

## REALTIONSHIP BETWEEN PERSONAL LAWS AND RELIGIOUS FREEDOM IN INDIA

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### ABSTRACT

*This study explores the intricate interplay between personal laws and religious liberty in India, a country renowned for its multifarious religious and cultural traditions. Personal laws that influence people's lives and communities include those pertaining to marriage, divorce, inheritance, and succession. These laws have their roots in religious customs and practices. This research offers a comprehensive historical account of the development of personal laws, scrutinizing significant clauses and seminal court rulings concerning religious liberty and personal laws. Along with highlighting current challenges, case studies and in-depth analyses of individual instances draw attention to topics related to gender equality and secularism. The research assesses earlier attempts at personal law reform and suggests a reasonable strategy to deal with the difficulties of personal law enforcement while maintaining religious liberty. It advocates for a careful and comprehensive approach to legislative reforms in India that honours the various religious practises and beliefs of the country's populace. The study highlights the persistent conflict between personal laws and religious liberty in India and advocates for a thorough investigation to guarantee that legislative modifications properly balance safeguarding personal liberties with upholding religious customs.*

**KEYWORDS:** *Divorce, Inheritance, Marriage, Succession, UCC etc.*

### 1. INTRODUCTION

India, which is frequently hailed as the biggest democracy in the world, is distinguished by the astounding variety of its cultures, customs, and faiths. This diversity presents the legal system with significant challenges in addition to being a source of cultural richness. The complex interplay between personal laws and religious freedom is one of the core areas where this difficulty appears. In India, personal laws pertaining to marriage, divorce, inheritance, and succession have their roots in religious customs and traditions. These regulations reflect the pluralistic culture of the country by allowing people to live their personal and familial life in line with their religious convictions.

India's personal laws have a complex history dating back to pre-colonial periods, with each religious group having its own set of rules. Hindu laws, found in the Vedas<sup>1</sup> and other religious scriptures, originated from the principle of dharma, which is the Hindu concept of duty and right conduct. Muslim personal laws were introduced to India in the 11th century<sup>2</sup>, originating from

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<sup>1</sup> Archana Parashar *Women And Family Law Reform In India: Uniform Civil Code And Gender Equality* SAGE PUBLICATIONS PVT. LTD. (1992).

<sup>2</sup> Farooq A. Hassan, *The Sources of Islamic Law*, Proceedings of the ASIL Annual Meeting, 76 Cambridge University Press (1984).

the Quran and the Hadith, and Christian personal laws were introduced in the 16th century<sup>3</sup>, originating from the Bible and teachings of the Christian Church.

The British colonial government in India adopted a policy of non-interference in matters of personal law, allowing different religious communities to continue following their own personal laws. They also introduced new laws<sup>4</sup> that applied to all Indians, regardless of their religion, such as the Indian Succession Act of 1865, which controlled property inheritance, and the Indian Divorce Act of 1869, which permitted divorce under specific conditions. The British government also established a system of courts in India, which were responsible for applying and enforcing the different personal laws.

Post-colonial India saw the Constituent Assembly of India create a constitution that would uphold the rights of all Indians, regardless of their religious beliefs. Article 25 of the Constitution of India guarantees religious freedom to all citizens, and personal laws may be used in situations including marriage, divorce, maintenance, adoption, and inheritance. Additionally, discrimination on the grounds of caste, religion, sex, or place of birth is outlawed under the Indian Constitution.

India's personal laws still have room for revision, with religious minorities and women still being discriminated against by some personal laws. For example, immediate triple talaq, a unilateral divorce procedure that may be biased against Muslim women, is permitted under Muslim personal law. Hindu women are also subject to discrimination under Hindu personal law in other domains, including inheritance rights. The Indian judiciary has played an important role in reforming personal laws, with the Supreme Court of India striking down discriminatory provisions such as instant triple talaq and the practice of polygamy among Muslims. India's personal laws continue to have a significant impact on people's lives worldwide, regulating everything from marriage to inheritance.

This research embarks on a journey to explore the multifaceted and often complex interplay between personal laws and religious freedom within the Indian context. It seeks to understand how personal laws, emanating from various religious traditions, impact the religious freedoms of individuals and communities in a nation where secularism is constitutionally enshrined. In doing so, this study aims to shed light on the tensions, challenges, and opportunities that arise at the intersection of law, religion, and individual rights in India. The research starts by examining the historical history of personal laws

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<sup>3</sup> Partha S. Ghosh, *The politics of personal law in South Asia: Identity, nationalism and the uniform civil code*, TAYLOR & FRANCIS (2018).

<sup>4</sup> Rina Verma Williams, *Postcolonial politics and personal laws: Colonial legal legacies and the Indian state* (2006).

in India, exposing their growth from ancient practises to the codified legal systems we have today. This will provide readers a thorough grasp of this intricate relationship. Additionally, it looks at the constitutional framework, emphasising important clauses and significant court rulings that determine the parameters of personal laws and religious freedom. The study examines hot-button questions and disputes surrounding personal legislation in the modern day, with an emphasis on gender equality and secularism. It seeks to provide light on how personal laws actually affect Indian individuals' right to freedom of religion in the real world by using case studies and in-depth analysis of particular situations.

This study assesses previous attempts to alter personal laws and offers suggestions for a fair strategy to deal with their complexity while safeguarding religious freedom. It emphasises the necessity of inclusive and nuanced legal reforms that honor the various religious practices and beliefs of India's people. This study essentially aims to resolve the long-standing conflict in India between personal laws and religious freedom. In order to guarantee that legislative reforms strike the correct balance—preserving individual liberties while honoring religious traditions in our multicultural and multireligious society—it calls for a careful and thorough analysis of this complex connection. In the end, it emphasises how crucial it is to traverse this difficult terrain with tact and discernment in order to achieve justice and harmony in India's multicultural culture.

## **1.1 OBJECTIVE OF STUDY**

This research paper explores the relationship between personal laws and religious freedom in India. It examines the practical implications of these laws on religious practices and beliefs, identifying areas where they may uphold or restrict the fundamental right to religious freedom. The paper also critically evaluates the ongoing debate surrounding the reform or unification of personal laws, assessing the potential impact on religious freedom, social harmony, and individual rights. By exploring diverse perspectives, the paper aims to contribute to a deeper understanding of the challenges and opportunities in balancing personal laws with fundamental freedoms in India's diverse society.

## **2. RESEARCH METHODOLOGY**

This study explores the relationship between personal laws and religious freedom in India. It uses a comparative legal analysis to examine the specific provisions of various personal laws and the fundamental right to religious freedom in the Indian Constitution. Socio-legal field research using interviews and surveys captures the experiences of diverse religious communities in navigating these laws. A critical historical analysis traces the evolution of

personal laws and their interaction with religious freedom throughout Indian history, providing a comprehensive understanding of contemporary dynamics.

### 3. PERSONAL LAWS IN INDIA

India's personal laws cover a wide range of topics, including adoption, divorce, maintenance, marriage, and inheritance. In India, personal laws are derived from the religious doctrines and cultural practises of various communities. Hindu personal law, Muslim personal law, Christian personal law, and Parsi personal law are the four primary categories of personal laws in India.

#### **Hindu Personal Law**

The oldest and most intricate personal law system in India is found in Hindu law. Its foundations include the Vedas and other sacred texts, in addition to centuries-old practises and traditions. Numerous statutes govern Hindu personal law<sup>5</sup>, including the Hindu Marriage Act, 1955, the Hindu Succession Act, 1956, and the Hindu Minority and Guardianship Act, 1956.

Key features of Hindu personal law include:

- **Monogamy:** Hindu personal law prohibits polygamy, but it allows for divorce on certain grounds, such as adultery, cruelty, and desertion.
- **Joint family system:** Hindu personal law acknowledges the joint family system, which gives each family member a portion of the family's assets.
- **Inheritance:** The intricate structure of inheritance under Hindu personal law differs based on an individual's caste and geographic location.

#### **Muslim Personal Law**

The two primary sources of Islamic law, the Quran and the Hadith, serve as the foundation for Muslim personal law. Numerous statutes control Muslim personal law<sup>6</sup>, including the Dissolution of Muslim Marriages Act, 1939, the Muslim Women (Protection of Rights on Divorce) Act, 1986, and the Shariat Application Act, 1937.

Key features of Muslim personal law include:

- **Polygamy:** According to Muslim personal law, a person may only have four wives at a time.

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<sup>5</sup> Dinshah Fardunji Mulla & Sunderlal Desai *Principles of Hindu law: with a general introduction to Hindu law and with commentaries on The Hindu marriage act, 1955, The Hindu succession act, 1956, The Hindu minority & guardianship act, 1956, The Hindu adoptions & maintenance act, 1956* (1966).

<sup>6</sup> Sylvia Vatuk *The Application of Muslim Personal Law in India* Adjudicating family law in Muslim courts 48 (2013).

- Talaq: Talaq is a type of unilateral divorce that is permissible under Muslim personal law.
- Meher: According to Muslim personal law, the husband must give the wife meher at the time of marriage.
- Inheritance: The intricate structure of inheritance under Muslim personal law is derived from the Quran and Hadith.

### **Christian Personal Law**

The Bible and Christian Church doctrine serve as the foundation for Christian personal law. Several acts, such as the Indian Divorce Act of 1869, the Indian Christian Marriage Act of 1872, and the Indian Succession Act of 1925, regulate Christian personal law<sup>7</sup>.

Key features of Christian personal law include:

- Monogamy: Christian personal law prohibits polygamy, but it allows for divorce on certain grounds, such as adultery, cruelty, and desertion.
- Inheritance: In Christian personal law, the property of the departed is divided among their heirs according to a predefined formula known as intestate succession.

### **Parsi Personal Law**

Zoroastrianism serves as the foundation for Parsi personal law. Several acts, such as the Parsi Marriage and Divorce Act, 1936, the Parsi Succession Act, 1922, and the Parsi Intestate Succession Act, 1865, regulate Parsi personal law<sup>8</sup>.

Key features of Parsi personal law include:

- Monogamy: Parsi personal law prohibits polygamy, but it allows for divorce on certain grounds, such as adultery, cruelty, and desertion.
- Inheritance: Inheritance law in Parsi personal law is based on the law of intestate succession, which divides a deceased person's assets among their heirs in an established way.

It is significant to remember that Indian personal laws are dynamic. They have changed over time to reflect the nation's shifting social and religious milieu. For instance, the Hindu Marriage Act of 1955 made divorce permissible under specific conditions and imposed monogamy on Hindus. Muslim women were also given certain rights under the Dissolution of Muslim Marriages Act,

<sup>7</sup> Nandini Chatterjee, *Religious change, social conflict and legal competition: the emergence of Christian personal law in colonial India* 44.6 MODERN ASIAN STUDIES 1147-1195 (2010).

<sup>8</sup> Subrata K., Mitra & Alexander Fischer *Sacred laws and the secular state: An analytical narrative of the controversy over personal laws in India* 1.3 INDIA REVIEW 99-130 (2002).

1939, including the ability to file for divorce due to cruelty. The Indian Supreme Court has been a major player in the reform of personal laws in recent years. A variety of discriminatory personal law regulations, including quick triple talaq and Muslim polygamy, have been overturned by the court. Indian personal laws, which regulate everything from marriage to inheritance, still have a significant influence on Indian life. Nonetheless, it's critical to make sure that personal laws treat every citizen equally and justly, regardless of their gender or faith.

#### **4. ARGUMENTS AND DISCUSSION**

Here are the key provisions and practices under each personal law in India on marriage and divorce, maintenance, adoption, and inheritance:

##### **Hindu Personal Law**

- **Marriage and divorce:** Hindu marriages are performed according to Hindu rituals and customs. Hindu marriages can be monogamous or polygamous, depending on the caste and region of the couple. Hindu marriages can be dissolved on certain grounds, such as adultery, cruelty, and desertion.
- **Maintenance:** Hindu husbands are obligated to maintain their wives, even after divorce. Hindu wives are also obligated to maintain their minor children.
- **Adoption:** Hindu couples can adopt children of either sex, regardless of their religion. However, the child to be adopted must be a minor and unmarried.
- **Inheritance:** Hindu inheritance is governed by the Hindu Succession Act, 1956. Under the Hindu Succession Act, all male and female heirs have equal rights to inherit property.

##### **Muslim Personal Law**

- **Marriage and divorce:** Muslim marriages are performed according to Islamic law. Muslim marriages can be monogamous or polygamous, with a maximum of four wives. Muslim marriages can be terminated by the husband issuing a unilateral divorce known as talaq.
- **Maintenance:** Muslim husbands are obligated to maintain their wives during marriage and for a certain period of time after divorce. Muslim wives are also obligated to maintain their minor children.
- **Adoption:** Adoption is not permitted under Muslim personal law.
- **Inheritance:** Muslim inheritance is governed by Islamic law. Under Islamic law, male heirs receive a larger share of inheritance than female heirs.

### **Christian Personal Law**

- **Marriage and divorce:** Christian marriages are performed according to Christian rituals and customs. Christian marriages are monogamous and can be dissolved on certain grounds, such as adultery, cruelty, and desertion.
- **Maintenance:** Christian husbands are obligated to maintain their wives, even after divorce. Christian wives are also obligated to maintain their minor children.
- **Adoption:** Regardless of their religious beliefs, Christian couples are able to adopt children of either sex. The adopted child must, however, be underage and single.
- **Inheritance:** The Indian Succession Act of 1925 governs Christian inheritance. All male and female heirs have an equal right to inherit property under the Indian Succession Act.

### **Parsi Personal Law**

- **Marriage and divorce:** Parsi marriages are performed according to Zoroastrian rituals and customs. Parsi marriages are monogamous and can be dissolved on certain grounds, such as adultery, cruelty, and desertion.
- **Maintenance:** Parsi husbands are obligated to maintain their wives, even after divorce. Parsi wives are also obligated to maintain their minor children.
- **Adoption:** Parsi couples can adopt children of either sex, regardless of their religion. However, the child to be adopted must be a minor and unmarried.
- **Inheritance:** Parsi inheritance is governed by the Parsi Succession Act, 1922. Under the Parsi Succession Act, all male and female heirs have equal rights to inherit property.

It is crucial to remember that each personal law has specific general rules and procedures. Depending on the couple's or individual's caste, sect, or locality, there can be particular differences. There has been increasing discussion in recent years on India's need for a Uniform Civil Code (UCC). All citizens, regardless of faith, would be subject to a single set of laws in place of all personal laws under a UCC. On the other hand, opinions differ on whether a UCC is practical or desirable.

## **4.1 CONSTITUTIONAL FRAMEWORK**

Article 25 of the Indian Constitution guarantees freedom of conscience and the right to practice and propagate religion without state interference<sup>9</sup>. It balances

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<sup>9</sup> INDIA CONST. art. 25.

protecting religious freedom with allowing the state to regulate religious practices for social welfare, public order, and morality. The Shirur Mutt Case<sup>10</sup> established that religion encompasses beliefs, rituals, and practices, and the state can only interfere if they are inconsistent with public order, morality, or health. *The Durgah Committee, Ajmer v Syed Hussain Ali*<sup>11</sup>, ruled that essential religious practices must be regulated by the state.

Article 26 of the Indian Constitution grants religious denominations the right to manage their religious affairs, including the establishment and maintenance of institutions for religious and charitable purposes<sup>12</sup>. This autonomy is recognized in matters of administration and management. Supreme Court judgments, such as *S.P. Mittal v Union of India*<sup>13</sup> and *Shri Venkataramana Devaru v State of Mysore*<sup>14</sup>, have upheld the autonomy of religious institutions and allowed the state to regulate their administration for effective functioning.

Article 29 protects minority interests by ensuring their right to preserve their language, script, and culture<sup>15</sup>. It emphasizes the preservation of cultural and educational rights. Supreme Court judgments, such as *T.M.A. Pai Foundation v State of Karnataka*<sup>16</sup> and *St. Stephen's College v University of Delhi*<sup>17</sup>, have clarified this, upholding the autonomy of minority educational institutions in matters of admissions and administration.

The Supreme Court of India has played a pivotal role in interpreting and safeguarding religious freedom while addressing issues related to personal laws. Here are some landmark Supreme Court decisions that have significantly shaped the legal landscape concerning these matters:

1. **Shah Bano Case (1985):** In the case of *Mohammed Ahmed Khan v Shah Bano Begum*<sup>18</sup>, the issue of whether a divorced Muslim lady was eligible for maintenance under Section 125 of the Criminal Procedure Code (CrPC) was brought before the Supreme Court. The Court decided in Shah Bano's favour, concluding that Section 125 of the CrPC was applicable to everyone, regardless of faith. The Muslim Women (Protection of Rights on Divorce) Act, 1986 was passed in response to the intense debate this ruling generated and its intention to weaken the Supreme Court's ruling.

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<sup>10</sup> The Commissioner, Hindu Religious Endowments, Madras v. Lakshmindra Thirtha Swamiar of Sri Shirur Mutt, (1954) A.I.R. SC 282 (India).

<sup>11</sup> Durgah Committee, Ajmer v. Syed Hussain Ali, (1962) A.I.R. SC 383 (India).

<sup>12</sup> INDIA CONST. art. 26.

<sup>13</sup> S.P. Mittal v. Union of India, (1983) A.I.R. SC 1 (India).

<sup>14</sup> Sri Venkataramana Devaru v. State of Mysore, (1958) S.C.R. 895 (India).

<sup>15</sup> INDIA CONST. art. 29.

<sup>16</sup> TMA PAI Foundation v. State of Karnataka, (2002) 8 S.C.C. 481 (India).

<sup>17</sup> St. Stephen'S College Etc., Etc. v. The University of Delhi, 1 S.C.C. 558 (India).

<sup>18</sup> Mohd. Ahmed Khan v. Shah Bano Begum, (1985) A.I.R. SC 945 (India).



2. **Sabarimala Temple Entry Case (2018):** In the *Indian Young Lawyers Association v The State of Kerala*<sup>19</sup>, the question of whether women between the ages of 10 and 50 are prohibited from entering the Sabarimala temple in Kerala was taken up by the Supreme Court. The restriction was declared unlawful by the court because it infringed upon women's rights to equality and freedom of religion. Discussions over the proper ratio between gender equality and religious practises were sparked by this ruling.
3. **Triple Talaq (2017):** In *Shayara Bano v Union of India*<sup>20</sup>, the Supreme Court looked at whether Muslim men's practise of triple talaq, or instant divorce, was lawful. In a landmark ruling, the Court ruled that triple talaq violates the fundamental rights of Muslim women and is unconstitutional. The Muslim Women (Protection of Rights on Marriage) Act, 2019, which made the practise illegal, was passed as a result of this ruling.
4. **Hindu Succession Act Amendment (2005):** In the case of *Danamma v Amar*<sup>21</sup>, the Hindu Succession Act's 2005 revision, which gave daughters the same inheritance rights as sons, was declared to be retroactive by the Supreme Court. With this ruling, Hindu personal laws took a major step towards gender equality.
5. **Adultery Law (2018):** In the case of *Joseph Shine v Union of India*<sup>22</sup>, the Indian Penal Code (IPC)'s Section 497, which made adultery illegal, was overturned by the Supreme Court. The Court ruled that the law was an obvious infringement on women's right to equality and privacy as well as their dignity and autonomy.
6. **Right to Privacy (2017):** In a landmark decision in *K.S. Puttaswamy v Union of India*<sup>23</sup>, the Indian Constitution's fundamental right to privacy was acknowledged by the Supreme Court. The protection of individual liberty and personal choices, including religious ones, is strengthened by this ruling, which has broad consequences for personal legislation.

These important Supreme Court rulings highlight how India's personal laws are changing and how the court is dedicated to protecting fundamental rights like gender equality and freedom of religion. They have promoted inclusivity, justice, and individual autonomy while striking a balance between religious practises and personal liberties, having a significant impact on India's legal and social landscape.

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<sup>19</sup> Indian Young Lawyers Association v. The State of Kerala, (2019) 11 S.C.C. 1 (India).

<sup>20</sup> Shayara Bano v. Union of India, (2017) 9 S.C.C. 1 (India).

<sup>21</sup> Danamma v. Amar, (2006) A.I.R. 2006 SC 2753 (India).

<sup>22</sup> Joseph Shine v. Union of India, (2019) 3 S.C.C. 39 (India).

<sup>23</sup> K.S. Puttaswamy v. Union of India, (2017) 10 S.C.C. 1 (India).

## 4.2 The Role of Directive Principles of State Policy in Personal Laws:

Part IV of the Indian Constitution lays out a collection of rules and concepts known as the Directive concepts of State Policy (DPSP). Although not subject to judicial enforcement, these concepts play a crucial role in guiding governmental policies and initiatives. The DPSPs guide the state towards achieving socio-economic justice, equality, and a just and humane society by serving as a moral and political compass. They have a significant impact on personal laws and make sure they adhere to the more general ideals of equity, equality, and individual liberties. Here's a detailed look at the role of DPSPs in personal laws:

1. **Equality before the Law (Article 38):** DPSPs emphasize the state's commitment to promoting social and economic equality<sup>24</sup>. In the context of personal laws, this principle underscores the need to eliminate discriminatory practices based on religion, gender, or caste. It encourages the state to work towards reforming personal laws to ensure equal rights and opportunities for all citizens, irrespective of their religious or cultural background.
2. **Equal Justice and Free Legal Aid (Article 39A):** Article 39A<sup>25</sup> emphasizes the state's responsibility to ensure equal justice and provide free legal aid to those who cannot afford legal representation. In personal law matters, this principle can be invoked to ensure that individuals, especially women and marginalized groups, have access to legal resources and remedies when facing discrimination or injustice under personal laws.
3. **Promotion of Educational and Economic Interests of Weaker Sections (Article 46):** DPSP Article 46<sup>26</sup> directs the state to promote the educational and economic interests of weaker sections, particularly Scheduled Castes, Scheduled Tribes, and other disadvantaged groups. In personal laws, this principle encourages legal reforms that safeguard the rights and interests of these communities, making sure they're not treated unjustly disadvantaged by religious or customary practices.
4. **Uniform Civil Code (Article 44):** Article 44<sup>27</sup> calls for the state to endeavor to secure a Uniform Civil Code throughout the country. While this directive remains unimplemented, it underscores the need for legal reforms to harmonize personal laws and promote a more uniform and equitable legal framework.

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<sup>24</sup> INDIA CONST. art. 38.

<sup>25</sup> INDIA CONST. art. 39A.

<sup>26</sup> INDIA CONST. art. 46.

<sup>27</sup> INDIA CONST. art. 44.

5. **Protection of Minority Interests (Article 30):** DPSP Article 30<sup>28</sup> recognizes the right of minorities to establish and administer educational institutions of their choice. In personal laws, this principle reinforces the autonomy of religious minority communities to manage their religious and educational affairs, including the administration of institutions like schools and colleges.
6. **Promotion of Scientific Temper (Article 51A(h)):** Article 51A(h)<sup>29</sup> adds a fundamental duty for citizens to develop a scientific temper, humanism, and the spirit of inquiry and reform. This principle can influence personal laws by encouraging a rational and progressive approach to religious and customary practices, fostering a spirit of reform and adaptation to modern values.

Policies and acts of the government, especially those concerning personal legislation, are guided by the Directive Principles of State Policy. They can be used to support legal reforms that bring personal laws into line with these fundamental values, which emphasise justice, equality, and the wellbeing of all citizens. The Indian legal system's moral and political orientation is greatly influenced by the DPSPs, even though they are not legally binding. This helps to ensure that the system adapts to the shifting requirements and ideals of society.

### 4.3 CONTEMPORARY ISSUES AND CONTROVERSIES

#### Recent legal developments impacting personal laws and religious freedom:

1. **Triple Talaq Act (Muslim Women [Protection of Rights on Marriage] Act, 2019)**<sup>30</sup>: This Act, passed by the Indian Parliament in 2019, criminalized the practice of triple talaq (instant divorce) among Muslim men. It was a significant step toward protecting the rights of Muslim women and ensuring gender equality within the Muslim community.
2. **Ram Janmabhoomi-Babri Masjid Land Dispute Resolution (2019)**<sup>31</sup>: The Supreme Court of India rendered a landmark decision in the protracted Ayodhya property dispute issue in November 2019. The court decided to grant Hindus the disputed site in Ayodhya so they could build a Ram temple, and to give Muslims another five-acre tract so they could build a mosque. This ruling addressed a very contentious legal and religious matter, which had repercussions for both personal laws and religious freedom.

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<sup>28</sup> INDIA CONST. art. 30.

<sup>29</sup> INDIA CONST. art. 51A(h).

<sup>30</sup> Shayara Bano v. Union of India, (2017) 9 S.C.C. 1 (India).

<sup>31</sup> Ram Janmabhoomi-Babri Masjid Land Dispute Resolution, (2019) 12 S.C.C. 74 (India).

3. **Citizenship Amendment Act (CAA, 2019)<sup>32</sup>:** The CAA, passed in 2019, aimed to expedite the process of granting Indian citizenship to religious minorities (Hindus, Sikhs, Christians, Buddhists, Jains, and Parsis) from Pakistan, Bangladesh, and Afghanistan who had faced religious persecution. Critics argued that the Act raised concerns about religious discrimination and potential exclusion of Muslims. The CAA led to widespread protests and debates about religious freedom and constitutional principles.
4. **Women's Entry to Sabarimala Temple (2020):** The Supreme Court continued to address the issue of women's entry to the Sabarimala temple in Kerala<sup>33</sup>. The status quo was preserved when the Court postponed ruling on the review petitions until 2020, but it was left open to consider the matter again later.
5. **Jammu and Kashmir Reorganization (2019)<sup>34</sup>:** The Indian government repealed Article 370 of the Constitution in August 2019, giving the state of Jammu and Kashmir special autonomy. Significant modifications to Jammu and Kashmir's legal and constitutional status resulted from this action, which had an effect on the region's personal laws and religious freedom.
6. **Laws Addressing Religious Conversion:** Some Indian states have introduced or amended laws related to religious conversions, often referred to as "anti-conversion laws"<sup>35</sup>. These laws aim to regulate religious conversions, and they have sparked debates about their potential impact on religious freedom and individual choices.
7. **Love Jihad Laws and Controversies:** Several Indian states, including Uttar Pradesh, Madhya Pradesh, and Haryana, have proposed or enacted laws commonly referred to as "Love Jihad laws"<sup>36</sup>. These laws are aimed at regulating interfaith marriages, with concerns raised about potential violations of individual freedom and privacy.
8. **Uniform Civil Code (UCC) Debates:** The debate around implementing a Uniform Civil Code in India, as envisaged in Article 44 of the Constitution, continues<sup>37</sup>. Advocates argue that a UCC would bring uniformity and gender equality in personal laws, while critics express concerns about its potential impact on cultural and religious diversity.

<sup>32</sup> The Citizenship (Amendment) Act, 2019, No. 47, Acts of Parliament, 2019 (India)

<sup>33</sup> Indian Young Lawyers Association v. The State of Kerala, (2018) 11 SCC 1 (India).

<sup>34</sup> The Jammu and Kashmir Reorganisation Act, 2019, No. 29, Acts of Parliament, 2019 (India).

<sup>35</sup> Durham Jr, W. Cole & Brett G. Scharffs *Law and religion: National, international, and comparative perspectives* ASPEN PUBLISHING (2019).

<sup>36</sup> Nielsen, Bo Kenneth & Alf Gunvald Nilsen *Love jihad and the governance of gender and intimacy in Hindu nationalist statecraft* 12.12 RELIGIONS 1068 (2021).

<sup>37</sup> Sunaina Nassa *The Debate over Uniform Civil Code ("UCC") and Its Significance for India as a Secular Democracy* INDIAN JOURNAL OF INTEGRATED RESEARCH. L. 3 (2023).

9. **Religious and Cultural Practices in Tribal Areas:** The Supreme Court has addressed issues related to religious and cultural practices in tribal areas. One notable case involved the Dongria Kondh tribe in Odisha and their sacred hills, which were threatened by mining activities<sup>38</sup>.
10. **Cow Protection Laws:** Several Indian states have implemented or strengthened cow protection laws, which have raised concerns about the potential infringement on dietary choices and religious practices of minority communities, particularly Muslims and Dalits<sup>39</sup>.
11. **Conversion Controversies:** Reports of alleged forced or fraudulent religious conversions have led to debates about religious freedom and anti-conversion laws in various states<sup>40</sup>.
12. **Armed Forces and Religious Symbols:** Legal cases have emerged regarding the wearing of religious symbols and attire in the armed forces, with considerations related to religious freedom versus uniform and discipline<sup>41</sup>.

## 5. CONCLUSION AND SUGGESTIONS

India has made several attempts to reform its personal laws, including the Hindu Marriage Act, 1955, the Dissolution of Muslim Marriages Act, 1939, the Muslim Women (Protection of Rights on Divorce) Act, 1986, and the Prohibition of Child Marriage Act, 2006. These reforms have improved many people's lives in India, but further improvements are still required, especially in areas where discriminatory personal laws exist.

Proposed reforms to personal laws in India include the Uniform Civil Code (UCC), which would replace all personal laws with a single set of rules, supporting nondiscrimination and equality. However, it is crucial to ensure that a UCC respects the religious and cultural sensitivities of all communities and is formed in a participatory manner.

Reforms to Muslim personal law include equal rights for Muslim women in inheritance and the outlawing of polygamy and immediate triple talaq. These changes would safeguard the rights of Muslim women and advance gender equality, but it is crucial to ensure that these changes are implemented in a way that upholds Islamic values.

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<sup>38</sup> Radhika Borde, and Bettina Bluemling *Representing indigenous sacred land: The case of the Niyamgiri movement in India* 32.1 CAPITALISM NATURE SOCIALISM 68-87 (2021).

<sup>39</sup> Abdur Rahman *Denial and deprivation: Indian Muslims after the Sachar committee and Rangnath Mishra commission reports* ROUTLEDGE (2019).

<sup>40</sup> Mukesh Kumar & Garima Yadav *Anxieties of the Dominant: Legal, Social, and Religious in the Politics of Religious Conversion in India* OXFORD JOURNAL OF LAW AND RELIGION (2022).

<sup>41</sup> Ruth Rubinstein *Dress codes: Meanings and messages in American culture*. ROUTLEDGE (2018).

To ensure that personal laws and religious freedom are handled fairly, several actions can be taken

1. Education about personal laws and religious freedom: It is important for people to be aware of their rights under personal laws and the constitution. This will help them protect their rights and hold the government accountable.
2. Encouraging religious groups to amend their own laws: To make their laws more equitable and just, religious communities should be encouraged to amend their own laws through education and conversation.
3. Enacting laws to safeguard religious freedom: The government should enact laws that prioritize nondiscrimination and equality. By taking these steps, India can create a society where everyone can enjoy religious freedom and equality.

The complex interplay between personal laws and religious freedom in India represents a multifaceted and evolving challenge. Reforms like the Hindu Code Bills, the criminalization of triple talaq, and gender-equal inheritance laws have positively impacted religious freedom by promoting gender equality within religious communities. However, the call for a Uniform Civil Code remains contentious, reflecting the challenges of harmonizing diverse religious and cultural traditions under a single legal framework. The pursuit of a just and inclusive society in India requires ongoing efforts to strike the right balance between personal laws and religious freedom. As India continues to evolve, these challenges will continue to shape the legal and social landscape, emphasizing the need for sensitivity, collaboration, and respect for all voices in the ongoing quest for equilibrium.

## REFERENCES

### Articles

- Abdur Rahman *Denial and deprivation: Indian Muslims after the Sachar committee and Rangnath Mishra commission reports* ROUTLEDGE (2019).
- Archana Parashar *Women And Family Law Reform In India: Uniform Civil Code And Gender Equality* SAGE PUBLICATIONS PVT. LTD. (1992).
- Durham Jr, W. Cole & Brett G. Scharffs *Law and religion: National, international, and comparative perspectives* ASPEN PUBLISHING (2019).
- Farooq A. Hassan, *The Sources of Islamic Law* Proceedings of the ASIL Annual Meeting. 76 Cambridge University Press (1984).

- Mukesh Kumar & Garima Yadav *Anxieties of the Dominant: Legal, Social, and Religious in the Politics of Religious Conversion in India* OXFORD JOURNAL OF LAW AND RELIGION (2022).
- Nandini Chatterjee, *Religious change, social conflict and legal competition: the emergence of Christian personal law in colonial India* 44.6 MODERN ASIAN STUDIES 1147-1195 (2010).
- Nielsen, Bo Kenneth & Alf Gunvald Nilsen *Love jihad and the governance of gender and intimacy in Hindu nationalist statecraft* 12.12 RELIGIONS 1068 (2021).
- Partha S. Ghosh, *The politics of personal law in South Asia: Identity, nationalism and the uniform civil code*, TAYLOR & FRANCIS (2018).
- Radhika Borde, and Bettina Bluemling *Representing indigenous sacred land: The case of the Niyamgiri movement in India* 32.1 CAPITALISM NATURE SOCIALISM 68-87 (2021).
- Rina Verma Williams, *Postcolonial politics and personal laws: Colonial legal legacies and the Indian state* (2006).
- Ruth Rubinstein *Dress codes: Meanings and messages in American culture*. ROUTLEDGE (2018).
- Subrata K., Mitra & Alexander Fischer *Sacred laws and the secular state: An analytical narrative of the controversy over personal laws in India* 1.3 INDIA REVIEW 99-130 (2002).
- Sunaina Nassa *The Debate over Uniform Civil Code ("UCC") and Its Significance for India as a Secular Democracy* INDIAN JOURNAL OF INTEGRATED RESEARCH. L. 3 (2023).

#### List of Cases

- Danamma v Amar (2006) A.I.R. SC 2753
- Durgah Committee, Ajmer v Syed Hussain Ali (1962) A.I.R. SC 383
- Indian Young Lawyers Association v The State of Kerala (2019) 11 S.C.C. 1
- Joseph Shine v Union of India (2019) 3 S.C.C. 39
- K.S. Puttaswamy v Union of India (2017) 10 S.C.C. 1
- Mohd. Ahmed Khan v Shah Bano Begum (1985) A.I.R. SC 945
- S.P. Mittal v. Union of India (1983) A.I.R. SC 1
- Shayara Bano v Union of India, (2017) 9 S.C.C. 1
- Sri Venkataramana Devaru v State of Mysore (1958) S.C.R. 895
- St. Stephen's College Etc. v The University of Delhi, 1 S.C.C. 558
- TMA PAI Foundation v State of Karnataka (2002) 8 S.C.C. 481

#### Statutes

- The Constitution of India, 1950
- The Citizenship (Amendment) Act, 2019
- The Jammu and Kashmir Reorganisation Act, 2019