

COMPARATIVE AND CONSTITUTIONAL ANALYSIS OF HINDU AND MUSLIM PERSONAL LAWS

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Abstract

India's personal-law structure subjects similarly situated citizens to different rules of marriage, divorce, maintenance, guardianship, adoption and succession according to religious affiliation, while simultaneously placing every legal regime under a common constitutional order. This paper offers a comparative and constitutional analysis of Hindu and Muslim personal laws, focusing on the relationship between legal pluralism and the guarantees of equality, non-discrimination, dignity, privacy, decisional autonomy and religious freedom. A qualitative doctrinal method is combined with structured content analysis of twenty purposively selected judgments, statutes and policy developments from 2015 to 2024. The comparison finds that Hindu law is substantially codified through the post-independence Hindu Code enactments, while Muslim law retains a mixed structure of statutory provisions, juristic doctrine and secular remedies. Despite this structural asymmetry, both regimes are increasingly mediated by constitutional values and cross-community legislation concerning domestic violence, child marriage, maintenance and civil marriage. The coded sample shows that marriage and divorce dominate contemporary legal change, while economic rights and property remain critical tests of substantive equality. Judicial doctrine has strengthened daughters' coparcenary rights, partner choice, child welfare, maintenance and the status of children born from void or voidable marriages. It has also invalidated instant triple talaq and preserved secular maintenance for divorced Muslim women. Yet uncertainty persists regarding direct constitutional review of uncoded personal law, unequal inheritance outcomes, guardianship hierarchies, queer family recognition, enforcement delay and the privacy costs of registration-based reform. The paper argues that constitutional legitimacy requires neither automatic preservation of every community rule nor mechanical sameness. It requires phased, domain-specific reform assessed through substantive equality, proportionality, informed choice, economic security, child welfare and effective access to justice.

Keywords: Hindu personal law, Muslim personal law, constitutional equality, religious freedom, legal pluralism, gender justice, Article 44, Uniform Civil Code

1. Introduction

Personal law is one of the clearest sites at which the Indian Constitution encounters social identity. Marriage, divorce, maintenance, inheritance, guardianship and adoption are intimate matters, but they also distribute property, authority, care work and legal status. A rule that appears to preserve religious tradition may determine whether a woman can exit a marriage, obtain residence or maintenance, inherit family property, act as a natural guardian or secure recognition for her children. Consequently, personal law cannot be treated solely as private religion; it also performs public functions with measurable consequences for citizenship and material equality.

The Hindu and Muslim personal-law systems differ in origin, degree of codification and institutional form. Hindu law was extensively reorganised by the Hindu Marriage Act, 1955, the Hindu Succession Act, 1956, the Hindu Minority and Guardianship Act, 1956, and the Hindu Adoptions and Maintenance Act, 1956. Muslim family law continues through the Muslim Personal Law (Shariat) Application Act, 1937, the Dissolution of Muslim Marriages Act, 1939, the Muslim Women (Protection of Rights on Divorce) Act, 1986, the Muslim Women (Protection of Rights on Marriage) Act, 2019, juristic doctrine and judicial interpretation. Both communities are also governed by secular statutes, including the Special Marriage Act, 1954, the Protection of Women from Domestic Violence Act, 2005, child-protection legislation and general maintenance remedies.

The constitutional question is therefore not whether personal law exists outside the Constitution, but how constitutional norms should regulate plural family-law arrangements. Articles 14 and 15 prohibit arbitrary and sex-based discrimination; Article 21 protects dignity, privacy, bodily integrity and choice; Articles 25 and 26 protect religious freedom subject to public order, morality, health and other fundamental rights; and Article 44 directs the State to endeavour to secure a uniform civil code. These provisions do not supply an automatic answer. They create a field of principled conflict requiring courts and legislatures to distinguish protected faith, social practice, state-recognised legal status and unequal distribution of power.

Recent developments sharpen this inquiry. Shayara Bano v. Union of India invalidated instant triple talaq;

Vineeta Sharma v. Rakesh Sharma affirmed daughters' coparcenary status by birth; Rajnesh v. Neha established disclosure and adjudicatory guidelines for maintenance; Revanasiddappa v. Mallikarjun strengthened the property rights of children of void and voidable marriages; Supriyo v. Union of India exposed limits in the recognition of queer families; and Mohd Abdul Samad v. State of Telangana confirmed that divorced Muslim women may invoke the secular maintenance jurisdiction. The Uniform Civil Code of Uttarakhand, enacted in 2024, adds a state-level experiment in harmonisation, digital registration and regulation of live-in relationships.

2. Statement of the Problem

The central problem is that India promises equal citizenship while retaining differentiated family-law regimes. Difference is not inherently discriminatory: plural rules may protect cultural membership, minority identity and voluntary religious practice. However, differentiation becomes constitutionally suspect when it entrenches sex hierarchy, restricts exit, distributes property unequally, reduces remedies, burdens interfaith choice or exposes intimate information without sufficient justification. The difficulty is aggravated by uncertainty over whether and how uncodified personal law can be directly tested under fundamental rights, and by the distinction between legislative reform, judicial interpretation and community-led change.

A comparison limited to statutory text would be incomplete. Formal entitlement may not translate into possession of inherited property, timely maintenance, safe residence or effective divorce. Conversely, a uniform rule may reproduce inequality if enforcement is inaccessible or registration processes compromise privacy. The problem therefore requires a functional comparison of rights, remedies, procedures and outcomes, not only a catalogue of doctrinal differences.

3. Objectives of the Study

1. To compare the sources, structure and principal rules of Hindu and Muslim personal laws in India.
2. To evaluate personal-law differences under Articles 14, 15, 21, 25, 26 and 44 of the Constitution.
3. To assess how marriage, divorce, maintenance, guardianship, adoption and succession affect substantive equality.
4. To identify areas of convergence, continuing inequality and implementation failure.
5. To propose constitutionally defensible, domain-specific pathways for reform.

4. Research Questions and Analytical Propositions

4.1 Research Questions

- How do Hindu and Muslim personal laws differ in their sources, degree of codification and available remedies?
- Which constitutional principles govern the review and reform of personal laws?
- Do contemporary developments indicate convergence toward common rights standards?
- Where do formal rules continue to generate unequal material or procedural outcomes?
- What form of reform best reconciles equality, religious freedom, privacy and legal pluralism?

4.2 Analytical Propositions

- **P1:** Greater codification improves clarity but does not by itself ensure substantive gender equality.
- **P2:** Secular, cross-community remedies are a major mechanism of constitutional convergence.
- **P3:** Courts increasingly use dignity, autonomy and social-justice reasoning to reinterpret family law.
- **P4:** Issue-specific harmonisation is more constitutionally responsive than treating uniformity as an end in itself.

5. Constitutional and Conceptual Framework

5.1 Legal Pluralism and Equal Citizenship

Legal pluralism recognises the coexistence of multiple normative orders within one state. In Indian family law, state legislation, religious doctrine, custom, judicial precedent and informal community processes may operate simultaneously. Pluralism can facilitate cultural accommodation and accessible dispute resolution, but it can also fragment remedies and permit unequal bargaining power to be expressed as community choice. Constitutional analysis must therefore ask who controls the norm, whether individuals may exit it, how consent is established, and whether its effects are compatible with equal citizenship.

5.2 Article 14: Formal and Substantive Equality

Article 14 prohibits arbitrary state action and requires equal protection of the laws. A formal-equality approach compares the wording of rules. A substantive-equality approach examines social position, economic dependence and the actual burden of a legal classification. Family-law analysis requires the latter because facially neutral procedures

may affect spouses unequally where unpaid care work, control of documents, limited income and social pressure shape access to courts. Manifest arbitrariness, reasonable classification and proportionality remain relevant doctrinal tools, but the constitutional inquiry should also examine whether the law perpetuates structural disadvantage.

5.3 Article 15: Sex, Religion and Intersectional Disadvantage

Article 15 prohibits discrimination on grounds including religion and sex, while Article 15(3) permits special provisions for women and children. Personal-law disputes frequently involve both grounds at once. A Muslim woman may experience disadvantage through gender, minority status and poverty; a Hindu daughter may possess a statutory share but lack possession because of patrilocal residence and family pressure. The appropriate comparator is therefore not simply a Hindu woman against a Muslim woman. The analysis must identify how sex, religion, class, marital status and family location combine to determine the enjoyment of rights.

5.4 Article 21: Dignity, Privacy, Choice and Family Life

Article 21 has become the principal source of constitutional protection for intimate choice. Decisions concerning partner selection, reproduction, marriage, divorce, family formation and residence fall within dignity and personal liberty. *Shafin Jahan* protects an adult's choice of spouse; privacy jurisprudence limits state intrusion into intimate life; and later family-law decisions recognise that families may be blended, single-parent, adoptive, queer or otherwise atypical. Article 21 therefore restrains both community coercion and excessive administrative surveillance.

5.5 Articles 25 and 26: Religious Freedom and Its Limits

Religious freedom protects belief and practice, but it is not framed as an unlimited immunity for every legal consequence attached to religion. Article 25 is expressly subject to public order, morality, health and the other fundamental rights. The essential-religious-practices doctrine, denominational autonomy and the distinction between religion and secular activity have produced inconsistent results. In family law, the more defensible approach is to examine the seriousness of the religious claim, the coercive effect of the rule, the availability of less restrictive means and the rights of those subject to the practice.

5.6 Article 44 and the Meaning of Uniformity

Article 44 is a Directive Principle rather than a directly enforceable fundamental right. It authorises a reform objective but does not prescribe one institutional design. Uniformity may mean identical rules, common minimum rights, optional civil codes, procedural harmonisation or gradual removal of specific inequalities. The Law Commission's 2018 family-law consultation favoured reform of discriminatory practices across communities rather than assuming that a single code automatically guarantees justice. The Uttarakhand model demonstrates that uniformity also raises questions of federalism, exemptions, registration, administrative capacity and informational privacy.

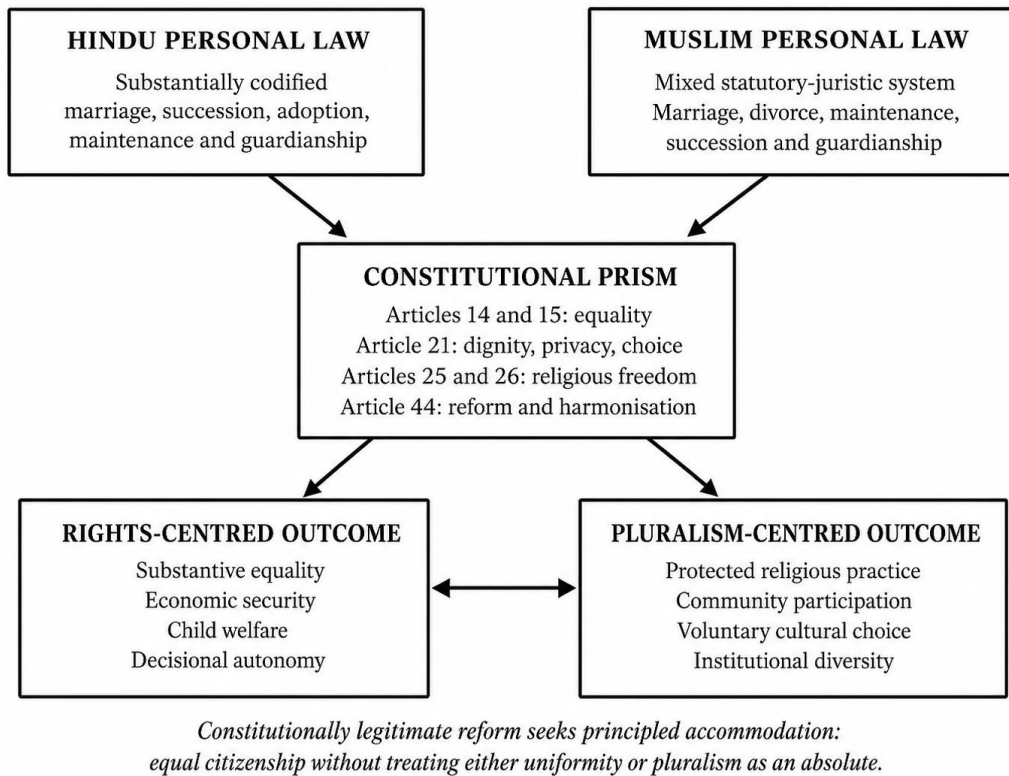


Figure 1. Constitutional balancing framework for the comparative analysis of personal laws.

6. Comparative Legal Analysis

6.1 Sources, Codification and Institutional Structure

Hindu personal law is primarily statute-centred. The Hindu Code enactments define application, establish civil remedies and displace many pre-existing rules, although custom, joint-family concepts and judicial interpretation remain significant. Muslim personal law is structurally mixed. The Shariat Act identifies matters governed by Muslim personal law but does not comprehensively codify substantive rules. Marriage is generally understood as a civil contract within Islamic jurisprudence, while statutes regulate women's divorce, post-divorce rights and instant triple talaq. Courts consequently move between legislation, precedent and juristic principles. This difference affects certainty: codification may make the applicable rule easier to locate, whereas an uncoded field may permit doctrinal flexibility but also variation and evidentiary disputes.

Dimension	Hindu personal law	Muslim personal law
Primary form	Four central post-independence codes plus secular statutes	Statutes on application, divorce and women's rights combined with uncoded juristic doctrine
Marriage conception	Statutory sacramental/civil institution with prescribed conditions	Civil contract with religious-juristic conditions and contractual incidents
Judicial task	Interpret and constitutionalise detailed statutory provisions	Determine interaction among statute, juristic rules, precedent and secular remedies
Reform technique	Legislative amendment and constitutional interpretation	Selective legislation, judicial interpretation and community reform
Principal strength	Greater accessibility and formal clarity	Potential flexibility and recognition of contractual dimensions
Principal risk	Codified hierarchy may appear settled and resist scrutiny	Uncertainty, school-based variation and unequal access to authoritative interpretation

Table 1. Structural comparison of the two personal-law regimes.

6.2 Marriage: Conditions, Consent and Registration

The Hindu Marriage Act prescribes monogamy, capacity, minimum age, prohibited relationships and ceremonies, subject to recognised custom. Muslim law also requires capacity and consent, specifies prohibited degrees and permits contractual stipulations through the nikahnama. Classical doctrine permits a Muslim man to have more than one wife, whereas Hindu statutory law mandates monogamy. This is a significant difference under equality analysis, although empirical and enforcement questions should be distinguished from doctrinal permission. Across both systems, child marriage remains prohibited by secular law, and free adult consent is constitutionally protected.

Registration is increasingly treated as a mechanism of proof, welfare administration and prevention of denial. Yet compulsory digital registration may create privacy and exclusion risks for interfaith couples, survivors of violence and persons without documentation. A constitutionally proportionate system should collect only necessary information, protect access, provide offline alternatives and avoid publicity that exposes couples to harassment.

6.3 Divorce and Exit Rights

The Hindu Marriage Act provides fault-based grounds, mutual consent and judicial dissolution. Muslim spouses may dissolve marriage through several routes, including talaq forms recognised by law, khula or mubaraat by agreement, delegated divorce, and judicial dissolution under the Dissolution of Muslim Marriages Act, 1939. The constitutional problem historically centred on unilateral instant triple talaq. Shayara Bano invalidated talaq-e-biddat, and Parliament later declared its pronouncement void and criminalised it through the 2019 Act. The civil invalidity advances marital security; the penal response remains contested because imprisonment may reduce household income and complicate reconciliation or maintenance.

A comparative assessment of exit must examine more than formal grounds. Delay, evidentiary burdens, litigation cost, interim support, residence and custody determine whether the right to divorce is meaningful. The constitutional benchmark is equal and safe exit, with procedures that do not force a dependent spouse to trade economic survival for legal freedom.

6.4 Maintenance and Post-Marital Economic Justice

Hindu spouses may claim maintenance under the Hindu Marriage Act and Hindu Adoptions and Maintenance Act, alongside secular remedies. Muslim women have rights under the 1986 Act, general maintenance law and, where relevant, the 2019 Act. Mohd Abdul Samad confirmed that the 1986 Act does not displace the secular maintenance jurisdiction for a divorced Muslim woman. Rajnesh v. Neha addressed overlapping proceedings, financial disclosure, date of entitlement, quantum and enforcement across communities. These developments create substantial convergence around social justice rather than religious status.

However, legal entitlement is undermined by inaccurate income disclosure, informal employment, asset concealment and delay. Equality requires assessment of unpaid domestic work, loss of earning capacity, caregiving responsibilities, housing costs and the standard of living during marriage. Maintenance should not be treated as charity; it is a distributive response to the economic organisation of family life.

6.5 Guardianship, Adoption and Child Welfare

The Hindu Adoptions and Maintenance Act creates a statutory route to full adoption, while the Hindu Minority and Guardianship Act identifies natural guardians but has been judicially interpreted to reduce paternal priority.

Muslim personal law traditionally recognises guardianship and custody but not adoption in the same status-transforming form. Nevertheless, persons of any religion may use the secular adoption framework under juvenile-justice legislation. The constitutional comparison must therefore distinguish community doctrine from the availability of a secular route.

The best interests of the child are the controlling principle. Gendered assumptions that fathers control property and mothers provide only physical care are inconsistent with equal parenthood. *ABC v. State* (NCT of Delhi), Deepika Singh and Revanasiddappa illustrate a broader shift from legitimacy and marital status toward child-centred rights and recognition of diverse caregiving structures.

6.6 Succession and Property

The Hindu Succession (Amendment) Act, 2005 made daughters coparceners by birth. Vineeta Sharma clarified that the daughter's right does not depend on whether the father was alive on the amendment date, subject to statutory savings for completed dispositions and partitions. Later decisions have reinforced daughters' equal shares. Yet implementation remains affected by oral relinquishment, family settlements, mutation practices and reluctance to claim natal property.

Muslim inheritance assigns fixed Quranic shares and generally protects women as heirs, but in several common configurations a female heir receives a smaller share than a similarly situated male heir. Defenders relate the distribution to financial obligations placed on men; critics evaluate actual contemporary burdens and equal citizenship. The constitutional issue is not resolved by comparing isolated fractions. It requires analysis of the complete estate, testamentary freedom, dower, maintenance, ownership retained during marriage and actual possession. Codification could improve certainty, but substantive equality requires reconsideration of unequal outcomes and enforcement barriers.

Domain	Hindu-law position	Muslim-law position	Constitutional test
Marriage	Statutory monogamy; conditions and ceremonies under the 1955 Act	Contractual form; monogamy not generally mandated for Muslim men by central personal law	Consent, equality, minimum age and proportionate registration
Divorce	Judicial decree, fault grounds and mutual consent	Multiple juristic/statutory modes; instant triple talaq void	Equal exit, due process, support and non-arbitrary power
Maintenance	Community statutes plus secular remedies	1986 Act, secular maintenance and 2019 Act remedies	Dignity, Articles 14-15, economic security and enforcement
Adoption	Full statutory adoption under HAMA	No equivalent classical status adoption; secular JJ route available	Equal access, child welfare and non-discrimination
Guardianship	Codified but historically paternal language	Juristic guardianship/custody distinctions plus secular law	Equal parenthood and best interests of the child
Succession	Codified; daughters are coparceners by birth	Fixed-share system with sex-differentiated shares in common cases	Substantive property equality and effective possession
Interfaith option	Special Marriage Act route available	Special Marriage Act route available	Privacy, partner choice and freedom from coercion

Table 2. Functional comparison and applicable constitutional standards.

6.7 Interfaith Marriage, Secular Choice and Family Diversity

The Special Marriage Act provides a civil route independent of religious ceremony, but notice and publication requirements have attracted privacy concerns because they can expose couples to family or community interference. *Shafin Jahan* establishes that choice of partner lies within individual autonomy. Constitutional protection should therefore ensure that civil marriage is genuinely accessible and does not impose a higher surveillance burden on those who marry outside community norms.

Neither Hindu nor Muslim personal law fully accommodates queer marriage. Supriyo declined to judicially rewrite the Special Marriage Act to recognise same-sex marriage, while acknowledging the equality and dignity claims of non-heterosexual couples. This reveals that the future of family law cannot be assessed only through Hindu-Muslim comparison. A constitutional family-law framework must include diverse gender identities, sexual orientations, single parents, blended families and caregiving relationships.

6.8 Uniform Civil Code and Federal Experimentation

The UCC debate is frequently presented as a binary between national integration and minority rights. A comparative constitutional method rejects that simplification. Common minimum ages, compulsory consent, equal divorce remedies, child welfare and maintenance can be harmonised without necessarily erasing every cultural form. Conversely, a formally common statute may remain unequal if it exempts groups without principled justification, imposes intrusive registration or ignores the economic structure of marriage.

The Uniform Civil Code of Uttarakhand, 2024, establishes a framework for uniform procedures for marriage, divorce, succession, and live-in relationships, supported by a digital portal. Its operation should be evaluated through processing time, rejection rates, privacy safeguards, access for persons without digital literacy, treatment of vulnerable couples, enforcement and the scope of exemptions. Constitutional evaluation must focus on effects, not only the label 'uniform'.

7. Review of Literature (2015-2024)

Recent scholarship approaches personal law through four connected debates. The first concerns legal pluralism and secularism. Ahmed (2016, 2019) argues that religious freedom, equality and institutional design must be analysed together rather than treating personal law as a self-contained religious domain. Stephens (2018), Lemons (2018, 2019) and Lhost (2022) demonstrate that contemporary family law was shaped by colonial governance, documentary practices and the state production of religious authority. This literature challenges the assumption that present rules are untouched expressions of ancient faith.

The second debate concerns gendered agency. Herklotz (2018) maps the women's-rights critique of the personal-law system but cautions against portraying minority women as passive subjects. Vatuk (2017, 2022), Jones (2021) and Dutta (2022) show that Muslim women use courts, community institutions, religious arguments and activist networks strategically. Agency, however, does not eliminate structural inequality. It demonstrates why reform must expand options, bargaining power and access rather than substitute one authorised voice for another.

The third debate examines judicial constitutionalism. Bhatia (2019) and Atrey (2022) frame equality, dignity and transformative constitutionalism as tools for contesting entrenched hierarchy. Redding (2021) offers a critical reading of Shayara Bano, showing that judicial outcomes may advance rights while reproducing problematic narratives about secularism and community. Khaitan (2018) explains the constitutional role of directive principles and ideological disagreement, relevant to Article 44. This literature supports attention to judicial reasoning, dissent and institutional competence rather than evaluating cases only by result.

The fourth debate addresses postcolonial reform and lived outcomes. Saxena (2022) situates divorce reform within democratic politics, while Goyal (2023) identifies the gap between formal divorce regulation and practices of legal avoidance. Parveen (2024) questions whether criminalisation under the triple-talaq law produces the protection promised to Muslim women. Together, these studies indicate that codification, litigation and penalisation must be assessed against enforcement, income, documentation, care work and safety.

A gap remains in integrated comparison. Much writing focuses either on one community, one doctrine or the UCC controversy. The present study contributes a common constitutional matrix applied across legal domains and a transparent coded sample of developments from 2015 to 2024. It also separates three questions often conflated in public debate: whether a rule is constitutionally valid, whether it is institutionally enforceable, and whether it produces an equal lived outcome.

Theme	Illustrative scholarship	Relevance to the present study
Legal pluralism and secularism	Ahmed; Stephens; Lemons; Lhost	Personal law is produced through interaction between religion, state institutions and history.
Gender and agency	Herklotz; Vatuk; Jones; Dutta	Women navigate multiple forums, but agency operates within unequal material conditions.
Constitutional transformation	Bhatia; Atrey; Redding; Khaitan	Equality, dignity and autonomy increasingly structure family-law adjudication.
Implementation and reform	Saxena; Goyal; Parveen	Formal reform must be tested against avoidance, delay, criminalisation and access.
Identified gap	Integrated comparative literature remains limited	A common constitutional and functional matrix is needed across both regimes.

Table 3. Thematic synthesis of recent literature.

8. Research Methodology

8.1 Research Design

The study adopts a qualitative doctrinal, comparative and analytical design. Doctrinal research identifies authoritative legal rules and interprets judgments, statutes and constitutional provisions. Comparative analysis evaluates functionally equivalent domains in Hindu and Muslim law. Directed qualitative content analysis is used to code major developments from 2015 to 2024 according to legal domain, affected group, constitutional principle, direction of change and implementation concern.

8.2 Nature and Sources of Data

The study relies on secondary and documentary data. Primary legal materials include the Constitution, central statutes, the Uniform Civil Code of Uttarakhand, and reported Supreme Court decisions. Secondary sources include peer-reviewed journal articles, academic books and official law-reform material published mainly between 2015 and 2022. Older enactments are included because they constitute the operative legal framework; the date restriction applies principally to the contemporary literature and coded developments.

8.3 Sampling Strategy and Unit of Analysis

Purposive sampling was used because the objective is constitutional significance rather than numerical representation. A development was included where it: (a) altered or authoritatively clarified a family-law rule; (b) applied equality, dignity, autonomy, religious freedom or child welfare; (c) had direct implications for women, children or non-traditional families; or (d) represented an important legislative or policy reform. The unit of analysis is one judgment, enactment or policy development. Twenty units were selected.

8.4 Inclusion and Exclusion Criteria

- Included: Supreme Court judgments, central enactments, an operational state UCC framework and authoritative official materials dated 2015-2024.
- Included: developments with direct consequences for marriage, divorce, maintenance, succession, guardianship, children or family recognition.
- Excluded: routine case-management orders, unreported decisions lacking stable text, purely criminal disputes without a family-law rule and media commentary used as a substitute for primary material.
- Excluded from quantitative claims: all cases outside the purposive sample; therefore, frequencies are descriptive of the coded dataset only.

8.5 Data Collection Procedure

1. Prepare a source inventory with full citation, date, court or legislature and stable official location.
2. Read the complete operative statute or judgment and distinguish the holding from obiter, concurrence and dissent.
3. Extract the legal issue, pre-existing rule, new rule, affected group and remedy.
4. Code the principal legal domain and constitutional principles expressly applied or structurally implicated.
5. Record whether the development expands rights, restricts power, clarifies procedure, introduces uniformity or leaves an issue unresolved.
6. Record implementation variables: cost, delay, proof, digital access, enforcement, privacy, safety and institutional capacity.
7. Compare coded entries across Hindu, Muslim, secular and cross-community categories.
8. Review coding after an interval and maintain an audit trail explaining each inclusion and classification.

8.6 Coding Framework

Coding dimension	Recorded variables
Document profile	Year; source type; court/legislature; authoritative citation
Community scope	Hindu; Muslim; cross-community; secular; uniform/state-wide
Legal domain	Marriage/divorce; maintenance; succession/property; autonomy/status; guardianship/children
Constitutional principle	Articles 14, 15, 21, 25-26, 44; child welfare; access to justice
Direction of change	Rights expansion; restriction of unilateral power; procedural clarification; harmonisation; unresolved
Affected interest	Gender equality; religious freedom; economic security; privacy; partner choice; child welfare

Coding dimension	Recorded variables
Implementation concern	Delay; documentation; income disclosure; enforcement; digital divide; privacy; awareness

Table 4. Data-extraction and coding framework.

8.7 Reliability, Validity and Ethics

Reliability is supported by predefined codes, full-source reading, consistent classification and an audit trail. Validity is strengthened through source triangulation among statutes, judgments, official reports and scholarship. Negative cases and dissents are retained where they reveal doctrinal uncertainty. As the study uses public legal documents and does not involve human participants, it creates no direct participant risk. Nevertheless, the analysis avoids presenting religious communities as homogeneous and distinguishes normative doctrine from diverse social practice.

8.8 Limitations

The coded dataset is purposive and cannot estimate the national prevalence of litigation or social practice. Supreme Court decisions may not capture trial-court implementation. The study does not measure household outcomes, state-wise variation or the internal diversity of schools and customs. The Uttarakhand framework is recent, so long-term effects cannot yet be established. These limitations are addressed by labelling all frequencies as sample-specific and by proposing an empirical extension in Appendix B.

9. Data Analysis and Findings

9.1 Profile of the Coded Legal-Development Sample

Year	Development	Domain	Core issue/holding	Constitutional lens	Direction
2015	ABC v. State (NCT of Delhi)	Guardianship/children	Single mother's guardianship and privacy	21; child welfare	Rights expansion
2015	Prakash v. Phulavati	Succession/property	Temporal scope of daughters' coparcenary rights	14-15	Restrictive interpretation later corrected
2017	Shayara Bano v. Union of India	Marriage/divorce	Instant triple talaq invalidated	14; 25	Unilateral power restricted
2017	Independent Thought v. Union of India	Marriage/children	Marital-rape exception read down for child wives	14, 15, 21	Child protection expanded
2018	Shafin Jahan v. Asokan K.M.	Autonomy/status	Adult partner choice protected	21; 25	Autonomy expanded
2018	Joseph Shine v. Union of India	Marriage/equality	Adultery offence invalidated; spouses treated as autonomous equals	14, 15, 21	Patriarchal status rule removed
2018	Indian Young Lawyers Association v. State of Kerala	Religion/equality	Equality and religious-freedom conflict articulated	14, 15, 25, 26	Constitutional scrutiny expanded
2019	Muslim Women (Protection of Rights on Marriage) Act	Marriage/divorce	Instant talaq void; penal and support provisions introduced	14-15; dignity	Civil protection plus contested criminalisation
2020	Vineeta Sharma v. Rakesh Sharma	Succession/property	Daughter is coparcener by birth	14-15	Equality clarified
2020	Satish Chander Ahuja v. Sneha Ahuja	Maintenance/residence	Shared household interpreted broadly under DV law	14, 15, 21	Residence protection expanded
2020	Rajnesh v. Neha	Maintenance/economic rights	Uniform disclosure, quantum and enforcement guidelines	14, 15, 21	Procedure harmonised

Year	Development	Domain	Core issue/holding	Constitutional lens	Direction
2022	Arunachala Gounder v. Ponnusamy	Succession/property	Female inheritance rights clarified	14-15	Property rights expanded
2022	Deepika Singh v. Central Administrative Tribunal	Autonomy/family status	Atypical and blended families recognised	14, 15, 21	Family concept broadened
2022	X v. Principal Secretary, Health and Family Welfare	Autonomy/family status	Reproductive autonomy not confined to marital families	14, 21	Equal decisional autonomy expanded
2023	Revanasiddappa v. Mallikarjun	Succession/property	Children of void/voidable marriage gain rights in parents' property	14, 21; child welfare	Status discrimination reduced
2023	Supriyo v. Union of India	Marriage/family recognition	Queer equality recognised but marriage remedy declined	14, 15, 19, 21	Constitutional claim partly unresolved
2024	Uniform Civil Code of Uttarakhand Act	Marriage/divorce	State-level harmonisation and registration framework	14, 21, 25, 44	Uniformity introduced
2024	Mohd Abdul Samad v. State of Telangana	Maintenance/economic rights	Secular maintenance available to divorced Muslim women	14, 15, 21	Cross-community protection affirmed
2024	Society for Enlightenment and Voluntary Action v. Union of India	Marriage/children	Directions for prevention of child marriage	14, 15, 19, 21	Prevention and enforcement strengthened

Table 5. Purposive sample of major legal developments, 2015-2024 (N = 20).

9.2 Legal-Domain Distribution

Seven of the twenty developments concern marriage and divorce, reflecting sustained constitutional conflict over consent, unilateral power, child marriage, penal regulation and recognition. Four developments concern maintenance and economic protection, and four concern succession and property. Three address autonomy or family status, while two focus principally on guardianship, children and welfare. The distribution suggests that contemporary reform is highly visible at the point of marital formation and dissolution, but property and enforcement questions remain equally important to substantive equality.

9.3 Constitutional-Principle Coding

Principle	Coded frequency (N=20)	Analytical interpretation
Article 14: equality/non-arbitrariness	16	The dominant benchmark across status, property, maintenance and religious-practice disputes.
Article 15: non-discrimination/protective measures	12	Frequently linked to gender hierarchy, women's protection and children.
Article 21: dignity, privacy and autonomy	15	Central to partner choice, residence, reproductive decision-making and family diversity.
Articles 25-26: religious freedom	6	Most prominent where a practice is defended as religious or denominational.
Article 44: UCC/harmonisation	3	Expressly central to UCC policy and indirectly relevant to uniform maintenance procedure.
Child welfare/access to justice	7	Cross-cutting principle in child marriage, guardianship, legitimacy and maintenance.

Table 6. Researcher-coded constitutional principles; multiple coding was permitted.

The frequencies are not a measure of all Indian family-law cases. They describe the constitutional vocabulary of the selected sample. Equality and dignity/autonomy substantially overlap, indicating that courts increasingly connect status equality with lived freedom. Religious freedom appears in fewer units because many contemporary disputes are decided through secular statutes, property rules or social-welfare remedies. Article 44 is comparatively infrequent as a direct decisional rule, supporting the view that most constitutional convergence occurs through specific rights and remedies rather than through a single uniform-code command.

9.4 Comparative Rights-Impact Matrix

Rights dimension	Hindu-law assessment	Muslim-law assessment	Comparative finding
Choice and consent	Strong statutory conditions; constitutional protection for adult choice	Consent recognised in contract; community/family coercion remains a cross-cutting risk	Converging through Article 21
Unilateral marital power	Judicial divorce and statutory grounds	Instant triple talaq invalid; other modes require clearer procedural safeguards	Partial convergence
Post-divorce support	Multiple statutory and secular remedies	1986 Act plus secular maintenance confirmed in 2024	Substantial convergence
Property equality	Daughters formally equal coparceners	Women inherit, but common shares remain sex-differentiated	Continuing divergence
Adoption	Full statutory adoption available	Secular adoption route available, but not equivalent within personal law	Functional convergence through secular law
Family diversity	Traditional statutes remain heteronormative	Traditional framework remains heteronormative	Common constitutional deficit
Registration/privacy	Growing compulsory registration	Growing compulsory registration; UCC procedures relevant	Shared administrative challenge

Table 7. Comparative rights-impact assessment.

9.5 Major Findings

Finding 1: Constitutional convergence is occurring through secular remedies.

Maintenance, domestic-violence protection, child-marriage prevention, civil marriage and secular adoption increasingly provide cross-community baselines. Mohd Abdul Samad is especially important because it rejects the use of religious status to narrow a social-justice remedy. This supports Proposition 2.

Finding 2: Codification improves visibility but does not guarantee equality.

The Hindu Code offers clearer statutory routes, yet daughters required decades of litigation to secure the full meaning of coparcenary equality, and women still encounter possession and enforcement barriers. Codification can preserve hierarchy as effectively as uncoded doctrine if the underlying rule or institution remains unequal. Proposition 1 is therefore supported.

Finding 3: Autonomy is becoming a common constitutional language.

Shafin Jahan, Joseph Shine, Deepika Singh, X and Supriyo locate family choice within dignity, privacy and liberty. This weakens the idea that marriage transfers a person's agency to the spouse, family or community. However, autonomy is incomplete without economic capacity, safe housing and procedural access.

Finding 4: Property and maintenance are the strongest tests of substantive equality.

Symbolic recognition is insufficient where a claimant cannot obtain mutation, possession, disclosure of income or enforcement of an order. The comparison shows that family law distributes resources as well as identity. Reform should therefore prioritise enforceable economic rights.

Finding 5: Religious freedom requires a proportionality-based approach.

Neither automatic judicial deference nor automatic invalidation adequately addresses pluralism. Courts should identify the right-holder, degree of coercion, seriousness of the religious burden, discriminatory effect and less restrictive alternatives. This approach protects voluntary practice while preventing religious classification from immunising unequal legal consequences.

Finding 6: Formal uniformity creates new constitutional risks.

Registration and uniform procedure can improve proof and access, but they may also create surveillance, digital exclusion and exposure of vulnerable relationships. The UCC experiment should be evaluated through privacy, accessibility and outcomes. Proposition 4 is supported: harmonisation must be domain-specific and evidence-based.

10. Discussion

The comparative analysis rejects the assumption that one personal-law system is uniformly progressive and the other uniformly regressive. Hindu law's statutory architecture contains major equality reforms, especially in divorce and coparcenary rights, but it also reflects paternal assumptions and faces serious enforcement gaps. Muslim law protects dower, recognises contractual marriage and gives women defined inheritance shares, yet common succession rules and historical unilateral divorce practices raise equality concerns. A credible constitutional analysis must compare specific functions and effects rather than rank entire religions.

The case law also reveals an institutional division of labour. Courts are well placed to invalidate arbitrariness, protect adult choice, harmonise remedies and interpret statutes consistently with rights. They are less suited to designing comprehensive family codes, fiscal support systems or registration infrastructure. Legislatures must therefore address property administration, maintenance enforcement, legal aid, privacy safeguards and data governance. Community organisations can contribute expertise and legitimacy, but participation must include women, marginalised sects, queer persons and those who have exited marriages.

The uncertain constitutional status of uncodified personal law remains a doctrinal weakness. Where the state recognises, enforces or assigns civil consequences to a norm, the effect on fundamental rights cannot be ignored merely because the rule is characterised as personal. At the same time, constitutional review should distinguish enforceable legal incidents from purely voluntary ritual. This distinction permits robust equality scrutiny without turning courts into theological authorities.

Substantive equality offers the most coherent organising principle. It evaluates the distribution of authority, resources, risk and care rather than demanding superficial sameness. Under this approach, a reform is justified when it expands meaningful choice, secures a fair share of family resources, protects children, reduces domination and remains proportionate to religious and privacy interests. A common civil rule is one possible instrument, but its legitimacy depends on these outcomes.

11. Recommendations

Adopt a common constitutional minimum: Every family-law regime should guarantee free and informed consent, a uniform minimum age, equal access to divorce, protection from violence, child welfare, reasoned decisions and effective maintenance.

Reform by domain, not stereotype: Legislative review should identify the precise discriminatory rule in each community and in secular law rather than treating an entire personal-law system as the problem.

Strengthen economic remedies: Create standard financial-disclosure forms, asset tracing, time-bound interim maintenance, indexed awards, enforcement cells and legal-aid support.

Secure property in practice: Link succession decrees with mutation and possession procedures, prohibit coerced relinquishment, expand legal literacy and collect sex-disaggregated implementation data.

Codify uncertain rules through inclusive consultation: Where uncodified doctrine affects civil status or property, clear legislation should be developed with jurists, women's groups, litigants, minority representatives and constitutional experts.

Protect civil-marriage privacy: Reform notice and publication processes so that only information necessary for legal verification is disclosed; provide safety exceptions and secure data handling.

Use child welfare as a cross-community standard: Guardianship, custody, adoption, legitimacy and child-marriage rules should prioritise the child's rights and equal parenting rather than marital or religious status.

Recognise diverse families: Future legislation should address queer couples, single parents, blended households, caregivers and live-in partners without imposing unnecessary surveillance.

Evaluate the Uttarakhand UCC empirically: Publish anonymised statistics on applications, processing time, rejection, appeals, offline access, privacy incidents and effects on vulnerable groups.

Create periodic constitutional audits: An independent family-law review body should assess every five years whether statutes and procedures comply with equality, dignity, religious freedom, privacy and access to justice.

12. Conclusion

Hindu and Muslim personal laws operate within different statutory and juristic structures, but both are subject to a common constitutional commitment to liberty, equality, dignity and religious freedom. The 2015-2024 developments examined in this paper show a clear movement toward common rights standards in maintenance, partner choice, child welfare, residence and property. They also reveal unresolved inequality in succession, guardianship, queer family recognition, enforcement and privacy.

The constitutional objective should not be described as uniformity at any cost or pluralism without limits. Equal citizenship requires the State to prevent domination within families and communities, while religious freedom requires space for voluntary belief and practice. The most defensible pathway is phased constitutional harmonisation: identify the right at stake, measure the discriminatory or coercive effect, use the least restrictive effective reform, and evaluate whether the remedy works in practice. A just family-law system is not one in which every citizen follows the same ceremony; it is one in which every person possesses equal legal agency, economic security, protection and access to remedies.

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- Hindu Succession Act, 1956, as amended by the Hindu Succession (Amendment) Act, 2005.
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- Hindu Adoptions and Maintenance Act, 1956.
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