LEGAL PLURALISM AND RELIGIOUS NORMATIVITY IN INDIA AND INDONESIA

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ABSTRACT

This review article examines legal pluralism and religious normativity in postcolonial constitutional law, with India as the principal site of analysis and Indonesia as the comparative counterpoint. It contends that legal pluralism is not inherently liberating or illiberal. In India, religious personal laws, denominational autonomy, customary authority and constitutional rights are overlapping norms in the same plane of legality. This plural arrangement protects the rights and identity of the minorities, ensuring social diversity. However, it raises uncomfortable questions regarding equality, the autonomy of individuals, gender justice, and the limits of community power. Indonesia presents a different but instructive model, where Pancasila, Islamic law, adat, religious courts, State recognition of religion, and Aceh's regional Islamic criminal law demonstrate how religious normativity may be absorbed into State law through administrative and constitutional structures. The article reviews leading theories of legal pluralism and applies them to Indian personal law jurisprudence, religious freedom doctrine, the Uniform Civil Code debate, conversion regulation and gender justice cases. It then compares the Indonesian experience to show how pluralism can move from accommodation into hierarchy when recognition, public order and religious orthodoxy dominate rights. The article concludes that postcolonial constitutional law should not ask whether legal pluralism should exist, because it already does. The more important question is how pluralism should be constitutionally disciplined so that religious normativity does not defeat equal citizenship, dignity and liberty of conscience.

Keywords: Religious normativity, personal law, India, Indonesia, postcolonial constitutionalism

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1. Introduction

Legal pluralism is one of the most persistent realities of postcolonial constitutional life. Modern constitutions may proclaim unified sovereignty, equal citizenship, and the supremacy of State law, yet social life is rarely governed by State law alone. Religious law, customary practice, community authority, caste rules, family norms, and legislation often operate in the same social field. They overlap, compete, borrow from one another, and sometimes contradict one another. In deeply diverse societies such as India and Indonesia, constitutional law cannot be understood only through enacted statutes and judicial decisions. It must also examine how religious and community norms acquire legal relevance, and how constitutional institutions respond when those norms affect rights, status and belonging.

This review article examines the relationship between legal pluralism and religious normativity in postcolonial constitutional law, with particular focus on India. Indonesia is used as the comparative counterpoint because it presents a different constitutional grammar while facing comparable questions of religious recognition, State regulation and minority vulnerability. India is formally secular and constitutionally committed to equality and liberty of conscience. Yet it retains religious personal laws, protects denominational rights and allows selective State intervention in religious practice. Indonesia is not secular in the Western sense. Its constitutional order is grounded in Pancasila and belief in the One and Only God. Yet it does not establish Islam as the State religion and instead recognises several religious traditions while regulating them through administrative and legal structures. The central argument is that legal pluralism must be assessed with care. It should neither be celebrated as cultural freedom in every case nor rejected as an obstacle to modern constitutionalism in every case. Pluralism can protect minority identity, cultural survival, and religious autonomy. It can also entrench patriarchy, internal hierarchy, sectarian privilege, and differentiated citizenship. The constitutional question is therefore not whether pluralism exists. It does. The more important question is how pluralism should be recognised, regulated, and limited by constitutional principles such as equality, dignity, liberty of conscience, and the rule of law.

India presents this question with particular sharpness. The Indian Constitution protects freedom of conscience under Article 25, denominational autonomy under Article 26, and minority cultural and educational rights under Articles 29 and 30. At the same time, it authorises the State to regulate secular activities associated with religious practice and to enact social welfare

and reform. Personal laws have continued to govern marriage, divorce, succession, guardianship and adoption for different religious communities. The judiciary has developed doctrines such as essential religious practices, constitutional morality, equality review, and secularism as a basic feature. These doctrines attempt to mediate between religious autonomy and constitutional values, but their use has often been uneven. The Indian experience also shows that legal pluralism cannot be detached from history. Colonial rule did not merely recognise pre-existing religious laws. It classified, textualised, and institutionalised them. Hindu law and Muslim law, as applied in colonial courts, were shaped through translation, selective reliance on texts, and interaction with British legal categories. Postcolonial India inherited this structured pluralism. The Constitution did not abolish it. It placed it within a larger framework of rights, reform, and national integration. The result is a system in which pluralism is constitutionally tolerated, politically contested, and judicially mediated.

Indonesia provides a useful comparative mirror. Dutch colonial law also organised legal pluralism through European law, adat, and Islamic law. After independence, Indonesia constructed a constitutional framework grounded in Pancasila. Religion became a public constitutional value rather than a purely private matter. The State recognised certain religions, established religious courts in particular fields and permitted the incorporation of Islamic norms into law. Aceh's Qanun Jinayat represents the strongest form of such incorporation because it converts Islamic moral norms into regional criminal law. The Indonesian experience shows that legal pluralism may move beyond accommodation into State-backed religious discipline. This review article proceeds in seven sections. The second section explains the conceptual foundations of legal pluralism and religious normativity. The third section examines colonial legal pluralism and its postcolonial transformation. The fourth section analyses India's constitutional framework, personal law system and leading judicial controversies. The fifth section reviews Indonesia's Pancasila model, Islamic law, adat, religious courts, and Aceh. The sixth section compares the two systems through the lenses of accommodation, hierarchy, and constitutional scrutiny. The seventh section concludes by arguing that legal pluralism must be constitutionally disciplined without being erased.

2. Conceptual Foundations of Religious Normativity and Legal Pluralism

Legal pluralism poses a challenge to the idea that law exists only as positivist State law. Legal centralism treats the sovereign State as the exclusive, authoritative and legitimate source of law

and assumes that all valid legal norms must be traceable to State authority. Legal pluralism rejects this as an incomplete account of social reality. Griffiths distinguished legal pluralism and legal centralism. He posited legal pluralism as "the presence of more than one legal order within a social field" (Griffiths, 1986). His argument was directed against the tendency of modern legal theory to treat only State made law as the only valid and authoritative law.

Merry refined the concept by showing that legal pluralism is not confined to colonial or tribal societies. It also exists in modern societies where State law interacts with informal, religious, professional and community norms (Merry, 1988). Tamanaha later cautioned against excessively broad definitions of law, but he accepted that multiple normative orders often coexist and that legal analysis must examine how they operate in practice (Tamanaha, 2008). These theories are particularly useful for postcolonial societies because colonial and postcolonial States rarely displaced existing normative orders completely. Instead, they absorbed, modified and supervised them. Religious normativity is a specific form of plural normativity. It refers to norms derived from religious belief, scripture, institutional authority, community practice or moral tradition that guide conduct and claim binding force over believers. Religious normativity may remain purely internal to a community. It may also become State law through legislation, judicial recognition or administrative practice. The constitutional difficulty begins when such norms affect civil status, gender relations, property, education, public order or criminal sanction.

In India, religious normativity appears most visibly in personal law. Hindu, Muslim, Christian and Parsi family laws regulate marriage, divorce, inheritance and related civil relations. Some of these laws are codified statutes. Others are partly uncodified or mediated through judicial interpretation. Religious normativity also appears in temple administration, denominational autonomy, ritual practice, religious endowments and conversion disputes. In Indonesia, religious normativity appears in Islamic family law, religious courts, fatwas of the Indonesian Ulema Council, blasphemy regulation, population administration and Aceh’s Islamic criminal law. In both systems, religious normativity is not merely sociological. It has legal consequences. Legal pluralism has both descriptive and normative dimensions. Descriptively, it identifies the coexistence of several normative orders. Normatively, it raises the question of whether such coexistence should be preserved, reformed or limited. This distinction is important because pluralism is sometimes romanticised as cultural freedom. It is also sometimes rejected as an obstacle to equality. Neither position is sufficient. Pluralism may

protect minorities against assimilation. It may also protect community elites against constitutional scrutiny. It may give religious groups space to organise their own affairs. It may also deny equal rights to women, dissenters and converts within those communities.

Postcolonial constitutional law must therefore develop a more disciplined account of pluralism. The question is not whether all religious norms should be absorbed into State law. Nor is it whether State law should erase all community norms. The question is how constitutional law should structure the relationship between State authority and religious normativity. A democratic constitution must recognise social diversity, but it must also protect individuals from domination within communities. It must accommodate religious identity, but it must not allow religion to defeat equal citizenship. This is where the Indian framework of principled distance becomes relevant. Bhargava's account of Indian secularism argues that the State may intervene in religion when required by equality and reform, but it may also refrain where autonomy and minority protection require restraint (Bhargava, 1998, 2010). This idea is not a complete theory of legal pluralism, but it provides a constitutional method for managing pluralism. It avoids both absolute separation and complete State control. Its difficulty lies in ensuring that intervention and restraint are genuinely principled.

A similar difficulty arises in Indonesia through Pancasila. Pancasila recognises religion as a foundational public value, but it also prevents Indonesia from becoming a formal Islamic State. It allows the State to recognise multiple religions, yet it also permits classification and regulation of religious identity. Asshiddiqie describes the Indonesian constitutional model as one that is neither secular in the strict Western sense nor theocratic in the formal sense (Asshiddiqie, 2005). Latif treats Pancasila as a framework that holds together belief, citizenship and social justice (Latif, 2011). Menchik's idea of godly nationalism captures the same structure because Indonesian citizenship is imagined as religious, though not necessarily Islamic (Menchik, 2014). This creates a plural order, but not a fully open one. Non belief and heterodox belief remain vulnerable. Legal pluralism and religious normativity are therefore central to understanding postcolonial constitutional law. They reveal that constitutions do not merely govern citizens as abstract individuals. They govern persons situated within families, communities, religious institutions and inherited normative orders. The challenge is to ensure that this situatedness does not become a reason for denying equality or liberty.

3. Colonial Legal Pluralism and the Postcolonial Constitutional State

The postcolonial legal pluralism of India and Indonesia cannot be understood without colonial history. Colonial legal systems did not simply discover pre existing religious law. They reorganised it. They classified communities, selected authoritative texts, created courts and converted flexible practices into administratively manageable legal forms. In doing so, colonial States transformed religious normativity into legal categories. In British India, colonial courts applied different personal laws to different religious communities, especially in matters of family and succession. Hindu law and Muslim law were mediated through texts, pandits, qazis, judges and later statutory intervention. Derrett showed that the relation between religion, law and the State in India was deeply shaped by this legal history (Derrett, 1968). Menski later argued that Hindu law should not be treated as a dead or purely textual system, but as a flexible and evolving normative field shaped by tradition, modernity and State law (Menski, 2003). The colonial legal process often froze selective versions of religious norms while presenting them as authentic tradition.

This had lasting consequences. Religious identity became a legal category. Family law became a site where community identity was preserved and administered. The colonial State could present itself as neutral while governing communities through religious classification. This form of legal pluralism was not simply accommodation. It was also a technology of rule. It helped the colonial State manage diversity without fully equalising citizenship. Postcolonial India inherited this complex field. The Constitution created a universal rights framework, but it did not abolish personal law pluralism. Hindu law was substantially codified in the 1950s through legislation dealing with marriage, succession, minority, guardianship and adoption. Muslim personal law remained less codified in several areas, although statutes such as the Muslim Personal Law Shariat Application Act, 1937, and later laws concerning divorce and maintenance shaped the field. Christian and Parsi personal laws also continued through statutory regimes. Agnes' work on family law is important because it shows that Indian family law is not a single field governed by one principle, but a layered arrangement shaped by community norms, feminist critique and constitutional claims (Agnes, 2011). Thus, the postcolonial State adopted reform in some areas while preserving differentiated community laws in others.

Indonesia's colonial history was different but comparable. Dutch colonial governance produced a plural legal order involving European law, adat and Islamic law. Hooker described Southeast Asian colonial and neocolonial legal systems as structured by plural legal orders

(Hooker, 1975). Lev's study of Islamic courts in Indonesia showed how religious legal institutions were shaped by political and colonial power (Lev, 1972). Islamic law was not simply applied as autonomous religious law. It was mediated through colonial doctrine, especially through the idea that Islamic law applied only where it had been received into adat. After independence, Indonesia did not simply secularise the legal order. It constitutionalised Pancasila and recognised religion as a public constitutional value. Islamic family law and religious courts continued to occupy an important place. The Ministry of Religious Affairs became central to the governance of religion. The State recognised a limited number of religions for administrative purposes. This produced a system in which legal pluralism was incorporated into State structures while remaining subject to bureaucratic control.

Colonial legal pluralism therefore left two legacies. First, it made religious identity legally visible. Secondly, it taught the modern State to govern through classification. In India, this classification appears through personal law, minority rights and denominational autonomy. In Indonesia, it appears through recognised religions, religious courts, Pancasila and later Aceh's Islamic criminal law. The postcolonial State did not abolish these legacies. It constitutionalised and modified them.

The question is whether constitutional law has sufficiently transformed colonial pluralism into democratic pluralism. A democratic pluralism must differ from colonial pluralism in at least three ways. It must be grounded in equal citizenship rather than administrative convenience. It must protect individuals within communities as well as communities against domination. It must subject religious normativity to constitutional scrutiny where dignity, liberty and equality are at stake. India and Indonesia have both attempted this transformation, but neither has completed it.

4. India as the Principal Site of Constitutional Pluralism

Indian constitutional law contains one of the most intricate models of legal pluralism in the postcolonial world. It combines a written Constitution, justiciable fundamental rights, secularism, personal law pluralism, minority protection and State power to reform religious practices. This combination makes India a central site for analysing religious normativity in constitutional law. The constitutional starting point is Article 25. It protects freedom of conscience and the right freely to profess, practise and propagate religion. Yet this freedom is subject to public order, morality, health and other fundamental rights. Article 25 also allows

the State to regulate secular activities associated with religious practice and to make laws for social welfare and reform. This is a crucial formulation. It recognises religion, but it does not place religion beyond constitutional governance. Article 26 protects denominational autonomy, but that too is subject to public order, morality and health. Articles 29 and 30 protect cultural and educational rights of minorities. Article 44, placed among the Directive Principles, directs the State to endeavour to secure a Uniform Civil Code.

This constitutional scheme does not create a uniform legal subject detached from community. It recognises that citizens may belong to religious and cultural communities. At the same time, it subjects those communities to constitutional values. The State may respect religious autonomy, but it may also intervene for reform. This is the basic architecture within which Indian legal pluralism operates. The first major doctrinal problem concerns whether personal laws are subject to fundamental rights. In State of Bombay v. Narasu Appa Mali, the Bombay High Court held that personal laws were not laws within the meaning of Article 13. This decision has had a long shadow. It created the possibility that personal laws may remain insulated from direct fundamental rights review. Although the Supreme Court has not always treated the matter with complete clarity, subsequent cases have often reviewed statutes governing personal law rather than uncodified personal law as such. This has produced uncertainty about the constitutional status of religious personal laws.

The personal law debate is not merely technical. It determines whether community norms affecting marriage, divorce, maintenance and inheritance can be tested against equality and dignity. If personal laws are outside Article 13, then constitutional scrutiny is weakened. If they are subject to fundamental rights, then community autonomy may be limited by individual rights. The difficulty is that both positions raise concerns. Full immunity risks protecting inequality. Full assimilation risks eroding minority autonomy. The Shah Bano litigation remains one of the most important moments in this debate. In Mohd. Ahmed Khan v. Shah Bano Begum, the Supreme Court held that a divorced Muslim woman could claim maintenance under Section 125 of the Code of Criminal Procedure. The judgment was formally based on a secular criminal procedure provision, but it generated intense controversy because it was perceived as judicial interference with Muslim personal law. Parliament responded by enacting the Muslim Women Protection of Rights on Divorce Act, 1986. The episode revealed the political vulnerability of gender justice when framed against community autonomy.

The later decision in Danial Latifi v. Union of India adopted an interpretive approach that preserved the constitutionality of the 1986 Act while reading it to require a fair and reasonable provision for the divorced woman's future. This was a significant judicial technique. The Court avoided directly striking down the statute but interpreted it in a manner that protected substantive rights. It showed that constitutional courts may mediate personal law conflicts through rights consistent interpretation rather than direct confrontation. Shayara Bano v. Union of India marked another major moment. The Supreme Court invalidated instant triple talaq by a divided bench. The decision did not produce a single unified theory of personal law and constitutional rights. Some reasoning focused on arbitrariness under Article 14, while other reasoning considered the religious status of the practice. The decision is important because it shows how the Court may intervene in religiously inflected family practices when they conflict with equality and dignity. Yet it also shows the continuing uncertainty of method.

The Uniform Civil Code debate lies at the centre of Indian pluralism. Article 44 expresses a constitutional aspiration towards uniformity in civil law. Supporters argue that a uniform code would promote equality and national integration. Critics argue that it may become a majoritarian project if enacted without sensitivity to minority rights and gender justice across all communities. Sarla Mudgal v. Union of India strongly invoked Article 44 in the context of conversion and bigamy. John Vallamattom v. Union of India also criticised discriminatory legal treatment in succession law affecting Christians. These cases demonstrate that the Uniform Civil Code debate is not simply secular versus religious. It is about the conditions under which uniformity may be constitutional, democratic and non-majoritarian. Religious normativity also appears through denominational rights. In Shirur Mutt, the Supreme Court held that religious denominations have autonomy in matters of religion. The judgment protected religious institutions from excessive State control. Yet it also generated the essential religious practices doctrine. This doctrine authorises courts to determine whether a practice is essential to religion. The doctrine attempts to distinguish protected religious matters from secular matters subject to regulation. It is central to Indian religious freedom law, but it is also deeply contested.

The essential practices doctrine illustrates the difficulty of constitutional pluralism. A court must decide whether to defer to the community's self-understanding or to impose an external constitutional classification. If it defers completely, oppressive practices may remain protected. If it intervenes too aggressively, religious autonomy may be hollowed out. Sen's analysis of

the Indian Supreme Court's religious freedom jurisprudence remains useful here because it shows how adjudication has shaped the meaning of secularism and religion in modern India (Sen, 2010). Cases such as *Indian Young Lawyers Association v. State of Kerala* show this difficulty. The Sabarimala judgment invoked equality, dignity, and constitutional morality to challenge exclusion. It was a powerful rights-based intervention, but it also raised questions about judicial authority over religious practice. Conversion law adds another layer. In Rev. Stainislaus v. State of Madhya Pradesh, the Supreme Court held that the right to propagate religion does not include a right to convert another person. This decision supports State anti-conversion laws. These laws are defended as protections against coercion, fraud and inducement. Yet in practice, they may burden minority religious activity and individual autonomy. They show how legal pluralism and public order can become tools for regulating religious movement across communities.

Religious speech cases further show how pluralism is managed through criminal law. In Ramji Lal Modi v. State of Uttar Pradesh, the Supreme Court upheld Section 295A of the Indian Penal Code, which penalises deliberate and malicious acts intended to outrage religious feelings. The decision reflects the State's concern with peace in a religiously plural society. Yet it also risks granting legal force to offended sentiment. Public order may protect peace, but it may also suppress expression when the threat of disorder comes from hostile groups. Indian legal pluralism is therefore constitutionally unavoidable but normatively unstable. Galanter's work on law and society in India is helpful because it shows that formal legal systems operate within dense social contexts shaped by hierarchy, status, and community practice (Galanter, 1989). Legal pluralism protects diversity and allows community-specific arrangements. It also creates a differentiated legal status and may preserve internal inequality. The task is not to abolish pluralism in the name of abstract uniformity. Nor is it to preserve pluralism without scrutiny. The task is to constitutionalise pluralism through equality, dignity, liberty of conscience, and principled reform.

5. Indonesia as Comparative Counterpoint

Indonesia provides a valuable comparison because it also contains legal pluralism, but its constitutional vocabulary differs from India's. The Indonesian Constitution is grounded in Pancasila, whose first principle affirms belief in the One and Only God. Article 29 declares that the State is based upon belief in God and guarantees freedom of worship according to

religion or belief. This framework does not create a secular State in the Western sense. It creates a religiously inflected plural constitutional order. Indonesian legal pluralism has several layers. Adat continues to shape local normative life. Islamic law operates in family law and religious courts. The State recognises particular religions for administrative purposes. Religious organisations and councils influence public regulation. Aceh enjoys special autonomy that permits Islamic criminal law through Qanun Jinayat. Feener's work on Muslim legal thought in modern Indonesia shows that Islamic legal norms have developed through interaction with modern State institutions rather than in isolation from them (Feener, 2007). Salim's work on Islamisation of law shows that Islamic norms entered national and regional law through gradual political processes (Salim, 2008). Crouch's work shows that courts and local administrations are central to disputes involving religious minorities and places of worship (Crouch, 2014). Butt and Lindsey describe Indonesia's constitutional order as one in which Pancasila, rights, democracy and State regulation exist in continuing tension (Butt & Lindsey, 2012).

The Indonesian State historically recognised a limited set of religions. This recognition affected identity documents, marriage, education and public administration. Recognition therefore, became a gateway to legal visibility. Menchik describes this as godly nationalism, in which citizens are expected to be religious, though not necessarily Muslim (Menchik, 2014). This differs from India, where the State does not generally require citizens to identify with a recognised religion for basic civic status. The Indonesian Constitutional Court's Decision No. 97/PUU-XIV/2016 modified this system by recognising the rights of indigenous belief adherents to record their beliefs in identity documents. The decision expanded legal recognition beyond the older administrative structure. Yet it did not produce a fully open model of conscience. It widened the circle of recognised belief but retained the State's classificatory role. Bagir, Asfinawati, Suhadi and Arianingtyas are useful on this point because they show how Indonesia's freedom of religion framework combines constitutional rights with older patterns of religious governance and limited pluralism (Bagir et al., 2020).

Blasphemy law shows the restrictive side of Indonesian pluralism. In Decision No. 140/PUU-VII/2009, the Constitutional Court upheld the blasphemy law. Crouch argues that the Court treated Pancasila and Article 29 as requiring active State protection of religion (Crouch, 2012). The decision gave strong weight to public order and religious harmony. It shows how pluralism may become controlled when the State protects recognised religion against perceived deviance. Human Rights Watch has also documented how such regulatory structures have affected

religious minorities, including Ahmadiyah followers, Shia communities and Christians in certain local settings (Human Rights Watch, 2013). Aceh is the most striking example of religious normativity becoming State law. Under special autonomy, Aceh enacted Qanun Jinayat, which criminalises conduct such as alcohol consumption, gambling, seclusion, extramarital sexual relations and same sex relations. It also provides for caning. This is a deeper form of religious legal pluralism than India's personal law system because it places religious morality within criminal law. Butt's work on regional autonomy and legal disorder helps explain how decentralisation may produce local laws that strain national coherence (Butt, 2010).

Indonesia therefore shows that legal pluralism can develop in a more overtly religious and administrative direction. State recognition, public order, religious harmony and local autonomy shape the legal field. The comparison with India is useful because India's pluralism is largely organised through personal law and constitutional rights, while Indonesia's pluralism is organised through Pancasila, religious administration, Islamic legal institutions, and regional autonomy. The Indonesian experience warns against assuming that legal pluralism is always protective. It may protect religious identity. It may also empower orthodoxy, classify belief, and penalise dissent. The Indian experience contains similar dangers, but the structure is different. In India, the main tension is between personal law autonomy and constitutional equality. In Indonesia, the main tension is between State recognition of religion and freedom for unrecognised or heterodox belief.

6. Accommodation, Hierarchy and Constitutional Scrutiny

The comparison between India and Indonesia reveals that legal pluralism operates through three linked processes. The first is accommodation. The second is hierarchy. The third is constitutional scrutiny. Accommodation allows religious and customary communities to maintain legal or normative space. Hierarchy appears when such space is controlled by dominant groups or when recognition is distributed unequally. Constitutional scrutiny is the mechanism through which courts and legislatures attempt to discipline pluralism. Accommodation is necessary in deeply diverse societies. A single legal code may appear formally equal, but it may also erase cultural and religious difference. India's personal law system reflects the constitutional decision to preserve religiously differentiated family laws while gradually reforming them. Indonesia's recognition of Islamic family law, adat and

religious courts reflects a similar need to accommodate social realities. In both systems, legal pluralism prevents the State from imposing an abstract uniformity.

Yet accommodation becomes problematic when it shields inequality. In India, personal law may preserve patriarchal rules. In Indonesia, religious recognition may privilege orthodoxy and burden heterodox communities. Aceh's Islamic criminal law shows how accommodation of regional religious identity can become coercive. Thus, pluralism may begin as protection but end as domination. The key question is who speaks for the community. Religious normativity is often presented as the voice of the community, but communities are internally diverse. Women, dissenters, converts, minority sects and secular persons may not share the views of religious elites. If State law recognises only elite or orthodox claims, pluralism becomes a tool of internal domination. This is why constitutional law must examine not only inter community equality but also intra community justice.

Indian courts have attempted this through equality review, statutory interpretation and social reform. Danial Latifi shows how the Court can interpret legislation in a manner that protects rights without erasing community specific law. Shayara Bano shows direct intervention against a practice treated as unequal. Sabarimala shows rights based scrutiny of exclusion. Each case reveals a different judicial method. None provides a complete solution.

The Indonesian Constitutional Court has also used different methods. In the blasphemy decision, it deferred to harmony and upheld restriction. In the indigenous beliefs decision, it expanded recognition. These contrasting decisions show that constitutional review can either discipline or reinforce hierarchy. The outcome depends on how courts understand religion, equality and public order. Public order is a central danger in both jurisdictions. In India, public order may justify restrictions on religious practice, conversion and speech. In Indonesia, harmony plays a similar role. Both concepts can be legitimate. No constitution can ignore violence or social disorder. Yet both concepts can also reward majoritarian pressure. If a minority practice is restricted because others threaten violence, the law protects the threatener rather than the rights holder. Constitutional scrutiny must therefore ask whether public order is being used to prevent violence or to legitimise intolerance.

A comparative view also shows that uniformity is not always equality. India's debate over the Uniform Civil Code often assumes that uniform law will produce equal citizenship. That may be true if uniformity is framed through gender justice, deliberation and constitutional morality.

It may not be true if uniformity becomes a majoritarian code under another name. Similarly, Indonesia's national ideology of Pancasila provides unity, but unity may become restrictive if it denies full recognition to those outside approved religious categories. The most defensible constitutional position is therefore neither uncritical pluralism nor forced uniformity. It is disciplined pluralism. Disciplined pluralism accepts that religious and customary norms may have legal relevance. It also insists that such norms must comply with basic constitutional commitments. It protects communities, but not at the cost of persons. It protects diversity, but not hierarchy. It allows State regulation, but only where regulation is principled, proportionate and non discriminatory.

India's legal system has the resources for such a model, but its practice remains uneven. The Constitution contains equality, liberty, religious freedom, minority rights and reform clauses. The judiciary has developed tools such as basic structure, constitutional morality and arbitrariness review. Yet doctrine remains inconsistent, especially in relation to personal law and essential practices. Indonesia also has resources for disciplined pluralism through Pancasila, constitutional rights and the recognition of indigenous beliefs. Yet blasphemy law, religious administration and Aceh's penal pluralism show persistent risks. Legal pluralism and religious normativity must therefore be treated as constitutional questions, not merely cultural facts. They determine who may marry, divorce, inherit, worship, convert, dissent and belong. They shape citizenship at the most intimate level. For that reason, pluralism must be evaluated through the lived effects of law on persons, not merely through the formal survival of community norms.

7. Conclusion

Legal pluralism is central to postcolonial constitutional law in India and Indonesia. It reflects history, diversity and the limits of legal centralism. It also reveals the difficulty of building equal citizenship in societies where religion and community remain legally significant. India shows this through personal law, religious freedom, denominational rights, conversion regulation and the Uniform Civil Code debate. Indonesia shows it through Pancasila, adat, Islamic law, religious recognition, blasphemy law and Aceh's Islamic criminal regime. The Indian experience demonstrates that pluralism can protect minority identity and social diversity, but it can also preserve internal inequality. The constitutional status of personal law remains contested. The judiciary has intervened in some cases to protect gender justice and

equality, but its methods have not always been consistent. The essential religious practices doctrine, in particular, shows the danger of courts becoming arbiters of religious authenticity. At the same time, complete judicial withdrawal would leave vulnerable persons within communities without constitutional protection.

Indonesia demonstrates a different danger. Religious normativity may become embedded in State administration and criminal law through recognition, harmony and regional autonomy. Pancasila provides a plural national framework, but it also makes theistic belief central to public belonging. The recognition of indigenous beliefs shows an inclusive possibility, while blasphemy law and Aceh's Qanun Jinayat show the restrictive potential of State backed religious normativity. The central lesson is that legal pluralism is not a constitutional virtue by itself. Its value depends on how it is structured. Pluralism must be assessed by asking whether it protects equal citizenship, whether it respects liberty of conscience, whether it secures gender justice and whether it restrains both State power and community power. A plural legal order that abandons individuals to community domination is not constitutionally defensible. A uniform legal order that erases minority identity is also not defensible. India and Indonesia therefore point towards a model of disciplined pluralism. Such a model recognises religious and customary norms but subjects them to constitutional standards. It allows accommodation without surrendering equality. It allows reform without majoritarian assimilation. It allows religious autonomy without insulating domination. This is the central challenge for postcolonial constitutional law. The future of legal pluralism will depend not on whether the State preserves diversity in name, but on whether it can transform pluralism into a framework of equal and dignified citizenship.

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