
CIVIL LAW SYSTEMS AND ITS FUNDAMENTAL CHARACTERISTICS: A COMPARATIVE STUDY WITH INDIA

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ABSTRACT

This research examines the fundamental characteristics of the civil law legal tradition and compares them with the legal system of India. Civil law is historically associated with Roman law, systematic codification and the central role of enacted legal rules. The study uses France as the principal civil-law jurisdiction and India as a common-law-derived jurisdiction. It investigates the role of codes and legislation, judicial precedent, legal interpretation, the position of judges, constitutionalism, legal education and practical dispute resolution. The research adopts a doctrinal and comparative methodology based on constitutions, statutes, judicial decisions, official institutional materials and leading comparative-law literature. The study finds that the traditional distinction between civil law and common law remains useful for identifying differences in legal method, but the distinction is no longer absolute. Contemporary civil-law systems increasingly rely on judicial decisions to secure uniform interpretation, while India has developed a highly codified statutory framework within which binding precedent under Article 141 of the Constitution gives the judiciary a significant law-developing function. The comparison therefore demonstrates convergence alongside institutional differences. The article argues that India should not be treated as a civil-law system merely because it has numerous codes; its deeper institutional characteristics remain

rooted in the common-law tradition, modified by constitutional supremacy, legislation and indigenous legal pluralism.

KEYWORDS: Civil Law, Common Law, Codification, Judicial Precedent, Comparative Law, Indian Legal System.

1.INTRODUCTION

Legal systems are shaped by history, political institutions, social conditions and methods of producing and applying legal rules. Among the principal legal traditions, civil law and common law are frequently presented as two contrasting models. The civil law tradition developed from Roman law and later underwent major processes of scholarly systematisation and codification in continental Europe. The common-law tradition developed principally through English courts and the gradual formation of precedent-based rules. Modern legal systems, however, rarely conform perfectly to theoretical categories. Statutes, constitutions, regulations, judicial decisions and international norms interact in both traditions.¹

The civil law model is commonly associated with comprehensive written codes, legislative supremacy in ordinary law-making, systematic legal reasoning and a judicial function centred on applying and interpreting enacted rules. France provides a particularly important example because the Code civil, enacted in 1804, became one of the most influential codifications in modern legal history. The French system nevertheless demonstrates that civil law does not mean that judges are irrelevant. The Court de cassation plays an institutional role in maintaining uniform interpretation of legal rules, even though French law does not formally recognise judicial precedent in the same way as the common-law doctrine of binding precedent.²

India presents a particularly valuable comparator. The Indian legal system inherited major

¹ Rene David and John E.C. Brierley, *Major Legal Systems in the World Today: An Introduction to the Comparative Study of Law* (Stevens & Sons, London, 3rd edn., 1985); John Henry Merryman and Rogelio Pérez-Perdomo, *The Civil Law Tradition: An Introduction to the Legal Systems of Europe and Latin America* (Stanford University Press, Stanford, 3rd edn., 2007).

² *Code civil* (France), arts. 4-5; Cour de cassation, official institutional materials concerning the role and organisation of the Court of Cassation; Merryman and Pérez-Perdomo, *supra* note 1.

elements of English common law during colonial rule, and the Constitution expressly gives binding force to the law declared by the Supreme Court under Article 141. At the same time, India has an extensive body of codified legislation, including the Code of Civil Procedure, the Indian Contract Act, the Transfer of Property Act and numerous modern regulatory statutes. The existence of codes alone, therefore, cannot determine the legal family to which India belongs.³ The central issue addressed by this article is whether codification constitutes the defining feature of a civil law system and how the different treatment of judicial decisions affects legal reasoning in India. The study focuses on France as the principal civil-law jurisdiction and India as the comparator. It examines historical foundations, sources of law, judicial precedent, statutory interpretation, judicial institutions and practical consequences. The comparison is intended not to rank the two systems, but to identify their structural differences and areas of convergence.

2. STATEMENT OF PROBLEM

The principal problem is conceptual and institutional: civil law is often reduced to the proposition that civil-law countries have codes whereas common-law countries rely on judicial precedent. This description is incomplete. Contemporary civil-law jurisdictions contain extensive jurisprudence, constitutional review and judge-developed interpretative doctrines, while India, despite its common-law foundation, possesses a large and increasingly sophisticated body of codified legislation. The resulting oversimplification creates difficulties in comparative legal study. If codification alone is treated as decisive, India could incorrectly be characterised as a civil-law jurisdiction. Conversely, if precedent is treated as the only defining feature of common law, the extensive statutory and constitutional structure of modern India would be overlooked. The research therefore examines the deeper institutional characteristics of the two traditions and asks how far the classical distinction remains analytically useful.

³ The Constitution of India, art. 141; The Code of Civil Procedure, 1908 (Act 5 of 1908); The Indian Contract Act, 1872 (Act 9 of 1872); The Transfer of Property Act, 1882 (Act 4 of 1882).

3. RESEARCH QUESTIONS

1. What are the fundamental historical, structural and methodological characteristics of the civil law legal system?
2. How does the French civil-law model differ from the Indian common-law-derived system with respect to codification, sources of law, judicial precedent and legal interpretation?
3. To what extent have modern developments produced convergence between civil-law and common-law methods?
4. What does the comparison reveal about the proper classification and distinctive characteristics of the Indian legal system?

4. RESEARCH OBJECTIVES

The objectives of the research are:

1. To explain the historical evolution and fundamental characteristics of the civil law tradition.
2. To analyse the role of codification, legislation, legal scholarship and judicial interpretation within a civil-law system.
3. To compare the French civil-law model with India's common-law-derived legal framework.
4. To examine the constitutional position of judicial precedent in India and the practical role of jurisprudence in France.
5. To identify areas of convergence and divergence and assess the continuing value of the civil-law/common-law classification.

5. RESEARCH METHODOLOGY

The study adopts a doctrinal and comparative legal research methodology. Primary sources include the Constitution of India, Indian statutes, judgments of the Supreme Court of India, the French Constitution, the French Civil Code and official materials concerning the Cour de cassation. Secondary sources include comparative-law books, scholarly literature and institutional publications concerning legal families.

The comparative method is functional rather than merely descriptive. France is selected

because the French Civil Code is a historically influential example of continental codification and because the French judicial structure demonstrates how a civil-law system uses jurisprudence without adopting the common-law doctrine of binding precedent in its traditional form. India is selected because its legal order combines common-law institutions, extensive statutory codification, constitutional supremacy and judicial review. The research is primarily doctrinal because the research questions concern the structure and operation of legal systems. An empirical questionnaire has not been included because collecting responses from advocates or other stakeholders would not materially improve the answer to the central doctrinal questions. However, the article identifies empirical research into professional use of statutes and precedent as an area for future research. The temporal focus is primarily on the contemporary legal position, while historical developments are used to explain institutional differences.

6. RESEARCH HYPOTHESIS

The hypothesis of this study is that codification is a central characteristic of civil-law systems but is not, by itself, sufficient to classify a legal system as civil law. The more significant distinction lies in the relative institutional authority of legislation and judicial precedent, the organisation of legal reasoning and the conception of the judicial function. On this basis, India remains fundamentally common-law-derived despite its extensive codified legislation.

7. LITERATURE REVIEW

Comparative-law scholarship traditionally treats civil law and common law as major legal families while recognising internal diversity. René David and John E.C. Brierley emphasise the historical and structural differences among major legal traditions.⁴ John Henry Merryman's work on the civil law tradition highlights the importance of Roman-law inheritance, codification and the distinctive institutional role of legal scholarship and judges.⁵ Konrad Zweigert and Hein Kötz develop a functional approach to comparative law,

⁴ David and Brierley, *supra* note 1.

⁵ John Henry Merryman, *The Civil Law Tradition: An Introduction to the Legal Systems of Western Europe and Latin America* (Stanford University Press, Stanford, 2nd edn., 1985).

cautioning against comparison based solely on formal rules.⁶

Institutional literature similarly identifies codification and statutory law as central features of civil-law systems, while describing common-law systems as historically associated with case law and precedent. However, modern scholarship also recognises convergence. Comparative commercial practice, constitutional review, administrative law and transnational legal norms have weakened rigid distinctions between legal traditions.⁷ Indian scholarship adds another dimension. M.P. Jain's constitutional and legal-system scholarship demonstrates the centrality of constitutional supremacy, judicial review and precedent in India.⁸ H.M. Seervai's constitutional analysis similarly explains the relationship between the Constitution, legislation and judicial power.⁹ Supreme Court jurisprudence, particularly concerning Article 141, demonstrates that precedent is not merely persuasive in India but can be binding when it constitutes the law declared by the Supreme Court.¹⁰

The literature therefore establishes the foundations for comparison but leaves an important analytical question: whether the presence of extensive codes should alter the classification of India. This article addresses that gap by treating codification as one institutional feature among several rather than as the sole criterion of legal-family classification.

8. FUNDAMENTAL CHARACTERISTICS OF THE CIVIL LAW SYSTEM

8.1 Historical Foundation

The civil law tradition has deep roots in Roman law. Roman legal materials were later rediscovered, studied and systematised in European universities, contributing to the development of the learned law. The reception of Roman law interacted with local customs and political institutions. In the nineteenth century, codification transformed

⁶ Konrad Zweigert and Hein Kötz, *An Introduction to Comparative Law* (Tony Weir trans., Clarendon Press, Oxford, 3rd edn., 1998).

⁷ World Bank, "Key Features of Common and Civil Law Systems", Public-Private Partnership Legal Resource Center; Daniel Berkowitz, Katharina Pistor and Jean-François Richard, "The Transplant Effect" 51 *American Journal of Comparative Law* 163 (2003); Alan Watson, *Legal Transplants: An Approach to Comparative Law* (University of Georgia Press, Athens, 2nd edn., 1993).

⁸ M.P. Jain, *Indian Constitutional Law* (LexisNexis, Gurgaon, 8th edn., 2018).

⁹ H.M. Seervai, *Constitutional Law of India* (Universal Law Publishing, Delhi, 4th edn., 1991).

¹⁰ The Constitution of India, art. 141; *Bengal Immunity Co. Ltd. v. State of Bihar*, AIR 1955 SC 661.

this intellectual tradition into comprehensive legislative texts.¹¹ The French Civil Code of 1804 represents a landmark in this process. Its influence extended beyond France through legal transplantation and political expansion. The German Civil Code, the *Bürgerliches Gesetzbuch*, which came into force in 1900, represents another major branch of civil-law development and demonstrates that civil law is not identical to the French model.¹²

8.2 Codification and Systematisation

Codification is perhaps the most visible characteristic of civil law. A code seeks to organise rules systematically and to provide a relatively coherent framework for private-law relationships. The French Civil Code contains provisions dealing with persons, family relations, property, obligations and other areas of private law.¹³

Codification promotes accessibility, and predictability by bringing general legal principles into an organised legislative structure. However, codification should not be understood as an attempt to predict every factual situation. Modern codes contain open-textured standards such as good faith, reasonableness and public policy, which require judicial interpretation. Consequently, the existence of a code does not eliminate judicial discretion; it changes the legal source from which judicial reasoning begins.

8.3 Primacy of Legislation

In the classical civil-law conception, enacted legislation and codes occupy the central position among ordinary sources of law. The judge is expected to resolve disputes by applying legal rules established through legitimate legislative authority. This does not mean that judicial interpretation is mechanical. Rather, judicial reasoning generally operates within the framework of legislation, principles and established interpretative methods.

French law illustrates this relationship. Article 4 of the Civil Code prevents a judge from refusing to decide a case on the ground that the law is silent, obscure or insufficient. Article 5, however, prohibits judges from making general and regulatory pronouncements in cases before them.¹⁴ Together, these provisions historically express a balance: judges must decide

¹¹ Merryman, *supra* note 5; Merryman and Pérez-Perdomo, *supra* note 1.

¹² *Bürgerliches Gesetzbuch* (Germany), in force 1 January 1900; Zweigert and Kötz, *supra* note 6; Watson, *supra* note 7.

¹³ *Code civil* (France), 1804.

¹⁴ *Code civil*, *supra* note 2, arts. 4 and 5.

disputes, but they are not supposed to legislate through general rules.

8.4 Limited Formal Doctrine of Binding Precedent

A major distinction from common law concerns the formal status of precedent. French judicial decisions are important in practice, especially decisions of the Court de cassation, but they are not ordinarily treated as binding precedents in the common-law sense. The Court de cassation's institutional mission includes ensuring uniform interpretation of law.¹⁵ Its decisions can therefore exercise substantial practical authority without creating a formally binding doctrine equivalent to Article 141 of the Indian Constitution. This distinction illustrates why it is misleading to say that civil-law judges simply apply codes without creating interpretative law. Jurisprudence can influence later decisions, clarify statutory language and establish stable interpretations. The difference lies in the legal basis and formal hierarchy of that influence.

8.5 Role of Legal Scholarship

Legal scholarship historically has played an important role in civil-law systems. Academic writers and doctrinal commentators have contributed to the classification, interpretation and systematisation of legal rules. Although scholarly writings are not generally equivalent to legislation, they can shape legal reasoning and influence courts and lawmakers. This is one reason civil-law systems are often described as having a strong doctrinal or systematic approach.

8.6 Judicial Structure and Professional Roles

Civil-law jurisdictions often organise judicial institutions differently from common-law jurisdictions. In France, the judicial order contains courts of first instance and courts of appeal, with the Court de cassation at the apex. The Court de cassation is principally concerned with the correct application of law rather than reconsidering facts as a general appellate court.¹⁶

This institutional structure reinforces the importance of uniform legal interpretation. The Court itself describes its role as ensuring that the interpretation of law is consistent throughout the country.

¹⁵ Cour de cassation, *supra* note 2; Merryman and Pérez-Perdomo, *supra* note 1.

¹⁶ Cour de cassation, *supra* note 2.

8.7 Constitutional and Administrative Law

Modern civil-law systems cannot be understood solely through private-law codes. Constitutions, constitutional courts, administrative courts, European Union law and international obligations have transformed the traditional picture.

France, for example, has a Constitutional Council and a developed system of administrative adjudication. The French Constitution also provides that regularly ratified or approved treaties have authority superior to statutes, subject to the constitutional conditions prescribed by Article 55.¹⁷ Consequently, modern civil law contains multiple sources and institutions, even though codified legislation.

9. THE INDIAN LEGAL SYSTEM: STRUCTURAL CHARACTERISTICS

9.1 Common-Law Foundation

India's legal system developed through interaction between indigenous legal traditions, colonial legislation and English common law. The Constitution of 1950 created a written constitutional order with fundamental rights, judicial review, federalism and separation of institutional functions.

The post-independence system therefore cannot be described simply as a continuation of English law; it is a constitutional legal order that has substantially adapted inherited legal institutions.

9.2 Judicial Precedent

The most significant common-law characteristic of India is the central role of judicial precedent. Courts operate within a hierarchical structure, and the Supreme Court occupies the apex.

Article 141 of the Constitution provides that the law declared by the Supreme Court shall be binding on all courts within the territory of India.¹⁸ The doctrine requires lower courts to follow the binding ratio decidendi of Supreme Court decisions. The Supreme Court has repeatedly explained that it is the ratio decidendi, rather than every observation in a judgment,

¹⁷ The Constitution of the French Republic, 1958, art. 55.

¹⁸ The Constitution of India, art. 141.

that constitutes binding precedent.¹⁹ This is a characteristic feature of common-law reasoning because legal principles are developed through the relationship between judicial reasoning and facts.

9.3 Extensive Codification

India nevertheless has a highly codified legal framework. The Code of Civil Procedure, 1908 provides a comprehensive procedural structure for civil litigation.²⁰ The Indian Contract Act, 1872 establishes rules governing contracts and related obligations.²¹ Other major enactments regulate property, evidence, companies, insolvency, intellectual property, taxation and commercial transactions.

These statutes do not convert India into a civil-law jurisdiction. Codification is a legislative technique rather than an exclusive marker of a legal family. Common-law jurisdictions routinely enact detailed statutes, while civil-law jurisdictions rely on judicial interpretation.

9.4 Constitutional Supremacy and Judicial Review

India's written Constitution occupies the highest position in the hierarchy of norms. Courts review legislative and executive action for constitutional validity.

The Supreme Court has developed doctrines concerning fundamental rights, constitutional interpretation and the basic structure of the Constitution. This gives Indian judges a constitutional role that extends beyond the traditional private-law conception of common-law adjudication.

9.5 Legal Pluralism

Indian law also reflects legal pluralism. Personal laws, customary practices, central and state legislation, delegated legislation and constitutional norms operate within the legal order. This diversity distinguishes India from a simplified model of either common law or civil law. It is better understood as a common-law-derived constitutional system containing multiple normative traditions.

¹⁹ *State of Orissa v. Sudhansu Sekhar Misra*, AIR 1968 SC 647; *Union of India v. Dhanwanti Devi*, (1996) 6 SCC 44.

²⁰ The Code of Civil Procedure, 1908 (Act 5 of 1908).

²¹ The Indian Contract Act, 1872 (Act 9 of 1872).

9.6 Judicial Law-Making and Interpretation

Indian courts do not merely mechanically apply statutes. Through precedent, constitutional interpretation and development of legal principles, courts have shaped doctrines in administrative law, tort, constitutional remedies, environmental law and other fields. This does not mean that courts possess unlimited legislative power. Their authority remains constrained by constitutional text, statutory provisions, institutional competence and the hierarchy of precedent.

10. COMPARATIVE LEGAL ANALYSIS: FRANCE AND INDIA

10.1 Sources of Law

The principal difference concerns the relative position of legislation and precedent. France gives primary importance to codes and legislation in ordinary private law, while judicial decisions principally perform interpretative and unifying functions. India combines legislation with a constitutionally recognised doctrine of binding Supreme Court precedent.

The difference is therefore not the presence or absence of legislation. Both systems possess extensive statutes. The distinction is the institutional authority attached to judicial decisions.

10.2 Codification

France represents the classical codification model, with the Civil Code providing a systematic foundation for private law. India also has major codes, but these were largely developed through colonial legislative projects and post-independence statutes within a common-law institutional environment. Indian codes therefore operate alongside a strong body of case law. The Indian experience demonstrates that codification can coexist with common-law precedent. A statute may establish the governing rule, while judicial decisions determine its meaning, scope and application. Consequently, statutory law and precedent function together rather than as mutually exclusive sources.

10.3 Judicial Precedent

The difference is particularly clear in the formal doctrine of precedent.

In India, Article 141 constitutionally establishes the binding character of Supreme Court law.

In France, the Cour de cassation seeks to unify interpretation, but its decisions do not operate as formally binding precedents in the same doctrinal manner. At the same time, the practical distinction is less absolute than the classical description suggests. French courts take account of established jurisprudence, particularly decisions of the Cour de cassation. Indian courts, for their part, remain bound by statutory language and constitutional text and cannot disregard enacted law merely because a different rule appears desirable.

10.4 Role of Judges

The civil-law judge is traditionally presented as an interpreter and applier of legislative rules, while the common-law judge is traditionally associated with developing law through precedent. Modern practice complicates this distinction. French judges interpret open-textured legal rules, while Indian judges frequently interpret detailed statutes. Both therefore engage in legal reasoning rather than purely mechanical application.

The more important difference is institutional authority. In India, a Supreme Court ratio may bind future courts under Article 141. In France, jurisprudential authority is principally secured through the institutional position of the Court de cassation and the need for consistent interpretation, rather than through a general constitutional rule equivalent to Article 141.

10.5 Legal Certainty and Flexibility

Codification can enhance accessibility and predictability because rules are collected in authoritative texts. However, overly detailed legislation may require frequent amendment when social or technological conditions change. Precedent can respond incrementally to new factual circumstances but may create complexity when a large body of cases must be consulted. India combines both characteristics. Statutes provide general frameworks, while precedent allows courts to adapt those frameworks to new disputes. The resulting system may provide flexibility, but the volume of judicial decisions can make legal research demanding.

France likewise demonstrates that codification does not eliminate complexity because codes require continuous interpretation and amendment.

10.6 Commercial and Practical Implications

For commercial actors, the distinction affects how legal risk is assessed. In a strongly codified system, parties may begin with the relevant statutory or code provisions and then examine jurisprudence for interpretation. In India, parties must usually examine the statute together with binding and persuasive judicial authorities. Contractual drafting, litigation strategy and compliance therefore require attention to both legislative text and precedent.

10.7 Constitutional Review

Both systems recognise constitutional norms, but institutional mechanisms differ. India's Supreme Court and High Courts exercise judicial review within a constitutional framework that includes fundamental rights and the basic structure doctrine.

France operates a constitutional review system involving the Constitutional Council, including the priority preliminary ruling mechanism known as the question prioritaire de constitutionnalité.

Thus, the contemporary civil-law/common-law distinction cannot be separated from constitutional law. Modern legal systems have developed institutional mechanisms that go beyond the classical private-law models from which the categories originated.

Feature	Civil Law Model — France	India
Historical foundation	Roman-law tradition, continental scholarship and codification	English common law combined with legislation, constitutionalism and indigenous traditions
Principal ordinary source	Codes and legislation	Constitution, legislation, delegated legislation and judicial precedent
Role of precedent	Highly influential in practice, but not generally binding in the common-law sense	Supreme Court law declared under Article 141 is binding on all courts
Judicial role	Interpretation and uniform application of enacted law	Interpretation, precedent development and constitutional adjudication

Feature	Civil Law Model — France	India
Codification	Central structural characteristic	Extensive, but coexists with common-law institutions
Highest judicial institution in ordinary judicial order	Cour de cassation	Supreme Court of India
Constitutional review	Constitutional Council and judicial/administrative mechanisms	Supreme Court and High Courts
Legal reasoning	Systematic and code-centred, with jurisprudential development	Statutory and constitutional interpretation strongly informed by precedent
Legal scholarship	Historically significant in systematisation and doctrine	Important, but judicial precedent has greater formal authority
Overall classification	Civil-law tradition	Common-law-derived constitutional system with extensive codification

12. CRITICAL ANALYSIS AND ORIGINAL CONTRIBUTION

The comparison establishes that the civil-law/common-law distinction remains useful, but only when understood as a distinction of institutional method rather than a simple inventory of statutes.

The strongest indicator is the formal position of judicial precedent. France does not treat jurisprudence as binding in the same general manner as India treats Supreme Court precedent under Article 141. Yet France demonstrates that jurisprudence can acquire considerable practical authority even without the common-law doctrine of stare decisis. The comparison also challenges the assumption that codification necessarily produces rigidity. The French Civil Code contains broad standards and has been repeatedly amended and judicially interpreted. Conversely, the existence of extensive Indian statutes does not eliminate common-law reasoning. Indian courts regularly determine the meaning of statutory provisions through precedent, and Supreme Court interpretations can bind subsequent courts.

A second analytical point concerns legal transplantation. India's nineteenth- and twentieth-century legislation demonstrates that legal systems can borrow institutional forms without becoming identical to the source system. Codes may be adopted for administrative convenience, certainty or legislative policy while the surrounding judicial culture remains precedent-oriented. Classification should therefore examine the entire legal ecosystem rather than individual statutes. A third point concerns convergence. Global commerce, constitutionalism, human rights, administrative regulation and transnational legal instruments have increased interaction among legal traditions. Civil-law judges use jurisprudence extensively, and common-law jurisdictions increasingly operate under detailed statutory and regulatory regimes. The traditional boundary has consequently become porous.

For India, the comparison suggests that the existence of codified laws should be viewed as a feature of legislative organisation but not as evidence that the country has moved into the civil-law family. The Indian legal system's distinctive character lies in its combination of a written supreme Constitution, common-law precedent, extensive legislation, judicial review and legal pluralism. Its future development may involve further convergence with continental methods, but such convergence does not erase the institutional importance of Article 141 or the common-law method of reasoning.

13. FINDINGS

The research produces the following findings:

First, civil law is fundamentally associated with Roman-law heritage, systematic codification and the central position of enacted law, but modern civil-law systems cannot be reduced to codes alone.

Second, France illustrates that judicial decisions can have substantial practical and interpretative authority without acquiring the same formal status as binding precedent in India.

Third, India's extensive codification does not change its basic common-law-derived character. The decisive factor is the constitutional and institutional status of precedent, particularly Article 141.

Fourth, both systems have developed mechanisms that require judicial interpretation. The

practical distinction is therefore one of degree, institutional source and legal authority rather than a complete separation between legislation and adjudication.

Fifth, contemporary legal development has produced convergence. Constitutional review, administrative adjudication, regulatory legislation and international norms have made both traditions more complex than their classical descriptions suggest.

Sixth, comparative legal analysis should therefore distinguish between legal family, individual legal technique and particular statutory arrangements. A country can use civil-law-style codification while retaining common-law institutional structures.

S14. SUGGESTIONS / RECOMMENDATIONS

1. Comparative-law education should avoid defining civil law solely through the existence of codes. Students should examine sources of law, judicial hierarchy and institutional authority.
2. Indian legal scholarship should distinguish more clearly between codification and legal-family classification. This would reduce the tendency to treat every statutory code as evidence of civil-law influence.
3. Comparative research should examine the practical authority of jurisprudence in civil-law jurisdictions rather than assuming that judicial decisions are insignificant.
4. Indian courts and lawmakers should continue to maintain clarity between legislative policy-making and judicial interpretation while recognising that constitutional adjudication necessarily involves principled interpretation.
5. Comparative commercial-law research should pay attention to how businesses experience the interaction between codes, statutes and case law rather than relying only on formal classifications.

15. CONCLUSION

The civil law system is best understood as a legal tradition built around Roman-law heritage, systematic codification and the central role of enacted legal rules. France provides a clear example, but its contemporary legal order also demonstrates that civil law has evolved beyond the classical picture of judges as passive applicers of codes. The Court de cassation plays a significant role in ensuring consistent interpretation, and jurisprudence has practical

authority even without a general doctrine of binding precedent equivalent to India's Article 141.

India presents a different institutional model. Its legal order is common-law-derived, with judicial precedent occupying a constitutionally significant position, while legislation and codification provide the principal substantive frameworks for numerous fields. The Supreme Court's binding law under Article 141 distinguishes the Indian system from the traditional civil-law model. The comparative study therefore supports a nuanced conclusion: civil law and common law remain useful legal-family categories, but their modern forms show substantial convergence. Codes do not make a system civil law, just as the presence of legislation does not eliminate common-law reasoning.

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