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Looking at 2025, Law: Key questions of religion, society, law

The year 2024 saw a significant departure from alleged 'judicial evasion'. In 2025, the Supreme Court, under three Chief Justices of India, will take up several important issues, impacting the personal lives and religious beliefs of citizens, as well as their relationship with the state and laws. Some very consequential new legislation are in the pipeline, even as multiple existing laws face challenges in court

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Updated: December 26, 2024 07:39 IST



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Legal experts say this has been the court's record whenever there is a government with a strong majority at the Centre, except when the independence of the judiciary itself is threatened. (Illustration: Suvajit Dey)

Political battles outside the courtroom often defined the legal landscape in 2024.

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Over the last few years, the Supreme Court has been criticised for “judicial evasion” and giving the executive the benefit of doubt in key cases. Legal experts say this has been the court’s record whenever there is a government with a strong majority at the Centre, except when the independence of the judiciary itself is threatened.

However, 2024 saw a quiet but significant departure from this apparent trend.

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The Supreme Court gave verdicts and made interventions in several politically significant cases: it struck down the electoral bonds scheme as unconstitutional; barred trial courts from taking up mandir-masjid cases; issued guidelines to curb illegal bulldozer demolitions; granted bail to jailed opposition leaders; reined in the Enforcement Directorate’s (ED’s) vast powers to arrest; and reversed the Gujarat government’s remission to convicts in the Bilkis Bano gangrape case. Some of these interventions were long overdue.

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As part of efforts to prioritise long-pending issues, Constitution Benches took up cases such as those of Aligarh Muslim University’s ‘minority institution’ status, and the policy on taxing industrial alcohol.

This effort, made in part to address the “judicial evasion” criticism, was initiated during the 45-day tenure of former Chief Justice of India (CJI) U U Lalit in 2022. It was carried forward by former CJI D Y Chandrachud who retired in November after two years as India’s top judge.

Within a month of assuming charge, CJI Sanjiv Khanna took up the mandir-masjid disputes that have emerged in various places over the last two years. Two weeks after four people were killed in violence triggered by a court-ordered survey of a medieval mosque in Sambhal, Uttar Pradesh, a Bench led by CJI Khanna barred district courts from registering any fresh challenge to the ownership and title of any place of worship, or ordering surveys of disputed religious places.

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So, as 2024 winds down, what does 2025 look like for India’s top court?

One year, three CJIs

Three judges will occupy the office of CJI in 2025. CJI Khanna is due to retire on May 13, and Justice Bhushan Ramkrishna Gavai will take over for 194 days. He will be

A 22-year-old B.Ed. student, Vijita Meena, was the 18th victim of a truck-gas tanker collision on the Jaipur-Ajmer highway. The accident caused a huge explosion and fire, leaving five people in critical condition. The families of the victims are devastated and the police are...

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succeeded by Justice Surya Kant in November, who will remain CJI until February 2027.

Short tenures of CJIs mean the composition of the Collegium, which makes recommendations for the appointment of judges, sees frequent changes. The CJI is also the administrative head of the court, and shorter tenures can limit a CJI's ability to take up important institutional issues — from pendency to other reforms.

The relatively long tenure of the last CJI, Justice Chandrachud, saw an overhaul in the digital infrastructure of the court. Virtual courts are now common, including in several High Courts. Because of this, courts will have to adapt to greater public scrutiny of judges and their conduct in the coming years.

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Before the SC: Religion...

Places of Worship Act: Given that a larger constitutional challenge to the 1991 law that froze the religious character of all places of worship except the (then) disputed structure in Ayodhya as they stood at the dawn of Independence is pending before the court, disputes over the title and religious character of certain mosques, allegedly built by razing Hindu temples, will continue to play out in 2025.

The 1991 law has been challenged on the grounds that it takes away the power of judicial review by abating claims that existed at the time of its enactment and prohibiting fresh claims, and that it is arbitrary in retrospectively picking August 15, 1947 as the cut-off date for determining the religious character of a place of worship. The other side has argued that the law fortifies the principles of secularism and non-retrogression, which are held to be part of the basic structure of the Constitution.

Hijab Ban: In 2023, a two-judge Bench of the SC delivered a split verdict on the legality of the Karnataka government's order restricting female students from wearing a headscarf in educational institutions. Justice Sudhanshu Dhulia quashed the ban, framing the issue as a "matter of choice" and personal liberty; Justice Hemant Gupta held that wearing a headscarf is not an "essential religious practice" that ought to be protected by law. The case will now be heard afresh by a three-judge Bench.

Essential Religious Practice Test: In 2020, the SC had decided to review its 2018 verdict that had held the practice of excluding women from the Sabarimala temple unconstitutional. The ruling that caused a furore, was sought to be reviewed by a larger Bench, expanding the premise of the case to how religious practices are to be reviewed judicially.

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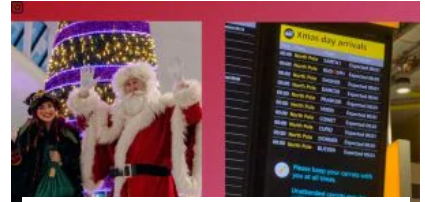
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The premise of the pending appeal is to re-evaluate the so-called "essential religious practice test", a contentious doctrine evolved by the court to protect only those religious practices that are essential to the religion.

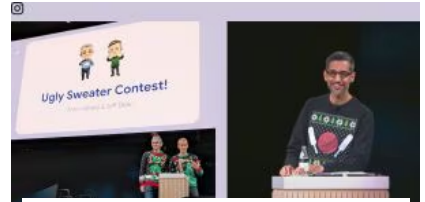
This case will also have an impact on a decade-old challenge by two Parsi women who married outside the community to enter the Tower of Silence and other



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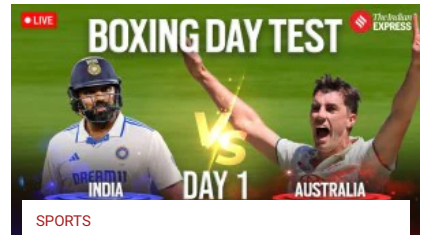
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religious places, and a separate plea seeking the entry of Muslim women to mosques.

...State, individual, society

Citizenship Act: The challenge to The Citizenship (Amendment) Act, 2019 is pending before the SC. The law, introduced as Section 6B of The Citizenship Act, 1955, seeks to grant citizenship to a class of migrants belonging to the Hindu, Sikh, Buddhist, Jain, Parsi, and Christian communities — but not Muslims — who entered India before December 31, 2014 from three Muslim-majority neighbouring countries: Pakistan, Afghanistan, and Bangladesh.

The challenge argues that by excluding Muslims, the amendment violates the right to equal protection before law, and the principles of secularism. In October, the SC upheld the validity of the Assam Accord, and consequently, Parliament's power to specify a cut-off date for peculiar circumstances. However, the SC also framed the idea of citizenship in terms of fraternity and plurality, which will be key to the challenge to the 2019 law.

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Marital Rape: In 2022, the Delhi High Court delivered a split verdict on the legality of the marital rape exception in criminal law. Section 63(2) of the Bharatiya Nyaya Sanhita (BNS) — Section 375 of the Indian Penal Code — defines rape and lists seven notions of consent which, if vitiated, would constitute the offence of rape by a man. But there is a crucial exemption: “Sexual intercourse or sexual acts by a man with his own wife, the wife not being under eighteen years of age, is not rape.”

This exemption essentially gives legal sanction to a “husband” to exercise the right to consensual or non-consensual sex with his “wife”. In October, the Centre said that while a husband certainly does not have a fundamental right to violate the consent of the wife, terming such violation as “rape” is “excessively harsh and therefore, disproportionate”.

Review of ED's powers: While granting bail to former Delhi Chief Minister [Arvind Kejriwal](#) in the money laundering case in the alleged excise policy scam, the SC raised questions on the Enforcement Directorate's vast powers to arrest. It referred a key issue — on when an arrest is legally necessitated — to a larger Bench. After the landmark ruling in *Vijay Madanlal Choudhary v Union of India* (2022), in which the SC upheld virtually all powers of the ED, this reference was a setback to the central agency.

In a series of separate rulings since the 2022 verdict, the SC has also mandated key procedural safeguards in ED cases — the grounds of arrest must be informed in writing, and the stringent “twin-conditions” for bail can now be “relaxed” if the accused has undergone a long period of incarceration.

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A review of *Vijay Madanlal Choudhary* itself is pending, and is seen as an opportunity to circumscribe the agency's powers.

Important new legislation

Among key legislative reforms in the pipeline, the Bills to hold simultaneous elections to Lok Sabha, and state and Union Territory Assemblies — “One Nation, One Election” — will likely be most significant.

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A set of laws on sub-classification of the Scheduled Caste quota could be in the offing as a seven-judge Bench of the SC, in August, cleared the decks for states to create sub-classifications within the SC and Scheduled Tribes quotas in public jobs. Some castes within the “Schedule” can now be accorded wider protections than others through a fixed sub-quota.

For the first time since the Constitution came into being in 1950, the operation of these quotas could be reframed. The Constitution and its promise of equality through affirmative action is now an increasingly fraught area of political rhetoric and action — how states exercise this power will be very important.

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Challenge to existing laws

Some legislation are likely to be subject to judicial review.

New Criminal Laws: [The Bharatiya Nyaya Sanhita, 2023](#), [Bharatiya Nagarik Suraksha Sanhita, 2023](#), and the [Bharatiya Sakshya Adhiniyam, 2023](#), have replaced the [Indian Penal Code, 1860](#), the [Criminal Procedure Code, 1973](#), and the [Indian Evidence Act, 1872](#), respectively as part of the government’s declared intention to “decolonise” the criminal justice system.

The new laws have several progressive elements — introducing community service as an alternative form of punishment, making summary trial mandatory for petty offences, allowing trials by video-conference and prescribing timelines for speedy trials, including offences for “mob lynching” and child marital rape. However, questions have been raised about several provisions.

For example, the colonial law on [sedition](#) (previously “rajdroh” in Hindi) has simply been rechristened “deshdroh”. There are other aspects — allowing a police officer 14 days for a preliminary investigation before registering an [FIR](#), the total exclusion of Section 377 of the IPC (which offered protection to men and LGBTQIA+ individuals from non-consensual sexual intercourse), and extension of the period of detention to up to 90 days.

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These aspects have been challenged before the SC. As the mammoth task of adapting to the new laws progresses, more issues will likely come to the fore.

Uniform Civil Code: Home Minister [Amit Shah](#) told [Rajya Sabha](#) last week that like Uttarakhand, every [BJP](#)-ruled state will have a Uniform Civil Code (UCC).

The Uttarakhand UCC will be implemented from January 2025. The law has some contentious provisions — it requires compulsory registration with the state while starting or ending a live-in relationship for heterosexual couples, provides for maintenance to a woman who is “deserted” by her partner, and prescribes a jail term of up to six months for not producing a “certificate” of the relationship.

The Constitution prescribes UCC as a goal of the state. The SC has long been a votary of the code. But UCC law/s will be subject to judicial scrutiny — the extent of the state’s encroachment on individuals’ personal lives, and their right to choose religious law, will be tested.

Apurva Vishwanath is Legal Editor, [The Indian Express](#)

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