferential tax treatment to the HUF and further recommended higher tax exemptions than other assesses to be provided to the HUF as an incentive for remaining a joint unit[3]. Others either did not mention or failed to provide a solution in the wake of unjustifiable reasons like administrative burden involved[4]. Hence the tax provisions served the objective of keeping intact the interest of the capital owning class of Hindu origin by offering a plethora of special concessions through the aegis of the HUF.

Nature of Concessions

A Hindu male can be a 'karta' for more than one HUF accounts. Despite scores of judicial decisions, the circumstances in which a HUF comes into existence has been the subject of debate and controversy. Under the Income Tax Act, 1961, a HUF is assessed

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[3] Vardachari commission(1949) and Matthai commission(1953) in their reports justified exemption of HUF income from income tax and suggested twice and thrice the exemption limit than individuals. This was given effect by subsequent finance act.

[4] Mahavir Tyagi Committee (1958) did not mention HUF as a tool for tax evasion while it recognised trust and cooperative society to be. Bhoothalingam committee (1967) did mention HUF as a tool for tax evasion but regarded administrative burden as the reason to not intervene in the provision. It was only Wanchoo(1971) and K.N. Raj(1972) committee which pointed to the HUF as a tax evading entity and suggested withdrawal of tax exemptions.

for income tax as a distinct unit of assessment. In case law, a HUF consists of all persons lineally descended from a common ancestor and includes their wives and unmarried daughters; while a Hindu coparcenary is a much narrower body including only those persons who acquire by birth an interest in the joint or coparcenary property.

While the tax rates for the HUF is the same as that of individuals since the intervention of the Wanchoo Committee and the K N Raj Committee because of which the lower tax rates for HUF were raised to the level of the individual income tax payer, a member of a HUF is not taxable at for any sum which s/he receives as a HUF member out of the income of the family, even though the family may not have paid the tax on its income. So the privilege cannot be ascertained by how much tax a HUF pays, but how much of its wealth is not taxed at all by virtue of being declared as 'family income'. Moreover, an individual can organise her/his wealth across multiple HUFs and thus reduce her/ his tax liability.

Table 1 illustrates the mechanism through which this can be done. Let us assume two individuals (X and Y) who are brothers. Both are married with two sons each of whom are also married. Let X and Y be partners owning a firm X and Brothers. Let the annual taxable income stream from this partnership firm for X and Y be Rs 15 lakhs each. In the absence of any HUF provisions, X and Y would have to each pay Rs 270000/- as income tax as per taxation rates for Financial Year 2014-15 (Table 1 Scenario 1).

Table 1: Illustration of the HUF for Tax Exemption

Scenario 1 – Absence of HUF Provision				
Tax Entity		Income Reported From firm X and Brothers (Rs)		Tax to be paid (Rs)
Individual X		1500000		270000
Individual Y		1500000		270000

Total tax to be paid				**540000**
Scenario 2 - Use of HUF				
Individual X		450000		50000
Individual y		450000		50000
HUF 1 (X Karta; Y co-parcenary)		300000		Nil
HUF 2 (X Karta; Wife member and son co-parcenary)		300000		NIl
HUF 3 (X Karta; son1 coparcenary and son1's wife member)		300000		NIl
HUF 4 (X Karta; son 2 coparcenaryand son2's wife member)		300000		Nil
HUF 5 (Y Karta; sons 1 and 2 coparcenaries)		300000		Nil
HUF 6 (Y Karta; son 1 coparcenary and son1's wife member)		300000		Nil
HUF 7 (Y Karta; son 2 coparcenry and son2's wife member)		300000		Nil
Total tax to be paid				100000

However, X and Y can form at least seven HUFs between themselves and distribute the income across their two individual tax accounts and the seven HUFs (Table 1 Scenario 2) using the provisions of existing income tax laws and the four acts codifying Hindu property laws. In such a scenario, the total tax liability would be only Rs 50,000/- each which is less than 10 percent of the tax liability in Scenario 1. With separate application of other exemption possibilities under Section 80 of the Income Tax Act, the actual tax liability can be brought down to zero. Similar use of the HUF can be made to circumvent wealth and property tax.

The impact of this institutional arrangement was evident as soon as the codification was completed in 1956 with a sudden spurt in the proliferation of HUFs. The annual growth of number of HUFs jumped to 38% in 1957-58 when the growth of all tax entities amounted to 16%. The average annual growth rate of HUF accounts between 1954-55 and 1965-66 was 9% while all tax entities grew at close to12% . In this period, HUFs on an average accounted for 6% to 8% of tax assessees and 5% to 8% of total income assessed ((Statistical Abstract of India, Various Years). It must be noted that the significance of HUF lies not in how much tax it pays, but in how much wealth it owns on which it does not pay tax by claiming it as 'family income'.

Axioms of tax law are based on the assumption that nobody can make a profit out of one's self. The entity of the Hindu Undivided Family (HUF) is an exception to this principle. Ramanujam (2006), a former Chief Commissioner of Income Tax wrote the following after the 2005 amendments to the Hindu Succession Act:

> The HUF is an entity peculiar to the Indian tax law. The law recognizes it and there is nothing sham about it. Surprisingly, the Government carries out any amount of amendment to the Hindu law without looking into the revenue loss caused by the recognition of the HUF as a separate taxable entity. The HUF may be a boon to the taxpaying Hindu. But it is definitely a bane to government revenues.

The HUF in Corporate Governance

A Hindu Undivided family (HUF) cannot enter into a partnership with other persons, as it is not a legal person, but the karta of a HUF can (Sachdeva 1987). The HUF can own different kinds of assets including factories and trades. However, that is not its only utility in the holding structure of capital. The HUF has often been considered to be a tool for tax evasion but its importance in the holding structures of assets for the family owned business groups have not been sufficiently investigated. Apart from being a 'bane' to government revenues, both 'old' and 'new' capitalist business houses of Hindu origin use the provision of HUF to consolidate family holdings and ensure the control of capital within the family through transactions between the HUF and individuals within the HUF who held key positions in the share-holding and managerial patterns of the companies within the fold of the business house through interlocking directorships and share-holding.

One of the most important features of the ‘old’ regime of accumulation was the mercantile basis of Indian family owned business groups. The few explanations for this phenomenon has been rooted in the realm of either ‘behaviouralism’ or ‘culturalism’. The studies of ‘new’ capitalists emphasizing the diversification of the regimes of accumulation between 1956 and 1980 (eg Damodaran 2008) has missed out on the one unchanging feature of the ‘business group’ which is its ability to retain control over diverse ventures with very little investment of family wealth. In many cases, the distinction between ownership and control gets blurred in the complexity of holding structures through the maze of inter-corporate holdings and interlocking directorships (Mazumdar 2006). The interlocking of the HUF into interlocking directorships and inter-corporate holdings provides yet another layer of ensuring family control over corporate governance structures apart from providing an avenue for concessions on wealth and income. Our survey of case law on HUF of top business houses in India shows the following uses of the HUF:

1. To keep property within the Hindu family (based on male line of descent) using the definition of the Hindu as adopted in the Acts based on the Hindu Code.
2. Splitting of income between individuals and HUF for the purpose of tax saving.
3. To evade large amout of taxes by entering into complex transaction between HUF and Group Companies with same person as karta and chairman respectively.
4. To gain benefits of tax exemptions in capital gains.
5. Holding land of enormous value in HUF claiming to be received as dowry by ancestors
6. Interlocking of funds and assets between HUF and group companies
7. To make profit from speculation through sale and purchase of shares of group companies by the HUF.
8. Multiple HUF with in the same family with overlapping kartas and Members and then multiple dealings of a single property by these different HUF eg same land pledged for different purposes by repeated transfers between HUF holders.

Needless to say, no such provision was available to business houses held by Muslims or Christians, Parsis and Jews. No ‘reform’ has been ever advocated of this peculiar favour to the majority religious group in a democracy whose constitution guarantees as fundamental right no discrimination on the basis of caste or religion and equality of men and women.

The five states of Maharashtra, Gujarat, Punjab Delhi, and Haryana accounted for 31% of the total number of HUF during 1961. By 1989, these states accounted for 47% of all HUFs[5]. In the same period, proportion of HUFs in the middle-income states of Tamil Nadu, Karnataka, Kerala, and Andhra Pradesh and West Bengal as well as those in the low income states (Bihar, Rajasthan, Orissa, Uttar Pradesh and Madhya Pradesh) have deceased in this period. The share of HUF in the middle income states have declined marginally from 31% to 28%[6]; the proportion of HUFs in low income states have decreased considerably from 37% to 23%. Within the high income states, the major proportion of HUFs are located in Gujarat and Maharashtra followed by Punjab and Delhi. In Maharashtra, the proportion of HUFs had doubled between 1961 and 1989. In Gujarat the proportion of HUFs increased from 10% to 18% from 1961 to 1980 and then settled at 14% in 1989. Delhi while maintained a steady proportion of 2-3% till 1980, witnessed an increase after that and by 1989 had 7% of total HUFs. Punjab on the other hand witnessed a decline in proportion of HUFs from 9% to 3% between 1961 and 1980, but again witnessed an increase after that with 6% of total HUFs in 1989. Concomitantly, Gujarat, Punjab and Haryana for most of this period had lower effective tax rates compared to the all-India average. While Maharashtra had a higher effective tax rate compared to the all India level, in actual terms the rates were less than 30% over the period. Delhi had significantly higher effective tax rates compared to the all India level for several years before the mid eighties after which the effective tax rate started declining in the very same period when HUFs started increasing in Delhi. Thus overall levels of low effective direct taxation rates suggest a correlation with the formation of HUFs in states where majority of the business groups are located.

It is also often argued that the importance of the HUF has declined in contemporary times and so there is no need to dwell on it. However, our survey of 150 business groups carried out between 2003-2005 and 2008-2011 reveal otherwise. Our survey of the holding structures of 150 business groups in India (spread over Kolkata, Mumbai

[5] The Indian state has stopped releasing data on state-wise HUFs after 1989.

[6] Kerala abolished the joint family system in 1976 and with it the privileges of the HUF, while other southern states did the same after 1990 (the Indian government stopped releasing data on HUF income and taxes since 1990). But with the abolition of the HUF, the share of HUFs in these states seems to have gone down further after 1990.

and Hyderabad) carried out in 2003-05 shows judicious use of provisions in these two legislations where each group consists of some or all of the legal forms of partnership firms, private limited companies, unlisted public limited companies and listed public limited companies using the provisions of the Partnerships Act 1932 and of the Companies Act 1956. The holding structures comprises of individually owned stocks, followed by stocks held under Hindu Undivided Family accounts (except for the two business groups of 'non-Hindu' origin in our Survey)[7], and a number of 'group' companies spread across the four forms of firms stated above. In 35 percent of the groups surveyed, stocks in group companies are not held by HUF in publicly listed companies but are held in the 'private limited' companies. The Kartas of the HUF or other HUF members however hold stocks in the publicly listed companies. Thus the payouts to the HUF as well as to the individual who is part of an HUF is simultaneously maintained. At the same time, the HUF can hold other property eg houses, cash, gold, share certificates, fixed deposits which would not be considered in the asset accounting of the business group. The income and wealth holdings in HUF do not get counted in the business group's ownership and control of assets (Das Gupta 2015).

The central role of legal facilitation of holding structures of family owned business groups and the continuing provision of Hindu Undivided Family accounts in the personal laws that ensured assets remained within the male line of descent of family and insulated from business risk has seen no significant change in the period of transition to a deregulated economy. Within the structure of the family owned business group, the importance of Hindu Undivided Family assets have not declined even as the groups in question have forged relationships based on technological dependence and spates of mergers with and acquisitions of both indigenous and foreign companies. It has only meant that the wealth holdings in HUF cannot be used for controlling stakes in the merged entity as opposed to the wealth held through 'corporate governance' structures. But the interlocking of HUFs in Indian corporate entities still makes it a vehicle for family control over the entire operations and stakes of the 'corporate' business group and continuous rearrangement of liabilities and tax obligations between individuals and HUF.

[7] See Das Gupta (2015 forthcoming) for detailed case studies.

The HUF in the Period of Neoliberalism

Family owned business groups have been transforming themselves into multi-nationals without an increase in their total corporate liability through vertical and horizontal integration. This is possible because the laws of the land have been suitably altered to facilitate such transformation of firms in the period of contemporary globalization by reducing the compulsory share of Indian partners in a transnational venture, the introduction of limited liability partnerships, dismantling of the MRTP and FERA Acts, and amendments in the National Patent Act to make it amenable to the WTO regime of product patents (Das Gupta 2010). However, the laws relating to holding structures of companies remain flexible enough to accommodate the requisites of change in corporate governance but unchanging in its function to provide the legitimate basis of family owned business groups spanning the entire domain of ownership, control and individual and family based appropriation of profit in favour of the 'Hindu' defined as anyone who is not a Muslim, Christian, Parsi or Jew.

In the post liberalisation period, it also provides yet another channel of 'tax-saving' on income and wealth for not only the upwardly mobile 'Hindu' families in India but also the Hindu NRIs. The number of HUFs doubled in 1997-98 as compared to the previous year and registered double digit annual growth rates in eight out of twenty years between 1990-91 and 2009-10. In 2009-10, 806236 HUFs appeared in the income tax statistics (Statistical Abstract of India 2011). Nuclearisation of families socially is directly combined with proliferation of HUF accounts among middle class double income upwardly mobile 'Hindu' India. Hence, the HUF has made a seamless transition in the amalgam of the modern and the archaic from colonial to independent India from the age of dirigisme to the age of neoliberalism as the primary unit of organisation of family and corporate property and wealth reliant on the institutions of religion, caste and patriarchy.

The HUF and Macroeconomic Resource Mobilisation Constraint

The problem of direct tax mobilization in India in the post-liberalization phase was attributed to high rates of taxation and sources of 'ínefficiency' traced to the administrative structure of taxation and proliferation of multiple taxes. Thus the emphasis has been on 'rationalization' of tax rates in the architecture of tax reforms

(Academic Foundation 2003; Rao and Singh 2005). Along with this, the post-liberalisation period has seen tax exemptions and tax subsidies being awarded to corporates (Mazumdar 2014; Rao 2015) as a major incentivizing policy tool. This process has generated a large amount of opinion without consistent empirical evidence of the fall-outs on effective rates of taxation. One reason for the lack of empirical evidence is the significant change in the process of data dissemination on direct taxes in India. The Central Board of Direct Taxes under the Ministry of Finance has stopped releasing state level data classified by taxation units after 1989-90. It has also stopped dissemination of national level data on actual income assessed and tax collected for various taxation units after FY 1999-2000. Thus in the very period in which the debate on taxation and tax mobilization in India has gained ground, and in a period when the ratio of direct tax to indirect tax collection has moved in favour of direct tax, the full import of these trends are not available for analysis. Within these constraints, we have compiled taxation data from various volumes of the Statistical Abstract of India and computed effective rates of taxation for the different units of direct taxation in India.

It must be noted that the reporting of taxation data reflects the dichotomy of taxation and corporate governance structures in India. Thus taxation assumes five types of units which are reported as separate and distinct without any relationship to each other. On the other hand, our analysis of the institutional structure of corporate governance shows that the institution of the family owned business group operates through a complex maze of interlocked ownership and control across all the five categories. The various reports on tax reforms in the last twenty years also reflect this dichotomy in which the institutional assumptions of corporate tax rationalization completely occludes the purview of the system of self-rationalization offered by the interlocking tax entities. Thus, analyses based on sources like the PROWESS database captures the larger picture of 60-71 % of 'firms' (limited liability companies) reporting positive profit before taxes showing effective taxation rates below 25% in the last five year period and larger firms face lower effective tax rates (Rao 2015). While this corroborates our findings discussed below, it does not differentiate the type and size of 'firm', the interlocking relationships between 'firms' and the differential impact of changes in tax policy on different tax entities.

The effective taxation rates presented in Figures 1 and 2 suggest three broad trends. From 1954-1965, the decades of planning in India, effective rates of taxation were largely constant at different levels for all categories except the registered firms (sole-proprietorships and partnerships) which showed a steady increase. From 1972-73, effective taxation rates (ETRs) for all units of taxation increased upto 1975 coinciding with the period of monopoly regulation with the implementation of MRTP. From 1974-75, there is significant divergence in trends. Between 1972 and 1985, the ETR of HUFs shows a steady increase. This could be explained by two significant policy changes – the equalization of rates of taxation for HUF as compared to individuals and the doing away of special privileges of HUF in many states in Southern India.

However, it is also clear that from the mid-1970s limited liability companies and others (trusts, cooperatives, registered societies etc) have seen steep decline in effective taxation rates right upto 1999-2000 with limited liability companies recording an ETR of less than 10 percent in 2000. Also, registered firms (with unlimited liability) had the lowest ETR at independence while companies had the highest ETR. The registered firms have seen a gradual but continuous rise in effective rates of taxation across policy regimes. This rise has been accelerated after 1991. Thus by 2000, registered firms showed higher ETR compared to limited liability companies. Moreover, the ETR for the HUF had converged with that of individuals.

Three methodological propositions follow. The ETR trends do not show much policy responsiveness after 1991 as the trends largely pre-date the 'tax-reform' agenda of the last two decades by a good decade and a half. Thus the dominant macropolicy paradigm and attempts to find causal explanations within the paradigm are methodologically futile to establish either correlation or causality.

Second, the institutional structure of asset, wealth and property holding in India being a maze of interlocked family and business entities spanning all five categories needs to be recognized as the comprehensive unit of taxation. However, the only legislation in India that recognized this comprehensive unit (the Monopolies and Retsrictive Trade Practices Act) was one of the first regulations to be repealed in 1991 after strategic dilution of monopoly regulation since the late 1970s (Mazumdar 2006; Das Gupta 2015). Moreover, there is no systemic compilation of data by the Indian state on interlocking tax entities and extent of direct and indirect ownership of economic assets and property by family owned business groups.

Third, larger corporate entities constitute the category of companies (with limited liability) while smaller firms (proprietorships and partnerships with unlimited liability) would mainly constitute the category of 'registered firms'. This broad generalization of course does not take into account 'limited liability' partnerships which come under the Limited Liability Act of 2008 (Das Gupta 2010). Keeping this qualification in mind, the macroeconomic direct tax trends seem to suggest that larger corporate entities face lower ETR compared to smaller entities corroborating Rao's (2015) findings using the Prowess database.

If market-led competition indeed has to be the basis of the macroeconomy as envisaged by the dominant neoliberal paradigm, creation of information systems geared towards measuring the extent of monopoly and oligopoly in India and the ETRs of such entities is a task in hand. This trend of declining effective direct taxation of property, assets and income which set in after 1975-76 and intensified after 1991 is the causal explanation of the so-called resource crunch in the economy specifically in the period of high growth after 1991.

To conclude, the HUF is not an anachronism. The institutional structure of property rights (across all sectors of the economy) in India interweaves personal laws, corporate governance structures and tax laws privileging the Hindu male as the asset/property/capital owner. Thus patriarchy and religious discrimination are endogenous to the institutional construction of the macroeconomy in India. This institutional structure shows a sturdy continuity in the post-independence period despite ideological shifts in the macroeconomic policy regime.

Figure 1: Annual Effective Taxation Rates from 1954-55 to 1999-2000

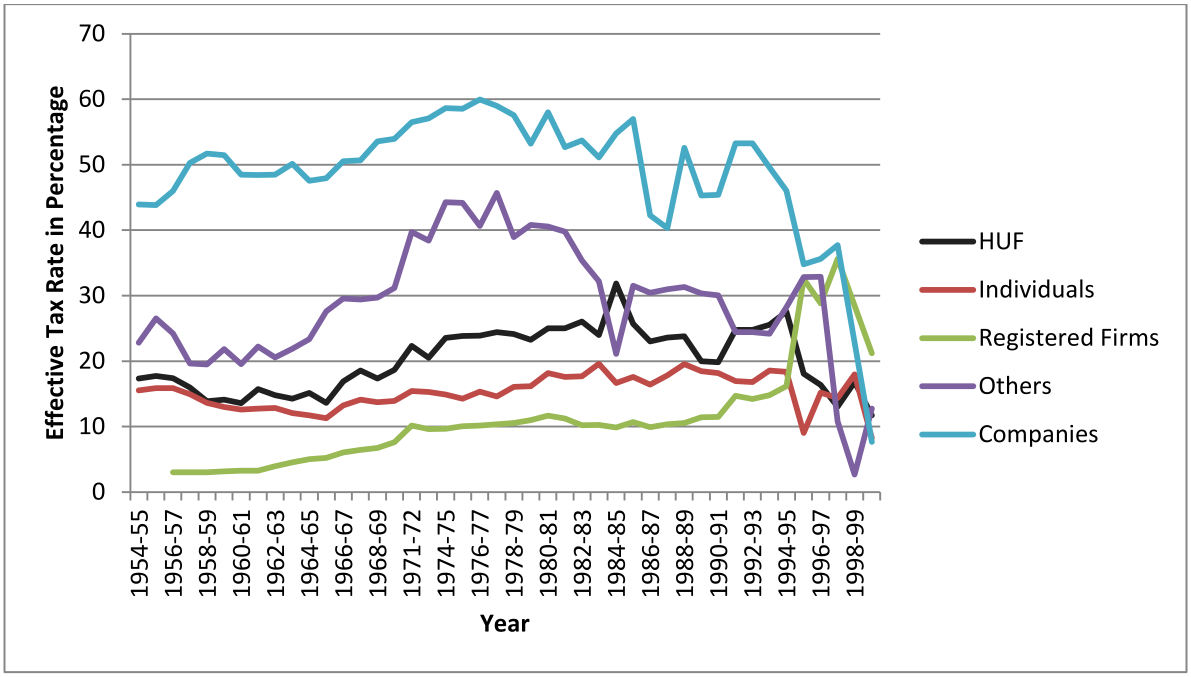

Figure 2: Three-Yearly Average Effective Taxation Rates from 1955 to 2000