

Faith on the Scales of Justice: The Indian Judiciary's Role in Mediating the Personal Law–Uniform Civil Code Conflict

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Abstract

The debate over a Uniform Civil Code (UCC) in India represents one of the most enduring constitutional tensions in the country's post-independence history, pitting the promise of equal citizenship against the guarantee of religious and cultural autonomy. Article 44 of the Constitution directs the State to endeavour to secure a uniform civil code, yet more than seven decades later this directive remains substantially unrealised, leaving the judiciary to mediate disputes that arise at the fault line between personal laws and constitutional guarantees of equality, dignity and non-discrimination. This paper undertakes a doctrinal and analytical examination of the Indian judiciary's evolving jurisprudence on the personal law–UCC conflict, tracing its trajectory from the early restraint of *State of Bombay v. Narasu Appa Mali* through the reformist interventions of the Shah Bano, Sarla Mudgal and Lily Thomas line of cases, to the constitutional morality reasoning deployed in Shayara Bano, Joseph Shine and the Sabarimala litigation. The research problem addressed is whether, and to what extent, judicial intervention has functioned as an effective substitute for legislative action in advancing the constitutional vision underlying Article 44, or whether it has instead produced an inconsistent and fragmented jurisprudence that exposes the limits of adjudication as a tool of social transformation. Adopting a doctrinal methodology supplemented by analytical and comparative perspectives, the paper examines the constitutional framework governing personal laws, the doctrines of constitutional morality and essential religious practices, and recent developments including the Uttarakhand Uniform Civil Code and successive Law Commission reports. The paper finds that the judiciary has functioned less as an architect of uniformity than as a constitutional mediator, incrementally advancing gender justice while consistently deferring the choice of a comprehensive civil code to the legislature. It concludes that durable reform requires a collaborative constitutional approach combining judicial interpretation, legislative action and sustained public dialogue.

Keywords: Uniform Civil Code, Personal Laws, Indian Judiciary, Constitutional Morality, Religious Freedom, Gender Justice, Secularism

Introduction

India's legal system is based on a plural personal law system in which marriage, divorce, succession, guardianship and maintenance are guided not by a uniform code but by different laws based on religion for Hindus, Muslims, Christians, Parsis and other groups (Mulla 1-8; Mahmood 3-11). The roots of the pluralism can be traced back to the colonial administrative policy. Starting from Warren Hastings' judicial plan launched in 1772, the colonial government resolved to allow personal laws of the parties governing questions of inheritance, marriage, caste and other usages while at the same time unifying the criminal laws and public law provisions (Galanter 15-18). This decision was made not because of any respect for the principle of pluralism but mainly out of concern for convenience and fear of communal tensions and was carried through into the Constitution of independent India without any examination (Agnes 12-17).

The authors of the Constitution understood that they inherited the plural personal laws system. Part III establishes equality and the right of non-discrimination as a fundamental right. However, during the constitutional drafting process the idea of making a uniform law governing personal legal matters was only included among Directive Principles of State Policy. According to Article 44, the government should try to establish a uniform civil code for

the entire territory of India (Constitution of India, art. 44). The placement of this article in Part IV, which according to Article 37 is declared to be not enforceable by courts (Constitution of India, art. 37), shows a compromise reached between the aspirations of reformists and the acknowledgement of plural legal and cultural traditions in the country (Austin 79-83).

The subject of personal laws and the UCC is one where several constitutional values intertwine and contradict each other, including the freedom of religious groups to manage their affairs independently with regard to religion in accordance with Articles 25 and 26 (Constitution of India, arts. 25-26), the guarantee of equality before the law and equal protection under Articles 14 and 15 (Constitution of India, arts. 14-15), the necessity of gender justice that is elaborately defined in accordance with Article 21, as well as the secular character of India as a State that implies equal relations between the State and all religions (Basu 1123-30). Thus, any intervention by the courts in regard to this topic is never purely technical as each ruling indicates that one constitutional value prevails over the others, regardless of how the judges articulate their ruling in doctrine-neutral terms.

The paper sets forth four main research questions: (i) how did the Supreme Court find the balance between personal laws and constitutional values for the seventy-year period

after independence; (ii) has the judicial intervention contributed to the achievement or replacement of the goal defined in Article 44; (iii) can judicial activism provide a solution to the conflict between religious freedom and constitutional rights or just shift the conflict's point from one area to another; and (iv) what logical principles and theories can serve for judicial interpretation in the future?

Accordingly, the objectives of the paper include (i) studying the judicial attitude about personal laws from the 1950s until now; (ii) analyzing constitutional principles that define UCC litigation, particularly constitutional morality and the essential practices test; (iii) evaluating the way courts have performed the function of constitutional mediators instead of acting as lawgivers; and (iv) proposing a possible approach for judicial and legislative improvements that would allow the balancing of legal pluralism with constitutional equality.

The research methodology is doctrinal, supplemented with analytical methods of constitutional interpretation. The study is based on the analysis of key Supreme Court's rulings, as well as rulings of some of the High Courts, found alongside the constitutional provisions, constituent assembly debates, and Law Commission records.

Constitutional Framework Governing Personal Laws and UCC

The colonial personal law system that had become entrenched in India gave a body of religion-based family law to independent India. However, this law had been set in stone by colonial courts that used limited religious concepts that were usually inconsistent with popular customs (Menski 145-52). The proposal regarding a uniform civil code became a controversial issue during the discussions of the Assembly of founders. Some members like Mohamed Ismail Sahib and Naziruddin Ahmad believed that interfering with personal law would mean interference in the way of life of smaller religious communities, and they insisted on making the enactment of the law conditional as regards the existing personal laws (Constituent Assembly Debates 540-51). On the other hand, Dr. B. R. Ambedkar and others didn't support this suggestion as they thought that introducing a uniform code was a reasonable aim of a modern state, though it should be achieved only in a voluntary way (Austin 79-83). In the end, Article 44 appeared in the Directive Principles of State Policy rather than in the category of enforceable fundamental rights.

The Constitution lays down the framework governing personal laws and the debate on UCC and finds expression in a number of provisions. Article 14 guarantees equality before the law and equal protection under the law to every citizen (Constitution of India, art. 14). Article 15 prohibits the State from discriminating against any individual on the basis of religion, race, caste, sex or birthplace, but allows for special treatment for women and children (Constitution of India, art. 15). Article 21 guarantees the right to life and personal liberty, which has been interpreted by the Supreme Court to include the right to live with dignity (Maneka Gandhi v. Union of India; K. S. Puttaswamy v. Union of India). Article 25 allows every individual to enjoy the freedom of conscience and the right to profess and practice religion, subject to public order, morality, health and other provisions in Part III of the Constitution (Constitution of India, art. 25). Article 26 gives religious denominations the freedom of managing their own affairs in matters of

religion, subject to public order, morality and health (Constitution of India, art. 26). Article 29 provides for the right of a section of citizens to safeguard its language, script and culture (Constitution of India, art. 29). Article 44, as noted, places an obligation on the State to work towards enacting a uniform civil code for all people.

Article 37 declares the directive principles to be non-justiciable. However, the Supreme Court, particularly in the cases of *Kesavananda Bharati v. State of Kerala* and *Minerva Mills Ltd. v. Union of India*, has always held that fundamental rights and directive principles must go together as both are part of a single constitutional scheme (*Kesavananda Bharati v. State of Kerala*; *Minerva Mills Ltd. v. Union of India*). This principle of harmonious construction has helped the courts in various cases of personal laws to interpret and apply Article 44, but the courts have refused to apply it directly or act on it by enacting a civil code.

Judicial Evolution of the Personal Law - UCC Debate

State of Bombay vs. Narasu Appa Mali is the case that provides the crucial ruling on the relationship between personal law and constitutional review (*State of Bombay v. Narasu Appa Mali*). The case originated through a challenge to the Bombay Prevention of Hindu Bigamous Marriages Act, 1946, which made bigamy among Hindus an offense but did not apply to Muslim men, allowed to practice polygamy according to their personal law. The respondent contended that the Act is discriminatory and, most important, that the unequal treatment of religious communities in terms of marriage violates Articles 14 and 15. The court dismissed the challenge, observing that the expression of "laws in force" in Article 13 which brings pre-constitutional law under the scrutiny of the Constitution does not extend to personal law not codified by law, which is based on ancient scriptures and customs (*State of Bombay v. Narasu Appa Mali* 86-88). The ruling made the clear distinction between statutory law, governed by Part III, and personal laws, which are administered by courts because of the religious status of individuals (*Ashok Hurra v. Rupa Bipin Zaveri*). The ranking of personal laws outside the ambit of fundamental rights did not make it possible for the courts to invalidate the legislation until legislatures chose to codify these laws.

The approach of the judiciary changed dramatically with *Mohd. Ahmed Khan v. Shah Bano Begum* in 1985 (*Mohd. Ahmed Khan v. Shah Bano Begum*). Shah Bano, who was sixty-two years old, was divorced by her husband who was a lawyer after forty-three years of marriage and was claiming maintenance according to the secular provisions provided for in Section 125 of the Code of Criminal Procedure Act, 1973. The husband said that he had already fulfilled his obligations under Muslim personal law by paying mahr and maintenance during the iddat period and that Section 125 cannot override the personal law otherwise it means that his religious freedom is violated (*Mohd. Ahmed Khan v. Shah Bano Begum*). A Constitution Bench chaired by Chief Justice Y.V. Chandrachud ruled that Section 125 CrPC is secular legislation and has universal application among all religions and that this provision does not replace but supplements the provisions of maintenance based on any personal law (*Mohd. Ahmed Khan v. Shah Bano Begum*). The Court went further and expressed disappointment that Article 44 hasn't been enforced so far asking the

government to prepare the common civil code claiming that the existence of uniform law will stop the creation of contradiction (Mohd. Ahmed Khan v. Shah Bano Begum; Danial Latifi v. Union of India). The decision created a political turmoil and resulted in the enactment of the Muslim Women (Protection of Rights on Divorce) Act 1986 which aimed at limiting the ruling of the court — early example of the conflict between judicial reforms and legislative activities. A decade later, the Supreme Court in Sarla Mudgal v. Union of India had to consider the phenomenon of Hindu men converting to Islam in order to marry again, without dissolving their first marriage (Sarla Mudgal v. Union of India). Justice Kuldeep Singh held that such conversions, done only to evade the requirements of monogamy under the Hindu Marriage Act, 1955, do not alone dissolve the first marriage and any marriage contracted in these circumstances, therefore, is invalid and the persons involved in that marriage are liable to be punished for bigamy under Section 494 of the Indian Penal Code (Sarla Mudgal v. Union of India). The Court took this opportunity to strongly advocate for a uniform civil code, noting that successive governments have not taken any steps to implement Article 44, despite numerous interventions by the courts, and directed the Government of India to inform the Court of the steps taken in this regard (Sarla Mudgal v. Union of India; Kumar Virendra 1). The Court's venture in advocating for the UCC, going beyond the issue concerned in the case and setting an agenda for the future legislation, even drew criticism from those who otherwise sympathized with the objective of gender justice.

The correctness of Sarla Mudgal was examined at the time of reviewing that case in Lily Thomas v. Union of India in 2000 (Lily Thomas v. Union of India). The petitioners argued that the earlier ruling was in violation of freedom of religion and conscience as guaranteed under Articles 25 and 26 of the Constitution by punishing a legitimate conversion. However, the Court did not agree with the petitioners and ruled that the intention of the judgment was not to interfere with the right to convert but to prevent the abuse of conversion as a means to escape the implications of a live monogamous marriage and thus it did not infringe the freedom of religion as the right to religious freedom cannot be used to violate the legal rights of another spouse (Lily Thomas v. Union of India). Lily Thomas case thus confirmed the principle that conversion alone does in fact not allow a person to avoid the requirements of personal law related to a previous marriage, while at the same time continuing the practice of the Court of using such cases as occasions to reiterate the necessity of a uniform code without actually enforcing this necessity.

The landmark case of Vallamattom in 2003 was the first time the Supreme Court judged a provision of personal law by the standards of the Constitution (John Vallamattom v. Union of India). The petition in this case was filed against the provision mentioned in Section 118 of the Indian Succession Act of 1925, which laid several restrictions on the right of a Christian individual to bequeath property for religious and charitable purposes. This Section mandated that for a will bequeathing religious or charitable property, one had to draft the will at least 12 months before death and deposit it with relevant authorities within six months of drafting the will. The Notre Dame priest petitioned against this Section claiming that it was discriminatory. In his judgment, V.N. Khare held that the provision was arbitrary

and in contravention of Article 14. Article 44, he regretted, remains unimplemented till date and a uniform civil code will help achieve the goal of national integration by eliminating competing loyalties (John Vallamattom v. Union of India). Since Section 118 is a codified law, its invalidity does not require the Court to reconsider the Narasu Appa Mali distinction between codified and uncoded law, but the illegal status of Section 118 proves that codified law does not get immunity from part III of the Constitution.

One of the important developments lately in this context is Shayara Bano (Shayara Bano v. Union of India). In a petition, dictated by the principles of talaq-e-biddat or instant triple talaq, it had been mentioned that a Muslim husband could unilaterally and irrevocably end the marriage by saying the word “talaq” thrice. As per the judgment already pronounced in this case by a majority of three to two judges of the Apex Court, it was found that talaq-e-biddat practice is inconsistent with the Constitution of India. This was done by the majority opinion that differed from each other in their reasons for holding talaq-e-biddat as unconstitutional. Justice Nariman and Justice Lalit concluded that the practice of talaq-e-biddat being a recognized practice under the Muslim Personal Law (Shariat) Application Act, 1937 constitutes law in force as per provision of Article 13 of the Constitution of India and has been held to be arbitrary in nature and therefore void in the light of Article 14 by enabling dissolution of marriage arbitrarily without making any effort for reconciliation (Shayara Bano v. Union of India; Kapur).

Justice Joseph, in his reasoning differed from the other two judges of the majority who adhered to the doctrine of essential practice test and held talaq-e-biddat to be unconstitutional because the same goes against the basic tenets of the Quran and the Shariat law itself. Dissenting Judge Justice Khehar and Justice Nazeer were of the view that practice of talaq-e-biddat stands protected under the provision of Article 25 by virtue of being a part of Muslim personal laws, subject to the direction to achieve legislative reform in the practice of talaq (Shayara Bano v. Union of India).

Even though the case of Joseph Shine v. Union of India is not related to the personal law of marriage and succession, it has also contributed significantly towards doctrine of constitutional morality propounded in the case (Joseph Shine v. Union of India). The five-judge bench of the Supreme Court of India declared Section 497 of the Indian Penal Code as unconstitutional because it criminalized adultery only in case a man has sex with another married woman with the consent of her husband. The decision was given by Chief Justice Dipak Misra and Justice Chandrachud who stated that the provision was blatantly arbitrary and infringes on the Article 21 of the Constitution of India (Joseph Shine v. Union of India).

The 2018 Sabarimala case (officially identified as Indian Young Lawyers Association vs. State of Kerala) was an important instance for testing the implications of the doctrine of essential religious practices in relation to gender equality. In 1965, Rule 3(b) of The Kerala Hindu Places of Public Worship (Authorisation of Entry) Rules prohibited entrance of women aged between 10 years old and 50 years old to a temple dedicated to Lord Ayyappa, as the deity was said to be eternally celibate. The Supreme Court of India declared the exclusion unconstitutional on the basis of a 4-1

majority ruling. The Court opined that followers of Lord Ayyappa were not a separate religious sect qualifying for protection under Article 26, and at the same time the practice could not be deemed as essential for fulfilling the requirements of the essential religious practices test (Indian Young Lawyers Association v. State of Kerala). Justice Indu Malhotra, who dissented with the majority verdict suggested that the concept of constitutional morality should not be utilized for violating the authentic beliefs held by a religious sect that had not substantiated a claim of breach of human dignity, or claimed cases of civil or criminal law violation. The case had a huge backlash although it led to the referral of the issue of correctness of the ruling of majority to a larger bench in the Kantaru Rajeevaru vs. Indian Young Lawyers Association case.

The Judiciary as Constitutional Mediator

The legal precedents discussed earlier demonstrate a shift between judicial activism, such as illustrated in Narasu Appa Mali, and the judiciary's refusal to order the parliament to enact a uniform civil code in certain cases like Ahmedabad Women Action Group v. Union of India, and a more assertive approach in cases as Shayara Bano, Joseph Shine, and the Sabarimala case, in which the judiciary struck down some old practices on constitutional grounds. This shift is not just an inconsistency in law; it reflects an important institutional distinction that the judiciary has been making within the area, with regard to the issue of prompting the enactment of a comprehensive civil code, which the judiciary normally thinks to be a matter of legislative policy not within the judicial domain, and the issue of ruling whether a particular practice or law violates the Constitution, which the judiciary considers its inherent jurisdiction as stated in Article 32 and Article 226 (Kantaru Rajeevaru v. Indian Young Lawyers Association).

The theory of constitutional morality has its sources in the speeches made by B.R. Ambedkar during the sessions of the Constituent Assembly. The principle was developed in the decision in Government of NCT of Delhi v. Union of India (Government of NCT of Delhi v. Union of India; Navtej Singh Johar v. Union of India), and later, it was applied in yet another case: Navtej Singh Johar v. Union of India and also in Joseph Shine and the Sabarimala judgment. According to the principle of constitutional morality, the values enshrined in the Constitution should be given precedence over any existing social/moral conceptions, especially when there is a contradiction between the two. The application of the principle of constitutional morality in

the sphere of personal laws allowed the Court to rule against practices accepted by religious traditions (such as instant triple talaq or criminalization of adultery applicable only towards men, and the prohibition of women from a number of different rites). In turn, criticisms are addressing the inconsistency of the principle because it is not defined by law, which means that its essence depends heavily upon the values of the adjudicating bench.

The essential religious practices test is an initial test that came into being in the case of The Commissioner, Hindu Religious Endowments v. Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt (Commissioner, Hindu Religious Endowments v. Sri Lakshmindra Thirtha Swamiar). The question asked in the test refers to whether a practice is crucial for the religion, such that its banning would lead to a change of the essence of the religion. The court has applied the test in three cases, though sometimes applying its current innovative version and sometimes engaging in strict versions of the test. According to this test, in the case of Shayara Bano, the court found that the practice of instant triple talaq is not essential for Islam. In the case of Sabarimala, the ruling was that the astrological age of menstruating women does not make the practice of worshiping Lord Ayyappa non-essential. The academic circles harshly criticize the essential practices test for making secular judges engage in issues of theology and for making them decide the needs of any religious practice, which is something judges cannot do efficiently.

When we look at the individual rulings highlighted in this paper, a clear trend will emerge, namely, that the judiciary has tended to prioritise gender justice — defined as equality, dignity and non-discrimination — whenever it has had to resolve cases involving a clash between unqualified religious/cultural freedom and considerations of gender justice. The examples start with the maintenance rights awarded in Shah Bano and Danial Latifi, continue through the rulings preventing arbitrary and unilateral divorces in Shayara Bano, and eventually lead us to the assertion of sexual bodily autonomy in Joseph Shine and the challenge against temple practices that discriminate against women in the Sabarimala case. Indeed, one could argue that this thread represents a substantial contribution of the Judiciary to the UCC discussion, even in the absence of an all-encompassing uniform code: we witness a gradual reform of practices discriminatory towards women in personal law, rather than a comprehensive codification attempt.

Comparative Constitutional Perspectives

Table 1: Comparison of UCC across jurisdictions

Country	Legal Framework and Approach	Key Lessons for India
Turkey	Following the collapse of the Ottoman Caliphate, Turkey adopted the Swiss Civil Code (1926) under Mustafa Kemal Atatürk, abolishing religious courts and replacing religion-based family laws with a single, secular civil code applicable to all citizens irrespective of faith. The reform represented a complete transition to a Uniform Civil Code through a State-led secularisation programme (Sezgin 187-95).	Turkey demonstrates that a comprehensive Uniform Civil Code is institutionally achievable. However, the transformation occurred in a highly centralised and non-democratic context, making it difficult to replicate within India's pluralistic, federal, and democratic constitutional framework.
Indonesia	Indonesia follows a plural legal system, where Islamic family law is administered through religious courts for Muslims, while civil law and other legal systems apply to different religious communities. This framework reflects the constitutional philosophy of Pancasila, which recognises religious diversity as an integral feature of national identity	Indonesia offers a model of gradual and incremental reform of personal laws without abolishing legal pluralism. Its experience suggests that religious diversity and legal reform can coexist, providing an approach that is more compatible with India's multicultural constitutional structure.

	rather than an obstacle to legal development (Hooker 21-34).	
South Africa	South Africa's Constitution expressly recognises customary and religious family laws while subjecting them to constitutional guarantees under the Bill of Rights. The Recognition of Customary Marriages Act, 1998 provides statutory recognition of customary marriages while ensuring compliance with constitutional principles such as equality and dignity (Himonga and Moore 25-40).	South Africa illustrates that legal pluralism and constitutional accountability can coexist. Rather than replacing personal laws entirely, India may strengthen statutory regulation and judicial review to ensure that personal laws conform to constitutional values, particularly gender equality and human rights.
Israel	Israel maintains a religion-based personal law system in which matters relating to marriage and divorce fall exclusively within the jurisdiction of the religious courts of recognised religious communities. The absence of civil marriage has generated significant legal and social challenges, particularly concerning women's rights in religious divorce proceedings (Sezgin 63-98).	Israel serves as a cautionary example of the limitations of granting exclusive authority to religious courts over family law. It underscores the importance of providing secular legal alternatives and effective constitutional oversight to protect individual rights while respecting religious freedom.

The different experiences of Turkey, Indonesia, South Africa, and Israel show that there is no universal model for integrating personal laws with constitutional norms. Each country offers its own style regarding legal pluralism, secularism, and the protection of human dignity. Turkey has successfully implemented a Uniform Civil Code in a state-driven secularization attempt and substituted the rules of religious families with a general provision for all citizens. Despite its efficiency in pursuing legal uniformity, these experiences cannot be compared, since they developed in different historical and political backgrounds. Instead of abandoning its pluralist legal system and introducing reforms, Indonesia was able to show that legal diversity and national unity interact with each other. South Africa provides another illustration that recognizes the existence of customary and religious family laws in its constitution, adhering to the principles of the Bill of Rights and maintaining equality and dignity. In comparison, the example of Israel demonstrates difficulties in maintaining strict separation of secular and religious courts in matters of marriage, as the absence of secular channels complicates gender justice issues. Taking together all these experiences, it is possible to conclude that India does not have to choose between total uniformity and total pluralism of legal systems.

Contemporary Developments

In February 2024, Uttarakhand became the second Indian State after Goa to implement a uniform civil code, with the state's law on the subject, the Uniform Civil Code of Uttarakhand Act, 2024, being passed by the State Legislative Assembly without dissent (Uniform Civil Code of Uttarakhand Act). The Act is the product of a committee chaired by former Supreme Court judge Justice Ranjana Prakash Desai. The Act unifies the law on marriage, divorce, inheritance, and relationships for everyone in the State except for the Scheduled Tribes residents. For instance, one of the major controversial provisions is the enforcement of the compulsory registration of relationships under which a violation is deemed a crime. Critics contend that such a provision violates one's right to privacy enshrined in the Constitution. The legitimacy of the law, including the controversial registration requirement and the exclusion of Scheduled Tribes, is sure to lead to court cases in the future and represents the first actual trial of the uniform civil code at the state level.

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The 21st Law Commission of India published a consultation paper in 2018 titled Reform of Family Law and stated that at present, the creation of a uniform civil code is "neither necessary nor desirable" (Law Commission of India). The commission instead suggested that the existing laws should be amended by removing the discriminatory practices and stereotypes at the level of each community. The 22nd Law Commission, under the guidance of Justice Rituraj Awasthi, reconsidered the issue during 2022–23, and opened the issue up for public and stakeholder consultations, demonstrating the fact that the policy issue has not been resolved and continues to remain an issue over seventy-five years after Article 44 was introduced.

The Court appears to be aware of the situation, although not addressing it thoroughly. The Supreme Court stated in the 2019 case of Jose Paulo Coutinho v. Maria Luiza Valentina Pereira, discussing the Portuguese civil code in Goa, that Goa can be regarded as a successful example of the Indian State that has a working uniform civil code, and that other States may take it as an example (Jose Paulo Coutinho v. Maria Luiza Valentina Pereira). Instead of providing a binding instruction, the Court issued a mere obiter to influence political figures to make changes. The cases relating to the Uttarakhand Act and the ongoing cases on polygamy and nikah halala show that the judiciary will continue to play the role of mediator.

Critical Evaluation

Strengths of Judicial Intervention

Judicial intervention in the personal law area has greatly benefited women, giving them maintenance rights, canceling unjust and unilateral divorce procedures, and

declaring that women should not be regarded as legal commodities but as independent human beings with personal rights. This type of intervention has reaffirmed the authority of the Constitution over practices justified by religion, thus ensuring that any personal law can be called to the court if it is questioned. Through progressive interpretation, mainly through the moral legality doctrine, judiciary bodies make sure that Article 44 is always kept in mind and discussed even if it is not fulfilled in law.

Limitations

Nonetheless, such strengths are subject to considerable shortcomings. Many critics see some of the court rulings like the one in *Sarla Mudgal* that advocated for formulating a uniform code as a judicial overstepping of authority to encroach upon the seat of power which should reside with a democratically elected legislature. Due to the nature of judicial power moving from the law rather than electoral responsibility, the comprehensive transformation of the family law system raises important issues regarding the democratic legitimacy in cases when such customs still support the religious group affected by the ruling. The lack of implementation of Article 44 makes it possible to say that any judicial progress is limited to particular aspects of law litigated before the courts, thus making it possible only to have random gains. Furthermore, the jurisprudence clearly prescribes some discrepancy: for example, the test of essential practices varies from case to case.

Major Constitutional Tensions

From this range of cases, four different types of conflict arise. First, faith versus equality - that is, a conflict between the religious claim for independence and the constitutional provision of equality to all individuals. Secondly, autonomy versus reform - that is, the clash between a community's right to preserve its traditions and the state's power to implement necessary reforms under the provisions of article 25(2)(b) of the Constitution. Next comes the conflict of religious freedom and gender justice whereby practices defended by religion as necessary parts of the faith are found to be detrimental to women. Finally, the fourth conflict under this classification is judicial review versus legislative competence - meaning that courts will have to confront the issue of how far they may go to fill the legislative gap without overstepping their jurisdiction.

Recommendations

a. There is a need for the courts to work towards a refined constitutional standard to interpret the personal laws that are applied in a challenge instead of making an independent ruling on each case that invokes its own set of premises from the different premises adopted by the courts from arbitrary nature, essential religious practices, and constitutional morality as the premises to base their judgement upon. What is more, the courts must further define what is implied by the essentiality of religious practices doctrine through a legit pronouncement from a larger panel of judges that either elaborates on its application or comes up with a more convenient and simpler standard that is less involved in religious aspects. The court must instead focus itself on a rights-based decision making on a constitutional issue based on Articles 14, 15, and 21 instead of relying on a controversial theological basis.

- b. Parliament and state legislatures should adopt a policy of gradual and consultative reform of personal laws, as opposed to a single comprehensive code imposed without widespread consensus, drawing lessons from the experiences of Indonesia and South Africa. Gender-sensitive reforms should be prioritized within each personal law system before taking any steps towards comprehensive codification, following the gradualist model that has characterized all successful reforms so far. Hence, a broad-based consensus among the stakeholders should be achieved through the work of the Law Commission and through continuing interaction with religious organizations, women's organizations and civil society in order to provide legitimacy for any changes made.
- c. Both legal knowledge in personal law and constitutional rights should be increased, especially with respect to women since they are usually the targets of the reforms but are often in the weakest position to make use of them. Mediation and family justice measures, that are compliant with constitutional guarantees, should be promoted as an alternative to protracted legal procedures. Making legal analysis of laws like it is done in Part 5 of the study is essential for future reforms in order for India to benefit from international experiences without unaimed import of any foreign model.

Conclusion

The Indian judicial system has taken its place in what has been a complicated and choppy constitutional discourse in the debate around personal law versus the Uniform Civil Code. Nevertheless, the courts have done their best through notable cases starting from *Narasu Appa Mali* to *Shayara Bano*, *Joseph Shine* and the *Sabarimala* case, to implement the concepts of equality, dignity and gender justice through innovative constitutional interpretation, after having dismantled specific forms of illegal discrimination, without passing an all-encompassing civil code themselves. Moreover, in the process of doing so, the judiciary has repeatedly confirmed the role of the legislature as the key political institution responsible for the emergence of an innovative legal framework based on uniform civil code. The Indian political apparatus finally seems to be tackling the problem raised in Article 44 of the Indian Constitution, including via the recent passing of the *Uttarakhand Uniform Civil Code Act, 2024* and the ongoing deliberations of the 22nd Law Commission. In conclusion, the author of the paper insists that change is required not due to the judiciary playing its part of the legislative body, but because of judicial interpretation being used in a collaborative constitutional process.

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