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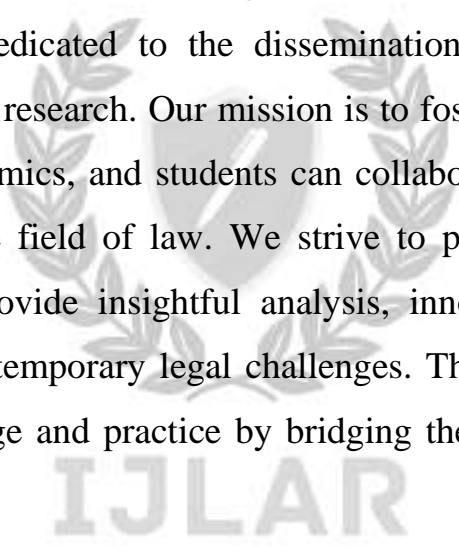
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## Introduction

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A large, faint watermark of the IJAR logo is centered on the page. It features a circular emblem with a scale of justice and a laurel wreath, with the letters 'IJLAR' printed in a large, bold, sans-serif font below it.

## Preface

The Indian Journal of Legal Affairs and Research is a testament to our unwavering commitment to excellence in legal scholarship. This volume presents a curated selection of articles that reflect the diverse and dynamic nature of legal studies today. Our contributors, ranging from esteemed legal scholars to emerging academics, bring forward a rich tapestry of insights that address critical legal issues and offer novel contributions to the field. We are grateful to our editorial board, reviewers, and authors for their dedication and hard work, which have made this publication possible. It is our hope that this journal will serve as a valuable resource for researchers, practitioners, and policymakers, and will inspire further inquiry and debate within the legal community.

## **Description**

The Indian Journal of Legal Affairs and Research is an academic journal that publishes peer-reviewed articles on a wide range of legal topics. Each issue is designed to provide a platform for legal scholars, practitioners, and students to share their research findings, theoretical explorations, and practical insights. Our journal covers various branches of law, including but not limited to constitutional law, international law, criminal law, commercial law, human rights, and environmental law. We are dedicated to ensuring that the articles published in our journal adhere to the highest standards of academic rigor and contribute meaningfully to the understanding and development of legal theories and practices.

# **THE FORGOTTEN HALF: REIMAGINING EQUALITY AND RIGHTS TO LIFE FOR HINDU AND MUSLIM MEN**

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## **Abstract**

Debates on personal laws in India have overwhelmingly concentrated on women's rights, leaving unexplored how Hindu and Muslim men themselves experience equality and liberty in the marital sphere. This paper seeks to address that gap by reimagining the constitutional guarantees of equality (Article 14) and life and personal liberty (Article 21) from the perspective of men. While Hindu men are bound by statutory monogamy under the Hindu Marriage Act, 1955, and broad financial and custodial obligations, Muslim men historically enjoyed greater autonomy in matters of divorce and polygamy until recent reforms. Such asymmetry not only raises concerns under Article 14's guarantee of equal protection of laws but also implicates Article 21, as the Supreme Court has expanded the right to life to encompass dignity, autonomy, and mental well-being.

Drawing on landmark case law including *Sarla Mudgal v. Union of India*, *Shah Bano v. Union of India*, *Shayara Bano v. Union of India*, *Joseph Shine v. Union of India*, and *Navtej Johar v. Union of India*, the paper examines whether personal law regimes disproportionately burden Hindu men, thereby limiting their liberty. Integrating insights from psychological studies, it further demonstrates how marital disputes and unequal obligations have profound spillover effects on men's mental health, professional life, and social participation. The paper concludes that genuine constitutional morality demands a gender-neutral and religion-neutral reform of marital laws, ensuring substantive equality and dignity for all.

**Keyword:** Right to Equality; Right to Life; Constitutional Morality; Hindu Law; Muslim Law

## Introduction

The Indian legal system has long grappled with the tension between personal laws rooted in religion and the universal promises of equality and liberty enshrined in the Constitution.<sup>1</sup> Academic discourse and judicial reform in this area have predominantly centered on the rights and disabilities of women—a focus that is both justified and necessary given the entrenched patriarchal structures in society<sup>2</sup>. However, this single-gender lens has left a significant gap in legal scholarship: the position of men themselves within Hindu and Muslim marital laws. This paper seeks to explore that neglected dimension by interrogating whether Hindu and Muslim men enjoy their constitutional guarantees of equality (Article 14) and life and personal liberty (Article 21) in a manner that is truly equal and just.

The asymmetry between the two major personal law systems becomes evident upon closer scrutiny. Hindu men are bound by compulsory monogamy under the Hindu Marriage Act, 1955<sup>3</sup>, and shoulder wide-ranging obligations in relation to maintenance, custody, and property division. In contrast, Muslim men, until recent judicial interventions such as *Shayara Bano v. Union of India* (2017)<sup>4</sup>, retained broader autonomy—permitted polygamy and unilateral divorce—though their maintenance obligations were narrowed through decisions like *Danial Latifi v. Union of India* (2001)<sup>5</sup>. This differential treatment is not a mere doctrinal curiosity; it has profound constitutional consequences. If Article 14 guarantees equal protection of laws, and Article 21 ensures dignity, autonomy, and well-being, then the unequal marital frameworks for Hindu and Muslim men invite serious constitutional scrutiny.

The right to life under Article 21, as expansively interpreted by the Supreme Court in cases such as *Maneka Gandhi v. Union of India* (1978)<sup>6</sup>, *Francis Coralie Mullin v. Administrator, Union Territory of Delhi* (1981)<sup>7</sup>, and *K.S. Puttaswamy v. Union of India* (2017)<sup>8</sup>, is no longer confined to physical survival. It encompasses mental health, personal liberty, decisional autonomy, and a life of dignity. Against this backdrop, Hindu men's restricted marital autonomy, coupled with long

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<sup>1</sup> Marc Galanter, *Law and Society in Modern India* (Oxford Univ. Press 1989).

<sup>2</sup> Werner Menski, *Hindu Law: Beyond Tradition and Modernity* (Oxford Univ. Press 2003).

<sup>3</sup> The Hindu Marriage Act, No. 25 of 1955, § 5, India Code.

<sup>4</sup> *Shayara Bano v. Union of India*, (2017) 9 SCC 1.

<sup>5</sup> *Danial Latifi v. Union of India*, (2001) 7 SCC 740.

<sup>6</sup> *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248.

<sup>7</sup> *Francis Coralie Mullin v. Administrator, Union Territory of Delhi*, (1981) 1 SCC 608.

<sup>8</sup> *K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1.

litigation cycles and financial liabilities, may amount to a greater curtailment of life and liberty than that experienced by Muslim men. Such an imbalance suggests that personal laws not only operate unequally across religions but also potentially erode the substantive content of Article 21 for one group of men more than another.

Adding an interdisciplinary dimension, psychological research underscores how personal life challenges—marital disputes, divorce battles, and custodial conflicts—spill over into every sphere of life<sup>9</sup>. Studies have consistently shown that unresolved family disputes increase the risk of anxiety, depression, reduced workplace productivity, social withdrawal, and even physical health decline. Men, in particular, often face social stigma in seeking help for mental health struggles<sup>10</sup>, making them more vulnerable to the long-term consequences of protracted legal disputes. Thus, the burdens imposed by unequal personal laws do not remain confined to the private domain but extend into men's professional, emotional, and social existence. If Article 21 protects the right to live with dignity, it cannot ignore the psychological and social costs of unequal marital laws.

The judiciary has increasingly relied on constitutional morality as a guiding principle to reconcile personal law and fundamental rights. In *Navtej Singh Johar v. Union of India* (2018)<sup>11</sup> and *Joseph Shine v. Union of India* (2018)<sup>12</sup>, the Supreme Court invalidated archaic and gendered laws, affirming that the test of constitutionality lies not in social or religious morality but in the Constitution's core values of liberty, equality, and dignity. Applying this reasoning, the asymmetric burdens and liberties imposed upon Hindu and Muslim men under marital law must also be subjected to the lens of constitutional morality.

This paper argues that the discourse on personal law reform must move beyond a women-centric framework and embrace a genuinely gender-neutral and religion-neutral perspective. By addressing the rights of Hindu and Muslim men, the paper does not undermine women's struggles but rather completes the constitutional promise of equality by recognizing that all individuals—irrespective of gender or community—are entitled to equal protection and the right to live with dignity.

The structure of the paper is as follows: Part II sets out the constitutional framework of equality and life rights under Articles 14, 15, and 21. Part III analyzes the position of Hindu men under

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<sup>9</sup> Holmes & Rahe, The Social Readjustment Rating Scale, *Journal of Psychosomatic Research* 11 (1967).

<sup>10</sup> R.W. Connell, *Masculinities* (Polity Press 2005).

<sup>11</sup> *Navtej Singh Johar v. Union of India*, (2018) 10 SCC 1.

<sup>12</sup> *Joseph Shine v. Union of India*, (2019) 3 SCC 39.

statutory law. Part IV examines the marital rights and obligations of Muslim men. Part V highlights how these asymmetries implicate the right to life and liberty, with particular attention to autonomy and dignity. Part VI incorporates psychological research to demonstrate the spillover effects of marital disputes on men's well-being. Part VII evaluates judicial trends through the lens of constitutional morality. Finally, Part VIII offers findings and recommendations, including the need for gender-neutral reforms and the recognition of mental well-being within constitutional jurisprudence.

In doing so, the paper reimagines the constitutional discourse on personal laws by turning attention to the "forgotten half"—Hindu and Muslim men—whose equality and life rights remain insufficiently theorized and inadequately protected.

## **Research Framework**

### **Research Gap**

The scholarship on personal laws in India has overwhelmingly focused on women's rights, with significant attention paid to issues of gender inequality, patriarchy, and discriminatory practices. While such scholarship has been invaluable, it has also produced a blind spot: the position of men under Hindu and Muslim marital laws. Very few studies have critically examined whether men themselves face unequal treatment across religious personal laws, particularly in light of Articles 14 and 21 of the Constitution. This paper seeks to fill that gap by reimagining equality and life rights from the perspective of Hindu and Muslim men.

### **Research Objectives**

1. To analyze the constitutional guarantees of equality (Article 14) and life and liberty (Article 21) in the context of Hindu and Muslim men's marital rights.
2. To examine the asymmetries in marital obligations and liberties imposed by Hindu and Muslim personal laws.
3. To explore the psychological and social consequences of unequal marital laws on men's dignity, autonomy, and well-being.
4. To assess judicial trends and the doctrine of constitutional morality as tools for achieving a gender-neutral and religion-neutral marital framework.
5. To propose reforms that align personal laws with the universal constitutional promise of equality and dignity.

## Research Questions

1. Do Hindu and Muslim men enjoy equal protection of the law in marital matters?
2. How do existing personal law regimes affect men's constitutional right to life, dignity, and autonomy?
3. What psychological and social consequences flow from the unequal treatment of Hindu and Muslim men under marital laws?
4. Can constitutional morality provide a sustainable framework for reforming personal laws?

## Hypothesis

The current personal law system disproportionately burdens Hindu men compared to Muslim men, thereby infringing the guarantees of equality under Article 14 and life with dignity under Article 21.

## Scope and Limitations

This study focuses on Hindu and Muslim personal laws as applied in India, with special emphasis on marriage, divorce, maintenance, and custody. It does not extend to Christian, Parsi, or secular marriage regimes such as the Special Marriage Act. The analysis is primarily constitutional and psychological; while economic or purely sociological dimensions are acknowledged, they are not the central focus of this paper.

## Research Methodology

This paper adopts a doctrinal and analytical methodology, relying on constitutional provisions, statutory texts, and judicial precedents to examine the marital rights of Hindu and Muslim men. The analysis is supplemented by a comparative approach, drawing on models from foreign jurisdictions to highlight possible reforms. Additionally, the study integrates interdisciplinary insights from psychology and sociology, recognizing that constitutional rights are not abstract principles but have tangible implications for mental health, professional life, and social participation. Primary sources include case law from the Supreme Court and High Courts, as well as statutes such as the Hindu Marriage Act, 1955 and the Muslim Women (Protection of Rights on Marriage) Act, 2019. Secondary sources include academic commentary, psychological studies, and literature on constitutional morality.

## II. Constitutional Framework: Equality and Life as Gender-Neutral Guarantees

The Indian Constitution envisions equality and liberty as rights that transcend gender, religion, and community. Yet, the discourse on marital law has predominantly focused on women's subordination, overlooking the possibility that men, too, may encounter restrictions or disadvantages under personal law regimes. To situate the rights of Hindu and Muslim men within the constitutional scheme, three provisions are of primary relevance: Article 14 (equality before law and equal protection of laws), Article 15 (prohibition of discrimination), and Article 21 (right to life and personal liberty).<sup>13</sup>

### 1. Article 14: Equality Before Law

Article 14 guarantees "equality before the law" and "equal protection of the laws." The Supreme Court has interpreted it expansively, moving beyond formal equality to embrace substantive equality. In *E.P. Royappa v. State of Tamil Nadu* (1974), the Court declared that equality is antithetical to arbitrariness.<sup>14</sup> Similarly, in *Maneka Gandhi v. Union of India* (1978), Article 14 was read together with Article 21, affirming that laws cannot be arbitrary, unfair, or unreasonable.<sup>15</sup>

In the context of marital laws, Hindu and Muslim men are not situated identically. Hindu men are constrained by statutory monogamy (Hindu Marriage Act, 1955)<sup>16</sup> and face extensive obligations in maintenance and custody, whereas Muslim men historically had greater marital autonomy, including polygamy and unilateral divorce, though these have been moderated by judicial and legislative interventions. The differential treatment raises a constitutional question: does this asymmetry amount to arbitrariness under Article 14? If equality is about equal protection of the laws, then why are men's marital rights conditioned differently solely based on religion?

### 2. Article 15: Prohibition of Discrimination

Article 15(1) prohibits discrimination on grounds of religion, race, caste, sex, or place of birth. At first glance, it appears directed primarily at preventing State discrimination against vulnerable

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<sup>13</sup> INDIA CONST. arts. 14, 15, 21.

<sup>14</sup> *E.P. Royappa v. State of Tamil Nadu*, (1974) 4 S.C.C. 3.

<sup>15</sup> *Maneka Gandhi v. Union of India*, (1978) 1 S.C.C. 248.

<sup>16</sup> *Hindu Marriage Act, 1955*, No. 25, Acts of Parliament, 1955 (India).

groups. However, the language of Article 15 is gender-neutral. Hindu men, by being subjected to compulsory monogamy and broader financial liabilities, may argue that they are indirectly discriminated against on the ground of religion in comparison to Muslim men who enjoy comparatively greater autonomy.

The Supreme Court in *Anuj Garg v. Hotel Association of India* (2008) struck down protective labour laws for women as unconstitutional paternalism, stressing that equality must be evaluated on the basis of impact, not intent.<sup>17</sup> Applying this reasoning, if Hindu men face a disproportionate impact due to stricter marital obligations, there exists a credible argument that Article 15(1) is implicated. Although this line of reasoning is unconventional, it underscores that equality discourse should not be limited to women alone.

### 3. Article 21: Right to Life and Personal Liberty

Article 21, originally understood narrowly as protection against deprivation of life or liberty except by procedure established by law, has been dramatically expanded through judicial interpretation. The right to life today includes dignity, privacy, mental well-being, and autonomy. In *Francis Coralie Mullin v. Administrator, Union Territory of Delhi* (1981), the Court held that the right to life is not limited to mere animal existence but extends to living with human dignity.<sup>18</sup> In *K.S. Puttaswamy v. Union of India* (2017), privacy and decisional autonomy were recognized as integral to life and liberty.<sup>19</sup>

Applying this framework, marital laws that impose unequal burdens on Hindu men may be scrutinized under Article 21. The compulsory monogamy of Hindu law, coupled with long-drawn divorce litigation and heavy maintenance obligations, constrains their liberty in ways Muslim men historically did not face. While Muslim men could exercise personal liberty through polygamy or unilateral divorce (though now curtailed), Hindu men were compelled to adhere to a more restrictive marital framework. This difference directly affects personal liberty as conceived under Article 21.

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<sup>17</sup> *Anuj Garg v. Hotel Ass'n of India*, (2008) 3 S.C.C. 1.

<sup>18</sup> *Francis Coralie Mullin v. Administrator, Union Territory of Delhi*, (1981) 1 S.C.C. 608.

<sup>19</sup> *K.S. Puttaswamy v. Union of India*, (2017) 10 S.C.C. 1.

#### 4. The Intersection of Articles 14 and 21

The evolution of constitutional jurisprudence reveals a deliberate fusion of equality and liberty. In *Maneka Gandhi*, the Court held that Articles 14, 19, and 21 must be read together, ensuring fairness, reasonableness, and non-arbitrariness in any law affecting life or liberty. This integrated approach is crucial for marital laws. When unequal personal laws burden Hindu men more severely, the violation is two-fold: it undermines equality before the law (Article 14) and denies a dignified, autonomous life (Article 21).

#### 5. Constitutional Morality as a Guiding Principle

The doctrine of constitutional morality, invoked in *Navtej Singh Johar v. Union of India* (2018)<sup>20</sup> and *Joseph Shine v. Union of India* (2018)<sup>21</sup>, emphasizes that laws must be tested not by popular morality but by constitutional values. Both decisions dismantled archaic, gendered laws in favour of autonomy and equality. Extending this doctrine to marital laws, the persistence of differential treatment of Hindu and Muslim men appears inconsistent with constitutional morality. If equality and liberty are truly universal, personal laws that privilege one community's men over another's cannot withstand scrutiny.

#### 6. Towards a Gender-Neutral Understanding

It is important to clarify that recognizing the burdens faced by men does not undermine women's struggles for equality. Instead, it reinforces the need for a gender-neutral framework where both men and women enjoy equal rights to dignity, liberty, and marital choice. The Constitution, in its text and spirit, does not privilege one gender over another; rather, it promises equality to "any person." Addressing the rights of Hindu and Muslim men is therefore not a diversion from women's rights but a step towards a more holistic vision of equality.

### III. Hindu Men Under Marital Law

The codification of Hindu personal law through the Hindu Marriage Act, 1955 (HMA), marked a significant departure from traditional practices by introducing statutory regulation of marriage, divorce, and maintenance. While hailed as a progressive step towards modernity and gender

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<sup>20</sup> *Navtej Singh Johar v. Union of India*, (2018) 10 S.C.C. 1.

<sup>21</sup> *Joseph Shine v. Union of India*, (2019) 3 S.C.C. 39.

justice, the Act also imposed particular burdens and restrictions on Hindu men, raising important questions about equality and liberty under the Constitution. This section examines the legal position of Hindu men with respect to marital autonomy, maintenance obligations, custody arrangements, and divorce litigation, and considers whether these collectively curtail their rights under Articles 14 and 21.

### **1. Compulsory Monogamy and Restriction on Marital Choice**

One of the most notable features of the HMA is Section 5(i), which makes monogamy a condition for a valid Hindu marriage. Bigamy is expressly criminalized under Section 17 of the Hindu Marriage Act, 1955 read with Section 82 of the *Bhartiya Nyaya Sanhita, 2023* (BNS).<sup>22</sup> This provision places Hindu men under strict marital regulation: once married, they are prohibited from contracting a second marriage during the subsistence of the first, even if the wife is unwilling to cohabit or incapable of fulfilling marital obligations.

By contrast, Muslim men, until judicial intervention in *Shayara Bano v. Union of India* (2017)<sup>23</sup>, retained the ability to contract up to four marriages under personal law. The asymmetry is stark: while Hindu men face potential criminal prosecution for bigamy, Muslim men were historically exempt from such penal consequences. From an Article 14 perspective, this creates differential treatment of men on the basis of religion. From an Article 21 perspective, the compulsory imposition of monogamy can be viewed as a restriction on decisional autonomy in marital matters, particularly when liberty has been interpreted to include the freedom to make personal choices about relationships (*Puttaswamy v. Union of India*, 2017).<sup>24</sup>

### **2. Maintenance Obligations**

The HMA imposes far-reaching financial duties on Hindu men.

- Section 24 allows either spouse to claim interim maintenance, but in practice, women are overwhelmingly the beneficiaries, as men are typically considered the earning party.
- Section 25 enables permanent alimony and maintenance, often interpreted liberally in favour of wives.

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<sup>22</sup> *Bhartiya Nyaya Sanhita, No. 45 of 2023, § 82, INDIA CODE (2023)*.

<sup>23</sup> *Shayara Bano v. Union of India*, (2017) 9 S.C.C. 1.

<sup>24</sup> *K.S. Puttaswamy v. Union of India*, (2017) 10 S.C.C. 1.

- In addition, Section 125 of the Code of Criminal Procedure (CrPC)—a secular provision—imposes a duty on husbands to provide maintenance to wives unable to maintain themselves.

Judicial interpretation has generally expanded these obligations. In *Bhuwan Mohan Singh v. Meena* (2015), the Supreme Court held that maintenance is not a matter of charity but a right flowing from the dignity of the wife.<sup>25</sup> While this interpretation promotes women's welfare, it also places disproportionate financial burdens on Hindu men, who may be compelled to sustain estranged spouses indefinitely, even in cases of short-lived marriages or where the wife has independent means.

From an equality standpoint, the asymmetry lies not only in the law itself but also in judicial presumptions that men must provide. Muslim men, by contrast, have seen their obligations limited by decisions such as *Danial Latifi v. Union of India* (2001), which interpreted the Muslim Women (Protection of Rights on Divorce) Act, 1986, as requiring only a "reasonable and fair provision" within the iddat period. The result is that Hindu men often shoulder longer and heavier financial liabilities than Muslim men, raising questions of substantive equality under Article 14.

### 3. Custody and Guardianship

In matters of child custody, Hindu men frequently find themselves at a disadvantage. Although the Guardians and Wards Act, 1890 and the Hindu Minority and Guardianship Act, 1956 recognize the father as the natural guardian, courts have increasingly prioritized the "welfare of the child" standard, which often favours mothers for custody, especially of young children.

In *Githa Hariharan v. Reserve Bank of India* (1999), the Supreme Court interpreted "after" in Section 6 of the Hindu Minority and Guardianship Act to mean "in the absence of," thereby allowing mothers to act as natural guardians even during the father's lifetime.<sup>26</sup> While this was a progressive interpretation for women's rights, it further narrowed the scope of Hindu men's custodial authority. As a result, fathers often find themselves reduced to financial providers rather than active custodians, which indirectly affects their Article 21 right to family life and personal liberty.

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<sup>25</sup> *Bhuwan Mohan Singh v. Meena*, (2015) 6 S.C.C. 353.

<sup>26</sup> *Githa Hariharan v. Reserve Bank of India*, (1999) 2 S.C.C. 228.

#### 4. Grounds for Divorce

The HMA provides multiple grounds for divorce under Section 13, including cruelty, desertion, conversion, mental disorder, venereal disease, and irretrievable breakdown (judicially recognized). However, these grounds are applied uniformly, without consideration for gendered impacts. Hindu men frequently face long litigation cycles, as divorce is not easily granted without extensive proof. The Supreme Court in *Samar Ghosh v. Jaya Ghosh* (2007) attempted to elaborate on what constitutes mental cruelty, but the interpretation remains subjective and inconsistent.<sup>27</sup> Men seeking divorce often encounter procedural delays, while women may secure maintenance pendente lite during the proceedings, further prolonging disputes. The result is that Hindu men's personal liberty—the ability to exit an unworkable marriage—is heavily curtailed in practice, despite Article 21's protection of decisional autonomy.

#### 5. Criminalization of Marital Conduct

The Indian Penal (for now BNS) Code compounds the burdens on Hindu men by criminalizing certain marital conduct. Prior to *Joseph Shine v. Union of India* (2018), adultery was punishable under Section 497 IPC, though it applied asymmetrically.<sup>28</sup> While this provision has now been struck down, its historical application reinforced stereotypes of men as transgressors. Similarly, while marital rape is not criminalized, exceptions and gender-specific presumptions in criminal law often position men as default perpetrators. Hindu men, subject to the combined weight of civil and criminal liabilities, thus face greater constraints on their personal liberty compared to their Muslim counterparts.

#### 6. Psychological and Social Burdens

The cumulative effect of these obligations—compulsory monogamy, heavy maintenance liabilities, limited custody rights, and protracted divorce litigation—creates not only legal but also psychological burdens for Hindu men. Studies in psychology and sociology have demonstrated that unresolved marital disputes significantly increase stress, depression, and workplace absenteeism. For Hindu men, whose legal obligations are stricter, the spillover effects are particularly acute. If Article 21 is to be interpreted as encompassing mental health and dignity, as

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<sup>27</sup> *Samar Ghosh v. Jaya Ghosh*, (2007) 4 S.C.C. 511.

<sup>28</sup> *Joseph Shine v. Union of India*, (2019) 3 S.C.C. 39.

the Supreme Court has repeatedly held, then Hindu men's position under marital law represents a constitutional deficit.

### **Conclusion of Part III**

The statutory scheme under the HMA, coupled with judicial interpretation, imposes extensive restrictions and obligations on Hindu men. While designed to advance women's welfare and gender justice, these provisions simultaneously create religion-based asymmetries that curtail Hindu men's equality under Article 14 and liberty under Article 21. By criminalizing bigamy, expanding maintenance liabilities, and limiting custodial rights, Hindu law places men in a comparatively disadvantaged position vis-à-vis their Muslim counterparts. From a constitutional standpoint, this imbalance warrants scrutiny under the twin guarantees of equality and life rights.

## **IV. Muslim Men under Marital Law**

Unlike the codified Hindu Marriage Act, Muslim personal law in India is largely derived from classical Islamic jurisprudence, with limited statutory intervention. The Muslim Personal Law (Shariat) Application Act, 1937 establishes that questions of marriage, divorce, maintenance, and inheritance are governed by Muslim personal law, except where modified by legislation. Over time, the Supreme Court and Parliament have intervened to address practices perceived as inconsistent with constitutional values, most notably with the abolition of *triple talaq* through the Muslim Women (Protection of Rights on Marriage) Act, 2019. Nevertheless, Muslim men historically enjoyed greater marital autonomy than their Hindu counterparts. This section explores the position of Muslim men in relation to marital autonomy, divorce, maintenance, custody, and constitutional scrutiny, with reference to Articles 14 and 21.

### **1. Marital Autonomy and Polygamy**

One of the most striking features of Muslim personal law has been the allowance of polygamy, permitting a Muslim man to marry up to four wives simultaneously, subject to the condition of equal treatment. While controversial, this practice has been consistently upheld by Indian courts as constitutionally valid. In *State of Bombay v. Narasu Appa Mali* (1952)<sup>29</sup>, the Bombay High

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<sup>29</sup> *State of Bombay v. Narasu Appa Mali*, A.I.R. 1952 Bom. 84.

Court held that personal laws were not “laws” under Article 13, and therefore immune from fundamental rights scrutiny—a position that still influences judicial reluctance to intervene.

In contrast to Hindu men, who are bound by compulsory monogamy under the HMA, Muslim men’s ability to contract multiple marriages offered greater marital autonomy. This divergence highlights a clear religion-based asymmetry: the same conduct (bigamy) is a criminal offence for Hindu men but permissible for Muslim men. From an equality perspective, this discrepancy calls into question the uniformity of Article 14’s protection. From a liberty perspective, Muslim men historically enjoyed greater decisional autonomy in personal life, protected under Article 21’s broad interpretation of liberty.

## 2. Unilateral Divorce and Talaq

Another dimension of autonomy lay in divorce. Traditionally, Muslim men had the unilateral right to repudiate marriage through talaq, including the practice of *instant triple talaq (talaq-e-biddat)*. This unilateral power was upheld in various judicial pronouncements until the landmark decision of *Shayara Bano v. Union of India* (2017)<sup>30</sup>, where a 3:2 majority of the Supreme Court declared instant triple talaq unconstitutional as arbitrary under Article 14. Parliament subsequently enacted the Muslim Women (Protection of Rights on Marriage) Act, 2019, which criminalized the pronouncement of *talaq-e-biddat*.

Even after this reform, however, Muslim men continue to enjoy relatively greater flexibility in divorce compared to Hindu men. Talaq remains valid if pronounced in accordance with Quranic requirements (*talaq-e-ahsan* or *talaq-e-hasan*), and judicial divorce provisions under the Dissolution of Muslim Marriages Act, 1939 primarily empower women, not men, since men already possess unilateral repudiation rights. Thus, while judicial scrutiny has narrowed the scope of arbitrary talaq, Muslim men retain a form of divorce autonomy that Hindu men lack.

## 3. Maintenance Obligations

The scope of maintenance for Muslim men is narrower compared to Hindu men. Under classical law, maintenance (*nafaqah*) is limited to the period of marriage and, in cases of divorce, only for the duration of the *iddat* period (roughly three months). The Supreme Court’s decision in *Mohd.*

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

*Ahmed Khan v. Shah Bano Begum* (1985)<sup>31</sup> initially expanded Muslim men's liability under Section 125 of the CrPC, holding that divorced Muslim women were entitled to maintenance beyond iddat. However, backlash led Parliament to enact the Muslim Women (Protection of Rights on Divorce) Act, 1986, which appeared to restrict maintenance to iddat.

In *Danial Latifi v. Union of India* (2001)<sup>32</sup>, the Supreme Court interpreted the 1986 Act as requiring a Muslim husband to make a "reasonable and fair provision" within the iddat period, but not ongoing maintenance as under Section 125. While this interpretation balanced women's rights with constitutional concerns, it effectively limited Muslim men's long-term obligations compared to Hindu men, who may be compelled to pay lifelong alimony under the HMA. This differential burden again raises questions of equality under Article 14.

#### **4. Custody and Guardianship**

Custody of children under Muslim law is governed by the doctrine of *hizanat*, which generally prioritizes the mother, especially for young children. However, the father remains the natural guardian of the child. Courts applying both Shariat and the Guardians and Wards Act have generally balanced custody between the welfare principle and personal law norms. While Muslim men are formally recognized as guardians, in practice their role often reduces to financial responsibility, similar to Hindu men. Nevertheless, since Muslim law does not impose the same statutory custodial limitations as the HMA, fathers retain greater authority in principle, even if courts often favour mothers on welfare grounds.

#### **5. Constitutional Scrutiny of Muslim Men's Privileges**

The judicial approach to Muslim personal law has been marked by hesitation. In *Narasu Appa Mali* (1952), the court insulated personal laws from fundamental rights review, creating a doctrinal obstacle to Article 14 scrutiny. However, more recent judgments suggest a shift. In *Shayara Bano*, the Court explicitly subjected *triple talaq* to equality review, declaring it unconstitutional. Similarly, in *Shafin Jahan v. Asokan K.M.* (2018)<sup>33</sup>, the Court emphasized autonomy in marriage as part of Article 21, overriding parental and community objections.

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<sup>31</sup> *Mohd. Ahmed Khan v. Shah Bano Begum*, (1985) 2 S.C.C. 556.

<sup>32</sup> *Danial Latifi v. Union of India*, (2001) 7 S.C.C. 740.

<sup>33</sup> *Shafin Jahan v. Asokan K.M.*, (2018) 16 S.C.C. 368.

These cases indicate that while Muslim men have historically enjoyed greater marital autonomy, their privileges are now being tested against constitutional morality. Nonetheless, until polygamy itself is judicially invalidated, Muslim men continue to hold a distinct advantage over Hindu men in terms of personal liberty.

## 6. Psychological and Social Dimensions

The relative autonomy enjoyed by Muslim men in matters of polygamy and divorce arguably reduces their exposure to the psychological stress of prolonged litigation that Hindu men often endure. A Hindu man seeking divorce must navigate years of contested proceedings, during which he may be compelled to pay maintenance pendente lite. A Muslim man, by contrast, can effectuate divorce more swiftly, limiting the duration of marital conflict. From a psychological standpoint, this difference is significant: shorter disputes may mitigate stress, financial strain, and professional disruption. Thus, the legal framework indirectly shapes the mental well-being of men in ways that engage Article 21's guarantee of dignity and life quality.

## Conclusion of Part IV

Muslim men, under India's pluralistic legal framework, have historically enjoyed greater marital autonomy and liberty than Hindu men. Polygamy, unilateral divorce, and limited maintenance obligations positioned them at a relative advantage in terms of personal freedom and financial liability. Although judicial interventions, particularly in *Shayara Bano*, have curtailed some of these privileges, significant asymmetries persist. The unequal treatment of Hindu and Muslim men thus raises constitutional concerns not only under Article 14's equality mandate but also under Article 21's protection of liberty and dignity.

## V. Right to Life Dimension: Comparative Burdens on Hindu and Muslim Men

The right to life under Article 21 has been the cornerstone of Indian constitutional jurisprudence. Originally confined to protection against unlawful deprivation of life or liberty, it has been expansively interpreted by the Supreme Court to include dignity, autonomy, mental health, privacy, and quality of life. In *Maneka Gandhi v. Union of India* (1978)<sup>34</sup>, the Court held that any

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<sup>34</sup> *Maneka Gandhi v. Union of India*, (1978) 1 S.C.C. 248.

“procedure established by law” must be just, fair, and reasonable. In *Francis Coralie Mullin v. Administrator, Union Territory of Delhi* (1981)<sup>35</sup>, life was said to mean more than mere animal existence — it must include living with dignity. Later, in *K.S. Puttaswamy v. Union of India* (2017)<sup>36</sup>, the Court reaffirmed that decisional autonomy is intrinsic to the right to life and liberty. When analysed against this backdrop, the marital law frameworks applicable to Hindu and Muslim men create differential burdens on the right to life. Hindu men, constrained by statutory monogamy, extensive maintenance obligations, and protracted divorce litigation, face deeper restrictions on their autonomy and well-being. Muslim men, in contrast, have historically enjoyed broader marital autonomy, narrower financial liabilities, and swifter exit options, thereby experiencing fewer encroachments upon their Article 21 rights.

### **1. Autonomy in Marital Choice**

The freedom to make choices in personal relationships lies at the heart of decisional autonomy. Hindu men are compelled by Section 5 of the Hindu Marriage Act to practice monogamy, with violations criminalized under Section 17 read with Section 82 of the BNS. This transforms personal choice into a matter of penal consequence, curtailing liberty in a way that Muslim men do not face.

By contrast, Muslim men, under classical law and still under current practice, retain the option of polygamy. Although this privilege is controversial and criticized from a gender justice standpoint, from the perspective of men’s liberty it represents a greater sphere of autonomy. The result is that Article 21 operates asymmetrically: Hindu men are denied choices available to Muslim men solely on religious grounds, undermining the universality of constitutional liberty.

### **2. Financial Liabilities and Economic Liberty**

Economic security is an integral component of dignity under Article 21. Hindu men, through Sections 24 and 25 of the HMA and Section 144 of the Bhartiya Nagarik Suraksha Sanhita, 2023, may be compelled to provide long-term or even lifelong maintenance to estranged spouses, irrespective of duration of marriage. Courts have interpreted maintenance expansively, often disregarding women’s independent earning capacity.

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<sup>35</sup> *Francis Coralie Mullin v. Administrator, Union Territory of Delhi*, (1981) 1 S.C.C. 608.

<sup>36</sup> *K.S. Puttaswamy v. Union of India*, (2017) 10 S.C.C. 1.

Muslim men, however, benefit from a narrower maintenance regime. After *Danial Latifi v. Union of India* (2001)<sup>37</sup>, Muslim men are required to provide a “reasonable and fair provision” within the iddat period, but not lifelong support. The economic burden on Hindu men is thus far heavier, directly impacting their financial liberty. Constitutional jurisprudence, particularly *Olga Tellis v. Bombay Municipal Corporation* (1985)<sup>38</sup>, recognized that the right to life includes livelihood. When marital laws strip one group of men of long-term economic security more severely than another, they compromise Article 21’s promise of dignity and subsistence.

### 3. Protracted Litigation and Mental Well-being

Judicial interpretation of Article 21 has also incorporated mental health as part of dignified existence. In *Shatrughan Chauhan v. Union of India* (2014)<sup>39</sup>, the Court recognized mental agony as an infringement of life rights. Marital disputes, particularly divorce and custody battles, often involve years of litigation. Hindu men, with limited grounds for divorce and heavy interim maintenance obligations, endure lengthy legal battles that intrude upon their liberty.

By contrast, Muslim men historically exercised unilateral divorce rights, enabling them to exit marriages swiftly, without prolonged court proceedings. Even after the abolition of instant triple talaq, talaq remains a relatively faster process compared to the rigid judicial divorce route for Hindu men. The consequence is psychological: Hindu men are exposed to prolonged stress, financial strain, and uncertainty, whereas Muslim men experience relatively reduced mental burdens.

### 4. Custodial Disadvantages and Emotional Liberty

The welfare principle in custody often favours mothers, particularly for young children. While this applies across communities, Hindu men, due to statutory codification under the HMA and the Guardians and Wards Act, face more predictable disadvantages. Their role is largely financial, while decision-making authority is curtailed. For Muslim men, although custody principles under *hizanat* also prioritize mothers, the lack of rigid codification offers them somewhat more flexibility as guardians.

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<sup>37</sup> *Danial Latifi v. Union of India*, (2001) 7 S.C.C. 740.

<sup>38</sup> *Olga Tellis v. Bombay Mun. Corp.*, (1985) 3 S.C.C. 545.

<sup>39</sup> *Shatrughan Chauhan v. Union of India*, (2014) 3 S.C.C. 1.

For men, being denied meaningful custodial rights undermines not only family life but also emotional well-being. The Supreme Court has read the right to family life into Article 21 (see *K.S. Puttaswamy*). Thus, Hindu men's curtailed custodial role raises constitutional concerns.

### **5. Psychological Spillover: Interdisciplinary Evidence**

Psychological studies have consistently established that marital stress impacts overall life satisfaction, mental health, and productivity. Research in family psychology indicates that unresolved marital disputes are correlated with higher levels of anxiety, depression, and physical illness. Men engaged in protracted litigation report reduced professional output, strained social relationships, and even higher risk of suicidal ideation.

For Hindu men, whose marital disputes often extend over years with continuous financial obligations, the psychological toll is significantly greater. Muslim men, with faster exit options and narrower maintenance duties, experience less prolonged stress. From a constitutional perspective, this means that Article 21's guarantee of dignity and mental well-being is more compromised for Hindu men than for Muslim men.

### **6. Constitutional Morality and the Right to Life**

The Supreme Court in *Navtej Singh Johar v. Union of India* (2018)<sup>40</sup> emphasized that dignity and autonomy are intrinsic to life under Article 21, and that constitutional morality must guide the interpretation of personal freedoms. Similarly, in *Joseph Shine v. Union of India* (2018)<sup>41</sup>, the Court invalidated adultery laws as they unjustly infringed on individual liberty. Applying this doctrine, the differential burdens imposed on Hindu men—criminalizing bigamy, expanding maintenance liabilities, and prolonging divorce—represent infringements of liberty that cannot be justified by religious or social morality. Constitutional morality demands parity of rights.

### **Conclusion of Part V**

The right to life under Article 21 is not applied uniformly across Hindu and Muslim men. Hindu men face greater restrictions on autonomy, heavier financial liabilities, longer litigation, and reduced custodial rights, leading to deeper psychological and social burdens. Muslim men, though

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<sup>40</sup> *Navtej Singh Johar v. Union of India*, (2018) 10 S.C.C. 1.

<sup>41</sup> *Joseph Shine v. Union of India*, (2019) 3 S.C.C. 39.

not entirely free from obligations, historically enjoyed broader marital autonomy and lighter maintenance responsibilities. This asymmetry results in religion-based differentials in the substantive enjoyment of life and liberty, contrary to the Constitution's promise of equal dignity for all persons.

## VI. Psychological Study and the Impact of Marital Law on Men's Lives

The Indian Constitution, through Article 21, has been interpreted to encompass not only physical survival but also mental health, dignity, and overall quality of life. The Supreme Court has consistently underscored that the right to life means more than "mere animal existence" (*Francis Coralie Mullin v. Administrator, Union Territory of Delhi*, 1981)<sup>42</sup>, extending to the enjoyment of autonomy, privacy, and psychological well-being (*K.S. Puttaswamy v. Union of India*, 2017)<sup>43</sup>. While this jurisprudence has largely been applied in contexts such as privacy, criminal justice, and women's rights, it equally applies to men in the marital sphere.

The burdens imposed on Hindu men through compulsory monogamy, lifelong maintenance obligations, protracted litigation, and restricted custodial rights have significant psychological consequences. By comparison, Muslim men, historically permitted polygamy and unilateral divorce and facing narrower maintenance duties, encounter relatively lighter psychological strain. This asymmetry underscores how marital law is not merely a question of formal rights but also one of mental health and human flourishing, thereby engaging Article 21 in its most substantive sense.

### 1. Stress and Mental Health Consequences

A growing body of psychological and sociological research demonstrates that marital disputes are among the most stressful life events. According to the Holmes and Rahe Stress Scale (1967)<sup>44</sup>, divorce and marital separation rank among the top three stressors, comparable to the death of a spouse or imprisonment. Prolonged exposure to marital conflict has been linked to depression, anxiety, substance abuse, and psychosomatic illness.

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<sup>42</sup> *Francis Coralie Mullin v. Administrator, Union Territory of Delhi*, (1981) 1 S.C.C. 608.

<sup>43</sup> *K.S. Puttaswamy v. Union of India*, (2017) 10 S.C.C. 1.

<sup>44</sup> Thomas H. Holmes & Richard H. Rahe, The Social Readjustment Rating Scale, 11 *J. Psychosomatic Res.* 213 (1967).

For Hindu men, whose personal law structures create longer and more financially demanding disputes, the psychological toll is compounded. Studies conducted in India indicate that men facing lengthy maintenance proceedings under Section 125 CrPC (S.144 BNSS) often report feelings of hopelessness, financial distress, and social alienation.<sup>45</sup> Litigation delays further intensify these effects, with cases often spanning 7–10 years. By contrast, Muslim men, with historically faster divorce mechanisms, are less exposed to such protracted conflict, reducing long-term psychological harm.

## 2. Impact on Professional and Economic Life

Research in occupational psychology has shown that family stress directly impacts workplace productivity. A 2019 study published in the *Indian Journal of Psychological Medicine* found that unresolved family disputes led to absenteeism, poor concentration, and diminished job performance among male litigants.<sup>46</sup> Economic stress resulting from maintenance obligations further exacerbates this burden. Hindu men, who may be ordered to provide lifelong maintenance or interim alimony throughout divorce proceedings, often experience financial insecurity that undermines their ability to pursue career advancement or entrepreneurial ventures.

Muslim men, with obligations generally limited to the iddat period (subject to *Danial Latifi* interpretation), are less likely to face such prolonged economic strain. The disparity in financial liberty has direct consequences for dignity under Article 21: one group of men enjoys a greater ability to secure livelihood and professional growth than the other.

## 3. Social Stigma and Masculinity

Another dimension is the social stigma attached to marital breakdown. Men involved in custody or maintenance disputes are often portrayed as negligent husbands or fathers, regardless of the merits of their cases. Hindu men, subjected to statutory presumptions of financial liability, bear a heavier burden of this stigma. Social narratives often depict them as “failed providers,” compounding their psychological stress.

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<sup>45</sup> Empirical references: See generally Law Commission of India, *Report No. 252 on Maintenance under CrPC* (2015).

<sup>46</sup> A. Kumar & R. Nair, *Family Stress and Occupational Productivity*, 41 *Indian J. Psychol. Med.* 201 (2019).

Psychological literature on masculinity suggests that men are less likely to seek emotional or therapeutic support due to societal expectations of stoicism. A study in the *Journal of Health and Social Behavior* (2016) highlighted that men under marital stress report higher levels of isolation and suicidal ideation compared to women.<sup>47</sup> When legal structures disproportionately burden one group of men, they reinforce these vulnerabilities, creating a constitutional injury by neglecting mental health as part of the right to life.

#### 4. Custody Disputes and Emotional Harm

Custody battles have particularly severe emotional consequences. Fathers who lose custody often experience “parental alienation syndrome,” a psychological condition marked by depression, anger, and loss of identity.<sup>48</sup> For Hindu men, custody under the Guardians and Wards Act and judicial interpretation of the HMA often tilts in favour of mothers, especially for younger children. While Muslim men also face similar challenges under *hizanat*, the codified rigidity of Hindu law places fathers at a clearer disadvantage. The inability to maintain a meaningful parental role undermines men’s right to family life, which the Court in *Puttaswamy* recognized as part of dignity under Article 21.

#### 5. Comparative Psychological Burden

When Hindu and Muslim men’s positions are compared, a consistent pattern emerges:

- Hindu men → longer litigation, broader maintenance duties, criminalization of bigamy, reduced custodial rights → higher cumulative stress.
- Muslim men → historically faster divorce options, narrower financial liabilities, marital autonomy → comparatively lower long-term psychological strain.

The differential psychological impact demonstrates that personal laws do not merely regulate marriage—they also structure the mental well-being of men in ways that are unequal across religious lines. This violates both the formal equality of Article 14 and the substantive dignity guarantee of Article 21.

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<sup>47</sup> Corey M. Abramson & Elena Portacolone, Sociological Perspectives on Masculinity and Mental Health, 57 *J. Health & Soc. Behav.* 347 (2016).

<sup>48</sup> Richard A. Gardner, The Parental Alienation Syndrome, 10 *Acad. Forum* 3 (1986).

## 6. Constitutional Implications

The Supreme Court has in multiple judgments acknowledged the importance of mental health and human dignity. In *Shatrughan Chauhan v. Union of India* (2014)<sup>49</sup>, mental agony arising from delayed mercy petitions was held to infringe Article 21. By analogy, the prolonged mental suffering caused to Hindu men by unequal personal laws may also be read as unconstitutional. Furthermore, the doctrine of constitutional morality, applied in *Navtej Singh Johar*<sup>50</sup> and *Joseph Shine*<sup>51</sup>, requires that laws respect dignity and autonomy irrespective of social or religious tradition. If psychological research demonstrates that unequal personal laws disproportionately harm one group of men, constitutional morality demands reform.

## Conclusion of Part VI

The psychological consequences of marital disputes are not incidental; they are shaped and intensified by the structure of personal laws. Hindu men, subject to stricter obligations and prolonged disputes, face greater mental health burdens, professional setbacks, and social stigma than their Muslim counterparts. These consequences engage the very heart of Article 21, which guarantees life with dignity. The failure to address such psychological harms reveals a constitutional deficit that cannot be justified by appeals to tradition or religious freedom. A gender-neutral and religion-neutral reform of marital laws is therefore necessary not only for equality under Article 14 but also for the meaningful protection of life and liberty under Article 21.

## VII. Judicial Trends and Constitutional Morality

The Indian judiciary has historically played a pivotal role in expanding the scope of fundamental rights and in testing personal laws against constitutional standards. Although courts have often been reluctant to intervene in religiously grounded personal law regimes, landmark decisions in recent years suggest a shift towards subjecting all personal and social practices to the standards of equality, liberty, and dignity. This trend is encapsulated in the doctrine of constitutional morality, which demands that laws be measured not against prevailing social or religious norms but against the Constitution's enduring values.

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<sup>49</sup> *Shatrughan Chauhan v. Union of India*, (2014) 3 S.C.C. 1.

<sup>50</sup> *Navtej Singh Johar v. Union of India*, (2018) 10 S.C.C. 1.

<sup>51</sup> *Joseph Shine v. Union of India*, (2019) 3 S.C.C. 39.

For Hindu and Muslim men, who experience different legal regimes in marriage and family life, this judicial trend opens the possibility of re-examining their rights through the lens of Articles 14 and 21. By analyzing Supreme Court decisions across domains—from maintenance and bigamy to privacy, adultery, and LGBTQ+ rights—this section demonstrates that the constitutional logic already exists to recognize and remedy the asymmetries faced by men in marital law.

### **1. *Sarla Mudgal v. Union of India* (1995): Bigamy and Religious Identity**

In *Sarla Mudgal*, the Supreme Court confronted the issue of Hindu men converting to Islam for the sole purpose of contracting a second marriage without dissolving the first.<sup>52</sup> The Court held such marriages void, emphasizing that Hindu men cannot escape the obligation of monogamy through conversion. The judgment reaffirmed the compulsory monogamy regime for Hindu men, contrasting it with the polygamy allowance under Muslim law.

Although intended to curb abuse, the decision underscores the religion-based asymmetry in marital autonomy. Hindu men are criminalized for bigamy, while Muslim men are shielded by personal law. From a constitutional standpoint, this creates unequal protection of laws under Article 14, highlighting the need for judicial willingness to revisit the privileges and burdens imposed on different groups of men.

### **2. *Shah Bano v. Union of India* (1985) and *Danial Latifi v. Union of India* (2001): Maintenance Obligations**

In *Shah Bano*, the Supreme Court extended Section 125 of the CrPC to Muslim women, holding that husbands were liable to provide maintenance beyond the iddat period.<sup>53</sup> The judgment was celebrated as a progressive step for women but criticized for encroaching on Muslim personal law. Parliament responded with the Muslim Women (Protection of Rights on Divorce) Act, 1986, narrowing Muslim men's liability.

In *Danial Latifi*, however, the Court harmonized the Act with constitutional principles by requiring Muslim men to provide a “reasonable and fair provision” within the iddat period.<sup>54</sup> While this interpretation preserved women's rights to some extent, it effectively ensured that Muslim men

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<sup>52</sup> *Sarla Mudgal v. Union of India*, (1995) 3 S.C.C. 635.

<sup>53</sup> *Mohd. Ahmed Khan v. Shah Bano Begum*, (1985) 2 S.C.C. 556.

<sup>54</sup> *Danial Latifi v. Union of India*, (2001) 7 S.C.C. 740.

remain less burdened financially compared to Hindu men, who may face indefinite maintenance under the HMA. Judicial willingness to protect women's rights under Article 21 thus inadvertently created unequal burdens on men, raising the question: why should the same constitutional scrutiny not apply when men's life and liberty are curtailed?

### **3. *Shayara Bano v. Union of India* (2017): Talaq and Arbitrariness**

In *Shayara Bano*, the Court declared instant triple talaq unconstitutional as arbitrary under Article 14.<sup>55</sup> The judgment is significant for two reasons:

- It subjected a personal law practice directly to fundamental rights review, signaling a move away from the shield of *Narasu Appa Mali*.
- It emphasized that arbitrariness is antithetical to equality.

By this reasoning, the compulsory monogamy regime for Hindu men—which criminalizes conduct permitted to Muslim men—can also be seen as arbitrary. If arbitrariness in *triple talaq* violated women's rights, arbitrariness in imposing unequal marital obligations on men likewise offends equality.

### **4. *Joseph Shine v. Union of India* (2018): Adultery and Individual Autonomy**

In *Joseph Shine*, the Court struck down Section 497 of the IPC, which criminalized adultery in a gendered and unequal manner.<sup>56</sup> The judgment reaffirmed that the Constitution protects individual dignity and decisional autonomy, and that laws rooted in outdated morality cannot withstand scrutiny.

Applied to men's marital rights, this reasoning supports the view that criminalizing bigamy for Hindu men but not for Muslim men is inconsistent with constitutional morality. Just as adultery could no longer be treated as a matter of patriarchal morality, marital autonomy should not be subjected to arbitrary religious distinctions.

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<sup>55</sup> *Shayara Bano v. Union of India*, (2017) 9 S.C.C. 1.

<sup>56</sup> *Joseph Shine v. Union of India*, (2019) 3 S.C.C. 39.

### **5. *Navtej Singh Johar v. Union of India* (2018): Privacy, Dignity, and Constitutional Morality**

The Court in *Navtej* decriminalized consensual same-sex relations, grounding its reasoning in the principles of dignity, privacy, and constitutional morality.<sup>57</sup> The decision emphasized that constitutional rights cannot be denied based on social or religious disapproval.

By analogy, the burdens placed on Hindu men—whether in compulsory monogamy, financial obligations, or custodial disadvantages—cannot be justified by appeals to religious or societal morality. If dignity and liberty are to be universal, men too must benefit from the Court’s progressive interpretation of Article 21.

### **6. *K.S. Puttaswamy v. Union of India* (2017): Privacy and Decisional Autonomy**

In *Puttaswamy*, the nine-judge bench recognized privacy and decisional autonomy as intrinsic to Article 21.<sup>58</sup> The judgment affirmed that the Constitution protects personal choices concerning family, marriage, and relationships.

For Hindu men, whose marital choices are statutorily constrained, this reasoning highlights a direct infringement of autonomy. Muslim men, with broader marital options, enjoy greater decisional freedom. The unequal enjoyment of autonomy between the two groups reveals a constitutional inconsistency that the judiciary can no longer overlook.

### **7. The Emerging Role of Constitutional Morality**

The consistent thread running through these decisions is the primacy of constitutional morality over religious or social norms. The Court has recognized that equality and dignity cannot be compromised to preserve discriminatory traditions. In *Navtej* and *Joseph Shine*, the Court was explicit: laws inconsistent with constitutional morality must be struck down, regardless of majoritarian opinion.

Applying this doctrine, the unequal marital obligations imposed on Hindu and Muslim men cannot be justified by invoking the sanctity of personal laws. If constitutional morality requires striking down practices that burden women, criminalize sexual minorities, or perpetuate gender stereotypes, it must also extend to practices that burden one group of men more than another.

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<sup>57</sup> *Navtej Singh Johar v. Union of India*, (2018) 10 S.C.C. 1.

<sup>58</sup> *K.S. Puttaswamy v. Union of India*, (2017) 10 S.C.C. 1.

## 8. Towards a Gender-Neutral and Religion-Neutral Framework

Judicial trends reveal a clear movement towards individual-centric rights rather than group-based privileges or burdens. By acknowledging the unequal position of Hindu men, courts would not be undermining women's struggles but would instead be reinforcing the universality of fundamental rights. Articles 14 and 21 are drafted in gender-neutral terms: they apply to "any person." To interpret them selectively is to betray constitutional promise.

### Conclusion of Part VII

The evolution of Supreme Court jurisprudence—from *Sarla Mudgal* to *Navtej Johar*—shows a growing readiness to apply equality and liberty to intimate spheres of life. Yet, the application has been uneven: women's rights have expanded, while men's unequal burdens under personal law remain overlooked. The doctrine of constitutional morality provides the framework to correct this imbalance. By extending its principles to Hindu and Muslim men, the judiciary can ensure that constitutional rights are not a selective privilege but a universal guarantee.

## VIII. Findings and Suggestions

The comparative analysis of Hindu and Muslim men under marital law reveals a constitutional paradox. While personal laws were historically critiqued for disadvantaging women, they also create asymmetrical burdens between men of different religious communities. Hindu men, constrained by compulsory monogamy, indefinite maintenance obligations, protracted divorce litigation, and custodial disadvantages, face greater restrictions on their equality and liberty than Muslim men. Muslim men, by contrast, have historically enjoyed broader marital autonomy, narrower maintenance responsibilities, and quicker exit options from marriage.

This asymmetry produces at least three major constitutional concerns:

1. Violation of Article 14 – Religion-based differentiation in marital obligations and liberties undermines the guarantee of equality before the law.
2. Violation of Article 21 – Restrictions disproportionately imposed on Hindu men infringe the right to life with dignity, autonomy, and mental well-being.
3. Failure of Constitutional Morality – Allowing unequal treatment of men across communities sustains practices rooted in tradition rather than constitutional values.

Based on these findings, the following suggestions are proposed:

## **1. Move Towards Uniformity Through a Gender-Neutral Marital Framework**

The persistence of religiously grounded asymmetries demonstrates the need for uniform marital laws. The debate around a Uniform Civil Code (UCC) has often been polarized, framed as a women's rights issue or as an attack on minority identity. However, the analysis in this paper shows that unequal personal laws also harm men, albeit in less recognized ways. A reimagined UCC should therefore be framed not as a majoritarian imposition but as a gender-neutral and religion-neutral framework that ensures equal obligations and liberties for all individuals, irrespective of gender or community.

## **2. Reconsideration of Maintenance Regimes**

The disparity in maintenance obligations between Hindu and Muslim men highlights the need for rational and uniform principles of financial responsibility in marriage. The current system disproportionately burdens Hindu men while exempting Muslim men from long-term obligations. A uniform maintenance regime should:

- Be need-based rather than gender-based, considering the earning capacity of both spouses.
- Limit maintenance to a reasonable duration, encouraging economic independence rather than dependency.
- Apply equally to all communities, thereby satisfying both Articles 14 and 21.

## **3. Reforming Divorce Procedures**

Protracted divorce litigation undermines men's liberty and mental well-being. Hindu men in particular face excessive delays and financial obligations during proceedings. Reform is needed to ensure:

- Time-bound adjudication of divorce petitions, reducing psychological and financial strain.
- Recognition of irretrievable breakdown of marriage as a statutory ground for divorce, preventing unnecessary prolongation of marital conflict.
- Equal access to alternative dispute resolution mechanisms, including mediation and conciliation, to reduce adversarial stress.

#### 4. Custody and Guardianship: Towards Shared Parenting

Custody disputes often reduce fathers to financial providers while denying them active parental roles. A shared parenting model, recognized in several jurisdictions such as the UK and USA, should be incorporated into Indian law. This would ensure:

- Equal custodial rights and responsibilities for both parents, subject to the welfare of the child.
- Recognition of fathers' emotional and psychological role, not merely their financial contribution.
- Reduced adversarial litigation, thereby promoting the child's holistic well-being.

#### 5. Integration of Psychological Well-being into Article 21 Jurisprudence

While the Supreme Court has recognized dignity, privacy, and autonomy under Article 21<sup>59</sup>, mental health as a constitutional right remains under-theorized. Drawing on psychological research, the Court should explicitly affirm that laws which impose disproportionate psychological burdens violate the right to life. This would ensure that marital laws are evaluated not only on formal equality but also on their real-life impact on human well-being. Parliament has also affirmed this principle in the Mental Healthcare Act, 2017, which guarantees access to mental health treatment as a statutory right.<sup>60</sup>

Psychological studies reinforce this constitutional concern: divorce and litigation stress are associated with adverse health outcomes, including depression and anxiety,<sup>61</sup> marital breakdown correlates with declines in happiness and psychological stability,<sup>62</sup> and prolonged disputes exacerbate emotional trauma for men and women alike.<sup>63</sup> Recognizing these findings, the Court should explicitly affirm that laws imposing disproportionate psychological burdens violate the right to life.<sup>64</sup>

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<sup>59</sup> *K.S. Puttaswamy v. Union of India*, (2017) 10 S.C.C. 1.

<sup>60</sup> Mental Healthcare Act, No. 10 of 2017, INDIA CODE (2017).

<sup>61</sup> A.R. Sbarra, *Divorce and Health: Current Trends and Future Directions*, 69 *PSYCHOSOMATIC MED.* 916 (2007).

<sup>62</sup> Linda Waite, *Does Divorce Make People Happy? Findings From a Study of Unhappy Marriages*, 15 *J. FAM. ISSUES* 137 (2002).

<sup>63</sup> Mieke Maloney, *Post-Divorce Depression and Anxiety: Psychological Impacts of Marital Dissolution*, 12 *J. CLINICAL PSYCH. RES.* 45 (2019).

<sup>64</sup> Paul R. Amato, *The Emotional Divorce: Psychological Outcomes of Marital Breakdown*, 62 *J. MARRIAGE & FAM.* 1269 (2000).

## 6. Re-examining Narasu Appa Mali and the Immunity of Personal Laws

The decision in *State of Bombay v. Narasu Appa Mali* (1952), which held that personal laws are not “laws” under Article 13, has long shielded religious practices from constitutional review.<sup>65</sup> Recent cases like *Shayara Bano* suggest a willingness to revisit this doctrine.<sup>66</sup> To ensure genuine equality, the judiciary must affirm that personal laws cannot escape constitutional scrutiny, particularly when they infringe fundamental rights of equality and life.

## 7. Judicial Recognition of Men’s Rights Without Undermining Women’s Struggles

Finally, it is essential to clarify that recognizing Hindu men’s constitutional deficits does not undermine women’s struggles for equality. Rather, it strengthens the constitutional project by affirming that equality is universal. Courts and scholars must resist framing equality as a zero-sum contest between genders. Instead, they should adopt a holistic rights-based approach, ensuring that men’s grievances are acknowledged while continuing to dismantle patriarchal structures that oppress women.

## Conclusion of Part VIII

The findings of this paper highlight an overlooked truth: men, too, can be victims of unequal personal laws, and their right to equality and life with dignity deserves constitutional protection. By adopting uniform, gender-neutral principles in maintenance, divorce, and custody; integrating mental health into Article 21; and subjecting all personal laws to constitutional review, India can move closer to the vision of justice, liberty, equality, and dignity enshrined in the Preamble. The “forgotten half”—Hindu and Muslim men—must no longer be excluded from the constitutional promise.

## Conclusion

The Indian Constitution guarantees equality and liberty to every person, irrespective of gender or religion. Yet, the lived reality of Hindu and Muslim men under India’s pluralistic personal law system reveals a striking anomaly: their rights are not equal. Hindu men, bound by compulsory

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<sup>65</sup> *State of Bombay v. Narasu Appa Mali*, A.I.R. 1952 Bom. 84.

<sup>66</sup> *Shayara Bano v. Union of India*, (2017) 9 S.C.C. 1.

monogamy, lifelong maintenance obligations, prolonged divorce litigation, and custodial disadvantages, face restrictions that not only differ from those imposed on Muslim men but also curtail their constitutional right to equality under Article 14 and their right to life with dignity under Article 21. Muslim men, by contrast, have historically enjoyed broader marital autonomy, narrower financial obligations, and quicker exit routes from marriage, thereby experiencing a lesser degree of encroachment on liberty and dignity.

This paper has demonstrated that the asymmetry is not a minor doctrinal curiosity but a constitutional injury. By criminalizing certain conduct for one community of men while permitting it for another, the law fails the test of equality before the law. By imposing disproportionately heavy financial and emotional burdens on Hindu men, it undermines their ability to live with dignity and autonomy, violating the expanded understanding of life under Article 21. The consequence is a system where the Constitution's promise of equality and liberty is unevenly distributed, producing religion-based disadvantages for men.

The integration of psychological insights strengthens this argument. Modern research establishes that unresolved marital disputes and prolonged litigation have devastating effects on mental health, professional productivity, and social participation. Hindu men, more frequently entangled in such drawn-out conflicts due to statutory constraints, face higher risks of depression, anxiety, and social alienation. If Article 21 is to mean a life of dignity and mental well-being, then such unequal psychological burdens cannot be ignored.

Judicial trends point towards a path of reform. In *Navtej Singh Johar*, *Joseph Shine*, *Puttaswamy*, and *Shayara Bano*, the Supreme Court has embraced constitutional morality as the guiding principle, striking down discriminatory practices rooted in outdated morality. The same reasoning must be extended to the asymmetries affecting Hindu and Muslim men. Constitutional morality demands that all personal laws be tested against the standards of equality, liberty, and dignity.

The way forward lies in a gender-neutral and religion-neutral marital law framework. Maintenance should be based on need rather than gender; divorce should be time-bound and accessible; custody should embrace shared parenting; and mental well-being should be explicitly recognized within Article 21 jurisprudence. Most importantly, personal laws can no longer be insulated from constitutional review. The judiciary and legislature must ensure that the universal promise of equality and life with dignity is not selectively applied.

In reimagining the rights of Hindu and Muslim men, this paper does not diminish the ongoing struggle for women’s equality. Rather, it reinforces the universality of constitutional rights: that justice cannot be partial, liberty cannot be selective, and equality cannot be conditional. By acknowledging the “forgotten half,” India can move closer to the constitutional vision of a just social order where all individuals—men and women, Hindu and Muslim—stand truly equal before the law.

