

CONSTITUTIONAL CHALLENGES TO PERSONAL LAWS

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ABSTRACT

In India, the rich tapestry of cultural and religious diversity has given rise to a unique legal landscape where personal laws, derived from religious traditions and scriptures, coexist alongside the overarching guarantees of fundamental rights enshrined in the Constitution. Despite India being a secular country, personal laws governing various aspects of marriage, divorce, inheritance and a doption are pluralistic and there could be sources of potential conflict between these laws and the fundamental rights. The main areas of tension arise with regard to gender equality, non-discrimination, and the right to freedom of religion. According to the constitution, any law that is in violation of the fundamental rights can be struck down by the Supreme court or any of the High courts.¹ Over the years, there have been several court cases challenging certain provisions of personal laws that were seen as infringing upon fundamental rights. In multiple cases, courts have stated that personal laws have to be read along with the fundamental rights and must be consistent with the same. This project aims to analyse the tussle between personal laws and fundamental rights. The researcher believes that personal laws must be included within the realm of fundamental rights to ensure that the former is not used as a tool to exclude historically marginalised sections of the society from exercising their fundamental rights, even though the preservation of personal laws is required for the perpetuation of India's plurality and diversity.

Keywords: family law, personal laws, gender equality, freedom of religion, fundamental rights.

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¹ INDIA CONST. art. 13, cl. 1.

INTRODUCTION

In India, the rich tapestry of cultural and religious diversity has given rise to a unique legal landscape where personal laws, derived from religious traditions and scriptures, coexist alongside the overarching guarantees of fundamental rights treasured in the Constitution. Personal laws, particularly Hindu and Muslim laws, came from religious scriptures, and as a result, they were indefensible by any statute. However, after the dawn of colonial rule, due to socio-political rather than religious considerations, a separate space was created for certain religious rules controlling family concerns such as succession, inheritance, guardianship, marriage, adoption, and divorce. Historically, Hindu and Muslim personal laws remained unscathed due to socio-economic cataclysms and political variations. Nevertheless, independent India has implemented radical amendments especially to Hindu laws to eradicate the historical position of women, fostering subordination and submissiveness.

Despite India being a secular country, personal laws governing various aspects of marriage, divorce, inheritance and adoption are pluralistic and there could be sources of potential conflict between these laws and the fundamental rights. The main areas of tension arise with regard to gender equality, non-discrimination, and the right to freedom of religion. According to the constitution, any law that is in violation of the fundamental rights can be struck down either by the Supreme court or any of the High courts.² However, with regard to personal laws, the question arises as to whether they can be considered under the purview of “law” under Article 13 of the constitution or not.

Over the years, there have been several court cases challenging certain provisions of personal laws that were seen as infringing upon fundamental rights. In multiple cases, courts have stated that personal laws have to be read along with the fundamental rights and must be consistent with the same. On the other hand, the courts have also taken the stance that personal laws are not predisposed to fundamental rights. Thus, there is inconsistency in the decision of courts regarding the same.

This research project seeks to explore and analyse the tussle between personal laws and fundamental rights in India.

² INDIA CONST. art. 13, cl. 1.

PERSONAL LAWS AND FUNDAMENTAL RIGHTS- AN OVERVIEW

The interplay between personal laws and fundamental rights are complex, particularly in matters where it treads the fine line between gender equality and religious freedom. The inconsistencies between the rights guaranteed and personal laws may have been justified in the pre-constitutional era, but the same cannot be applicable in the present due to the amount of discrimination propagated by them.³

HISTORY OF PERSONAL LAWS

In India, most personal laws are guided and influenced by religion. In ancient times, personal laws were derived from Hindu religious texts called Shrutis and Smritis⁴ which were above the ambit of monarchy and were subject to the rules as laid down by the ancient texts and the sages. In medieval India, the dominant religion was Islam, due to the advent of Muslim dynasties. As a result, the Quran became the most important source of Muslim personal law in India.⁵ This changed with the onset of British rule in India where even though the British maintained a non-interference policy with religious practices initially, they began to be codified through judgements, eventually diminishing the role of religious scholars.⁶

Throughout the history of personal laws, Hindu Laws were codified and focused more on reforms to eradicate gender and community biases, while Muslim laws were left uncoded and directed towards the reinstatement of ancient practices. After India's independence, personal laws were codified into acts like the Hindu Marriage Act, 1955, Hindu Adoption and Maintenance Act, 1956, Special Marriage Act, 1954, etc.⁷ Despite this, the issue of whether personal laws are compatible with fundamental rights has remained debatable.

³ Sundari Krishna, *Personal Laws and the Constitution*, 3 STUDENT ADV (1991) 64, 65.

⁴ Principle Sources of Indian Law, Business Law. See also DINSHAH FARDUNJI MULLA & SATYAJEET A. DESAI, 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 (Updated 21. ed., 1. reprint ed. 2013) 2-15.

⁵ See Zokirov Shohruxbek Zohidjon, *The Concept Of A Muslim Legal Family*, E CONFERENCE ZONE, 30, 30-32 (2022).

⁶ D.K Srivastava, *Personal Laws and Religious Freedom*, 18 JILI (1976) 551, 557-558.

⁷ Himanshi, *Personal Laws and their (UN) Constitutionality : Exposing Inconsistencies in Hindu and Muslim Personal Laws*, 3.1 JCLJ (2022) 995, 997.

PERSONAL LAWS AFTER THE CONSTITUTION

When the Constitution was enacted in 1950, it guaranteed equality before law to all persons.⁸ However, the courts and the constitution has refused to speak up about personal laws multiple times stating that personal laws were too sensitive of a matter to be legislated upon⁹, or stated that it is not time for the legislature to reform the law.¹⁰ There is also a question as to whether personal laws can be considered under the ambit of “law” under Article 13 of the Constitution. Unless personal laws are considered to be laws, the claim of equality before law would not hold true against them, eventually leading to the violation of fundamental rights.

CONCEPT OF LAW UNDER ARTICLE 13 OF THE CONSTITUTION

Article 13(3) of the Constitution states that laws consist of any ordinances, bye-laws, rules, regulations, notifications, customs, and usage that have legal force in India, while laws in force include laws that have been enacted before the start of the constitution and have not been previously repealed. Here, the question arises to whether personal laws can be considered to be laws under Article 13(3)(a) as they are customs, or whether they should be excluded from being considered as laws under Article 25 of the constitution.¹¹ It can be contended that bringing in personal laws under the scrutiny of fundamental rights could hamper the freedom of religion granted to people under Article 25, essentially interfering into the public-private dichotomy of laws¹². On the other hand, it could also be argued that when personal laws are excluded from the purview of fundamental rights, it grants free leeway to infringe fundamental rights under the guise of personal laws.¹³

PERSONAL LAWS AND ARTICLE 13

Presently, personal laws are considered impervious from the application of fundamental rights as they don't fall under the realm of both laws and laws in force under Article 13 of the

⁸ INDIA CONST. art. 14.

⁹ Krishna, *supra* note 2.

¹⁰ *Dwarakabai v. Prof. Nainan*, AIR 1953 Mad 792.

¹¹ INDIA CONST. art. 25. This provision talks about the freedom of conscience and free profession, practice and propagation of any religion.

¹² Ritesh Dhar Bubey, *In Re Muslim Women's Quest for Equality : Analysis of the Judgement of Supreme Court on Issues of Fundamental Rights and Personal Laws*, 1 SML L Rev 146 (2018).

¹³ Himanshi, *supra* note 6.

constitution.¹⁴ This is a violation of the Rule of Law and the Precedence of *lex loci* since it gave personal laws unwarranted predominance by keeping them out of constitutional scrutiny.¹⁵ This stance was first brought about in the case of *State of Bombay v. Narasu Appa Mali*¹⁶ and reaffirmed later on in the case of *Shri Krishna Singh v. Mathura Ahir*¹⁷. In the Narasu Appa Mali judgement, Justice M.C Chagla stated that personal laws made reference to the original writings and scriptures, whilst customs were more focused on the practises that deviated from these books and scriptures. Hence, they cannot be considered to be the same as “Customs and usages” defined in Article 13.¹⁸ Accordingly, personal laws cannot be considered to be laws under Article 13(3)(a).

A similar interpretation of Article 13 was presented by Justice Gajendragadkar in the case where he said that laws in force referred only to statutory laws and not in the general perspective. He claimed that only laws enacted by the Legislature or other proficient authority fell under the definition of “laws in force” under Article 13, and that personal laws could not be included in the definition of “laws in force” under Article 13 until they satisfied this test.¹⁹ Thus, he contended that because personal laws in India are not regarded as “statutory laws”, they cannot be evaluated with respect to Fundamental Rights under Article 13(3)(b) of the Constitution.

As a result, personal laws fell outside the purview of Part III of the Constitution, which is stance maintained till date. However, this view is flawed, especially in today’s context, as personal laws have become a way in which gender inequality and discrimination is practiced, as they are excluded from the purview of fundamental rights.²⁰

CONSTITUTIONAL VALIDITY OF PERSONAL LAWS

The status of personal laws post the *Narasu Appa Mali*²¹ judgement has mostly remained consistent, with the court reiterating the same “non-interference” approach in cases like

¹⁴ *State of Bombay v. Narasu Appa Mali*, AIR 1952 Bom 84.

¹⁵ Himanshi, supra note 6.

¹⁶ *State of Bombay v. Narasu Appa Mali*, AIR 1952 Bom 84.

¹⁷ (1981) 3 SCC 689.

¹⁸ *Id.*

¹⁹ *State of Bombay v. Narasu Appa Mali*, AIR 1952 Bom 84.

²⁰ Saumya Mishra, *Constitutionality of Personal Laws*, 2.3 JCLJ (2022) 584.

²¹ *State of Bombay v. Narasu Appa Mali*, AIR 1952 Bom 84.

*Krishna Singh*²² and *Reynold Rajamani v. UOI*²³ and also asserting that personal laws cannot be tested against fundamental rights guaranteed under Part III and Article 13 of the Constitution by courts.

In recent times, however, the courts have taken a contrasting approach to the issue, oftentimes diverging from the non-interference approach, and testing personal laws on the touchstone of fundamental rights. The courts have stated that codified personal laws can be subject to fundamental rights²⁴ and the same applies to customs²⁵. Judicial review is a part of the constitution even in the absence of Article 13 due to the very nature of the constitution.²⁶ The same power should be applicable for personal laws as well, implying that a person is free to practice their religion regardless of whether it is a custom or anything described in religious texts, as long as these practises do not contradict any fundamental rights.²⁷

MUSLIM PERSONAL LAWS AND FUNDAMENTAL RIGHTS

Muslim personal laws in India are of man-made, not divine origin. The Muslim Personal Law (Shariat) Application Act²⁸ was enacted in 1937, recognizing Muslim Laws in aspects of marriage, divorce, adoption, maintenance, etc.²⁹ This bill sought to provide women with the right to secure uniformity in social and personal relations, while granting them the right to inherit their family property, abolishing death penalty for adultery, etc.³⁰

MAINTENANCE RIGHTS

The first major change with regards to Muslim personal laws came about during the *Shah Bano* case³¹, which actually deprived women of maintenance under the Code of Criminal Procedure³²

²² *Id.*

²³ 1982 AIR 1261.

²⁴ *John Vallamattom & Anr v. Union Of India*, (2003) 6 SCC 611.

²⁵ *Sant Ram And Ors v. Labh Singh And Ors*, 1965 AIR 166.

²⁶ *Marbury v. Madison*, 1 Cranch 137 : 2 L Ed 60 (1803). The court has stated that where there is a conflict between ordinary laws and constitutional law, constitutional law would prevail over ordinary law as the purpose of drafting a constitution would be defeated otherwise.

²⁷ Anirudh Krishnan, *Religious Law v. Fundamental Rights*, (2006) PL November 9.

²⁸ No. 26 of 1937, INDIA CODE (1937).

²⁹ Razia Patel, *Indian Muslim Women, Politics of Muslim Personal Law and Struggle for Life with Dignity and Justice*, 44 ECONOMIC AND POLITICAL WEEKLY 44, 46 (2009).

³⁰ Kumkum Sangari, *Gender Lines: Personal Laws, Uniform Laws, Conversion*, 27 Social Scientist 17, 32-33 (1999).

³¹ *Mohd. Ahmad Khan v. Shah Bano Begum And Ors*, AIR 1985 SC 945.

³² No. 2 OF 1974, INDIA CODE (1974).

due to the enactment of the Muslim Women (Protection of Right on Divorce) Act, 1986³³ as the act nullified the judgement pronounced in the Shah Bano case. The Shah Bano case held that Muslim women are entitled to receive maintenance from their husbands even after the *iddat* period through Section 125 of the Code of Criminal Procedure, 1974. However, the Muslim Women (Protection of Rights on Divorce) Act, 1986 overturned this by saying that Muslim women cannot claim maintenance directly from their husband after the *iddat* period has terminated. Rather, it stated that a fair and equitable allowance and alimony to be provided to her by her ex-husband in the course of the *iddat* period.³⁴

The next major case was *Daniel Latifi v. Union of India*³⁵, where the constitutional validity of the act stated above was challenged. The petitioners maintained that the Act was less advantageous than Sections 125 of the Criminal Procedure Code. Furthermore, it disadvantaged divorced Muslim women and infringed their constitutional rights granted under Articles 14, 15, and 21. It also tried to overturn the Supreme Court's verdict in *Shah Bano*. However, the Supreme Court sustained the constitutional validity of the act and stated that when the state makes a specific provision for a specific population that is equally or more advantageous than the general law, there is no discrimination.

The above two cases, in conclusion, state that a Muslim woman is not entitled to maintenance directly from her husband beyond the *iddat* period. After the *iddat* period, it is the duty of her relatives who are entitled to a share in her property to maintain her.³⁶ In the absence of such relatives, it is the duty of the state Wakf board to maintain her. However, this places an undue burden on relatives and the state Wakf board to maintain a Muslim woman. It has also been stated that the ministry has not ordered the state Wakf board to create a separate fund to maintain divorced Muslim women.³⁷ It could be said that the court has overlooked multiple pressing issues which deviated from the ultimate goal of establishing a uniform civil code in the country, while also not justifying the reason behind asking the relatives and the state Wakf board has to maintain women when her husband has the means to do so.

³³ No. 25 of 1986, INDIA CODE (1986).

³⁴ Ajaz Ashraf, *Arif Mohammad Khan on Shah Bano Case: "Najma Heptullah Was Key Influence on Rajiv Gandhi,"* Scroll.in (2015).

³⁵ (2001) 7 SCC 740.

³⁶ S. Poorna Sindhu, *Maintenance - In Light of Personal Laws and Shah Bano Case*, 2.4 JCLJ (2022) 1423.

³⁷ *Tamil Nadu State Wakf Board v Syed Fatima Nochi*, AIR 1995 Mad 88.

Contesting the above judgements, in the case of *Shabana Bano v. Imran Khan*³⁸, it was argued that Muslim women should be allowed to receive support from their husbands even after the completion of the *iddat* period. The court held that as long as a woman does not get married again, the maintenance she receives from her husband cannot be confined to the *iddat* period and she is entitled to maintenance under Section 125 of CrPC after the completion of the *iddat* period. It was also held that the woman is permitted to sue her husband for maintenance as Section 125 of the Criminal Procedure Code is civil and beneficial in nature and was enacted to combat vagrancy.³⁹

MARRIAGE AND DIVORCE LAWS

In terms of Muslim marriage and divorce laws, a major development came through the case of *Shayara Bano v. Union of India*⁴⁰ where the constitutional validity of instantaneous triple talaq, i.e., *talaq-e-biddat*, a method of instant unilateral divorce by Muslim men was questioned. The court held that triple talaq is unconstitutional and is in infringement of Articles 14 and 15 of the Constitution.⁴¹ It said that essential religious practices include only the practices that are required for the profession and promulgation of religion and triple talaq was not one of them. Moreover, under the Hanafi school of Muslim law, it is considered to be sinful and the practice has also been done away with in multiple countries.⁴² Eventually, the Muslim Women (Protection of Rights on Marriage) Act, 2019⁴³ was enacted, which pronounced *talaq-e-biddat* void and illegal.

The constitutional framework provides essential rights to all citizens, regardless of religion, including equality, non-discrimination, and personal liberty. However, Muslim personal law, which is based on Islamic traditions, has come under fire for gender-biased rules. The ongoing legal and social discussion highlights the conflict between religious liberty and constitutional ideals, notably those concerning gender equality.

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³⁸ AIR 2010 SC 305.

³⁹ *Iqbal Bano v. State of U.P.*, (2007) 6 SCC 785.

⁴⁰ AIR 2017 9 SCC 1 (SC) .

⁴¹ INDIA CONST., art.14, 15.

⁴² Niraj Kumar and Akhilendra Pratap Singh, *Invalidating Instant Triple Talaq: Is the Top-Down Approach of Reforming Personal Laws Prudent?*, (2018) 11 NUJS L Rev 189.

⁴³ No. 20 OF 2019, INDIA CODE (2019).

In India, Hindu personal laws have been codified and practices like Sati have been declared unconstitutional. However, there ongoing debate on whether all aspects of Hindu personal laws are subject to fundamental rights creates a source for potential conflict. The *Narasu Appa Mali*⁴⁴ judgement has been the establishing precedent for the interaction between personal laws and Article 13 in India. This case has been analysed previously, and the approach stated in it has been adopted in further cases like *Krishna Singh*⁴⁵, *Reynold Rajamani*⁴⁶, etc. In the case of *Maharshi Avadhesh v. Union of India*⁴⁷, the court held that personal laws were a issue of State policy and thought, and the courts are unconcerned with this issue. In many instances, the courts have refused to give an independent reason as to why personal laws should be considered outside the scope of fundamental rights.⁴⁸

On the other hand, in the *Shirur Mutt* case⁴⁹, the court stated that what defines an essential component of a religion must first be determined in relation to that religion's own doctrines. and it is not possible to protect only the “essential practices” of a religion. This case led to the development of the “Essential Religious Practices (ERP)” test, wherein courts must differentiate between practices that are fundamentally essential to religion and practices that are not. The same was upheld in the case of *Sardar Sarup Singh v. State of Punjab*⁵⁰. Further, in the case of *Seshammal & Ors v. State of Tamil Nadu*⁵¹, it was stated that the appointment of Archakas in temples has to be according to the Agamas as they are essential to and firmly embedded in religion. It has also been stated that the enactment of an act by the government that interferes in the day-to-day religious practices is unconstitutional.⁵²

In recent days, the court has taken a scrutinising approach to the analysis of fundamental rights and personal laws, and has stated that personal laws must conform to the constitutional mandate even if they are religious practices that have been upheld for a while. For instance, the court has held that religious treatises like the Agamas must not practice exclusion based on caste and conform to the constitutional mandate.⁵³ In case of guardianship also, the court has stated that

⁴⁴ *State of Bombay v. Narasu Appa Mali*, AIR 1952 Bom 84.

⁴⁵ *Shri Krishna Singh v. Mathura Ahir*, (1981) 3 SCC 689.

⁴⁶ *Reynold Rajamani v. UOI*, 1982 AIR 1261.

⁴⁷ *Maharshi Avadhesh vs Union Of India*, 1994 SCC, Supl. (1) 713.

⁴⁸ *Ahmedabad Women Action Group & Ors. v. Union of India*, AIR 1997, 3 SCC 573.

⁴⁹ *The Commissioner, Hindu Religious Endowments, Madras v. Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt*, 1954 AIR 282.

⁵⁰ 1959 AIR 860.

⁵¹ (1972) 2 SCC 11.

⁵² *Sri Adi Visheshwara of Kashi Vishwanath Temple, Varanasi, v. State of UP*, 1997 (4) SCC 606.

⁵³ *Adi Saiva Sivachariyargal Nala Sangam v. State of T.N.*, (2016) 2 SCC 725. The court upheld the *Seshammal* (supra) case and abolished the practice of appointing religious office holders on a hereditary basis.

the mother could act as a guardian of a minor child, in case the father is absent.⁵⁴ Here, absence does not necessarily mean death, as specified in the statute.⁵⁵

More recently, in the Sabarimala Temple entry case⁵⁶, the court has stated that a practise that marginalised or separated people based on biological traits could never be constitutional because it violated women's autonomy, dignity, and freedom. The Sabarimala Temple's custom of preventing women in their menstrual years from visiting was deemed unlawful and violated females' rights to equality under Article 14 of the Constitution and religious freedom under Article 25 of the Constitution.

UNIFORM CIVIL CODE- NEED OF THE HOUR?

Part IV of the Constitution of India states that the state shall make every effort to ensure that citizens have a uniform civil code throughout India.⁵⁷ This is an idea not to be achieved immediately, but over a period of time. While traditional, uncodified personal law may be excluded from the ambit of fundamental rights, the same cannot be said for State-enacted personal laws, and they must be subject to constitutional scrutiny.⁵⁸ In India, disparities between personal laws from one religion to another exist to such an extent that the members of multi-religious society, particularly women and children, are denied basic human rights.⁵⁹ The debate arose after the *Shah Bano case*⁶⁰ to make certain laws applicable to all citizens without impairing their fundamental right to freedom of religion.

The courts have stated in the case of *Sarla Mudgal, & others. v. Union of India*⁶¹ that when more than 80% of the population is already subject to codified personal law, there is no longer any justification for delaying the implementation of a "uniform civil code" that applies to all Indian nationals living within Indian territory. On the other hand, in the case of *Pannalal Bansilal and Ors. v. State of A.P.*⁶², the court stated that India is a pluralistic society, and hence while enacting a unified legislation all at once is certainly desired, it may actually work against

⁵⁴ *Githa Hariharan v. Reserve Bank of India*, (1999) 2 SCC 228.

⁵⁵ Guardians and Wards Act, 1890.

⁵⁶ *Indian Young Lawyers Association and Ors. vs. The State of Kerala and Ors.*, (2019) 11 SCC 1.

⁵⁷ INDIA CONST., art. 44. The Directive Principles of State Policy suggest that India must strive to establish a uniform civil code throughout the country.

⁵⁸ Krishnaprasad K.V, *Constitutional Scrutiny of Personal Laws*, (2011) PL August S-35.

⁵⁹ D.M. Dharmadhikar, *Law: Fulcrum of Change?*, (2013) 4 SCC J-44.

⁶⁰ *Mohd. Ahmad Khan v. Shah Bano Begum And Ors*, AIR 1985 SC 945.

⁶¹ AIR 1995 SC 1531.

⁶² 1996 AIR 1023.

the nation's unity and integrity. Legislators should work slowly to enact new laws or change existing ones, trying to address the most pressing issues first.

In India, implementing a Uniform Civil Code (UCC) brings both opportunities and obstacles. While the UCC has the potential to offer a unified legal framework that fosters equality and ensures fundamental rights for all citizens, it must be implemented with religious and cultural diversity in mind. Implementing UCC should not mean that any religious freedom and rights are taken away.⁶³ The success of the Indian Constitution is dependent on striking a balance between individual rights, religious traditions, and the values expressed in the Indian Constitution. It is still a difficult task, reflecting of India's ongoing desire for unity in diversity.

CONCLUSION

The tussle between personal laws and fundamental rights, beginning with the *Narasu Appa Mali*⁶⁴ judgement, has always been inconsistent and uncertain over its applicability.⁶⁵ In India, constitutionalism is followed, which implies that the constitution always reigns supreme over ordinary laws, and in case of a conflict, constitutional laws would prevail over ordinary laws. The same rule must be applied to personal laws as well, and in case a personal law is in violation of the spirit of the constitution, it must be considered unconstitutional.⁶⁶

It is necessary to look over the definition of laws under Article 13 and include personal laws under its scope. By prioritising constitutional morality over society morality and carefully examining allegations that constitutional protection should be denied due to religion, the legislation ought to attempt to bring about social reform. In accordance with Article 25, the law must attack the root of the social ill in order to defend everyone's basic right to freedom of religion. Even though the conservation of personal laws is crucial to maintain the plurality and diversity present in India, it cannot be done at the expense of violating fundamental rights by using personal laws to do so.

The implementation of a Uniform Civil Code (UCC) would aim to harmonize personal laws in India, aligning them with modern principles of equality and human rights. In India,

⁶³ Aditi Banerjee and Rishabh Gupta, *A Tussle Between Equality and Faith: Uniform Civil Code v. Article 25*, 8 KIIT Student L Rev 14 (2021).

⁶⁴ *Id.*

⁶⁵ Mishra, *supra* note 19.

⁶⁶ Nikita Kaushik, *Personal Laws in conflict with Special Laws and the changing mindset of the society*, 3.1 JCLJ (2022) 873.

constitutional challenges to personal laws highlight the delicate balance required to reconcile religious traditions with constitutional objectives. The dynamic interaction between tradition and modernity, faith and individual rights, is typical of India's desire to preserve cultural diversity while adhering to constitutional values. It is a complicated and developing endeavour that necessitates continual debate as well as a profound appreciation for the diversity that characterises India's legal system.